AFTER THE PADISHAH

Addressing Discrimination and Inequality in Uzbekistan



Equal Rights Trust

EQUAL RIGHTS TRUST

After the Padishah

Addressing Discrimination and Inequality in Uzbekistan

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The Equal Rights Trust is an independent international organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice.

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From the mid-19th century onwards, the people of Uzbekistan were under the yoke of Tsarist Russia, and later under the yoke of the Soviet Communist Empire, which made this land of unique natural and mineral resources a mere raw-material appendix. The inexcusable depreciation of and in fact the consignment to oblivion of our ancient national traditions, language, culture and customs, as well as the artificial thrusting upon us of an alien ideology and way of life greatly damaged the development of our country.

Having now shaken off the chains of the totalitarian system, Uzbekistan has chosen the path of democratic transformation, cardinal reform in all spheres of social life, the construction of a secular and law-based state with a social orientation towards the market economy, and the renaissance of our national identity, culture and spirituality.

Islam Karimov
Islam Karimov, President of the Republic
of Uzbekistan, 1991–2016

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In the process of producing this report, the Trust conducted interviews, sought information or consulted Uzbek experts and organisations. For security reasons, the decision has been taken not to publish any names, although these remain on file with the author. The Equal Rights Trust wish to thank all individuals and organisations who responded to queries, gave feedback on the draft report, provided information and advice, or met with us and our researchers.

Finally, we wish to thank all persons who shared their stories with us. This report is dedicated to them and all other persons in Uzbekistan who have suffered – and those who continue to suffer – discrimination and exclusion.

ACRONYMS AND ABBREVIATIONS

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAT-OP	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW-OP	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
CIS	Commonwealth of Independent States
CRC	Convention on the Rights of the Child
CRC-OP	Optional Protocol I to the Convention on the Rights of the Child (involvement of the children in armed conflict)
CRC-OP II	Optional Protocol II to the Convention on the Rights of the Child (sale of children, child prostitution and child pornography)
CRC-OP III	Optional Protocol III to the Convention on the Rights of the Child (communicative procedure)
CRPD	Convention on the Rights of Persons with Disabilities
CRPD-OP	Optional Protocol to the Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organisation
DPU	Democratic Party of Uzbekistan
EPP	Exposure Prone Procedure
GONGO	Government Organised Non-Governmental Organisation
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
HRC	Human Rights Committee
HRSU	Human Rights Society of Uzbekistan
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP	Optional Protocol I to the International Covenant on Civil and Political Rights
ICCPR-OP II	Optional Protocol II to the International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights

ICESCR-OP	Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearances
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ILO	International Labour Organization
IMU	Islamic Movement of Uzbekistan
IPHR	International Partnership for Human Rights
LGBT	Lesbian, Gay, Bisexual and Transgender
MFA	Ministry of Foreign Affairs
MVD	Ministry of Internal Affairs
NGO	Non-Governmental Organisation
OSCE	Organization for Security and Cooperation in Europe
OSF	Open Society Foundation
OSIAF-U	Open Society Institute Assistance Foundation – Uzbekistan
OST	Opioid Substitution Therapy
SADUM	The Muslim Spiritual Directorate for Central Asia and Kazakhstan
SNB	National Security Service
UBHRRL	Uzbek Bureau for Human Rights and Rule of Law
UN	United Nations
UNAIDS	United Nations Programme on Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
UNDP	United Nations Development Program
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USD	United States Dollars
USSR	Union of Soviet Socialist Republics
VTEK	Vrachebno Trudovaya Expertnaya Komissiy
WHO	World Health Organization

EXECUTIVE SUMMARY

On 1 September 1991, Islam Karimov, then President of the Uzbek Soviet Socialist Republic and First Secretary of the Communist Party, announced the establishment of Uzbekistan as an independent state. Almost exactly 25 years later, on 2 September 2016, Karimov passed away. The country's first and only President, Karimov – "Big Papa" to some Uzbekistanis, "Padishah" (a superlative royal title, meaning literally "chief ruler") to the national press – has defined independent Uzbekistan.

Under Karimov's rule – as he has suppressed all forms of dissent; detained and tortured opponents; and consolidated power in the presidency in contravention of the Constitution – Uzbekistan has become rightly infamous for the violation of civil and political rights. What has not been well-documented before now – due in no small part to restrictions on freedom of movement, access to information and freedom of the media – is the Uzbekistani people's experience of discrimination and disadvantage. This report seeks to fill that gap, attempting to provide the first comprehensive assessment of the enjoyment of the rights to equality and non-discrimination in this country dubbed "the worst of the worst" for its record on civil and political rights.

The report finds that Karimov's position and polices have been central drivers of discrimination in the country. Karimov appropriated Islam, promoting a particular version of state-sanctioned "secular Islam" and defining acceptable cultural and religious practices in law. Legal restrictions on religious freedom are manifold and so-called "independent Muslims" in particular are targeted by state security forces. Karimov used the spectre of ethnic conflict to justify his authoritarian regime and sought to co-opt ethnic minorities, establishing "Inter-ethnic Cultural Centres", led by pro-regime figures, to manage relations with ethnic minorities. In the absence of such representation, the state's most marginalised and stigmatised ethnic group – the Lyuli – suffer discrimination in all areas of life regulated by law.

Women are subject to discriminatory laws and policies imposed by the Karimov regime, ranging from forced sterilisation to paternalistic restrictions in employment. For lesbian, gay, bisexual and transgender (LGBT) persons, people with disabilities and persons living with Human Immunodeficiency Virus (HIV), the perpetuation of stereotypes and the maintenance of discriminatory laws by Karimov and his allies caused or exacerbated discrimination by private actors.

Our assessment of the legal and policy framework on equality and non-discrimination finds that under Karimov, little was done to combat discrimination. The Constitution, for example, provides rights to non-discrimination and equality which are inconsistent with international standards, while the state lacks any specific anti-discrimination law. We conclude that much more must be done if Uzbekistan is to meet its obligations under international law.

Yet amidst this bleak analysis, there is a ray of hope. Karimov has defined experiences of discrimination in Uzbekistan as much as his authoritarian regime has dominated all other areas of life. With his passing, there is an opportunity for the country to consider new and more inclusive approaches to government. While there is no immediate prospect of a radical change in governance, the death of an all-powerful leader offers at least a moment to change. Thus, this report poses the question: how will Uzbekistan change, after the Padishah?

Part 1: Introduction

Purpose and Structure

The purpose of this report is to highlight and analyse discrimination and inequality in the Republic of Uzbekistan (Uzbekistan) and to recommend steps aimed at combatting discrimination and promoting equality. The report explores long-recognised human rights issues, while also documenting less well-known patterns of discrimination. The report brings together – for the first time – evidence of the lived experience of discrimination and inequality in its various forms with an analysis of the laws, policies, practices and institutions established to address them.

The report comprises four parts. **Part 1** sets out the purpose and structure of the report, the conceptual framework, which has guided the work, and the research methodology. It also provides basic information about Uzbekistan, its history and current political situation. **Part 2** contains an analysis of the legal and policy framework as it relates to non-discrimination and equality; setting out Uzbekistan's international obligations before analysing state legislation for compliance with international law and best practice. This section goes on to consider the enforcement of legal guarantees; examining access to justice, the legal aid system, evidence and proof, and finally, remedies and sanctions. **Part 3** presents the principal patterns of inequality and discrimi-

nation affecting groups in Uzbekistan, focusing in particular on the characteristics of religious belief, ethnicity, political opinion, gender, sexual orientation and gender identity, disability and health status. **Part 4** of this report contains recommendations, drawn from an analysis of patterns of inequality and discrimination examined in Part 3 and the gaps, weaknesses and inconsistencies in the legal and policy framework identified in Part 2.

Conceptual Framework and Research Methodology

This report takes as its conceptual framework the unified human rights perspective on equality, which emphasises the integral role of equality in the enjoyment of all human rights, and seeks to overcome fragmentation in the field of equality law and policies. The unified human rights framework on equality is a holistic approach which recognises both the uniqueness of each different type of inequality and the overarching aspects of different inequalities. The unified framework brings together:

a) types of inequalities based on different grounds, such as race, gender, religion, nationality, disability, sexual orientation and gender identity, among others;
b) types of inequalities in different areas of civil, political, social, cultural and economic life, including employment, education, provision of goods and services, among others; and
c) status inequalities and socio-economic inequalities.

The unified human rights framework on equality is expressed in the Declaration of Principles on Equality, adopted in 2008, signed initially by 128, and subsequently by hundreds more, experts and activists on equality and human rights from all over the world.

The Equal Rights Trust has been working to document and combat discrimination in the five countries in the Central Asia region since 2013, in the context of the project, *Empowering human rights defenders in Central Asia to combat discrimination on the basis of ethnicity and religion,* funded by the European Union through its European Instrument for Democracy and Human Rights.

Primary field research on patterns of discrimination was designed and commissioned by the Trust and undertaken by a small group of courageous human rights defenders, working clandestinely and at significant personal risk.

The research team was trained, supported and provided with conceptual and methodological guidance by the Equal Rights Trust. During the research process, our researchers engaged with representatives of discriminated and marginalised groups directly. We also independently reviewed existing literature on discrimination and inequality on different grounds, and analysed and assessed the country's legal and policy framework related to equality.

Country Context, History, Government and Politics

Uzbekistan is a landlocked country at the crossroads of Central Asia, bordering Afghanistan, Kazakhstan, Kyrgyzstan, Tajikistan, and Turkmenistan. The Country is divided into 12 provinces (Viloyat), including the capital city Tashkent, and the autonomous Republic of Karakalpakstan, as well as well as 121 towns, and 163 rural districts, which are divided over an area of approximately 447,400km^2.

The total population of Uzbekistan in 2016 was 31,575,300 persons. Ethnic Uzbeks comprise the majority of the population (80.8%). Tajiks (4.8%), Russians (3.5%), Kazaks (3.3%), and Karakalpaks (2.2%) are among the most populous ethnic minorities. The majority of ethnic Uzbeks are from rural areas (68.8%), with a slightly higher proportion than that of the total population (64.1%). The majority of the population is Muslim, predominantly of the Sunni Hanafi School. In a 2002 Public Health Survey, 96.1% of respondents were Muslim, compared to 3% Christians, 0.7% non-believers and 0.1% "other".

Under Article 4 of the Constitution, the state language of Uzbekistan is designated as Uzbek. According to the state, education in state schools is provided in seven languages: Uzbek, Karakalpak, Russian, Tajik, Kazakh, Turkmen and Kyrgyz. Magazines are reportedly published in eight languages while radio and TV is broadcast in 10.

As of 2015, the World Bank estimated Uzbekistan's Gross Domestic Product at US $66.733 billion, while Gross National Income (GNI) was US $2,150, placing the country in the lower-middle income bracket. In 2014, the United Nations Human Development Index for Uzbekistan was 0.675 (medium human development) placing it 114th out of 188 countries.

The origins of present-day Uzbekistan are said to be traceable back to the sixth century BC, with the rise of the Achaemenid dynasty. In the nineteenth century

Tsarist rule was established across much of Central Asia. Bukhara and Khiva became protectorates, while other regions were annexed to the Russian State. Soviet rule was established in 1917 and remained until independence in 1991, when Uzbekistan declared independence amidst the collapse of the Soviet Union.

The Constitution of the Republic of Uzbekistan was adopted on 8 December 1992 shortly prior to the country's first presidential elections. Uzbekistan is established as a sovereign democratic republic, with a Presidential form of government and a bicameral Parliament (Oliy Majlis) consisting of the Legislative Chamber and the Senate. The President of Uzbekistan is the Head of State and is elected for a term of five years by way of popular vote. Presidential elections were held on 29 March 2016. According to the Organization for Security and Cooperation in Europe (OSCE) these elections were marred by restrictive legal requirements that prevented prospective candidates from running. Lacking any meaningful opposition, President Karimov won 90.39% of the votes. On 2 September 2016, the death of Islam Karimov was officially confirmed by state sources. On 4 December 2016, Shavkat Mirziyaev, Prime Minister under Karimov for more than a decade, was elected President with 88.6% of the vote.

Part 2: Legal and Policy Framework Related to Equality

This Part examines both Uzbekistan's international legal obligations and the domestic legal and policy framework which protects the rights to equality and non-discrimination. It also considers the extent to which there is adequate enforcement of the legal and policy framework and effective access to justice for victims of discrimination.

Section 2.1 of the report assesses Uzbekistan's participation in international instruments. It finds that Uzbekistan has an average record of participation in the UN human rights treaty system. Although it has failed to ratify three of the nine core UN human rights treaties – omitting the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the International Convention for the Protection of All Persons from Enforced Disappearances and the Convention on the Rights of Persons with Disabilities, the majority of its state party reports have been delivered on time.

Uzbekistan has a mixed record in relation to other international treaties which have a bearing on the enjoyment by all of the rights to equality and

non-discrimination. None of the key statelessness or refugee conventions have been ratified by the state, nor has the Rome Statute of the International Criminal Court. In the field of labour standards, Uzbekistan fairs slightly better, having ratified eight of the fundamental International Labour Organization (ILO) Conventions including the Equal Remuneration Convention and the Discrimination (Employment and Occupation) Convention.

The legal status of international treaties is not clearly defined in Uzbekistani law. Consequently, where human rights principles are not directly transposed into the domestic legal system, those principles are unlikely to be given effect by courts.

Section 2.2 explores Uzbekistan's domestic legal system, looking first at its Constitution, adopted in 1994. The right to equality and freedom from discrimination is established under Article 18 of the Constitution, which provides that "all citizens of the Republic of Uzbekistan shall have equal rights and freedoms, and shall be equal before law without discrimination by sex, race, nationality, language, religion, social origin, convictions, individual and social status." The list of protected grounds in Article 18 of the Constitution is shorter than lists found in international instruments to which Uzbekistan is a party. The Constitutional right to equality only extends to citizens; while discrimination is inadequately defined. While Article 18 permits positive action, it does not mandate such action and so is inconsistent with international best practice.

Section 2.2.2 addresses specific equality and anti-discrimination legislation in Uzbekistan. There is a notable absence of such legislation, a key weakness of Uzbekistan's domestic legal framework for the protection of equality and non-discrimination. The only substantial piece of legislation is the Law on the Social Protection of Disabled Persons. Although not properly considered a piece of anti-discrimination legislation, the law determines the legal, economic and organisational conditions of providing social protection for persons with disabilities, including measures on accessibility, rehabilitation, employment, education and social provision for persons with disabilities and is therefore important. The law fails to define discrimination, including a definition of reasonable accommodation. It also does not provide for specified remedies for breaches of some of the rights established therein.

Section 2.2.3 reviews a number of non-discrimination provisions in other legal fields, including civil, criminal; labour, administrative, education, and family

law. This section additionally considers guarantees found in laws relating to religion and language. Several problems have been identified with the guarantees of equality and non-discrimination found in these Acts. In particular, the criminalisation of less serious forms of discrimination under the Criminal Code and expansive ambit of hate speech legislation are a cause for concern.

Finally, the enforcement and implementation of laws and policies related to equality is analysed in section 2.3. It finds that a weak legislative framework for protection of the right to non-discrimination is matched by poor enforcement. The independence of the judiciary, lawyers, and human rights monitoring mechanisms have been questioned. In particular, lack of security of tenure for judges and the requirement of re-registration for advocates impede access to justice. Legal aid is rarely available in civil cases, resulting in the few justiciable guarantees of non-discrimination provided for by law (for instance, in relation to employment claims) being difficult to realise for those individuals who cannot afford to pay.

This section concludes by noting that Uzbekistani law contains several deficiencies which need to be addressed in order to effectively guarantee the rights to equality and non-discrimination. The government should prioritise the adoption of comprehensive equality legislation and ensuring access to justice for victims of discrimination and inequality including by guaranteeing the independence of courts and lawyers and availability of legal aid. Finally, effective civil law remedies should be available for victims coupled with criminal sanctions in only the most serious cases.

Part 3: Patterns of Discrimination

This part of the report presents evidence of discrimination and inequality arising on the basis of: (i) religion or belief; (ii) ethnicity, with a particular focus on discrimination experienced by Lyuli; (iii) political opinion; (iv) gender; (v) sexual orientation and gender identity; (vi) disability; and (vii) health status. The report does not provide an exhaustive account of all forms of discrimination which prevail in Uzbekistan, but instead aims to provide an insight into some of the most significant patterns of discrimination in the country. In respect of each ground covered, the report discusses the ways in which people experience discrimination and inequality in a range of areas of life, including as a result of discriminatory laws, the action of state actors carrying

out public functions, exposure to discriminatory violence, and discrimination and inequality in areas such as employment, education and access to goods and services.

Section 3.1 of the report addresses the question of discrimination on the basis of **religion or belief.** It examines the treatment of religion during the seven decades of state-imposed atheism during the Soviet era and the appropriation of a "secular" Islam by the Karimov regime as a tool of nation-building. It finds that the adoption of a state-sanctioned "secular" form of Islam has in turn fostered discrimination against both "independent Muslims" who practice Islam in a way considered contrary to the regime's approach and religious minority groups. The state maintains a number of discriminatory laws, including a regime of legal registration which has been applied in such a way as to discriminate against minority religious groups. "Independent Muslims" have been targeted by government, subjected to arrest and detention for undertaking unauthorised religious activities. The spectre of religiously-motivated terrorism has been used as a pretext for the broad interpretation of laws on religious extremism, which have been applied to crack down on those seen as challenging the state. Independent Muslim women have been particularly affected by state law and policy: the adoption of the veil marking them out as adherents of a non-sanctioned faith and so exposing them to harassment and discrimination by both state and non-state actors.

Discrimination on the basis of **ethnicity** is considered in section 3.2, which finds that President Karimov has used concerns over ethnic conflict, of the type which has afflicted neighbouring Tajikistan and Kyrgyzstan, to legitimize his authoritarian regime. It finds that the state has co-opted ethnic minorities, through a system of Inter-ethnic Cultural Centres, led by pro-regime figures. While many of these Centres are vocally supportive of the state's approach, there have been complaints by Tajik groups, for example, that applications to register Centres by those not considered loyal to the government have been refused. Beyond the major ethnic minorities – Tajiks, Kyrgyz and Russians – whose relations with government are managed through the aforementioned Cultural Centres, our research found evidence of severe and widespread discrimination against the **Lyuli** (sometimes referred to as Central Asian Roma or Gypsies) community. Our research team interviewed 95 Lyuli individuals in order to document their experiences of discrimination. These interviews exposed the high levels of discrimination

which this community experience in education, employment, access to social security and housing. For example, only one in eight of the Lyuli interviewed for our report had ever been in employment.

Section 3.3 of the report finds that, unlike the other patterns of discrimination documented in the report, discrimination on the basis of **political opinion** has been well-documented in Uzbekistan. The state is rightly infamous for its repressive approach to dissent, and for the arrest, detention and, in some cases, torture of its opponents. Thus, this section of the report reviews and analyses research from other organisations from the perspective of the rights to equality and non-discrimination. It identifies patterns of discriminatory denial of the rights to the rights to freedom from torture, liberty and security of the person, freedom of movement, privacy and freedom of expression, assembly and association.

In section 3.4 of the report, we assess the position of **women** in Uzbekistani society and conclude that, in the context of weak legal protections, they experience discrimination and inequality in many areas of life. Discriminatory laws impose restrictions on women's freedom of choice in areas ranging from employment to freedom of movement. Women are disproportionately affected by the inhumane practice of forced sterilisation, defined as a form of torture in international law, and by the continued practice of child marriage, which contravenes the Convention on the Rights of the Child. The legal and policy framework on domestic violence is inadequate, and such violence remains prevalent. While female participation in most areas of education is broadly consistent with males, this does not translate into the world of work, where horizontal and vertical labour market segregation and stereotypes about women's role in childcare create significant inequalities. The section includes a focus on the position of Lyuli women, who experience particularly severe multiple discrimination on the basis of ethnicity and gender.

Section 3.5 examines discrimination against **lesbian, gay, bisexual and transgender persons (LGBT)**. It finds that this group are exposed to severe social stigma, leading many LGBT persons to withhold their sexuality or gender identity. Same-sex sexual conduct between men is criminalised, while lesbians interviewed for this report stated that this criminalisation also gives rise to stigma and prejudice affecting them. The section records incidents of harassment, extortion and intimidation by law enforcement agencies. For

transgender persons, while gender reassignment is permitted by law, this appears to be predicated on the requirement of corrective surgery, contrary to international best practice. There is evidence that transgender persons are forced to undergo an intensive medical evaluation, requiring a stay in a psychiatric hospital; in some cases, for months at a time.

Section 3.6 discusses the discrimination and disadvantage experienced by **persons with disabilities**. It finds that Uzbekistan's continued application of a "medical", rather than a "social model of disabilities underpins a range of discriminatory laws, policies and practices. Persons with mental disabilities are subject to discriminatory laws which deprive them of their legal capacity. Inadequate measures have been taken to create an environment which is accessible for all. Eligibility for social security is determined through a highly-medicalised procedure, which also regulates fitness for work and reasonable accommodation obligations for employers. Changes to eligibility criteria have resulted in the discontinuation of financial support to large numbers of persons with disabilities, something which has serious consequences given the limited employment opportunities.

Finally, in section 3.7, the report examines discrimination on the basis of health status, focusing on the position of **persons living with HIV**. The section includes testimony from a number of medical professionals who attested to the high levels of social stigma surrounding HIV, leading in one case to a woman being forced to live in a cow shed by her husband's family. Despite the enactment of legislation providing some safeguards for persons living with HIV, our research finds evidence of discriminatory laws – including laws requiring forced HIV testing and others which require disclosure of HIV status – and discrimination by state agents. It finds that these practices are legitimised by the use of prejudicial language by prominent public figures, including President Karimov. The research also identifies evidence of discrimination and inequality in access to employment, education and healthcare.

Part 3 of the report concludes by noting the defining role of President Karimov and his vision for Uzbekistan in many Uzbekistani's experience of discrimination and inequality. It notes the pervasive discrimination affecting those whose political or religious belief put them in conflict with the late President. However, it also concludes that the experiences of ethnic minorities and women cannot be properly understood without an appreciation of

the role which state policy played. Moreover, it concludes that the stigma and discrimination which affect LGBT persons, persons with disabilities and persons living with HIV have in many ways been legitimised by the words and deeds of Karimov and senior figures in his regime. The part concludes by asking what prospects there are for change, and the creation of a new and more inclusive vision for Uzbekistan, following Karimov's death.

Part 4: Recommendations

Part 4 of this report makes recommendations to the government of Uzbekistan. The purpose of these recommendations is to strengthen protection from discrimination and to enable Uzbekistan to meet its obligations under international law to respect, protect and fulfil the rights to non-discrimination and equality. All recommendations are based on international law related to equality, and on the Declaration of Principles on Equality. The report makes recommendations (see pages 248–261) in nine areas:

1) Strengthening of International Commitments Related to Equality
2) Constitutional and Legislative Reform Regarding the Right to Equality
3) Adoption of Comprehensive Anti-Discrimination Legislation
4) Implementation and Enforcement of laws Aimed at Prohibiting Discrimination
5) Actions to Address Discrimination against Specific Groups
6) Ensuring the Independence of Legal Actors and Human Rights Institutions
7) Data Collection
8) Education on Equality
9) Prohibition of Regressive Interpretation

1. INTRODUCTION

On 1 September 1991, Islam Karimov, then President of the Uzbek Soviet Socialist Republic and First Secretary of the Communist Party, announced the establishment of Uzbekistan as an independent state. Almost exactly 25 years later, on 2 September 2016, Karimov passed away. The country's first and only President, Karimov – "Big Papa" to some Uzbekistanis, "*Padishah*" (a superlative royal title, meaning literally "chief ruler") to the national press – has defined independent Uzbekistan.

Under Karimov's rule – as he has suppressed all forms of dissent; detained and tortured opponents; and consolidated power in the presidency in contravention of the constitution – Uzbekistan has become rightly infamous for the violation of civil and political rights. What has not been well-documented before now – due in no small part to restrictions on freedom of movement, access to information and freedom of the media – is the Uzbekistani people's experience of discrimination and disadvantage. This report seeks to fill that gap, attempting to provide the first comprehensive assessment of the enjoyment of the rights to equality and non-discrimination in this country dubbed "the worst of the worst" for its record on civil and political rights.

The report finds that Karimov's position and polices have been central drivers of discrimination in the country. Karimov appropriated Islam, promoting a particular version of state-sanctioned "secular Islam" and defining acceptable cultural and religious practices in law. Legal restrictions on religious freedom are manifold and so-called "independent Muslims" in particular are targeted by state security forces. Karimov used the spectre of ethnic conflict to justify his authoritarian regime and sought to co-opt ethnic minorities, establishing "Inter-ethnic Cultural Centres", led by pro-regime figures, to manage relations with ethnic minorities. In the absence of such representation, the state's most marginalised and stigmatised ethnic group – the Lyuli – suffer discrimination in all areas of life regulated by law.

Women are subject to discriminatory laws and policies imposed by the Karimov regime, ranging from forced sterilisation to paternalistic restrictions in employment. For lesbian, gay, bisexual and transgender persons, people with disabilities and persons living with HIV, the perpetuation of stereotypes and the maintenance of discriminatory laws by Karimov and his allies cause or exacerbate discrimination by private actors.

Our assessment of the legal and policy framework on equality and non-discrimination finds that under Karimov, little has been done to combat discrimination. The Constitution, for example, provides rights to non-discrimination and equality which are inconsistent with international standards, while the state lacks any specific anti-discrimination law. We conclude that much more must be done if Uzbekistan is to meet its obligations under international law.

Yet amidst this bleak analysis, there is a ray of hope. Karimov has defined experiences of discrimination in Uzbekistan as much as his authoritarian regime has dominated all other areas of life. With his passing, there is an opportunity for the country to consider new and more inclusive approaches to government. While there is no immediate prospect of a radical change in governance, the death of an all-powerful leader offers at least a moment to change. Thus, this report poses the question: how will Uzbekistan change, after the *Padishah*?

1.1 Purpose and Structure of this Report

The purpose of this report is to highlight and analyse discrimination and inequality in the Republic of Uzbekistan (Uzbekistan) and to recommend steps aimed at combating discrimination and promoting equality. The report explores long-recognised human rights issues, while also documenting less well-known patterns of discrimination. The report brings together – for the first time – evidence of the lived experience of discrimination and inequality in its various forms with an analysis of the laws, policies, practices and institutions established to address them.

This report takes as its conceptual framework the unified human rights perspective on equality, which emphasises the integral role of equality in the enjoyment of all human rights, and seeks to overcome fragmentation in the field of equality law and policies. The unified human rights framework on equality is a holistic approach which recognises both the uniqueness of each different type of inequality and the overarching aspects of different inequalities. The unified framework brings together:

a) types of inequalities based on different grounds, such as race, gender, religion, nationality, disability, sexual orientation and gender identity, among others;

b) types of inequalities in different areas of civil, political, social, cultural and economic life, including employment, education, provision of goods and services, among others; and
c) status-based inequalities and socio-economic inequalities.

The report comprises four parts. **Part 1** sets out the purpose and structure of the report, the conceptual framework, which has guided the work, and the research methodology. It also provides basic information about Uzbekistan, its history and current political and economic situation. **Part 2** contains an analysis of the legal and policy framework as it relates to non-discrimination and equality; setting out Uzbekistan's international obligations before analysing state legislation for compliance with international law and best practice. This section goes on to consider the enforcement of legal guarantees; examining access to justice, the legal aid system, evidence and proof, and finally, remedies and sanctions. **Part 3** presents the principal patterns of inequality and discrimination affecting groups in Uzbekistan, focusing on the characteristics of religious belief, ethnicity, political opinion, gender, sexual orientation, disability and health status. **Part 4** contains recommendations, drawn from an analysis of patterns of inequality and discrimination examined in Part 3 and the gaps, weaknesses and inconsistencies in the legal and policy framework identified in Part 2.

1.2 Conceptual Framework and Research Methodology

The unified human rights framework on equality is expressed in the Declaration of Principles on Equality, adopted in 2008, signed initially by 128 and subsequently by thousands of experts and activists on equality and human rights from all over the world. The principles formulated and agreed by the experts are based on concepts and jurisprudence developed in international, regional and national legal contexts.

Since its adoption, the Declaration has been used as the basis for those developing anti-discrimination legislation in a number of countries and has received support at the international and regional levels. In 2008, the UN Committee on Economic, Social and Cultural Rights (CESCR) made use of a number of key concepts from the Declaration in its General Comment 20: Non-discrimination in economic, social and cultural rights. In 2011, the Parliamentary Assembly of the Council of Europe adopted a Recommendation

calling on the 47 Council of Europe member states to take the Declaration into account when developing equality law and policy.

Principle 1 of the Declaration defines the right to equality:

> *The right to equality is the right of all human beings to be equal in dignity, to be treated with respect and consideration and to participate on an equal basis with others in any area of economic, social, political, cultural or civil life. All human beings are equal before the law and have the right to equal protection and benefit of the law.*[1]

Thus defined, the right to equality has a broad scope, and its content is richer than that of the right to non-discrimination. The right to equality has as its elements the equal enjoyment of all human rights, as well as the equal protection and benefit of the law. Most importantly, it encompasses equal participation in all areas of life in which human rights apply. This holistic approach to equality recognises the interconnectedness of disadvantages arising in different contexts, which makes it necessary to take a comprehensive approach to inequalities in all areas of life.

This report takes the right to equality, as expressed in the Declaration, as the baseline against which it assesses the presence or degrees of inequality. It goes beyond poorer notions of equality found in many legal systems, by understanding equality not only as a right to be free from all forms of discrimination, but also as a right to substantive equality in practice. As discussed below, this motivates our analysis of disadvantages affecting different groups beyond those which arise as a result of discernible acts of discrimination. From this perspective, many societal inequalities relevant to human rights are seen as a consequence of historic disadvantage, while insisting that the right to equality requires states to address unfair inequalities, however "innocuous" their cause. Thus the unified framework makes *de facto* unfair inequalities, whether or not they result from discrimination, a relevant subject for this report.

Regarding the relationship between the rights to equality and non-discrimination, the Declaration construes the right to non-discrimination as sub-

1 *Declaration of Principles on Equality,* Equal Rights Trust, London, 2008, Principle 1.

sumed in the right to equality.[2] Thus, when examining the situation of a particular group of persons, the report looks both at examples of discrimination and at inequality in participation in areas such as employment or public life, differential access to goods and services and socio-economic disadvantage.

The unified human rights framework on equality makes it desirable and possible to provide a general legal definition of discrimination covering all types of discrimination. Principle 5 of the Declaration offers such a definition:

> *Discrimination must be prohibited where it is on grounds of race, colour, ethnicity, descent, sex, pregnancy, maternity, civil, family or carer status, language, religion or belief, political or other opinion, birth, national or social origin, nationality, economic status, association with a national minority, sexual orientation, gender identity, age, disability, health status, genetic or other predisposition toward illness or a combination of any of these grounds, or on the basis of characteristics associated with any of these grounds.*
>
> *Discrimination based on any other ground must be prohibited where such discrimination (i) causes or perpetuates systemic disadvantage; (ii) undermines human dignity; or (iii) adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on the prohibited grounds stated above.*
>
> *Discrimination must also be prohibited when it is on the ground of the association of a person with other persons to whom a prohibited ground applies or the perception, whether accurate or otherwise, of a person as having a characteristic associated with a prohibited ground.*
>
> *Discrimination may be direct or indirect.*

2 *Ibid*., Principle 4.

> ***Direct discrimination*** *occurs when for a reason related to one or more prohibited grounds a person or group of persons is treated less favourably than another person or another group of persons is, has been, or would be treated in a comparable situation; or when for a reason related to one or more prohibited grounds a person or group of persons is subjected to a detriment. Direct discrimination may be permitted only very exceptionally, when it can be justified against strictly defined criteria.*
>
> ***Indirect discrimination*** *occurs when a provision, criterion or practice would put persons having a status or a characteristic associated with one or more prohibited grounds at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.*
>
> ***Harassment*** *constitutes discrimination when unwanted conduct related to any prohibited ground takes place with the purpose or effect of violating the dignity of a person or of creating an intimidating, hostile, degrading, humiliating or offensive environment.*
>
> *An act of discrimination may be committed intentionally or unintentionally.*[3]

This definition takes a broad view regarding the list of **protected characteristics**. It contains both a list of explicitly prohibited grounds of discrimination and a "test" for the inclusion of further grounds, according to which "candidate grounds" should meet at least one of three listed conditions.[4] Thus, the definition provides a foundation for tackling the full complexity of the problem to be addressed – a person's lived experience of discrimination. It rec-

3 *Ibid*., Principle 5.

4 Petrova, D., "The Declaration of Principles on Equality: A Contribution to International Human Rights", in *Declaration of Principles on Equality*, above, note 1, p. 34: "The definition of discrimination in Principle 5 includes an extended list of 'prohibited grounds' of discrimination, omitting the expression 'or other status' which follows the list of characteristics in Article 2 of

ognises that a single person may experience discrimination on a "combination" of subtly interacting grounds, or on grounds not previously recognised as "prohibited", and that the cumulative impact of discrimination on different grounds can be bigger than the sum of its parts. The unified perspective acknowledges that the phenomenon of discrimination must be addressed holistically, if it is to be effectively challenged.

The Declaration defines three forms of **prohibited conduct** which constitute discrimination: direct discrimination, indirect discrimination and harassment. All three concepts reflect current expert opinion on the definitions of the different forms of discrimination in international human rights and equality law.[5] They are used throughout Part 2 to explore the extent to which the national legal framework provides protection for these forms of prohibited conduct and in Part 3 to assess the patterns of discrimination identified by our research and to evaluate the state's efficacy in meeting its obligation to respect, protect, and fulfil the right to non-discrimination.

The report also relies on a number of other important concepts and definitions contained in the Declaration of Principles on Equality. Thus, the report employs the definition of **reasonable accommodation** provided in Principle 13 of the Declaration:

> *To achieve full and effective equality it may be necessary to require public and private sector organisations to provide reasonable accommodation for different capabilities of individuals related to one or more prohibited grounds.*
>
> *Accommodation means the necessary and appropriate modifications and adjustments, including anticipatory measures, to facilitate the ability of every individual to*

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the Universal Declaration of Human Rights. While intending to avoid abuse of anti-discrimination law by claiming discrimination on any number of irrelevant or spurious grounds, the definition nonetheless contains the possibility of extending the list of 'prohibited grounds' and includes three criteria, each of which would be sufficient to recognise a further characteristic as a 'prohibited ground'.

5 See, for example, Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights*, UN Doc. E/C.12/GC/20, 2009, Para 10.

> *participate in any area of economic, social, political, cultural or civil life on an equal basis with others. It should not be an obligation to accommodate difference where this would impose a disproportionate or undue burden on the provider.*[6]

In line with international law in this area, the approach taken in the report is that a denial of reasonable accommodation constitutes discrimination.[7] Reflecting an emerging international consensus on this issue, the concept of reasonable accommodation "is extrapolated to cover other forms of disadvantage beyond disability, as well as, more generally, differences which hamper the ability of individuals to participate in any area of economic, social, political, cultural or civil life".[8] Thus, in the context of this report, it is accepted that the duty of reasonable accommodation can arise in respect of grounds other than disability.

Similarly, the report employs the understanding of **positive action** provided in Principle 3 of the Declaration. As with other principles in the Declaration, this principle draws upon established approaches to the interpretation of international and regional human rights law, in this case with regard to the concepts of special measures in the various instruments.[9] Principle 3 states:

> *To be effective, the right to equality requires positive action.*
>
> *Positive action, which includes a range of legislative, administrative and policy measures to overcome past disadvantage and to accelerate progress towards equality*

6 See above, note 1, Principle 13.

7 See, for example, Convention on the Rights of Persons with Disabilities, 2515 U.N.T.S. 3, 2006, Article 2; Committee on Economic, Social and Cultural Rights, *General Comment No. 5: Persons with Disabilities*, UN Doc. E/1995/22, 1995, Para 15: "disability-based discrimination" includes the denial of "reasonable accommodation based on disability which has the effect of nullifying or impairing the recognition, enjoyment or exercise of economic, social or cultural rights".

8 See above, note 4, p. 39.

9 See, for example, International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, 1965, Article 1(4); and the Convention on the Elimination of All Forms of Discrimination against Women, 1249 U.N.T.S. 13, 1979, Article 4(1).

> *of particular groups, is a necessary element within the right to equality.*[10]

The notion of positive action plays an important role in the unified perspective on equality, and, therefore, in the approach of this report. Positive action is key to addressing those inequalities which are not attributable solely to discrimination. Part 2 of this report analyses the adequacy of positive action measures in Uzbekistani legislation, while Part 4 offers recommendations for change.

The review of laws and policies in Part 2 of this report is based on an assessment against those parts of the Declaration which set out the **obligations of the state** with regard to the rights to equality and non-discrimination, including in particular Principle 11. In this regard, the Declaration applies the understanding of state obligations in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), as explained, *inter alia*, in General Comment No. 3 of the Committee on Economic, Social and Cultural Rights and General Comment No. 31 of the Human Rights Committee (HRC). As stated in the commentary on the Declaration:

> *By analogy with the interpretation of States' obligations set out in General Comment 3 of the UN Committee on Economic, Social and Cultural Rights, States are required to take all necessary steps, including legislation, to give effect to the right to equality in the domestic order and in their international cooperation programmes. The right to full and effective equality may be difficult to fulfil; however, the State does not have an excuse for failing to take concrete steps in this direction. The requirement to take such steps is unqualified and of immediate effect. A failure to comply with this obligation cannot be justified by reference to cultural, economic, political, security, social or other factors.*[11]

10 See above, note 1, Principle 3.

11 See above, note 4, p. 38.

Application of the Unified Human Rights Framework on Equality

Applying the unified human rights framework on equality has a number of implications for the content, structure and methodology of this report. The **first implication** is reflected in the subject and scope of the report – the presentation of discrimination and inequality on a number of different grounds in the same study. While it is clearly beyond the scope of the report to provide a detailed analysis of discrimination and inequality arising on every ground, the aim has been to present what appear to be the most significant patterns of discrimination and inequality found in the Uzbekistani context.

Presenting patterns of discrimination and inequality alongside each other requires a specific weighing of the sources of evidence. To some extent, Part 3 of the report relies on pre-existing research into inequalities affecting particular groups, and disaggregated data on the position of different groups in particular areas of life. However, given the pervasive restrictions on access to information in Uzbekistan, while such information was available in some areas, it was limited – or indeed absent – in others. As discussed below, very little information exists on the treatment of the Lyuli community, or on the size and social position of lesbian, gay, bisexual or transgender community in Uzbekistan. Consequently, in this and other such areas where pre-existing research was unavailable, we have relied more heavily on direct testimony from individual victims, complemented by interviews with professionals working on behalf of particular groups. The evidence obtained through field research and desk research has been weighed and contextualised, with a view to presenting patterns of discrimination and disadvantage in a way which is as representative of Uzbekistani reality as possible. In so doing, it is hoped that the report also illuminates the links between inequalities on different grounds, through identifying overarching issues, instances of multiple discrimination and common experiences.

