

## **Comments of the Republic of Uzbekistan to the Summary of the 25 NGOs Reports and Statements with their allegations about human rights violation in Uzbekistan**

The Government of Uzbekistan undertakes coherent measures to improve the situation in the field of human rights with special attitude to the fulfillment of its international obligations in this field. The policy of Uzbekistan in the field of human rights is implemented in accordance with fundamental principles and measures developed by the United Nations. Therefore, Uzbekistan forged close relationships with chartered and UN treaty bodies as well as with specialized UN mechanisms.

Having reviewed the information provided by the NGOs one can come to a conclusion that these organizations often use inaccurate information based on the groundless evidence and rumors. Their activities, in most cases, are deliberately aimed at discrediting Uzbekistan's Government policy in the field of human rights. NGO's criticism of Uzbekistan's policy is not constructive and does not stimulate further progress of the country and the society towards an effective system of human rights protection. The NGOs conclusions are incompetent, superficial and aimed at exaggerating the real situation. They do not have an objective analysis of positive experience gained by Uzbekistan.

One can with confidence say that during the years of its independence Republic of Uzbekistan has created effective system of human rights protection, namely:

**firstly**, Republic of Uzbekistan has developed its own model of gradual implementation of international standards into its national legislation and law enforcement practice. For example, introduction of international standards on abolition of capital punishment and "Habeas Corpus" in 2008 has been preceded by three years of preparatory works on these changes by the whole society, judicial and legal systems, law enforcement bodies and population;

**secondly**, in Uzbekistan there has been formed a national system for monitoring observance of human constitutional rights and freedoms and execution of international norms and principles with respect to human rights, which include parliamentary monitoring and control over executive body's activities (committees and commissions of Legislative Chamber and Senate of Oliy Majlis of Uzbekistan, Parliamentary Authorized Person (Ombudsman)), monitoring by executive bodies (Center for monitoring of legal acts enforcement under the Ministry of Justice of Uzbekistan), monitoring by the President of the Republic of Uzbekistan (Institute for monitoring of current legislation under the President of the Republic of Uzbekistan), monitoring by judicial authorities (Research center on democratization and liberalization of judicial law and provision of independent judicial system), and also public monitoring by non-government, non-profit organizations and citizens self-governance institutes;

**thirdly**, based on the recommendations of international organizations the additional national institutes on human rights has been set up in Uzbekistan (the Authorized Person (Ombudsman), National Human Rights Center of the Republic of Uzbekistan, etc.), which ensure protection of human rights and freedoms by legislative, executive and judicial branches of power in accordance with international standards and requirements;

**fourthly**, in order to increase the effectiveness of human rights protection activity by the ministries and institutions there functions a special department within of Ministry of Justice, the Ministry of Internal Affairs, Office of Public Prosecutor of the Republic of Uzbekistan, which deals with human rights issues, also having its regional branches;

**fifthly**, there has been set up an educational system on human right issues in Uzbekistan within the framework of respective institutes and educational centers that encompasses school and preschool children as well as students, civil servants of law enforcement systems and courts, pedagogical, medical and social workers raising the level of their knowledge in the field of human rights;

**sixthly**, starting from 1997 it has become a general practice in Uzbekistan to dedicate each year to solution of the respective important political, socio-economical and cultural aspects of

human rights. For example, the year of 1997 was dedicated to the rights and interests of an individual, year of 1999 – to women rights, mother and child protection, year of 2005 – to health protection, year of 2006 – to charity and medical workers, year of 2007 – to population's social protection. The State programs dedicated to one of the issues of human rights and approved by a special decree of the Cabinet of Ministers of the Republic of Uzbekistan envisage concrete measures to improve the living standards of citizens, of each family, and also to unite the efforts of state and non-government institutes in the field of protection of human rights and freedoms;

**seventhly**, Uzbekistan has developed a reporting system to UN Committees that covers different categories of human rights and complies with international requirements. It timely prepares and sends national country reports about execution of its international obligation. It has already prepared 20 national reports. Eighteen of them were reviewed by corresponding committees with submission of final recommendations on them. The important part of this system is preparation and adoption of National Action Plans on implementing Final Recommendations of UN Committees following the results of reviewed national reports. Today more than 10 National Action Plans are being implemented;

**eighthly**, issues of human rights and freedoms protection in Uzbekistan are in the main focus not only of the state but also of the public. Civil society institutes take active part within the framework of current legislation in the process of legislature improvement, public monitoring of human rights observance with respect to vulnerable stratum of society, informational and educational activities as well as in the preparation of regular national reports of the Republic of Uzbekistan on meeting its obligations in the area of human right issues.

Studying the activities of the Republic of Uzbekistan in the field of human rights for the last three years gives a clear and distinct idea on the extent of influence of international standards on the country's policy in this field.

In recent years Uzbekistan has adopted various laws aimed at complete renovation and modernization of the country, improvement of mutual relationships between the state, society and an individual, namely laws "On Mass Media" (new edition) (January 15, 2007); "On guarantees of non-governmental non-profit organizations activities" (January 3, 2007); "On charity" (May 2, 2007); "On reinforcement of the role of political parties in renovation and further democratization of state governance and country modernization" (April 11, 2007); "On amendments and additions to some legislative acts of the Republic of Uzbekistan related to abolition of capital punishment" (July 1, 2007); "On amendments to some legislative acts of the Republic of Uzbekistan related to authorizing courts of issuing sanctions for confinement" (July 11, 2007); "On guarantees of child's rights" (January 7, 2008); "On combating human trafficking" (April 17, 2008).

The year 2008 is declared in Uzbekistan as the "Year of Youth". It is obvious because 10,360,000 people are the youth under 18 years old or 40% of the whole population, while 17,800,000 people are the youth under 30 years old or 64% of the whole population. The issue of continuous care of the whole society on solving youth problems who are the majority of the country's population was and will always be at the center of the state's focus as well as the public's. The Decree of the President of the Republic of Uzbekistan "On the State Program "The Year of Youth" has been adopted on February 29, 2008. Based on this Decree the State Program dedicated to the "Year of Youth" was approved where the main directions of youth support, including girls, in different areas have been determined by improving legal framework providing observance of the rights and interests of youth, educational process quality improvement, improvement of material and technical base of educational institutes, and solving complex issues related to youth employment, etc.

In the period of 2005-2007 the work on preparation and review of regular national reports on implementation of main international documents concerning human rights issues was continued:

The UN Committee on Economical, Social and Cultural Rights during its 35<sup>th</sup> session on November 11-14, 2005 reviewed the First and Second regular reports of Uzbekistan on execution of International Covenant on Economic, Social and Cultural rights;

The UN Committee on the rights of the child during its 42<sup>nd</sup> session on May 19, 2006 reviewed Second regular report of Uzbekistan on execution of Convention regulations on the rights of the child;

The UN Committee on the elimination of all forms of discrimination against women during its 36<sup>th</sup> session on August 10, 2006 reviewed Second and Third regular reports of Uzbekistan on execution of Convention regulations on the elimination of all forms of discrimination against women;

The UN Committee against torture on November 5-13, 2007 reviewed Third regular report of Uzbekistan on execution of Convention regulations against torture and other cruel, inhuman or degrading treatment or punishment.

In 2007-2008 two important events took place: first time in the history of Uzbekistan a woman has been nominated for the post of the President of the Republic of Uzbekistan and for the first time a woman was elected as the speaker of the Legislative Chamber in Oliy Majlis (the Parliament) of the Republic of Uzbekistan.

In order to improve the legislation on the rights of children, the Parliament of Uzbekistan ratified on April 2008 two Conventions of International labor organization: #138 "On the minimum age for admission to employment" and #182 "On immediate actions and elimination of the worst forms of child labor". In order to implement these international norms regarding labor rights of children and youth, essential legislative and organizational measures are being taken. For example, the resolution of the Cabinet of Ministers of the Republic of Uzbekistan #207 "On measures of realization of ratified by the Republic of Uzbekistan Convention on the minimum age for admission to employment and Convention on immediate actions and elimination of the worst forms of child labor" was adopted on September 12, 2008.

Today it is being considered to take measures on introduction in Uzbekistan the position of Authorized person on the rights of the child in accordance with the obligations defined by joining to the UN Convention on the rights of the child. This institute is aimed at conducting constant monitoring of the guarantees of children rights and tracking the situation in the field. The State program dedicated to the "Year of social protection" (2007) envisages special provisions about considering issues of creation of Authorized person (Ombudsman) institute in Uzbekistan, while the program on measures dedicated to the 60<sup>th</sup> anniversary of the Universal declaration on human rights foresees the adoption of the Law of the Republic of Uzbekistan "On Authorized person on the rights of the child".

Within the framework of implementation of provisions of the Universal declaration on human rights and other international documents, Republic of Uzbekistan has to further improve its political, economical and law enforcement system, create the most convenient conditions for guarantees and protection of human rights and freedoms.

Republic of Uzbekistan submitted many times information regarding groundless statements of different international NGOs and again sees appropriate to respond to some of the addressed to Uzbekistan attacks.

## **I. BACKGROUND AND FRAMEWORK**

### **Institutional and human rights infrastructure**

**1. Veritas Youth Human Rights Movement (VERITAS) noted that even though the Uzbek legislation, including the Constitution, recognizes the supremacy of international law over national law, international human rights treaties are not invoked before the domestic courts.**

This statement indicates on the negligence of the theory of international law. In accordance to the principles of sovereign equality of the states each state freely chooses its legislative system and, therefore, defines the order of interaction of its legislation with international one. Moreover, the

principle of sovereign equality defines that each state obliges to execute in full and conscientious its international duties.

The resolution of the Institute of international law says “...in principle, the very legislative system of each state defines the most appropriate ways and means to introduce international law on the national level”. It means that the state must build its legislative system so that it can carry out execution of international duties.

The basics of interaction of international and national legislation are defined by constitutional law. Analysis of this law and practice of its application proves that the action mechanism of the national law is not suitable for regulation of international relationships, the same as international law can not regulate internal public relationships. Therefore, the expression “immediate action of the norms of international law” in judicial system of country carries the relative sense. It means that the regulations encompassed by these norms subject to the immediate application after imposing to them corresponding legislative power by the national legislation.

Foreign practice distinguishes two types of international agreements: agreements that have immediate application starting from their promulgation and ratification; agreements that need to be mediated by the law. In particular, inaccuracy of conditions and recommendation character of the Convention on the rights of the child does not allow applying it immediately. So, the Convention on the rights of the child does not have immediate application. It means that entities participating in juridical process can not directly refer to the regulations of the Convention.

Thus, in order to be able to regulate the relationships with participation of individuals and legal entities, it is necessary to put the regulations of international law into force incorporating them with the legislative system of the state in established order. This process is usually called transformation, meaning transformation of norms of international law into the norms of national one. Indeed the norms of international law are not transformed, they keep their status. While its content has a status of national law. In other words, we talk about implementation of international norms into national one.

Upper said let us make a conclusion that the regulations of international UN Convention are applied in Uzbekistan indirectly, after being implemented in the Constitution and other branches of legislation, where the courts refer during taking their decisions.

## **II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

### **A. Cooperation with human rights mechanisms**

**2. Human Rights Watch (HRW) informed that the government continues to refuse to grant United Nations special procedures access to the country despite their longstanding and repeated requests for invitations to visit Uzbekistan. The International Commission of Jurists (ICJ) added that the Office of the High Commissioner for Human Rights was unable to visit the country to report on the Andijan events, and that the Tashkent office of the United Nations High Commissioner for Refugees (UNHCR) was forced to close in 2006, due to Government pressure.**

Such claims of the “Human Rights Watch” have no basis whatsoever. Uzbekistan is open for dialogue with representatives of special bodies of UN and other international organizations. In November 2002, the Special Rapporteur on tortures of the UN Commission on Human Rights, Mr. Teo Van Boven, visited Uzbekistan and received the information he was interested in from official government structures, as well as from other human rights organizations, such as “Mothers against death penalty and torture”, “Freedom House”, “Mazlum”, “Ezgulik”, “Uzbekistan Human Rights Society” (UHRS), “Independent Human Rights Organization of Uzbekistan” (IHROU) and international organizations, operating in Uzbekistan (UNDP, OSCE and etc.) On the basis of Teo Van Boven’s recommendations, in 1994 Uzbekistan adopted the National Actions Plan ratified by the Cabinet of Ministers of the Republic of Uzbekistan, which in 2008 was fully implemented.

In the beginning of 2004, an independent expert of the UN Human Rights Commission, Mr.L.Guseynov, visited Uzbekistan, who had a chance to familiarize himself with several penitentiary institutions, including in the settlement Djaslik and prepare his recommendations on issues, related for improving the conditions of prisoners, the detained and arrested persons. In order to implement his recommendations, a National Actions Plan was also adopted which has fully been implemented by this date.

In 2004 the regional counselor of the UN HCHR, Mr. R.Muellerson, visited Uzbekistan and met with representatives of governmental and non-governmental institutions, paid visits to penitentiary institutions, including Djaslik and took part in informational events in Tashkent and several other regions of the country.

The findings of the International Commission of Lawyers about the denial for the representative of the UNHCHR for evaluating Andijan events is true, because the sovereign Republic of Uzbekistan, having the complete authority over its territory, has thoroughly and deeply investigated the events in Andijan and took measures in punishing persons responsible for this tragedy.

The Andijan events were investigated by an investigative group consisted of highly qualified personnel of the law-enforcement bodies of Uzbekistan. Besides, for examining those events, a special independent legislative commission comprising of delegates of Oliy Majlis of the Republic of Uzbekistan was created.

Representatives of diplomatic corps (from Embassies of India, China, Pakistan, Islamic Republic of Iran, Republic of Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan), who were in a working group, have provided the monitoring of the investigation of tragic events in the Andijan region.

Accusations of this organization that UNHCR in Uzbekistan was forced to be closed in 2006 has no basis because the situation unfolded in following manner:

Since the opening in 1993 the Representative Office of the United Nations High Commissioner for Refugees (UNHCR), its main functions were to organize the repatriation of Tajik refugees from Afghanistan and Turkmenistan back home and provision of humanitarian assistance to refugees in Afghanistan.

Nevertheless the fact, that the Republic of Uzbekistan is not a signatory to the Convention relating to the status of the refugees of 1951 and Protocol of 1967, the republic has provided the Representative Office of UNHCR in Tashkent all around assistance and help in implementing its duties.

In 1993-1997 UNHCR has repatriated through the Uzbek territory to Tajikistan more than 17000 Tajik refugees from Afghanistan, and from January 1998 to May 1999 more than 4.5 thousand refugees from Turkmenistan to Tajikistan.

UNHCR has provided the humanitarian assistance to Afghanistan through the bridge “Ayraton” in 2001-2004 in a sum exceeding 4 million USD. Since 2005 UNHCR has not used the territory of Uzbekistan for humanitarian aid to Afghanistan.

The stabilization of situation in Tajikistan and the end of military conflicts in Afghanistan have led to the end of the active phase of UNHCR operations in the republic.

The issues regarding the return of the Afghan refugees were solved permanently.

Considering the above mentioned, the Office of UNHCR in Tashkent has fully carried out the duties laid upon it and the obvious reasons for it’s continuing presence in Uzbekistan were absent.

With this regard, the activity of UNHCR in Uzbekistan was stopped in April of 2006.

## **B. Implementation of international human rights obligations**

### **1. Equality and non discrimination**

**3. LGBT Organization Labrys and the Sexual Rights Initiative (SRI and Labrys), in a joint submission with others, noted that traditional gender roles require men to be**

**breadwinners and women to remain at home and take care of the large families. Women are mostly encouraged to see marriage and children as the main purpose of their life. Due to economic pressure during the transition period, the traditional gender roles were challenged because women had to work to earn an income. Sometimes they had to replace the young men who had been put under surveillance and pressure by the government. Bureau on Human Rights and Rule of Law (BHRRL) added that marriageable age is still set at 18 for men and 17 for women.**

From the early years of independence Uzbekistan has been taking actions on eliminating gender inequality in all spheres of the life of society. By joining in 1995 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Uzbekistan took the responsibility in providing the equality of men and women in political, economic, social and cultural areas of society' life.

Uzbekistan relies on the fact, that all-around development of the country, the well-being of population, establishment of democratic lawful state and formation of civil society are not possible without the maximum participation of women on the same rights as men in all the spheres. Discrimination of women does not answer the interests of an individual, society and the state, because it destroys the principles of equality and respect of human dignity, outlined by the Universal Declaration of Human Rights.

The Republic of Uzbekistan condemns the discrimination of women because it prevents their participation on the same rights as men in all the spheres of the country's life. It causes problems for full realization of rights and opportunities by women. But this doesn't lower the value of women's contribution in the family's well-being, nor does it lower the social meaning of maternity and the role of women in continuing the generation and raising a child. State and society assist in changing a traditional role of men as well as women in society and family.

Uzbekistan has not only joined main international documents, regulating the principles and norms in protecting the rights of women, but also on the basis of the thorough account of international standards has formed a national legislation of gender equality and accepted special measures aimed at protecting the maternity, creation of favorable conditions for all-around development of women; created the institutional base of coordination of activities for providing the rights of women on governmental and local levels.

Favorable conditions for development of women's non-governmental organizations have been created in Uzbekistan which are the important elements of the national system of protection of women's rights; the practice of accountability before the UN Committee on the Elimination of Discrimination against Women has been enforced where Uzbekistan presents in a timely manner its reports about the implementation of statutes of The Convention on the Elimination of All Forms of Discrimination against Women; for realization of the Final Recommendations of the UN Committee on the Elimination of Discrimination against Women, the practice of developing and carrying out the National plan of actions, foreseeing concrete measures on solving the problems related to women's rights is also put on place.

