

## Child Rights in Uzbekistan – UPR Submission

### Bureau on Human Rights and Rule of Law, Uzbekistan (previously Legal Aid Society)

Legal Aid Society (LAS) was registered by the Ministry of Justice of Uzbekistan on June 1, 1999. Bureau on Human Rights and Rule of Law (BHRRL) goals include providing free legal services to the poor, fostering and ensuring protection of human rights and assisting in creating democratic and lawful society in Uzbekistan. BHRRL submitted number of alternative reports to CAT, UN Human Rights Committee, and CRC.

### Executive Summary

1. Today, Uzbekistan is also a Party to a number of other international human rights covenants and conventions: the International Covenant on Civil and Political Rights (ICCPR)<sup>1</sup>, the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>2</sup>, the Convention on the Elimination of Racial Discrimination (CERD)<sup>3</sup>, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>4</sup>, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>5</sup> and the Convention on the Rights of the Child (CRC)<sup>6</sup>.
2. In the issues related to the child rights Uzbekistan has made few steps to improve the situation since the last revision on the 42<sup>nd</sup> session of the Committee on the Rights of the Child. The most urgent issues raised by the Committee were not implemented to the domestic legislation. Despite the numerous criticisms of international and local human rights organizations *torture and inhuman, cruel and degrading treatment* remains to be a routine practice in Uzbekistan. The conditions of the detention also require urgent attention of international organizations.
3. Up to the current moment, government conducted comparatively few reforms to change the totalitarian regime which existed in soviet times. As a result, country is facing numerous problems and the most dangerously corruption has enormous sizes affecting all state systems, including judiciary. Mechanisms of judiciary financing, appointment and dismissal of judges and others made judiciary strongly dependant from executive power. Low salaries of judges and other officials working in law enforcement sector add on spreading of corruption among low enforcement. All above mentioned in turn worsens situation with torture and inhuman, degrading and humiliating treatment or punishment.
4. The issue of domestic violence is very urgent in Uzbekistan, especially due to the fact that the term “*domestic violence*” is not implemented in the legislation. Furthermore, legislation that adds on to the problem of domestic violence is still in force. The brightest example of this is marriageable age set different for men and women, the family can force their daughter to marry even at the age of 16.
5. Situation with *abandoned children* in many cases closely linked with domestic violence. In the recent years, poverty, unemployment and low salaries on existing job

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<sup>1</sup> Ratified by Uzbekistan on 28 September 1995; Entered to force 28 December 1995

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<sup>4</sup> Ratified by Uzbekistan on 28 September 1995; Entered to force 28 October 1995

<sup>5</sup> Ratified by Uzbekistan on 19 July 1995; Entered to force 18 August 1995

<sup>6</sup> Ratified by Uzbekistan on 29 June 1994; Entered to force 29 July 1994

places forces people leave their children to orphanages and leave to different countries to work mainly on illegal basis. Child being placed in the institutional care in Uzbekistan is not only exempted from family care, but also has no chance to receive adequate education, have low adaptability after leaving orphanage.

6. Forced child labour is used on the cotton fields on the whole territory of Uzbekistan during cotton harvest. Hard economic conditions force parents to send their underage children to work on rather heavy jobs, working as day labourers.

#### **7. *Definition of Child***

8. The Civil Code of Uzbekistan defines the age of majority at the age of 18 (article 22). The situation with social allowances paid until 16 years is still in force despite the recommendations made by the Committee. Children under 16 years old are eligible for getting social allowances on losing of parents if only their passed away parents had been worked before. If the parents of child did not work anywhere before, government does not pay any money. In case if child is still studying to the years of 16, government continues to pay allowances till 18 years old.
9. Marriageable age is still set at 18 for men and 17 for women (in exceptional circumstances may be lowered, by decision of the hokimiyat, but by no more than one year<sup>7</sup>).

#### **10. *Non discrimination***

11. Uzbekistan inherited the system of residence registration from soviet times and made the capital Tashkent a “closed” city when citizens of Uzbekistan born and living in other cities of Uzbekistan cannot obtain permanent residence registration in the capital without permission of special governmental committee which is almost impossible to get, especially for vulnerable population. Hence persons coming from poor regions looking for better jobs in the capital city have illegal status and their children are heavily affected by this. Their rights to education and health care are limited. Parents from other regions of Uzbekistan cannot place their children in Tashkent schools and only emergency medical services are available for such children.