The **second implication** of applying the unified human rights framework relates to the material scope of application of the right to equality, which encompasses all areas of life regulated by law. Subject to the aforementioned limitations on access to information, the report seeks to assess people's experience of discrimination across the full range of areas of life, including in respect of interactions with the state, personal safety, employment, education and healthcare. But in this respect, too, the evidence is uneven: there is little

evidence of discrimination or inequality in particular areas of life for certain disadvantaged groups. This may be because persons within these groups do not experience disadvantage in a particular area, or because evidence of such disadvantage was not forthcoming in the course of the research. For example, the report contains no evidence of discrimination on the basis of political opinion in areas such as education and employment, as no such evidence was identified during the development of the report. In the context in which the research was undertaken, a lack of evidence of a particular manifestation of discrimination does not enable us to conclude that it does not take place.

The **third implication** of applying the unified framework is to require an analysis of both violations of the right to non-discrimination and the right to equality. The report takes the right to equality, as defined in the Declaration of Principles on Equality, as the standard against which it assesses the degree of inequality. Thus, the report investigates historically-generated patterns of substantive inequality, by looking at the element of "participation on an equal basis with others in economic, social, political, cultural or civil life",[12] thereby extending beyond experiences of discrimination.

The **fourth implication** of applying the unified framework is the definition of discrimination used, which – reflecting best practice in outlawing discrimination on grounds that have come to be regarded as unfair in modern society, rather than the list of grounds protected by law in Uzbekistan – provides the basis for our consideration of the range of identity-based groups included in the report. Thus, the report examines discrimination on grounds of religion; ethnicity; political opinion; gender; sexual orientation; disability; and health status. Furthermore, the report examines some patterns of discrimination – such as the discrimination felt by independent Muslim and Lyuli women – which do not fall within one specified ground alone, but which it is felt need to be covered because they are important forms of multiple discrimination.

The **final implication** of this approach is to present evidence of factual patterns of discrimination and inequality alongside an analysis of the legal and policy framework related to equality. The existence and enforcement of laws and policies prohibiting discrimination and promoting equality is a critical factor – though by no means the only one – in ensuring enjoyment of the rights

12 See above, note 1, Principle 1.

to non-discrimination and equality. Protecting people from discrimination by enacting such laws is a key state obligation in respect of these rights. Thus, this report seeks to match an assessment of the lived experience of discrimination and inequality with a review of Uzbekistan's legal and policy framework, in order to establish where the law discriminates, where gaps and inconsistencies in legal protection exist, and where laws are inadequately enforced.

The analysis of laws and policies designed to address discrimination and inequality in Uzbekistan in Part 2 of this report identifies gaps in the legal framework and application and enforcement of legal guarantees that inhibit the effective enjoyment of rights; assessing the adequacy of the legal and policy framework in the light of the Declaration's principles relating to access to justice for discrimination victims, evidence and proof in discrimination proceedings, and other elements of the enforcement of equality rights.[13] Part 3 expands upon those issues identified, highlighting the existence of discriminatory laws and the impact which inadequate or inadequately enforced laws have in resulting in or contributing towards the marginalised position of certain groups in Uzbekistan's society. While the necessity of effective enforcement of the rights to non-discrimination and equality is illustrated by the findings in Part 3 of this report, these issues are discussed in more detail in Part 2, and Part 4, which formulates recommendations about legal and policy reform, implementation and enforcement.

Research Methodology

The Equal Rights Trust has been working to document and combat discrimination in the five countries in the Central Asia region since 2013, in the context of the project *Empowering human rights defenders in Central Asia to combat discrimination on the basis of ethnicity and religion,* funded by the European Union through its European Instrument for Democracy and Human Rights. This report, which is one of the outcomes of this project, was developed in several stages.

Planning for this report began in early 2013, through engagement with expert consultantsfrom the region. Due to the extremely restrictive and repressive environment in Uzbekistan, all field research has been undertaken clandes-

13 *Ibid.*, Principles 18–25.

tinely. A lead researcher for the report was X., a courageous individual who developed the structure for the report and designed and implemented a plan in country to conduct primary field research.[14] Together with the Trust, X. developed a plan for documenting the experience of groups exposed to discrimination and for conducting desk-based research into patterns of discrimination and the legal and policy framework was produced. This plan sought to balance the need for objectivity, corroboration and verification of research evidence with the necessary measures to mitigate the risks of human rights monitoring in a country where such activity is liable to criminal sanction.

Throughout the remainder of 2013, desk-based research was undertaken to identify and map out the principal patterns of discrimination in Uzbekistan, and produce an initial audit of the legal and policy framework on equality and non-discrimination. Following review of this initial study, in 2014, the Equal Rights Trust provided training on the rights to equality and non-discrimination to regional experts who had been selected to conduct the primary research for the report. The Trust provided detailed guidelines for the conduct and recording of semi-structured interviews with individuals exposed to discrimination.

The research team undertook primary field research on discrimination and inequality through semi-structured interviews, working with those exposed to discrimination in Uzbekistan. In late 2014 and 2015, the research team undertook in-depth field research with the groups identified as being most exposed to discrimination: (i) independent Muslims; (ii) members of the Lyuli ethnic minority group; (iii) opponents of the government (actual and perceived); (iv) women; (v) lesbian, gay, bisexual and transgender persons; (vi) persons with disabilities; (vii) persons living with HIV. In total, the research team spoke to hundreds of people, speaking to 95 members of the Lyuli community alone, for example.

The process for compiling the report began in 2015, and continued throughout 2016. Legal research on law and policy for Part 2 of this report was undertaken by consultants, working in line with detailed research guidelines provided by the Equal Rights Trust, and with editorial support from the Trust.

14 See *Scope and Limitations of this Report* below for an explanation of the lead researcher's anonymity.

Research on Uzbekistan's international legal obligations benefited from the United Nations treaty collection database[15] and the website of the Office of the High Commissioner for Human Rights.[16] Research on Uzbekistani law, including the Constitution and national legislation, consisted of reviewing primary sources, accessed via the Uzbekistan national legislation database.[17] Research on Uzbekistani law and policy was further supplemented through a review of state reports to the UN treaty bodies and documents gathered from government websites.

In addition to the aforementioned primary field research, research for Part 3 of the report also included desk-based research of existing published sources, helping to identify and elaborate the major patterns of discrimination in Uzbekistan. This involved a review of relevant literature on discrimination and inequality in Uzbekistan, including reports by both the government and non-governmental organisations (NGOs) to UN treaty bodies and the Universal Periodic Review process; government and intergovernmental data and reports; and research published by international and national NGOs, academics and media institutions. Wherever possible, statistical data was relied on to improve understanding of inequalities. Thus, Part 3 of the report relies on a variety of data sources. Relevant first-hand testimony gathered through interviews and focus groups is complemented by review and analysis of the research and publications produced by others, together with statistical data where possible. In some instances, particularly in relation to the Lyuli community of Uzbekistan, secondary sources were extremely limited. Consequently, this section of the report relies heavily on the testimony of individuals interviewed by the Trust. Questions focused on those areas where limited research had been conducted by the state, in particular, regarding education and employment opportunities. Throughout the report, in presenting the first-hand testimony of victims of discrimination, certain identifying information has been withheld for security purposes. Information on the identities of all persons whose names have been omitted is kept on file by the authors.

15 United Nations, *United Nations Treaty Series Online Collection*, available at: https://treaties.un.org/pages/ParticipationStatus.aspx.

16 Office of the High Commissioner for Human Rights, available at: http://www.ohchr.org/EN/Pages/WelcomePage.aspx.

17 Uzbekistan, *National Legislation Database*, available at: www.lex.uz.

Scope and Limitations of this Report

The deeply restrictive and repressive environment in Uzbekistan – including restrictions on freedom of movement, access to information and freedom of the media, together with surveillance, arrest and detention of those involved in human rights activity – presented significant challenges to the research for this report. This necessitated a number of modifications to the Equal Rights Trust's standard research methodology, to compensate for restrictions on access to information, and to minimise the risks faced by our research team. These measures include, for example: (i) unlike other reports in the Equal Rights Trust Country Report Series, the report is not published in partnership with an organisation based in the country in consideration, due to security concern for any partner organisation; (ii) all testimony included in the report is attributed to anonymised individuals, due to concerns for the safety of those who provided evidence to our researchers; (iii) the lead researcher, X., and all Uzbekistan-based members of the research team are anonymised, due to concerns for their safety; (iii) this report has not been subject to the validation process to which we normally subject our research reports, in view of the practical challenges for international organisations in gaining access to organisations working with and on behalf of victims of discrimination.

Part 2 of this report captures the status quo related to laws as of September 2016. It should be noted at this juncture that as frameworks on equality evolve, the presentation of the Uzbekistani legal framework, while not ephemeral, will become obsolete within less than a decade. Legislative developments have been promised by the state, while recent political events signal the potential for political, economic and legislative upheaval.

Part 3 of this report explores patterns, processes and root causes of discrimination and inequality in Uzbekistan. Security challenges have limited the ability of the Trust to conduct field research. In order to minimise the risks to researchers, the majority of interviews took place within Tashkent City, meaning for example, that it has not been possible to document the status and treatment of persons from the Republic of Karakalpakstan.

It is not possible for any report to provide an exhaustive account of discrimination and inequality in a given country, and this report is no excep-

tion. The reality of discrimination and inequality is such that experiences are as many and varied as the population of Uzbekistan itself. Each person will have their own experiences of discrimination and inequality, arising in different areas of life, in different circumstances, in interaction with different persons, institutions or organisations and as a result of any aspect of their identity, or any combination of these aspects. For these reasons, the aim of Part 3 of this report is to provide a broad overview of the principal patterns of discrimination and inequality felt to be most significant in the Uzbekistani context.

In respect of certain grounds, it has not been possible to include information on every group vulnerable to discrimination and inequality. In some instances this is attributable to a lack of published data. This was the case in relation to discrimination on the grounds of health status. Although several reports have been authored on aspects of HIV treatment in Uzbekistan, little information exists on the treatment of persons with other serious permanent health conditions.

As is often the case when researching discrimination, the research for this report was constrained, to some extent, by the lack of disaggregated statistical data pertaining to the situation of certain groups and in certain areas of life. Consequently, certain issues which would usually fall within the scope of a report addressing inequality and discrimination do not feature in the report at all.

These omissions should not be interpreted as an indication that there is no disadvantage in the omitted areas, or in respect to the omitted groups. Rather, the decision not to include an assessment of discrimination or inequality in a particular area or for a particular group was motivated simply by lack of evidence during the desk and field research stages of producing this report. Indeed, a lack of evidence in respect of a particular group could in itself indicate a gap in protection and/or missing articulation of experience of inequality.

1.3 Country Context

Uzbekistan is a landlocked country at the crossroads of Central Asia, bordering Kazakhstan, Kyrgyzstan, Tajikistan, Afghanistan, and Turkmenistan.

The country is divided into 12 provinces (Viloyat), including the capital city Tashkent, and the autonomous Republic of Karakalpakstan. The country includes 121 towns, and 163 rural districts, which are divided over an area of approximately 447,400 square kilometres.[18]

Karakalpakstan is the largest region of Uzbekistan at approximately 166,600 square kilometres, and is recognised as an independent autonomous republic. The total population of Karakalpakstan is estimated at around 1.7 million people.[19] It has own Constitution, which cannot contradict the Constitution and other laws of Uzbekistan.[20] Article 72 of the Constitution of Uzbekistan states that "Laws of the Republic of Uzbekistan shall be binding on the territory of the Republic of Karakalpakstan".

The total population of Uzbekistan in 2016 was 31,575,300 persons.[21] According to World Bank data, the estimated life expectancy in Uzbekistan in 2014 was 68.3 years, a figure that has grown steadily over the past 15 years but remains lower than many neighbouring states.[22] The life expectancy at birth for women (71.8 years)[23] is considerably higher than that for men (65 years).[24] The death rate in Uzbekistan has decreased considerably over the past 50 years, and in 2014 stood at 4.9 deaths per thousand persons.[25] In the same period,

18 United Nations, *Core document forming part of the reports of States parties: Uzbekistan*, UN Doc. HRI/CORE/UZB/2015, 8 January 2016, p. 9, available at: http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=FhOD6sgqgzAhFXD9F%2feKaFMm83LbFY75RhkIFGrig%2b4NmHVbl0sCY%2bbCH%2f2N04vMtnIJv 1T1kgDBYZIH5FK0%2bC6azihr370ogz%2bb0bVmYTl7Ah9USfbtL7XYcBCByOxm.

19 Parliament of Karakalpakstan, *Official Website of the Parliament of Karakalpakstan*, 2016, available at: http://parliamentrk.gov.uz/en.

20 Constitution of the Republic of Uzbekistan, 1992, Article 71.

21 State Statistic Service of the Republic of Uzbekistan, *Demographics*, 2016, available at: http://www.stat.uz/ru/statinfo/demograficheskie-dannye.

22 In particular Tajikistan (69.6 years), the Kyrgyz Republic (70.4 years), and Kazakhstan (71.6 years). See World Bank, *Life Expectancy at Birth: Uzbekistan*, 2016, available at: http://data.worldbank.org/indicator/SP.DYN.LE00.IN?locations=UZ.

23 World Bank, *Life Expectancy at Birth, Females: Uzbekistan*, 2016, available at: http://data.worldbank.org/indicator/SP.DYN.LE00.FE.IN?contextual=default&locations=UZ.

24 World Bank, *Life Expectancy at Birth, Males: Uzbekistan*, 2016, available at: http://data.worldbank.org/indicator/SP.DYN.LE00.MA.IN?contextual=default&locations=UZ.

25 World Bank, *Death Rate, Crude (Per 1000 People): Uzbekistan,* available at: http://data.worldbank.org/indicator/SP.DYN.CDRT.IN?contextual=default&locations=UZ.

the birth rate has fallen sharply, standing at 23.3 births per thousand persons in 2014, compared to 47 births per thousand persons in 1960.[26]

There is a lack of up to date census data in Uzbekistan. In March 2011, the Council of Ministers adopted a resolution on statistical sampling.[27] Although the law required the State Statistic Service to conduct a demographic survey, this survey only covers 10% of the population and the results are not freely available. The last comprehensive census was completed prior to independence in 1989. According to that census, ethnic Uzbeks comprise around 71.4% of the total population.[28] In its 2012 report to the Committee on the Rights of the Child, Uzbekistan provided an ethnic breakdown of the permanent population from 2007. Ethnic Uzbeks made up 80.8% of the total population. Russians (3.5%), Kazaks (3.3%), and Karakalpaks (2.2%) were among the largest ethnic minorities. Russians overwhelmingly reside in urban areas (94.1%), as do members the Belarusian (80.2%), Georgian (78.5%) and Ukrainian population (86.6%).[29] In 2014 a higher number of ethnic Uzbeks were estimated (83.1%). Tajiks are the largest ethnic minority (4.8%), followed by Kazakhs (2.6%), Russians (2.6%), Karakalpaks (2.2%), Kyrgyz (0.9%), Tatars (0.7%), Turkmen (0.6%), Ukrainians (0.2%), Azerbaijanis (0.1%), Armenians (0.1%), Belarusians (0.1%), Jews (<0.1%), and Other (1.9%).[30]

The total refugee population of Uzbekistan is unknown: following the deadly violence at Andijan in 2005, the Uzbekistan office of the United Nations High Commissioner for Refugees (UNHCR) was shut down by government, closing its doors in April 2006.[31]

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26 World Bank, *Birth Rate, Crude (Per 1000 People): Uzbekistan*, available at: http://data.worldbank.org/indicator/SP.DYN.CBRT.IN?contextual=default&locations=UZ.f

27 The Number of Population On the Measures for the Preparation and Implementation of Statistical Sampling, Cabinet of Ministers Resolution No. 71 of 14 March 2011, available at: http://www.lex.uz/pages/GetAct.aspx?lact_id=1758868.

28 Institute of Demography of the National Research University "Higher School of Economics", *All-Union Census in 1989, National Composition of the Population of the Republics of the USSR: Uzbek SSR*, 2016, available at: http://demoscope.ru/weekly/ssp/sng_nac_89.php?reg=4.

29 Committee on the Rights of the Child*, Third and Fourth Periodic Reports: Uzbekistan*, UN Doc. CRC/C/UZB/3-4, 26 January 2012, p. 12.

30 See above, note 18, Annex 2, p. 51.

31 United Nations High Commissioner for Refugees, "Uzbekistan: UNHCR Regrets Office Closure, Alternative Arrangements in Place for Care of Refugee Caseload", 18 April 2006, available at: http://www.unhcr.org/news/briefing/2006/4/4444cb6516/uzbekistan-unhcr-regrets-office-closure-alternative-arrangements-place.html.

Several languages are spoken in Uzbekistan. Between 1917 and 1991, when present-day Uzbekistan was the Uzbek Soviet Socialist Republic, a member of the Union of Soviet Socialist Republics (USSR), language policies militated toward the establishment of Russian as a common language of the Union. Following independence, Uzbekistan, sought to officially recognise the Uzbek language. This change in circumstances has been identified as one of the main reasons for large levels of Russian migration from the country in the early 1990s.[32] Under Article 4 of the Constitution, the state language of Uzbekistan is designated as Uzbek,[33] a language of Turkic origin, variations of which, including in the written form, exist in different regions of the country.[34] The same Article provides that the "languages, customs and traditions of all nationalities and ethnic groups living on its territory" shall be respected, and requires the "creation of the conditions for their development".[35] Likewise, Article 18 of the Constitution prohibits discrimination on the basis of language.[36] According to the state, education in state schools is provided in seven languages, including Uzbek, Karakalpak, Russian, Tajik, Kazakh, Turkmen and Kyrgyz.[37] Magazines are reportedly published in eight languages while newspapers are published in 10.[38]

Uzbekistan is officially a secular Republic, with no national religion established under the Constitution or any other normative legal act. The majority of the population is Muslim, predominantly of the Sunni Hanafi School.[39] Due to a lack of recent official data, it is difficult to chart the different religious beliefs among the Uzbekistani population. Nevertheless, in a 2002 Public Health Survey, 96.1% of respondents were Muslim, compared to 3% Christians, 0.7%

32 Carlson, C., "Nation-Building in Central Asia through Language Legislation", *MANAS Journal of Social Studies*, Vol. 4(4), 2015, p. 25.

33 See above, note 20, 1992, Article 4.

34 Mashrabbekova, A., "Some Pedagogical Strategies and Approaches in L2 Acquisition: The Case of the Uzbek Language" *International Journal of Humanities Social Sciences and Education*, Vol. 3(6), 2016, p. 9.

35 *Ibid*.

36 *Ibid*., Article 18.

37 See above, note 29, Para 1060.

38 *Ibid*., Para 1064.

39 *Ibid*., Para 36.

non-believers and 0.1% "other".[40] However, the accuracy of this data cannot be assumed: religious belief is heavily regulated in Uzbekistan, with only certain modes of religious practice permitted by the state[41] and as such, there is a pressure to withhold information about religious beliefs.

In the Soviet period, much of Uzbekistan's economy was based on cotton production; producing and supplying raw materials for distribution within the USSR. As with many Central Asian states, following the collapse of the USSR, Uzbekistan went through a period of economic unrest. Gross Domestic Product (GDP) per capita fell sharply – by 13.3% – in 1992, the year after the dissolution.[42] Since the mid-1990s Uzbekistan's economic position has improved significantly. As of 2015, the World Bank estimated Uzbekistan's gross domestic product at US $66.733,[43] while Gross National Income (GNI) per capita was estimated at US $2,150,[44] placing the country in the lower-middle income bracket.[45] In 2014, the United Nations Human Development Index for Uzbekistan was 0.675, indicating medium human development and placing it 114th out of 188 countries.[46]

Uzbekistan's economy has remained relatively stable in recent years, with a continuous GDP growth rate of above 8% over the past ten years.[47] However, the World Bank has warned that the country's dependence on natural resources "raise[s] concerns of long-term sustainability".[48]

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40 Republic of Uzbekistan, *Uzbekistan Health Examination Survey*, 2002, p. 27, available at: http://dhsprogram.com/pubs/pdf/fr143/fr143.pdf. The 2002 Public Health Survey included responses from 5,463 female respondents between the ages of 15–49, and 2,333 male respondents between the ages of 15–59.

41 See Section 3.1 of this report.

42 World Bank, *GDP Per Capita Growth (Annual %): Uzbekistan*, 2016, available at: http://data.worldbank.org/indicator/NY.GDP.PCAP.KD.ZG?locations=UZ.

43 World Bank, *GDP (Current US$): Uzbekistan*, 2016, available at: http://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=UZ.

44 World Bank, *GNI per capita, Atlas Method (Current US$): Uzbekistan*, 2016, available at: http://data.worldbank.org/indicator/NY.GNP.PCAP.CD?locations=UZ.

45 World Bank, *World Bank Country and Lending Groups*, 2016, available at: https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups.

46 United Nations Development Programme, *Human Development Report 2015*, 2015, p. 209, available at: http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf.

47 World Bank, *FY16-20 Country Partnership Framework for Uzbekistan*, 2016, pp. 4–5, available at: http://documents.worldbank.org/curated/en/537091467993490904/pdf/105771-CAS-P153590-OUO-9-R2016-0098-Box360260B.pdf.

48 *Ibid*., p. 9.

Corruption is one of the most systemic challenges to economic development in Uzbekistan. In June 2016, the Open Society Foundation (OSF) published a white paper on the issue, noting that "corrupt practices are endemic in politics and business, undermining the prospects for sustainable long-term economic development and inclusive growth."[49] In Transparency International's most recent Corruption Perception Index (CPI), Uzbekistan was placed 153rd out of 168 countries with a score of 19, a modest improvement from 2012.[50]

1.4 History

The territory of modern-day Uzbekistan has seen numerous different rulers and repeated migrations over the last two and half thousand years. Its historic name is *Ma wara' al-nahr*, ("the land beyond the river") in Arabic, usually translated as Transoxiana in English, as the river in question is the Oxus or Amu-Darya. Indeed, in the history of the region, far more important than any political designation is the fact that Uzbekistan is the heart of the oasis region of Central Asia, where irrigation from the Amu-Darya, Syr-Darya and Zarafshan rivers made settled life and arable farming possible even where rainfall was low.

The ethnonym 'Uzbek' first emerged in the 14th century, as a new form of group identity among the nomads of the Golden horde following their conversion to Islam.In the nineteenth century, Tsarist Russian Empire rule was established across much of Central Asia. The Central Asian revolt of 1916, together with the revolutions of 1917 in Russia, led to the collapse of Tsarist rule in Central Asia, but Soviet rule was not fully established in the region until after the Civil War, in 1921–2.

Following the establishment of Soviet rule, the authorities pursued a national delimitation policy, seeking to divide Central Asia into a series of 'national mono-ethnic' supposedly autonomous republics leading to the creation of supposedly autonomous republics across Central Asia. However, it was not possible to draw "ethnically homogenous" boundaries meaning the

49 Open Society Foundation, *Tackling Corruption in Uzbekistan: A White Paper*, 2016, p. 5, available at: https://www.opensocietyfoundations.org/sites/default/files/tackling-corruption-uzbekistan-20160524.pdf.

50 Transparency International, *Corruption Perceptions Index 2015*, 2015, available at: https://www.iaca.int/images/news/2016/Corruption_Perceptions_Index_2015_report.pdf.

Uzbek Soviet Socialist Republic, like the other new republics, was a multi-ethnic state.

The move to establish national autonomous republics was both a nationalising and a Sovietising project. Conscious of the need to imbue the disparate groups residing within the USSR with a sense of Soviet identity, in the 1920s the Soviet state pursued a policy of *korenizatsiya* or affirmative action. Persons from non-Russian ethnic groups were promoted in state policy, education was made free and compulsory and positive action measures in favour of national minorities were introduced. With the benefit of translated Russian texts and literature, standardised national languages were developed and codified.

As part of the drive toward the adoption of Soviet ideology, from 1927 a state secularisation policy was vigorously pursued, leading to the repression of religious belief. Traditional religious structures and practices were aggressively targeted, resulting in the closure of Mosques; attacks, arrests and expulsion of clergy. These policies enjoyed mixed success. While Soviet authorities undoubtedly diminished the influence and organisation of religious bodies, Islam remained entrenched in the national psyche and was adopted as a symbol of cultural identity even when understanding of doctrine and religious practice remained limited.

The Soviet period saw significant migration between different parts of the Union. The first wave, between 1925 and 1940, saw "hundreds of thousands of immigrants, mostly from the western (Slav) republics (…) [including] Party activists, administrators, military, security and law enforcement personnel; professionals and skilled technicians".[51] The Second World War saw a further wave of migration from other parts of the Soviet Union. As a contingency against invasion, the Soviet authorities relocated industrial plants from western Russia to Uzbekistan, leading to an influx of Russian and other European workers. Between 1936 and 1952, the Soviet state exiled ethnic groups suspected of subversion – Crimean Tatars and Chechens, for example – to Uzbekistan, in order to disrupt movements which threatened – or were perceived to threaten – the integrity of the USSR.

51 Minority Rights Group International, *Central Asia: Conflict or Stability and Development?*, 1997, p. 15, available at: http://minorityrights.org/wp-content/uploads/old-site-downloads/download-420-Central-Asia-Conflict-or-Stability-and-Development.pdf.

Criticism of the state was rarely tolerated during the Soviet period. It was not until the mid-1980s and the implementation of Gorbachev's *glasnost* and *perestroika* policies that Uzbekistanis began to express their religious and political beliefs more freely and openly. Much resentment had built up in Uzbekistani society toward the Soviet state. Ecological exploitation, corruption and the promotion of Russian as the main language of the Union led to increased calls for sovereignty. However, there was little appetite for full independence either among the population at large (who voted to retain some sort of Union in a referendum in 1991) or among the communist party elite, who supported the attempted coup against Gorbachev by those seeking to restore Soviet authority. It was only following the coup's failure, and the effective dissolution of the USSR that Uzbekistan declared independence.

The Supreme Soviet of Uzbekistan declared Uzbekistan an independent republic in August 1991. In December of that year, Islam Karimov, President of the Uzbek Soviet Socialist Republic and First Secretary of the Communist party at the point of independence, was elected President.

Issues of identity and economic development have defined post-independence Uzbekistan. The fall of the Soviet Union came quickly, giving state authorities little time to develop strategies to deal with resulting economic, political and security issues. As explained by Minority Rights Group a few years after the collapse of the USSR:

> *The collapse of the Soviet system created a spiritual vacuum. The ideological framework within which modern Central Asian society had functioned was suddenly invalidated, and with it, the Soviet national constructs, including administrative identities, histories, languages and territorial boundaries. There were no ready alternatives: the socio-economic bases of the 'tribe states' of the pre-Tsarist era had been so thoroughly destroyed that there could be no return to that world; supranational bonds, whether pan-Iranian, pan-Islamic or pan-Turkic, also had little emotional significance for the great majority of the population. A new orientation was required, one which would inspire a sense of national pride and confidence. As with the Soviet period (and using many*

> *of the same mechanisms), it is the state which is shaping the new ideologies in all the Central Asian countries. The cultural input differs from one country to another, but there are three common elements: a revision of history, aimed at delineating a new continuity between the pre-Tsarist past and the present, thus providing a non-Soviet legitimization of the 'nation'; a limited revival of Islam, to establish a 'national' moral and cultural basis for society in place of the Marxist-Leninist ethic; and the creation of a personality cult around the head of state, who serves as a focus for personal loyalty as well as a symbolic guarantee of national integrity.*[52]

Hopes of democratic reform were soon dashed. As in the Soviet era, government began to define the permissible forms of political and religious opinion; cementing the role of the state in the lives and cultural practices of its citizens. Karimov set about consolidating power, dismantling the political opposition while crafting a new state ideology. Primarily, this was achieved through a secular revival of Islamic practice, narrowly defined and subject to State control. By appropriating elements of traditional Islamic culture, government could distance itself from the former Soviet regime, winning popular support while extolling the virtues of the new secular Uzbekistan. In addition, Karimov cited the potential for ethnic disharmony, and threats to security from terrorism as justifications for an authoritarian approach.

As discussed in more detail in the next section, starting in the early 1990s, President Karimov successfully assumed virtually unlimited power. Political freedoms were severely curtailed, and freedoms of expression, assembly and association systematically violated. Actual or perceived opposition to the Karimov regime, whether through the expression of independent religious belief or more direct affronts to governmental authority, has been met by swift retaliation.

In 1999, six bombs were set off in the capital, Tashkent, resulting in the deaths of 13 people, with many more severely injured. Several persons were arrested and charged under the Criminal Code; some pleaded guilty but reports

52 *Ibid.*, p. 9.

suggest that forced confessions were obtained by torture.[53] The bombings signalled the start of a new wave of repressive measures against those suspected of opposition to the government. According to Human Rights Watch, some 10,700 persons were placed on a Mahalla watch list for suspected links to terrorist organisations following the bombings.[54]

In May 2005, following the trial of 23 businessmen on charges of religious extremism, a mass gathering, consisting of several thousand protestors, took place in Babur Square in Andijan. According to reports, government forces surrounded the protestors and began to fire "indiscriminately", causing the deaths of hundreds of people and the injury of many more.[55] In the aftermath of Andijan, countless individuals were arrested and convicted for crimes relating to religious extremism.[56] Many fled to neighbouring countries, while others were subject to interrogation and forced to sign confessions.[57]

On 2 September 2016, the death of President Islam Karimov was officially confirmed by state sources. Shavkat Mirziyoyev, a Karimov loyalist who had been Prime Minister since 2003, was appointed as interim President; while the Constitution provides for the Chair of the Senate to assume the presidency in the event of incapacitation or death, the Chair stood aside. Elections were held 4 December 2016 and Mirziyoyev was elected with over 80% of the vote.

1.5 Government and Politics

The Constitution of the Republic of Uzbekistan was adopted on 8 December 1992, a short time before the country's first presidential elections. The Con-

53 Amnesty International, "Public Statement: More than 140,000 People across the World Demand the Release of Uzbekistani Journalist Muhammad Bekzhanov", *Amnesty International,* 1 October 2015, p. 2, available at: https://www.amnesty.org/download/Documents/EUR6225682015ENGLISH.pdf.

54 Human Rights Watch, *Creating Enemies of the State: Religious Persecution in Uzbekistan*, 2004, p. 35, available at: https://www.hrw.org/reports/2004/uzbekistan0304/uzbekistan0304.pdf.

55 International Partnership for Human Rights, "Uzbekistan: Continuing Repression in the Wake of Andijan", *IPHR*, 13 May 2016, available at: http://iphronline.org/uzbekistan-continuing-repression-in-the-wake-of-andijan-20160513.html.

56 International Commission of Jurists, *Submission to the Human Rights Committee on Uzbekistan*, 2009, p. 2, available at: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/UZB/INT_CCPR_NGO_UZB_96_10287_E.pdf.

57 Human Rights Watch, *Saving its Secrets: Government Repression in Andijan*, 2008, available at: https://www.hrw.org/report/2008/05/11/saving-its-secrets/government-repression-andijan.

stitution has been amended on five occasions, in 1993, 2003, 2007, 2011, and, most recently, in 2014.[58]

Uzbekistan is established as a sovereign democratic republic,[59] with a Presidential form of government[60] and a bicameral Parliament (Oliy Majlis) consisting of the Legislative Chamber and the Senate.[61] The President of Uzbekistan is the Head of State[62] and is elected for a term of five years by way of popular vote.[63] To be elected President, a prospective candidate must fulfil several criteria. Candidates must be citizens of Uzbekistan, must be over the age of 35, be proficient in the Uzbek language, and have been permanently resident in the state for at least ten years preceding the election.[64] Despite the fact that Article 90 of the Constitution establishes a maximum two consecutive terms limit,from the date of independence until his death in September 2016, the Republic had only seen one President, Islam Karimov, who had been re-elected on several occasions. Indeed, at the time of the 2015 election, the Organization for Security and Cooperation in Europe (OSCE) noted that

> *Despite a clear limit of two consecutive presidential terms provided for by Article 90 of the Constitution, the CEC registered the incumbent as a candidate in contravention of the general principle of the rule of law enshrined in paragraph 5.3 of the 1990 OSCE Copenhagen Document.*[65]

Presidential elections were held on 29 March 2015. According to the OSCE these elections were marred by restrictive legal requirements which pre-

58 Constitute Project, *Timeline of Constitutions*, 2016, available at: https://www.constituteproject.org/ontology/chronology?lang=en.

59 See above, note 20, Article 1.

60 *Ibid*., Article 10.

61 *Ibid*., Article 76.

62 *Ibid*., Article 89.

63 *Ibid*., Article 90.

64 *Ibid*.

65 Organization for Security and Cooperation in Europe, *OSCE/ODIHR Limited Election Observation Mission Final Report: Presidential Election*, 2015, p. 4, available at: http://www.osce.org/odihr/elections/uzbekistan/165876?download=true.

vented some prospective candidates from running.[66] Lacking any meaningful opposition, President Karimov won 90.39% of the votes. Political campaigns largely revolved around the incumbent President, "who appeared as an unchallenged guarantor of peace and stability for the country and the region", and was praised by opposition candidates.[67] Following the death of President Karimov in September 2016, Shavkat Mirziyaev, Prime Minister since 2003, was appointed as interim president, pending a presidential election on 4 December 2016. Mirziyaev stood as the Liberal Democratic Party candidate in the election, and won with 88.6% of the vote, in an election which the Organisation for Security and Cooperation in Europe "underscored the need of comprehensive reform to address long-standing systemic shortcomings".[68]

Candidates to the position of Prime Minister are nominated to the Oliy Majlis by the President following an initial proposal by the majority political party.[69] The Prime Minister is responsible for organising the activities of the Council of Ministers, and representing the Council of Ministers in external relations.[70]

Parliamentarians are elected for a period of five years.[71] The Legislative Chamber is made up of 150 members.[72] The most recent Parliamentary elections took place on 21 December 2014, with runoff elections held on 4 January 2015.[73] The ruling Liberal Democratic Party of Uzbekistan (the party of which the President is a member) won the most seats (56), followed by the Democratic Party of Uzbekistan *Milliy Tiklanish* (36), the People's Democratic Party of Uzbekistan (DPU) (27), and the Social Democratic Party of Uzbekistan

66 *Ibid.*, p. 1.

67 *Ibid*., pp. 2 and 12.

68 Organisation for Security and Cooperation in Europe, *Election Observation Mission – Early Presidential Election, 4 December 2016 Statement of Preliminary Findings and Conclusions*, 2016, p. 1, available at: http://www.osce.org/odihr/elections/uzbekistan/286036?download=true.

69 See above, note 20, Articles 93(10) and 98.

70 *Ibid*., Article 98.

71 See above, note 20, Article 76.

72 *Ibid*., Article 77.

73 Organization for Security and Cooperation in Europe, *OSCE/ODIHR Limited Election Observation Mission Final Report: Parliamentary Elections*, 2015, p. 21, available at: http://www.osce.org/odihr/elections/uzbekistan/142576?download=true.

Adolat (20).[74] Fifteen seats in the parliament are reserved from the Ecological Movement of Uzbekistan (EMU), by Article 1 and Chapter 7[1] of the amended Law on Elections.[75] The mandatory election of EMU members has been criticised by international observers as inconsistent with best practice. In 2015 the Organization for Security and Cooperation in Europe (OSCE) recommended that the "legal framework (...) be amended to ensure that all deputies in at least one of the chambers of the parliament are elected by popular vote".[76] Despite the relatively high number of seats awarded to "opposition parties", in reality all those parties awarded seats retain close links with the ruling Liberal Democratic Party.[77] Several legislative requirements inhibit political participation. According to the OSCE:

> *[T]he prohibition for independent candidates to stand for elections, residency-related restrictions on candidacy, and limitations on suffrage rights of convicted individuals remain. As a result, the electoral environment remained restricted and was not conducive to new initiatives offering voters wider and alternative choices.*[78]

The Uzbekistan Senate consists of 100 members, with six members each elected by the City of Tashkent, Republic of Karakalpakstan and 12 "regional councils",[79] and the final sixteen appointed directly by the President of the Republic "from among the most authoritative citizens with large practical experience and special merits in the sphere of science, art, literature, manufacturing and other spheres of state and public activity".[80] The President, upon his retirement, shall become a lifetime member of the Senate.[81]

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74 *Ibid*.

75 Law of the Republic of Uzbekistan on Elections to the Oliy Majlis of Uzbekistan, Law No. 990-XII of 28 December 1993, as amended by the Law of the Republic of Uzbekistan on Amendments and Supplements to the Law of the Republic of Uzbekistan on Elections to the Oliy Majlis of Uzbekistan, Law No. 518-II of 29 August 2003.

76 See above, note 73, p. 4.

77 See above, note 65, p. 1.

78 See above, note 73, p. 1.

79 *Ibid*., p. 3. See above, note 20, Article 77.

80 *Ibid*., Article 77.

81 *Ibid*., Article 97.

2. THE LEGAL AND POLICY FRAMEWORK RELATED TO EQUALITY

This chapter of the report examines the legal framework related to equality in Uzbekistan. It examines both Uzbekistan's international legal obligations and the domestic legal framework. In respect of domestic law, it examines the Constitution, specific anti-discrimination laws, and non-discrimination provisions in other areas of law. This chapter then assesses the enforcement and implementation of existing laws and policies aimed at ensuring equality. In order to assess the full picture of the Uzbekistani legal framework as it relates to equality, this part should be read together with, and in the context of, the following part, which contains an appraisal of laws that discriminate overtly or are subject to discriminatory application.

Although Uzbekistan has ratified a number of the key international treaties relevant to equality, the protection of the rights to equality and non-discrimination in Uzbekistan does not meet international standards. While the Constitution broadly guarantees the rights to equality and freedom from discrimination, these constitutional guarantees are imperfect. Further, they are not backed up by comprehensive equality legislation. Instead, Uzbekistan has very few provisions directed at non-discrimination and equality in its national legislation. For example, there is no definition of discrimination and no protection against indirect or multiple discrimination. The analysis below reveals the need for comprehensive anti-discrimination legislation in Uzbekistan. Further, it is noteworthy both in section 2.4 below and Part 3 of this report, that the gap between law and practice in Uzbekistan is stark.

2.1 International Law

This section provides an overview of Uzbekistan's international obligations in relation to the rights to equality and non-discrimination. Uzbekistan has ratified or acceded to six of the nine key UN human rights treaties and has thereby expressly agreed to protect, respect and fulfil the rights contained in these instruments and to be bound by the legal obligations contained therein. In addition, Uzbekistan is bound by customary international law which provides some important protection in respect of the right to non-discrimination on certain grounds.

2.1.1 Major United Nations Treaties Relevant to Equality

Uzbekistan has an average record of participation in the UN human rights treaty system, having ratified just six of the nine core UN human rights treaties. Individual complaints may only be made to the Human Rights Committee under the first Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). Despite several recommendations made during its 2013 performance at the Universal Periodic Review, Uzbekistan refused to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[82] and the International Convention for the Protection of All Persons from Enforced Disappearances.[83]

Similarly, Uzbekistan refused to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights,[84] the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[85] and Optional Protocol III to the Convention on the Rights of the Child,[86] each of which provide for an individual communication procedure. Although Uzbekistan signed the Convention on the Rights of Persons with Disabilities in February 2009, the treaty has not yet been ratified.

