



## International Covenant on Civil and Political Rights

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**Human Rights Committee**  
**Ninety-eighth session**  
New York, 8–26 March 2010

### **Concluding observations of the Human Rights Committee**

#### **Consideration of reports submitted by States parties under article 40 of the Covenant**

##### **Uzbekistan**

1. The Human Rights Committee considered the third periodic report of Uzbekistan (CCPR/C/UZB/3) at its 2692nd, 2693rd and 2694th meetings, held on 11 and 12 March 2010 (CCPR/C/SR.2692, 2693 and 2694). At its 2710th meeting, held on 24 March 2010 (CCPR/C/SR.2710), it adopted the following concluding observations.

##### **A. Introduction**

2. The Committee welcomes the timely submission of the third periodic report of the State party, which includes information on measures taken in respect of a number of recommendations contained in the Committee's previous concluding observations (CCPR/CO/83/UZB). It also welcomes the written replies (CCPR/C/UZB/Q/3/Add.1), submitted in response to the Committee's list of issues, the dialogue with the delegation, and the additional information and clarifications provided orally and in writing by the delegation.

##### **B. Positive aspects**

3. The Committee welcomes the following legislative and other measures adopted since the examination of the second periodic report of the State party:

(a) The abolition of the death penalty as of 1 January 2008, and the accession of the State party to the Second Optional Protocol to the Covenant in December 2008;

(b) The adoption in of April 2009 of amendments in a number of legislative acts, including amendments of the Criminal Procedure Code and the Code regulating the execution of penalties, reforms which led, inter alia, to strengthen the Office of the Ombudsman, and provide it with the possibility to visit detainees without prior authorisation and to communicate with them in private;

(c) The introduction of judicial control over decisions to place individuals in custody (habeas corpus) in January 2008;

(d) The reform, in 2008, of the rules governing the right of defence for persons deprived of liberty, allowing them to contact their counsel and relatives as of the moment of their factual apprehension;

(e) The adoption, in April 2008, of the Law on combating trafficking in human beings; the establishment of a nation-wide inter-agency Commission on trafficking prevention; the adoption of the National Plan of Action (2008-2010), aiming at strengthening the fight against trafficking in human beings; and the accession, in August 2008, to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(f) The measures taken to fight against child labour and the accession, in 2008, to the International Labour Organization (ILO) Conventions No. 138 (1973) concerning Minimum Age for Admission to Employment and No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour, and the accession, in December 2008, to the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the Rights of the Child on the sale of children, child prostitution and child pornography.

### C. Principal subjects of concern and recommendations

4. The Committee expresses its concern about the lack of significant progress in the implementation of a number of the Committee's previous recommendations (CCPR/CO/83/UZB), and regrets that a large number of concerns remain unaddressed. (art. 2)

**The State party should take all necessary measures to give full effect to all recommendations adopted by the Committee.**

5. While noting that, pursuant to the International Treaties Act of 25 December 1995, international treaties to which Uzbekistan is a party are subject to direct and mandatory application, and the State party's indications, in the report and the written replies, that international law prevails over national law in case of conflict, the Committee is still concerned about an insufficient awareness of the Covenant's provisions and their practical application in the domestic legal system. (art. 2)

**The State party should take measures to ensure that its authorities, including courts, are fully aware of the rights and freedoms set out in the Covenant, and of their duty to ensure their effective implementation.**

6. The Committee regrets the failure of the State party to implement any of its Views adopted on individual communications submitted under the Optional Protocol to the Covenant. It also regrets the absence of information on the body empowered to follow up on the measures taken, so as to ensure that the Committee's Views are given due attention. (arts. 2 and 7)

**The State party should comply fully with its obligations under the Covenant and the Optional Protocol. It should provide all victims of violations of the Covenant, as found in the Committee's Views, with an effective remedy, and ensure that similar violations do not occur in the future. It should also provide information, in its next periodic report, on the authorities empowered to follow up on the measures taken to address the Committee's Views under the Optional Protocol.**

7. The Committee also remains concerned about the failure of the State party to inform relatives of persons sentenced to death and executed, prior to the abolition of the death penalty in 2008, on the exact date and place of burial of those executed, in breach of article 7 of the Covenant (arts.2 and 7).