Uzbekistan is involved in developing and the consequent adoption of the Law "On the guarantees of equal rights and equal opportunities of women and men"; the further enhancement of the legislature aimed at preventing the trafficking of women and children and the cruelty at home; developing and strengthening the system of government and society monitoring of realization of women's rights, enhancing the statistical accountability (including countryside) in society; introduction into practice the conduction by government and non-governmental structures of gender expertise of the national legislature with an aim of improving the legal base of providing the rights and freedoms of women.

In particular, the Center for monitoring the implementation of the legal-judicial acts of the Ministry of Justice of the Republic of Uzbekistan has carried out a comparative analysis of the national legislature and norms of international law in the sphere of gender equality within the framework of realization of the National Plan of Actions, on implementing the recommendations of the UN Committee on the Elimination of Discrimination against Women based on the findings of

the Second and Third periodical report of the Republic of Uzbekistan, ratified by the interagency working group on December 28 2007.

For realization of the Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women regarding the prohibition of child marriages, and based on the clauses of the Law “About the guarantees of children’s rights”, it was recognized as urgent issue to amend the Family Code, establishing the minimum age of marriage for women – 18. These proposals of the Center for monitoring the implementation of the legal-judicial acts are sent to government bodies that are empowered with legislative initiative’s right.

**4. Disability Awareness in Action (DAA) reported that in spite of a strong legislative framework for inclusion, social discrimination of persons with disabilities remains a significant obstacle to full inclusion. National and local authorities demonstrate limited capacity to ensure inclusion and society stigmatizes persons with disabilities, leading to widespread discrimination and further isolation at home or in institutions. Many adults with disabilities are unemployed, under-educated and must rely on government disability benefits to remain above the poverty line. Although 40 per cent of children with disabilities attend mainstream schools, obstacles in accessing educational opportunities and overcoming social prejudice persist for many families. Children with disabilities are too frequently placed in state institutions with only minimal educational opportunities. There is lack of appropriate infrastructure to ensure persons with disabilities physical access to public and private institutions.**

It is worth mentioning, that in Uzbekistan, a purposeful work by the government bodies and non-governmental organizations in implementing into the legislature and practice of international standards in providing the rights of the handicapped, including the handicapped children in put in place.

In Uzbekistan the rights of the handicapped children are regulated by a number of laws, particularly by Laws “On protection of citizens’ health”, “On social protection of the handicapped”, “On employment of population”, “On guarantees of the rights of the child” and others.

The Law of the Republic of Uzbekistan “On guarantees of the rights of the child” adopted on January 7, 2008, based on the recommendations of the UN Commission on Children’s Rights, talks about the definition of a meaning “handicapped child”, where handicapped children are related to children, who are in a difficult life situation due to some formed circumstances, who are in need of special protection and support from the government and the society. The Law for the first time states the additional guarantees for socially vulnerable children, including the handicapped children.

The State provides material, consultative and other assistance and support to the families, raising a handicapped child and children with deficiencies of physical or (and) psychological nature. Measures are taken for making the educational, medical and cultural-instructional facilities freely accessible for handicapped children; from the moment of determining the handicapped status of a child, he/she is given the right for individual program of rehabilitation, which is obligatory for observance by corresponding government institutions.

Various measures in providing the rights of the handicapped children are practiced in Uzbekistan, including the medico-social aid, which includes prophylactic, diagnostics and treatment, rehabilitation, health sanatoriums and resorts, prosthetic – orthopedic devices, provision of means of transportation on privileged basis and other forms of assistance. Handicapped children also have the right for free medico-social aid in the federal facilities of healthcare, labor and social protection and homecare. Handicapped children have the right to education and training in educational facilities using the specially developed for them programs, corresponding to their physical and mental abilities and wants.

The main important Law of the Republic of Uzbekistan, outlining the basis of government policies with regard to people with disabilities and the social-legal status of them, is the Law “On social protection of the handicapped in the Republic of Uzbekistan”, which was greatly amended on July 11, 2008. This law defines that the state policy with regard of the people with disabilities is

carried out in terms of providing them equal with all the other citizens of Uzbekistan abilities in realizing their rights and freedoms, eliminating barriers in their lives, creation of favorable conditions, that allow to have a complete mode of life, actively participate in the life of a society, and execute own civic responsibilities. It is obvious from this law, that people with disabilities have the complete social-economic and personal rights and freedoms, outlined by the Constitution and other legislative acts of the Republic of Uzbekistan, the state has set up the principle of inadmissibility of discrimination of the people with disabilities.

Another advantage of this Law is that that for the first time it sets up specific sanctions for violating the rights of the handicapped. Thus, the Article 11 of the Law states that not meeting the requirement of the law in creating the conditions for the handicapped for the free access to the objects of social infrastructure, is punished by a fine equivalent from seventy to one hundred times of minimum wage; Article 25 for not implementing the decision of the government bodies in place in creating the minimum work positions for employing the handicapped is punished by a fine equivalent to the yearly wage of an employee of this factory, organization for each of the missing work positions. Article 28 of the Law states if the employee received the disability because of the employer then the latter has to provide not only the care after the disabled person but also compensate the injured worker the caused material and moral damage.

## **2. Right to life, liberty and security of the person**

**5. Amnesty International (AI) welcomed the fact that a new law replacing the death penalty with life or long-term imprisonment came into effect on 1 January 2008. However, six months later the authorities have still not published statistics on the death penalty for previous years. The number of those on death row who had their sentences commuted to life imprisonment upon abolition of the death penalty has also not been published. As of July 2008 there has been no progress on providing relatives with information on burial sites of executed prisoners.**

From the first years of Independence in compliance with the Remarks of common order №6 of the Committee on human rights the Republic of Uzbekistan consistently reduced the quantity of articles in the Criminal code, contemplating the death penalty.

Until August 29, 1998 the death penalty as a capital punishment for committed crimes has been contemplated in 13 articles of the Criminal code. As a result of vigorous activity of bodies of extrajudicial protection (the National centre of the Republic of Uzbekistan on Human Rights, Ombudsman and a number of non-governmental organisations) Oliy Majlis of the Republic of Uzbekistan with the Law “About amendments and additions into some Legal Acts of the Republic of Uzbekistan” dated August 29, 1998 has excluded the death penalty as punishment for following five kinds of crimes: Article 119 Part 4 (violent satisfaction of sexual requirement in unnatural form); Article 152 (infringement of rules and customs of war); Article 158 Part 1 (an encroachment on life of the President of the Republic of Uzbekistan); Article 242 Part 1 (organisation of a criminal community); Article 246 Part 2 (contraband) of the Criminal Code of the Republic of Uzbekistan.

The further reduction of number of crimes for which fulfilment of the death penalty was envisaged, took place in 2001. According to the Law Nr. 254-II dated August 29, 2001 the death penalty was established only for four types of crimes: wilful homicide under aggravating circumstances (Article 97, Part 2), aggression (Article 151, Part 2), genocide (Article 153) and terrorism (Article 155, Part 3).

On December 13, 2003 on XIII session of Oliy Majlis the death penalty has been excluded from two articles of the Criminal code: Article 151 – aggression, Article 153 – genocide. Thus, the Criminal code of the Republic of Uzbekistan included only two articles: Article 97 Part 2 (premeditated murder under aggravating circumstances) and Article 155 Part 3 (the terrorism which has caused the death of a person or other heavy consequences) in which the measure of punishment – death penalty is envisaged.



The full abolition of capital punishment became the major result of the reforms made in Uzbekistan with a view of liberalisation and a humanisation of judicial-legal system. On August 1, 2005 it has been accepted the Decree of the President of Republic Uzbekistan №UP-3641 “About abolition of capital punishment in the Republic of Uzbekistan”, providing since January 1, 2008 the abolition of capital punishment as a kind of criminal punishment and its replacement with punishment in the form of life imprisonment or long terms of imprisonment.

From the day of adoption of the Decree of the President of the Republic of Uzbekistan “About abolition of capital punishment in the Republic of Uzbekistan” dated August 1, 2005 none of the sentences, concerning the persons condemned to the death penalty has been carried out, i.e. the moratorium on execution of judgments on death penalty has been de facto established.

On July 11, 2007 the Oliy Majlis of the Republic of Uzbekistan adopted the Law “About amendments and additions into some Legal Acts of the Republic of Uzbekistan in connection with the abolition of capital punishment”. With the Law N 3PY-99 dated July 11, 2007 the corresponding amendments were included into the Criminal code of Uzbekistan (Articles 15, 43, 50, 51, 58, 59, 60, 64, 69, 73, 76, 97 and 155 of the Criminal code).

According to the amendments included into the Criminal code of the Republic of Uzbekistan, the punishment in the form of death penalty was replaced with life imprisonment for two kinds of crimes: premeditated murder under aggravating circumstances (Article 97, Part 2 of the Criminal code) and terrorism which has caused the death of a person or other heavy consequences (Article 155 Part 3 of the Criminal code). In the Criminal code it is given the definition of “life imprisonment” (Article 51 of the Criminal code) and completion term of long imprisonment (from 20 till 25 years) for premeditated murder under aggravating circumstances and terrorism is established.

Nowadays in Uzbekistan practical measures on replacement of a death penalty by the punishments connected with life imprisonment or long imprisonment are taken.

**6. HRW highlighted that the government’s rights record, long marked by authoritarianism and repression, reached crisis levels following a government massacre of hundreds of mostly unarmed protesters fleeing a demonstration in the city of Andijan in May 2005. Since then, the Uzbek government has sought to rewrite history and silence all those who might question its version of the events, launching an intense crackdown in Andijan itself and exerting pressure on all who knew the truth about the events. Several hundred individuals who were convicted and sentenced in closed trials in 2005 and 2006 are believed to remain in prison serving lengthy sentences. This is particularly true for many of the relatives of hundreds of persons who fled to neighbouring countries in the immediate aftermath of the massacre and were later resettled in third countries, as well as those who fled but later returned to Andijan. These groups remain under intense government pressure and have been subjected to interrogations, constant surveillance, ostracism, and in at least one case, an overt threat to life. As a result, three years after the massacre, government persecution continues to generate new refugees from Andijan.**

HRW statements concerning the Andizhan events are not proved to be true by concrete examples and have declarative character. The Republic of Uzbekistan repeatedly represented the detailed information on the events which have occurred in Andizhan, including, information on investigation and court examination concerning the guilty persons and also the data concerning the refugees. This information has been deeply analyzed at the session of UN Committee Against Tortures by consideration of the Third National Report of Uzbekistan on Fulfillment of Positions of the UN Convention Against Tortures. Uzbekistan considers that the regular exaggeration of this issue is inexpedient.

Nowadays, according to the information of the Prosecutor General’s Office of the Republic of Uzbekistan 63 citizens of the Republic of Uzbekistan, so called refugees voluntarily returned to Uzbekistan as well as 301 of those “refugees” appealed for return home from abroad.

It is worth to outline that majority of Uzbek citizens who crossed the border after leaving Andijan did so under deception and compulsion. They were under the constant psychological pressure from criminals, were frightened by their statements about repressions after returning home.

It is proved by the fact that many of accused persons who had a real opportunity to be among so called refugees and escape from Uzbekistan but they voluntarily came to the law-enforcement bodies. During interrogations they stated that terrorists by means of weapons made them to cross over to Kyrgyzstan, where were kept and frightened by statements about institution criminal proceedings against them in case of returning home.

The investigation possesses information that the other category of so called “refugees”, who were by means of deception and compulsion lured into the square and forced to leave Uzbekistan, were under constant psychological pressure. Moreover, the pressure on them were posed by the representatives of various human right and international institutions, who isolated them from the whole world including their relatives who vainly tried to visit them.

All returned “refugees” were not accused for any kind of crimes or persecuted by the authorities. They live in their houses and access to them is not restricted. The statement that international organizations have no access to them is bias because to decide with whom to meet or talk is a purely personal right of those persons.

#### **7. According to VERITAS, the definition of torture and similar ill-treatment in article 235 of the Criminal Code of Uzbekistan do not conform to the definition of torture of the Convention against Torture.**

The Constitution of the Republic of Uzbekistan consolidates in Article 26 that “No one may be subject to torture, violence or any other cruel or humiliating treatment”. Article 26 of the Constitution is similar to the positions of Article 5 of the Universal Declaration of Human Rights from December 10, 1948.

The Constitution has established the bases for realization in the legislation of Uzbekistan of the conventional principles and norms of international law demanding interdiction of application of tortures, any kinds of humiliating treatment and punishment, being severe or brutal.

The Criminal code of the Independent Uzbekistan initially envisaged the responsibility for commitment of the acts recognized as torture according to the requirements of international law. However the implementation of imperative norms of international law demanding prohibition of practice of tortures and attraction of guilty persons to the criminal responsibility, was incompleting and non-system. In particular, it was not included as such definition «torture, other severe, brutal or humiliating treatment and punishment”. The Law of the Republic of Uzbekistan from August 30, 2003 «About amendments and additions into some legal acts of the Republic of Uzbekistan» has eliminated the given blank of the criminal legislation.

The basic direct object of the crime envisaged in Article 235 of the Criminal code, are the public relations providing person’s dignity, the right of each person to human treatment, and also established by law the common and obligatory order of execution of preliminary investigation and inquest. As an additional direct object it is necessary to consider the life or health of person, to whom tortures are applied.

As victim of this crime could be considered only suspected, accused persons, witness, victim, any other participant of criminal case or convicted person, and also their close relatives.

In context of the given article it is necessary to understand under “torture” any action by which it is deliberately caused to the victim a strong pain or suffering, both physical and moral. At the same time it is necessary to have in view that unlike «the severe, brutal treatment or punishment» torture is characterized by causing of considerable, very strong and severe suffering. The difference between concept “torture” and concept “brutal or humiliating treatment” consists in “various intensity of sufferings”. Torture is the heaviest kind of cruel treatment. Besides, torture always is brutal or humiliating treatment, and the brutal treatment is always humiliating treatment.

The disposition of considered article specifies the ways of realisation of physical or mental violence: application of threats, blowing, beating, tortures, causings of torments and so on. The

given list is not exhaustible and under as physical or mental influence can be considered other actions, one of the qualifying signs of which is their illegal character. For example, it is necessary to consider as an act persecuted by the given article also the acts of food and water deprivation, noise influence, deprivation of a dream, heat, standing at a wall, maintenance in a cold premise, etc.

The crime can be committed only by a special subject: investigator, case investigator, public prosecutor or by other representatives of law enforcement bodies or penal establishments.

The analysis of Article 235 of the Criminal code of the Republic of Uzbekistan shows, that it corresponds to Article 1 of the Convention against Torture.

**8. AI remained seriously concerned about persistent allegations of widespread torture or other ill-treatment of detainees and prisoners by law enforcement personnel. The relevant authorities have failed to effectively and systematically investigate such allegations. Reports of torture stem not only from men and women suspected of membership of banned Islamic groups or of having committed terrorist offences, but also from all layers of civil society, including human rights activists, journalists and former - often high-profile - members of the government and security forces. Many of them routinely allege that they have been tortured or otherwise ill-treated in custody in order to extract a confession.**

The given statement of «International amnesty» are denied by arguments of Manfred Novak, Special Rapporteur on torture, who has presented to UNHCHR (on August 2, 2007) the information, that nowadays there is no an international tool defining character of torture as extended and regular. In his opinion, only Nepal concerns to the state, where tortures have regular character. In Mongolia, China, Jordan and Nigeria, in his opinion, tortures are widely applied, but there are no proofs of their regular character.

The Republic of Uzbekistan, where torture do not carry regular character, has accepted a wide complex of measures on their extermination:

The UN Committee Against Torture has given to the Republic of Uzbekistan 16 recommendations directed on further implementation of the positions of the Convention Against Tortures.

Carrying out these recommendations, Uzbekistan has included into the Criminal code of the Republic of Uzbekistan Article 235 about criminal responsibility for tortures, the definition of which corresponds to Article 1 of the UN Convention Against Tortures and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In Uzbekistan an independent mechanism of the appeal of actions of bodies and persons and operative investigation of statements about applications of tortures, and also prosecution and punishment of guilty persons is created

Protection of persons addressing with complaint about prosecution is provided, according to the Law of the Republic of Uzbekistan “About references of citizens” the prosecution of the persons referring the state bodies with complaints and statements concerning infringement of their rights is not allowed. The administrative legislation establishes legal responsibility for infringement of Law “About references of citizens”, and Article 11 of the Criminal-executive code of the Republic of Uzbekistan establishes the right of condemned on personal safety which is provided by administration of penal establishment.

Observance of principle of inadmissibility of proofs received under torture is provided. On September 24, 2004 the Supreme court of the Republic of Uzbekistan adopted the Plenum Decision “About some questions of application of norms of the Criminal-executive law on admissibility of evidences”, in which it is fixed, that the evidences received as a result of deviation by the investigator, inspector, public prosecutor and court from exact execution and observance of norms of the law, challenged by any motives, are admitted to be inadmissible.

To inadmissible evidences are related, in particular testimonies received by application of torture, violence and other kinds of severe, brutal or humiliating treatment, and also by deceit and other illegal methods.

There are taken the measures on maintenance of independence of judges: specialization of courts, improvement of material support of courts and judges. Appointment procedures of judges are improved, the status of the Higher Qualifying Commission on Selection and Recommendation on a Post of Judge is raised.