Table 1: Ratification of international human rights treaties by Uzbekistan

Instruments Relevant to Equality[87]	Signed	Ratified/Acceded/ Succeeded
International Covenant on Civil and Political Rights (1966) (ICCPR)	n/a	28 September 1995 (Acceded)
Optional Protocol to the International Covenant on Civil and Political Rights (1966) (ICCPR-OP)	n/a	28 September 1995 (Acceded)

82 Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Uzbekistan*, UN Doc. A/HRC/24/7, 5 July 2013, Recommendation 136.9.

83 *Ibid*., Recommendation 136.10.

84 *Ibid*., Recommendation 1 36.1.

85 *Ibid.,* Recommendation 136.2.

86 *Ibid*., Recommendation 136.7.

87 Excluding acceptance of communication procedures, where highlighted in grey Uzbekistan has submitted a declaration or reservation to the treaty.

Instruments Relevant to Equality	Signed	Ratified/Acceded/ Succeeded
Second Optional Protocol to the International Covenant on Civil and Political Rights (1989) (ICCPR-OP II)	n/a	23 December 2008 (Acceded)
International Covenant on Economic, Social and Cultural Rights (1966) (ICESCR)	n/a	28 September 1995 (Acceded)
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008) (ICESCR – OP)	No	No
Convention on the Elimination of All Forms of Racial Discrimination (1965) (ICERD)	n/a	28 September 1995 (Acceded)
Declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (allowing individual complaints)	No	No
Convention on the Elimination of All Forms of Discrimination against Women (1979) (CEDAW)	n/a	19 July 1995 (Acceded)
Optional Protocol to the Convention on the Elimination of all forms of Discrimination against Women (1999) (CEDAW-OP)	No	No
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) (CAT)	No	28 September 1995 (Acceded)
Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2002) (CAT-OP)	No	No
Convention on the Rights of Persons with Disabilities (2006) (CRPD)	27 February 2009	No
Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006) (CRPD-OP)	No	No
Convention on the Rights of the Child (1989) (CRC)	No	29 June 1994 (Acceded)
Optional Protocol I to the Convention on the Rights of the Child (involvement of children in armed conflict) (2000) (CRC-OP)	No	23 December 2008 (Acceded)

Instruments Relevant to Equality	Signed	Ratified/Acceded/ Succeeded
Optional Protocol II to the Convention on the Rights of the Child (2000) (sale of children, child prostitution and child pornography) (CRC-OP II)	No	23 December 2008 (Acceded)
Optional Protocol III to the Convention on the Rights of the Child (2011) (communicative procedure) (CRC-OP III)	No	No
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) (ICRMW)	No	No
International Convention for the Protection of All Persons from Enforced Disappearances (2006) (ICPPED)	No	No

Failure to ratify the CRPD, or sign and ratify the ICRMW and ICPPED, represents the most notable gap in Uzbekistan's international legal obligations related to equality. Likewise, the failure of Uzbekistan to ratify several optional protocols extending the right of individual petition may impede access to justice in respect of violations of rights enshrined in the treaties. In relation to the treaties that it has ratified, Uzbekistan has largely done so without declaration or reservation.

Uzbekistan has a good record of compliance with its reporting obligations under the treaties it has ratified. While some reports have been submitted late, the majority have been on time or early and, at the time of publication, no reports are currently outstanding.

2.1.2 Other Treaties Related to Equality

Uzbekistan has a mixed record in relation to other international treaties which have a bearing on the enjoyment by all of the rights to equality and non-discrimination. None of the key statelessness or refugee conventions have been ratified by the State, nor has the Rome Statute of the International Criminal Court.[88] In the field of labour standards, Uzbekistan fairs slightly better, having ratified eight of the fundamental International Labour Organi-

88 The Statute establishes an International Criminal Court possessed with the jurisdiction to hear cases concerning the crimes of genocide; crimes against humanity; war crimes; and aggression. See Rome Statute of the International Criminal Court, 2187 U.N.T.S. 3, 1998, Article 5(1).

zation (ILO) Conventions including the Equal Remuneration Convention and the Discrimination (Employment and Occupation) Convention.[89]

Table 2: Ratification of other instruments relevant to equality by Uzbekistan

Instruments Relevant to Equality	Signed	Ratified / Acceded / Succeeded
Convention relating to the Status of Refugees (1951)	No	No
Convention relating to the Status of Stateless Persons (1954)	No	No
Convention on the Reduction of Statelessness (1961)	No	No
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956)	No	No
UN Convention against Transnational Organised Crime (2000)	13 December 2000	9 December 2003 (Ratified)
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)	28 June 2001	12 August 2008 (Ratified)
Rome Statute of the International Criminal Court (1998)	29 December 2000	No
UNESCO Convention against Discrimination in Education (1960)	n/a	8 December 1997 (Ratified)
Forced Labour Convention (1930) (ILO Convention No. 29)	n/a	13 July 1992
Equal Remuneration Convention (1951) (ILO Convention No. 100)	n/a	13 July 1992
Discrimination (Employment and Occupation) Convention (1958) (ILO Convention No. 111)	n/a	13 July 1992
Worst Forms of Child Labour Convention (1999) (ILO Convention No. 182)	n/a	24 June 2008
Indigenous and Tribal Peoples Convention (1989) (ILO Convention No. 169)	n/a	No

89 In October 2016 Uzbekistan's acting President, Shavkat Mirziyoyev, ratified the Law of the Republic of Uzbekistan on Ratification of International Labour Organization Convention No. 87 on Freedom of Association and Protection of the Right to Organise, Law No. ZRU-412 of 25 October 2016. However, at the time of writing, the ratification is yet to be updated on the ILO's treaty ratification website.

2.1.3 Regional Instruments

Uzbekistan is not a party to any regional human rights treaties and, consequently, is not subject to the jurisdiction of any regional human rights court.[90] Uzbekistan is one of five countries in the Commonwealth of Independent States (CIS)[91] that have neither signed nor ratified the CIS Convention on Human Rights and Fundamental Freedoms.[92]

2.1.4 Treaties Not Ratified by Uzbekistan

While the few treaties which have not been ratified by Uzbekistan do not bind the state they, together with comments of their respective treaty bodies, do have an important interpretative function when determining the obligations of Uzbekistan. They should be used to elucidate: (i) Uzbekistan's obligations under the treaties to which it is a party, to the extent that the treaties to which it is not a party can explain concepts which are also found in those treaties to which it is a party; (ii) the content of the right to equality and non-discrimination for persons covered by the ratified treaties who are vulnerable to multiple discrimination on grounds which include those protected by other treaties or in areas of life covered by other treaties; and (iii) Uzbekistan's obligations under customary international law.

2.1.5 Customary International Law

Under international law, binding legal obligations on states derive from customary international law as well as from treaty law. Customary international law is deduced over time from the practice and behaviour of states.[93] Customary international laws are particularly significant when they reach a level – known as peremptory norms[94] – at which they are binding on all states and

90 United Nations, *Core Document Forming Part of the Reports of States Parties: Uzbekistan,* UN Doc. HRI/CORE/UZB/2015, 8 January 2016, Para 213.

91 The Commonwealth of Independent States (CIS) was created in December 1991 as a regional organisation comprising former Soviet Republics. Uzbekistan is a founding member of the organisation.

92 CIS Convention on Human Rights and Fundamental Freedoms, 3 I.H.R.R. 1, 212, 1995.

93 Shaw, M., *International Law*, Fifth edition, Cambridge University Press, 2003, p. 69.

94 *Prosecutor v Anto Furundzija*, International Criminal Tribunal for the former Yugoslavia, Case No. IT-95-17/1-T, 1998, Para 153; Parker, K. and Neylon, L. B., "Jus Cogens: Compelling the Law of Human Rights", *Hastings International and Comparative Law Review*, Vol. 12, 1988–1989, p. 417. See also Vienna Convention on the Law of Treaties, 1155 U.N.T.S. 331, 1969, Article 53.

cannot be derogated from. It is largely accepted that the prohibition of racial discrimination is a peremptory norm of international customary law.[95] In addition, it can be said that the prohibition of discrimination on other grounds, such as gender and religion, may now be part of customary international law, although not yet reaching the status of a peremptory norm.[96] Some argue, and it has been stated by the Inter-American Court of Human Rights, that the broader principle of non-discrimination is a peremptory norm of customary international law[97] but this is subject to debate.[98]

2.1.6 Status of International Obligations in National Law

The legal status of international treaties in Uzbekistan is not clearly defined. Under the preamble to the Constitution, the "priority of the generally accepted norms of international law" is recognised.[99] However, in Uzbekistani law, the preamble to any law is considered declaratory in nature and does not impose any substantive legal obligations.[100]

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95 De Schutter, O., *International Human Rights Law: Cases, Materials, Commentary*, Cambridge University Press, 2010, pp. 64–68 and the materials referred to therein; Pellett, A., "Comments in Response to Christine Chinkin and in Defense of *Jus Cogens* as the Best Bastion against the Excesses of Fragmentation", *Finnish Yearbook of International Law*, Vol. 17, 2006, p. 85; cf Shaw, M., *International Law*, Sixth edition, Cambridge University Press, 2008, p. 287, who refers to it as part of customary international law, with no reference to it being a peremptory norm; Tanaka, J. (in dissent*), South-West Africa Cases* (*Ethiopia v South Africa; Liberia v South Africa*), International Court of Justice, 1996, pp. 293, 299–300.

96 *Ibid*., Shaw, p. 287; *Ibid*., Pellett, p. 85; Cassel, D., "Equal Labour Rights for Undocumented Migrant Workers", in Bayefsky, A. (ed), *Human Rights and Refugees, Internally Displaced Persons and Migrant Workers: Essays in Memory of Joan Fitzpatrick and Arthur Helton*, Martius Nijhoff Publishers, 2006, pp. 511–512.

97 *Juridical Condition and Rights of Undocumented Migrants*, Inter-American Court of Human Rights, Advisory Opinion OC-18/03, No. 18, 17 September 2003, p. 23. See also, by way of example, Martin, F. F. et al, *International Human Rights and Humanitarian Law: Cases, Treaties and Analysis*, Cambridge University Press, 2006, pp. 34–35.

98 See Bianchi, A., "Human Rights and the Magic of Jus Cogens", *The European Journal of International Law*, Vol. 19, 2008, p. 506; see Cassel, above, note 96, pp. 511–512; see Pellett, above, note 95, p. 85.

99 Constitution of the Republic of Uzbekistan, 1992, Preamble.

100 Law of the Republic of Uzbekistan on Normative Legal Acts, Law No. 160-II of 14 December 2000, as amended by the Law of the Republic of Uzbekistan on Making Amendments and Addenda to the Law of the Republic of Uzbekistan on Normative Legal Acts, Law No. ZRU-342 of 24 December 2012, Article 24.

Under Article 27 of the Law on International Obligations:

> *The international treaties of the Republic of Uzbekistan are subject to direct and mandatory application by the Republic in accordance with the rules of international law.*[101]

However, in practice the provisions of international treaties must be transposed into national law in order to produce a domestic legal effect.[102] Accordingly, absent specific protection in national law, individuals cannot seek to vindicate rights guaranteed in international treaties before Uzbekistani courts.

Where provisions of international law are expressly incorporated, those provisions have primacy over domestic law.[103] For example, under Article 10 of the Labour Code, if an international treaty ratified by Uzbekistan sets more favourable terms for workers than those provided under domestic law, or where an employment relationship is not regulated by domestic law, international law is to take precedence.[104]

Not all legislation is drafted in such precise language. Under Article 1 of the Criminal Code "The criminal legislation of the Republic of Uzbekistan is based on the Constitution and on universally recognized norms of international law".[105] Likewise, under Article 9 of the Family Code "if an international treaty to which the Republic of Uzbekistan is a party contains rules which differ

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101 Law of the Republic of Uzbekistan on International Treaties of the Republic of Uzbekistan, Law No. 172-I of 22 December 1995, Article 27.

102 See above, note 90, Paras 209–212. Following a Ruling of the Cabinet of Ministers in February 2016, a new edition of the Law on International Treaties is to be drafted and will include "mechanisms to ensure the implementation of international treaty provisions and to establish the status of an international treaty and its place in the system of legislation of the Republic of Uzbekistan". See On the Approval of the Program for the Development and Introduction of the Legislative Chamber of Oliy Majlis of the Draft Laws in 2016, Cabinet of Ministers Resolution No. 42 of 17 February 2016, Annex 1.

103 *Ibid.*, note 91, Para 212.

104 Labour Code of the Republic of Uzbekistan, Code of 21 December 1995, Article 10.

105 Criminal Code of the Republic of Uzbekistan, Code No. 2012-XII of 22 September 1994, Article 1. For a more comprehensive overview of some Uzbekistani laws that recognise the status of international law, see United Nations, *Core Document Forming Part of the Reports of State Parties: Uzbekistan*, UN Doc. HRI/CORE/UZB/2010, 18 January 2012, Paras 112–119.

from those set out in Uzbekistani family law, the rules of the international treaty shall apply."[106] The exact meaning of the term "rules which differ",[107] and those international law principles considered "universally recognised" is not expanded upon.

Where human rights principles are not directly transposed into Uzbekistani law, domestic courts are unlikely to give effect to their provisions.[108] Accordingly, particularly in light of the absence of any jurisprudence firmly establishing the supremacy of international law over domestic legislation, the need for full incorporation of treaty provisions is paramount.[109]

The remainder of this Chapter will provide an overview of the major pieces of equality legislation in Uzbekistan; evaluating domestic law for compliance with international standards of equality and non-discrimination, as reflected in the Declaration of Principles on Equality.

2.2 The National Legal Framework on Equality and Non-Discrimination

The current legal system of Uzbekistan developed following the collapse of the Soviet Union. The Constitution; national legislation; resolutions of the chambers of Oliy Majlis; decrees, decisions and orders of the President of the Republic of Uzbekistan; resolutions of the Cabinet of Ministers; orders and regulations of ministries, state committees and departments and the decisions of public authorities; each comprise part of the domestic legal framework.[110] Under Article 7 of the Law on Normative Legal Acts, the Con-

106 Family Code of the Republic of Uzbekistan, Code No. 607-I of 30 April 1998, Article 9.

107 In Uzbekistan's Core Document for 2012, the term "rules which differ" is taken to mean those "rules derogating from or altering the law in question rather than rules making an exception for a specific situation." See United Nations, above, note 105, Para 117.

108 Committee on the Rights of the Child, *Response to the List of Issues: Uzbekistan,* UN Doc. CRC/C/UZB/Q/3-4/Add1, 17 May 2013, Para 2.

109 In 2013 the Committee on the Rights of the Child noted its concern that the CRC was not "directly applicable by courts" and recommended that Uzbekistan "ensure the full incorporation of the principles and provisions of the Convention and its Optional Protocols into domestic legislation". See Committee on the Rights of the Child, *Concluding Observations: Uzbekistan*, UN Doc. CRC/C/UZB/CO/3-4, 10 July 2013, Paras 8–9.

110 See Law of the Republic of Uzbekistan on Normative Legal Acts, above, note 100, Article 5.

stitution is the highest source of law and cannot be contradicted by ordinary legislation.[111]

2.2.1 The Constitution

The Constitution of Uzbekistan was adopted on 8 December 1992 and entered into force upon adoption. It is the highest source of law in Uzbekistan. Part one of the Constitution sets out a number of "Fundamental Principles" over four chapters. Under Chapter one the state is declared a "democratic republic".[112] The Constitution designates Uzbek the national language[113] but requires that the state ensures "a respectful attitude toward the languages, customs and traditions of all nationalities and ethnic groups living on its territory and the creation of the conditions for their development".[114] Under Chapter II of the Constitution, "all citizens of the Republic of Uzbekistan, regardless of their nationality, shall constitute the people of Uzbekistan".[115] Public life shall develop "on the basis of a diversity of political institutions, ideologies and opinions,"[116] while democracy shall be founded on those "principles common to all mankind according to which the ultimate value is a human being, his life, freedom, honour, dignity and other inalienable rights".[117]

Part Two of the Constitution sets out "basic human and civil rights, freedoms and duties". The Part begins with some general provisions in Chapter V. The first, and most important of these provisions from an equality perspective, is the Constitution's equality clause, Article 18, which is discussed in detail below. Under Article 19, "Citizens' rights and freedoms, established by the Constitution and laws, shall be inalienable" and that "[n]o one shall have the right to limit established rights without a court order.[118] This sets up an unfortunate distinction between the rights and freedoms of citizens and non-citi-

111 *Ibid*., Article 7.

112 See above, note 99, Article 1.

113 *Ibid*., Article 4.

114 *Ibid.*, Article 4.

115 *Ibid*., Article 8.

116 *Ibid*., Article 12.

117 *Ibid*., Article 13.

118 *Ibid*.

zens. Provisions on citizenship are detailed in Chapter VI of Part Two. Article 21 provides, among other things, for equality of citizenship "regardless of the grounds of acquisition".[119] The distinction drawn between citizens and non-citizens in Article 19 may be negated by Article 23, which states that "foreign citizens and stateless persons, during their stay on the territory of the Republic of Uzbekistan shall be guaranteed the rights and freedoms in accordance with the norms of the international law."[120] As discussed below, the meaning and effect of Article 23 is unclear.

Chapter VII of the Constitution provides a number of individual rights and freedoms. With some exceptions, these rights are afforded to "everyone", not only citizens.[121] This includes a number of important rights including the right to life[122] and freedom from torture.[123] Freedom of speech is guaranteed under Article 29 of the Constitution, except where such speech is "directed against the existing constitutional system" and other situations specified by law.[124] Likewise, except where specified by law, freedom of movement is established although this is only afforded to citizens.[125] Under Article 31 of the Constitution, "freedom of conscience shall be guaranteed to all".[126] This includes the right to "profess or not profess" any religion.[127]

Some basic political rights are included under Chapter VIII of the Constitution, which includes a prohibition on the infringement of rights of "individuals constituting the minority opposition".[128] Economic and social rights are protected under Chapter IX. Under this heading, social security is guaran-

119 *Ibid*., Article 21.

120 *Ibid*., Article 23.

121 However, under Article 28, the right to freedom of movement, including the right to freely enter and exit the country, is restricted to citizens. Similarly, under Article 30, only citizens are constitutionally guaranteed the right to access official documents relating to them from state bodies and officials. See *ibid*., Articles 28 and 30.

122 *Ibid*., Article 24.

123 *Ibid*., Article 26.

124 *Ibid*., Article 29.

125 *Ibid*., Article 28.

126 *Ibid*., Article 31.

127 *Ibid*.

128 *Ibid*., Article 34.

teed in old age, the event of disability, and death of a bread-winner.[129] Finally, Chapter X of the Constitution includes guarantees that the "rights of minors, the disabled and the single elderly, shall be protected by the state"[130] and that "women and men shall have equal rights."[131] Neither of these provisions is subsequently expanded upon. The duties of citizens are detailed under Chapter XI. Part Three of the Constitution goes on to discuss the relationship between "society and the individual".

From the point of view of providing adequate protection for the rights to equality and non-discrimination, the scope of the right to equality and freedom from discrimination established under Article 18 of the Constitution is an area of notable shortcomings. Article 18 states that:

> *All citizens of the Republic of Uzbekistan shall have equal rights and freedoms, and shall be equal before law without discrimination by sex, race, nationality, language, religion, social origin, convictions, individual and social status. Any privileges may be granted solely by law and must conform to the principles of social justice.*[132]

The first shortcoming of Article 18 is that it is limited in application to "citizens of the Republic". Under Principle 1 of the Declaration of Principles on Equality, the right to equality (including the right to non-discrimination) extends to "all human beings" and is not restricted in application to citizens of a state. Similarly, international law establishes that the rights to equal protection of the law and freedom from discrimination apply to all persons subject to a state's jurisdiction or within its territory, irrespective of their citizenship status.[133]

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129 *Ibid*., Article 39.

130 *Ibid*., Article 45.

131 *Ibid*., Article 46.

132 *Ibid*., Article 18.

133 See, for instance, the International Covenant on Civil and Political Rights, Article 26, which provides that: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law." International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, 1966, Article 26. See also, Human Rights Committee, *General Comment No. 15: The Position of Aliens under the Covenant*, UN Doc. HRI/GEN/1/Rev.6, 1986, p. 140, Para 1; Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights*, UN Doc. E/C.12/GC/20, 2009, Para 30.

The second major shortcoming is that Article 18 only explicitly affords equality before the law without discrimination on a small and exhaustive list of protected grounds. This list and its exhaustive nature do not meet international standards.[134] Article 18 of the Constitution omits reference to several characteristics including, *inter alia*, disability, ethnicity, descent, political opinion, sexual orientation, gender identity, age, and health status.[135] Moreover, the Constitution does not provide any criteria for recognising additional characteristics.[136] UN human rights treaty bodies have emphasised the importance of adopting a flexible approach to anti-discrimination provisions.[137] By including criteria for identifying characteristics alongside specific prohibited grounds, emerging patterns of discrimination and inequality can be identified and addressed.[138] Although a broad interpretation of Article 18's reference to "individual status" could be adopted, extending protection from discrimination to other identified grounds, there is no case law to this effect.

In 2014, responding to a request from the United Nations Human Rights Committee (HRC) for information on whether measures to adopt comprehensive anti-discrimination legislation, including a comprehensive list of grounds, had been undertaken,[139] Uzbekistan stated that those grounds included in Article 18 are "fully consistent" with the requirements of the ICCPR.[140] The HRC disagreed. In its Concluding Observations, it expressed concern that Article 18 does not provide adequate protection from discrimination "on all grounds prohibited in the Covenant", recommending the adoption of "a comprehen-

134 See the requirements under the Declaration of Principles on Equality, above, Part 1. See also Human Rights Committee, *Concluding Observations: Uzbekistan,* UN Doc. CCPR/C/UZB/CO/4, 17 August 2015, Para 6.

135 *Declaration of Principles on Equality,* Equal Rights Trust, London, 2008, Principle 5.

136 *Ibid.*

137 In particular, in relation to the term "other status". See Committee on Economic, Social and Cultural Rights, above, note 133, Para 27.

138 See above, note 136, Principle 5. See also, Petrova, D., "The Declaration of Principles on Equality: A Contribution to International Human Rights", in *Declaration of Principles on Equality*, above, note 135, p. 62.

139 Including "political or other opinion, national origin, colour, property, birth, sexual orientation and gender identity. See Human Rights Committee, *List of Issues: Uzbekistan,* UN Doc. CCPR/C/UZB/Q/4, 21 November 2014, Para 3.

140 Human Rights Committee, *Replies to List of Issues: Uzbekistan,* UN Doc. CCPR/C/UZB/Q/4/Add.1, 9 March 2015, Para 11.

sive list of grounds for discrimination, including colour, political or other opinion, national origin, property, birth or other status, and sexual orientation and gender identity".[141]

Finally, in the absence of comprehensive equality law, Article 18 of the Constitution is the key source of protection for equality and from discrimination. To this extent, it is noteworthy that neither Article 18 nor other provisions of the Constitution explicitly enshrine a number of key equality protections. For example, the Constitution makes no reference to multiple discrimination. Under Principle 12 of the Declaration of Principles on Equality, "laws and policies must provide effective protection against multiple discrimination, that is, discrimination on more than one ground".[142] Human rights treaty bodies have recognised the impact of multiple discrimination on different groups, including women and children.[143] There is a recognition that the prohibition of discrimination extends to discrimination on multiple grounds.[144] In its General Comment No. 20 the United Nations Committee on Economic, Social and Cultural Rights (CESCR) urged states to adopt legislation prohibiting, *inter alia*, multiple discrimination.[145]

There is also no definition of discrimination provided under the Uzbekistani Constitution and none has been provided by subsequent jurisprudence. It is therefore difficult to determine the extent to which certain manifestations of discrimination, including indirect discrimination, harassment and associative or perceptive discrimination,[146] are prohibited. In the absence of a specific definition, individuals are likely to suffer. This point was recognised in 2014 by the Human Rights Ombudsperson for Uzbekistan, who noted:

141 See Human Rights Committee, above, note 134, Para 6.

142 See above, note 135, Principle 12.

143 See Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 28 on the Core Obligations of States parties under Article 2 of the Convention*, UN Doc. CEDAW/C/GC/28, 2010, Para 18; and Committee on the Rights of the Child, *General Comment No. 9: The Rights of Children with Disabilities*, UN Doc. CRC/C/GC/9, 2007, Para 8.

144 See for instance, *Alyne da Silva Pimentel Teixeira v Brazil*, Committee on the Elimination of Discrimination against Women, Communication No. 17/2008, UN Doc. CEDAW/C/49/D/17/2008, 2011, Para 7.7.

145 See Committee on Economic, Social and Cultural Rights, above, note 133, Paras 17, 27 and 37.

146 See above, note 135, Principle 5.

> *Despite the fact that many legislative acts contain clauses stipulating the principle of equality, while certain laws directly prohibit discrimination, the legislation lacks a general ban on discrimination, and there is no legal practice for counteracting discrimination.*[147]

After acknowledging that this was a shortcoming, the Ombudsperson recommended that measures be adopted to introduce a definition of discrimination, including direct and indirect discrimination, into Uzbekistani law.[148]

Under Article 18 of the Constitution of Uzbekistan, "any privileges may be granted solely by law and must conform to the principles of social justice".[149] This provision is broadly drafted and could, in principle, be utilised in order to grant preferential treatment to one group over another. The approach taken by Article 18 in this respect is not in conformity with international best practice. Principle 3 of the Declaration of Principles on Equality establishes that "to be effective, the right to equality requires positive action".[150] Permitting but not mandating positive action measures falls short of this Principle. Further, it is critical that positive action measures are subject to important qualifications.[151] The requirement of conformity to the "principles of social justice" is unclear in scope, and this has not subsequently been clarified by jurisprudence. Accordingly, there is a danger that Article 18 may be applied to permit the adoption of discriminatory standards benefitting a particular group.

2.2.2 Specific Equality and Anti-Discrimination Legislation

The most notable deficiency in Uzbekistan's legal framework for equality is its lack of any comprehensive equality or anti-discrimination legislation.

147 Human Rights Ombudsperson, *Submission to the Committee on the Elimination of Racial Discrimination on Uzbekistan*, 2014, Para 26, available at: http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/UZB/INT_CERD_NGO_UZB_16213_E.doc.

148 *Ibid*., Para 37.

149 See above, note 99, Article 18.

150 See above, note 135, Principle 3.

151 For instance, such measures may only be temporary and proportionate to the aim pursued. See Convention on the Elimination of All Forms of Discrimination against Women, 1249 U.N.T.S. 13, 1979., Article 4, and Committee on the Elimination of Racial Discrimination, *General Recommendation No. 32: The Meaning and Scope of Special Measures in the International Convention on the Elimination of Racial Discrimination*, UN Doc. CERD/C/GC/32, 2009, Para 16, respectively.

Despite several recommendations Uzbekistan has failed to adopt a draft law on "equal rights and equal opportunities for women and men"[152] which reportedly includes definitions of direct and indirect discrimination and sexual harassment,[153] and which was first submitted to Parliament in 2004.[154] Instead, the state has adopted a variety of legislative provisions on non-discrimination across a range of laws. Taken together, these fall significantly short of offering comprehensive legislative protection for the rights to equality and non-discrimination. In its most recent Concluding Observations, the HRC has recommended that Uzbekistan ensure its legal framework: "provides full and effective protection against discrimination in all spheres, including in the private sphere, and prohibits direct, indirect and multiple discrimination"; "contains a comprehensive list of grounds for discrimination, including colour, political or other opinion, national origin, property, birth or other status, and sexual orientation and gender identity"; and "provides for effective remedies in cases of violations".[155] At the time of publication, there is no evidence that the state is taking steps to implement these recommendations.

Law of the Republic of Uzbekistan "On Social Protection of Disabled Persons in the Republic of Uzbekistan"[156]

Although Uzbekistan is not a party to the Convention on the Rights of Persons with Disabilities (CRPD), as a signatory the state is obliged not to defeat the

152 See Human Rights Committee, above, note 134, Para 8; Committee on the Elimination of Discrimination against Women, *Concluding Observations: Uzbekistan,* UN Doc. CEDAW/C/UZB/CO/5, 24 November 2015, Para 9; and Committee on Economic, Social and Cultural Rights, *Concluding Observations: Uzbekistan,* UN Doc. E/C.12/UZB/CO/2, 13 June 2014, Para 11.

153 Uzbek Bureau for Human Rights and Rule of Law, *Submission to the Committee on the Elimination of Discrimination against Women on Uzbekistan*, 2015, p. 1, available at: https://www.fidh.org/IMG/pdf/ubhrrl_cedaw_sept_2015.pdf. There has been no official publication of the draft law and so it has not been possible to review its contents directly for this publication.

154 Committee on the Elimination of Discrimination against Women, *Second and Third Periodic Reports: Uzbekistan*, UN Doc. CEDAW/C/UZB/2-3, 26 October 2004, p. 10. See also Section 3.4 of this Report.

155 See Human Rights Committee, above, note 134, Para 6.

156 Law of the Republic of Uzbekistan on the Social Protection of Disabled Persons in the Republic of Uzbekistan, Law No. 422-XII, of 18 November 1991, as amended by the Law of the Republic of Uzbekistan on Making Amendments and Addenda to the Law of the Republic of Uzbekistan on Social Protection of Disabled Persons in the Republic of Uzbekistan, Law No. ZRU-162 of 11 July 2008.

object and purpose of the Treaty.[157] Further, the "universality, indivisibility and interdependence of human rights"[158] means that, the provisions of the CRPD and its interpretation by the its governing treaty body may help elucidate the content of the right to non-discrimination as protected under the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which prohibit discrimination on the basis of disability, and both of which are binding for Uzbekistan.[159] The work of the Committee on the Rights of Persons with Disabilities is therefore instructive as to the nature of Uzbekistan's international obligations.

The Law on the Social Protection of Disabled Persons is the primary piece of legislation regulating the rights of persons with disabilities in Uzbekistan.[160] The law was first enacted in 1991 and replaced by a new edition in 2008.[161] Although not properly considered a piece of anti-discrimination legislation, the Law determines the legal, economic and organisational conditions of providing social protection for persons with disabilities, including measures on accessibility,[162] rehabilitation,[163] employment,[164] education[165] and social provision for persons with disabilities.[166] Consequently it has been included in this section of the report.

The Law on the Social Protection of Disabled Persons provides that the state will adopt measures "to protect persons with disabilities from all forms of

157 See Vienna Convention on the Law of Treaties, above, note 94, Article 18.

158 *Vienna Declaration and Programme of Action*, World Conference on Human Rights, Vienna, 1993, Para 5.

159 See International Covenant on Civil and Political Rights, above, note 133, Article 2(1) (prohibiting discrimination in relation to substantive Covenant rights). Additionally, Article 26 of the Covenant provides an autonomous right to non-discrimination. See Human Rights Committee, *General Comment No. 18: Non-Discrimination*, UN Doc. HRI/GEN/1/Rev.1, 1989, p. 26, Paras 1 and 12. See also, Section 3.6 of this Report.

160 See above, note 156.

161 This version has subsequently been amended on several occasions, most recently in 2015.

162 *Ibid*., Chapter 2.

163 *Ibid*., Chapter 3.

164 *Ibid*., Chapter 5.

165 *Ibid*., Chapter 4.

166 *Ibid*., Chapter 6.

discrimination".[167] However, the Law itself does not define discrimination and in practice only appears to extend protection to certain areas of public and private life (for instance, Article 24 of the Law prohibits the termination of an employment contract on the grounds of disability).[168] The Committee on the Rights of Persons with Disabilities has urged states to incorporate a definition of disability-based discrimination into national legislation, including a definition of reasonable accommodation.[169] In the absence of such a definition, the protection afforded to persons with disabilities in Uzbekistan is substantively limited.

Article 3 of the Law defines a person with disabilities as an individual whom "due to the limitation of vital functions as a result of physical, mental, psychological and sensory disorders is recognised as a person with a disability in the order established by the law and is in need of social protection and assistance."[170] Despite references to the need of such persons "to participate [equally] in society" under the same provision,[171] Uzbekistani law largely follows a medical model of disability, proscribed by the CRPD. With the exception of children under the age of 16,[172] a person's disability status is determined by a medical-labour expert commission: the *Vrachebno Trudovaya Expertnaya Komissiy* (VTEK).[173] The composition of the VTEK is almost en-

167 *Ibid*., Article 5. Likewise under Article 6, non-discrimination of persons with disabilities is listed as a "main direction of state policy". *Ibid*., Article 6.

168 *Ibid*., Article 24.

169 Committee on the Rights of Persons with Disabilities, *Concluding Observations: Turkmenistan*, UN Doc. CRPD/C/TKM/CO/1, 13 May 2015, Para 10.

170 See above, note 156, Article 3, as translated by UNICEF. See UNICEF, *Uzbekistan: Country Profile*, 2014, p. 1, available at: http://www.unicef.org/ceecis/UZ_Country_profile_eng_29July_FINAL_proofed.pdf.

171 Under Article 3 of the Law, the "Social Protection of Persons with Disabilities" is defined as a "system of state guaranteed economic, social and legal measures (...) aimed at the creation of equal opportunities with other citizens to participate in society". See above, note 156. Additionally, several provisions note the importance of the integration of persons with disabilities in society. However, this commitment is undermined in practice by a restrictive disability determination procedure and the retention of aspects of the medical model in relation to employment.

172 Whose disability determination is to be performed by a Medical and Advisory Commission. *Ibid*., Article 4.

173 *Ibid*.

tirely made up of medical professionals,[174] contrary to the recommendations of the Committee on the Rights of Persons with Disabilities, which has recommended that states "ensure the involvement of experts from the social, labour and education fields on the assessment panels determining disability".[175] In 2013 the Committee on the Rights of the Child urged Uzbekistan to review its legislation and adopt a social model of disability, including clear definitions; as required by the Convention on the Rights of the Child.[176]

Under Article 5 of the Law, the state is required to guarantee the "mainstreaming of persons with disabilities" in relation to social assistance, to implement rehabilitation programmes and ensure the "creation of conditions for the integration of persons with disabilities into society".[177] Additionally, the state is required to adopt measures to ensure that persons with disabilities are protected from discrimination.[178] State policy is to be directed toward protecting the rights and interests of persons with disabilities, including non-discrimination, and the provision of education and training facilities.[179] State bodies are responsible for implementing state policy, as well as for organising and training, and reserving a minimum number of jobs for persons with disabilities.[180]

Article 24 of the Law provides for the right of persons with disabilities to work. Termination of a contract of employment, alongside failure to conclude an employment contract or to promote a person with disabilities on account of their disability is prohibited, except where such employment would pose a risk to the individual involved, other members of staff or where such a person could not be expected to perform the professional duties required.[181] For the purposes of this Article, a person's ability to work

174 United Nations Development Programme, *Policy Brief: Uzbekistan*, 2012, p. 7, available at: http://www.undp.org/content/dam/uzbekistan/docs/Publications/UN-Publications/PB_PWD/un_uzb_PB_PWD_eng.pdf.

175 See above, note 169, Para 6.

176 See Committee on the Rights of the Child, above, note 109, Para 50.

177 See above, note 156, Article 5.

178 *Ibid*.

179 *Ibid., Article 6.*

180 *Ibid.*, Article 7.

181 *Ibid.*, Article 24.

is to be determined by the VTEK.[182] As noted in Section 3.6 of this report, this process, which may lead to restrictions in the amount of state benefits to be paid to persons of different disability classifications, is highly medicalised and has the effect of restricting access to employment for persons with disabilities.[183]

Under Article 25 of the Law, "local agencies of state power shall establish and reserve jobs for disabled people in enterprises, establishments and organizations with more than 20 employees so that the number of such jobs is at least 3% of the total number of employees". This provision is enforced by way of an administrative sanction for failure to comply.[184] Employment quotas, representing a form of positive action, are both permitted and required in international human rights law provided that the measures adopted are, *inter alia*, proportionate to the aim pursued and employed only so long as is necessary to correct inequality between groups.[185] While the imposition of a job quota in Uzbekistan would satisfy the above criteria, if it is only in place for the duration required to overcome the past disadvantage faced by persons with disabilities, it should be noted that even with the adoption of the quota system, human rights bodies have expressed concern regarding the low "employment rate among persons with disabilities".[186]

Chapter 4 of the Law concerns the education and training of persons with disabilities. Articles 16 and 17 both provide that persons with disabilities are required to be taught in schools of general education, including at the level of primary, secondary, and higher education.[187] This requirement complies with international standards. Under Article 24 of the CRPD, education must be inclusive. State parties are therefore required to ensure that "persons with disabilities are not excluded from the general education system on the basis of disability."[188]

182 *Ibid*.

183 See Section 3.6 of this report.

184 See above, note 156, Article 25.

185 See the discussion of temporary special measures in relation to the Constitution in Section 2.2.1 above.

186 See Committee on Economic, Social and Cultural Rights, note 153, Para 10.

187 See above, note 156, Articles 16 and 17.

188 See Convention on the Rights of Persons with Disabilities, 2515 U.N.T.S. 3, 2006, Article 24(2)(a).

However, both Article 16 and 17 of the Law on the Social Protection of Disabled Persons come with an important caveat. Where the health of a child so requires, children with disabilities may be educated in specialised educational institutions.[189] In practice, this addendum ensures that children with disabilities are excluded from the general education system. Noting this point, the Committee on the Rights of the Child have expressed concern regarding the "lack of a legislative definition of inclusive education and the resulting inadequacy of measures to ensure that children with disabilities are provided with inclusive education in the best interests of the child;" as well as the fact that "mainstream schools [are] frequently being inaccessible to children with disabilities, due to, *inter alia*, physical barriers, a lack of trained staff, and inadequately adapted school curricula".[190]

Accessibility of infrastructure, transport and communication is required by Chapter 2 of the Law. New buildings, settlements and vehicles are required to be designed and constructed with adaptations for access and use by persons with disabilities.[191] Governments, public local authorities, enterprises, institutions and organisations are required to "ensure unhindered access to social infrastructure" for persons with disabilities.[192] Failure to do so may result in an administrative sanction.[193] While the application of fines for failure to ensure the accessibility of infrastructure for persons with disabilities should be welcomed, according to reports, the level of fine payable has been reduced in recent years.[194] There is a risk that this reduction will send the wrong message to organisations, reducing the incentive for groups to ensure accessibility.

Remedies for a breach of the Law on the Social Protection of Disabled Persons are not set out within the Act. Although the Law does specify that administrative sanctions will be imposed in relation to some specific provisions (such as a breach of Article 25 concerning the employment quota, and Article 11 in relation to a lack of accessibility), these sanctions are set out in the Code of Administrative Responsibility. In relation to other provisions, such as Article

189 See above, note 156, Articles 16 and 17.

190 See Committee on the Rights of the Child, above, note 109, Para 49.

191 See above, note 156, Article 9.

192 *Ibid*., Article 10.

193 *Ibid*., Article 11.

194 See Section 3.6 of this report.

24 which prohibits the termination of an employment contract on the basis of disability, the Law does not specify specific remedies or sanctions.