#### **12. *Freedom of Association and Peaceful Assembly***

13. The situation with non governmental organizations has not changed much. Independent organizations have difficulties to be registered. Only those having special protection with authorities or are involved in National Association of NGO are able to obtain official registration and work legally. However, these GONGO follow the policy of the government and are not able to offer critical projects and proposals, therefore there is a huge gap for independent non governmental organizations who are able to carry out serious and perspective projects.
14. Only few independent organization are left to work in Uzbekistan and even they have to work as initiative groups not having official registration with authorities, therefore are not able to access banking and other services offered to registered organizations. Thus the existing civil society cannot fully answer the best interests of the child.

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<sup>7</sup> article 15 of Family Code

## ***15. Freedom from Torture and other Cruel, Inhuman and Degrading Treatment and Punishment***

16. Despite numerous criticisms of intergovernmental organisation, local and international NGO very few steps were taken to improve situation with routine and widespread use of torture. In many cases children and women are used as means to pressure arrested persons to sign confessions against themselves. In
17. Non governmental organizations working in Uzbekistan and outside many times raised the issue of torture in our country and as a result of these efforts of NGO Uzbekistan was visited by the Special Rapporteur on the Question of Torture Mr. Theo Van Boven. The report presented after the visit contained extremely important provisions, stating that in Uzbekistan torture is systematic and widespread.<sup>8</sup>
18. Besides, the report of Mr. Van Boven offered 22 recommendations which further served as a basis and important mechanism for the work of NGO, and our organizations in particular. Until the current moment most of the recommendations were either not implemented, or implemented partially. Practice of torture was never directly and openly condemned in local mass media by highest officials and the definition of torture in the article 235 of Criminal Code of the Republic of Uzbekistan does not fully confirms article 1 of Convention against Torture. Despite numerous criticism from local and international nongovernmental organization the article 235 of Criminal Code was not amended. These facts were brought to the attention of Committee against Torture during the 39<sup>th</sup> session, where members of Committee expressed concerns about routine use of torture and other forms of inhuman, cruel and degrading treatment and punishment.<sup>9</sup>
19. Detention conditions in Uzbekistan prisons can be characterized as inhuman, cruel, degrading treatment. Medical assistance is very far from being adequate, provided by legislation semiannual fluorography procedure does not take place in most of the cases, therefore most of prisoners suffer from tuberculosis. Poor nutrition, hard climatic conditions worsen health of convicts. Few visits of the International Red Cross Society very slightly improve the situation. They have difficulties obtaining access to colonies and prisons. However, before their visit, authorities make good preparation and for these few weeks – days prisoners have more or less decent conditions.
20. The system of punishment and complaints procedure has not changed since the last alternative report made in 2005.

## ***21. Protection of a child without family***

22. The problem of domestic violence is one of the most urgent in Uzbekistan, especially considering the fact that it is not officially recognized. The official language uses the term “family conflicts” rather than using the word “violence”. Having the “family” work here makes the problem surrounded by the family privacy, as it is internal problem of one concrete family and no one can be involved in it.

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<sup>8</sup> UN Special Rapporteur on the question of torture Mr. Theo van Boven, Committee resolution 2002.38

<sup>9</sup> Site from [www.globalsecurity.org/military/library/news/2007/11/mil-071124-rferl02.htm](http://www.globalsecurity.org/military/library/news/2007/11/mil-071124-rferl02.htm) visited on 13.06.08

23. In the result of such “family problems” and difficult economic situation in the years since Soviet Union collapse the number of abandoned and street children increased.
24. Due to the poor financed and high level of corruption, orphanages and infant homes cannot offer good services for housing and care.
25. There is no follow-up of children who have left institutional care. The only data available is the official statistics; however, this information is not always available or not reliable. There are no effective mechanisms for children to communicate concerns and complaints about their placement. The quality of children’s life and education in such institution has not been studied. There is no information that would adequately reflect their own opinion on their life and the institution. Administration of orphanages limits research, surveys of children and contacts with them. Graduates of orphanages are easy victims of law enforcement officials trying to fulfill the plan of opened crimes. There are several cases when child was forced to sign a testimony of the crime he did not commit.
26. The corporal punishment is mostly used in the form of forced labour. Children in institutional care are often subject to sexual violence from official working in such institution, most of such cases are not reported as children are not educated on their rights.