It is provided an access of prisoners to the lawyer, the doctor and members of family from the moment of taking into custody. The strict interdepartmental control (of the Ministry of Interior of the Republic Uzbekistan) and directorate of public prosecutions over implementation of the right to protection in regard to the persons detained in the course of article 225 of the Criminal-procedural Code (CPC) of the Republic Uzbekistan is established. Requirements on an explanation to them of their rights and the duties provided by article 48 of the CPC of the Republic Uzbekistan are strictly observed. The lawyers have been provided by an appointment alone with the client and an unimpeded access to them in places of the temporary detention.

The system of independent inspection of the institutions of imprisonment is created. In Uzbekistan the inspection examination of each institution of execution of punishment is carried out by complex group of experts of the Ministry of Interior. A Special inspection on staff of the Ministry of Interior regularly examines applications and complaints of the condemned persons, and also the treatment of the employees of the penitentiary institutions with the condemned persons.

Furthermore, in addition to such regular departmental control the independent non-departmental control of activity of the penitentiary institutions' employees is carried out by the General Prosecutor Office, Ombudsman, the National centre of the Republic of Uzbekistan on human rights, and also of some the international organizations.

Terms of imprisonment before trial are reduced and since 2008 the judicial control over sanction delivery on arrest is entered. Terms of the maintenance of accused persons into custody are reduced from 1.5 years till 9 months. For last 4 years using of such preventive punishment as imprisonment, was reduced more than on 2 times.

Training of law enforcement staff, the medical personnel to the rules of the treatment with prisoners on purpose of non-admission of torture is provided.

Revision of the verdicts of guilty based on evidences received by tortures is provided. According to the decisions of Plenum of the Supreme Court of the Republic of Uzbekistan №17 dated December 19, 2003 "About practice of application by courts of the laws, providing to the suspect, accused the right to protection" and Plenum of the Supreme Court of the Republic of Uzbekistan №12 dated September 24, 2004 "About some questions of application of norms of the criminally-remedial law on an admissibility of evidences" revision of the verdicts of guilty based on evidences, received by tortures is entered into practice.

It is taken the legislative measures on non-admission of dispatches or extraditions to other countries of persons, in the presence of the bases to believe, that they are threatened a use of tortures etc.

**9. According to ICJ, a significant factor in the prevalence of torture is the lack of access to a lawyer during criminal investigation or pre-trial detention. Legal provisions ensuring access to a lawyer in practice are poorly respected. The judiciary lacks the strength or independence to provide effective safeguards against ill-treatment of detainees. Criminal convictions are frequently based on evidence obtained by torture. Although the Supreme Court has held that no information obtained from a detainee in violation of criminal procedure requirements, including the absence of a lawyer, may be used as evidence in court, and the use of torture being a criminal offence, the value of such laws should be assessed with caution, given the long-standing and undiminished use of torture. According to HRW, the government has persisted in its failure to fully implement the 2003 recommendations by the Special Rapporteur on torture.**

ICJ statement about absence of access to the lawyer in investigation and imprisonment before trial is unfounded and mismatching the validity. The same it is possible to tell about arguments of

HRW which does not trouble itself with proofs of inability of the Government of Uzbekistan to struggle with tortures.

According to the norms of the criminal-procedural legislation the persons involved in the criminal liability, have the right to receive the qualified legal aid of lawyers. If accused or the defendant is held in custody, the defender has the right to meet with him alone without restriction of number and duration of appointments (article 53 of the CPC of the Republic of Uzbekistan).

According to the CPC to the person detained, held in custody or placed in medical institution, possibility to have appointment to the defender alone should be provided. According to article 49 part 3 of the CPC the defender is supposed to participation in case from the moment of a presentation to the citizen of charge or the announcement of the decision of recognition him as a suspect or from the moment of his detention.

The right to receive the qualified legal aid of lawyers by condemned is fixed in article 10 of the Criminal-executive Code (CEC). To receive a legal aid a condemned is given meetings with the lawyers under their statement. Such meetings are not set off in number of appointments. Established by the present Code, their quantity and duration are not limited.

The strict interdepartmental control (of the Ministry of Interior of the Republic Uzbekistan) and directorate of public prosecutions over implementation of the right to protection in regard to the persons detained in the course of article 225 of the CPC of the Republic Uzbekistan is established. Requirements on an explanation to them of their rights and the duties provided by article 48 of the CPC of the Republic Uzbekistan are strictly observed. The lawyers have been provided by an appointment alone with the client and an unimpeded access to them in places of the temporary detention.

During preliminary investigation suspected and accused on the basis of articles 46 and 48 of the Criminal-procedural Code of the Republic of Uzbekistan are provided with the right to have the defender from the moment of the announcement to him of the decision about a recognition him as a suspect or from the moment of his detention and to meet with him alone after interrogation, to carry out personally his right to protection.

Even in case of reject by suspected or accused from services of the lawyer, the investigatory body provides real participation (maintenance) of the lawyer and in his presence the protocol on reject from protection is made out.

With a view of maintenance of the rights of the arrested persons accused in March, 2003 the Main investigatory department together with the Presidium of the Bar of Tashkent city has developed and has confirmed Regulation "About an order of the organization of maintenance of the rights to protection of the arrested persons suspected and accused".

In Regulation the invitation and participation of the lawyers in criminal case, the mechanism of maintenance of protection at the expense of the state and an order of registration of reject from the defender are accurately regulated, the order of the appeal of the facts of infringement of the rights to protection of the arrested, suspected and accused persons is established.

Regulation defines an order of the organization of watches of lawyers, including in holidays, the organisation of such watch provides their immediate participation on protection of the rights and legitimate interests of the detained persons at any time. Thus it is forbidden to inspectors to invite familiar – "pocket" lawyers for formal participation in criminal case. The similar agreement is signed and in other regions of the Republic.

Results of this work are quarterly generalized with the Presidium of the Bar, and appropriate information are represented to a management of investigatory offices of territorial law-enforcement bodies and the Main investigatory department of the Ministry of Interior of the Republic of Uzbekistan to take the measures on elimination of the revealed lacks.

The established order of the organization of maintenance of the rights to protection of the arrested persons, suspected and accused was yielded by positive results. For the period 2005-2007 in the Ministry of Interior individual complaints both from detained and arrested persons, and from lawyers on infringement by inspectors of their rights have received.

**10. Mothers against death penalty (MADP) noted that conditions of detention in Uzbekistan may be characterized as inhumane. BHRLL reported that medical assistance is far from being adequate, contrary to the law, and that the semi-annual fluorography procedure does often not take place so that most of the prisoners suffer from tuberculosis. Poor nutrition and hard climatic conditions worsen the health of convicts. BHRLL also noted that in most detention centres, children are not kept separate from adults contrary to the Criminal Proceedings Code. Cells are overcrowded, have insufficient lighting, no ventilation, and no heating. In the only penal colony (prison) for women, there is no separate colony for juvenile female offenders. Social integration and rehabilitation practice is unsatisfactory. VERITAS found that persons accused and convicted for anti-state crimes, religiously or politically motivated crimes were subject to particularly rude conditions of detention and harsh treatments. Religious or political prisoners, who are serving prison terms in the same prison facilities than other types of inmates do not enjoy the same range of rights. Initiative Group of Independent Human Rights Defenders of Uzbekistan (IGNPU) added that religious prisoners are restricted in their rights to practice their religion and are often forbidden to read their prayers.**

Statements about inhuman conditions in custody, absence of medical aid, bad meals and heavy climatic conditions in which condemned are held in Uzbekistan do not correspond to reality.

On September 26th, 2003 the Decree of the President of Republic Uzbekistan «On liberalization of execution of punishments to persons condemned for the first time to imprisonment», under which effect have fallen more than ten and a half thousand condemned, has been issued.

The persons condemned for the first time to imprisonment for committing grave and very grave crimes, serve now their sentences in colonies of general regime, and those having multiple convictions - in colonies of a strict regime.

Those condemned for the first time to imprisonment are completely separated from recidivists. They enjoy a regime, which provides more rights and privileges. In correctional colonies the division into types of regimes is abolished.

Persons condemned for the first time to imprisonment, which do not represent a big danger to society, and committed unintentionally, and intentional less grave crimes, will be sent to colonies-settlements to serve their sentences.

Imprisonment for the above crimes is not applied at all as regards pregnant women, women with children under 3 years old, the persons having the right to retire and minors.

Liberalization of the criminal legislation has caused cancellation in the Criminal code of some articles of penal act.

For example, leaving the colony-settlements without permission by condemned (item 222 of the Criminal code of Republic Uzbekistan), is excluded from the Criminal code as a penal act.

These actions are qualified now not as committing a crime in the form of escape, but as rough infringement of a regime for which disciplinary measures are applied, up to transfer (return) to colonies of a closed type.

In colonies-settlements annual paid labor holidays for 15 working days, with the right leave the colony-settlement are established.

Process of liberalization of system of the criminal punishments, carried out according to the accepted Laws of Republic Uzbekistan, has allowed to alter radically investigatory and judiciary practice for selecting of a preventive punishment and infliction of penalty for the committed crimes towards mitigation.

Now there are more possibilities to release guilty persons from responsibility and punishment in case if they commit crimes for the first time which do not represent public danger or lesser crimes.

As a result of changes and additions introduced into Criminal, Procedural-criminal and Criminally-executive codes of the Republic of Uzbekistan, and also annual acts of amnesty since 2001 the number of condemned and the persons taken into custody, was reduced from 76 to 40 thousand persons or 1,9-fold.

Since 2001 the penitentiary system operates without repletion of prisoners. The ratio of prisoners per 100 thousand population in Uzbekistan accounts for 134 persons.

By November, 1, 2008 the number of prisoners makes up 70% percent of the penitentiary personnel limit.

There is a 24-hour medical assistance in all places of detention. Every prison has the health-center or hospital with 10 to 50 beds with in-patient and out-patient treatment.

Every new inmate undergoes medical examination including detection of venereal diseases and TB. The HIV/AIDS examination is made on a voluntary basis with pre- and post-test consultations.

Every place of detention organizes prophylactic examinations of inmate every year. Every inmate undergoes x-ray and fluorography test once in 2 years.

There are two medical establishments for in-patient and out-patient treatment of inmates suffering from TB. On 11 November 2004 the DOTS Strategy for combating TB which was advised by the WHO was implemented into penitentiary system of Uzbekistan.

The monitoring dated 10 March 2008 by the Green Light Committee's consultant Mrs. Agness Gebhard, TB expert of the WHO representative office in Uzbekistan Mr. Bakhtier Bobamuratov and project manager of the Global Fund Mrs. Gulnoz Uzakova demonstrated positive results in the work.

In order to realize prophylactic and treatment of HIV/AIDS, TB and drug-addiction, the General Directorate for Execution of Punishment continue to implement Project "Conducting of Educational Program for HIV/AIDS Prophylactic in the Paces of Detention of the Ministry of Internal Affairs of the Republic of Uzbekistan" funded by the Global Fund against HIV/AIDS, TB and malaria (UZB-304-G01-H).

The issues of HIV/AIDS, drug addiction, sexually transmitted diseases and TB in the penitentiary system of the Republic of Uzbekistan are solved in the frameworks of collaboration of the General Directorate for Execution of Punishment with the World Health Organization, AIDS East-West international non-governmental organization, German Development Bank (KfB Bank), World Bank, Global Fund against HIV/AIDS, TB and malaria, BOMCA/CADAP, UNODC, CDC (USA) and others.

621 prison workers, 254 prison doctors and 18809 inmates were educated in order to increase the knowledge about adverse effects from use of drugs, HIV/AIDS, TB and hepatitis.

In the frameworks of cooperation between the General Directorate for Execution of Punishment and international organizations the medical experts of the General Directorate were acknowledged with the experience of prophylactic work in Kazakhstan, Croatia, Iran, Russia, Poland and Latvia.

According to Procedural-criminal and Criminally-executive codes of the Republic of Uzbekistan minor persons are provided all appropriate conditions in custody. There is no evidence that children are kept together with adults in custody.

According to item 228 of the Procedural-criminal code of the Republic of Uzbekistan, when the detained minor is brought to a special establishment, he is kept separately from adults in a place which is not a prison or in a temporary detention cell.

Nowadays, there are about 150 inmates in the only correctional colony for juveniles.

They are kept separately:

- those whose age is under 16 years are kept separately from older inmates;
- those who are imprisoned for the first time are kept separately from experienced inmates;
- under aged female inmates are kept in the isolated sector in the women's part of the colony.

The Zangiata correctional colony gives possibility to all to receive secondary education and profession. It is equipped by offices for studies and vocational training. Minors have possibility to receive educational certificate.

The territory of a residential zone of a colony has a sports hall, stadium, with necessary sports equipment.

Premises are divided into separate pavilions for various age and equipped by all necessary home appliances and sanitary-and-hygienic accessories. Special rooms of rest are equipped by TVs and video-equipment. There is a library with a reading room, and also a hall for holding solemn events. Norms of a food are developed by experts-dieticians and correspond to physiological requirements of children. Besides, there is "nature corner" (consisting of various animals). Condemned look after the animals.

In Uzbekistan great attention is paid to providing the rights of condemned to a liberty of conscience. New article 12 «Providing liberty of conscience of condemned» is introduced into the Criminally-executive code of the Republic of Uzbekistan, according to which the condemned are guaranteed a freedom of worship and they have the right to practice any religion or not to profess any. To the persons who are serving time in the form of arrest or imprisonment, under their request, attendants of the religious associations registered in accordance with established procedure are invited. The condemned are allowed to worship, use subjects of a cult and read religious literature. Worship is voluntary and should not break internal regulations and also violate the rights and legitimate interests of other persons.

**11. BHRRL was concerned that the urgent issue of domestic violence, which is not addressed by legislation, contributes to the growing number of abandoned and street children. Orphanages and infant homes are lacking good services for housing and care and it is difficult to assess the quality of children's life and education in these institutions. BHRRL also noted that street children and children in institutions, such as orphanages, are often involved in prostitution. It also noted instances of street girls being subject to sexual abuse by law enforcement officers and children in prisons being exposed to sexual abuse by prison staff or elder peers.**

Arguments about violence concerning of the homeless children and street children in Uzbekistan have no basis.

Nowadays, there is not a single case of sexual abuse from prison officers or older inmates in all facilities of the system for execution of punishment. The information that "...children in prisons being exposed to sexual abuse..." is a malicious calumny aimed at discrimination of the system of justice and law-enforcement agencies' officers.

In order to enhance correctional activity among juveniles, prevent crimes, coordinate and further improve activities of the state bodies, civil society organizations as well as commissions for juveniles, the Cabinet of Ministers adopted Resolution "On improvement activities of commissions for juveniles" on 21 September 2000 which envisaged the Protocol on commissions for juveniles as well as the structure of the Commission for Juveniles at the Cabinet of Ministers of the Republic of Uzbekistan.

According to the above-mentioned Resolution, commissions for juveniles carry out its activities on a voluntarily basis and aimed at prevention of crimes among minors and child negligence. Their main tasks are the following:

- to protect rights and interests of the minors, disclose and eliminate reasons and conditions facilitating child neglect and crimes;
- to coordinate work of the state bodies, local administrations and civil society organizations regarding child neglect and crimes;
- to monitor living conditions and education of the juveniles in the specialized education-correction establishments of the Ministry of Higher Education, Ministry of Public Education and Ministry of Internal Affairs;



- to assist in housing and employment of the juveniles released from places of detention or graduated from the specialized education-correction establishments.

The Prosecutor's Office's officers conducted 345 checks in inauspicious families regarding realization of the legislation regarding juveniles in 2007 (246 checks – 9 months 2008). By the results of the checks 19 (12) appeals against decisions were made, 481 (407) introductions of evidences were submitted, 362 (353) persons were officially cautioned, 1373 (1596) persons were made answerable for disciplinary, administrative and material responsibilities and against 38 (41) persons were instituted criminal proceedings.

Moreover, 2990 parents negatively influencing on their children were registered in 2007 (2629 parents – 9 months 2008).

In 2007 391 parents negatively influencing on their children were deprived of parental rights (246 parents – first half of 2008), 318 (181) parents were interdicted, 1880 (1042) persons were called to account for violation of the Articles 122, 127 of the Criminal Code of Uzbekistan, 32 (2) persons was made answerable for administrative responsibility for violation of the Article 48 of the Administrative Code of Uzbekistan.

Moreover, the issues of child neglect are included into the working plan of the Prosecutor General's Office for 2008.

The prosecutors' bodies institute criminal and administrative proceedings against teachers who use corporal punishments and other cruel forms of child treatment. Thus, 435 teachers committed various crimes during 1,5 years including 304 crimes directly in the system of education.

No appeals regarding sexual abuse by law enforcement officers and children in prisons being exposed to sexual abuse by prison staff or elder peers has been received by the Prosecutor General's Office in 2006-2008.

Therefore, BHRRL shows level of its incompetence in a question of "homeless children and street children». This phenomenon exists in any, even in a developed society and the reason is that these children come from unsuccessful families in which parents do not wish to raise them taking into account their interests; they cannot raise them because they are busy at work, ill, or one of parents is absent or they are not able to carry out their parental duties because of low educational, pedagogical and cultural level.

The Republic of Uzbekistan takes under the guardianship the children who have remained for some reason without guardianship of parents. For this purpose the Family code of the Republic of Uzbekistan, the Law «About guarantees of the rights of the child» and other acts provide alternative forms of settling the socially-vulnerable children:

Guardianship and trusteeship;

Adoption;

Getting invited to a family for patronage;

Placing them in special educational and medical institutions and social protection establishments.

According to the legislation other types of arrangements for socially vulnerable children can be provided.