Failure to ensure accessible social infrastructure (including transport and communications) is made punishable by a fine of 10–15 times the minimum monthly wage.[195] This penalty appears to apply both to public officials and private businesses.[196] The level of fine payable increases from 15 to 30 times the minimum monthly wage where an offence is committed repeatedly within one year of the initial offence.[197]

Article 9(2)(b) of the CRPD calls upon states to "ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities".[198] In 2014, the Committee on the Rights of Persons with Disabilities expanded upon the meaning of Article 9, explaining that:

> *The focus is no longer on legal personality and the public or private nature of those who own buildings, transport infrastructure, vehicles, information and communication, and services. As long as goods, products and services are open or provided to the public, they must be accessible to all, regardless of whether they are owned and/or provided by a public authority or a private enterprise.*[199]

Under the CRPD, states should ensure "the mandatory application of accessibility standards and for sanctions, including fines, for those who fail to apply them."[200] Principle 22 of the Declaration of Principles of Equality explains that

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195 Code of Administrative Responsibility of the Republic of Uzbekistan, Code No. 2015-XII of 22 September 1994, Article 51.

196 The US State Department report says: "The law allows for fines if buildings, including private shops and restaurants, are not accessible, and activists reported that authorities fined individuals or organizations in approximately 2,500 cases during the year." See http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252981#wrapper.

197 See above, note 195, Article 51.

198 See Convention on the Rights of Persons with Disabilities, above, note 188, Article 9(2)(b).

199 Committee on the Rights of Persons with Disabilities, *General Comment No. 2: Article 9: Accessibility*, UN Doc. CRPD/C/GC/2, 2014, Para 10.

200 *Ibid*., Para 28.

"sanctions for breach of the right to equality must be effective, proportionate and dissuasive".[201] By limiting the application of sanctions to public officials, Uzbekistani law falls below this standard.

Several other disability related offences are set out under the Code of Administrative Responsibility. Under Article 49^3, avoidance of the obligation to pay benefits to an individual with a temporary disability (as well as in the event of pregnancy or childbirth), is made punishable by a fine of 10–15 times the minimum monthly wage.[202] Under Article 50, violations of employment legislation (including the requirement of the creation of a certain number of jobs for protected classes of persons and those who have received specialist secondary education) are punishable by a fine of three to five times the minimum monthly wage.[203] Under the same provision, unreasonable refusal to hire people may result in a fine of between five and seven times the minimum monthly wage.

2.2.3 Non-Discrimination Provisions in Other Pieces of Legislation

In addition to the Law on Social Protection of Disabled Persons, there are other pieces of legislation containing equality and non-discrimination provisions. However, none of the laws discussed below contain a definition of discrimination, let alone definitions of direct and indirect discrimination. This overview further indicates how far short of that which is required under Uzbekistan's international human rights obligations, the level of protection offered falls. It again highlights the need for comprehensive anti-discrimination legislation implementing the constitutional guarantee under Article 18.

Civil Law

The major pieces of legislation regulating civil law in Uzbekistan are the Civil Code[204] and Civil Procedure Code.[205] The Civil Code was adopted in 1996 and was most recently amended in 2016. The Civil Procedure Code was adopted in 1997 and was most recently amended in 2015.

201 See above, note 135, Principle 22.

202 See above, note 195, Article 49^3.

203 *Ibid*., Article 50.

204 Civil Code of the Republic of Uzbekistan, Code No. 256-I of 29 August 1996.

205 Civil Procedure Code of the Republic of Uzbekistan, Code No. 477-I of 30 August 1997.

Civil Code

Article 17 of the Civil Code provides for the right to legal capacity, which is to be recognised equally for all citizens, from birth until death.[206] Legal capacity confers several benefits including the right to own and inherit property, deposit savings in a bank, choose an occupation and place of residence, establish legal entities, etc.[207] Age of majority is reached at 18,[208] except for those citizens already married, at which point age of majority is conferred upon marriage.[209]

Article 23 of the Code prohibits restrictions on legal capacity, except in those instances defined by law.[210] One such instance relates to persons with severe intellectual disabilities. Where such a person is recognised as incapable or partially capable by a court, guardianship is to be established.[211] A guardian is required to act in the best interests of their ward,[212] and is effectively required to make decisions on their behalf. The equivocation of mental and legal capacity in Uzbekistan is in clear breach of international law and best practice, which requires states to replace "substitute decision making" with "supported decision making" alternatives.[213] Denial of legal capacity to persons with disabilities in Uzbekistan impedes the enjoyment of rights protected under human rights treaties ratified by the state.[214] It is also regrettable that under the Civil Code legal capacity is only recognised for citizens of the Republic. Although Uzbekistan is not a party to the key statelessness and refugee Conventions, international human rights law nevertheless imposes important requirements for the treatment of non-citizens.

206 See above, note 204, Article 17.

207 *Ibid*., Article 18.

208 *Ibid*., Article 22.

209 *Ibid*., Article 22. The issue of child marriage is discussed in Section 3.4 of this report.

210 *Ibid*., Article 23.

211 *Ibid*., Articles 30 and 32.

212 *Ibid*., Article 32.

213 Committee on the Rights of Persons with Disabilities, *General Comment No. 1: Article 12: Equal Recognition before the Law*, UN Doc. CRPD/C/GC/1, 2014, Paras 27–28.

214 See Section 3.6 of this Report.

Civil Procedure Code

The Civil Procedure Code of Uzbekistan contains several provisions relevant to equality. Under Article 6, justice in civil cases is to be administered "by the court and on the basis of 'equality before the law for all citizens regardless of gender, race, nationality, language, religion, social origin, beliefs or personal or social status and other circumstances'".[215] As with other Uzbekistani legislation, the term "other circumstances" is not further defined.[216] Article 8 of the Act specifies that court proceedings are to be based on the equality of parties.[217] Article 9 sets out language guarantees for those individuals who do not speak the main language of proceedings,[218] while Article 40 provides for the equal procedural rights of parties.[219]

Article 37 of the Law concerns legal standing. According to that provision, "civil procedural rights and obligations (legal capacity) [are] recognized equally for all citizens and organizations."[220] This provision is problematic, potentially excluding non-citizens from the same procedural guarantees.[221] Section V of the Code does, however, set out a number of specific guarantees for foreign and stateless persons. Under Article 386, such persons "have the right to apply to the courts of the Republic of Uzbekistan and enjoy civil procedural rights as citizens of the Republic of Uzbekistan."[222]

215 See above, note 205, Article 6.

216 For instance, see above, note 106, Article 3.

217 See above, note 205, Article 8.

218 *Ibid*., Article 9.

219 *Ibid*., Article 40.

220 *Ibid*., Article 37.

221 The same is true of Article 6, above.

222 *Ibid*., Article 386. Under Article 387 of the Code, the same guarantee is made for stateless persons. It is noteworthy however, that there is a restriction on the right in Article 386, stating "In accordance with the legislation of the Republic of Uzbekistan, reciprocal restrictions can be imposed in the relations with persons and organizations from those states which allow special restrictions on the civil procedural rights of citizens and organizations of the Republic of Uzbekistan".

Administrative Law

Administrative law is regulated by the Code of Administrative Responsibility,[223] which was adopted in 1994 and most recently amended in 2016. The Code sets out a range of administrative offences, the majority of which are dealt with by way of fine.

Code of Administrative Responsibility

Article 3 of the Code of Administrative Responsibility states that the "legislation on administrative liability is based on the principles of (...) equality of citizens before the law."[224] This requirement is expanded on under Article 272 of the Code which provides that hearings of administrative cases are to be conducted on the basis of equality before the law, with no distinction made on the basis of sex social origin, personal or social status, race, nationality, language, religion or belief.[225] Proceedings are to be carried out in Uzbek, Karakalpak or the language of the majority of the local population.[226] An individual who does not speak the language used during proceedings shall be granted the right to speak in his or her native language.[227] Violation of a "citizen's rights to free choice of language in upbringing and education", as well as "the creation of obstacles and restrictions in the use of language, to the neglect of the state language and other languages of the nations and nationalities living in the Republic of Uzbekistan", is made punishable by a fine of one to two times the minimum monthly wage.[228]

The Code of Administrative Responsibility prohibits the promotion of religious or ethnic hatred. Under Article 184^3, the production or possession with the purpose of distribution of materials promoting national, racial, ethnic or religious hatred, is punishable by a fine of between 50 and 100 times the minimum monthly wage. For officials, the minimum fine is increased to between 100 and 150 times the minimum monthly wage or ad-

223 See above, note 195.

224 *Ibid*., Article 3.

225 *Ibid*., Article 272.

226 *Ibid*., Article 273.

227 *Ibid*.

228 *Ibid*., Article 42.

ministrative arrest for up to 15 days.[229] In principle, banning the incitement of hatred is in line with international best practice; Article 20 International Covenant on Civil and Political Rights (ICCPR) requires States to prohibit advocacy of national, racial or religious hatred; Article 4(a) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) endorses this and requires states to declare the dissemination of ideas based on racial superiority or hatred or incitement to racial discrimination an offence. However, it is important that measures taken to eradicate discrimination do not overly restrict the enjoyment of other human rights. It is therefore important that the provisions are interpreted and applied narrowly so as not to unduly restrict the right to freedom of expression. While ostensibly aimed at protecting religious, ethnic and racial minorities, in practice several provisions in the Uzbekistani Code of Administrative Responsibility have been used in order to target political and religious opposition, severely circumscribing the right to freedom of religion, expression and association.[230]

Criminal Law

Criminal law in the Republic of Uzbekistan is primarily regulated by the Criminal Procedure Code[231] and the Criminal Code.[232] The latter regulates and defines all forms of criminal conduct punishable by law and contains several provisions addressing matters of equality and non-discrimination, whereas the former determines the procedure to be followed in criminal cases. Both Codes were adopted in 1994 and have been amended on several occasions, most recently in 2016.

Both the Criminal Procedure Code and the Criminal Code contain provisions directly relating to equality and non-discrimination. Under Article 16 of the Criminal Procedure Code justice shall be administered on the basis of equality of citizens irrespective of sex, race, nationality, language, religion, social origin, beliefs or personal or social status.[233] Notably, in addition to only ap-

229 *Ibid*., Article 184.

230 See Sections 3.1 and 3.3 of this report for further discussion.

231 Criminal Procedure Code of the Republic of Uzbekistan, Code No. 2013-XII of 22 September 1994.

232 See Criminal Code of the Republic of Uzbekistan, above, note 105.

233 See above, note 231, Article 16.

plying to citizens, this provision excludes several characteristics, including sexual orientation – a particularly stark omission considering the criminalisation of homosexuality under Article 120 of the Criminal Code.

Under Article 141 of the Criminal Code the direct or indirect limitation of rights or the conferral of any advantages on the grounds of gender, race, nationality, language, religion, social origin, beliefs or individual or social status may be punished by a fine of up to 50 times the minimum monthly wage, depravation of certain rights for up to 3 years or correctional labour for up to 2 years.[234] Where accompanied by violence these sanctions are increased by correctional labour of 2 to 3 years, or arrest of up to six months, or restriction of freedom from 1 to 3 years, or imprisonment for up to 3 years.[235] Article 156 of the Criminal Code imposes higher sanctions where the direct or indirect limitation of rights or conferral of advantages occurs on the basis of nationality, race, ethnicity, or attitude to religion, which may be punished by a restriction of freedom from 2 to 5 years or imprisonment for up to 5 years.[236]

International best practice requires that, for the most part, discrimination be dealt with as a matter of civil rather than criminal law. However, to offer comprehensive protection from discrimination, certain severe manifestations of discrimination may be dealt with under criminal law.[237] While international human rights law acknowledges the need for criminal sanctions in relation to particularly serious manifestations of discrimination, the additional sentencing provisions of Article 156 of the Code, as discussed below, extend well beyond what is required (or permitted), potentially catching many forms of discrimination. Moreover, the existence of multiple conflicting sentencing provisions increases the possibility of arbitrary application.

Hate Motivated Violence

Hate motivated violence and certain types of incitement to hatred are the only forms of discrimination recognised by international best practice as requir-

234 See Criminal Code of the Republic of Uzbekistan, above, note 106, Article 141.

235 *Ibid*.

236 *Ibid*., Article 156.

237 See above, note 135, Principle 7.

ing regulation under criminal law. Principle 7 of the Declaration of Principles on Equality states:

> *Any act of violence or incitement to violence that is motivated wholly or in part by the victim having a characteristic or status associated with a prohibited ground constitutes a serious denial of the right to equality. Such motivation must be treated as an aggravating factor in the commission of offences of violence and incitement to violence, and States must take all appropriate action to penalise, prevent and deter such acts.*[238]

Under international human rights law states are obliged to take appropriate action to protect individuals from violence at the hands of public or private actors. This includes violence committed against certain categories of individuals such as women, persons with disabilities, and sexual and gender minorities.[239] States are required to prevent and prosecute such acts.[240] Individuals whose rights have been violated are entitled to an effective remedy under Article 2(3) of the ICCPR.[241] To this end, states should "take account of the special vulnerability of certain categories of person".[242] Failure to perform an adequate investigation into acts of violence may violate the right to an effective remedy.[243]

Violence committed against an individual on account of their actual or perceived personal characteristics, or their association with a protected person/group,

238 *Ibid.*

239 Human Rights Committee, *General Comment No. 35: Liberty and Security of Person*, UN Doc. CCPR/C/GC/35, 2014, Para 9.

240 *Ibid*.

241 See International Covenant on Civil and Political Rights, above, note 133, Article 2(3)(a).

242 Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN Doc. CCPR/C/21/Rev.1/Add.13, 2004, Para 15. Similarly, the Committee against Torture has recognised that in order to access redress mechanisms "Special measures should be adopted to ensure access by persons belonging to groups who have been marginalised or made vulnerable." See Committee against Torture, *General Comment No. 3: Implementation of Article 14 by States Parties* , UN Doc. CAT/C/GC/3, 2012, Para 29.

243 *Ibid*., Human Rights Committee.

is a particularly serious form of discrimination. Appropriate action in such cases may differ from that to be taken in relation to similar cases committed without a discriminatory motive. As has been recognised by the European Court of Human Rights, "treating violence and brutality with a discriminatory intent on an equal footing with cases that have no such overtones would be turning a blind eye to the specific nature of acts that are particularly destructive of fundamental rights".[244] In order to give full effect to the principle of equality, violence committed on the basis of a discriminatory motive must be considered an aggravating factor during sentencing.[245]

Under Article 56 of the Criminal Code, racial or national hostility or hatred is to be considered an aggravating factor during sentencing. Moreover, several articles contain sentence enhancing provisions for those acts commissioned on the basis of ethnic, racial and religious hatred:

Table 3: Sentence Enhancing Provisions

Art.	Offence	Regular Sentence	Aggravated sentence
97	Murder	10–15 years imprisonment.	15–20 years imprisonment or life.
104	Intentional Serious Bodily Harm	Restriction of liberty or imprisonment from three to five years.	5–8 years imprisonment
105	Intentional Moderate Bodily Harm	Correctional labour of up to three years, a restriction of freedom from one to three years or imprisonment for up to three years.	Restriction of liberty from three to five years or imprisonment from three to five years.
173	Deliberate Destruction or Damage to Property	A fine of 50–75 times the minimum wage, correctional labour for up to two years or detention for up to six months.	A fine of 75–100 times the minimum wage, correctional labour from two to three years, restriction of liberty from one to three years or imprisonment for up to three years.

244 *Identoba and Others v Georgia*, European Court of Human Rights, Application No. 73235/12, 12 May 2015, Para 67.

245 See above, note 135, Principle 7.

Art.	Offence	Regular Sentence	Aggravated sentence
235	Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Correctional labour up to three years, a restriction of freedom for one to three years or imprisonment up to three years.	Restriction of freedom or imprisonment for three to five years.

Principle 7 of the Declaration of Principles on Equality clearly envisages that a discriminatory motive should be considered an aggravating factor where a violent crime is committed. Accordingly, the sentence enhancing provisions in the Criminal Code are welcome. However, in order to fully comply with international standards, the application of such aggravating and sentence enhancing provisions should be widened to a larger group of protected characteristics.[246]

Incitement to Hatred

The right to freedom of expression has been recognised as an essential pre-condition to the realisation of human rights.[247] Under Article 19 of the ICCPR, the right to freedom of expression is guaranteed, subject only to those narrowly defined restrictions set out under subsection (3); namely that any restriction is "provided by law and necessary for respect of the rights or reputations of others, [or] for the protection of national security (...) public order, or (...) public health or morals."[248] At the same time, international human rights law increasingly recognises a need to protect individuals from "hate speech", which is often defined by reference to Article 20 of the ICCPR.

246 For instance, the UN High Commissioner for Human Rights has recommended that states adopt legislation recognising homophobia and transphobia as aggravating factors in the commissioning of a crime. See, Human Rights Council, *Discrimination and Violence against Individuals based on their Sexual Orientation and Gender Identity, Report of the United Nations High Commissioner for Human Rights*, UN Doc. A/HRC/29/23, 4 May 2015, Para 78(a). Similarly, in 2015 the Human Rights Committee recommended that aggravating factor provisions in the Russian Criminal Code be applied to violent acts "motivated by the victim's sexual orientation or gender identity". See Human Rights Committee, *Concluding Observations: Russia*, UN Doc. CCPR/C/RUS/CO/7, 28 April 2015, Para 10(a).

247 Human Rights Committee, *General Comment No. 34: Freedoms of Opinion and Expression*, UN Doc. CCPR/C/GC/34, 2011, Para 3.

248 See International Covenant on Civil and Political Rights, above, note 133, Article 19(3).

Under that provision, states are obliged to prohibit any "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence".[249] It is noteworthy that Article 20 does not mandate the use of criminal law for this purpose. Further, the Human Rights Committee has stressed the important relationship between Article 20 and Article 19(3) of the Covenant.[250] While states are obliged to prohibit "hate speech" as defined under Article 20, any restrictions must also justify the requirements of Article 19(3),[251] i.e. legislation must not unduly restrict the right to freedom of expression.

Article 156 of the Uzbekistani Criminal Code prohibits incitement to hatred. Any deliberate acts "injurious to the national honour and dignity [which] insult the feelings of citizens because of their religious or atheistic convictions, committed with the aim of inciting hatred, intolerance or discord towards groups of the population on national, racial, ethnic or religious grounds" may be punished by a restriction of freedom from 2 to 5 years or imprisonment for up to 5 years.[252] Under the same Article, the production, possession (for the purpose of distribution) or dissemination of materials promoting national, racial, ethnic or religious hatred (following a prior administrative offence) is made punishable by a fine not exceeding 600 times the minimum wage, or up to three years correctional labour, restriction of freedoms, or imprisonment.[253] Under Article 244 of the Code, the "use of religion to violate civil concord" is prohibited and may result in a punishment of up to 5 years imprisonment.[254]

It is notable that the wording of Article 20 ICCPR is far narrower than that of Article 156 of the Uzbekistani Criminal Code, containing no reference, for instance,

249 *Ibid.*, Article 20.

250 *Ibid*., Article 19(3). Such restrictions must be "provided by law and [be] necessary (a) for respect of the rights or reputations of others; [or] (b) for the protection of national security or of public order, or of public health or morals."

251 See above, note 247, Paras 50–52.

252 See Criminal Code of the Republic of Uzbekistan, above, note 105, Article 156.

253 *Ibid*.

254 *Ibid*., Article 244. This and other provisions of the Code, ostensibly aimed at fighting religious extremism, have been criticised by some groups for their broad drafting and discriminatory application against religious minorities. See Section 3.1 of this report for further discussion.

to acts injurious to national honour and dignity.[255] Although there is little international jurisprudence on this point, the Committee on the Elimination of Racial Discrimination has warned that such terms may result in an "unnecessary or disproportionate interference with freedom of expression, including that of members of minority communities".[256] Indeed, several reports suggest that Articles in the Uzbekistani Criminal Code, including Article 156, are utilised in order to curtail criticism of government and the activities of religious minorities.[257]

Employment Law

In the field of employment, two laws – the Labour Code[258] and the Law on Employment (as amended)[259] – regulate matters of discrimination in the employment sphere. The former was adopted in 1995 and was last amended in 2016. The latter was first adopted in 1992 and most recently amended in 2014.

Both the Labour Code and Law on Employment contain important guarantees of the right to work. Both oblige the state to ensure "everyone equal opportunities to obtain a profession and employment, conditions of work and employment, remuneration, [and] promotion."[260] The right to work is to be guaranteed, including, *inter alia*, freedom to choose the type of employment and protection against unlawful refusals of work and the termination of an employment contract.[261] The Law on Employment further stipulates that state employment policy shall be based on the principle of:

> *[E]nsuring equal opportunities in the implementation of the right to work and free choice of employment for all*

255 See Criminal Code of the Republic of Uzbekistan, above, note 105, Article 156.

256 Committee on the Elimination of Racial Discrimination, *Concluding Observations: Kazakhstan*, UN Doc. CERD/C/KAZ/CO/6-7, 14 March 2014, Para 6.

257 See sections 3.1 and 3.3 below. A table of the most frequently used criminal provisions, produced by Amnesty International, is reproduced in section 3.1 of this report.

258 See above, note 104.

259 Law of the Republic of Uzbekistan on Employment, Law No. 510-XII of 13 January 1992, as amended by Law of the Republic of Uzbekistan on Making Amendments and Addenda to the Law "On Employment", Law No. 616-I of 1 May 1998.

260 See above, note 104, Article 58. See also *ibid.*, Article 6.

261 *Ibid*.

> *citizens regardless of gender, age, race, nationality, language, social origin, property or official status, attitude to religion, convictions, membership of public associations or other circumstances, not related to the professional qualities of employees and the results of their labour.*[262]

Both the Labour Code and Law on Employment make provision for the employment of groups at risk of discrimination and exclusion from the work force. Under Article 7 of the Law on Employment, the State is required to provide additional guarantees for persons in need of social protection, including children with disabilities and single parents with children under the age of 14.[263] This shall be achieved through the creation of additional jobs, training programmes and the creation of a "minimum number of jobs by enterprises, institutions and organizations for these categories of citizens."[264] The same guarantee is found under Article 68 of the Labour Code.[265] Additionally, Article 16 of the Code reinforces the constitutional protection of the right to work and the right to social security in case of disability.[266]

Perhaps the most important protection provided in the Labour Code is the right to non-discrimination under Article 6, which prohibits discrimination in employment:

> *All citizens have equal opportunities to possess and exercise labour rights. The imposition of any restrictions or the granting of privileges in labour relations based on gender, age, race, nationality, language, social origin, property or official status, attitude to religion, convictions, membership of public associations or other circumstances unrelated to an employees' qualifications and the results of their work is unacceptable and constitutes discrimination.*[267]

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262 See above, note 259, Article 5.

263 *Ibid*., Article 7.

264 *Ibid.*, Article 7.

265 See above, note 104, Article 68.

266 *Ibid*., Article 16.

267 *Ibid*., Article 6.

This provision is qualified. Differences in treatment due to the nature of the work or the special state protection of persons in need of greater social protection (including women, minors, persons with disabilities, and other such groups) shall not constitute discrimination.[268] Although framed as a form of positive action, this provision is overly broad, potentially permitting several forms of differential treatment without due justification or reference to the principles of proportionality, necessity or temporariness as required by international law and best practice.[269] Further, while including special protections in relation to maternity can be justified, including women as a broader group within this qualification cannot be justified. In practice, there are numerous examples of measures which are discriminatory, restricting the rights of groups identified under the Article 6 qualification, including a number of restrictions on women's right to work.[270]

The Labour Code, for example, contains several provisions that undermine the employment rights of persons with disabilities and female mothers in both law and practice.

Article 220 of the Code imposes conditions for the employment of persons with disabilities.[271] Those persons classified into disability groups I and II are set reduced working time of 36 hours a week without reduced salaries.[272] The same limit applies to the working hours of women with children under the age of three who work in organisations financed by the state budget.[273] Overtime and overnight work may be permitted with such a person's consent, except where a recommendation of the VTEK provides otherwise.[274] Under Article 135, persons with disabilities are granted annual basic extended leave of 30

268 *Ibid*.

269 See discussion of the Constitution above.

270 As an example, women in Uzbekistan are excluded from several forms of work, limiting opportunities in the job market. See section 3.4 of this report for further discussion

271 See above, note 104, Article 220.

272 *Ibid*.

273 *Ibid*., Article 116. The issue of benefits for women with young children is discussed further in section 3.4 of this report. Although *prima facie* such provisions may appear beneficial, additional protections for mothers (rather than parents) may reinforce gender stereotypes, damaging long term prospects of equality. For an overview of disability class groupings in Uzbekistan and their effect on employment rights and benefits see section 3.6 of this report.

274 *Ibid*.

hours a week.[275] Although these provisions may be of some benefit to persons with serious disabilities, in practice they have the effect of stripping away individual autonomy.[276] Additionally, where the VTEK recommends against a person with a disability working more than 35 hours a week, the economic opportunities for that person are limited. These provisions are *prima facie* discriminatory and, for the reasons outlined above, cannot be justified by reference to positive action measures.

Nationality, Citizenship and Immigration Law

Several laws, resolutions and presidential decrees regulate the area of nationality, citizenship and migration in Uzbekistan.[277] The primary piece of legislation is the 1992 Law on Citizenship, which was last amended in 2015.[278] The Law sets out the basic rules on citizenship including in relation to acquisition (Chapter II), termination (Chapter III), and the adoption of a child (Chapter IV). The bodies responsible for citizenship and their respective powers are detailed under Chapter V of the Law, whilst Chapter VI sets out the procedure for review of citizenship applications.

Chapter 1 of the Law sets out a number of basic provisions. Under Article 1 everyone in Uzbekistan has a right to nationality. No person may be deprived of citizenship or the right to change citizenship.[279] Article 2 of the Law goes on to explain that citizenship is to be equal for all "regardless of the grounds of its acquisition". All citizens are equal before the law irrespective of their origin, social and property status, race and nationality, sex, education, language, religion, political or other beliefs, type and nature of occupation or "other circumstances".[280]

275 *Ibid*., Article 135.

276 For more discussion on this point see section 3.6 of this report.

277 Some of these issues are discussed in more detail in later sections of this report. In particular, retention of the *propiska* system, which limits internal migration, severely undermines the right to equality, potentially discriminating against several groups. For a discussion of the *propiska* system and the restrictions on freedom of movement which it imposes, see section 3.3 of this report.

278 Law of the Republic of Uzbekistan on Citizenship of the Republic of Uzbekistan, Law No. 632-XII of 2 July 1992.

279 *Ibid.*, Article 1.

280 *Ibid*., Article 2. A similar list is applied in relation to Article 4(1), which provides that those individuals permanently residing in the Republic of Uzbekistan at the time of the Laws entry into force are to be considered citizens of the state.

This definition is wider than that provided under Article 18 of the Constitution, but is similarly restricted in scope to state citizens. This position contradicts established international standards. Article 26 ICCPR guarantees the right to equality before the law Lo "all persons".

Chapter 2 of the Law concerns acquisition of citizenship. In many respects, the rules regarding acquisition of citizenship under Uzbekistani law comply with international standards. There is no distinction in law made between men and women and the right to confer citizenship onto their children. Nor does the law make any distinction between children born in or out of wedlock. However, there are areas in which the law fails to ensure the rights of foreign and stateless persons.

Acquisition of Uzbekistani citizenship is limited to those children (i) born to two stateless parents who have a permanent right to reside in the state;[281] (ii) born to two nationals;[282] (iii) born to one national and a stateless person;[283] (iv) born to one foreign national and one national;[284] (v) born to unknown parents on the territory of Uzbekistan;[285] and (vi) those children born abroad to two Uzbekistani nationals.[286] Consequently, children born to stateless parents without a permanent right to reside in Uzbekistan have no automatic right to citizenship – potentially limiting their enjoyment of basic rights on an equal basis with nationals and fundamentally undermining the essence of Article 1 of the Law. Under Article 7 of the Convention on the Rights of the Child, children have a "right to acquire a nationality".[287] States are to ensure implementation of this right, "in par-

281 *Ibid*., Article 15.

282 *Ibid*., Article 13.

283 *Ibid*., Article 14.

284 *Ibid*., Article 14.

285 *Ibid.*, Article 16.

286 *Ibid*, Article 14. In the event that neither parent has a permanent place of residence in Uzbekistan, citizenship can only be conferred following the express written agreement of the parents. Commentators have noted that this requirement may increase the risk of statelessness for some children, in the event of a lack of parental agreement. See United Nations High Commissioner for Refugees, *Statelessness in Central Asia*, 2011, p. 12, available at: http://www.unhcr.org/4dfb592e9.pdf.

287 Convention on the Rights of the Child, 1577 U.N.T.S. 3, 1989, Article 7(1).

ticular where the child would otherwise be stateless".[288] Uzbekistani law falls short of this standard.[289]

For those individuals who do not meet the above criteria at birth, citizenship may be conferred by way of application. Article 17 of the Citizenship law sets out the conditions for gaining citizenship, and provides that applications within the State are to be considered "regardless of origin, race, nationality, sex, education, language, religion, political or other beliefs."[290] This is a closed list of grounds, excluding several characteristics such as disability, sexual orientation, gender identity, and health status. Consequently, the law does not provide adequate protection for such persons. The UN High Commissioner for Refugees has noted that, although citizenship may be conferred on stateless persons through ordinary naturalisation procedures, in practice "documentation requirements are cumbersome", with several criteria that need to be satisfied.[291] Some of these requirements are themselves discriminatory. For instance, while the adoption of a new law on Countering the Spread of the Disease caused by the Human Immunodeficiency Virus[292] removed the requirement for foreign and stateless persons to produce a certificate demonstrating that they do not have HIV/AIDS,[293] it appears that as part of the application process stateless persons applying for citizenship from abroad are still required to complete a survey indicating their health and HIV status.[294]

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288 *Ibid*., Article 7(2).

289 This position is also shared by the United Nations High Commissioner for Refugees who emphasised that while states are neither required to confer citizenship on all children descended from a citizen of, or born on the territory of, Uzbekistan, under the 1961 Convention on the Reduction of Statelessness citizenship must be conferred to a child born on state territory where that child would be stateless. See United Nations High Commissioner for Refugees, *Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1–4 of the 1961 Convention on the Reduction of Statelessness*, 2012, Para 29, available at: http://www.refworld.org/docid/50d460c72.html.

290 See above, note 278, Article 17.

291 See United Nations High Commissioner for Refugees, above, note 286, pp. 25–6.

292 Law of the Republic of Uzbekistan on Countering the Spread of the Disease caused by the Human Immunodeficiency Virus, Law No. ZRU-353 of 23 September 2013.

293 Law of the Republic of Uzbekistan on Prevention of Diseases Caused by the Human Immunodeficiency Virus (HIV), Law No. 816-I of 19 August 1999, Article 12 (repealed).

294 Presidential Decree on Regulations on the Procedure for Consideration of Issues Related to the Citizenship of the Republic of Uzbekistan, Decree No. UP-500 of 20 November 1992, Chapter II(b)(1).

Although Article 44 of the law allows for appeals against rejected citizenship applications on the basis of illegal official action or an unjustified refusal to accept an application, it is not immediately clear from the Law whether this provision would include allegations of discrimination under Article 17, nor what the burden of proof would be in such a case.

Education Law

The primary piece of legislation governing education standards in Uzbekistan is the Law on Education,[295] adopted in 1997 and most recently amended in 2013. The law sets out the basic framework for education and includes provisions on types of education and management of the education system.

Article 3 of the Law provides for compulsory general secondary and specialised secondary education, which is listed as a "basic principle of state policy." However, in practice, certain groups appear to be excluded from the education system. Research conducted for this report suggests that Lyuli children experience discrimination in the classroom and are not required to attend classes by teachers.[296]

Article 4 of the Law declares the right to equality in education. Accordingly, "everyone is guaranteed equal rights to education, regardless of gender, language, age, race, nationality, creed, religion, social origin, occupation, social status, place of residence, and length of residence in the territory."[297] This is a closed list of grounds and does not meet the requirements of international law.[298] Article 2(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) obliges states to ensure Covenant rights, including the right to education, without discrimination of any kind.[299]

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295 Law on Education of the Republic of Uzbekistan, Law No. 464-I of 29 August 1997.

296 Also referred to as "Central Asian Gypsies". See section 3.2.1 of this report for further discussion.

297 See above, note 295, Article 4.

298 For instance, Article 2(2) of the International Covenant on Economic, Social and Cultural Rights provides a non-exhaustive list of characteristics. This provision has been interpreted by the Committee on Economic, Social and Cultural Rights as including several grounds excluded from Article 4 of the Law on Education such as sexual orientation and disability. See International Covenant on Economic, Social and Cultural Rights, 993 U.N.T.S. 3, 1966, Article 2(2), and Committee on Economic, Social and Cultural Rights, above, note 133, Paras 28 and 32.

299 *Ibid*., Articles 2(2) and 13.

Article 4 of the Law on Education further provides that "stateless persons, residing in the country, have equal rights with citizens of the Republic of Uzbekistan to receive an education."[300] Ensuring equal access to stateless persons within the state is in line with international best practice which requires that education be available and accessible to all.[301]

Article 23 of the Law provides for the education of children and adolescents with disabilities in physical or mental development, ensuring the establishment of specialised educational institutions.[302] As discussed above, the exclusion of persons with disabilities from the general education system in Uzbekistan has been criticised. Such persons are often placed into specialised institutes of learning and segregated from the community.

The Law on Education does not provide specific remedies in the event of a breach, nor the process of achieving redress in the event of a violation of Article 4. Under Article 34 of the Law, "[p]ersons guilty of violating the law on education [shall] bear responsibility in accordance with the established procedure." This procedure is not elaborated upon, and it is unclear whether it extends to a breach of the right to equality.

Family Law

Family Law is governed by the Family Code[303] which was adopted in 1998 and most recently amended in 2014. The Code regulates several matters relating to the family including marriage, divorce, parental and minor rights, alimony, guardianship and child care, and civil registration. Section VIII of the Code regulates the family rights of foreign and stateless persons.

The Family Code sets out several guarantees of equality. Under Article 3, all citizens are to have equal rights in family relations. The "direct or indirect restriction of rights, the establishment of direct or indirect advantages for marriage or interference in family relations on the ground of sex, race, nation-

300 See above, note 295, Article 4.

301 See Convention on the Rights of the Child, above, note 287 Article 28.

302 See above, note 295, Article 23. See also, Article 24 of the Law which contains a similar guarantee for students in need of "social assistance and rehabilitation."

303 See above, note 106.

ality, language, religion, social origin, beliefs or personal or social status, and other circumstances" is prohibited.[304] This provision only applies to citizens. However, Article 234 of the Code provides that "foreign citizens and stateless persons permanently residing in the Republic of Uzbekistan, are in its territory entitled to the same rights and obligations in family relations as citizens of the Republic of Uzbekistan."[305] The ambit of Article 3 would consequently extend beyond state citizens.

Article 19 of the Code provides for the equality of spouses in marriage.[306] However, the definition of marriage is prescriptive, only extending to heterosexual unions between men and women.[307] As a result, lesbian, gay and bisexual couples are denied the right to marriage; limiting access to many of the spousal protections provided within the Act and Uzbekistani law more broadly.[308]

Article 71 of the Code provides for the equal rights and responsibilities of parents.[309] Similarly, under Article 97, parents have an equal responsibility to pay child maintenance and responsibilities for adult children with disabilities.[310] Individuals who fail to pay alimony to their disabled children following a court decision may have their children taken away,[311] and potentially face prosecution under Articles 122 and 123 of the Criminal Code.[312]

Health Law

Uzbekistani health law is primarily regulated by the Law on the Protection of Public Health.[313] The Law was adopted in 1996 and most recently amend-

304 *Ibid*., Article 3.

305 *Ibid*., Article 234.

306 *Ibid*., Article 19.

307 *Ibid*., Article 2.

308 See section 3.5 of this report for further discussion.

309 *Ibid*., Article 71.

310 *Ibid*., Article 97.

311 *Ibid*., Article 79.

312 See Criminal Code of the Republic of Uzbekistan, above, note 105, Articles 122 and 123.

313 Law of the Republic of Uzbekistan on the Protection of Public Health, Law No. 265-I of 29 August 1996.

ed in 2010. The Law is responsible for regulating the healthcare system, including individuals' right to healthcare, medical and social assistance, and medical examinations.

Under Article 13 of the Law, the right to health is inalienable. The state is required to provide access to healthcare for all citizens, irrespective of age, sex, race, nationality, language, attitude towards religion, social origin, beliefs or individual or social status.[314] Additionally, under the same Article, the state is required to guarantee citizens protection from discrimination "irrespective of whether they have any form of disease".[315] Article 13 only guarantees the right of citizens to healthcare. Under Article 14, foreign persons on Uzbekistan's territory are to be guaranteed the right to health, in line with Uzbekistan's international treaty obligations.[316] Stateless persons who are permanently resident in Uzbekistan are to be afforded the same health rights as citizens, which would include the right to non-discrimination.[317] In these respects, the Law is welcome.

A violation of Article 13 may result in criminal liability under Article 141 of the Criminal Code, including a potential deprivation of rights for up to three years, correctional labour for up to two years, or a fine of up to 50 minimum monthly wages.[318] As discussed above, criminal sanctions are an inappropriate response to discrimination in all but a few narrowly defined circumstances. Moreover, the guarantee of equality under the Law on the Protection of Public Health is undermined by separate Uzbekistani legislation which criminalises HIV transmission and imposes discriminatory requirements of mandatory testing.[319]

Where a person's health has been damaged, including as the result of an illegal action, they are to be afforded compensation. The procedure for compensation is detailed under Articles 1005–1016 of the Civil Code, which establishes the rules for determining the quantum of damages and manner of

314 *Ibid*., Article 13.

315 *Ibid*.

316 *Ibid*., Article 14.

317 *Ibid*.

318 *Ibid*., Article 13.

319 See section 3.7 of this report for further discussion.

payment. Under Article 47 of the Law on Health, "the actions of state bodies and officials that infringe the rights and freedoms defined in [the] Act may be appealed to (...) the courts."

Equality and Non-Discrimination Provisions in Other Legal Fields

Law on the State Language[320]

The Law on the State Language, as amended, designates Uzbekistani the national language. However, Article 2 provides that this designation shall "not infringe the constitutional rights of nations and nationalities living in the republic, in the use of their native language."[321] The Law contains several provisions providing for the right of individuals to use their own language. For instance, under Article 6, individuals are permitted to choose the language of their instruction in general, vocational, special secondary and higher education.[322] Laws of the Republic are to be adopted and published in Uzbekistani.[323] In practice, however, the majority of laws are written in Russian.

Under Article 11 of the Law, individuals whose first language is not Uzbekistani, or the language of the majority of the population in areas where judicial proceedings are conducted in a different language, are afforded the use of an interpreter and are to be allowed the right to speak their native language in court. Under Article 17, publishing is to be carried out in the state language, "and according to the needs- in other languages". This is a welcome provision. However, in practice, some minority language publishers have been denied registration status inhibiting the implementation of this right.[324] Finally, Article 24 of the Law prohibits "contemptuous or hostile attitudes to the state or other languages", providing that individuals who impede the right to free

320 Law of the Republic of Uzbekistan on State Language, Law No. 3561-XI of 21 October 1989, as amended by the Law of the Republic Of Uzbekistan on Amendments and Supplements to the Law "On the State Language of the Republic Of Uzbekistan", Law No. 167-I of 21 December 1995.