### ***27. Adoption and Fostering***

28. The system of alternative care is almost not supported by the authorities. Despite the fact Uzbekistan legislation provide definition for patronage/foster family it is not promoted in practice. High level of corruption and therefore interests of certain officials in having many children in orphanages (budget of orphanages depends on the number of children in it) prevent the practice of fostering to develop adequately.

### ***29. Economic Exploitation***

30. According to UNICEF percentage of children working in the age from 7 to 14 in Uzbekistan is equal to 23%<sup>10</sup>. Child labour is also widely used in schools and colleges and especially while cotton harvesting. If the data related to children involved in cotton harvesting is to be added to UNICEF figures indicator for Uzbekistan will raise dramatically. The practice of forceful involving child labour to the agricultural work is inherited from Soviet times is not regulated by the legislation of Uzbekistan and as a rule initiated by local government in oral form, there is not written document asking schools and higher educational institutions to send pupils and students to cotton fields.
31. Those avoiding cotton harvesting face threats and pressure from school, college and university officials, they can even be expelled from the universities and colleges with the official explanation of completely different offence.
32. Difficult economic situation force parents to send their children to work as mardicors – daily laborers. In turn mardicors are used to do the heaviest and hazardous work. No campaign is carried out to improve this situation. Children are often involved in the worst forms of child labour such as mendicancy and prostitution.

### ***33. Sexual Exploitation and Sexual Abuse***

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<sup>10</sup> Cited from <http://www.childinfo.org/eddb/work/database.htm>

34. Child prostitution is an existing problem in Uzbekistan. However, there is no official data about the age and percentage of children involved in prostitution. Street children and children in institutions, such as orphanages are often involved in prostitution, either voluntarily or by force. Often brothels with minors are under the “protection” of law enforcement representatives.
35. Street girls can often be subject to sexual abuse practised by some law enforcement officers. Children in prisons can also be exposed to sexual abuse either by the prison staff or by their elder peers.
36. According to US State Department Uzbekistan is among 15 countries that are not doing enough to stop the trafficking of people forced into servitude or the sex trade. The report said Uzbekistan was primarily a source and, to a lesser extent, a transit country for the purposes of prostitution and labour, while the government of Uzbekistan was neither fully adhering to the minimum standards for the elimination of trafficking, nor making significant efforts to do so.
37. The Criminal Code has provision for sexual intercourse with the person dependent on perpetrator however, there is no separate law on protection from sexual harassment. Children placed in institutional care are under the high risk of sexual abuse.

### ***38. Administration of Juvenile Justice***

39. Development of Juvenile Justice in accordance with the international legislation is still being continued on the level of discussions, seminars and conferences. The cases of juveniles are still reviewed by the general jurisdiction courts. Children often not provided with adequate legal aid and face violations similar to adults – such as be tortured, presumption of innocence is often violated.
40. In most IVS (detention centres), there is no special cell for minors, and the children are kept in the same cell as adults. Cells are overcrowded, have insufficient lighting, no ventilation, and no heating. According to paragraph 13.4 of the Criminal Proceedings Code of the Republic of Uzbekistan, arrested juveniles should be kept separate from adults. But many times this regulation is not complied with and as a result children become subject to a negative influence and more likely to abuse from adults. Sometimes juveniles are kept in investigation solitary confinement cells separate from adults but their transportation to the investigation cite usually takes place in the company of adults.
41. As for juvenile justice towards females, in Uzbekistan there is only one penal colony (prison) for women, but there is no separate colony for juvenile female offenders. Placement of juvenile female offenders in the same colony with adult women makes them subject to abuse and negative influence.
42. Social integration and rehabilitation practice is far from being developed. Children once placed in colonies could be easy victims of further violations from law enforcement officials to close uncovered cases. It is quite often when child who was previously place in colonies return to prison after reaching the age of majority.