The state conducts purposeful policy on strengthening the social protection of children, especially those who are in difficult life conditions. Here are some examples:

Illustrative example of this policy consistently pursued since the first days of independence, that in comparison with 2006 when to social sphere it has been directed 51,9 percent of the State budget, in 2007 this index has increased nearly 53,8 percent. Moreover, in 2008 for these purposes 54,6 percent is marked. It is necessary to notice, that similar figures seldom are presented in practice of other states.

With a view of consecutive continuation of this policy, increase of its efficiency and effectiveness, and also consolidation in a society the atmosphere of mutual understanding, goodwill and mercy 2007 has been declared in Uzbekistan as Year of social protection during which the special Government program was realized.

According to the Government program «Year of social protection» 26 laws and regulatory legal acts were adopted. Among them a special attention deserve such laws as «About social security of invalids in the Republic of Uzbekistan», «About guarantees of the rights of the child», and also «About charity» and «About preventive measures against diseases due to deficiency of iodine». With a view of increasing of effectiveness of social protection system, activity of the central and local bodies responsible for implementing this task, special decrees of the President of the Republic of Uzbekistan - in particular, about radical reforming of the Ministry of Labour and Social Protection, its regional, district and city divisions; about additional measures on financial assistance and countenance of the young families, which has become an important step to the further perfection of social sphere.

Especially it is necessary to note the realization of the measures planned in the Program on improvement of material and technical base of houses «Mekhribonlik» and specialized boarding schools, on strengthening attention and care of the state and a society about children who have lost the supporter, to make a reality the slogan «You - are not alone ».

A bright acknowledgement of this is the realization in 15 specialized boarding schools and houses «Mekhribonlik» of building-repair works and their facilities by the modern equipment for a total sum of 4 billion 800 million Sum, donation by the Ministry of national education to pupils of houses «Mekhribonlik» clothes and other necessary accessories for an approximate sum of 112 million Sum.

During 2007 28 houses «Mekhribonlik» and 86 specialized boarding schools were donated 114 buses made in Samarkand, and to 4 family children homes - minibuses «Damas», for this purpose from State budget has delivered 4 billion 600 million Sum. To 485 thousand of first-graders were donated textbooks and school accessories for the sum of 5 billion 157 million Sum. Along with the maintenance of this one of the most important arrangements, realized during the Program, there was the provision of 715 thousand pupils from needy families with warm winter clothes for the sum of 17 billion 816 million Sum.

It is necessary to notice, that with the purpose of health improvement to 234 thousand children, including 3 thousand boys and girls from the Republic of Karakalpakstan and the Khorezm - regions with the bad ecological conditions, and to over 8 thousand pupils of specialized boarding schools “Mekhribonlik” had been given a gratuitous possibility to go on holiday in summer camps.

**12. According to Global Initiative to End All Corporal Punishment of Children (GIEACPC), corporal punishment is lawful in the home and unlawful in schools and in the penal system. There is no explicit prohibition of corporal punishment in alternative care settings.**

Affirmations about legality of violence and punishments in the house, absence of an interdiction of corporal punishments in Uzbekistan do not correspond to reality and are not objective.

Corporal punishments of children are forbidden by the Republic Uzbekistan’s legislation wherever they take place: at home, at school or in the street.

The Criminal Code of the Republic of Uzbekistan provides responsibility for an attempt to life and health of the person, including the child: 26 percent of its norms provide responsibility for inflicting danger to life of citizens including: a premeditated murder, under aggravating circumstances (article 97 CC), a premeditated murder in a condition of strong mental excitement (article 98 CC), a premeditated murder by mother of the newborn child (article 99 CC), deliberate causing of death by exceeding limits of necessary defense (article 100 CC), deliberate causing of death by exceeding necessary measures needed to arrest a person who have made socially dangerous act (article 101 CC), deliberate causing of death on imprudence (article 102 CC), forcing a person to commit suicide (article 103 CC), and deliberate causing of physical injury, dangerous to a life at the moment of its causing (article 104 CC).

In conformity with the Family Code of Republic Uzbekistan the protection of the rights of the child for a life and healthy development is carried out first of all by their parents or by the persons who replace them. They are obliged to care about health, physical, mental, spiritual and moral development of their children. Upon performing their parental rights parents have not the right to inflict physical and mental harm to their children. The methods of children education should exclude scornful, severe, rough attitude which humiliates human dignity, insult or exploitation of children. Parents can be deprived the parental rights if they treat children roughly, including physical and mental violence over them, if they have committed a deliberate crime against a life or health of children.

It is necessary to notice, that in case of direct threat to child's life or health, the guardianship and guardianship body has the right to take away immediately the child from parents (or from one of them) or from other persons in the charge of which he is. The immediate taking off of the child is made on the grounds of a proper corresponding certificate of self-governing institutions of citizens.

### **3. Administration of justice, including impunity, and the rule of law**

**13. AI reiterated its concern that the authorities continue to refuse to hold an independent, international investigation into the May 2005 mass killings in Andijan.<sup>21</sup> ICJ noted that the killings in Andijan in May 2005 have not been satisfactorily investigated and the perpetrators continue to enjoy total impunity. No independent investigation has been conducted into the Andijan events, and international governmental and non-governmental organisations have not been permitted to investigate the events within Uzbekistan and have been denied unhindered access to detainees. ICJ added that the High Commissioner for Human Rights has recommended the establishment of an international commission of inquiry into the events and the Committee against Torture has expressed concern at the failure to hold a full and effective investigation into all claims of excessive use of force by the security forces.**

Allegations about absence of independent investigation of Andizhan events, constantly voiced by various human rights organizations, prove that they ignore the international principles of sovereign equality of states and non-interference to their internal affairs. Being an independent state, Uzbekistan has conducted its own deep investigation on Andijan events, it has revealed the reasons and the conditions, that brought to a criminal encroachments on the state power structures, has taken measures on their suppression and punishment of the guilty.

The crimes, made in Andijan on May 12-13th 2005, took place in the territory of Uzbekistan and, in conformity with the articles 3 and 4 of the Criminal Procedural Code and the article 11 of the Criminal Code of the Republic, are under jurisdiction of the Republic of Uzbekistan. There is no international document which would obligate the sovereign state to conduct the international investigation of the cases, related exclusively to its internal competence.

However, it is necessary to notice that the objective information about investigation of the Andijan events was regularly brought to attention of the international organizations through corresponding data of the Office of Prosecutor General by sending to the Ministry of Foreign Affairs of Uzbekistan, as well as in meetings in the Office of Prosecutor General, particularly:

On June 10th, 2005 the Prosecutor General met Ambassador Miroslav Encha - the Head of the Center of OSCE in Tashkent and Peer Nurmark - the expert on human dimensions of the Center of OSCE. During the meeting with them there have been discussed issues related to the events which were taking place in the Andijan region on May 13-14th, 2005. In particular, they have been acquainted with preliminary results of investigation of the criminal case brought upon terrorist acts: with chronology of their realization and breaking consequences; quantity of lost and wounded, the persons taken in hostages by terrorists, and also moved to Kyrgyzstan; the size of the caused material damage; number of the persons involved in fulfillment of terrorist acts, determined and arrested persons during preliminary investigation.

On June 16th, 2005 the first deputy of the Prosecutor General met representatives of diplomatic missions in Tashkent and had conversation with them concerning the events which were taking place in the Andijan region on May 13-14th, 2005.

On August 25th, 2005 in the meeting with the British political analyst Mrs. Shirin Akiner there were discussed events in Andijan and their consequences. Thus for Akiner has noticed that after the Andijan events Western Europe countries and the USA attempt to isolate Uzbekistan in political and economic spheres as there is an opinion concerning the strict actions undertaken to participants of «peaceful meeting» occurring in Andijan on May 13th, 2005 which is generated, mainly, on foreign mass-media publications, where on the basis of doubtful sources of event in Andijan are presented as «execution of peaceful meeting». Therefore there are bases to draw a conclusion about improbability of their version. It is necessary to conclude it critically. Regarding to request of the political scientist, films and the slides were shown to her, which have been taken during the investigation as well as the film made by terrorists directly during events, where actions of the armed insurgents who have carried out terrorist acts in Andijan.

On September 7, 2005 the first deputy of General Attorney received the representatives of diplomatic missions in Tashkent: Bhargan Mitra (consul, India), Gulmira Sultanali (2 secretary, Kazakhstan), Sabit Umirbekov (Attaché, Kyrgyzstan), Chen Weywey (1 secretary, China), Bakit Tungatarov (1 secretary, Kyrgyzstan), Shahbaz Malik (3 secretary, Pakistan), Kirill Belikov (2 secretary, press attaché, Russia), Murodjon Buribaev (1 secretary, Tajikistan). They were presented with objective information about the criminal case, which were brought on Andijan incident and submitted to Supreme Court of Uzbekistan to conduct an investigation with respect to the fifteen accused, who were the most active participants and organizers of terrorist attack in Andijan.

On October 1, 2005 the first deputy of General Attorney received Miroslav Yench, Head of OSCE center in Tashkent. They discussed the issues of monitoring by OSCE observers the legislative procedures with respect to the defendants, who were accused of involving in Andijan incident and access to information on the results of investigation.

On August 29, 2006, the first deputy of General Attorney received the EU Troika delegation, comprised by Antti Turunen, Head of East Europe and Central Asia Department, MFA of Finland, Rolph Shultz, Head of South Caucasus and Central Asia Department, MFA of Federal Republic of Germany, Hugues MIngrelli, Director for South Caucasus, Central Asia and East Europe, EU General Director for External Relations and Gintz Apals, administrator of General Secretary of EU Council, Director of General Directorate for External Relations of EU Commission. During the meeting the guests were informed about the incident in Andijan in May, 2005.

On December 13, 2006, a Plenary meeting with the participation of EU experts' delegation led by Pekka Oinonen, a specialist on combating terrorism, MFA of Finland took place. The Ambassador Extraordinary and Plenipotentiary of Federal Republic of Germany to Uzbekistan M.Mayer and some staff members of the German Embassy were included also in the delegation. The EU experts were familiarized on-site with the outcome of criminal investigation, conducted on Andijan incident.

On April 2-3, 2007 the second meeting with the participation of EU experts led by the Head of South Caucasus and Central Asia Department, MFA of Germany Shultz took place. The Ambassador of Germany to Uzbekistan M.Mayer was also included in the list of delegation. During the meeting the Uzbek representatives gave thorough answers to the experts' additional questions aroused after acquainting them in December 2006 with the outcome of criminal investigation on Andijan incident.

Moreover, the preliminary investigation found out that 28 representatives of foreign Mass-Media were in the place during the Andijan incident.

(Malyuba Azamatova, Sharifjon Akhmedov, Valeriy Pankrashin, Monika Whitlock, Jeanis Farel, Anna Luis Claridge, Joana Klear Lillies, Janny Kler Norton "BBC" Great Britain, Kutbiddinov Husniddin, Yuldashev Gofurjon radio "Ozodlik" ("Freedom") USA, Marcus Bensman, Natalya Bushueva "Nemetskaya volna" (German wave) Germany, Katerine Gannon "Associates Press" USA, Michael Kolet White, Sudjata Rao "Reuters" Great Britain, Yafasova

Dina Agency “Medsestra” (Nurse), Denmark, Heze Enn Klark, Denis Albrighton «France Press» France, Ann Nivat “Liberacion” newspaper, France, Igor Rotar “Forum 18”, Norway took an active part in widely reporting the legal process with respect to 23 members of religious extremist organization “Akromiys” in Andijan city.

Sharifkhon Akhmedov “BBC” Great Britain, Markus Bensman «Deutch Welle», Germany, Aleksey Volosevich «Fergana.Ru», Russia, Shamil Baygin «Reuters» Great Britain, Efrem Lugatchkiy, Bagila Buharbaeva «Associated Press» USA, Galima Bukharbaeva «Institute for War and Peace Reporting» Great Britain were near to or inside the Administrative building of the Government of Andijan province, which was captured by terrorists. These journalists can give first-hand evidence about outrages and brutal humiliations against the hostages and other suffered people by the terrorists. The terrorists’ direct presence is confirmed by the testimonies of many witnesses and protocol identifications of the terrorists themselves.

**14. ICJ reported that the Uzbek criminal justice system fails to guarantee the right to fair trial. Criminal trials are characterized by reliance on forced confessions and the absence of adequate legal representation and of defense rights. The judiciary lacks the strength and independence necessary to protect the rights of suspects: judges are appointed directly by the Government and lack security of tenure. Trials conducted in the wake of the Andijan events were manifestly unfair. According to ICJ, trial monitors of the Organization for Security and Cooperation in Europe observing the Supreme Court trial of 15 men following the events, found serious flaws in the trial, including the absence of arguments for the defense, lack of independent lawyers for the defense, and lack of access by the public to the trial. They also noted the uncooperative and obstructive approach of the Uzbek authorities to the trial monitors. In addition, VERITAS noted that there is a lack of clear public rules, as many rules governing matters such as access to a lawyer are only “internal” unpublished regulations. VERITAS regretted the excessive discretion and lack of transparency in the activities of the law enforcement agencies and a lack of professionalism leading to the use of torture and ill-treatment to obtain evidence and confessions.**

In this information one can observe the desire to show weakness of all judicial-legal system of Uzbekistan: infringements in activity of courts, of law enforcement bodies, absence of a transparency and professionalism in their activity. These "worn out" phrases were in use 5 and 10 years ago, there is nothing new in the given interpretation of events, there is no aspiration to see and to estimate those changes occurring in Uzbekistan, which in 2008 has just celebrated 17 years of the independence.

For a short period of time in Uzbekistan has essentially changed for the better law-enforcement bodies, bodies of Office of Public Prosecutor and courts activity.

In 2004 an essential role was played the elaboration the Strategy of legality strengthening, human rights observance in activity of law-enforcement bodies in following directions:

1. Regulating of detention process and exclusion of the arbitrary detention facts and delivering at the law enforcement bodies of the persons suspected in crimes;
2. Carrying out of remedial procedures (with observance of Miranda rules) with the detained persons, i.e. an explanation of procedural rights, maintenance with real protection, the message to members of a family or near relations on the fact of detention, etc.;
3. Conducting careful independent investigations on application of tortures to detained and arrested persons with attraction of representatives of the public;
4. Guaranteeing of transparency of law enforcement bodies activity;
5. Improvement of legal consciousness and cultural level of employees of law-enforcement bodies.

In these directions officials of the Ministry of Internal Affairs departure on places to conduct seminars with employees of territorial law-enforcement bodies in which course questions of practical execution of laws requirements on observance of human rights are explained, not only in

the course of inquiry and preliminary investigation, but in course of all activity of law-enforcement bodies.

Creation of special Department on protection of human rights at the Ministry of Internal Affairs of the Republic Uzbekistan, increase in activity concerning addresses and complaints of the citizens bringing to criminal liability of concrete employees of militia under article 235 of the Criminal Code by the bodies of the Office of Public Prosecutor in aggregate shows how law realization is provided. The concrete statistics of bringing to criminal liability under Criminal code article 235 is evident acknowledgement of it.

By results of citizens references checks have been instituted proceedings on the facts of threats application and of other methods of pressure (under Criminal code article 235):

In 2002 - 1 case against 1 person, in 2003 - 4 cases against 4 persons, in 2004 - 3 cases against 3 persons, in 2005 - 3 cases against 5 persons, in 2006 - 6 cases against 9 persons, in 1 semester of 2007 - 3 cases against 4 persons. In total 20 criminal cases against 26 persons.

The managers of Ministry of Internal Affairs give a basic estimation to each fact of infringement of legality, with dismissal of guilty law-enforcement bodies from service with the subsequent bringing to criminal liability.

In the order of the General public prosecutor № 40 of February, 17th, 2005 «On radical improvement of public prosecutor's supervision in maintenance of the rights and freedom of persons in criminal process» on the public prosecutors and the investigators the duty of strict observance and execution of requirements of the Convention against tortures and severe, brutal or disgracing treatments and punishment is assigned. Considering specificity of bodies of Office of Public Prosecutor in the sphere of human rights guarantee by realization of public prosecutor's supervision, are accepted departmental documents directed on strengthening of the given supervision.

There is the special chapter in the law «On Office of Public Prosecutor», regulating mechanisms of protection of the human rights and freedom by bodies of Office of Public Prosecutor. In the structure of the State Office of Public Prosecutor is founded a Department on the human rights. Owing to realization of public prosecutor's supervision in criminal trial, are revealed the facts of infringements of the rights and freedom of citizens. All investigations on the facts of violation of the law by the employees of law enforcement bodies are carried out only by bodies of Office of Public Prosecutor.

Courts of the general jurisdiction of the Republic of Uzbekistan certain work is done on realization of the Convention against tortures and severe, brutal or disgracing treatments and punishments and also the National plan of action on realization of the Convention against tortures and severe, brutal or disgracing treatments and punishments.

An appropriate continuation of work on observance of human rights protection was acceptance on September, 24th, in 2004 by the Plenum of the Supreme court of the Republic of Uzbekistan the Resolution «On some questions of the Criminally-procedural law norms application on an admissibility of proofs» by which it is fixed, that proofs obtained as a result of deviation by the investigator, the inspector, the public prosecutor and court from exact execution and observance of norms of the law, indifferent by which motives it would be caused are considered inadmissible. As inadmissible proofs are considered evidences, including those plead guilty, obtained with application of tortures, violence and severe, brutal or disgracing treatments and punishments, and also by a deceit and other illegal methods. Plenum has specified to the courts the fact of necessity of reaction to the infringement of procedural law about norm of proofs collecting, by declaring of private definitions (decisions), and if necessary, adopting decision regarding initiation of proceedings against guilty persons.