321 *Ibid*., Article 2.

322 *Ibid*., Article 6.

323 *Ibid*., Article 8.

324 See section 3.3 of this report.

choice of language are to be held liable under law.[325] Although the protection of language rights is positive, reference to "contemptuous or hostile attitudes" is too broad and may legalise violations of the right to freedom of expression.

Law on Freedom of Conscience and Religious Organisations[326]

The Law on Freedom of Conscience and Religious Organisations contains several provisions relating to the right to freedom of religion. Under Article 1 of the Law, all persons are to be ensured the right to freedom of conscience. The equality of citizens regardless of their attitude to religion is to be guaranteed.[327] This right is further elaborated under Article 4, which provides that any individual who restricts the rights or establishes direct or indirect advantages onto citizens "based on their attitude to religion"; or who incites hatred or insults "the feelings of citizens because of their religious or atheistic beliefs" shall be held liable under law.[328]

As explained in relation to the Criminal Code above, this provision is broadly drafted with the potential for arbitrary application. Despite Article 1 of the Law purporting to protect freedom of conscience, in fact only a narrowly defined set of religious beliefs are permitted by the state, which oppressively targets members of minority religious groups through the discriminatory application of existing legal provisions.[329]

2.3 Enforcement and Implementation

The above section offers a non-exhaustive overview of the main laws and legal provisions designed to protect the right to equality and non-discrimination in Uzbekistan. However, the effectiveness of such guarantees is dependent on how they are enforced and implemented in practice. This section

325 See above, note 195, Article 42.

326 Law of the Republic of Uzbekistan on Freedom of Conscience and Religious Organisations, Law No. 289-XII of 14 June 1991, as amended by Law of the Republic of Uzbekistan on Amendments and Supplements to the Law of the Republic Of Uzbekistan "On Freedom of Conscience and Religious Organisations", Law No. 618-I of 1 May 1998.

327 *Ibid*., Article 1.

328 *Ibid*, Article 4.

329 See section 3.1 of this report.

focuses on enforcement and implementation mechanisms; examining judicial independence, national human rights mechanisms, access to justice, legal aid, evidentiary issues and domestic remedies. Although several laws declare the right to equality and non-discrimination, there is little provision for their implementation or enforcement.

2.3.1 Uzbekistani Legal System

The Judiciary

The basic structure of the Uzbekistani court system is set out under Article 107 of the Constitution. The Judicial system comprises the Constitutional Court of the Republic; the Supreme Court, Higher Economic Court; Supreme Courts of the Republic of Karakalpakstan; the Economic Court of Karakalpakstan; regional and Tashkent city courts; inter-district, district and city courts; martial; and economic courts.[330]

The Constitutional Court is responsible for determining the constitutionality of legislation and acts of executive bodies,[331] including resolutions of the chambers of the Oliy Majlis, Presidential decrees, and government and local authority regulations and enactments.[332] Decisions of the Constitutional Court are binding on all persons, including public bodies, officials and citizens.[333] Applications to the Court may only be made by those bodies and individuals listed under Article 19 of the Law on the Constitutional Court.[334] Under the Law on the Constitutional Court of the Republic of Uzbekistan, the Constitutional Court is to comprise a Chairman, Deputy Chairman and five judicial members including a judge from the Republic of Karakalpakstan.[335]

330 See above, note 99, Article 107.

331 *Ibid.*, Article 108.

332 *Ibid.*, Article 108. See also Law of the Republic of Uzbekistan on the Constitutional Court of the Republic of Uzbekistan, Law No. 103-I of 30 August 1995, Article 1.

333 *Ibid.*, Law of the Republic of Uzbekistan on the Constitutional Court, Article 9.

334 *Ibid.*, Article 19. See also Part 2.3.2, below.

335 *Ibid.,* Law of the Republic of Uzbekistan on the Constitutional Court of the Republic of Uzbekistan, Article 2.

The Supreme Court of Uzbekistan is the "supreme judicial body of civil, criminal and administrative proceedings",[336] exercising both appellate and original jurisdiction.[337] Its decisions are binding on all bodies across Uzbekistan.[338] The Supreme Court is composed of a Chairman, First Deputy Chairman, and Deputy Chairman; Chairmen of the judicial boards and judges of the Supreme Court.[339] The structure of the Court is detailed under Article 14 of the Law on Courts and consists of the Plenum of the Supreme Court (the highest Court); the Presidium of the Supreme Court; a Judicial Board on civil cases; a Judicial Board on criminal cases; and the Military Collegium.[340] Beyond its adjudicatory function, the Supreme Court oversees the work of lower courts.[341]

Judicial Independence

Under Article 14 of the ICCPR, equality before the law is to be guaranteed.[342] Crucial to this provision is the requirement of a hearing before an "independent and impartial tribunal".[343] The Constitution of Uzbekistan contains several safeguards designed to guarantee the independence of the courts. Article 106 requires the separation of judicial, legislative and executive power,[344] while interference in the work of the courts is prohibited.[345] Members of the judiciary are to be guaranteed immunity and may only be removed from office on grounds specified by law. Judges are prohibited from taking political positions in government, joining political parties or participating in political movements.[346]

336 See above, note 99, Article 110.

337 Law of the Republic of Uzbekistan on Courts, Law No. 924-XII of 2 September 1993, as amended by the Law of the Republic of Uzbekistan on Making Amendments and Addenda to the Law of the Republic of Uzbekistan "On Courts", Law No. 162-II of 14 December 2000, Article 13.

338 See above, note 99, Article 110.

339 See above, note 337, Article 14.

340 *Ibid*.

341 *Ibid*., Article 13.

342 See International Covenant on Civil and Political Rights, above, note 133, Article 14.

343 *Ibid*.

344 See above, note 99, Article 106.

345 *Ibid*., Article 112.

346 *Ibid*. Similar guarantees are made in respect of the Constitutional Court. See *ibid*., Article 108.

While Uzbekistani law ostensibly seeks to protect the independence of the judiciary,[347] legal guarantees are not ensured in practice. In 2016, Freedom House afforded Uzbekistan its lowest rating in respect of Rule of Law observance, noting that the judiciary "is subservient to the president, who appoints all judges and can remove them at any time".[348] Concerns regarding the independence of the courts have been raised by several UN treaty bodies, including the Human Rights Committee,[349] the Committee against Torture,[350] the Committee on the Elimination of Racial Discrimination,[351] and the Committee on Economic, Social and Cultural Rights.[352] These concerns are rooted in a weak legal framework that undermines judicial independence in practice by allowing the executive undue influence in the appointment and tenure of judges and administration of the courts.

i) Judicial Appointments

The process of judicial appointments, and the level of executive influence involved, differs between courts, with separate appointment procedures established for members of the Constitutional, Supreme and lower courts.

Members of the Constitutional Court are elected by the Senate of the Oliy Majlis after nomination bythe President.[353] The same procedure applies to Supreme Court judges.[354] Constitutional court members are to be elected from among "political and legal scholars,"[355] and must possess Uzbekistani citizen-

347 For example, see above, note 99, Articles 11, 106 and 112; note 338, Articles 4 and 67; and the Law of the Republic of Uzbekistan on the Constitutional Court of the Republic of Uzbekistan, note 333, Article 5.

348 Freedom House, *Freedom in the World 2016: Uzbekistan*, 2016, available at: https://freedomhouse.org/report/freedom-world/2016/uzbekistan.

349 See Human Rights Committee, above, note 134, Para 21.

350 Committee against Torture, *Concluding Observations: Uzbekistan,* UN Doc. CAT/C/UZB/CO/4, 10 December 2013, Para 21.

351 Committee on the Elimination of Racial Discrimination, *Concluding Observations: Uzbekistan,* UN Doc. CERD/C/UZB/CO/8-9, 14 March 2014, Para 7.

352 See Committee on Economic, Social and Cultural Rights, note 153, Para 6.

353 See Law of the Republic of Uzbekistan on the Constitutional Court of the Republic of Uzbekistan, note 333, Article 2.

354 See above, note 337, Article 63.

355 See above, note 99, Article 108.

ship, "high moral qualities", necessary skills for the position, and be over 30 years of age.[356] Supreme Court nominees require a law degree, Uzbekistani citizenship, and at least 10 years legal experience, of which (as a rule) not less than five must have been as a judge.[357]

There is a lack of transparency regarding the way in which Supreme and Constitutional Court judges are nominated and appointed in Uzbekistan. Neither the Law on Courts, the Law on the Constitutional Court, or the Constitution of Uzbekistan specify how Supreme and Constitutional Court judges are to be nominated to the position.[358] In relation to Supreme Court Judges, it appears as though the President acts following consultation with the Higher Commission for the Selection and Recommendation of Judges.[359] Whether the Commission plays a similar role in the nomination of Constitutional Court judges is unclear. Nevertheless, given many of the concerns raised regarding executive influence over the legislature,[360] the central role of the President in nominating Supreme and Constitutional Court judges is concerning. At a minimum, the lack of transparency in the nomination and appointment process may negatively affect the appearance of judicial independence – a key component of the rule of law.

Lower court judges, including regional, Tashkent city courts, inter-district, and district (city) courts are appointed by the President on the recommendation of the Higher Qualification Commission.[361] The Commission is made up of a range of individuals, including "representatives of the Senate and the Leg-

356 See Law of the Republic of Uzbekistan on the Constitutional Court of the Republic of Uzbekistan, note 333, Article 12.

357 See above, note 337, Article 61.

358 Although a 2013 Presidential Decree makes clear that the Higher Commission for Selection and Recommendation of Judges is involved in recommending candidates for Supreme Court positions. See Presidential Decree on Improving the Activity of the High Qualification Commission for Selection and Recommendation of Judges under the President of the Republic Of Uzbekistan, Decree No. P-3949 of 29 December 2012, Para 6.

359 In Uzbekistan's most recent report to the Human Rights Committee, the State claimed that the Higher Commission for the Selection and Recommendation of Judges plays "a key role" in selecting and recommending candidates for Supreme Court positions. See Human Rights Committee, *Fourth Periodic Report: Uzbekistan*, UN Doc. CCPR/C/UZB/4, 30 October 2013, Para 566.

360 See sections 1.5 and 3.3 of this report for discussion of the respective roles of the President and the legislature.

361 See above, note 337, Article 63.

islative Chamber of the Oliy Majlis, the Supreme Court, the Higher Economic Court, the Ministry of Justice, the Ministry of Internal Affairs and the Office of the Procurator-General, [and] other highly qualified legal specialists and representatives of the community."[362] The Committee is made up of a total of 17 members, who are appointed by the President.[363] As there do not appear to be any criteria in law for the selection of Commission members, given the predominant inclusion of political representatives, there is a risk of executive influence in the Commission's composition and decision-making.

ii) Judicial Tenure and Removal of Judges

Judges in Uzbekistan are appointed for a period of 5 years.[364] Judicial salaries are determined on a pay scale and set out in separate legislation.[365] The process of removing judges differs between courts. Under Article 71 of the Law on Courts, judicial powers may be suspended upon the proposal of the Higher Qualification Commission by the President of Uzbekistan.[366] Under Article 72 of the same law, the powers of a Supreme Court judge may be terminated prematurely by the Senate of the Oliy Majlis on the proposal of the President of the Republic of Uzbekistan. For lower courts, the President is responsible for termination upon the proposal of the Higher Qualification Commission.[367] The powers of a Constitutional Court judge may be terminated early by a resolution of the Senate.[368]

Although both the Law on Courts and the Law on the Constitutional Court contain important guarantees in the event of suspension of judicial powers (such as the continuation of salary), judicial tenure is not effectively guaran-

362 See above, note 359, Para 567.

363 See above, note 358, Para 29.

364 See above, note 337, Article 63; Law of the Republic of Uzbekistan on the Constitutional Court of the Republic of Uzbekistan, note 333, Article 3.

365 See above, note 337, Article 75. See also, Presidential Decree on Measures for the Fundamental Improvement of the Social Protection of Judicial System Workers, Decree No. UP-4459 of 2 August 2012.

366 See above, note 337, Article 71.

367 *Ibid*., Article 72.

368 See Law of the Republic of Uzbekistan on the Constitutional Court of the Republic of Uzbekistan, note 333, Article 18. Article 17 of the law concerns the suspension of judicial powers.

teed in Uzbekistan. The grounds for suspension or premature termination of judicial power are broadly drafted (for instance, engagement in activities incompatible with his position)[369] and liable to abuse. Considering its potential exposure to executive influence, the role of the Higher Qualification Commission in suspensions and termination is also concerning. However, the greatest risk to judicial independence concerns the 5 year renewable contract for judges. This provision undermines the requirement of judicial tenure, as expressed under the Basic Principles on the Independence of the Judiciary.[370] In 2002 the American Bar Association found evidence that the 5 year term limit for judges had been abused by government, who would refuse to reappoint judges that had issued judgments unfavourable to government:

> *[M]ost judges interviewed articulated the need for longer terms of service. Several judges and lawyers noted that a judge who had rendered decisions against the government interest would not be re-appointed, and that judges whose opinions were frequently appealed ("protested") by the procuracy would either be removed or at the very least not re-appointed.*[371]

Several treaty bodies have urged Uzbekistan to ensure judicial tenure, with the Committee on Economic, Social and Cultural Rights recommending the introduction of "the principle of the irremovability of judges", and the establishment of "an independent body responsible for the appointment, promotion, suspension and removal of judges".[372]

In October 2016, a Presidential Decree on further reform of the judicial system was adopted.[373] The reported purpose of the decree is to increase the

369 For instance, see above, note 337, Article 71.

370 The Basic Principles on the Independence of the Judiciary were endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985. See United Nations General Assembly, Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, G.A. Res. 40/32, 1985; the United Nations General Assembly, Human rights in the administration of justice, G.A. Res. 40/146, 1985. See also note 351, Para 21.

371 American Bar Association, *Judicial Reform Index for Uzbekistan*, 2002, pp. 20-21, available at: http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan017570.pdf.

372 See Committee on Economic, Social and Cultural Rights, above, note 152, Para 6.

373 Presidential Decree on Measures to Further Reform the Judicial System, Strengthening Guarantees for Protection of the Rights and Freedoms of Citizens, Decree No. UP-4850 of 21 October 2016.

independence of the judiciary, which will be achieved, *inter alia*, through the adoption of new regulations allowing for the appointment of judges on staggered five, ten, and subsequently limitless term limits.[374] Although this is a positive development, it is questionable whether the measures go far enough to protect the judiciary from executive influence. As discussed by the Bingham Centre for the Rule of Law:

> *Renewable fixed-term appointments are particularly problematic, as they may place the career interest of a judge at odds with the judicial responsibility for upholding the rule of law in cases involving the government or other powerful persons who may have influence over the renewal decision. Such conflicts of interest may pose a risk to both the actual and perceived independence of the judiciary.*[375]

Even with the possibility of future tenure, in the short-term at least, judges will continue to be inhibited by the possibility of not having their contract renewed.

Human Rights Commissioner

The role of Human Rights Commissioner (the Ombudsperson) was established in 1997 through the adoption of the Law on the Commissioner of the Oliy Majlis for Human Rights.[376] The Commissioner is elected by Parliament following nomination by the President. The Ombudsperson holds term for five years[377] and is charged with examining complaints of citizens, foreign and stateless per-

374 Azizov, D., "Uzbekistan Reforming Judicial System", *Trend News Agency,* 23 October 2016, available at: http://en.trend.az/casia/uzbekistan/2675899.html.

375 Bingham Centre for the Rule of Law, *The Appointment, Tenure and Removal of Judges under Commonwealth Principles. A Compendium and Analysis of Best Practice*, 2015, p. 65, available at: http://thecommonwealth.org/sites/default/files/press-release/documents/Compendium%20on%20Judicial%20Appt%20Tenure%20and%20Removal%20in%20the%20Commonwealth.pdf.

376 See Law of the Republic of Uzbekistan on the Commissioner of the Oliy Majlis for Human Rights (Ombudsperson), Law No. 392-I of 24 April 1997, as amended by the Law of the Republic of Uzbekistan on Amendments and Supplements to the Law of the Republic of Uzbekistan "the Commissioner of the Oliy Majlis for Human Rights (Ombudsperson)", Law No. 669-II of 27 August 2004.

377 *Ibid*., Article 3.

sons following an alleged violation of their rights.[378] Third parties are permitted to submit complaints to the Ombudsperson, including NGOs, provided that that the person about whom the complaint concerns gives their consent.[379]

The Ombudsperson has a number of responsibilities under the Law, including:

i) to consider a complaint;
ii) to show the complainant ways and methods how he could protect his rights;
iii) to forward the complaint to the state agency/institution/official who is competent to settle the issue;
iv) to provide the complainant with the access to documents, decisions and other materials relating to his rights and legal interests;
v) to reject a complaint/application and indicate reasons;
vi) to take other measures, according to the legislation.[380]

The powers of the Ombudsperson in conducting an investigation are specified under Article 14 of the Law.

i) seek assistance from state agencies/institutions/officials in investigation of circumstances to be clarified;
ii) invite representatives of organisations and officials to investigate the circumstances to be clarified. The investigation may not be assigned to the agency whose actions/absence of action are in question;
iii) freely visit state agencies and meet with officials;
iv) request, examine, copy, receive from state agencies/institutions/officials information, materials;
v) receive explanations from officials;
vi) assign the conduct of examinations and assessment of issues to be investigated to competent state agencies and specialists;

378 *Ibid*., Article 10. The term 'rights' is not further defined. However, under Article 2 of the Law, the 'legal basis of the Ombudsperson's activities', the Ombudsperson is said to be guided by the Constitution, legislation, international treaties of the Republic of Uzbekistan, and generally recognised principles and norms of international law. Consequently, it appears as though complaints founded on a breach of any right provided for by law may be brought by citizens. See *Ibid*., Article 2.

379 *Ibid*.

380 *Ibid*., Article 13.

vii) participate in examinations jointly with state agencies/institutions/officials and on his own with respect to rights, freedoms and legal interests of citizens;
viii) have interviews with anyone in detention/custody;
ix) resort to competent bodies in order to bring to responsibility persons who have violated human rights.

Materials obtained during investigations as well as personal information about the complainant and other persons cannot be disclosed without their consent.[381]

In its 2013 report to the Human Rights Committee, Uzbekistan provided some statistics on the work of the Commissioner. The Commissioner received 7,124 communications in 2010, compared to 7,134 in 2011 and 7,658 in 2012. Of those received in 2010, "3,531 regard[ed] the observance and defence of personal rights and 2,951 regard[ed] safeguards for social and economic rights". The following year, a greater number of complaints regarding a violation of personal rights were documented (3,889 compared to 2,380 complaints regarding social and economic rights). In 2012 that number rose again.[382] In 2010 "a positive decision" was reached in 663 cases. This number reduced in 2011 to just 607.[383] The relatively low rate of cases positively addressed by the Commissioner may be explained by the lack of legal power possessed to ensure the enforcement of rights. In comments made to the Committee on the Rights of the Child, Uzbekistani NGOs have highlighted that "the Ombudsperson's activity is declarative and of no importance to the human rights protection in Uzbekistan".[384]

National Centre for Human Rights

The National Centre for Human Rights was established through a decree of the President in 1996.[385] The responsibilities of the Centre are diverse and

381 *Ibid*., Article 14.

382 See above, note 359, Para 79.

383 *Ibid*., Para 80.

384 Uzbek Bureau for Human Rights and Rule of Law, *Submission to the Committee on the Rights of the Child on Uzbekistan*, 2013, p. 4, available at: http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/UZB/INT_CRC_NGO_UZB_13844_E.pdf.

385 Presidential Decree on the Establishment of the National Centre of the Republic of Uzbekistan for Human Rights, Decree No. UP-1611 of 31 October 1996.

include such activities as the development of national reports, action plans, and recommendations for state bodies on the observance and protection of human rights; the promotion and coordination of community initiatives; publication of materials; and organisation of scientific research on the promotion and protection of human rights.[386] The Centre does not have any direct involvement in the legal system for enforcing human rights.

Several UN Treaty Bodies have issued recommendations regarding the role of the Human Rights Ombudsperson and the National Centre for Human Rights, with the UN HRC, CERD and CESCR all noting that these institutions are incompliant with the principles relating to the status of national institutions (the Paris Principles);[387] recommending that Uzbekistan strengthen "the institution of the Parliamentary Ombudsperson, and to take steps for its accreditation by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights".[388]

2.3.2 Enforcement

States do not meet their obligation to protect people from discrimination by simply prohibiting discrimination in the law. They must also ensure that the rights to equality and non-discrimination are effectively enforced in practice. This means that, in addition to improving legal protection from discrimination, Uzbekistan must also put in place mechanisms which guarantee victims of discrimination effective access to justice and appropriate remedies. According to Principle 18 of the Declaration of Principles on Equality:

> *Persons who have been subjected to discrimination have a right to seek legal redress and an effective remedy. They must have effective access to judicial and/or administrative procedures, and appropriate legal aid for this purpose. States must not create or permit undue obstacles, including financial obstacles or restrictions*

386 About the Organisation of Activity of the National Centre for Human Rights, Cabinet of Ministers Resolution No. 399 of 13 November 1996, Annex I, Para 3.

387 See Human Rights Committee, above, note 134, Para 5; note 352, Para 23; Committee on Economic, Social and Cultural Rights, note 153, Para 7.

388 *Ibid*., Committee on Economic, Social and Cultural Rights.

> *on the representation of victims, to the effective enforcement of the right to equality.*[389]

This means that, besides improving the national regulatory framework in the field of non-discrimination and equality, Uzbekistan is obliged to provide effective remedies for violation of the rights to equality and non-discrimination.

Access to Justice

Access to justice is a tenet of international human rights law[390] and will only be realised where victims of discrimination are able to seek redress unhindered by undue procedural burdens or costs. Remedies must be "accessible and effective"[391] and legal aid must be provided where necessary. Rules on standing, which allow organisations to act on behalf, or in support, of victims of discrimination are particularly important in overcoming the disadvantages faced by individuals in the justice system. It is also important to allow groups of victims who have experienced similar discriminatory treatment to bring claims on behalf of a group, if the systemic nature of discrimination is to be effectively addressed. Access to justice in Uzbekistan is regulated by the Constitution and other legislation.

Access to Justice under the Constitution

As discussed in section 2.2.1 above, the Constitution espouses a number of broad principles and rights. Although it leaves the operation and implementation of such rights as predominantly a matter for legislation, the Constitution contains several provisions relevant to access to justice.

Under the Constitution, court proceedings are to be carried out in public.[392] Verdicts bind all state bodies, public associations, enterprises, institutions, organisations, officials and citizens.[393] Proceedings are to be conducted in Uzbekistani, Karakalpakani or the locally predominant language. Those in-

389 See above, note 135, Principle 18.

390 See International Covenant on Civil and Political Rights, above, note 133, Article 2.

391 See Human Rights Committee, above, note 242, Para 15.

392 See above, note 99, Article 113.

393 *Ibid*., Article 114.

dividuals involved in the case who do not speak the language used in court are afforded the right to participate through the use of an interpreter.[394] The right to judicial protection of rights and freedoms is set out in Article 19 of the Constitution:

> *A citizen of the Republic of Uzbekistan and the state shall be bound by mutual rights and mutual responsibility. Citizens' rights and freedoms, established by the Constitution and laws, shall be inalienable. No one shall have the right to deprive or limit them without a court.*[395]

Under Article 109 of the Constitution, the Constitutional Court has the mandate to officially interpret the Constitution.[396] Judgments of the Court are final and not subject to appeal.[397] While the Constitution does not detail the procedure for submitting questions to the Court, provision is made under Article 19 of the Law on the Constitutional Court, which restricts the right to a set list of individuals and bodies.[398] According to Article 19, applications to the court are limited to the head of the Legislative Chamber of the Oliy Majlis; the President of the Republic of Uzbekistan; the Speaker of the Legislative Chamber of the Oliy Majlis; the President of the Senate of Oliy Majlis; the Jokargy Kenes of Karakalpakstan; (at least) one-fourth of the total number of deputies of the Legislative Chamber of Oliy Majlis or Senate; the Chairman of the Supreme Court; the Chairman of the Supreme Economic Court; and the Attorney General of the Republic of Uzbekistan.[399] Additionally, the Constitutional Court may examine a question of constitutionality on its own initiative with the agreement of three members of the Court.[400]

394 *Ibid*., Article 115.

395 *Ibid*., Article 19.

396 *Ibid*., Article 109.

397 *Ibid*.

398 See Law of the Republic of Uzbekistan on the Constitutional Court of the Republic of Uzbekistan, note 333, Article 19.

399 *Ibid*.

400 *Ibid*.

Access to Justice under Legislation

Discrimination in employment is prohibited under Article 6 of the Labour Code.[401] Any person who believes that they have been subject to discrimination is entitled to apply to the court for the "elimination of discrimination" and material and moral compensation.[402] Where an individual has been unlawfully deprived of the right to work or "in other instances" an employer is required to compensate the employee for loss of earnings.[403] This may be interpreted to include instances of discrimination. Chapter 21 of the Civil Procedure Code considers the procedure to be followed in claims arising from civil and labour relations (action proceedings).[404] Claims relating to the restoration of labour rights may be filed by the plaintiff at their place of residence.[405] Where the Court holds that an employment contract was illegally terminated, the individual responsible for that may be asked to compensate the company for damage caused to it, through a loss of earnings.[406]

Under Article 1 of the Civil Procedure Code "any interested person is entitled, in the manner prescribed by law, to apply to the court for protection of violated or disputed rights or legally protected interest."[407] Article 48 of the Civil Procedure Code provides that in certain situations, stipulated by law, government, organisations and individual citizens have the right to appeal to the court to protect the rights and lawful interests of other persons.[408] This provision applies to several bodies, including trade union organisations,[409] and registered non-state non-profit organisations, which are permitted the

401 See above, note 104, Article 6.

402 *Ibid*. See also, Supreme Court Plenum Ruling on Some Issues of Application of the Law on Compensation for Moral Damage, Judgment No. 7 of 28 April 2000.

403 *Ibid*., Article 188.

404 See above, note 205, Chapter 21.

405 *Ibid*., Article 241.

406 *Ibid*., Article 259.

407 *Ibid*. This provision sets out the basic right to civil protection from the unlawful conduct of state authorities, providing that "e*ach individual, in accordance with the Constitution of the Republic of Uzbekistan, shall be guaranteed judicial protection of his rights and freedoms, the right to appeal any unlawful action of state bodies, officials and public associations".*

408 *Ibid*., Article 48.

409 See, for instance, Law of the Republic of Uzbekistan on the Protection of Labour, Law No. 839-XII of 6 May 1993, Article 24.

right to "represent and protect the rights and legitimate interests of its members and participants."[410] In relation to a violation of Constitutional or other legal rights, citizens who believe that their rights have been violated may file a complaint in court. The complaint may be submitted by the victim, his or her agent, or "at the request of a duly established representative of public organizations, the labour collective".[411]

Rules on standing which allow organisations to act on behalf, or in support, of victims of discrimination are important in overcoming the disadvantages faced by individuals in the justice system. It is also important to allow groups of victims who have experienced similar discriminatory treatment to bring claims as a group, if the systemic nature of discrimination is to be effectively addressed. Principle 20 of the Declaration of Principles on Equality, states that:

> *States should ensure that associations, organisations or other legal entities, which have a legitimate interest in the realisation of the right to equality, may engage, either on behalf or in support of the persons seeking redress, with their approval, or on their own behalf, in any judicial and/or administrative procedure provided for the enforcement of the right to equality.*[412]

NGOs and other third parties can make valuable contributions to the discussion of issues before the court. This is particularly true in connection with the application and understanding of international human rights law norms, such as the right to equality. As discussed above, the courts in Uzbekistan rarely invoke or discuss international human rights law obligations; NGOs and other organisations seeking to make submissions in the public interest can help develop the capacity of national courts to understand and apply these norms enhancing Uzbekistan's compliance with its international treaty obligations.

410 Law of the Republic of Uzbekistan on Non-State Non-Profit Organisations, Law No. 763-I of 14 April 1999.

411 Law of the Republic of Uzbekistan on Complaints against Actions and Decisions Violating the Rights and Freedoms of Citizens, Law No. 108-I, 30 August 1995, Article 4.

412 See above, note 135, Principle 20.

While the above provisions would appear to suggest that third parties may intervene in civil disputes, the extent to which they are able to do so is unclear. Restrictions on the registration and organisation of civil society in Uzbekistan ensure a lack of independent groups with the capacity to effectively advocate on behalf of victims.[413] Since independence, independent civil society has given way to government organised non-governmental organisations (GONGOs). Such groups, while officially separate from government, retain close links and may therefore be unwilling to intervene in politically contentious cases.[414]

For those individuals accused of a criminal offence relating to discrimination (such as Articles 141 and 156), the Code of Criminal Procedure establishes a number of procedural guarantees. For instance, under Article 46, accused persons have a right to know the charges brought against them and to inform a lawyer or relative of their location.[415] Detainees are guaranteed the right to meet with their defence counsel. The number of visits permitted is unrestricted (subject to Article 230 of the Code).[416] However, in practice these guarantees are not ensured. Human rights organisations have noted several examples of individuals being refused the opportunity to contact a lawyer or relative;[417] while UN Treaty bodies have expressed concern regarding "the failure of the State party in practice to afford all persons deprived of their liberty with all fundamental legal safeguards from the very outset of detention."[418] In particular, a lack of access to legal aid and legislative amendments inhibiting the independence of lawyers, compromise access to justice for those accused of crimes.[419]

413 See section 3.3 of this report.

414 *Ibid*.

415 See above, note 231, Article 46. Last amended?

416 *Ibid*. For a more in-depth overview see Uzbekistan's reply to the Committee against Torture in 2014. Committee against Torture, *Concluding Observations: Uzbekistan, Addendum*, UN Doc. CAT/C/UZB/CO/4/Add.1, 26 May 2014, Paras 56–68.

417 See section 3.3 of this report.

418 See above, note 350, Para 13.

419 See the following sub-section of this report. See also, Human Rights Watch, *Submission to the Human Rights Committee on Uzbekistan*, 2014, p. 7, available at: https://www.hrw.org/sites/default/files/related_material/20140725%20HRW%20HRCttee%20submission_Uzbekistan.pdf.

Access to justice for victims of gender based violence is also compromised in Uzbekistan. Under Article 55 of the Criminal Procedure Code, victims of crime have the right to apply for reconciliation in certain cases provided for by law.[420] These cases are detailed under Article 66 of the Criminal Code, which provides that a person who has committed one of a number of specified offences may be exempted from criminal liability following admission of guilt and reconciliation with the victim.[421] The provisions to which this Article applies are extensive, including several forms of violence, forcing women to have an abortion, forcing a woman to have sexual intercourse and forcing a woman to marry.[422] These provisions have a detrimental effect on women's rights, contributing to an environment where women may be pressurised to reconcile with abusive partners and allowing an avenue for perpetrators of violence to escape punishment.[423]

Legal Aid System

Under Article 116 of the Constitution, "an accused shall be ensured the right to defense."[424] Legal assistance is to be provided "at any stage of investigation and legal proceedings".[425] Despite this Constitutional Guarantee, Uzbekistan does not possess a comprehensive legal aid law.[426] Rather, provisions on legal aid are dispersed through several pieces of legislation, making it difficult to determine the exact level of assistance to which an individual is entitled.

Legal aid in criminal cases is restricted in Uzbekistan, with only those individuals falling into categories established under the Criminal Procedure Code eligi-

420 See above, note 231, Article 55.

421 See Criminal Code of the Republic of Uzbekistan, above, note 105, Article 66.

422 Among several others. See *ibid*.

423 In 2015 the CEDAW Committee expressed concern that domestic violence cases are often taken to the Mahalla for reconciliation. The Committee recommended that Uzbekistan "encourage women to report incidents of domestic, sexual and other forms of violence to the police and limit the use of mediation by officials in mahalla by destigmatizing victims and raising the awareness of the police and the general public to the criminal nature of such acts". See Committee on the Elimination of Discrimination against Women, note 153, 24 November 2015, Para 17.

424 See above, note 99, Article 116.

425 *Ibid*.

426 United Nations Development Programme, *Accessing Justice: Legal Aid in Central Asia and the South Caucasus*, 2013, p. 24, available at: http://www.eurasia.undp.org/content/dam/rbec/docs/LegalAid_SouthCaucasus&CentralAsia.pdf.

ble for state funding. A mandatory defence counsel is required where criminal proceedings are brought against the following classes of persons:

(1) juveniles;
(2) dumb, deaf, blind, or persons having other mental or physical defects and therefore incapable to exercise his right to defense on his own;
(3) persons having no command of the language in which the proceedings are conducted;
(4) persons suspected or accused in the capital crime;
(5) persons, who have contradicting interests, if one of them is being assisted by a defense counsel;
(6) participation of a state or public accuser;
(7) participation of a lawyer as a representative of a victim;
(8) compulsory medical measures.[427]

Article 50 of the Criminal Procedure Code provides for the appointment of public defenders. Under the same provision, the Court has the right to waive (in total or part) legal fees for those suspects, accused or defendants, with the remainder paid by the State.[428] A Plenum Decision of the Supreme Court, adopted in 2003, emphasises that under this provision a suspect who would have to refuse such services due to an inability to pay the fees must have his legal fees waived.[429] Although, from the above list, it may appear that the number of individuals granted the right to mandatory defence counsel is small, the majority of criminal cases are carried out by public prosecutors.[430] Consequently, the opportunity for legal aid in criminal cases is wider than first imagined. Comparatively, there is very little provision for legal aid in civil cases.[431] According to a report of the Office for Democratic Institutions and Human Rights (ODIHR) in 2013, individuals subject to administrative arrest do not appear eligible for legal aid.[432]

427 See above, note 415, Article 51.

428 *Ibid*., Article 50.

429 Supreme Court Plenum Ruling on the Practice of Courts of Law, to Ensure a Suspect, or the Accused the Right to Protection, Judgment No. 17 of 19 December 2003.

430 See above, note 426, p. 31.

431 *Ibid*., p. 39.

432 Office for Democratic Institutions and Human Rights, *Report on the Regional Expert Roundtable on Legal Aid in Criminal Proceedings in Central Asia*, 2013, pp. 9–10, available at: http://www.osce.org/odihr/104375?download=true.

Where legal aid is available, the process of granting it is said to be "cumbersome", requiring that a "defence lawyer or a family member provide the necessary documentation proving the defendant's lack of financial means".[433] It appears that Uzbekistan's legal aid system falls notably short of international best practice standards, which require "appropriate legal aid" to be provided in cases where an individual asserts their right to equality or non-discrimination.[434]

The selection of public defenders in Uzbekistan is another source of serious concern. According to the United Nations Development Programme, prosecutors are heavily involved in the process, potentially impacting upon the independence of those assigned to protect the rights of defendants:

> *In […] Uzbekistan the authorities conducting the criminal proceedings have been given broad powers to select which particular attorney should be appointed in the case. In the absence of mechanisms for checks and balances it is possible to appoint attorneys who are "soft" to the prosecution. In order to secure further appointments, the defence attorneys are motivated to be loyal to the authority who is appointing them than to the particular defendant.*[435]

Access to justice for those accused of a crime, including discrimination, has been eroded in recent years; in particular through the adoption of several acts and regulations between 2008 and 2009. The Chamber of Advocates was established in 2008; with its head "appointed and dismissed directly by the Ministry of Justice."[436] Lawyers are required to re-register every three years

433 *Ibid*., p. 11. See also, Decision of the Ministry of Justice and Ministry of Finance, Regarding the Approval of the Procedure Credited to Expenditures of the State to Provide Legal Counsel Assistance to the Suspect, Accused or Defendant, Decree No. 8, 109 of 26 November 2008.

434 See above, note 135, Principle 18.

435 See above, note 426, p. 35.

436 International Commission of Jurists, *Independence of the Legal Profession in Central Asia*, 2013, p. 18, available at: http://icj2.wpengine.com/wp-content/uploads/2013/09/Independence-of-the-Legal-Profession-in-CA-Eng.pdf.

or else face a prohibition on practicing.[437] Human rights bodies have recognised the "chilling effect" of this change in approach,[438] as too have the UN treaty bodies. In 2013 the Committee against Torture expressed its concerns regarding the independence of lawyers in Uzbekistan, recommending that the State "amend" its recertification requirement and "ensure full independence of the Chamber of Advocates from the Ministry of Justice."[439]

Evidence and Proof

International law recognises that it can be difficult for a person to prove that discrimination has occurred, and thus requires that legal rules on evidence and proof are adapted to ensure that victims can obtain redress. Principle 21 of the Declaration of Principles on Equality states that:

> *Legal rules related to evidence and proof must be adapted to ensure that victims of discrimination are not unduly inhibited in obtaining redress. In particular, the rules on proof in civil proceedings should be adapted to ensure that when persons who allege that they have been subjected to discrimination establish, before a court or other competent authority, facts from which it may be presumed that there has been discrimination (prima facie case), it shall be for the respondent to prove that there has been no breach of the right to equality.*[440]

As this principle indicates, the "burden of proof" in cases of discrimination should be transferred to the respondent, once facts from which it may be presumed discrimination has occurred have been established. The Committee on

437 See On Improving License Lawyers and Law Firms Creation, Cabinet of Ministers Resolution No. 60 of 9 March 2009, Annex I, Para 7. See also, Law of the Republic of Uzbekistan on Advocacy, Law No. 349-I of 27 December 1996, Article 7.

438 Human Rights Watch, *No One Left to Witness: Torture, the Failure of Habeas Corpus, and the Silencing of Lawyers in Uzbekistan*, 2011, p. 81, available at: https://www.hrw.org/report/2011/12/13/no-one-left-witness/torture-failure-habeas-corpus-and-silencing-lawyers-uzbekistan.