**The State party should take the necessary steps to inform the families of prisoners, whose death sentences have been carried out prior to the abolition of the capital punishment, of the date of execution and the burial place of their relatives.**

8. While taking note of the State party's statement that it conducted all necessary investigations in respect of the Andijan events of 2005, and that several individuals have already been convicted in this connection, the Committee is concerned at the absence of a comprehensive and fully independent investigation on the exact circumstances of the events during which 700 civilians, including women and children, were killed by the military and security services. It also notes with regret that the State party has not provided the requested information regarding the national rules on the use of firearms by security forces against civilians. (arts. 2, 6, and 7)

**The State party should conduct a fully independent investigation and ensure that those responsible for the killings of persons in the Andijan events are prosecuted and, if found guilty, punished, and that victims and their relatives are given full compensation. The State party should review its regulations governing the use of firearms by the authorities, in order to ensure their full compliance with the provisions of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).**

9. The Committee is concerned that the existing regulations on states of emergency do not fulfil all requirements of article 4 of the Covenant, nor do they include all guarantees therein. It notes the explanation given by the State party that a draft law on the state of emergency is under preparation. (arts. 2 and 4)

**The State party should ensure that all its legislation and regulations concerning states of emergency are fully compatible with article 4 of the Covenant. In this regard, the Committee recalls its general comment No. 29 (2001) on derogations during a state of emergency.**

10. The Committee remains concerned about reports, according to which the definition of torture in the State party's Criminal Code (art. 235) may not ensure conformity between the State party's legislation and the definition in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and that this affects the charges brought against suspected perpetrators. The Committee also notes the apparent contradiction between the oral and written statements of the State party, on the one hand, that the law does comply with the definition, and the written reply, on the other, regarding the State party's intention to amend its legislation, in order to align it both with article 1 of the Convention against Torture, and article 7 of the Covenant in the framework of its National Plan of Action on the implementation of the 2007 recommendations of the Committee against Torture (CAT/C/UZB/CO/3). While taking note of the ruling of the Supreme Court of Uzbekistan, in 2003, that the provisions of national law relating to torture must be read in the light of article 1 of the Convention against Torture, the Committee remains unconvinced that national law fully complies with all requisites contained in article 1 of the Convention against Torture. (art. 7)

**The Committee reiterates that the State party should review its criminal legislation, as affirmed in the written replies to the list of issues, including article 235 of its Criminal Code, in order to ensure full compliance with article 1 of the Convention against Torture and article 7 of the Covenant.**

11. The Committee notes with concern the continued reported occurrence of torture and ill-treatment, the limited number of convictions of those responsible, and the low sanctions generally imposed, including simple disciplinary measures, as well as indications that individuals responsible for such acts were amnestied and, in general, the inadequate or insufficient nature of investigations on torture/ill-treatment allegations. It is also concerned about reports on the use, by courts, of evidence obtained under coercion, despite the 2004 ruling of the Supreme Court on the inadmissibility of evidence obtained unlawfully. (arts. 2, 7 and 14)

**The State party should:**

- (a) **make sure that an inquiry is conducted by an independent body in each case of alleged torture;**
- (b) **strengthen its measures to put an end to torture and other forms of ill-treatment, to monitor, investigate and, where appropriate, prosecute and punish all perpetrators of acts of ill-treatment, so as to avoid impunity;**
- (c) **compensate the victims of torture and ill-treatment;**
- (d) **envisage audio-visual recording of interrogations in all police stations and places of detention;**
- (e) **make sure that the specialized medical-psychological examination of alleged cases of ill-treatment is carried out in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);**
- (f) **review all criminal cases based on allegedly forced confessions and use of torture and ill-treatment and verify whether these claims were properly addressed.**

12. The Committee remains concerned about the lack of legislation governing expulsion of foreign nationals, and that expulsions and extraditions are regulated mainly by bilateral agreements, which may allow for the forcible removal of foreigners to States where they face a risk of being subjected to torture or ill-treatment, in violation of the provisions of articles 7 and 13 of the Covenant. (arts. 6, 7, and 13).

**The State party should take steps to adopt domestic legislation governing the treatment of refugees and asylum-seekers in compliance with the Covenant and international refugee law. The State party should also:**

- (a) **ensure that no one can be extradited, expelled, deported, or forcibly returned to a country where he or she would be at risk of torture or ill-treatment or violation of the right to life;**
- (b) **establish a mechanism allowing persons who consider that such forced removal would put them at risk, to appeal against the removal decisions, with suspensive effect. In this regard, the State party should seek assistance from relevant international organizations.**

13. The Committee remains concerned about the persistence of reports of violence against women, in particular domestic violence, in spite of the various measures taken by the State party. It remains concerned that domestic violence does not constitute an act specifically punishable under criminal law. It is also concerned at reports of forced marriages and the persistence of bride abductions in certain parts of the country. In this respect, it is concerned that no provision in the State party's Criminal Code specifically prohibits and punishes bride abductions (arts. 2, 3, 7, and 26).