During the period that follows from the date of acceptance the Resolutions by Plenums of the Supreme Court in 2003 and 2004, by the courts of the Republic of Uzbekistan from 2004 to 2007 about 50 criminal cases are returned for an additional investigation because of a recognition of proofs as inadmissible, i.e. obtained by means of tortures, violence, and deceit.

The Supreme court of the Republic Uzbekistan underlines, that all defendants on the cases connected with the Andizhan events, during preliminary investigation and legal proceedings had been provided with the

qualified lawyers who participated during investigations and in judicial session according to the corresponding warrants and carried out the functions according to norms of Laws of the Republic of Uzbekistan «On legal profession», «On guarantees of lawyer activity and social protection of lawyers» and the criminal-procedural legislation according to which the lawyer is an independent part, having the equal rights with all participants of the process at all stages of legal proceedings.

During preliminary investigation and judicial session the lawyers who have participated, had been selected by defendants. They actively participated in the legal proceedings, have valuable defended the interests of defendants from the moment of their detention in the course of preliminary investigation, and in court have been really provided by the right to unlimited meetings with the clients.

By the degree of the President of the Republic of Uzbekistan of July 30, 1999 a Commission for dealing with issues related to appointment and dismissal of judges was set up at the President of the Republic of Uzbekistan to ensure a real independence of judicial authority, the further democratization of principles of selection and designation of the judicial staff as well as to submit relevant proposals on persons nominated for the post of the judge. The creation of this Commission has become a significant step towards resolving one of the important problems –staffing of the judge corps with qualified and competent judges who are independent from bodies and persons participating in their nomination. By the degree of the President of the Republic of Uzbekistan of May 4, 2000, this Commission was transformed into the High Qualification Commission on selecting and recommending for the post of the judge at the President of the Republic of Uzbekistan to further enhance work for selecting candidates and appointing judges and observe legislative requirements in nominating qualified and high moral specialists for the post of judge. The staff of Commission is formed of judges, deputies of Oliy Majlis of the Republic of Uzbekistan, representatives of Judges Qualification Commissions, public unions and high qualified specialists in the sphere of law.

The main tasks of the Commission are:

- elaborating and undertaking measures to develop democratic foundations of selecting and designating of judges;
- ensuring lawfulness in selecting and submitting to approval by the President of Republic of Uzbekistan;
- undertaking measures aimed strengthening judges independence and their social protection;
- elaborating proposals to enhance the work on selecting and designating personnel for the post of the judge and education of judicial personnel;
- elaborating proposals to enhance the legal basis of selecting candidates for judges, improving their professional training.
- providing transparency and publicity in selecting and placing of judicial personnel, accountability of this work on the vertical as well as preventing the facts of abuses by the service position in this sphere;
- controlling activities of qualifying judge boards on forming reserve, selection and presenting suitable candidates for the post of judges;
- organizational and analytical provision of judges;
- studying and implementing the activities of the Commission of the advanced foreign experience on selecting and appointing judges.

**15. VERITAS added that detainees' families are not immediately informed about the detention of their relatives. Detainees do not undergo medical upon arrival and before their pre-trial detention. In breach of the Uzbek Criminal Procedural Code, investigators, prosecutors and judges do not ask detainees, suspects or accused about treatment during pre-trial detention. Legislation does not provide provisions allowing unmonitored contact with legal counsel and relatives within the first 24 hours.**

Those statements manifests lack of knowledge of the Uzbek legislation and practices of its implementation.

The rights and obligations of accused or suspect are envisaged in the Articles 46, 48, 50, 51, 217 of the Criminal Procedural Code of the Republic of Uzbekistan.

The right of an arrested person to see a doctor of his/her choice is fixed by the Article 24 of the Law of the Republic of Uzbekistan “On healthcare of citizens”.

The Article 24 of the Law of the Republic of Uzbekistan “On healthcare of citizens” considers that a patient while appealing for medical treatment has a right to choose a doctor and medical establishment (hospital).

Arrested and detained persons have right to get a qualified medical treatment and if necessary they receive the treatment in medical establishments.

It is envisaged in the Article 229 of the Criminal Procedural Code of the Republic of Uzbekistan that detained persons shall be kept in conditions conforming sanitary and hygienic rules, medical treatment of the detained persons, treatment and prophylactics in penitentiary units are organized and conducted in line with the legislation.

According to the Joint Decree of the Ministry of Internal Affairs and Ministry of Healthcare of the Republic of Uzbekistan №248/625 dated 4 December 2000 “On measures for raising medical services for detained and imprisoned persons” there are constant work is taking place in order to improve the quality of medical treatment. If necessary there are consulting and treatment of detained persons is taking place.

According to the Criminal Code of the Republic of Uzbekistan imprisoned persons have right for a qualified medical treatment free of charge. If there is no doctor of a necessary specification which is linked to an illness of a imprisoned person, in this case the penitentiary shall ensure providing of that doctor by means of the service of sanitary aviation of the Ministry of Healthcare.

The appeal of the detained or arrested persons regarding recruiting necessary doctor is considered by the principal of a penitentiary or controlling prosecutor. According to the appeal an inmate is provided by necessary doctor.

According to the Article 217 of the Criminal Procedural Code of the Republic of Uzbekistan an investigator, prosecutor or court, after implementing towards a suspect, accused or defendant the procedural measure in form of detention, arrest or placing in a medical establishment for making of examination, shall inform about it a member of the family of accused, in case of their absence - relatives or friends, as well as convey the information to the place of work of study, not later than in 24 hours.

Regarding the contact between an arrested person and members of his/her family, the Article 230 of the Criminal Procedural Code of the Republic of Uzbekistan says that meetings of detained persons with relatives and other persons are provided by the administration of the place of detention only after written permission of an investigator who deals with the materials of detention.

The brochure “What You must know about your rights if you ...” is spread among all detained persons. It has information about the right to inform relatives or close persons about conditions and location of his/her detention. The brochure is prepared and printed by the Ministry of Internal Affairs with assistance of American Bar Association. It is aimed at informing about rights of detained and arrested persons and is spread to avoid violations of detained persons’ rights.

**16. According to HRW, there is no evidence of meaningful government action to address the culture of impunity, highlighted by the Committee Against Torture in its November 2007 examination of Uzbekistan as a key obstacle to effectively combating torture.**

The statement that there is a culture of impunity in combating torture in Uzbekistan demonstrates either a lack of knowledge or lack of willingness to see those measures that the Uzbek Government on the levels of legislative, executive and judicial powers undertakes for extirpating torture in the country.

1. *Legislative power.* In August 2003 the Parliament (Oliy Majlis) of Uzbekistan adopted the amendments to the Article 235 of the Criminal Code of the Republic of Uzbekistan. According to those amendments, the torture and other cruel, inhuman or degrading treatment or punishment on all



phases of criminal process are criminally punished acts and shall be prosecuted by the legislation. In other words, it fully goes in line with the Article 1 of the Convention against torture.

Three events dedicated to the Convention were conducted by Legislative Chamber of the Parliament along with the UNDP in 2006 only. The parliamentary control regarding fulfillment of the provisions of the Convention by the law-enforcement agencies and penitentiaries of Tashkent City and Tashkent region was made in January 2006.

The scientific-practical seminar “The Implementation of the Provisions of the Convention Against Torture in the National Legislation of the Republic of Uzbekistan” with participation of the members of the Parliament, officers of the law-enforcement agencies, lawyers, scholars and professors of the universities and representatives of the institutions of civil society was held with assistance of the UNDP in June 2006.

The Committee on International Affairs and Inter-Parliamentary Connections of the Legislative Chamber of the Parliament (Oliy Majlis) of the Republic of Uzbekistan along with the UNDP organized the round-table dedicated to “The Improvement of the Legislation in Terms of Realization of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” in December 2006.

2. *Executive power.* The State Adviser of the President of the Republic of Uzbekistan Mr. Adulaziz Kamilov stated that “the state condemns any form of torture and resolutely combats torture and other similar forms of treatment” during his meeting with the representatives of diplomatic corps and foreign journalists accredited in Tashkent in March 2003. The special Program (Action Plan) of the Government on realization of the Convention against torture was adopted in March 2004.

The Coordination Council of the Law-Enforcement Agencies at the General Prosecutor’s Office of the Republic of Uzbekistan scrutinized the issue of full observation by the officers of the law-enforcement agencies of the international obligations in conformity with the Convention against torture in May 2004. The issues of observation of legality during consideration of complains and appeals by the citizens and illegal actions of the employees of the law-enforcement agencies and controlling bodies were also raised during the above-mentioned meeting.

During the Collegial session of the General Prosecutor’s Office the issues of strengthening of prosecutor’s control over observation of constitutional rights of citizens during detention and imprisonment were discussed. In line with the Convention, the General Prosecutor’s Office of the Republic of Uzbekistan issued Decree №40 “On Comprehensive Improvement of the Prosecutor’s Control over Observation of Rights and Freedoms of Citizens at the Criminal Process” on 17 February 2005.

The meeting of the Collegial Council of the Ministry of Internal Affairs of the Republic of Uzbekistan on 22 May 2003 discussed the ways of further improvement of legality of the law-enforcement agencies and situation with human rights. As a result the Council adopted the document that recognizes the inadmissibility of any violation of legality in activities of the bodies of internal affairs, infringement of human rights in any form including in implementation of illicit methods of investigation i.e. torture. The document outlines the necessity to increase attention towards received complains linked with the torture and illegal actions of the law-enforcement officers and establish an additional control over its observation.

The President of the Republic of Uzbekistan issued Decree “On Abolishment of Death Penalty” on 1 August 2005. Therefore, Uzbekistan joined other countries that abolished death penalty. It is worth to mention that we do not talk about moratorium on death penalty which was adopted in some countries when an imprisoned person may wait for years that the punishment may be executed. But here we talk about full abolishment of death penalty.

The issues of strengthening of prosecutor’s control over observation of constitutional rights of citizens during detention and imprisonment are discussed during the Collegial session of the General Prosecutor’s Office annually.

Every year the sessions of Collegial Councils of the Ministry of Internal Affairs and National Security Service of Uzbekistan consider issues of legality and combating torture. The

materials and decisions of the sessions of those ministries and agencies are spread among all employees of those bodies.

3. *Judicial power.* The Plenary Session of the Supreme Court of the Republic of Uzbekistan adopted Resolution №17 dated 19 December 2003 “On practice of implementing by courts the laws ensuring a suspect or accused right to defend” which gives interpretation of the word “torture” in conformity with the Convention Against Torture. Moreover, the Resolution №12 dated 24 September 2004 of the Plenary Session of the Supreme Court of the Republic of Uzbekistan “On some issues of implementing norms of the criminal procedural legislation” says that “evidences which gained by means of torture shall be recognized as inadmissible”.

**17. VERITAS highlighted the lack of an independent complaint and review mechanisms for alleged torture, the existing review mechanisms being neither independent nor effective. Torture and ill-treatment mostly take place in places of detention of the penitentiary system. Today places of detention in Uzbekistan are completely closed to independent review.**

The issues of independent mechanisms of scrutinizing of complains about torture and confined nature of penitentiary establishments became a common place for many unfair human rights organizations. Uzbekistan has thoroughly discussed that issue during the session of the UN Committee Against Torture in November 2007, gave comprehensive answers to the members of the Committee.

There are special structures – Departments on human rights in the system of the Ministry of Internal Affairs, General Prosecutor’s Office and Ministry of Justice. The institution of Ombudsman is also functioning in Uzbekistan. The openness in their work allows to undertake prompt and urgent measures for considering and resolving of complains about human rights including in penitentiary system.

**18. In this respect, AI welcomed as an achievement that in March 2008, a spokesperson for the International Committee of the Red Cross (ICRC) confirmed that an agreement had been reached with the government for the ICRC to resume prison visits under its mandate, for a trial period of six months. AI hoped that the ICRC is granted unfettered access to detention facilities as requested and that visits will continue beyond the trial period. BHRRL added that a few visits of the ICRC have very slightly improved the situation but stressed that before the visit, authorities make preparations to ensure more or less decent conditions during this period. In this respect, VERITAS explained that the Ombudsman has the legal authority to inspect, as he wants to, as necessary and without notice, any place of detention. However, the Ombudsman’s institution is fully dependent on the executive branch and its visits to detention places may not shed any light on the situation. Reports of the Ombudsman’s office upon visiting detention places, including conclusions and recommendations, are not made public.**

The topics of visits of the ICRC to detention places of Uzbekistan and insufficient effectiveness of Ombudsman’s monitoring of prisons are lacking novelty and originality. In this regard it worth to outline once again the following:

1. The Department of Penitentiary Establishment the Ministry of Internal Affairs of the Republic of Uzbekistan ensures unimpeded access to prisons and other places of detention for representatives of the diplomatic corps, international and local non-governmental organizations, foreign and local mass media.

2. Moreover, in 2004 the Ministry of Internal Affairs adopted and the Ministry of Justice registered the Instruction “On the order of visit of the places of detention by the representatives of the diplomatic corps, international and local non-governmental organizations, foreign and local mass media”.

3. The system of access to the places of detention by the representatives of the civil society institutions is implementing in Uzbekistan. In this regard, the Department of Penitentiary of the Ministry of Internal Affairs elaborated a model agreement about the order of access of NGOs to the places of detention.

4. On 17 of January 2001 an Agreement was signed between the Government of Uzbekistan and the International Committee of Red Cross «On humanitarian activity in places of detention». During the years of cooperation all kinds of assistance have been rendered to the representatives of the ICRC and provided all possibilities to visit places of execution of penalties. As the result, they visited practically all the penitentiary sites of GDEP (4- in 2001, 5 - in 2002, 30 - in 2003, 46 - in 2004, 1-2007).

In 2008 a group of representatives of the ICRC made 19 visits to colonies and investigative isolators (SIZOs) (in Tashkent city and Tashkent, Andijan, Bukhara, Navai regions) from which 10 are repeated. The main examined question during these visits – the treatment of prisoners. After each meeting representatives of ICRC meet with the heads of the General Directorate on Execution of Penalties of MIA to discuss the activities of penitentiaries, material security and medical treatment of special contingent, rights and duties of prisoners, norms of nutrition for prisoners, issues of penitentiary employees' treatment to special contingent, order of providing meetings with the relatives or lawyers, quantity and order of receiving food and material parcels, medicines in case of need, opportunities of prisoners to keep up contacts with their relatives.

5. In 2003 the OSCE experts visited 6 places of detention, administration of Prison Reform International (countess V.Stern) – 2 prisons, head of the representative office Freedom House in Tashkent – 1 place of detention. The places of detention were visited numerously by the EU experts, diplomats from the USA, France, Germany, Great Britain, Italy, Holland, Russia, Iran and other countries, journalists of Reuter, France Press, Associated Press, BBC Radio, BBC-4 and others.

The head of Freedom House Tashkent office Mrs. M.Sever and councilor of the US Embassy in Uzbekistan Mrs. S.Kurran visit prison in Jaslik village of the Republic of Karakalpakstan in June 2004.

The UN Commission on Human Rights expert Mr. L.Guseinov visited some places of detention in October 2004.

6. International and local NGOs made 9 visits to prisons and 2 monitoring events of the places of detention in 2005. The representatives of the KFW Bank visited prison in Pskent in the frameworks of Program fighting TB on 3 February 2005.

7. Such NGOs as the Regional Center of Social Adaptation and Reproductive Health of Women (Chirchik City), Informational and Educational Center “Intilish”, Woman and Society Institute held monitoring event dedicated to “the Implementation of the Norms of International Law in the National Legislation regarding Women imprisoned in the Republic of Uzbekistan” from 10 March to 10 June 2005.

8. The KFW/EPOS expert Mr. A.Neir visited prison №УЯ-64/18 on 27 April 2005. The experts of the NGO International Rehabilitation Council for Torture Victims (IRCT) from Denmark visited prison №УЯ-64/1 on 22 June 2005.

In order to study requirements of the Uzbek side in teaching of the inmates of the professional skills in the sphere of education the representatives of the NGO German Association of Public Universities visited 3 places of detention in different parts of the country including Andijan in September 2005.

It is worth to outline that the Ombudsman of Uzbekistan visited of places of detention in the country including Jaslik prison during its term. The information about those visits are published every year in the reports of Ombudsman which are printed in the Almanac of the Parliament.

At present, in the framework of adoption of the Law «On making amendments and additions to some legislative acts of Uzbekistan in connection with the improvement of activity of the Authorized Person for Human Rights of Oliy Majlis (Ombudsman)» the following addition to be made in the Article 18 of Criminal Code of the Republic of Uzbekistan, which was approved by the Law of the Republic of Uzbekistan on April 25, 1997: «Authorized Person for Human Rights of Oliy Majlis (Ombudsman) has the right to visit punishment execution sites without any special permission in conducting compliance inspection».

In August 2008, The Ombudsman held the next seminar-conference «The improvement of sentence execution system in the sphere of supervision and respect for prisoners' rights» in Ferghana, which was organized for penitentiary officers and working groups members of regional representative of the Ombudsman on the profile areas of interaction with partner organizations.

The Extraordinary and Plenipotentiary Ambassador of Germany M.Mayer and Deputy Head of International Red Cross Committee mission in Uzbekistan R.Muller took part in this conference, who also took part in the constant Ombudsman monitoring of the prisoners' rights providing at the investigation isolator in the Fergana.