439 See above, note 350, Para 14.

440 See above, note 135, Principle 21.

Economic, Social and Cultural Rights (CESCR) has stated in its General Comment No. 20 that:

> *Where the facts and events at issue lie wholly, or in part, within the exclusive knowledge of the authorities or other respondent, the burden of proof should be regarded as resting on the authorities, or the other respondent, respectively.*[441]

Under Article 111 of the Labour Code, where an employee has had their employment contract terminated, the burden of proof on proving the validity of the termination is on the employer. This reversal of burden is broadly in line with international human rights law and best practice. However, it should be noted that Article 111 of the Code specifically deals with the issue of termination and transfer of employees rather than discussing discrimination.[442] It is unclear whether, for instance, an individual whose application for a position was refused on discriminatory grounds would benefit from a reversed burden, or would be subject to the ordinary standard, set out in Article 57 of the Civil Procedure Code which provides that each party to the case must prove the facts and evidence it presents to support its arguments.[443] In 2014 the Committee on the Elimination of Racial Discrimination (CERD) attempted to address the issue, urging Uzbekistan to ensure that its "legislation in civil proceedings involving racial discrimination provide for a shift in the burden of proof once a prima facie case of racial discrimination has been made."[444]

Remedies and Sanctions

Principle 22 of the Declaration of Principles on Equality sets out the importance of appropriate remedies and sanctions where the rights to equality and non-discrimination are violated:

> *Sanctions for breach of the right to equality must be effective, proportionate and dissuasive. Sanctions must*

441 See Committee on Economic, Social and Cultural Rights, above, note 133, Para 13.

442 See above, note 104, Article 111.

443 See above, note 205, Article 57.

444 See above, note 351, Para 5.

> *provide for appropriate remedies for those whose right to equality has been breached including reparations for material and non-material damages; sanctions may also require the elimination of discriminatory practices and the implementation of structural, institutional, organisational, or policy change that is necessary for the realisation of the right to equality.*[445]

At the international level, the HRC has stated that remedies must be "accessible and effective"[446] while the CESCR has said that "effective" remedies include compensation, reparation, restitution, rehabilitation, guarantees of non-repetition and public apologies.[447]

Although many Uzbekistani laws contain some abstract reference to the principles of equality and non-discrimination, very few make provision for enforcement – failing to ensure that legal guarantees are provided in practice. As a result it is difficult for persons facing discrimination to obtain remedies for acts of discrimination. Of the few provisions specifically addressing the issue, Article 6 of the Labour Code provides that "a person who considers that he has been subjected to discrimination at work may apply to the court for the elimination of discrimination and compensation for material and moral damage caused to him".[448] According to the Civil Code, moral damage is to be compensated in a monetary form. The quantity of damages to be paid is to be determined by the court, who will take into account the moral and physical suffering of the victim in accordance with the principles of reasonableness and fairness.[449]

Article 15 of the Civil Code provides for the right to compensation for individuals who have suffered loss due to the illegal actions (or inaction) of state bodies.[450] Losses are defined under Article 14 of the Code and appear to relate to financial loss.

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445 See above, note 135, Principle 22.

446 See Human Rights Committee, above, note 242, Para 15.

447 See Committee on Economic, Social and Cultural Rights, above, note 133, Para 40.

448 See above, note 104, Article 6.

449 See above, note 204, Articles 1021–1022.

450 *Ibid*., Article 15.

The lack of adequate remedies for victims of discrimination in Uzbekistan has been noted on several occasions by UN treaty bodies, who have urged the State to "establish remedies and redress mechanisms"[451] and to take "all the measures necessary to ensure that its legal framework (...) provides for effective remedies in cases of violations."[452] The lack of legal remedies, beyond those limited compensatory damages provided for under the Labour and Civil Procedure Code, severely impairs the right to equality in practice, in contravention of Uzbekistan's international legal obligations.

2.4 Summary

The Uzbekistani legal framework does not effectively ensure the right to equality and non-discrimination. Although the state has ratified several key UN human rights treaties, the position of international law in the domestic legal system is inadequately defined. The state has, to a degree, engaged with the UN human rights framework – delivering the majority of its state party reports on time. However, Uzbekistan has also refused to accept conclusions reached by treaty bodies,[453] undermining the cooperative nature of the treaty body system and the obligation of states to ensure performance of international treaties in good faith.[454] Further, the state has failed to ratify several important treaties, which have a bearing on the right to equality. Moreover, despite repeated requests, special procedures have not been permitted to visit the country.

At the level of domestic law, the right to equality and non-discrimination is poorly protected. Although there is an equality clause in the Constitution and several laws contain some form of statement on the prohibition of discrimination and equal application of law, very few enforcement mechanisms or legal remedies exist to ensure effective implementation. Discrimination is not defined in Uzbekistani law. Consequently, the extent to which indirect, multiple, associative, or perceptive discrimination is prohibited is unclear. Similarly, positive action is not defined; potentially permitting a wide range of discriminatory measures under the guise of ensuring equality. The law on

451 See above, note 351, Para 5(e).

452 See Human Rights Committee, above, note 134, Para 6.

453 See, for instance, Committee against Torture, above, note 416, Para 5.

454 Vienna Convention on the Law of Treaties, note 95, Article 26.

the Social Protection of Disabled Persons, while providing for accessibility of social infrastructure, does not contain reference to reasonable accommodation. In addition, Constitutional and other guarantees of non-discrimination omit reference to several important characteristics; and lack criteria for identifying further grounds.

The weak legislative framework for protection of the right to non-discrimination is matched by poor enforcement. The independence of the judiciary, lawyers, and human rights monitoring mechanisms has been questioned by UN treaty bodies and international observers. In particular, lack of security of tenure for judges and the requirement of re-registration for advocates impede access to justice. Legal aid is rarely available in civil cases, ensuring that the few guarantees of non-discrimination provided for by law (for instance, in relation to employment claims) are difficult to realise for those individuals who cannot afford to pay.

In summary, Uzbekistani law contains several deficiencies which need to be addressed in order to effectively guarantee the right to non-discrimination and equality. The state should prioritise the adoption of comprehensive equality legislation and ensure the independence of courts and lawyers. Discrimination should be decriminalised, with the exception of those limited situations described above. The state should ensure the enforcement of the right to non-discrimination including by extending legal aid in civil cases, and by specifying and providing effective remedies for victims.

3. PATTERNS OF DISCRIMINATION AND INEQUALITY

This part of the report discusses the principal patterns of discrimination and inequality in the Republic of Uzbekistan (Uzbekistan). It seeks to identify the typical manifestations of discrimination and inequality as they are experienced by people in Uzbekistan. It is based on original direct testimony collected from a wide range of individuals, together with analysis of research undertaken by authoritative sources in the last two decades. We have sought to corroborate all facts and provide accurate attribution of all statements.

This part of the report does not seek to provide an exhaustive picture of all the observed patterns of discrimination. Rather, it aims to provide an insight into what appear to be the most important issues pertaining to the most significant discrimination grounds in the country. In respect of each ground, the report discusses the ways in which people experience discrimination and inequality in a range of areas of life, including as a result of discriminatory laws, the action of state actors carrying out public functions, exposure to discriminatory violence, and discrimination and inequality in areas such as employment, education and access to goods and services.

The research for this report found substantial evidence of discrimination and disadvantage arising on a range of different grounds. Thus, this part of the report discusses discrimination and inequality arising on the basis of: (i) religion; (ii) political opinion; (iii) nationality and ethnicity, with a particular focus on discrimination experienced by Lyuli; (iv) gender; (v) sexual orientation and gender identity; (vi) disability; and (vii) health status.

3.1 Discrimination on the Basis of Religion or Belief

Uzbekistan is required to ensure the enjoyment of all rights guaranteed under the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) without discrimination on the basis of religion by virtue, respectively, of Article 2(1) of the ICCPR and Article 2(2) of the ICESCR. Additionally, under Article 26 of the ICCPR Uzbekistan is required to ensure that its law prohibits discrimination on grounds including religion.

There are few official statistics on levels of religious belief within Uzbekistan. In 2012, the WIN-Gallup organisation asked 500 Uzbekistani survey partici-

pants whether they would consider themselves a "religious person". Approximately 79% of participants answered in the affirmative, compared to 16% who did not consider themselves religious. Just 2% of the sample considered themselves a "committed atheist", while the remaining 3% were unsure, or provided no response.[455] These figures broadly correspond with regional averages – of the six states included in the Commonwealth of Independent States (CIS) / Former Soviet Union category, Uzbekistani participants demonstrated the third highest level of religious belief, behind Armenia (92%) and Georgia (84%).[456] Compared with the world as a whole, Uzbekistani participants demonstrated a much higher level of religious belief than the average, and the number of self-identifying atheists in Uzbekistan (2%) was much lower than the average (13%).[457]

Given the lack of current state data, the demographic spread of religious groups across Uzbekistan is difficult to estimate with any accuracy. In a 2002 Public Health Survey, more than 95% respondents stated that they considered themselves to be Muslim, with the largest concentration by proportion residing in Western and Eastern Uzbekistan:

Table 4: Distribution of Stated Religious Beliefs by Region, 2002[458]

Religion/ Region	Western	Central	East-Central	Eastern	Tashkent City	Total
Muslim	99.0%	97.3%	96.7%	99.2%	77.3%	96.1%
Christian	0.6%	2.1%	1.5%	0.5%	21.0%	3.0%
Not Religious	0.2%	0.4%	1.6%	0.3%	1.2%	0.7%
Other	0.1%	0.1%	0.2%	0.0%	0.5%	0.1%

455 WIN-Gallup International, *Global Index of Religiosity and Atheism*, 2012, pp. 15–16, available at: http://www.wingia.com/web/files/news/14/file/14.pdf.

456 *Ibid*., p. 18. It should be noted that some Former Soviet Union states, such as Moldova, are not included in this category.

457 *Ibid*., p. 17.

458 Republic of Uzbekistan, *Uzbekistan Health Examination Survey*, 2002, p. 27, available at: http://dhsprogram.com/pubs/pdf/fr143/fr143.pdf. The 2002 Public Health Survey included responses from 5,463 female respondents between the ages of 15–49, and 2,333 male respondents between the ages of 15–59.

According to the state's 2013 Periodic Report to the Human Rights Committee (HRC), there are 2,224 religious organisations registered in Uzbekistan, comprising 16 different denominations; the majority (92%) of religious organisations are Islamic (2,049), compared to 158 Christian, six Baha'I, eight Jewish, one Buddhist, one Hare Krishna organisation, and an "interfaith Bible Society".[459]

Political and Social Context

Following the establishment of Soviet rule, religious freedoms in Uzbekistan were curtailed, as exemplified by a campaign against the veiling of Muslim women launched in the wider region in the mid-1920s.[460] Promoted as a policy of liberation, the campaign against veiling has also been fiercely criticised. According to Ashwin, "it was conceived (...) as a means forcibly to enshrine a new culture and proclaim the triumph of Bolshevism over indigenous culture and religion."[461] Other commentators have expressed similar views, stating that by attacking traditional structures and promoting policies favouring the economic empowerment of women, Soviet ideology could be established over religious tradition.[462]

In the short term, the effects of the *hujum* (assault) on religious tradition led to a backlash. As Khalid notes, "the very customs it attacked became highly valued markers of local identity against an aggressive and oppressive state."[463] However, over the course of the following decades a distinct shift in the authority and influence of traditional modes of worship could be observed. Cultural and religious practices became increasingly "sovietised" and recast in the mould of the Communist Party.[464]

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459 Human Rights Committee, *Fourth Periodic Report: Uzbekistan*, UN Doc. CCPR/C/UZB/4, 30 October 2013, Paras 635–636.

460 Khalid, A., "A Secular Islam: Nation, State, and Religion in Uzbekistan", *International Journal of Middle East Studies*, Vol. 35(4), 2003, p. 576.

461 Ashwin, S., *Gender, State and Society in Soviet and Post-Soviet Russia,* Routledge, 2000, p. 4.

462 Thibault, H., "The Soviet Secularization Project in Central Asia: Accommodation and Institutional Legacies", *Eurostudia – Revue Transatlantique de Recherche sur L'europe*, Vol. 10(1), 2015, p. 15.

463 See above, note 460, p. 576.

464 *Ibid*.

Throughout the 1930s, attacks on Islamic culture increased. Mosques were closed and religious leaders were attacked.[465] According to some estimates, by the 1940s, almost 140,000 Muslim clergy had been "arrested, killed, or exiled" since the establishment of Soviet rule.[466] Despite these policies religious practices continued, surviving Soviet repression albeit in a modified form. Increasingly, "Islam became a marker of national identity (...) an indispensable part of local customs and practices that served to set Central Asians apart from outsiders."[467]

In response to the continuing popular support for Islam and the clergy, in the 1940s administrative bodies were established to help regulate religious belief.[468] The Muslim Spiritual Directorate for Central Asia and Kazakhstan (SADUM) was created in 1943, charged with delimiting the acceptable modes of religious worship[469] and allowing "bureaucratic control" to be established over religion in the region.[470] Although the creation of the Directorate resulted in a modest increase in religious freedom, sanctioned religious officials were bound to the state, and religious practice was thus regulated and circumscribed. As described by Khalid:

> *Official recognition allowed an institutional basis for the practice and reproduction of Islam. Mosques could be opened and local "communities of believers" allowed to raise funds for them; limited contact with the outside world became possible, as did higher religious education for small numbers of students in two institutions in Central Asia (...) Yet this came at a price: official ulama [Muslim scholars] were expected to help the state in its foreign-policy initiatives in the Muslim world as well as in the domestic realm.*[471]

465 See above, note 462, p. 13.

466 *Ibid*.

467 See above, note 460, p. 578.

468 See above, note 462, p. 15.

469 Human Rights Watch, *Creating Enemies of the State: Religious Persecution in Uzbekistan*, 2004, p. 18, available at: https://www.hrw.org/reports/2004/uzbekistan0304/uzbekistan0304.pdf.

470 See above, note 460, p. 580.

471 *Ibid*.

State sanctioned Islam did not completely displace other forms of worship. Meetings continued to be held in private, and, by the 1960s, the number of "unofficial ulama" were said to outnumber their state-authorised counterparts.[472]

It was not until the 1980s and the adoption of the *glasnost* policy by the Gorbachev administration, that Uzbekistanis began to express their religious beliefs more freely. Nevertheless, developments in respect of religious freedom were slower in Uzbekistan than in other areas of the Soviet Union.[473] As late as March 1985, I. B. Usmankhodzhayev, First Secretary of the Uzbek Republic Communist Party, pronounced strong anti-religious views in the Uzbekistani press:

> *Special emphasis must be given to the atheistic education of the population. Proper attention has not been given to these problems until recently; there has been excessive toleration and lack of resistance to religion, and sometimes even a dabbling with it. It has come to the point where in certain cities and districts self-styled priests are now virtually out of control and are blatantly interfering in people's lives.*[474]

More broadly, across the USSR, Islamic freedoms were realised at a far slower rate than other religions with large numbers of adherents, including notably the Russian Orthodox church.[475] Following the war in Afghanistan, it appears that Soviet authorities perceived a risk of Islamic insurgency. Russian press continued to criticise traditional Muslim practices while a comparatively small number of Muslim organisations were registered officially.[476] Newspapers continued to publish inflammatory articles, warning of the dangers of Islamic tradition. Even Gorbachev himself, in a 1986 public address delivered in Tashkent, spoke of an "uncompromising struggle with religious

472 *Ibid.,* p. 581.

473 Hanks, R., "Repression as Reform: Islam in Uzbekistan during the Early Glasnost' Period", *Religion, State & Society*, Vol. 29(3), 2001, pp. 228 and 232–4.

474 *Ibid*. pp. 229–30.

475 *Ibid*., pp. 228–9.

476 *Ibid*.

manifestations".[477] Nevertheless, during this period, Islamic groups experienced greater religious liberty. From 1988, the number of Mosques increased, whilst, following domestic pressure, the head of SADUM retired.[478] By the time of independence over 4,000 Mosques had been established.[479]

On independence, Islam Karimov, former First Secretary of the Communist Party, became President of Uzbekistan; he placed his hand on the Koran upon taking office.[480] Initial optimism about an increase in religious freedom quickly dissipated. In the last 20 years, increasing restrictions have been placed on non-sanctioned forms of worship, with those individuals who practice forms Islam other than the state-sanctioned version particularly affected. The legal framework for the registration of religious organisations, the criminal and civil law governing anti-state activity, and the prohibitions on the dissemination of religious materials and teaching of religion all present barriers for the practice of religious beliefs by minority faiths.

Legal and Policy Framework

On 8 December 1992, the Constitution of Uzbekistan was adopted. Under Article 18, all citizens are ensured equality before the law and discrimination, including on the basis of religion and convictions, is prohibited.[481] Article 31 of the Constitution protects freedom of conscience: every person is guaranteed the right to "profess or not to profess any religion" and the compulsory imposition of any religion is prohibited. Under Article 61, religious organisations are to be separate from the state and governmental interference with the activities of such groups is prohibited.

Several laws regulating different areas of civil and social life further provide for the right to freedom of religion or to freedom from discrimination on the

477 *Ibid*., p. 233.

478 See above, note 460, pp. 583–4.

479 See above, note 469, p. 18.

480 *Ibid*.

481 Constitution of the Republic of Uzbekistan, 1992, Article 18.

basis of religion.[482] Under Article 3 of the Law on Freedom of Conscience and Religious Organisations, freedom of conscience is guaranteed, entrenching the right of citizens to profess any (or no) religion, subject to such limitations as may be necessary for the protection of public health, safety, morals or the rights and freedoms of others.[483] The limitation of rights or establishment of advantages on the basis of religion is prohibited.[484]

Discriminatory Legal Provisions

Legal Registration

Article 18(1) of the ICCPR provides for the right to freedom of thought, conscience, and religion.[485] Although this right is qualified, subject to those limitations established by law that are necessary to protect "public safety, order, health, morals, or the fundamental rights and freedoms of others",[486] in its General Comment No. 22 the UN Human Rights Committee (HRC) has emphasised that any limitation must be "directly related and proportionate to the specific need on which they are predicated".[487]

In Uzbekistan, under Article 8 of the Law on Freedom of Conscience and Religious Organisations, religious groups may only carry out their activities following official registration with the Ministry of Justice.[488] The requirements for registration are detailed under Article 11 of the Law: organisations must submit to the relevant authorities a notarised list of supporters containing

482 See, for example, Article 4 of the Education Act; Article 6 of the Labour Code; Article 11 of the Citizen's Application Act; Article 7 of the Pre-trial Detention during Criminal Proceedings Act; and Article 5 of the Criminal Code, which provides that persons convicted of a crime shall be equal before the law, with "no distinction on the grounds of (...) religion".

483 Law of the Republic of Uzbekistan on Freedom of Conscience and Religious Organisations, Law No. 289-XII of 14 June 1991, as amended by the Law of the Republic of Uzbekistan on Amendments and Supplements to the Law of the Republic of Uzbekistan on Freedom of Conscience and Religious Organisations, Law No. 618-I of 1 May 1998, Article 3.

484 *Ibid*., Article 4.

485 International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, 1966, Article 18(1).

486 *Ibid*., Article 18(3).

487 Human Rights Committee, *General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion*, UN Doc. CCPR/C/21/Rev.1/Add.4, 1993, Para 8.

488 See above, note 483, Article 8.

the signatures of 100 Uzbekistani citizens over the age of 18; an original (and two notarised copies) of the organisation's Charter (containing, *inter alia,* information on the purpose, tasks and basic activities of the organisation; its structure and controls; and sources of funds and property);[489] information on the founders and leadership of the organisation; a notarised certificate on the religious education of the organisation's leadership; a letter of guarantee from local bodies confirming the postal address of the organisation; and a statement of consent from the state Committee for Religious Affairs.[490] The law states that applications shall be reviewed within one month of their filing date, except where the judiciary requests additional materials or seeks an "expert opinion" from authorities.[491] Where an applicant is deemed to contravene legal requirements, an application may be refused, at which point an organisation may choose to reapply or to appeal the decision.[492] Religious organisations may have their status terminated upon dissolution, or where their activities are deemed to violate Uzbekistani law.[493] Registration requirements for religious organisations in Uzbekistan are densely bureaucratic, with a risk of arbitrary application.[494] This is exacerbated by the fact that the permission of several governmental organisations is necessary for an application to succeed.[495]

In *Malakhovsky and Pikul v Belarus*, the HRC considered the interaction between legal registration and the right to freedom of religion.[496] In that case, registration was refused to a religious organisation on the grounds that its legal address did not meet health and safety requirements necessary for per-

489 *Ibid*., Article 10.

490 *Ibid*., Article 11. See also Human Rights Committee, *Concluding Observations: Uzbekistan, Addendum*, UN Doc. CCPR/CO/71/UZB/Add.1, 17 October 2002, pp. 2–3; Procedure for State Registration of Religious Organisations in the Republic of Uzbekistan, Cabinet of Ministers Resolution No. 263 of 20 June 1998, Annex 1.

491 *Ibid*., Article 11.

492 *Ibid*., Article 12.

493 *Ibid*., Article 13.

494 Beckwith, B., "Uzbekistan: Islam, Communism, and Religious Liberty: An Appraisal of Uzbekistan's 1998 Law on Freedom of Conscience and Religious Organizations", *BYU Law Review*, Vol. 2000(3), 2000, pp. 1030–1.

495 *Ibid*.

496 *Malakhovsky and Pikul v Belarus*, Human Rights Committee, Communication No. 1207/2003, UN Doc. CCPR/C/84/D/1207/2003, 2005.

forming religious ceremonies. Noting that a restriction had been placed on the applicant's rights under Article 18(1) of the ICCPR, the Committee held that a requirement that religious premises satisfy health and safety requirements could be considered both necessary and proportionate.[497] However, Belarus had failed to demonstrate why it was necessary for the organisation's registration address to satisfy those health and safety concerns, as suitable premises for public ceremonies could be found subsequent to registration. Moreover, as the denial effectively prohibited the group from establishing educational institutions, state measures failed to meet the strict criteria of Article 18(3) of the ICCPR.[498] Thus, it is clear from the HRC's jurisprudence that any registration requirements for religious organisations must be strictly necessary. This in turn requires a strong degree of justification[499] and the adoption of the least restrictive measures where possible.[500]

It seems clear that denial of registration to religious groups in Uzbekistan violates Article 18(1) of the ICCPR. By way of analogy with *Malakhobsky*, the condition that organisations are in possession of an extensive list of documents before being able to practice or share their religious beliefs cannot be considered necessary for the purposes of Article 18(3) of the Covenant.[501]

In addition to violating the right to religious freedom, onerous registration requirements may be indirectly discriminatory, given that small minority groups are likely to face greater challenges in acquiring and collating necessary documents. In practice, the law on registration allows the state to exert tight control over the types of religious belief permitted in Uzbekistan. Human rights organisations have noted that religious groups may be denied registration status when viewed unfavourably by government.[502] Conse-

497 *Ibid*., Para 7.5.

498 *Ibid*., Para 7.6.

499 *Ibid*.

500 In its General Comment No. 34 on Freedoms of Opinion and Expression, the Human Rights Committee emphasised that restrictions on the right to freedom of expression "must not be overbroad", requiring the adoption of the "least intrusive" measures. See, Human Rights Committee, *General Comment No. 34: Freedoms of Opinion and Expression*, UN Doc. CCPR/C/GC/34, 2011, Para 34.

501 Article 18(1) of the ICCPR expressly recognises the right of an individual to "manifest his religion or belief in worship, observance, practice and teaching". See above, note 485, Article 18(1).

502 See above, note 469, p. 67.

quently, there is evidence that the law is applied in such a way as to directly discriminate against independent Muslims (as well as other heterodox religious groups), who are prevented from effectively practicing their faith. More specifically, the requirement to secure signatures from 100 citizens in order to register a religious body directly discriminates against non-resident and stateless persons.[503] By limiting registration to those groups who can secure a 100 citizen membership, such persons may be denied the opportunity to form a religious organisation even where otherwise fulfilling membership and administrative requirements.

Restrictions on Unregistered Groups

The restrictive impact of the aforementioned registration procedure is exacerbated by the imposition of criminal and administrative sanctions for those groups found practicing their religious beliefs without registration. Article 240 of the Code of Administrative Responsibility prohibits proselytism and other missionary activities by non-registered organisations. The UN HRC has criticised the retention of this provision, recommending that the law be amended in order to ensure compliance with the ICCPR.[504]

Under Article 229^2 of the Criminal Code, teaching religious courses without the prior permission of a central authorising body, or teaching religious beliefs privately is criminalised and subject to a penal sanction in some cases.[505] Moreover, only those organisations with a central organising authority are permitted to import, export, produce and distribute religious literature and other religious informational materials.[506] In order to establish a central organising authority, religious organisations are required to operate in at least eight territorial entities.[507]

503 It should be noted that, under Article 18 of the ICCPR, the right to religion is afforded to all persons, not only citizens. See above, note 485, Article 18(1).

504 Human Rights Committee, *Concluding Observations: Uzbekistan,* UN Doc. CCPR/C/UZB/CO/4, 17 August 2015, Para 22.

505 Criminal Code of the Republic of Uzbekistan, Code No. 2012-XII of 22 September 1994, Article 229^2. Likewise, Article 145 of the Code proscribes the involvement of minors in religious organisations, as well as teaching them religion against their will or the will of the parents.

506 See above, note 483, Article 19. The same restriction applies to the right to establish religious schools. *Ibid*., Article 9.

507 See Procedure for State Registration of Religious Organisations in the Republic of Uzbekistan, above, note 490.

The requirement that religious groups be established in eight territorial entities may indirectly discriminate against certain religious groups who, for historic or cultural reasons, may be concentrated in a particular location.

Religious Extremism and Registration Requirements

As noted, members of religious communities who continue to practice their faith without legal registration can face criminal and administrative sanctions. Additionally, legal provisions concerning "religious extremism" are often invoked against adherents, with a resulting restriction on the ability of such individuals to freely practice their faith. As noted by the Uzbekistani civil society organisation the Initiative Group of Independent Human Rights Defenders of Uzbekistan and others during the state's most recent Universal Periodic Review:

> *In its fight against "religious extremists," the Uzbek authorities fail to make a distinction between individuals who endorse or advocate violence and individuals who practice their beliefs peacefully albeit outside strict state controls. Thus, Muslims believers are arrested and charged with "extremist" crimes because of non-violent religious activities such as praying outside state-sanctioned mosques, studying "non-approved" religious literature or meeting with other believers.*[508]

In practice, several Criminal Code provisions penalise individuals pursuing independent religious belief. The table below, reproduced from a report published by Amnesty International, sets out the provisions of the Criminal Code which have been applied in ways which restrict religious freedom.[509] The largest numbers of prosecutions to date have been made under Articles 159 and 244 of the Code.[510]

508 Joint Submission 1, *Submission to the Universal Periodic Review on Uzbekistan*, 2012, Para 4.2, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session16/UZ/JS1_UPR_UZB_S16_2013_JointSubmission1_E.pdf.

509 Amnesty International, *Secrets and Lies: Forced Confessions under Torture in Uzbekistan*, 2015, p. 18, available at: https://www.amnesty.org/en/documents/eur62/1086/2015/en.

510 *Ibid*.

Table 5: Criminal Code Provisions Applied in Ways Which Restrict Religious Freedom[511]

Criminal Code Provisions Most Often Invoked on the Grounds of National Security Amnesty International (2015)	
Article	**Provision**
156	Incitement of ethnic, racial or religious hatred
159	Attempts to overthrow the constitutional order of the Republic of Uzbekistan
216	Illegal establishment of public associations or religious organisation
216	Inducement to participate in operation of illegal religious organisations
216	Violation of legislation on religious organisations
221	Disobedience to legitimate orders of administration of penal institutions
242	Organisation of a criminal community
2441	Production and dissemination of materials containing a threat to public security
2442	Establishment, direction of or participation in religious extremist organisation
246	Smuggling

Under Article 18(3) of the ICCPR, legal measures undertaken to protect public safety may constitute a legitimate restriction on the right to freedom of religion.[512] Furthermore restrictions on the right to freedom of expression, including the dissemination of religious ideas, may be legitimate under Article 19(3) of the Covenant where enacted in the interests of national security.[513] However, such restrictions must not endanger the nature of the right itself. The HRC has been keen to stress that "the relation between right and restriction and between norm and exception must not be reversed".[514]

Laws governing religious extremism in Uzbekistan are not consistent with the standards set by international law. Criminal provisions are broadly draft-

511 This table has been copied directly from Amnesty International's 2015 *Secrets and Lies* publication. See *ibid*.

512 See above, note 485, Article 18(3).

513 *A. K. and A. R. v Uzbekistan*, Human Rights Committee, Communication No. 1233/2003, UN Doc. CCPR/C/95/D/1233/2003, 2009, Para 7.2.

514 See above, note 500, Para 21.

ed, encompassing many non-violent acts and prohibiting legitimate forms of speech which cannot be seen as inciting violence or threats to national security. For instance, under Article 244 of the Criminal Code, the "use of religion to violate civil concord" is made punishable by up to five years imprisonment. Taken to its extreme, this provision could be interpreted as prohibiting all non-sanctioned religious belief. The broad nature of these provisions has been criticised by many international organisations.[515] Alongside criminal prohibitions on the propagation of religious materials, and the illegal establishment of religious organisations, these laws have the effect of preventing legitimate religious expression, ensuring that many groups face hurdles in practicing their faith.

In 2016, Article 244 of the Criminal Code was amended, removing the requirement of a previous administrative offence and increasing prospective jail terms.[516] These amendments were criticised by the OSCE, with the representative on Freedom of the Media, Dunja Mijatović emphasising that "anti-terror legislation should not use overly broad definitions to preclude a journalist from working on problematic issues of public interest".[517]

Discrimination by State Actors

Since Uzbekistan became independent, large numbers of individuals have been prosecuted for practicing their religious beliefs. While Islam has occupied a central position in the post-independence "nation-building process",[518] its practice has been "domesticated" by the government which restricts non-orthodox (non-secular) manifestations of religious belief.[519]

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515 See, for example, International Commission of Jurists, *Submission to the Human Rights Committee on Uzbekistan*, 2009, p. 2, available at: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/UZB/INT_CCPR_NGO_UZB_96_10287_E.pdf.

516 Bayram, M., "Uzbekistan: Harshened Criminal and Administrative Code Punishments", *Forum 18*, 15 June 2016, available at: http://www.forum18.org/archive.php?article_id=2189.

517 Organization for Security and Cooperation in Europe, "Recent Legislative Amendments in Uzbekistan Worrying", *OSCE,* 29 April 2016, available at: http://www.osce.org/fom/237641.

518 Ohlsson, H., "Islam and Secular State in Uzbekistan: State Control of Religion and its Implications for the Understanding of Secularity", *Cahiers d'Asie Centrale*, Vol. 19-20, 2011, p. 485.

519 Abramson, D., *The Political Culture of Islam, Gender and Development in Uzbekistan*, 2000, p. 1, available at: https://www.ucis.pitt.edu/nceeer/2000_814-24f_Abramson.pdf.

According to data from the Initiative Group of Independent Human Rights Defenders of Uzbekistan, as of August 2015, over 12,000 individuals have been imprisoned on charges of religious extremism alone.[520] The HRC has consistently admonished the state for its treatment of religious minorities,[521] while several international organisations have published findings on the inhumane and degrading treatment of convicted religious prisoners.[522] These concerns were echoed by the European Court of Human Rights in 2016, which warned that "individuals accused by the Uzbekistani authorities of political and religious offenses constitute a vulnerable group systematically exposed to a practice of ill-treatment in that country".[523] More broadly, those who observe religions or beliefs that are not officially recognised by the state are exposed to discrimination and abuse.

Following a brief period of hope, state suppression of religious minorities began starting shortly after independence, ostensibly in response to the civil war in neighbouring Tajikistan. As noted by Human Rights Watch:

> *As early as 1992, this openness began to shrink. The civil war in Tajikistan broke out in May 1992, pitting the Soviet-era, Russia aligned elites against a coalition of pro-democracy activists and advocates of an Islamic state. It has been widely conjectured that the war led President Karimov and his advisors to fear the domestic opposition in general and Islamic opposition in particular. Long after the Tajik civil war ended, President Karimov continued to refer to Tajikistan as a cautionary example for Uzbekistan. In 1998 he specifically referred to Tajikistan to justify the passage of Uzbekistan's restrictive*

520 Human Rights Watch, *World Report 2016*, 2016, p. 629, available at: https://www.hrw.org/sites/default/files/world_report_download/wr2016_web.pdf.

521 In its 2010 Concluding Observations, for instance, the Committee expressed concern regarding restrictions on religious belief and the "persistent reports on charges and imprisonment" of such religious persons. See Human Rights Committee, *Concluding Observations: Uzbekistan*, UN Doc. CCPR/C/UZB/CO/3, 7 April 2010, Para 19.

522 For instance, see above, note 509, pp. 23–25.

523 *Kholmurodov v Russia*, European Court of Human Rights, Application No. 58923/14, 1 March 2016, Para 64.

> *law on religion, saying that if harsh antifundamentalist measures were not taken, "Tajikistan will come to Uzbekistan tomorrow."*

Although a form of "secular Islam" had come to be adopted by the Uzbekistani administration (and a large proportion of society) as a marker of national identity, other forms of religious observance were tightly restricted. As explained by Khalid:

> *The regime has sought to anchor its legitimacy in Uzbek nationalism and statehood. This nationalism is very much in the Soviet mould but with the Soviet constraints removed (...) The regime's policy toward Islam is best understood in this context. It celebrates the Islamic cultural heritage of the region and invokes the moral and ethical values stemming from it (...) At the same time (...) the regime is committed to remaining in firm control of Islamic expression.*[524]

The state established the Muslim Directorate of Uzbekistan, which was charged with registering mosques and defining the parameters of acceptable Islamic practices.[525] In 1993, the Law on Freedom of Conscience and Religious Organisations was adopted, reasserting the role of the state in defining acceptable religious practices. The mid 1990s saw several cases of Imams being targeted, and increasing arrests of independent Muslims.[526] Islamic worshipers deemed to deviate from the norms of the state-sanctioned Islam were labelled "Wahhabis", which was used as a term of denigration.[527] As described by Human Rights Watch:

> *Law enforcement agencies (...) began to identify as "Wahhabis" those who proselytized, that is, called on fellow Muslims to become observant Muslims by declar-*

524 See above, note 460, pp. 586–7.

525 *Ibid*., pp. 587.

526 See above, note 469, pp. 21–7.

527 *Ibid.*, p. 20.

> *ing their submission to God and belief in the Prophet Muhammad, shunning alcohol, praying five times per day, observing religious holidays, and learning Arabic in order to study the Koran in its original language.*[528]

The adoption of a new law on Freedom of Conscience and Religious Organisations in 1998 (discussed above) created a restrictive environment for the registration of religious organisations, whilst simultaneously prohibiting religious education and the distribution of religious materials, except in narrowly defined circumstances. Criminal and administrative sanctions were applied to those individuals and groups found guilty of practicing without registration.

In 1999, six bombs were set off in the capital, Tashkent, resulting in the deaths of 13 people, with many more severely injured. Government assigned blame for the attacks to both "nationalist and Islamic groups", including Hizb-ut-Tahrir and the Islamic Movement of Uzbekistan (IMU).[529] Government designated "extremists" were arrested in large numbers, with many individuals with non-traditional religious beliefs included in this group.[530] According to reports, "masked officers with automatic weapons raided homes at night to seize suspects [and] frequently planted drugs or bullets to prove guilt".[531] These arrests were not limited to individuals practicing unsanctioned versions of Islam: according to one person interviewed by Forum 18 in 2004, "several Protestants, mainly ethnic Uzbeks or Karakalpaks, [were] among those summoned by the police, including in Tashkent and in Nukus".[532] Following the bombings such groups were instructed by authorities to refrain from religious practice.[533]

528 *Ibid*., p. 21.

529 USAID, *Violent Extremism and Insurgency in Uzbekistan*, 2013, p. 5, available at: http://pdf.usaid.gov/pdf_docs/PA00JSSQ.pdf.

530 See above, note 470, p. 6.

531 *Ibid.*, p. 27.

532 Rotar, I., "Uzbekistan: Crackdown on all Faiths Follows Terrorist Bombings", *Forum 18*, 13 April 2004, p. 1, available at: http://www.forum18.org/archive.php?article_id=298&pdf=Y.

533 *Ibid*.

As part of the government's war against the IMU, thousands of villagers in the Southern Surkhandariya region of Uzbekistan were forcibly displaced.[534] According to observers, villagers were forced to leave their homes at gunpoint and were not permitted to take their personal effects. Those who resisted were reportedly beaten by soldiers. In one incident, around 120 villagers were said to have been arrested on account of their relationship with the IMU, although many of these arrests may have been politically motivated; either as a consequence of refusal to leave their homes or to "minimize resistance to displacement".[535]

Examples of discrimination against members of religious minorities in the aftermath of the Tashkent bombings are numerous. In 2004, Human Rights Watch and a national human rights organisation publicised the case of a woman who was subject to a "public denunciation".[536] In April 2000, the woman was brought handcuffed before a public meeting and, together with some of her relatives, accused by public officials of extremism. Many of the people invited to attend the hearing directed abuse toward her, with one person reportedly calling for her execution.[537]

In May 2005, following the trial of 23 businessmen on charges of religious extremism, government forces in Andijan surrounded a group of thousands of protestors and began to fire "indiscriminately", causing the deaths of hundreds of people and the injury of many more.[538] In the aftermath of Andijan, countless individuals were arrested and convicted for crimes relating to religious extremism.[539] International observers have expressed concern regarding these trials, many of which "were closed or held in secret".[540] The tragedy

534 Global IDP Project, *Uzbekistan: Authorities Deny Return of Several Thousand Villagers Displaced from Tajik Border*, 2005, p. 2, available at: http://www.internal-displacement.org/europe-the-caucasus-and-central-asia/uzbekistan/2005/authorities-deny-return-of-several-thousand-villagers-displaced-from-tajik-border.

535 *Ibid*., pp. 2–3.

536 Legal Aid Society of Uzbekistan, *General Evaluation Report*, 2004, p. 63, available at: http://www.omct.org/files/interdisciplinary-study/ii_b_5_uzbekistan_general_evaluation.pdf.

537 *Ibid*.

538 International Partnership for Human Rights, "Uzbekistan: Continuing Repression in the Wake of Andijan", *IPHR*, 13 May 2016, available at: http://iphronline.org/uzbekistan-continuing-repression-in-the-wake-of-andijan-20160513.html.

539 See above, note 515.

540 See above, note 509, p. 21.

saw increased pressure placed on civil society and political activists, with the broadly drafted Criminal Code provisions regarding religious extremism being used to stifle legitimate political dissent. As Human Rights Watch noted, "in the wake of the Andijan massacre the Uzbekistani government unleashed an unprecedented crackdown on civil society, pursuing and prosecuting anyone believed to have either participated in or witnessed the events".[541]

In the years since Andijan, Uzbekistan has continued to arrest and prosecute members of religious minorities, who are charged with offences relating to religious extremism. As discussed in more detail in sections 3.1 and 3.3, individuals arrested on account of their religious or political opinion may be subject to arbitrary imprisonment, denied procedural protections and in some cases, subject to torture and ill-treatment in detention.

In the first half of 2016 alone, a large number of arrests and imprisonments of religious dissidents have been documented by human rights groups. In January 2016, Bakhtiyor Khudaiberdiyev was reportedly arrested by the National Security Service for the possession of religious extremist materials after verses of the Koran were found on his phone.[542] In February 2016, Aramais Avakian was sentenced to seven years imprisonment for crimes including "participation in a religious extremist organisation".[543] According to Amnesty International, relatives of Mr. Avakian believe his imprisonment was politically motivated: driven by a desire to take over his successful fish farming business. Before the trial, witnesses were allegedly intimidated, whilst just three days prior, Mr Avakian's lawyer was reportedly "disbarred".[544] In March 2016, the Barnabas Fund, a Christian organisation which provides support to Christians affected by persecution, reported the arrest of a pastor by police in

541 Human Rights Watch, *Until the Very End: Politically Motivated Imprisonment in Uzbekistan*, 2014, p. 18, available at: https://www.hrw.org/report/2014/09/25/until-very-end/politically-motivated-imprisonment-uzbekistan.