**The State party should adopt legislation specifically criminalizing all aspects of domestic violence and prohibiting and punishing bride abductions. The State party should continue carrying out focused awareness-raising campaigns to sensitize the population to these problems, including through local authorities and the Makhalla Committees. Local authorities, law-enforcement and police officials, as well as social workers and medical personnel should be trained on how to detect and adequately advise victims of domestic violence. The State party should also ensure that a sufficient number of fully operational shelters for victims of domestic violence exist in all parts of the State party.**

14. The Committee reiterates its concern that the length of custody for which a suspect or an accused may be held without being brought before a judge – 72 hours – is excessive. It is also concerned that in practice, an apprehended individual may be kept in police facilities for 48 additional hours, if a judge requires additional information, prior to deciding whether to release the person or place him or her in pretrial detention. The Committee shares the concern expressed by the State party during the dialogue that, while new legislation has been introduced on judicial control of detention (habeas corpus), the full effect of its implementation has yet to be seen, since judges, prosecutors, and lawyers in practice still follow older legal concepts. (art. 9)

**The State party should:**

**(a) amend its legislation to ensure that length of custody is fully in line with the provisions of article 9 of the Covenant;**

**(b) ensure that the legislation governing judicial control of detention (habeas corpus) is fully applied throughout the country, in compliance with article 9 of the Covenant.**

15. The Committee has noted the explanations of the State party on the scope of application of the notions of “terrorism” and “terrorist activities” as included in the Law on fight against terrorism (article 2) and the Criminal Code (article 155). While noting the affirmation by the State party that its anti-terrorist legislation is in full compliance with the provisions of the Covenant, the Committee remains concerned about how the guarantees of the Covenant apply in practice to persons suspected or charged with such crimes. The Committee also remains concerned regarding the number of persons reportedly detained as suspects of involvement in terrorist/extremist activities or on terrorist charges (arts. 9 and 14).

**The State party should ensure that the rights under the Covenant of all persons suspected of involvement in terrorist activities are fully protected. In particular, the State party should ensure that anyone arrested or detained on a criminal charge, including persons suspected of terrorism, has immediate access to a lawyer and that the grounds for detention are examined by a court.**

16. The Committee remains concerned that the judiciary is not fully independent in the State party, in particular owing to the fact that judges’ positions are renewed in effect by the Executive every five years (arts. 2 and 14).

**The State party should ensure the full independence and impartiality of the judiciary by guaranteeing judges’ security of tenure.**

17. Although noting with interest the 2008 legislative modifications, according to which every detained suspect or accused is entitled to contact a defence lawyer or relatives immediately from the moment of the actual apprehension, the Committee is concerned about the absence of information on the application of these guarantees in practice. The Committee is also concerned that the recent reform of the regulations governing defence lawyers has increased the role of the Ministry of Justice in matters related to the legal

profession, including disciplining of lawyers. The Committee is also concerned about the practice according to which lawyers' licences are only valid for three years and are renewed thereafter by a qualification commission composed of representatives of the Ministry of Justice and the Lawyers' Chamber. (arts. 7, 9, and 14)

**The State party should ensure that all apprehended persons have the right to contact relatives and a lawyer. The State party should review and amend its laws and practice, so as to ensure the independence of lawyers, including through a revision of the system regarding the granting of licences.**

18. The Committee remains concerned about the need for individuals to receive an exit visa in order to be able to travel abroad. It is also concerned that the State party maintains the compulsory address registration of individuals (*propiska*), which may interfere with the enjoyment of a number of other rights under the Covenant, and may result in abuses and permit corruption. (art.12)

**The State party should abolish the exit visa system, and also ensure that its address registration system (*propiska*) is in compliance with the provisions of article 12 of the Covenant.**

19. The Committee is concerned regarding the limitations and restrictions on freedom of religion and belief, including for members of non-registered religious groups. It is concerned about persistent reports on charges and imprisonment of such individuals. It is also concerned about the criminalization, under article 216-2 of the Criminal Code, of "conversion of believers from one religion to another (proselytism) and other missionary activities" (CCPR/C/UZB/3, para. 707). (art. 18)

**The State party should amend its legislation, in particular, article 216-2 of the Criminal Code, in line with the requirements of article 18 of the Covenant. In this regard, the Committee recalls its general comment No. 22 (1993) on the right to freedom of thought, conscience and religion.**

20. The Committee is concerned that inequalities between women and men continue to persist in many areas of life, including employment and political life, despite progress achieved in recent years, such as an increase in the number of female MPs at the last parliamentary elections, a result gained due to positive measures taken. In general, it is concerned about the persistence of stereotypes regarding the place of women in society, including the media. (arts. 2, 3, 25, and 26)

**The State party should combat discrimination against women, in particular in the sphere of employment, including through temporary targeted measures. More generally, it should strengthen its measures to ensure equality between women and men in all spheres of society and life, including to increase the representation of women in political life, by means of, inter alia, awareness raising campaigns in order to change perceptions and prevent stereotypes.**