At present the work is almost completed on the establishment of Ombudsman in 3 penitentiary sites of The General Directorate on Execution of Penalties (GDEP) of the Ministry of Internal Affairs of the Republic of Uzbekistan.

**19. VERITAS reported that in January 2008, Uzbekistan introduced a new institution of criminal justice system “habeas corpus”, which transfers the power from the Public Procurator to sanction pre-trial arrest to courts. It highlighted a number of problems in this regard, in particular the fact that the judge who reviews the application for pre-trial arrest may also hear the subsequent criminal case; the fact that the judge does not have any additional powers to review other preventive or compulsory measures during pre-trial investigation and trial; the possibility of detention lasting for up to 120 hours without charges; and the closure of judicial hearings concerning habeas corpus.**

The detailed study of the legislation of the Republic of Uzbekistan about Habeas Corpus would allow the organization to avoid concerns regarding activity of court in issuing warranty for arrest.

The Constitution of the Republic of Uzbekistan declares and guarantees freedom and personal immunity “No one shall be arrested or detained without basis of the legislation” (Article 25).

According to the Article 234 of the Criminal Code “deliberately illegal detention, in other words, short-term restraining freedom of a person by investigator or prosecutor without any legal basement is punished by the penalty of 50 minimal salaries or arrest up to 6 month. The deliberately illegal arrest is punished by 50-100 minimal salaries or imprisonment up to 1 year.”(Article 234 of the Criminal Code).

The punishment for bringing to account an innocent person by investigator or prosecutor is the imprisonment for 5 years. The same action which linked with grave crime is punished by 5-8 year sentence. (Article 230 of the Criminal Code).

According to the recommendations of the UN Committee on Human Rights the Parliament of Uzbekistan adopted the Law “On amendments in some legislative acts of the Republic of Uzbekistan due to shifting to the courts the right to issue warranty for arrest” on 11 July 2007. According to the Law the new edition of the second part of the Article 18 of the Criminal Procedural Code was introduced which says that “no one shall be arrested or detained without court's decision”. The same amendment was introduced to the Article 10 of the Law “On courts”. Moreover, the right to consider complains and appeals regarding detention or prolonging of sentence is also given to the courts. This is envisaged in the Article 29 of the Criminal Procedural Code.

In case of availability sufficient evidences for detention of a suspect or accused person during the preliminary investigation there is a relevant order of appeal by the prosecutor or investigator with permission of the prosecutor. According to the order “if there are circumstances envisaged by the Law for arrest during preliminary investigation, the investigator with permission of the prosecutor may prepare appeal for arresting or detention”. The prosecutor examines the appeal and if he/she agrees with it, the necessary materials are sent to the court. If the appeal is made regarding accused or detained person, then the material must be submitted to the court not later than 12 hours before expiry of detention. The court, in its turn, shall consider the submitted material in 12 hours at the close court trial with participation of the prosecutor, legal defendant

(lawyer), detained person, suspect or accused. The Law allows a legal representative of the accused or suspected person as well as an investigator to be present at the trial.

This norm creates a prerequisites for adoption by the court of the legal decision in terms of detention after examination submitted by the sides evidences on the basis of competitiveness.

#### **4. Right to privacy, marriage and family life**

**20. SRI and Labrys reported that criminal charges for sodomy between consenting adult males, which is according to Article 120 of the Uzbek Criminal Code punishable with up to three years of imprisonment, put gay, bisexual men and transgender people in vulnerable situations. Reports state that in the years 2000-2004 at least 70 men convicted on the basis of Article 120 were serving prison sentences. SRI and Labrys added that LGBT people in Uzbekistan live in fear and a number of them migrate abroad. Those in rural areas are subject to violence and harassment from their families and peers. Families disown their LGBT relatives and may turn to violence in order to cover what they consider ‘shame for the family’. None of these human rights violations are reported to the police because of the existence of Article 120 and overall lack of trust in law enforcement bodies.**

The representatives of different international organizations and foreign embassies accredited in Tashkent from time to time raise an issue about abolishment of the Article 120 of the Criminal Code of Uzbekistan envisaged criminal responsibility for sodomy. The members of the Committee on Human Rights and Humanitarian Assistance of the Bundestag of Germany during the meeting in the National Center on Human Rights of Uzbekistan also raised the question about it.

It is worth to mention that the Article 120 of the Criminal Code of Uzbekistan is an acting legal norm. According to statistics, 8 persons were accused by the Article in 2005, 3 persons – in 2006.

Nowadays, the presence of the Article 120 in the Criminal Code is one of the important factors impeding spread of HIV/AIDS in Uzbekistan.

It is well known that there has been detected an intensive increase of the number of HIV-infected people in Uzbekistan since 2000. In 2000 the number of the HIV-positive in Uzbekistan was 154 persons, in 2004 – 2016 persons, in 2005 – 2198 persons. Nevertheless, the spread of the HIV/AIDS continues in the groups of society with risky behavior including gays. Moreover, the initial HIV-infected persons and deaths due to the virus registered in Uzbekistan were among homosexuals. According to the opinions of international experts the number of homosexuals only in Tashkent may exceed 46 thousand persons. Therefore, there is a risk of spread of the virus in that environment.

Moreover, the risk of spreading of HIV/AIDS in places of detention is getting higher. 46% of the HIV-infected persons are inmates.

Therefore, the analysis of the judicial practices regarding implementation of the Article 120 of the Criminal Code and the situation with HIV/AIDS leads to the conclusion that abolishment of that Article is premature.

#### **5. Freedom of movement**

**21. According to BHRRL, Uzbekistan inherited the system of residence registration from soviet times (propiska) and made the capital Tashkent a ‘closed’ city, as citizens born and living in other cities of Uzbekistan cannot obtain permanent residence registration in the capital without permission of a special governmental committee, which is almost impossible to get. Hence persons from poor regions looking for better jobs in the capital have an illegal status. This affects their children by limiting their rights to education and health care.**

The existence of an institute for becoming a residence of Tashkent city is connected with need to account citizens of the republic, arriving in Tashkent, studying the process of migration of population and other reasons.

To order the procedures of permanent residency in the city of Tashkent the Government of the Republic of Uzbekistan adopted a decision on ordering the permanent residency in the city of

Tashkent for the persons coming from other regions of the republic. In accordance with the Decree of the President of the Republic of Uzbekistan “On improving the passport system of the Republic of Uzbekistan” special commissions are established under the Council of the Cabinet of Ministers of the Republic of Karakalpakstan, regional governments and Tashkent city that considers the matters related to issuing the place of residence for foreign citizens, including the citizens of CIS and stateless persons, as well as permanent residence in the territory of the Republic of Uzbekistan.

The Mayor of Tashkent issued Decree “On introducing of the system of registration for arriving to Tashkent citizens who constantly live outside of the Republic of Uzbekistan on the territory of the former Soviet Union or have no constant place of residence” on 5 April 1993. According to the document, arriving to Tashkent citizens who constantly live outside of the Republic of Uzbekistan on the territory of the former Soviet Union or have no constant place of residence must register their stay in the city in the authorized organizations.

Those who stay in the city more than 3 days shall register. The registration is made at the place of stay (hotel, motel, hall of residence, private house).

The authorities responsible for registration are the following:

- head of neighborhood committee (makhallya), administration of hall of residence and others;
- director of hotel or motel;
- management of private real estate companies dealing with renting of accommodation;
- owners of houses or apartments.

For the registration it is necessary to have the passport or another ID and documents demonstrating the aim of arrive (business trip, tourism and others).

Citizens without any documents and IDs shall not be registered.

**22. HRCA added that each citizen intending to leave the country needs permission in the form of an exit visa from a Ministry of Interior office, which controls citizens travelling abroad. At the same time, Article 223 of the Penal Code provides for a 10 year term in jail for leaving or entering Uzbekistan or crossing borders without such permission. In most cases, authorities refuse to grant exit visas to human rights activists, representatives of political opposition and journalists. HRCA informed that over the last two years, students and labour migrants abroad had difficulties extending the validity term of their exit visas; many citizens have been interrogated by law-enforcement agencies upon their return to Uzbekistan.**

Those statements has a shallow nature. They are not proved by specific facts. Uzbekistan as any independent country undertakes measures for ensuring national security and social order. In the frameworks of those activities a state sets its own rules of arrival and departure of both its own citizens and foreigners as well as persons without citizenship.

According to the Article 28 of the Constitution of the Republic of Uzbekistan “the citizen of the Republic of Uzbekistan has a right to freely move on the territory of the Republic, to depart from and arrive at the country apart from constrains envisaged by the legislation”.

In accordance with the Decree of the Cabinet of Ministers of the Republic of Uzbekistan №8 dated 6 January 1995 “On adoption of the Order of departure of the Uzbek citizens abroad” the citizens of the Republic of Uzbekistan have right to travel abroad for business and tourist trips, study, work, constant place of residence.

This order is spread to departure to foreign countries except CIS states.

The citizens of Uzbekistan willing to go abroad should submit application form and passport to the local department of the Ministry of Interior. The authorities must consider the application form not longer than 15 days. As a result, a special sticker with permission to go abroad is attached to a passport. The sticker is valid for two years. During this period of time a citizen may leave the countries numerously. In case of absence of passport, it should be made along with the attached sticker in 15 days.

In accordance with the Decree of the Cabinet of Ministers of the Republic of Uzbekistan a 2-year-valid-licensing note sticker is legalized for citizens leaving abroad except for CIS member-states. During this period citizens have the right to leave abroad more than once without addressing

the bodies of internal affairs. The licensing note sticker gives a right for citizens of the Republic of Uzbekistan to leave abroad until expiration. It is not obligatory for citizens of the Republic of Uzbekistan to return after the termination of validness.

If the citizen of the Republic of Uzbekistan is in the country of residence on legal basis, it is not necessarily to extend the period of validity of the licensing note sticker.

The normative regulations make no provision for the period of stay in abroad after termination of validity of the licensing note sticker.

For those persons who leaves Uzbekistan for a permanent place of residence abroad the sticker with permission is to be done in 30 days and it will has no expiry date.

For getting the entry visas the citizens apply to the Embassies or Consulates of relevant countries.

In case of departure abroad for working by private contracts, the documents are to be prepared along with the Ministry of Labor and Social Protection of Uzbekistan.

Those persons whose an access to the states secrets should submit the conclusion of the administration from the place of work about the level of his/her access along with the application form for getting sticker with permission.

In 2005-2007 the Ministry of Interior of Uzbekistan issued 395204 stickers with permission to go abroad including 4763 for permanent residence abroad and 390441 for temporary departure consisting of business (33503), tourist (347053) and private (9885) trips.

198 citizens were refused in getting permission to go abroad on the basis of the following reasons:

1. access to state secrets or due to obligation from some kind of contract or agreement between him/her and other side which impede his/her departure abroad;
2. open criminal case against him/her;
3. verdict of the court that person is recognized as dangerous recidivist or admitted to bail;
4. avoiding from fulfillment of the obligations imposed by the court;
5. forgery in application form;
6. compulsory military service.

The refusal or delay in issuing sticker with permission may be appealed by a citizen in the higher organs which must answer not later than in 30 days. After it may be appealed to the court. Therefore, all above-mentioned reasons for refusal may be appealed expect for (1) and (6).

## **6. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

**23. Human Rights Without Frontiers International (HRWFI) reported that Uzbekistan's Constitution provides for religious freedom and separation of church and state, but this is not applied in practice. The government maintains control over Islam by controlling and financing the Muslim Board of Uzbekistan, which monitors the content of sermons and published Islamic materials, stopping some publications entirely. Some Islamic groups have been denied registration because of suspected extremist connections and are operating without authorization.**

It is well-known that religious organizations function in Uzbekistan and they shall follow the legislation regulating public relations in the area of realization of the freedom of conscience.

Today 16 religious believes are registered in Uzbekistan. Some part of them are not traditional for Uzbekistan.

Certainly the most numerous in terms of followers, traditionally and historically linked with country is religion of Islam. Today there are the Muslim Council of Uzbekistan, Muslim Qaziyat of Karakalpakstan, Tashkent Islam Institute, 10 madrasahs and 1862 mosques in the country. During the years of independence such cathedral mosques as Kalyan (Bukhara), Sheikh Zaynuddin and Khodja Akhror (Tashkent) with capacity to accommodate from 10 to 30 thousands of believers has been constructed and restored in Uzbekistan.

The Muslim Council of Uzbekistan provides all conditions for the citizens for the unimpeded conducting of Muslim customs aimed at consolidation of Muslims and elaboration of mutually beneficial relations between religions in the Republic.

Muslim Council of Uzbekistan has its press bodies – Islom Nury newspaper and Khidoyat weekly magazine. There is a special publishing house Maverannah at the Council.

All conditions are provided for Muslim citizens to fulfill religious obligations – praying in the mosques, Zaqat, fasting and pilgrimage to the Saudi Arabia.

In 2005 the Umra pilgrimage was done by 2354 Uzbek citizens, Khadj pilgrimage – 5212 persons. In 2006 Umra pilgrimage - 2978 Uzbek citizens, Khadj pilgrimage – 5028 persons. In 2007 Umra pilgrimage - 4075 Uzbek citizens, Khadj pilgrimage – 5088 persons.

**24.** Those conclusions are not backed by specific facts and therefore they can not be examined by the relevant governmental bodies. All statements has a shallow nature, duplicate a 10-yaers old information. And it takes place due to the lack of understanding that the principle of legality has universal nature. It deals not only with state bodies or authorities, but also with religious organizations which should be register in line with the law as a legal entity with its own obligations. The religious organizations are players of administrative and legal relations and therefore their activities shall not confront the norms of law.

The religious organizations must follow requirements of the present legislation. It is absolutely inadmissible to use the religion as a tool of anti-constitutional propaganda, hatred, hostility, inter-ethnic dissention, violation of civil consent, dissemination of destabilizing thoughts, creation of panic among the population and other activities against state, society and individual. The activities of religious organizations, movements, sects and other groups leading to terrorism, drug-trafficking and organized crime as well as pursuing its own selfish ends are prohibited.

The state protects citizen's freedom of conscience. The Article 145 of the Criminal Code of the Republic of Uzbekistan named as "Violation of freedom of conscience" says that "Hindrance legal activities of religious organizations or religion devotions shall be punished by the penalty which amounts for 50 minimal salaries or deprivation of the relevant right for up to 5 years or correctional works for up to 2 years".

The Article 156 of the Criminal Code of the Republic of Uzbekistan envisages the responsibility for inciting national (ethnic) or religious hatred.

**24. As noted by Institute on Religion and Public Policy (IRPP), Muslims who perform the most basic tenets of the Islamic faith, such as wearing a headscarf or growing a beard, , are subject to dismissal from jobs and expulsion from universities. Forum 18 News Service (F18) added that numbers of haj pilgrims are restricted to about 5,000, perhaps a fifth of the Saudi quota. According to HRW, Uzbek authorities continue their unrelenting, multi-year campaign of unlawful arrest, torture, and imprisonment of Muslims who practise their faith outside state control or who belong to unregistered religious organizations. Peaceful religious believers are often branded as "religious extremists." Dozens were arrested or convicted on charges related to religious "extremism" in 2007, while many more who were already serving long prison sentences under Article 159 of the Criminal Code (attempts on the constitutional order) were found guilty of breaking prison rules just weeks before they were due to be released, resulting in them being re-sentenced. HRW has documented allegations of ill-treatment in several of these cases.**

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**25. IRPP noted that the government also routinely discriminates against other religious communities when deciding whether or not to register a religious group as required by the 1998 Law on Freedom of Conscience and Religious Organizations. According to Jubilee Campaign (JC), many are imprisoned for peacefully practising their religion, often labelled extremists or terrorists. HRW added that Protestants and Jehovah's Witnesses face ongoing harassment, detention, and arrest for "illegal" religious activity, such as holding prayer groups in a church member's home, or ownership of "illegal" religious material. Often such individuals face up to 15 years imprisonment or heavy fines of up to 200 times their minimum wage, and are branded "extremists". According to the European Association of Jehovah's Christian Witnesses (JW), Jehovah's Witnesses have become a target of state-sponsored persecution. The Becket Fund for Religious Liberty (BFRL) explained that religious education is not permitted and the production and distribution of unapproved religious literature is prohibited by law. The government insists on previewing publications and often rejects them. The law also prohibits Uzbeks from appearing in public in "ritual" attire – a vague prohibition which is often used against religious attire of all types.**

Those statements are false and once again prove a shallow approach of the NGO in assessment of the situation in Uzbekistan in this area. No Article in the Criminal Code envisages 15 years long sentences for violation of the Law about freedom of conscience and religious organizations. The most strict punishment is envisaged in the Article 216 of the Criminal Code of the Republic of Uzbekistan in form of the 5 years long sentence for illegal establishing of the religious organizations as well as active participation in them. Here we talk about religious organizations posing threat to the constitutional order, rights and freedoms of the citizens. Depending of the level of guilty and damage it is punished by fine from 50 up to 100 minimum wages or arrest for 6 months. Therefore, the statement that "...individuals face up heavy fines of up to 200 times their minimum wage..." is also groundless.

Regarding Jehovah's Witnesses it is worth to mention that activities of some employees of the organization violated current legislation on freedom of conscience and religious organizations. Therefore, some criminal proceedings were instituted against them.

The missionary activities are prohibited in the Republic of Uzbekistan in accordance with the law which was adopted by the representative body of the people with aim to ensure inter-religious accord and prevent religious conflicts which could undermine public security and constitutional order.