542 Bayram, M., "Uzbekistan: Contradictory "Expert Analyses", Four People Fined", *Forum 18*, 4 October 2016, available at: http://www.forum18.org/archive.php?article_id=2221&layout_type=mobile.

543 Amnesty International, "Fish Farmer Tortured, Jailed after Unfair Trial", *Amnesty International*, 19 February 2016, available at: https://www.amnesty.org/download/Documents/EUR6234742016 ENGLISH.pdf.

544 *Ibid*.

the Fergana Valley of Uzbekistan for the possession of "Christian literature".[545] The pastor was sentenced to 15 days imprisonment; his family were not informed of his location for five days.[546]

In May 2016, the international human rights organisation Forum 18 reported the case of four Jehovah's Witnesses who were arrested in March for the possession of "illegal religious literature".[547] The women were reportedly attacked by police officers, while one was threatened with rape.[548] According to Forum 18, "between January and May, at least 14 Protestants and 49 Jehovah's Witnesses are known to have received fines of up to 100 times the minimum monthly wage" for the storage or production of religious materials.[549] In June 2016, Forum 18 publicised the case of two cousins, Jonibek Turdiboyev and Mansurkhon Akhmedov, who were jailed in May for participation in a religious extremist organisation. The prosecution was based on a CD in which, according to Forum 18, "experts claimed to have found a sermon on the Islamic Caliphate recorded under music files".[550] Allegations that torture had been used in order to extract confessions were made in relation to both of the prisoners.[551] In July 2016 the two cousins were reportedly jailed for a term of five years,[552] while in August 2016 Forum 18 reported the case of four Sufi leaders who had been imprisoned for holding religious meetings in their home.[553]

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545 Barnabas Fund, "Police in Uzbekistan Search Christian Homes and Jail Church Pastor in Illegal Raid", *Barnabas Fund*, 17 March 2016, available at: https://barnabasfund.org/news/Police-in-Uzbekistan-search-Christian-homes-and-jail-church-pastor-in-illegal-raid.

546 *Ibid*.

547 Bayram, M., "Uzbekistan: Fines, Rape Threat for Religious Literature", *Forum 18*, 25 May 2016, available at: http://www.refworld.org/docid/57469c314.html.

548 *Ibid*.

549 *Ibid*.

550 Bayram, M., "Uzbekistan: Large Fines for "Illegal" Religious Literature", *Forum 18*, 7 June 2016, available at: http://www.forum18.org/archive.php?article_id=2185.

551 *Ibid*.

552 Bayram, M., "Uzbekistan: Meals and Under-18s in Mosques Banned", *Forum 18*, 12 July 2016, available at: http://www.forum18.org/archive.php?article_id=2198.

553 In August 2016 Forum 18 reported the case of four Sufi leaders who had been imprisoned for holding religious meetings in their home. See, Bayram, M., "Uzbekistan: Raids, Prison, Fines for Home Religious Meetings", *Forum 18*, 8 August 2016, available at: http://www.forum18.org/archive.php?article_id=2206.

These examples are by no means exhaustive. Indeed, reports of individuals being charged with violating Uzbekistan's religious freedom laws are fairly frequent. However, this selection of cases illustrates the scale of the state's repression of non-sanctioned religion, and the discriminatory impact of this policy, which disproportionately affects those practicing minority faiths and "independent" Muslims.

Religious Dress

Under Article 14 of the Law on Freedom of Conscience and Religious Organisations wearing religious clothing in public places (such as the workplace, schools, and colleges) is prohibited.[554] A similar provision is found under Article 184[1] of the Code of Administrative Responsibility.[555] While neither of these Articles specifically prohibits the wearing of a hijab or Islamic headscarf, in prac tice it is Muslim women who are adversely affected by the law. In 2011, for example, a woman from the Sirdarya region was charged under Article 184[101] of the Code of Administrative Responsibility for wearing a hijab in a public place. The local Court fined her the equivalent of US$155.[556]

Prohibitions on wearing the hijab or other forms of "non-Uzbek" Islamic dress have a long history in Uzbekistan. Reminiscent of the de-veiling policy of the former Soviet Union discussed above, today Muslim women are castigated for their religious clothing, which is viewed as anti-Uzbekistani by many. Warning against the rise of "political Islam" in 2000, President Karimov criticised the wearing of the *paranja* (a form of robe which covers the body and head). The President cautioned: "they want to bring us back to the Middle Ages [and] put the paranja on our children, on our beautiful daughters."[557]

By wearing forms of Islamic dress, such as the headscarf, independent Muslim women are visible and identifiable in a way that men with the same beliefs are

554 See above, note 483, Article 14.

555 Code of Administrative Responsibility of the Republic of Uzbekistan, Code No. 2015-XII of 22 September 1994, Article 184.

556 Institute for War and Peace Reporting, "Islamic Clothing Vanishes From Tashkent Markets", *IWPR*, 14 March 2012, available at: https://iwpr.net/global-voices/islamic-clothing-vanishes-tashkent-markets.

557 See above, note 519.

not. Muslim women are therefore especially exposed to criminalisation and other forms of discrimination which occurs as a direct consequence of their gender and religious belief. The need to prohibit discrimination arising on the basis of multiple, intersecting grounds such as these has been recognised by UN treaty bodies. The Committee on the Elimination of Discrimination against Women (CEDAW Committee), for example, has noted that discrimination on the basis of gender is "inextricably linked" to other factors, including religion. States parties must "legally recognise such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them."[558]

Despite Uzbekistan's international legal obligations, including the prohibition of discrimination under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),[559] testimony collected by the Equal Rights Trust in 2014 clearly demonstrates that Muslim women face discrimination on the intersecting grounds of gender and religious belief. Because independent Muslim women are much more visible in society than their male counterparts, these cases also serve to illustrate the wider pattern of discrimination against independent Muslims and indeed religious minorities more broadly in Uzbekistan.

In one of the most severe manifestations of discrimination affecting Muslim women as a result of their dress, research for this report suggests that Muslim women may be intimidated and harassed by state actors. Interviewed in October 2014, one woman explained how she had been arbitrarily detained by police and forced to wait in a holding cell for eight hours before being interviewed and required to sign a document pledging to wear traditional Uzbek clothes:

558 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 28: The Core Obligations of States Parties under Article 2 of the Convention*, UN Doc. CEDAW/C/GC/28, 2010, Para 18.

559 Convention on the Elimination of All Forms of Discrimination against Women, 1249 U.N.T.S. 13, 1979, Article 2.

Case Study 1: Interview with F., a Muslim Woman[560]

In July 2013, a man wearing civil clothes said that I was called by market administration. I closed my tray, and went to the administration of the bazaar. There were some men who took me underarms and forced me into the car, taking me to Militia Detention Centre of the district. I was taken to the concrete basement, a small cell. I stayed there for around eight hours before a militia officer took me upstairs.

There were three men in the room. It was a very long talk. They asked me, where I get money; who supports me; why I am wearing such a black hijab; if I am Hizbutchi [a member of Hizb ut-Tahrir], or related to any extremist organisations. I was horrified, and cried. I told them that I am not a member any religious groups; that I am simply a Muslim woman.

A man came and took me to another room. I stood there for another two hours. After that two police came, and talked to me again. They told me that I must take off my hijab and wear national dress. I promised, and wrote a letter stating that I would do so. They let me go, the same day, late in the evening. Since that time, I decided not to go back to my work, and have been travelling to Kyrgyzstan, bringing back cheap goods and selling them from my flat. This is illegal, but I am careful.

In November 2014, the Trust interviewed one woman who was reprimanded for wearing Islamic dress and threatened by the local police and the local *Mahalla* (a traditional form of self-governing community organisation in Uzbekistan which has been co-opted by the state and now plays a central role in the monitoring of citizens[561]). Since that interaction she has refused to invite guests back to her home:

560 Equal Rights Trust interview with F., a Muslim woman, October 2014, Tashkent.

561 See Section 3.3 for a more detailed discussion of the *Mahalla*.

Case Study 2: Interview with B., a Muslim Woman[562]

I actively practice Islam. I wear the hijab. Recently, I changed my house to a flat due to problems with my previous *Mahalla* and financial difficulties. Many people in *Mahalla* did not like our family, as my husband was convicted for five years, as an alleged member of Hizb ut-Tahrir, in 2010. As my daughters are growing up, and I need to marry them, I wanted to move to a place where nobody knows us, and cannot say bad things about our family. Also, I wanted to use difference from the house sale to support of our family.

I bought a two-room flat and I moved there with my daughters. A few months later, I decided, to invite our close relatives and friends to the house, to make a Mavlud.[563] Together with my sisters, and one close neighbour, we cooked lots of nice pastries and prepared food in the morning. In the afternoon, about 20 women came to our house. We read prayers from the Koran and everybody added their own prayer so that we might prosper in our new house.

When, we were eating the second course, someone knocked on the door very loudly. When, I opened it, I saw a policeman, two unfamiliar women, and the *Mahalla* head (a man). They entered into the corridor and started asking me what we were doing here, and why so many women wearing the hijab had come to my house. I told them that it is family members and friends, and that I was doing Mavlud to celebrate my new place.

Without invitation, all these people came into the room, and suddenly, the policeman grabbed a sketchbook next to me. Everybody felt shocked and threatened. It was my handwritten prayers from the Koran in Cyrillic. He read it and realised that was passages from the Koran, and put it back. The policeman became much calmer, and said: "next time, if you going to make any such event, you must invite people from the *Mahalla*, otherwise, you will be charged according to the law." Then he whispered something to the head of the *Mahalla* and left.

562 Equal Rights Trust interview with B., a Muslim woman, November 2014, Tashkent.

563 Mavlud is a celebration of the birth of the Prophet Muhammad. Beyond this celebration, people in Uzbekistan gather for religious readings, and read and sing prayers together from the Koran.

> After that the head of the *Mahalla*, together with two other women from the *Mahalla* Committee, lectured us and told us that the hijab is not a custom of Uzbeks. Only fundamentalists wear such clothes. My guests and relatives were afraid to say anything. I explained to them that it is against Islam, as it is required for a woman to cover her head, neck and body. The *Mahalla* head become furious and shouted at me, calling me an extremist. He asked whether Uzbek tradition is not important to me. Terrified, I said that of course I respect our traditions and maybe I am wrong. They strongly advised us not to wear the Arabic style long black dresses. All of my guests were unhappy, and left soon after. I am still afraid to invite people to my home. The *Mahalla* Committee often knocks at my door, in order to see who is at home. I think that my close neighbours are watching me and my children.

In addition to direct discrimination at the hands of state actors, interviews conducted by the Trust in 2014 revealed examples of discrimination against women and girls who chose to wear certain forms of Islamic dress in education and employment, as discussed below.

Education

In 1999, Human Rights Watch documented the experiences of several Uzbekistani Muslim students who were excluded from institutions of higher education due to their religious attire. For example, Raikhona Hudaberganova was a student at the Institute of Oriental Studies. The University Prorector informed her that she could only remain at the Institute if she stopped wearing the hijab; when she refused, she was expelled and later lost her appeal for reinstatement.[564] Universities offered a wide range of explanations for the expulsions.[565] According to the report, "university administrators routinely referred to a directive from higher authorities."[566]

These findings are confirmed in the Trust's research. One woman interviewed in November 2014 was warned of a government policy prohibiting the hijab,

564 Human Rights Watch, *Discriminatory Expulsions*, 1999, available at: https://www.hrw.org/reports/1999/uzbekistan/uzbek-05.htm.

565 *Ibid*.

566 *Ibid*.

while a second was told that only Christian iconography was permissible. In both cases, the women were told that security officers would be called should they not agree to the school's demands and prohibit their daughters from attending school wearing Islamic forms of dress.

Case Study 3: Interview with C., a Muslim Woman[567]

Our family is very much devoted to Islam and follow all the rules and requirements. Both of my children started wearing the headscarf in the summer. In the fall, the school director tried to stop them from coming to school. He demanded that they remove their headscarf. I took a printed copy of the Uzbek Constitution, came to his office, and showed him that there is right to religious freedom, and a right for my children to receive free and compulsory secondary education.

I requested that he show me any law that prohibits my daughters from wearing a headscarf. He could not say anything clear in response, just that there was an order from government that he had to obey otherwise the SNB (National Security Service) will fire him. First, I told him that I don't care about him and that he does not have the right to stop my children from coming to school. But then I understood his position and I thought that if I did not agree my daughters would always be under pressure and scrutiny. Then they would not be able to graduate from school. We agreed that my daughters would not wear a headscarf while they attended school.

Case Study 4: Interview with G., a Muslim Woman[568]

I have a 17-year-old daughter. She studies at high school. Our family is devoted to Islam. Many members of our family went to Hajj. We all observe Ramadan and wear the hijab. This year, my daughter went to a new school and began to wear a headscarf. From the beginning of the school year my daughter's teacher started abusing her for her clothing. But she was not wearing a hijab or a long dress. It was a normal black skirt with leggings and a headscarf.

567 Equal Rights Trust interview with C., a Muslim woman, November 2014, Tashkent.

568 Equal Rights Trust interview with G., a Muslim woman, November 2014, Tashkent.

One day the school director called me to the school. The director and my daughter's teacher yelled at me, asking why I was forcing my child to wear the headscarf. The director asked me if I was an extremist. I was stunned, and cried. I noticed that the teacher was wearing a Christian cross on her neck and asked, "if you are a believer, why can't my daughter be?" The teacher said that wearing any type of jewellery with a cross or moon is not prohibited; only the headscarf. Afterwards, the school director threatened me, saying that he was going to call to the SNB as I am forcing my children into religion. I was terrified as I knew what they could do. I decided not to confront them and agreed that my daughter would come to school without it.

Employment

In researching this report, the Trust interviewed several women who explained how wearing a hijab or covering the heads in a "Muslim style" may lead to discrimination in the workplace. One woman, E., was told that if she refused to remove her headscarf, she would lose her job. As the law provides women with children under the age of three with a level of protection from dismissal,[569] her employer pressured her to resign:

> *I worked as a nurse in a polyclinic and was on my maternity leave when I decided to start wearing the hijab. When my child was two I returned to work. The head doctor said that if I want to work in the polyclinic I must take off my hijab and headscarf or give him letter of resignation. I discussed this with my husband and he said that he would not allow me to take off hijab. I had to sign the resignation letter, and currently I am unemployed.*[570]

Moreover, discrimination in educational institutions does not appear to be limited to students. One woman interviewed by the Trust informed researchers that she had been given the option of wearing her headscarf in the traditional fashion or ending her employment at a local school, The interviewee reported wearing a long headscarf that covered her head and neck, whereas

569 Labour Code of the Republic of Uzbekistan, Code of 21 December 1995, Article 237.

570 Equal Rights Trust interview with E., a Muslim woman, November 2014, Tashkent.

traditionally, Uzbek women wear a short headscarf that does not fully cover the head and is made from the traditional fabric Adras. When the woman refused to change her dress, the woman was forced to resign.[571]

Long periods of unemployment can have a serious detrimental impact on the economic opportunities of women. For instance, under Article 7 of the Law on State Pensions, women are made eligible to receive a pension upon reaching the age of 55 following at least 20 years recorded work. Women who do not meet this threshold are required to apply for an elderly allowance at the age of 60. Consequently, those women without a continued history of employment may have to wait an additional five years to receive a state pension.[572] Although the same conditions apply to men (albeit with a later pensionable and working age), the long term financial impact of losing a job means that women can feel forced to choose between their religious beliefs and the opportunity of employment. The Trust interviewed one woman who was threatened by tax officers with the closure of her business:

Case Study 5: Interview with W., a Muslim Woman[573]

I live in the Old City of Tashkent. I work in the local market where I have small shop selling women's shoes. My husband and parents-in-law went to Hajj in 2012, and they become more interested in Islam. My husband practices daily prayers alongside my parents-in-law. I started learning more about Islam and understood the positive aspects of praying and wearing the hijab. Therefore, I started wearing the hijab, along with other members of our family. Now, I cannot go out with an uncovered head and wear the hijab.

All this brought our family to the special attention of the *Mahalla*. This summer, *Mahalla* Committee activists came to our house in order to persuade my mother-in-law and myself to stop wearing the hijab or Arabic style headscarf, and wear the headscarf in the national manner: tight at the back of the

571 Equal Rights Trust interview with H., a Muslim woman, November 2014, Tashkent.

572 See Law of the Republic of Uzbekistan on State Pensions, Law No. 938-XII of 3 September 1993, Article 7. See also, Approval of Normative Legal Acts Necessary for the Implementation of the Law of the Republic of Uzbekistan on Introducing Amendments and Addenda to the Law on State Pensions and Labour Code of the Republic of Uzbekistan, Cabinet of Ministers Resolution No. 107 of 7 April 2011, Annex 2, Para 6.

573 Equal Rights Trust interview with A., a Muslim woman, November 2014, Tashkent.

head with the ears and neck open. My mother in law was very angry with them and yelled, telling them to leave the house.

Two weeks later, a tax officer came to my shop. They closed the doors, and threatened me, telling me to wear my headscarf in the national manner. They told me that they would take my business, and set me up to pay large fines. I was so scared, and promised to take off my hijab and change to the national dress and wear my headscarf the traditional way. Now they come frequently to check and see if we are wearing the hijab or headscarf "properly". Tax authorities have enormous power; they can easily confiscate all my goods if I do not listen to them.

The threat of having a business closed down is a real concern for independent Muslims in Uzbekistan. In October 2014, the Trust interviewed U., a woman who worked on a stall selling religious clothing. According to her testimony, authorities confiscated her stock and kept her in a room for five hours:

Case Study 6: Interview with U., a Muslim Woman[574]

I have a shop in the local market. I have worked there for a number of years. My shop specialised in selling Muslim clothing for women. I used to bring clothes from the United Arab Emirates, Turkey, and India.

In 2012 tax and customs authorities searched my shop unexpectedly. They confiscated all the goods in the shop. It was like a nightmare as there were six men without uniforms. They kept me in a closed shop for five hours, listed everything that I had, and took it away. They told me that I was prohibited from selling such items anymore.

The same night, I had my first stroke. I stayed in hospital for 15 days and had to stay at home for six months of rehabilitation. I lost a huge amount of money and my health. It took me another year to pay my debts, and I only resumed working at the market last year. Now, I sell children's toys from China. You cannot find people who sell Muslim clothing for women openly in bazaars.

574 Equal Rights Trust interview with D., a Muslim woman, October 2014, Tashkent.

Conclusion

In the 25 years since Uzbekistan became independent, religious belief has been increasingly tightly regulated. Under President Karimov, the state co-opted Islam, promoting a particular version of state-sanctioned "secular Islam" and defining acceptable cultural and religious practices in an apparent attempt to dilute the influence of heterodox religious ideologies and buttress state power. Legal restrictions on the right to freedom of religion are manifold, with religious organisations subject to lengthy registration requirements, which have been applied in such a way as to limit opportunities for minorities to practice and manifest their faith. In particular, so-called "independent Muslims" have been targeted by government, detained for holding unauthorised religious meetings and disseminating religious literature, in violation of the rights to freedom of religion and freedom of expression, as well as the right to non-discrimination. In response to the Tajik Civil War, the 1999 Tashkent bombings and the 2005 Andijan massacre, religious minorities have been subjected to a campaign of arrests and imprisonment. Laws governing religious extremism have been broadly interpreted; utilised by government to crack down on those deemed to represent a challenge to state power. In the process, government has failed to distinguish between individuals and groups peacefully exercising their rights to freedom of religion and expression and those advocating violence. Independent Muslim women have been particularly affected by state law and policy, criminalised as a result of their decision to wear the veil, and marked out as adherents of a non-sanctioned faith, thus exposing them to harassment and discrimination. Thus, independent Muslim women wearing non-sanctioned forms of Islamic dress have been denied opportunities in education and employment, as a result of multiple discrimination on the basis of gender and religion.

3.2 Discrimination on the Basis of Ethnicity

Uzbekistan is required to prohibit discrimination on the basis of race, colour and national origin in the enjoyment of all civil, political, economic, social and cultural rights guaranteed under the ICCPR and the ICESCR by virtue, respectively, of Article 2(1) of the ICCPR and Article 2(2) of the ICESCR. In addition, Uzbekistan is required by Article 26 of the ICCPR to ensure that "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground", including on the basis of

race, colour and national origin. The UN Committee on Economic, Social, and Cultural Rights (CESCR) has also stated that Article 2(2) of the ICESCR extends to a prohibition of discrimination on the basis of ethnic origin. In addition, as a state party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Uzbekistan is required to prohibit all forms of discrimination on the basis of race, colour, descent, national, and ethnic origin.

Comprehensive and up-to-date statistics on the ethnic make-up of the Uzbekistani population are not readily available. At the time of the 1989 census, compiled prior to independence, ethnic Uzbeks constituted a majority of the total population (71.4%), followed by Russians (8.35%); Tajiks (4.71%); Kazakhs (4.08%); Tatars (2.36%); and Karakalpaks (2.08%). The remaining 7.03% of the population was made up of over 123 ethnicities, including individuals with no designated nationality, and those designated "persons of other nationalities".[575] More recent government estimates place the number of ethnic Uzbeks as a much higher proportion of the total population (83.1%), with the size of the ethnic Russian and Tatar groups having fallen to 2.6% and 0.7% of the population respectively).[576] While the estimated number of ethnic Tajiks in Uzbekistan remains similar to 1989 (4.8%), the Minority Rights Group notes that this figure is likely much higher, as members of the Tajik community often self-identify as Uzbeks in order to increase employment opportunities.[577]

Political and Social Context

The Uzbek Soviet Socialist Republic was established in October 1924,[578] following a Soviet census in the Central Asia region which was used as the basis for

575 Institute of Demography of the National Research University "Higher School of Economics", *All-Union Census in 1989, National Composition of the Population of the Republics of the USSR: Uzbek SSR*, 2016, available at: http://demoscope.ru/weekly/ssp/sng_nac_89.php?reg=4.

576 United Nations, *Core Document Forming Part of the Reports of States Parties: Uzbekistan,* UN Doc. HRI/CORE/UZB/2015, 8 January 2016, Annex 2, p. 51.

577 Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2016*, 2016, pp. 125-127, available at: http://minorityrights.org/wp-content/uploads/2016/07/MRG-SWM-2016.pdf.

578 Minority Rights Group International, *Central Asia: Conflict or Stability and Development?*, 1997, p. 32, available at: http://minorityrights.org/wp-content/uploads/old-site-downloads/download-420-Central-Asia-Conflict-or-Stability-and-Development.pdf.

national delimitation[579] and the establishment of the states now recognised as Uzbekistan, Kazakhstan, Kyrgyzstan, Tajikistan, and Turkmenistan.[580] The division of the new territorial entities was decided primarily on "linguistic lines",[581] though it should be noted that each state was multi-ethnic, with Uzbekistan in particular retaining a large Tajik minority population. It has been argued that this approach paved the way for the creation of "Soviet nationalities",[582] thus helping to establish communist ideology over indigenous groups.[583]

After the establishment of Soviet rule, the authorities began implementing an indigenisation policy, aimed at distinguishing the new regime from the previous Russian imperial administration.[584] Education was a major focus: previously the preserve of the economically advantaged, primary and secondary education was made compulsory, and children from a variety of ethnic and social backgrounds began to participate.[585] The use of national languages was fostered and promoted and[586] education was offered in the national languages.[587] According to Dadabaev, by promoting education among the local population, and by preserving and promoting elements of ethnic culture and language, the Soviet administration aimed both to distance itself from the previous colonial approach of the Tsarist regime, and to establish a "Soviet national consciousness" over "ethnic identity".[588]

However, this process proved both time-consuming and expensive and by the end of the 1930s policy had shifted.[589] Efforts began to establish Russian

579 Pasilov, B., "National Policy and Identity under the Soviet Authorities in Uzbekistan in the 1920s and 1930s", *Copenhagen Journal of Asian Studies*, Vol. 28(2), 2010, p. 20.

580 Glenn, J., "Contemporary Central Asia: Ethnic Identity and Problems of State Legitimacy", *European Security*, Vol. 6(3), 1997, p. 132.

581 See above, note 578, p. 5.

582 *Ibid*., p. 6.

583 See above, note 579, p. 10.

584 Dadabaev, T., "Recollections of Emerging Hybrid Ethnic Identities in Soviet Central Asia: the Case of Uzbekistan", *Nationalities Papers*, Vol. 41(6), 2013, pp. 1026–7.

585 *Ibid.,* pp. 1031.

586 See above, note 578, p. 6.

587 See above, note 584, p. 1031.

588 *Ibid*., pp. 1031 and 1026–7.

589 *Ibid*., p. 1032.

as a shared language, accessible to all members of society: Russian language education was mandated, while a 1935 decree established Cyrillic as the predominant alphabet of the Union.[590] Whereas previous policy had aimed to emphasise and support the differences between groups, the new policy began to focus on "reduc[ing] indigenous groups' ethnic markers" and promoting a unified Soviet nation, while de-emphasising the features that distinguished different ethnic groups.[591] One significant change was the introduction of an internal passport, a compulsory document introduced in the 1930s for all Soviet citizens. The internal passport contained various pieces of identifying information, most importantly, *propiska* – a small stamp indicating a right to reside in a particular area.[592] The purpose of this system was complex and multi-faceted:

> *[T]he propiska and the internal passport regime were legitimised as strategies to ensure and control the 'proper' mixing of the population. The official aim was thus an internationalisation and Sovietisation of the population of the Soviet Union. At the same time, the over-population of 'closed cities' was to be prevented.*[593]

Alongside *propiska*, the Soviet internal passport included the category of 'nationality'.[594] Having initially prospered in state education and employment policy, this inclusion was relatively uncontroversial among minority groups,[595] who were encouraged against identifying as Russian – instead identifying from

590 *Ibid*.

591 *Ibid*.

592 Pipko, S., and Pucciarelli, A. J., "The Soviet Internal Passport System", *The International Lawyer*, Vol. 19(3), 1985, pp. 916–7.

593 Hojaqizi, G., "Citizenship and Ethnicity: Old Propiska and New Citizenship in Post-Soviet Uzbekistan", *Inner Asia*, Vol. 10(2), 2008, p. 306.

594 'Nationality' ("национальность"). In Marxist theory, 'nationality' followed the stages of 'ethnicity' and 'tribe' in the development of groups. 'Nationalities' were eventually expected to converge; "evolving to form the historically new entity of the "Soviet people"". For further discussion, see Equal Rights Trust, *In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine*, 2015, p. 123, available at: http://www.equalrightstrust.org/sites/www.equalrightstrust.org/files/ertdocs/In%20the%20Crosscurrents%20Addressing%20Discrimination%20and%20Inequality%20in%20Ukraine.pdf.

595 Arel, D., *Fixing Ethnicity in Identity Documents: The Rise and Fall of Passport Nationality in Russia*, 2001, pp. 4–5, available at: https://www.ucis.pitt.edu/nceeer/2001-815-01g-2-Arel.pdf.

a list of recognised nationalities.[596] Once chosen, an individual's nationality was permanent.[597] However, the difficulty of the nationality registration system soon became apparent. Once declared, members of unpopular "nationalities" such as Jews and Germans were easily identifiable and could be targeted by private and state authorities.[598]

Starting in the mid-20s, the Soviet period saw significant migration between different parts of the Union. The first wave, between 1925 and 1940, saw "hundreds of thousands of immigrants, mostly from the western (Slav) republics (…) [including] Party activists, administrators, military, security and law enforcement personnel; professionals and skilled technicians".[599] The Second World War saw a further wave of migration from other parts of the Soviet Union.[600] As a contingency against invasion, the Soviet authorities relocated industrial plants from western Russia to Uzbekistan, leading to an influx of Russian and other European workers.[601] Between 1936 and 1952, the Soviet state exiled ethnic groups suspected of subversion – Crimean Tatars, for example – to Uzbekistan, in order to disrupt movements which threatened – or were perceived to threaten – the integrity of the USSR.[602]

Another key policy concerned the so-called forced "sedentarisation of the nomads".[603] The Lyuli community – also known as Central-Asian Gypsies – were particularly affected by this approach.[604] Special educational institutions which had previously been established for these groups were closed in 1938, with education increasingly "mainstreamed", while separate forms of employment, including "Gypsy-specific collective farms and cooperatives", were removed, with members pushed toward "existing collective farms in

596 *Ibid*., pp. 5 and 12.

597 See Equal Rights Trust, above, note 594, p. 124.

598 *Ibid*., p. 14.

599 See above, note 578, p. 15.

600 *Ibid*., p. 15.

601 *Ibid*., p. 46,

602 *Ibid*., p. 15.

603 *Ibid.*, p. 6.

604 Marushiakova, E., and Popov, V., *Central Asian Gypsies: Identities and Migrations*, 2015, pp. 7–8, available at: http://www.ireteslaw.ispan.waw.pl/bitstream/handle/123456789/707/document%20%2821%29.pdf?sequence=1.

rural areas and towards factories and enterprises in the towns".[605] Two ordinances "obliging local authorities to assist those affected by offering them housing, employment and schooling" were adopted in the mid-1950s, with one of the ordinances actively criminalising those individuals attempting to avoid the sedentarisation process,[606] as noted by Marushiakova, the policy was effective in its aims. The Lyuli "gradually adopted an almost entirely sedentary lifestyle and became an integral part of the social structures of Soviet society," albeit "generally at its periphery".[607]

Given the wide number of ethnic groups and the potentially divisive nature of some Soviet policies (particularly as regards the use of the Soviet passport, forced sedentarisation and attacks on religious liberty), perhaps one of the more surprising features of Central Asia during the Soviet period was the relatively high measure of inter-ethnic harmony. While in practice certain groups were afforded additional privileges, particularly during the period of indigenisation, in principle at least, groups were to be treated equally.[608] Consequently:

> *For most of the Soviet period there was a notable degree of harmony between the different 'nationalities'. On an individual level, there were inevitably instances of discrimination and harassment, but there was no institutionalized racism. It is one of the extraordinary paradoxes of the Soviet experience that despite the horrendous sufferings endured by so many, especially in the 1930s, there was remarkably little bitterness against the Russians or any other ethnic group. Rather, there was a feeling of common tragedy, shared by all.*[609]

Toward the end of the 1980s, however, signs of ethnic tension began to arise.[610] In 1989, Meskhetian Turks were attacked by ethnic Uzbeks in the

605 *Ibid*., p. 7.

606 *Ibid*., p. 8.

607 *Ibid*.

608 See above, note 578, p. 16.

609 *Ibid*.

610 *Ibid.*, p. 16.

Ferghana Valley; the violence began to spread and demonstrations were held where protesters were fired upon by government troops.[611] Thousands of individuals were reported to have died or suffered injury during the conflict.[612] Smaller outbreaks of ethnic violence continued up until independence.[613]

Following independence, mass emigration occurred between states in the region, with non-titular peoples (that is, non-Uzbeks in Uzbekistan) becoming concerned about their new status in society.[614] Government responses differed. Although some states, such as Tajikistan and Turkmenistan, allowed dual-citizenship; this prospect was rejected by Uzbekistan.[615] However, President Karimov appeared to take seriously the threat of inter-ethnic violence, which had been seen in other states in the region. Indeed, Karimov proposed the idea that the authoritarian nature of his regime was in part a response to the spectre of inter-ethnic violence, stating in 1996:

> *[P]erhaps in my actions there are signs of authoritarianism. But I explain as follows: in certain periods of history, especially during the construction of statehood, strong executive power is necessary. It is necessary in order to avoid bloodshed and conflict, to preserve in the region inter-ethnic and civil harmony, peace and stability, for which I am prepared to pay any price.*[616]

Security issues, it has been observed, feature prominently in the post-independence ideology.[617] It is noteworthy that Uzbekistan remains one of the few countries to have maintained the *propiska* system, allowing for an unusual degree of state control in the movement of its citizens. For some commentators, the maintenance of *propiska,* combined with the economic and social

611 Barnett, R., *Blood on the Doorstep: The Politics of Preventive Action*, Council on Foreign Relations Press, 2002, p. 110.

612 *Ibid*.

613 *Ibid*.

614 See above, note 578, p. 17.

615 *Ibid*., p. 18.

616 Fumagalli, M., "Ethncity, State Formation and Foreign Policy: Uzbekistan and 'Uzbeks abroad'", *Central Asian Survey*, Vol. 26(1), 2007, pp. 111–2.

617 *Ibid*.

unrest which followed independence, has seen a shift in perceptions about ethnic identity. As the level of protection afforded by the welfare system has declined, the notion of nationality or state affiliation has weakened, with a greater emphasis placed on traditional kin, ethnic and regional ties.[618]

Legal and Policy Framework

Uzbekistan has adopted several laws aimed at protecting minority ethnic and racial groups from discrimination and violence. Article 18 of the Constitution prohibits discrimination, *inter alia*, on the basis of race, nationality, language and social origin.[619] Additionally, under Article 57 of the Constitution, the establishment of "political parties based on national and religious principles" is prohibited.[620] In practice however, Article 57 has been used to prevent the registration of groups which challenge the dominance of Karimov and his ruling party, including the political opposition party *Birlik* in 1993.[621]

Both the Criminal Code and Code of Administrative Responsibility contain provisions prohibiting hate speech. Under Article 156 of the Criminal Code, the "incitement of national, racial, ethnic or religious hatred" is forbidden. The production, possession or distribution of materials promoting such hatred (following a prior administrative offence) is made punishable by a fine, correctional labour or imprisonment for a period of one to three years.[622] In addition, deliberate acts "injurious to the national honour and dignity" or which "insult the feelings of citizens" because of their religious (or lack of religious) convictions, or which aim to incite hatred, intolerance, or discord towards individuals on national, racial, ethnic or religious grounds may be punished by up to five years imprisonment.[623] As discussed in Part 2 of this report, these provisions are broadly drafted, extending beyond the permissible restrictions on free speech established in international law and opening up the prospect of discrimination in their application. The Criminal Code also

618 See above, note 593, p. 305.

619 See above, note 481, Article 18.

620 *Ibid*., Article 57.

621 Miller, A., *To Balance or Not to Balance: Alignment Theory and the Commonwealth of Independent States*, *Ashgate*, 2006, p. 71.

622 See above, note 505, Article 156.

623 *Ibid*.

contains several provisions for crimes committed on the grounds of ethnic or racial hatred which enhance the penalties for the crime on the basis of the bias motivation.[624]

Under Article 42 of the Code on Administrative Responsibility, "violation of citizens' rights to free choice of language in upbringing and education, the creation of obstacles and restrictions in the use of language, to the neglect of the state language and other languages of the nations and nationalities living in the Republic of Uzbekistan" is an offence punishable by a fine of one to two times the national minimum monthly wage.[625] Further, under Article 184 of the Code, the manufacture, storage or distribution of materials promoting national, racial, ethnic or religious hatred, is made punishable by a fine of 50–100 times the national minimum monthly wage, increased for officials to 150 times the minimum monthly wage or 15 days administrative arrest.[626]

Discriminatory Laws

Article 28 of the Uzbekistani Constitution grants citizens "the right to freedom of movement on the territory of the Republic, as well as to free entry to and exit from it except for the events specified by law."[627] However, following the adoption of the 1994 Presidential Decree on the "Regulations on the Passport System in the Republic of Uzbekistan"[628] and the 1999 Decree on the Improvement of the Passport System,[629] the constitutional guarantee of free movement has been eroded. As noted above, the state maintains an internal residency system, whereby individuals are required to list their place of residence on their internal passports (*propiska)*. Following the dissolution of the Soviet Union, the use of the *propiska* was gradually discontinued in many Cen-

624 See for instance, in relation to Murder. See *ibid*., Article 97.

625 See above, note 555, Article 42.

626 *Ibid*., Article 184.

627 See above, note 481, Article 28.

628 Presidential Decree on Introduction of the Regulations on the Passport System in the Republic of Uzbekistan, Decree No. UP-1027 of 23 December 1994.

629 Presidential Decree on the Improvement of the Passport System of the Republic of Uzbekistan, Decree No. UP-2240 of 26 February 1999.

tral Asian states,[630] but in Uzbekistan the system was "significantly tightened". As noted by Tukmadiyeva:

> *Tashkent became a virtually closed city, where only public servants, personnel of the Ministry of Interior Affairs (MVD), and the families of citizens already residing there are permitted to move legally. Notaries were prohibited from registering sales or purchases of property in Tashkent if the buyer did not have a permanent propiska in the capital. In 2011, a new law on the categories of citizens subject to permanent residence in the city of Tashkent and the Tashkent region was introduced, expanding the closed area to the Tashkent region.*[631]

The process of applying for residency in Tashkent is arduous and in practice, residence permits are rarely granted.[632] Individuals wishing to move to the capital must apply for either a permanent or temporary *propiska*. Short term permits are required for any individual planning to visit for a period of more than three days; where granted, the temporary certificate may be valid for a maximum period six months, although it has been noted that officials rarely grant stays for a period longer than three months.[633] Permanent permits are extremely difficult to obtain.[634] Checks of permits are said to increase around the time of national holidays, with those individuals found to be illegally residing required to leave or face deportation.[635]

Maintenance of *propiska* disadvantages many individuals, affecting access to employment, housing, healthcare and social benefits. The system particularly affects traditional nomadic groups who are known to travel between regions. According to estimates provided by the non-governmental Uzbek-German Forum for Human Rights, there are "more than a million itinerant labourers and

630 Tukmadiyeva, M., "Propiska as a Tool of Discrimination in Central Asia", *Central Asian Fellowship Papers*, Vol. 12, 2016, p. 4.

631 *Ibid.*, p. 7.

632 See above, note 593, p. 310.

633 *Ibid*.

634 *Ibid*.

635 *Ibid*., p. 312.

day labourers from the provinces without registration in Tashkent".[636] Such persons are persistently asked for identification and are required to pay large bribes to police when caught.[637] In 2015, the UN Human Rights Committee (HRC) criticised the retention of the *propiska* system, urging Uzbekistan to bring its legislation in line with the ICCPR.[638] Similar observations were made by the CERD who noted the "disproportionate impact of the compulsory residence registration system (propiska) in the state party on the economic and social rights and opportunities of disadvantaged members of ethnic groups residing outside the capital city".[639]

Larger Ethnic Minority Groups

As noted above, the Karimov regime sought to maintain a strict legislative and policy response to ethnic discrimination, hate speech and hate crime, apparently motivated by concerns over ethnic conflict. A conflict involving the Meskhetian Turk minority immediately before independence, and the ethnic conflicts in Tajikistan and Kyrgyzstan in the early 1990s raised concerns about the vulnerability of Uzbekistan to conflicts involving one or more of its large ethnic minority communities. Thus, in addition to establishing a wide-ranging criminal regime on hate crime and incitement, the government also created a special class of state-backed non-governmental organisations to provide representation for the country's larger ethnic minorities and ensure a degree of state influence over them.

In 1992, Uzbekistan created the institution of the Republican Inter-ethnic Cultural Centre.[640] Currently, there are over 140 national Cultural Centres,[641]

636 Uzbek-German Forum for Human Rights, *Submission to the Human Rights Committee*, 2009, p. 7, available at: http://www2.ohchr.org/english/bodies/hrc/docs/ngos/UGFHR_Uzbekistan98.pdf.