21. The Committee remains concerned that even if polygamy de jure is addressed by the State party's Criminal Code (art. 126), de facto polygamy still exists. In addition, the criminal law provides criminal responsibility only in respect to individuals who share the same household. The Committee recalls its view that polygamy violates the dignity of women (see general comment No. 28 (2000) on the equality of rights between men and women, paragraph 24). (arts.2, 3, and 26)

**The State party should modify its legislation and ensure that all forms of polygamy are prohibited by law and subject to prosecution. More generally, the State party should also engage in systematic awareness-raising campaigns and programmes in order to sensitize society to the matter, change mentalities and stereotypes and eradicate polygamy.**

22. The Committee is concerned about reports that individuals have been harassed, physically attacked, or discriminated in the State party on the basis of their sexual orientation. It is also concerned that article 120 of the Criminal Code criminalizes consensual sexual activities between adult males. (arts.7, 17 and 26)

**The State party should review its legislation and align it with article 26 of the Covenant. It should also provide effective protection against violence and discrimination based on sexual orientation.**

23. While noting with interest the different measures taken by the State party to increase the protection of the rights of the child, and, in particular, the adoption of the Rights of the Child (safeguards) Act in January 2008, and accession, as already mentioned, to two ILO Conventions (Nos. 138 and 182), the Committee remains concerned about reports, according to which children are still employed and subjected to harsh working conditions in particular for cotton harvesting. (art. 24)

**The State party should ensure that its national law and international obligations regulating child labour are fully respected in practice and that children receive the protection guaranteed by article 24 of the Covenant.**

24. The Committee remains concerned about the number of representatives of independent non governmental organizations (NGO), journalists, and human rights defenders imprisoned, assaulted, harassed or intimidated, because of the exercise of their profession. The Committee also notes with concern that some representatives of international organizations, including NGOs, are denied entry to the State party. Furthermore, it is also concerned about the absence of sufficient investigations on all alleged assaults, threats, or acts of harassment of journalists and human rights defenders. Finally, the Committee is concerned over the existing provisions in articles 139 and 140 of the Criminal Code on defamation and insult, which may be used to punish individuals who criticise the existing regime. (arts. 19, 22 and 7)

**The State party should allow representatives of international organizations and NGOs to enter and work in the country and guarantee journalists and human rights defenders in Uzbekistan the right to freedom of expression in the conduct of their activities. It should also:**

**(a) take immediate action to provide effective protection to journalists and human rights defenders who were subjected to assaults, threats, and intimidations due to their professional activities;**

**(b) ensure the prompt, effective, and impartial investigation of threats, harassment, and assaults on journalists and human rights defenders and, when appropriate, prosecute and institute proceedings against the perpetrators of such acts;**

**(c) provide the Committee with detailed information on all cases of criminal prosecutions relating to threats, intimidation, and assaults of journalists and human rights defenders in the State party in its next periodic report;**

**(d) review the provisions on defamation and insult (arts. 139 and 140 of the Criminal Code) and ensure that they are not used to harass, intimidate, or convict journalists or human rights defenders.**

25. The Committee reiterates its concerns about the legal provisions and application, in practice imposing unreasonable restrictions on the registration of political parties and public associations by the Ministry of Justice, which may result in major practical obstacles to opposition parties and organizations. (arts. 19, 22 and 25)

**The State party should bring its law, regulations and practice governing the registration of political parties into line with the provisions of articles 19, 22 and 25 of the Covenant.**

26. The Committee is concerned that, at present, only members of a limited number of registered religious groups can apply for an alternative to military service. In this context, the Committee is concerned that the low number of conscientious objectors (seven) that performed alternative service in 2003-2007 may reflect a fear of adverse consequences for those who might take advantage of the existing provisions for alternative service. Furthermore, the Committee is concerned that the State party's regulations on alternative service do not apply to individuals who refuse to perform military service on ethical grounds. Finally, it is concerned about the lack of detailed information on how the system works in practice and, in particular, at the reports that decisions whether to allow an individual to carry out a substitution service are taken by a military body. (art. 18)

**The State party should adopt legislation recognizing explicitly the right of conscientious objection, ensuring that all conscientious objectors are not subjected to discrimination or punishment. The authority granting individuals the possibility to perform alternative service should include civilians.**

27. The State party should widely disseminate the text of its third periodic report, the written replies it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations to its judicial, legislative and administrative authorities, civil society and NGOs operating as well as among the general public. Hard copies of those documents should be distributed to universities, public libraries, and all other relevant places.

28. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 8, 11, 14, and 24.

29. The Committee requests the State party to provide in its fourth periodic report, due to be submitted by 30 March 2013, specific, up-to-date information on all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing its fourth periodic report, to consult civil society and non-governmental organizations operating in the country.

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