In spite of the requirements of the Law some employees of Jehovah's Witnesses, registered in the Department of justice of the Ferghana region of Uzbekistan, constantly recruited under aged individuals without consulting with their parents, disseminated illegally imported religious literature. Moreover, it was disclosed that the organization did not follow national legislation on

accounting. In addition, the organization held religious services in residence houses, but not in the premises of the organization as it is required by the Law.

Department of Justice numerously appealed to Jehovah's Witnesses with request to follow current legislation on freedom of conscience and religious organizations. However, all those appeals and request were not taken into account by the Jehovah's Witnesses. As a result, the activity of the organization was suspended by the decision of the Collegial Session of the Department of Justice of Ferghana region on 24 August 2006.

However, it is worth to point out, that the above-mentioned measure is not spread on all Jehovah's Witnesses branches, but only on those violated the law. Jehovah's Witnesses in Tashkent province is still functioning, for example.

Thus, the requirements to comply with the provisions of the Law of the Republic Uzbekistan «On Freedom of Conscience and Religious Organizations» applies to all religious confessions operating in Uzbekistan. Activities of the Protestants and the Jehovah's Witnesses are not exception.

The freedom of religion guaranteed by current legislation has created all necessary conditions to meet the religious needs of all other citizens - Representatives of more than 130 nationalities and ethnic groups, practicing almost all kinds of Christianity, Buddhism, Baha'ism, Judaism and the teachings of Krishna.

Currently, 187 non-Muslim religious organizations of 16 different confessions including: Orthodox, Catholic, Lutheran, Baptist, Full Gospel, Adventist and other Christian churches as well as religious communities of Bukharian and European Jews, Baha'is, Krishnaists and Buddhists are functioning in the Republic.

Every year, more than 120 representatives of these religious communities make pilgrimages to holy sites of their religions in Israel, Greece and Russia. They enjoy all the privileges provided for religious people traveling abroad. During the years of independence hundreds of churches, synagogues and houses of prayers have been built or restored. These include Orthodox churches in Tashkent, Samarkand, Navoi, a Catholic church in Tashkent, the Armenian Apostolic Church in Samarkand, a Buddhist temple in Tashkent and many others.

In accordance with the article 202-1 of the Criminal Code of the Republic of Uzbekistan, the inducement to participate in the activities of public associations and religious organizations, currents and sects prohibited in the Republic of Uzbekistan punishable by a penalty of five to ten minimum wage amounts or up to fifteen days of the administrative arrest.

The law prohibits illegal religious activities. The Article 240 of the Criminal Code of the Republic of Uzbekistan on «Violations of the laws on religious organizations» states that «Illegal religious activities, failure of the leaders of religious organizations to register charter, organization and conduction by clergy and members of religious organizations of special children's and youth meetings, as well as labor, literature and other circles and groups that are not related to worshiping is punishable by a penalty of five to ten minimum wage amounts or up to fifteen days of the administrative arrest».

Conversion of believers of one faith to another (proselytism) and other missionary activities is punishable by a penalty of five to ten minimum wages amount or up to fifteen days of administrative arrest.

Uzbekistan pays great attention to ensuring the rights of convicts of freedom of conscience. The Criminal Code of the Republic of Uzbekistan was amended by a new Article-12 «Ensuring of freedom of conscience of convicted», in accordance with the article the freedom of conscience is guaranteed to the convicts and they have the right to practice any religion or none. The representatives of the religious associations that are registered in the prescribed manner are invited at the request of those who are serving sentences in the form of arrest or imprisonment. Convicts are allowed to worship, use objects of worship and read religious literature. Religious practice is voluntary and must not violate internal regulations of the penalty executing institution, as well as also infringe upon the rights and legitimate interests of others. The Committee for Religious Affairs under the Cabinet of Ministers of the Republic of Uzbekistan

is assigned to coordinate relations between public authorities and religious organizations, monitor the implementation of the law “On Freedom of Conscience and Religious Organizations”.

**26. IRPP added that the Uzbek government’s secret police, the National Security Service (NSS), and other police agencies add to the climate of fear, suppression, and apprehension through an extensive network of surveillance of religious communities in Uzbekistan. The NSS and others hide microphones inside places of worship, position agents and officers both inside of and around places of worship, and recruit spies and informers from within the religious communities themselves. According to IGNUM, hundreds of believers, persecuted by the authorities, have been forced to leave their homes and hide in neighbouring countries for fear of arrest, torture and long prison sentences on the basis of fabricated criminal cases. A large number of persecuted refugees submit applications to UNHCR in these countries for asylum on religious grounds and many of them have obtained asylum in Western countries.**

Arguments about the pressure of the NSC for the faithful, fabrication of criminal cases against them, receiving asylum in Western countries are not supported by specific information on location, time of those events thus not allowing their thorough examination.

**27. Conscience and Peace Tax International (CPTI) highlighted that under the “Law on Universal Military Service”, military service is made compulsory for all males aged 18 to 27, but with an exemption for, among others, “members of registered religious organisations whose religious teaching forbids the bearing of arms or service in the armed forces”. Those thus exempted are required to perform alternative service. As this applies only to three religious groups, Jehovah's Witnesses, Evangelical Christians-Baptists and Seventh-day Adventists, the law discriminates against the majority of potential conscientious objectors.**

The regulation of issues related to the execution by citizens of the Republic of Uzbekistan of the universal military duty and the fulfillment of military service are determined by the law of the Republic Uzbekistan «On Universal Military Duty and Military Service» of 12 December 2002 (with subsequent amendments). Universal military duty includes the preparation of citizens for military service, conscription, fulfillment of military service on conscription or on a contract base, military reserve service, alternative service, compliance with the rules of military record keeping, measures to protect the population in emergency situations or in a case of war aggression against the Republic of Uzbekistan.

Alternative service – is a form of execution of military obligations instead of military service obligations by citizens and is related to the performance of low-skilled (basic) works in various sectors of the economy and social sphere, as well as elimination of accidents, disasters, natural disasters and other emergencies.

The alternative service rights are granted to citizens, whose age ranges from eighteen to twenty seven years and who are subject to conscription, if they are members of registered religious organizations, faith of which prevent the use of weapons and service in the armed forces. The duration of alternative service is twenty-four months, while for citizens with higher education - eighteen months. Currently, the rights to conduct alternative service are granted to citizens of the Republic of Uzbekistan, who are members of religious organizations, such as «Union of Churches of Evangelical Christians - Baptists», «Jehovah's Witnesses», «Christian Church - Seventh Day Adventist», «Council of Churches of Evangelical Christians - Baptists».

During the period from 2003 to 2007, alternative service in the Republic of Uzbekistan had been fulfilled by 7 persons, including 5 in 2003, 1 in 2004, 1 in 2005.

**28. According to HRW, independent media in Uzbekistan is tightly controlled. The few journalists who continue to work in the country do so at great risk to themselves, forced to self-censor due to harassment, beatings, detention, and threats of imprisonment for their**

**critical views of the government. At least six independent journalists are currently serving lengthy prison sentences ranging from five to 15 years. Many others have been forced to flee the country. Despite the passing of new legislation outlawing censorship and ensuring freedom of speech, in practice, censorship is the norm and freedom of speech is severely limited. Those few independent journalists who remain in the country face tight government control.<sup>48</sup> Reporters sans frontières (RSF) added that restrictive laws allow the authorities to persecute any journalist whose critical information is considered by the government as hostile to Uzbekistan, including amendments to the Criminal Code adopted in February 2004, which effectively criminalise the sharing of information critical of human rights in the country. Access to information is restricted not only for journalists, but ordinary people are also deprived from up to date, free public information access. PLATFORM added that judges often do not allow journalists and public representatives to be present in their courtroom, especially when the cases are of a political nature.**

Arguments on the prosecution of journalists are associated with how the freedom of speech is understood in the West and in the Republic of Uzbekistan. In Uzbekistan, the meaning of this right is understood as follows:

Freedom of speech means that everyone has the right to express freely his views and opinions on all matters of social, political and public life; to assess events, documents, publish shortcomings and improvements in activities of government institutions, to make suggestions on the improvement of their activities; to take part in the discussions of the important issues.

Restrictions set by the State on the right of the freedom of expression, according to General Comment number 10 of the Human Rights Committee, do not jeopardize the right itself.

The freedom of expression can not be used to the detriment of the cause of peace, democracy or to contradict the interests of society and state, violate the rights of other citizens. Therefore, the propaganda of war, the national and racial hatred, the spread of slanderous fabrications and etc. are prohibited in the Republic of Uzbekistan.

The freedom of speech is implemented in Uzbekistan on the basis of the laws «On principles and guarantees of freedom of information», «On citizens enquiries», «On Media».

The Law «On Media» of 15 Jan, 2007 defines the notion of freedom of the media, which means that everyone has the right to speak through the media, openly express their opinions and beliefs, unless otherwise provided by law. Media have the right to seek, receive, disseminate information and are responsible according with the established order for the objectivity and reliability of the distributed information.

According to Article 6 of the Law “On Media”, the media are not allowed to be used for the following purposes:

call for the violent change of the existing constitutional order and territorial integrity of the Republic of Uzbekistan;

propaganda of war, violence, terrorism and the ideas of religious extremism, separatism and fundamentalism;

disclosure of information that constitutes state secrets or other secrets protected by law;

dissemination of information inciting national, racial, ethnic or religious animosity;

propaganda of narcotic drugs, psychotropic substances and precursors, unless otherwise provided by law;

propaganda of pornography;

other acts involving criminal or other liability in accordance with the law.

It is not allowed to besmirch the honor and dignity or business reputation of citizens or interfere in their private lives through the media.

It is prohibited to publish without the written permission of a prosecutor or investigator materials of inquiry or preliminary investigation or to precede the results of the particular case before the court decision or to influence the court by other means, before its decision will enter into legal force.

In accordance with article 7 of the Law “On Media” the censorship of the mass media is not allowed in the Republic of Uzbekistan. No one has the right to require the prior consent of reports or materials that are subject for publication as well as to require their changes or complete withdrawal from the press (airing).

All necessary organizational and legal as well as technical condition for the formation and development of the public and private institutions and structures in the information sphere are created.

The Creative Union of Journalists, the Union of Writers of Uzbekistan, the National Association of Electronic Media, the Public Fund for Support and Development of electronic media and several other public associations are operating in the Republic.

Today, 683 newspapers, 198 magazines and 55 publishing houses, 4 Information Agencies are operating in the country.

Presently, the following bills are under consideration of the Legislative Chamber of the Oliy Majlis: «On television and radio broadcasting», «On public television», «On cable broadcasting».

Print media in Uzbekistan are published in Uzbek, Russian, English, Kazakh, Tajik, Karakalpak and Korean languages.

Around 30 private TV stations, 10 private FM-radio stations which broadcast in Uzbek, Russian and English are operating in the Republic. The number of Internet users in Uzbekistan grows every year. Internet becomes more affordable for the population. At present, Uzbekistan has more than 500 thousand Internet users.

**29. Centre of Extreme Journalism in Uzbekistan (CEJU) noted that the country has no independent media of any kind, and journalists act as instruments of state propaganda. Despite the legal ban on censorship, there are officials in television, radio and newspaper editing, whose duty it is to implement internal censorship. Consequently, the Uzbek press contains no independent assessments of the events but only the official versions. The censorship strictly controls publications about the Andijan rising in May 2005. Journalists have to keep exclusively to the government position, and only specially instructed journalists have the right to publish on this theme in the media. By maintaining total control and censorship, the government seeks to conceal the truth about the suppression of the uprising and the true number of demonstrators killed in Andijan.<sup>51</sup> PLATFORM explained that the government even prohibits journalists from storing certain data on their personal computers, such as information on religious organizations or on the events in Andijan in 2005, including materials copied from websites of news agencies and human rights organizations.**

As it has been noted quite favorable institutional and legal conditions are created for the media in the Republic of Uzbekistan. Journalists receive significant information about the activities of the governmental and non-governmental institutions, they have opportunities to participate in informational and educational events, to interview officials and experts, to publish this information in their respective publications. The problem is that not all journalists have the analytical skills, high qualifications and knowledge of the subject or do not possess the skills of cooperation with the relevant authorities. That leads to superficiality and dilettantism in their work, self-censorship, fear to raise serious problems on the pages of the press. State, society and journalists' associations are concerned with elimination of these very problems. Just one example, in October 2008 in Tashkent was held a joint with the EU seminar on «Liberalization of the media as an essential condition for the democratization of the society» to discuss these issues with representatives European NGOs.

**30. HRW also reported that foreign correspondents and Uzbek citizens working for foreign media are not allowed to operate without accreditation. Currently there are only a handful of accredited foreign correspondents in Uzbekistan and no foreign journalists working for Western media outlets. International news bureaus such as BBC, Radio Free Europe/Radio Liberty, Deutsche Welle, and the Institute for War and Peace Reporting (IWPR) have all been forced to cease operations in Uzbekistan following the authorities'**

refusal to accredit them. Over the last five years, the country's authorities have systematically blocked access to informative and socio-political web resources, as noted by CEJU. At the time of writing, users have no right of access to several hundred Internet sites and all the websites of opposition parties and movements, and most foreign and Russian sites which publish articles throwing light on events in Uzbekistan are blocked.

**31. AI was gravely concerned about the deterioration of freedom of expression and assembly in Uzbekistan, as well as the continued targeting of human rights defenders, civil society activists, political opposition activists and independent journalists. These repressive measures have created a climate of fear among civil society. At least a dozen human rights defenders remain in prison in cruel, inhuman and degrading conditions, having been convicted to long prison terms after unfair trials. Under the 2007 Presidential Amnesty only some of the imprisoned human rights defenders were released in the first half of 2008, and moreover their release was not unconditional. The human rights defenders who remain in prison have limited access to relatives and legal representatives, and there are reports that they have been tortured or otherwise ill-treated.**

The issue of harassment of human rights defenders in Uzbekistan has been repeatedly discussed by UN structures, at a meeting of the UN Committee against Torture in November 2007, and Uzbekistan gave its comprehensive answers. It should be noted that all prisoners, regardless of the crime, including human rights defenders are able to exercise their right to meet with relatives and legal representatives in accordance with the Criminal Code of Uzbekistan.

The amnesty in the Republic of Uzbekistan is conducted in strict line with the Resolution of the Senate of the Republic of Uzbekistan by the authorized bodies.

The conditions in prisons fully satisfies The Rules of Internal Order in Places of Detention, normative acts of the Ministry of Interior and laws of Uzbekistan.

The inmates are equipped by all necessary things, the living conditions are in line with relevant norms.

As for the activity of the HRW, it is worth to mention that the representative office of the organization is registered in the Ministry of Justice as a legal entity and, therefore, it is entitled to function of the territory of Uzbekistan.

The Ministry of Justice refused to accredit Mr.I.Voroncov as a head of the rep office because during scrutinizing of the submitted documents it was concluded that he has not relevant practice and knowledge of the local mentality of the people in the region. Moreover, the lack of his knowledge about changes and reforms in social-economic, political, civil and humanitarian areas of our country and the region as a whole was disclosed.

If a new nominee for the post will be provided, the Ministry of Justice is ready to consider the issue of his/her accreditation.

**32. Regarding other human rights activists and journalists, who have not been forced into exile, AI reported that they are routinely monitored by uniformed or plain-clothes law enforcement officers. Human rights defenders have been called in for questioning at their local police stations, placed under house arrest or otherwise prevented from attending meetings with foreign diplomats and delegations, or taking part in peaceful demonstrations. Human rights defenders and journalists have reported being beaten and detained by law enforcement officers, or beaten by people suspected of working for the security services. Relatives also report being threatened and harassed by security forces; some of them have been detained and jailed in order to put pressure on the human rights defenders. There are regular television programmes and articles in the national press denouncing independent journalists, and the international networks they work for, and calling them traitors. HRW added that in the aftermath of the Andijan massacre, the government unleashed a fierce crackdown on civil society unprecedented in its proportions. In recent months, the Uzbek government also intensified its efforts to obstruct HRW's work in Uzbekistan, denying accreditation to its representative in Tashkent.**

As for the statements of AI that allegedly human rights activists and journalists, who have not been forced into exile, are routinely monitored by uniformed or plain-clothes law enforcement officers as well as, human rights defenders have been called in for questioning at their local police stations, placed under house arrest or otherwise prevented from attending meetings with foreign diplomats and delegations, or taking part in peaceful demonstrations, it is worth to mention that those statements are absolutely groundless.

Calling in for questioning of any citizen at any police station is conducted in full observance of the norms envisaged by the Criminal-Procedural Code of Uzbekistan.

All appeals and complains from detained individuals or their relatives are considered in line with the legislation.

It is very important to draw attention to the fact that there are not any specific examples with identification of the victims in statements of the human rights organizations about violations of human rights. It gives us evidence to consider that the information is groundless and was received from the third party, has a slanderous nature and aimed at stigmatizing of the law-enforcement agencies.

**33. BHRRL noted that independent organizations have difficulties in being registered. Only those who have special protection from the authorities or are involved in the National Association of NGOs are able to obtain official registration and work legally. However, these governmental NGOs follow the policy of the government and are not able to offer critical projects and proposals. Front Line (FL) added that human rights defenders are often arrested when they attempt to hold demonstrations which are frequently broken up with the use of force. VERITAS added that registered NGOs must inform the government bodies beforehand about all of their public gatherings and events. Unregistered human rights defenders and groups practically cannot conduct their meetings and events.**

According to the legislation and enforcement practice any non-government-non-profit organizations whose goals, objectives and activities do not contradict to the Constitution and laws of the country are registered in Uzbekistan. The argument that government non-profit organizations are not in a position to offer critical projects and proposals does not correspond to reality. In particular, such organizations as NANNOUz Center «Oila», Business Women's Association, Center for Civic Initiatives and others regularly conduct researches on critical analysis of the activities of non-profit organizations, gender analysis of the Family and the Labor Codes of the Republic of Uzbekistan, the situation of rural women, on elimination of prejudice in the behavior of men and women, etc. Many of the proposals of these non-profit organizations are implemented during adoption of new laws and other legislative acts.

In Uzbekistan, like in other countries, there is a certain procedure of organization of demonstrations and other public events. This is necessary for protection of public order, human life and health, as well as the insurance of public morals. These rules must be respected by all non-government-non-profit organizations, including the so-called human rights organizations.

**34. According to HRCA, the lack of compliance of the national legislation on elections with international norms has resulted in violation of the right to a free and fair election during the parliamentary and presidential elections in 2004 and 2007 respectively. The parliamentary elections took place on 26 December 2004 under the total control and coordination of the presidential administration. There are three opposition parties in Uzbekistan. None of these parties are officially registered because authorities perceive any sort of criticism as a threat to the current state administration system. These opposition parties were unable to nominate their candidates for the past elections because their applications to get registered were all declined.**

Arguments about the disparity between the electoral legislation of Uzbekistan to international standards are far-fetched and baseless. An analysis of the electoral system and laws of the Republic of Uzbekistan carried out by foreign experts revealed that it contains all the generally accepted election standards and even on some issues is ahead of the UK, USA and other countries. In

Uzbekistan, unlike other countries, Central Election Commission operates in a permanent base, the legislation provides access to the elections for both national and international observers. There is also a 30% quota for the nomination of women by political parties as candidates for Legislative Chamber of Deputies and Local Councils (Kengashs) of People's Deputies and etc.

The question of opposition Parties of Uzbekistan has been repeatedly discussed at the United Nations and the Council of Europe. Refusal to register those parties linked to the fact that their charters contradict the Constitution of the Republic of Uzbekistan.

## **7. Right to work and to just and favorable conditions of work**

**35. According to International Labor Rights Forum (ILRF), the issue of forced child labour continues to represent one of Uzbekistan's most acute human rights issues. Nearly two million schoolchildren from almost nine thousand schools in the republic are forced to work in cotton fields each year, threatening students with expulsion and parents with losing their jobs or state welfare benefits in the case of non-compliance. BHRRL added that hard economic conditions force parents to send their underage children to do hard labour. Environmental Justice Foundation (EJF) stressed that the children have to work for up to three months each year, missing out on their education and jeopardizing their future prospects. According to EJF, living conditions are reportedly squalid. The food provided to children is inadequate, and many children drink water from irrigation pipes, which carries health risks. Children receive little or no reimbursement for their labour. Children must pay for the food and accommodation they are provided with during the cotton picking season. Human Rights in Central Asia (HRCA) was concerned that children work in the fields, which have been treated with pesticides, herbicides and defoliants. Official statistics on child diseases covering this period are not publicized. However, it is known that many children suffer from the hepatitis, anemia, feet infection and other diseases due to the lack of basic hygiene. Harsh working conditions in the cotton fields led to several lethal cases in 2007 alone; however, such information is carefully concealed.**

This information is clearly outdated and does not comply with the actual state of affairs. In recent years, the practice of engaging children in cotton harvesting by local authorities has been completely stopped. Children are still working on parents farms and the government is taking measures to protect from the worst forms of child labor.

Thus, in 2008, Parliament ratified two major ILO Conventions: «Concerning Minimum Age for Admission to Employment» and «Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor». Moreover, on 12 Sept, 2008 the Government of Uzbekistan has adopted a decision on measures to implement the ILO conventions and approved the National Action Plan that foresees improvement of the legislation on this subject, implementation of the monitoring and control system of the realization of the Convention's provisions and carrying out an extensive outreach activities in order to bring to the population's attention the stipulations of these documents.

## **8. Right to an adequate standard of living**

**36. SRI and Labrys quoted UNAIDS estimates indicating that the number of HIV cases is 31.000, which is 0.2 per cent of the population, and the existing services cover no more than 1 per cent of this group. Sex work, drug use and homosexual sexual contacts are criminalized which results in further marginalization of these groups and their lack of access to prevention and/or treatment services. Increased migration and lack of comprehensive sexual education may contribute to even higher transmission rates.**

With a purpose to improve the legislative basis of the healthcare system recently some changes and additions were introduced in existing laws of Uzbekistan "On healthcare of citizens", "On social protection of handicaps", "On state sanitary control", "On preventive measures against



AIDS”, “On medicines and pharmaceutical activity”, “On compulsory treatment from alcoholism, drug addiction or toxic substance abuse”. The following laws entered into force: “On preventive measures against diseases, caused by HIV virus”, “On narcotics and psychotropic substances”, “On psychiatric aid to citizens”, “On protection of population from tuberculosis”, “On blood donor and its components”, “On precautions of iodine deficiency”, “On guarantees of rights of the child”.

Struggle against HIV/AIDS increased in recent years. In 2007 Cabinet of Ministers of Uzbekistan approved “The Strategic Program on countering the spread of HIV/AIDS epidemics in the Republic of Uzbekistan for the period of 2007-2011”.

Ministry of Health of the Republic of Uzbekistan issued an Order №425 on 5 September 2005 “On introducing new technology to enhance efficiency of aid for pregnant women at the first aid medical units of Uzbekistan”, where pregnant women are to be tested for HIV twice. Today only pregnant women from among risk groups are tested.

Uzbekistan is a country with a high number of young people and a high birth-rate. About 560 thousand births are registered annually in the country. Since 2005 pregnant women have been tested for HIV voluntarily if there were reasons of clinical and epidemic character.

Every regional AIDS center has telephone hotlines for consultative purposes concerning HIV/AIDS and STD (Sexually Transmitted Diseases).

Nowadays in Uzbekistan 31 “Friendly rooms” operate which render medical and sanitary assistance for vulnerable groups of population on the matters of HIV and STD. 9354 people visited these “Rooms” since 2007, among them 6549 (70%) with STD symptoms. Patients with STD symptoms have access to consultations on HIV/AIDS before and after the test, and receive a syndrome treatment from specialized doctors. In “Friendly rooms” patients can get detailed information on how to receive qualified diagnostic and medical assistance at specialized Medical and Preventive Treatment Centers (skin, venereal and narcology dispensaries, infectious diseases hospitals and others).

Taking into consideration the importance of struggle against drug addiction in the Republic of Uzbekistan, government agencies and civil society have joined their efforts to create within many years a concrete mechanism of both social-psychological and medical-pedagogical measures to improve ecology, render treatment to women and correct their behavior.

Due to these undertakings the number of women suffering from both drug addiction and toxic substance abuse decreases annually. For example, women suffering from drug addiction has decreased from 5.2% in 2006 to 5.0% in 2007, and women suffering from toxic substance abuse from 11.1% to 7.8%, among them girls – up to 6 (8) persons.

Ministry of Health together with local labor exchanges carry out systematic work to find a job to those women who suffer from drug addiction. Every year more and more drug addicted women are employed whose number reached 158 in 2007 (in 2006 – 154). Meanwhile the number of women without a certain job also reduces. Thus, for the same period it was 805 (827).

In certain areas (Andijan and Surkhandarya oblasts) specialized medical units are opened where drug addicted women get treated.

In order to extend narcological aid to the population rehabilitation services have been developed, where drug addict women may receive effective medical, psychological and social assistance. 100 persons, who went through rehabilitation, have been given jobs in 2007.

**37. SRI and Labrys further reported that forced sterilization and controlling reproduction through imposing fines, as practiced in Uzbekistan, constitute serious violations of reproductive rights. It noted that women reported that they have had Intrauterine Devices (IUD) inserted without their consent and there were cases of forced hysterectomies performed on healthy uteri. Women aged 25 and younger who already had two children were the most common subjects for forced IUD insertion or hysterectomy. At present maternity hospitals have announcements about fines being imposed on families for having their third child. Government restrictions on obtaining information limit monitoring of further use of these methods for forced sterilization and contraception.**

Allegations on compulsory sterilization and restriction of rights for reproduction do not correspond to reality. Should a case as such appear women and their relatives may put forward complaints to appropriate public health departments, prosecutors' offices, court, Ombudsman. However such complaints have not yet been received.

## **9. Human rights and counter-terrorism**

**38. According to ICJ, Uzbekistan uses the rhetoric of counter-terrorism or “war on terror” and counter-extremism as a justification for criminal prosecutions of those who peacefully oppose or speak out against the Government, for crimes of terrorism, extremism, subversion or anti-state activity. The Uzbek Criminal Code contains a sweeping and vaguely worded definition of terrorist acts, which appears to encompass non-violent acts of opposition to the government that are destabilising or damaging to international relations. In the wake of the Andijan events, large numbers of people, including religious and political dissidents and human rights defenders, were tried on charges including terrorism. Numerous additional trials connected with the Andijan events have since taken place, the vast majority of which have been closed to the public.**

An argument according to which antiterrorist mechanisms are applied in Uzbekistan against people who peacefully oppose the Government, and Criminal Code contains “a vague definition of terrorist acts” does not correspond to reality. Criminal Code of Uzbekistan clearly describes the acts related to terrorism.

Terrorism is: 1) a violence, use of force; 2) other acts, being dangerous to individuals or property, or 3) threat to commit the act of terrorism to compel a government body, international organization, their officials, individual or company to implement or abstain from any activity in order to strain international relations, to violate sovereignty and to break territorial integrity, to undermine state security, to provoke a war and an armed conflict, to destabilize social and political situation, to intimidate population; 4) and also an activity in support of the existence, operation, financing the terrorist organization, preparation and implementation of terrorist acts, direct or indirect allocation or raising any funds, resources, and rendering other services to terrorist organizations or individuals, collaborating or participating in terroristic activity – shall be punished with imprisonment from 8 to 10 years. Attempt at life, bodily injuries inflicted to government officials or public figures in connection with their government or public activities with a purpose to destabilize the situation or exert pressure on taking decisions by government agencies or undermining any political or other public activity – shall be punished with imprisonment from 10 to 15 years.

Acts, stipulated in first and second part of this Article that caused:

a) Death of a person;

b) Other grave consequences –

shall be punished with imprisonment from 15 to 20 years.

An individual, who participated in preparation of terrorism, shall be relieved from criminal liability, if he/she actively contributed in preventing grave consequences and the implementation of terrorist acts by timely warning the authorities or by other means and if there is no other corpus delicti in actions of this person.

**39. AI reported that the Uzbek authorities continue to actively seek the extradition, in the name of national security and the fight against terrorism, of members or suspected members of banned Islamic movements or Islamist parties or people suspected of involvement in the May 2005 Andijan events, from other countries. Most of those forcibly returned to Uzbekistan are held in incommunicado detention, thereby increasing their risk of being tortured or otherwise ill-treated. F18 added that even those who gained UNHCR refugee status in neighbouring countries face Uzbek government attempts to be sent back for trial. According to AI, officials of other countries have confirmed that the Uzbek security forces**

**have been operating on foreign territory where they have detained or abducted asylum-seekers. Uzbekistan security forces have also exerted pressure on the families of people seeking asylum in neighbouring countries, sometimes paying for relatives to travel to these countries to convince the person in question to return “voluntarily”.**

The Uzbek party initially raised the question on returning only those persons who ran from places of imprisonment or committed penal acts recognized worldwide, namely, deliberate murder, terrorism, illegal obtaining of weapons and an ammunition, an encroachment on constitutional system, taking hostages, participation in activity of the forbidden organizations.

We would like to pay attention again to the fact, that no charges were imposed in relation to the returned persons, they were not exposed to prosecutions and pressure.

Extradition of the persons who have committed crimes in territory of the Republic of Uzbekistan was carried out within the limits of legal field and in full conformity with the international agreements in this sphere.

Extradited persons were protected from use of tortures and another severe or humiliating treatment or punishment.

### **III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS**

**40. VERITAS noted some achievements, such as the abolition of the death penalty and the introduction of habeas corpus, which it said could receive only conditional and symbolic appraisals. It also highlighted challenges regarding these achievements, and regarding prison conditions, widespread torture, repression against independent activists and government control over civil society.**

The Republic of Uzbekistan cannot agree with the statement that abolition of capital punishment and introduction of “Habeas Corpus” had “conditional and symbolic assessments”.

Abolition of capital punishment in Uzbekistan had a great resonance in the world. UN Committee on Human Rights in its conclusions of Common Order №6 – Article 6 (Right for life) states that measures oriented to abolition of capital punishment should be considered as the progress in implementation of rights for life. EU not only welcomed abolition of capital punishment in Uzbekistan from 1 January 2008, but also expressed hope that this decision will give an impetus to other countries in the region to follow this practice. EU rendered its complete support for Uzbek Government in entire implementation of this decision and proceeding further reforms in judicial and legal system.

### **IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS**

#### **V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE**

**41. VERITAS recommended that Uzbekistan seeks international assistance in areas where challenges persist, regarding the establishment of an independent review mechanism for torture allegations, access to places of detention for independent monitors, and establishment of an independent national human rights institution.**

Recommendations of this organization are rather late, as the Republic of Uzbekistan pursues consistent policy to create proper legal, institutional, economic, social and cultural facilities that promote implementation of human rights and freedoms not on the paper but in practice as it is stipulated in the Constitution of the Republic of Uzbekistan and those international instruments in which Uzbekistan is a party.

For example, supporting the UN Secretary General’s message on celebration of 60th anniversary of adoption of the Universal Declaration of Human Rights and in order to further improve institutional, legal and legislative measures to ensure effective protection of human rights and freedoms, on 1 May 2008 President of the Republic of Uzbekistan issued Decree “On Action

Program Dedicated to 60th Anniversary of Adoption of the Universal Declaration of Human Rights”.

Historical and international importance of this Decree is immensely high.

Firstly, the Presidential Decree was adopted only in Uzbekistan and it demonstrates adherence of our country to its international obligations to ensure human rights and freedoms. To support celebration of 60th anniversary of adoption of the Universal Declaration of Human Rights, Uzbekistan allocated 100 thousand US dollars.

Secondly, the Decree is aimed at enhancing attention of the State, society and citizens to the values and principles of the Universal Declaration of Human Rights, stipulated in the Constitution and legislation of Uzbekistan.

Thirdly, this document pursues further improvement of institutional and legal mechanisms to ensure human rights and freedoms of all citizens.

Fourthly, the Decree approves wide range of actions to improve legislation on human rights and freedoms; further jointing of Uzbekistan to other international instruments on human rights (particularly, to the Optional Protocol to the International Covenant on Civil and Political Rights, to two Optional Protocols to the Convention on the Rights of the Child); to strengthen monitoring of observance by authorities of all laws and by-laws on human rights, to enhance informative and educational activity as well as international cooperation in the field of human rights and freedoms.

Fifthly, the Decree allows to evaluate and analyze achievements of Uzbekistan in the area of human rights and freedoms and to determine further actions and forms of activity of the State and institutions of civil society in this field.

Sixthly, the Decree contributes to enhance coordination of activity between State agencies and institutions of civil society, which directly deal with the issues of human rights and freedoms.

Seventhly, adoption of the Decree gave additional impetus to mass media to widely inform the public in the country on the large-scale events devoted to human rights and freedoms.

Eighthly, the Decree promotes strengthening close cooperation with international organizations, first of all, with the United Nations, developing different forms of cooperation with international organizations on the matter of human rights.

Ninthly, the Decree envisages undertaking a wide range of measures on State support of national institutions on human rights: authorized person of Oliy Majlis for Human Rights (Ombudsman) and National Centre of the Republic of Uzbekistan on Human Rights.

Tenthly, for first time in the history of Uzbekistan the Decree introduces public monitoring of law-enforcement bodies` activity that should look after observance of human rights and freedoms: the Ministry of Justice, the General Prosecutor`s office and the Ministry of Internal Affairs of the Republic of Uzbekistan.

Finally, adoption of the Decree is an obvious example of fulfillment by the President of his authority as “guarantor to ensure human rights and freedoms to observe the Constitution and the laws of the Republic of Uzbekistan” (Article 93 of the Constitution).

International community highly appreciated the importance and the role of the Decree of the President of the Republic of Uzbekistan “On Action Program, Dedicated to the 60th Anniversary of Adoption of the Universal Declaration of Human Rights”. For example, during the briefing that took place in the office of the UN High Commissioner on Human Rights it was stated that such attention by the State to celebrate the 60th anniversary of the Universal Declaration of Human Rights, as well as National Program to celebrate the 60th anniversary of the Universal Declaration of Human Rights once again proves that the Government of Uzbekistan prioritizes the matters to ensure human rights, to create effective mechanism and favorable legal environment to protect human rights and freedoms. Particularly, chairman of the UN Committee on Human Rights Rafael Rivas Posada underlined that “the Decree of the President of Uzbekistan should become significant example to other countries within the celebration of the 60th anniversary of the Universal Declaration on international level”. He also stated that the decision of Uzbekistan “to allocate funds to the UN High Commissioner on Human Rights proves firm intention of the country to further promote and protect human rights”. Timely and innovative feature of the Presidential Decree has

also been acknowledged by the experts from Belgium, Great Britain, Germany, France, China, Republic of Korea, USA and others.

Adoption of the Decree of the President of Uzbekistan on support of international celebration of the 60th anniversary of the Universal Declaration of Human Rights is not occasional. This is a consistent and appropriate step of the country that from the first days of its independence gradually formed and developed effective national system of protection of human rights and freedoms, introduced mechanisms and procedures to implement international standards on human rights to its legislation and activities of State agencies.