637 *Ibid*.

638 See above, note 504, Para 20.

639 Committee on the Elimination of Racial Discrimination, *Concluding Observations: Uzbekistan*, UN Doc. CERD/C/UZB/CO/8-9, 14 March 2014, Para 18.

640 International Cultural Centre of Uzbekistan, created by Decree # 10 of the Cabinet Ministry of Uzbekistan, January 1992, available at: http://www.icc.uz/rus/dokumenti/informaiya_o_zadachax_funkiyax_i_polnomochiyax_respublikanskogo_internaionalnogo_kulturnogo_entra.

641 Uzbekistan Today, "Prosperity of Motherland – Achievement of Multiethnic People", 2012, available at: http://uzbekistan.or.kr/old/bbs/board.php?bo_table=pressrelease&wr_id=185&page=33.

each of which brings together the grassroots organisations and associations of national minorities and each of which is headed by a pro-regime figure. These Cultural Centres act and speak in support of the government.[642] For example, the head of the Kyrgyz branch, Rahmatulla Jabbarov has stated that:

> *The constitutional principles of freedom, rights and lawful interests of all citizens living in Uzbekistan, regardless of their nationality, are put in practice. The fact that our children are taught in Kyrgyz language and master the profession they choose serves as an example of it.*[643]

All of the large ethnic minorities in Uzbekistan are represented by Cultural Centres, but problems have arisen for those perceived to be opposed to the regime. For example, although some Tajik Cultural Centres which are loyal to the government have had no problems with registration, some have had their applications for registration refused.[644]

Moreover, there is also evidence that the Tajik minority face disadvantages because of the status of the Tajik language. Minority Rights Group International has reported that:

> *[There have been] complaints on the shortage of textbooks in Tajik, and to claims to discrimination in access to university level education as the entrance tests are exclusively in Uzbek. For Tajiks, the continuing low level of recognition of the Tajik language – despite their now constituting the country's largest minority – means that many parents opt not to enter their children in Tajik-language schools, as they know that access to higher education and public employment will*

642 *Ibid*.

643 The Government Portal of the Republic of Uzbekistan, "Interethnic harmony – factor for peace and stability", 2011.

644 Minority Rights Group International, *State of the World's Minorities 2008 – Uzbekistan*, 11 March 2008, available at: http://www.refworld.org/docid/48a7eae2c.html.

> *more likely be denied to them because of their non-Uzbek associations.*[645]

Similar observations were made by the CERD criticising the level of support afforded to the "promotion of minority languages."[646] This observation followed a 2009 individual communication to the HRC, which held that Uzbekistan had violated Article 27 in conjunction with Article 2 of the ICCPR by denying the registration application of the Tajik language newspaper "Oina".[647]

According to government data for the year 2007, there were 931,590 ethnic Russians resident in Uzbekistan.[648] Russian remains a widely used language in Uzbekistan, and the Russian minority has historically enjoyed a privileged position. However, in recent years there has been emerging evidence of discrimination and disadvantage. In 2006, the Centre for International Development and Conflict Management found that ethnic Russians had found it difficult to adapt to their loss of privileged status in Uzbekistan, and that while the state did not openly discriminate, there were emerging signs of discrimination in hiring practices of the civil service and high-level government positions.[649] A 2004 survey of ethnic Russians living in Uzbekistan by the Russian Ministry of Foreign Affairs found that 58.7% of questioned wished to resettle in the Russian Federation.[650] The main reasons for this desire were given as poverty (55%), economic opportunities (27%) and family reunion (25%).[651] Discrimination was either not included in the list of questions of the survey, or was ignored by interviewees.

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645 Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples, Uzbekistan: Tajikistan*, accessed 2016, available at: http://minorityrights.org/minorities/tajiks-2.

646 *Ibid*., Para 10.

647 *Mavlonov and Sa'di v Uzbekistan*, Human Rights Committee, Communication No. 1334/2004, UN Doc. CCPR/C/95/D/1334/2004, 2009, Para 8.7.

648 Committee on the Rights of the Child, *Third and Fourth Periodic Reports: Uzbekistan*, UN Doc. CRC/C/UZB/3-4, 26 January 2012, p. 12.

649 Centre for International Development and Conflict Management, "Assessment for Russians in Uzbekistan", *University of Maryland*, 2006, available at: http://www.mar.umd.edu/assessment.asp?groupId=70401.

650 Inosmi.ru, "Why Russians leave Uzbekistan", 16 April 2013, available at http://www.inosmi.ru/sngbaltia/20130416/208108533.html.

651 *Ibid*.

Karakalpaks

Karakalpakstan is the largest region of Uzbekistan at approximately 166,600 square kilometres, and is recognised as an independent republic. The total population of Karakalpakstan is estimated at around 1.7 million people.[652] It has own Constitution, which cannot contradict the Constitution and other laws of Uzbekistan.[653] Article 72 of the Constitution of Uzbekistan states that "Laws of the Republic of Uzbekistan shall be binding on the territory of the Republic of Karakalpakstan". Although official statistics on the ethnic composition of Karakalpakstan are not available, the 1989 Census indicated that together with Karakalpaks and Uzbeks, there are Russian, Kazakhs, Turkmens, Tatars, Koreans and many other nationalities are living there.[654]

While Karakalpakstan is nominally an independent autonomous Republic, in practice it has been ruled by a person loyal to the government in Tashkent. Article 74 of the Constitution provides Karakalpaks with a right of secession, based only on a popular referendum of the people of Uzbekistan. However, no such referendum has been called, or looks likely to be called: there are a number of constitutional limitations, and in addition, Karakalpaks are not a majority in the region, and lack of political freedoms, coupled with poor economic prospects, means that there is no strong call for independence.

The Karakalpak language is the second state language in Karakalpak, and there are schools and university courses taught in Karakalpak. However, in its 2014 concluding observations, the CERD expressed concerns regarding the "inability of some members of the Karakplak community to maintain their culture, their livelihoods and their traditional lifestyle".[655] The Committee was further concerned by the "decreasing use of the Karakplak language".[656]

652 Parliament of Karakalpakstan, *Official Website of the Parliament of Karakalpakstan*, 2016, available at: http://parliamentrk.gov.uz/en.

653 See above, note 481, Article 71.

654 Official web-site of the Cabinet Ministry of the Karakalpakstan, available at: sovminrk.gov.uz/ru.

655 *Ibid*., Para 17.

656 *Ibid*.

3.2.1 Discrimination and Inequality Affecting Lyuli

The Lyuli, sometimes referred to as Central Asian Gypsies,[657] are thought to have originated from India, with their lineage dating back as far as the 5th century.[658] The term "Lyuli" is an umbrella term, encompassing a range of different communities, each possessing their own rich ethnic, linguistic and cultural traditions. It should be noted that certain communities may wish fto distinguish themselves from, or even reject, the Lyuli label.[659] Indeed, such differences were observed between groups categorised as "Lyuli" in Tashkent during the research for this report. As a result of interviews with five Lyuli women, it was observed that two different "Lyuli groups" could be identified: the first, who tend to work unofficially in bazaars selling small items such as jewellery, see the second, who primarily collect and sell old objects street to street, as a "lower caste".[660] These differences between Lyuli communities mean that, experiences of discrimination will inevitably vary between different groups. Nevertheless, the tendency of other Uzbeks to treat all Lyuli as a single, homogenous group means that common trends in the treatment may be identified.

As with other ethnic groups, there is a lack of data regarding the number of Lyuli residing in Uzbekistan. Between the first Soviet Census in 1926 and the last in 1989, a consistent increase in the population was recorded. In 1926, 3,710 persons declared themselves Tsygane (Gypsies); compared to 5,487 in 1939; 7,860 in 1959; 11,371 in 1970; 12,581 in 1979 and 16,397 in 1989.[661] In documentation provided at its 2013 Universal Periodic Review, Uzbekistan estimated that around 20,000 Lyuli were resident in Uzbekistan,[662] although some estimate that the actual number is much higher.

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657 Scholars have noted that the term "Roma", while often preferred in European discussion, may not be an appropriate descriptor when considering the perceptive differences between Roma and Central Asian Gypsy groups. See above, note 604, pp. 4.

658 Wixman, R., *The Peoples of the USSR: An Ethnographic Handbook*, Routledge, 1988, p. 40.

659 *Ibid*.

660 Equal Rights Trust group interview with five Lyuli Women, November 2014, Tashkent.

661 See above, note 604, p. 6.

662 Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Uzbekistan*, UN Doc. A/HRC/24/7, 5 July 2013, Para 21.

Given the near total absence of information on the situation of the Lyuli, their experience of discrimination, disadvantage and inequality has gone undocumented. While Ijtimoii Fikr, a government-approved NGO, has concluded that this group does not suffer discrimination in Uzbekistan,[663] research conducted for this report suggests that the Lyuli face significant barriers to participation in education, employment, health care, housing and political life.

Cultural Attitudes

While state policy during the Soviet period had seen stronger integration, better education and a certain degree of financial security for Central Asian Gypsies, the post-Soviet period brought with it economic turmoil and increased ethnic anxiety.[664] Lyuli in Uzbekistan are marginalised, distinguished from and set apart from other Uzbekistanis.[665] The Uzbekistani government has done little to ameliorate the situation – no state policies have been adopted addressing Lyuli needs, nor have any programmes concerning the social integration or educational development of Lyuli been approved.[666]

Equal Rights Trust research suggests that Lyuli in Uzbekistan are exposed to enormous hardship, both financial and social. Many are very poor, with restricted earning potential as a consequence of poor education and a lack of employment opportunities. Although many of the Tashkent Lyuli became sedentarised during the Soviet period, those coming from outside of the city cannot find official employment due to a lack of *propiska*. Facing multiple barriers to full and effective participation in society, some Lyuli are forced to beg in order to support themselves and their families. This, in turn, fosters prejudice and the adoption of stereotypes that associate Lyuli culture with mendicancy.

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663 Ijtimoii Fikr, *Submission to the Committee on the Elimination of Racial Discrimination on Uzbekistan*, 2013, p. 17, available at: http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/UZB/INT_CERD_NGO_UZB_16355_R.doc.

664 See above, note 604, p. 8.

665 *Ibid*.

666 A point recognised in 2010, by the Committee on the Elimination of Racial Discrimination, which noted its regret that "information on the situation of Roma in the periodic report of the State party remains scarce and that there is no information on any strategy the State party may have developed with a view to protecting Roma against discrimination". See Committee on the Elimination of Racial Discrimination, *Concluding Observations: Uzbekistan*, UN Doc. CERD/C/UZB/CO/6-7, 15 September 2010, Para 16.

The scale of social opprobrium towards the Lyuli in Uzbekistan is well demonstrated by a news report from Russia in 2005. Following a reported increase in the number of migrants in Russia, the Russian press blamed Uzbekistanis for causing a "disturbance"; in response, the "Uzbek embassy in Moscow reacted with fury, and several diplomats travelled to Syktyvkar to persuade the local authorities that Lyulis – not Uzbeks – were responsible."[667]

While a social divide between Lyuli and other Uzbekistani citizens was evident throughout our research, this does not appear to be caused by any genuine difference in culture or customs. As one woman interviewed by the Trust explained, ethnic Uzbeks and Lyuli persons share many commonalities:

> *We have slight differences regarding the burial service from other Uzbeks. Our people scratch their faces, when they cry at a funeral. Otherwise, we have the same customs, and we speak the same language – Uzbek.*[668]

Nevertheless, in Equal Rights Trust interviews, Lyuli respondents reported experiencing stigmatisation and public harassment. For example, the Trust interviewed one woman from the Kashkadariya region who was forced to leave her family home and move to Tashkent. Having struggled to find employment, she was forced to beg on the street where members of the public would shout at her:

> *My husband works seasonally – only when harvest starts in the fall. He does not receive any money, only grain or vegetables given to him as a salary. Our life is hard because there are no jobs or any help from government, People do not like us. They often shout at us. Thus, we only mix with our people. I left my children at home, and came to Tashkent together with my friends – 15 people. We had to leave our homes and look for food, and money. In order to survive I have to beg every day as*

667 Samari, A., "Uzbekistan: Luli Hit the Road", *Institute for War and Peace Reporting*, 21 February 2005, available at: https://iwpr.net/global-voices/uzbekistan-luli-hit-road.

668 Equal Rights Trust interview with B., a Lyuli woman from the Old City of Tashkent, October 2014, Tashkent.

> *there are no other choices to make a living for ourselves these days.*[669]

Several individuals interviewed reported similar experiences.

Following recommendations of the CERD in 2010,[670] the government of Uzbekistan commissioned a pilot study, conducted by the Centre for Public Opinion Research "Ijtimoii Fikr", into the socio-economic situation of the Lyuli community in Tashkent.[671] According to the poll, "99 per cent of Roma [Lyuli] respondents said they had not experienced any infringement or restriction of their right in Uzbekistan to pursue their traditional way of life."[672] What exactly is meant by the term "traditional Roma lifestyle" is unclear.[673] Moreover, it should be emphasised that the absence of impediments to the enjoyment of traditional cultural practices does not equate to an absence of discrimination. Separate results from the survey indicate that Lyuli face substantial restrictions in several areas of political, social and economic life. These restrictions were noted by the CERD, which expressed concern that the situation of the Lyuli had not been recognised "as a form of racial discrimination" by the state.[674] According to the Committee, the results of the survey "depict a marginalized and discriminatory situation", with Lyuli disadvantaged in both employment and education. In addition, concern was expressed regarding reports of "stigmatisation and negative attitudes on the part of the public as well as in the portrayal of Lyuli in the media".[675]

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669 Equal Rights Trust interview with I., a Lyuli woman, October 2014, Tashkent.

670 *Ibid*. See also, Committee on the Elimination of Racial Discrimination, *Eighth to Ninth Periodic Report: Uzbekistan*, UN Doc. CERD/C/UZB/8-9, 13 May 2013, Paras 312–315.

671 Although classified as an NGO, in practice, Ijtimoii Fikr operates with close ties to government. See Section 3.3 of this Report concerning "public associations" in Uzbekistan. For the reasons explained later in this chapter, the results of the above survey are somewhat questionable.

672 See above, note 670, Paras 312–315.

673 According to the survey, in 2013 96.2% of respondents indicated that they lived a "traditional Roma life", compared to just 3.8% who reported leading a "city sedentary lifestyle, according to the traditions and customs of the local people." This represents a sharp increase from 2012, where just 61% of interviewees reported living a traditional Roma lifestyle. The reasons for this increase are unclear, although it appears that a second option present in the 2012 survey (a mixture of a traditional Roma and city, sedentary lifestyle) was removed. See above, note 663, p. 10.

674 See above, note 639, Para 11.

675 *Ibid.*, Para 11.

Discrimination by State Actors

The majority of individuals interviewed by Ijtimoii Fikr between 2012 and 2013 reported experiencing no discrimination at the hands of the state or public bodies in relation to access to education,[676] citizenship,[677] health care institutions,[678] or employment.[679] Consequently, it concluded that Lyuli (referred to as Roma in the study) in Uzbekistan do not face discrimination and that Uzbekistan guarantees "equal rights and equal opportunities for all people".[680]

These findings are not supported by our research, which found that in practice, Lyuli face substantial impediments to the enjoyment of rights on an equal basis with others in society.

Case Study 7: Interview with a Member of the Lyuli Community[681]

I come from the from Surkhandariya region of Uzbekistan. In June of this year, my close relatives, including my children and friends and about 25 others, came to Tashkent. We were all staying near to the Hippodrome area (…) Twelve people were living in one room, and we paid about 5000 Sum (2.5 USD) for the room each night. Besides shelter, we need to find money for food, clothes and medicine. Moreover, we have to pay street bosses, who provide us protection. Otherwise, we cannot stay safely at our rented accommodation.

Sometimes we are beaten and mistreated by other people. This summer, three young men attacked my friend and me. They wanted us to give them all the money that we had. Luckily, people on the street stopped them, and helped us to run away. Sometimes, in order to stay in Tashkent we need to bribe police. Otherwise, they will send us back. Usually, police do not follow us; some police are friendly. There are certain days of the year, however,

676 See above, note 663, p. 14.

677 *Ibid*., p. 13.

678 *Ibid*., p. 16.

679 *Ibid*., p. 17.

680 *Ibid*.

681 Equal Rights Trust interview with K., a member of the Lyuli community, November 2014, Tashkent.

> when we have difficult days in the city. Toward the end of August this year, we were placed in confinement for a week in Kuyluk. Three days after Independence day we were allowed to go.

Education

Historians have noted that during the Soviet period, following a policy of enforced sedentarisation, social integration among the Lyuli was said to be high.[682] Children were required to attend school, with unexplained absences met by a visit from teachers and some Lyuli went on to higher education.[683] However, following the break-up of the Soviet Union and the resulting economic crisis, the Lyuli were once again pushed back to the margins of society.[684] As a result of their marginalisation, access to public schools for Lyuli is complicated, as school principals do not appear interested in ensuring school attendance. Moreover, many parents are unwilling to oblige their children to attend.

Respondents to the aforementioned Ijtimoii Fikr survey indicated varying levels of educational attainment. According to the organisation, of those interviewed, "1.4 per cent of Roma people have higher education, 13.9 have complete secondary education, 20.8 per cent lower secondary education and 63.9 per cent primary education",[685] while 69.2% of respondents reported that their children had received secondary education.[686]

These statistics are contradicted by research conducted for this report. The Equal Rights Trust interviewed 95 members of the Lyuli community, requesting *inter alia* information on their educational history. Not one respondent to the survey reported having had an opportunity to finish elementary or

682 See above, note 604, p. 8.

683 See above, note 667.

684 See above, note 604, p. 8.

685 See above, note 670, Paras 312–315.

686 See above, note 663, p. 14.

secondary school.[687] Out of all the individuals interviewed by the Trust, just one confirmed that their children were studying at elementary school; for the other 94 respondents, none of their children were currently in education.

According to the most recent UNICEF data, net attendance rates for boys and girls at the primary level in Uzbekistan is 95%.[688] Even if accepting the results of the Ijtimoii Fikr survey, it is clear that Lyuli children are seriously underrepresented in the education system. While no laws directly discriminate against Lyuli in education, states are obliged under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) to "support the inclusion in the school system of all children of Roma origin and to act to reduce drop-out rates".[689] In the absence of any specific state measures to reduce discrimination in schools and to increase the education rate among Lyuli, Uzbekistan is failing to meet its international obligations. As a consequence of this failure, Lyuli people lack necessary qualifications making it difficult to find employment.

Moreover, those few children who continue to attend classes are reportedly met by discrimination:

> *I never went to kindergarten. I work unofficially in bazaar as an assistant to a seller. I have two children - nine and eight years old. Both of my children go to primary school. In school children bully my kids. If something is lost in school, they straightaway accuse my children. Both of my sons are accused and harassed. People say "you have taken it – you are a thief!" That's why my children often refuse going to school. Frequently, I have to go to school, and talk to teachers, as always we have difficulties making my sons attend classes. I am not sure, how long I can keep my children at school.*[690]

687 Equal Rights Trust interviews with 94 Lyuli women and one man in different areas of Tashkent, October 2014.

688 UNICEF, *The State of the World's Children 2016*, 2016, p. 137, available at: http://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf.

689 Committee on the Elimination of Racial Discrimination, *General Comment No. 27: Discrimination against Roma*, UN Doc. A/55/18, 2000, p. 154, Para 17.

690 Equal Rights Trust interview with P., a Lyuli parent, October 2014, Tashkent.

In one case, a Lyuli woman recalled how a school principle prohibited her son from attending classes:

> *I am a Lyuli from Surkhandarya. I never studied at any elementary or secondary school. I have five children: two boys aged 21 and 19, and three girls, aged 15, 12, and 10 years old. None of my children ever went to elementary school. Many years ago, when I tried to send my first boy to school, the school director did not accept him. He said: "You don't need to study anyway, you are going to beg on the streets." So, he did not allow my eldest son to study at the school. After that I never wanted to send my other children to school (...) As a young woman, I always wanted my children to attend school and university, and became educated, but in reality it is tough.*[691]

A lack of resources was also cited as a reason for children being deprived of education. One woman interviewed by the Equal Rights Trust stated that soon after her child started school, it became apparent that she could not afford many of the associated costs, and that when she withdrew her child from school, the authorities did not follow up.

> *I have four children and earn my bread in a market of Tashkent. My children are one boy and three girls. My children never went to kindergarten, or school. I had not had an opportunity to educate them. Authorities never asked me to educate my children, and they were never interested in why I am not sending my children to school. When my eldest started school he came to me almost every day asking for money. Teachers forced [my children] to bring money for the school fund, then for the class fund, for cleaning, and even for school guards. How could I supply so much? We are glad if we earn for our food every day.*[692]

691 Equal Rights Trust interview with R., a Lyuli parent, October 2014, Tashkent.

692 Equal Rights Trust interview with S., a Lyuli parent, October 2014, Tashkent.

According to the Public Opinion Centre poll, 1.4% of Lyuli individuals interviewed in 2012 had received some higher education.[693] At the same time, research conducted by the Ministry of Higher and Secondary Specialized Education between 2009 and 2011 found that "no members of the Roma community were enrolled at the country's higher education institutions."[694] Similar results were found in our survey. Of the 31 persons interviewed who had children above the age of 18 years old, none had gone on to study at university, with discrimination in the classroom at school cited as a factor preventing continuation to tertiary education.

Employment

With limited educational opportunities, employment prospects are seriously impaired for Lyuli. In total, 83 of the 95 persons interviewed by the Equal Rights Trust for this report told our researchers that they had never been employed, either in the public or private sector. As a result, many were forced to beg in the streets. Ten individuals from Tashkent were working unofficially at different markets in the city, compared to just two who were working officially. Both of those individuals worked as street cleaners, one of the lowest paid forms of public sector work.

> *I was born in 1987. I live in the Old City of Tashkent. I studied only two years of classes at school. I stopped going to school after being bullied for being Lyuli. School administration, government and Mahalla officials did not care about this and never called me back to school. Now I have two children. I work at Department of City Improvement (Tashkent city cleaning service.)*[695]

> *I was born in 1998 and live in Tashkent. I never went to kindergarten, and did not finish primary school. No one from the authorities was interested in why I was missing classes; they never called me to the school. Now, I work for Department of City Improvement.*[696]

693 Data is unavailable for the 2013 period. It is unclear whether this means that no individuals reported receiving a form of higher education, or whether the question was not asked in 2013. See above, note 662, p. 14.

694 See above, note 670, Para 316.

695 Equal Rights Trust interview with M., a member of the Lyuli community, October 2014, Tashkent.

696 Equal Rights Trust interview with L., a member of the Lyuli community, October 2014, Tashkent.

Social Assistance

Lack of education and employment seriously disadvantages Lyuli persons in old age. Unable to gain official employment, Lyuli are unable to claim a working pension, as according to the law, such pensions are only payable to those who have been in work for a specified number of years.[697] Although those persons who have never worked officially may receive an old-age allowance from the state, this benefit is only granted at the age of 65 years for men, and 60 years for women; five years later than the working pension.[698] In the intervening period, those without the minimum number of years work experience do not receive financial support from the state. These rules place the Lyuli at a serious disadvantage, increasing the financial pressure placed on families, as evidenced by one interviewee from our research:

Case Study 8: Interview with a Member of the Lyuli Community[699]

I have type-one diabetes and am insulin dependent. I am registered in a polyclinic and once a month I receive free insulin. For the rest, I need to buy it from a pharmacy with my own money. One flask costs 47,000 som. I don't get any pension. When I was referred to my region, Raysobez, [District Social Service Agency], they told me that I didn't have any employment records and had never worked for the state. That is why, I am not supposed to receive a pension. They have sent me away so many times, so I don't want to try again.

I work in a market selling small items on the ground every day, no matter if it is hot in summer, or cold in winter. I have seven children. I never received any aid from the *Mahalla*. I have always supported myself by selling small items, going from house to house, on the streets, and bazaars. My first daughter died giving birth to her third child. Now I am taking care of her two sons of 16 and 14 years old. Neither of them went to kindergarten, or school. My eldest grandson is now helping me with working in the bazaars, so he carries my things to and from the market.

697 See above, note 572, Article 7.

698 See Approval of Normative Legal Acts Necessary for the Implementation of the Law of the Republic of Uzbekistan on Introducing Amendments and Addenda to the Law on State Pensions and Labour Code of the Republic of Uzbekistan, note 573.

699 Equal Rights Trust interview with T., a member of the Lyuli community, October 2014, Tashkent.

Housing

In the aforementioned Public Opinion Centre poll, it was noted that the majority of Lyuli "live in private homes (92 per cent of respondents)".[700] According to the survey, "a mere eight per cent said they lived in flats in apartment buildings."[701] However, while it is true that some members of the Lyuli population do own their own properties, the quality of such accommodation remains a major concern.

In late 2014, the Equal Rights Trust research team examined the housing situation of some members of the Lyuli community in Tashkent, visiting Lyuli communities living in apartment blocks in General Uzakova, Abdulla Nabieva, Kuylyk, Sergeli, Vodnik, and Sputnik and in the Sagban neighbourhood in the old city. Lyuli families have been residing in these areas for centuries. Overcrowding is a significant concern: Lyuli often share a small house with three to five other families.

For security reasons, our team could not talk to, or enter the houses of, individuals living in some areas. However, it became immediately apparent that many of the Lyuli are extremely poor. In Proezd #10 street, for instance, Lyuli occupy empty yards, where they have built settlements; living there for many years without owning any property.[702] The majority of Lyuli living in this street fall well below the poverty line, spending the majority of their money on food. Thus, they cannot allocate any funds toward the improvement of their housing.[703] While all houses in Tashkent are connected to a gas supply, due to a lack of money, many Lyuli in these areas cannot use gas at home, and must heat their houses with firewood.

Healthcare

Access to health care can be problematic for the Lyuli, as under Uzbekistani law, children born to parents without an internal passport (*propiska*) or resi-

700 See above, note 670, Para 314.

701 *Ibid*.

702 Equal Rights Trust interview with O., an Uzbek woman, October 2014, Tashkent. The woman interviewed lived on a neighbouring street to a Lyuli neighbourhood and showed our team several settlements on Sagban Street Proezd #10.

703 *Ibid*.

dency permit may not be provided with a birth certificate. Lyuli children are particularly vulnerable under this system as many Lyuli parents do not have a permanent place of residence, meaning that the children cannot be legally registered, and as such they may experience problems in accessing healthcare. Lyuli women, interviewed in Tashkent, reported that without *propiska* they can only access medical treatment in emergencies, or, in non-emergency cases, by paying for services.[704] In such circumstances, access to appropriate healthcare is limited to those who can afford to pay.

Moreover, reliance on the *propiska* to secure access to health services creates problems for itinerant or transitory populations. In total, 12 out of 94 women interviewed by the Trust were pregnant, but because many of these women were travelling between cities, their pregnancies were not monitored for complications. Similarly, no family planning was offered to these women, nor any vitamins and supplements provided.[705]

Twenty-eight women interviewed by the Trust stated that they had children between the ages of nine months and 3.5 years old. These women stated that the health and wellbeing of these babies was not monitored by doctors.[706] According to those interviewed, in the larger cities of Uzbekistan, Lyuli women give birth in hospitals and are monitored for complications in neighbourhood clinics.[707] In rural areas, however, a greater number of deliveries are home births, leading to higher risks. In the event of a miscarriage or stillbirth, parents do not always inform authorities.[708]

Political Life

As a consequence of discriminatory attitudes and poor levels of educational attainment, Lyuli are largely excluded from political life. An ethnic breakdown of the composition of the Legislative Chamber of the Oliy Majlis in 2009 and

704 Equal Rights Trust interviews with 94 Lyuli women from different areas of Uzbekistan, October 2014, Tashkent.

705 *Ibid*.

706 *Ibid*.

707 Equal Rights Trust interviews with 11 Lyuli women from Tashkent, October 2014, Tashkent.

708 Equal Rights Trust interviews with 83 Lyuli women from different parts of Uzbekistan, Tashkent, October 2014.

2014, as well as the Senate of the Oliy Majlis, indicates a complete absence of Lyuli representation.[709] Moreover, no individual interviewed by the Trust could inform researchers of a relative or friend who had been elected to a position in government, or even to a high salaried position of responsibility such as that of doctor, teacher, or lawyer.[710]

Although Uzbekistan currently has over 150 ethnic cultural centres and associations set up by 27 different ethnic groups,[711] individuals interviewed by our team, confirmed that there are no such centres for the Lyuli. Moreover, we found no evidence of any non-governmental organisations representing the Lyuli and their needs.

Conclusion

In common with other countries in the region, Uzbekistan is home to a significant number of ethnic minorities as a result of the Soviet policies of national delimitation and waves of both voluntary and forced migration. Yet unlike neighbouring Tajikistan and Kyrgyzstan, the country has not experienced ethnic conflict in the independent era. The reasons for this are manifold, but can be attributed in part to a legal regime which severely penalises incitement and hate crime, and the regime's establishment of Inter-ethnic Cultural Centre, led by pro-regime figures, to manage relations between minority groups and the regime. However, the research for this report has identified concerns with this approach, which leaves some minority groups unrepresented. The report also identifies serious problems with the maintenance of the propiska internal passport scheme which restricts freedom of movement in a way which discriminates against certain groups. One of the groups most severely affected by these policies is the Lyuli, arguably the most stigmatised and marginalised ethnic group in the country, who face discrimination in many areas of life. In particular, poor levels of educational participation creates challenges in securing employment. This background, coupled with

709 Committee on the Elimination of Racial Discrimination, *Concluding Observations: Uzbekistan, Addendum*, UN Doc. CERD/C/UZB/CO/8-9/Add.1, 2 June 2015, p. 6.

710 Although that is not to say that Luyli are completely excluded from such positions. Marushiakova gives the example of Professor Khol Nazarov, an expert on the Luyli who is himself Luyli. See above, note 604, p. 8.

711 Uzbekistan's Report to the CERD, 2012.

discrimination by potential employers, meant that only one in eight of Lyuli interviewed for this report had ever been employed. Our research also found evidence of discrimination and disadvantages affecting the Lyuli in accessing social assistance and healthcare.

3.3 Discrimination on the Basis of Political Opinion

In international law, protection against discrimination in the enjoyment of other human rights on the basis of "political or other opinion" is enshrined in both Article 2(1) of the ICCPR and Article 2(2) of the ICESCR. Additionally, Article 26 of the ICCPR guarantees equal and effective protection against discrimination in all areas of life regulated by law, on the ground of political or other opinion. Article 2(1) of the ICCPR requires that all the rights in the Covenant be guaranteed for all persons without distinction. Thus, the obligation to ensure non-discrimination on the basis of political opinion extends to the enjoyment of *inter alia,* the rights to freedom from torture, liberty and security of the person, freedom of movement, privacy and freedom of expression, assembly and association, protected by Articles 6, 9, 12, 17, 19, 21 and 22 of the Covenant. It therefore follows that any limitations to these freedoms, must respect the principle of non-discrimination,[712] and that limitation, restriction or denial of these rights on the basis of political opinion alone is a violation of the Covenant.

Uzbekistan is rightly infamous for its highly repressive political environment. Over the course of 25 years, Islam Karimov, First Secretary of the Communist Party as Uzbekistan gained independence, and President from independence until his death in 2016, consolidated political power in his Presidency, suppressing dissent through a variety of means. The country has been dubbed "the worst of the worst" by Freedom House, which monitors the enjoyment of civil and political freedoms around the world.[713]

Unlike some of the other patterns of discrimination discussed in this report, the suppression of opposition political activism – and indeed of independent

712 For example, see above, note 500, Para 26.

713 Freedom House, *Worst of the Worst 2012: the world's most repressive societies,* 2012, available at https://freedomhouse.org/report/special-reports/worst-worst-2012-worlds-most-repressive-societies.

media or civil activity – in Uzbekistan has been well-publicised. Human Rights Watch, Amnesty International, Frontline Defenders, Freedom House and others have extensively documented the arrest, detention and mistreatment of opposition groups and individuals, journalists, and civil society activists, the denial of due process and other civil rights and the restriction of the freedoms of expression, association and assembly. As such, this chapter of the report does not seek to provide extensive new evidence, but rather to systematise the information which is already available, and to analyse the inherently discriminatory nature of the state's approach to limiting dissent and opposition activity.

Political and Social Context

During the Soviet era, political freedoms in Uzbekistan were limited, and power was consolidated in the hands of the ruling Communist Party.[714] However, in the late 1980s, as the *glasnost* policy took effect, new political parties emerged, promoting ideals of democracy and human rights.[715] In particular, *Birlik*, a social movement formed principally on the basis of these ideals, was established in November 1988,[716] while the independent political party *Erk,* formed after a split from *Birlik*, was established in the early 1990s. On the strength of its policies and in particular, a call for the restoration of the Uzbek language, the movement gained support and influence, and was quickly seen as the main rival to the established Communist Party.[717]

Following the collapse of the Soviet Union, Islam Karimov was elected President of the newly-independent Uzbekistan in December 1991. He immediately began restructuring the Uzbek Communist Party, banning "communist party cells in the armed forces, police and civil service".[718] Karimov became openly critical of former Soviet policies,[719] publically adopting many of the popular ide-

714 Shoemaker, W., *Russia and the Commonwealth of Independent States*, Stryker-Post Publications, 2012, p. 288.

715 Babak, V., (ed.) et al, *Political Organisation in Central Asia and Azerbaijan: Sources and Documents*, Taylor & Francis e-Library, 2004, p. 345.

716 *Ibid*.

717 *Ibid*.

718 See above, note 714, p. 288.

719 INS Resource Information Centre, *Profile Series, Uzbekistan: Political Conditions in the Post-Soviet Era*, 1994, p. 5, available at: http://hrlibrary.umn.edu/ins/uzbeki95.pdf.

als espoused by opposition parties.[720] He also refashioned the Communist Party as the People's Democratic Party of Uzbekistan (DPU) in 1991.[721] However, the change in name did not result in a change in policy. Indeed, despite his criticisms of the Soviet regime during the period of *perestroika*, Karimov himself was believed to have disapproved of the way in which opposition groups condemned the governments of the Soviet Republics.[722]

Perhaps worried by the rising popularity of its opposition, the governing party began to crack down on political dissent. According to Human Rights Watch, some political activists were arrested, some disappeared, while others were forced to leave Uzbekistan.[723] The *Birik* Party were consistently denied the opportunity to register as a political party.[724] With the leading opposition group excluded from the 1991 Presidential election, Karimov won by a huge margin, collecting 86% of the votes compared to just 12.4% for his closest rival.[725] Although *Erk* (a party which had previously split from *Birlik*) was permitted to field a candidate, it was soon subject to political interference.[726] Other political parties were similarly prohibited from operating.[727]

By the mid-1990s, Karimov and the ruling DPU had established an effective monopoly over state power – removing critical elements from within and outside of government. As discussed briefly in section 3.1 of this report, the state accused opposition party members of "extremism",[728] and adopted laws to prevent legitimate opposition from registering their parties.[729] Accusations of anti-state activity soon became a permanent fixture of the attack on religious and political opposition. Over the course of the past two decades, both religious and political activists have been implicated in the

720 In particular, those regarding "state sovereignty, language policy and the economy." See above, note 715, p. 346.

721 *Ibid*., p. 346. See also note 714, p. 288.

722 See above, note 719.

723 See above, note 541, pp. 14–15.

724 See above, note 715, p. 346.

725 See above, note 714, p. 288.

726 See above, note 541, p. 16.

727 See above, note 714, p. 288.

728 See above, note 715, p. 345.

729 *Ibid*., p. 344.

1999 Tashkent bombings, the 2005 Andijan massacre and a host of other illegal activities.

While President Karimov changed political parties a number of times during his 25-year reign, throughout the period, he successfully consolidated political power in the office of the Presidency. As discussed below, since the early 1990s, several laws have been adopted restricting the operational and financial capacity of independent non-governmental organisations (NGOs); restricting access to information; and the ability of groups to express their opinions freely. The registration applications of opposition groups are routinely denied,[730] despite recommendations of United Nations treaty bodies.[731] Security forces persist in detaining individuals on account of their political belief, an issue compounded by the widespread use of torture,[732] and denial of procedural rights to those suspected of committing a crime.[733]

Legal and Policy Framework

Chapter VIII of the Constitution of Uzbekistan sets out the basic political rights of citizens. Under Article 32, all citizens have the right to participate in state affairs, including by holding referendums and through the formation of state bodies.[734] The right to stand for and vote in elections is extended to all citizens, with the exception of prisoners, and those "legally certified as insane".[735]

Chapter XIII of the Constitution concerns "public associations", which, *inter alia,* includes all political parties, trade union groups, "mass movements and other organisations of citizens".[736] All citizens have the right to form trade

730 As discussed by Freedom House in 2012, "while opposition parties, including the Birlik movement and *Erk* Democratic Party, have applied for registration in the past, requests are routinely denied or simply ignored". See Freedom House, *Nations in Transit 2012: Uzbekistan*, 2012, available at: https://freedomhouse.org/report/nations-transit/2012/uzbekistan.

731 See above, note 504, Para 26.

732 See above, note 509, p. 9.

733 See above, note 541, p. 86.

734 See above, note 481, Article 32.

735 *Ibid*., Article 117.

736 *Ibid*., Article 56.

unions, political parties and other public associations.[737] The formation of political parties that are aimed towards "changing the existing constitutional system by force"; that challenge the "sovereignty, territorial integrity and security of the Republic [or] the constitutional rights and freedoms of its citizens"; that advocate for war, "social, national, racial and religious hostility"; or which encroach upon "the health and morality of the people, as well as armed associations and political parties based on the national and religious principles", are prohibited.[738] No one is permitted to infringe upon the rights of political minorities.[739]

Article 29 of the Constitution of Uzbekistan provides for "freedom of thought, speech and convictions",[740] while Article 67 provides for freedom of the media and states that censorship is "impermissible".[741] Both of these provisions are subject to important qualifications. Under Article 29, the dissemination of information directed against the Constitutional order, or pertaining to state or other secrets, may be prohibited.[742] Under Article 67, members of the media are required to act in accordance with law and "shall bear responsibility for trustworthiness of information in a prescribed manner."[743] As discussed below, these qualifications have been utilised to inhibit the exercise of free speech.

Citizens are afforded the right to hold rallies and meetings, which may only be suspended on the grounds of security.[744]

Discrimination by State Actors

Although Uzbekistan's Constitution guarantees the protection of civil and political rights, in practice, the state exercises firm control over the behavior of its citizens. Since independence, reports indicate that thousands of

737 *Ibid*., Article 34.

738 *Ibid*., Article 57.

739 *Ibid*.

740 *Ibid*., Article 29.

741 See above, note 481, Article 67.

742 *Ibid*., Article 29.

743 *Ibid*., Article 67.

744 *Ibid*., Article 33.

individuals have been jailed on "politically motivated charges".[745] In particular, following the Tajik civil war, political and religious opposition in Uzbekistan was severely repressed, under the banner of national security. As noted by Shoemaker:

> *Karimov now feared that a similar situation could develop in Uzbekistan. For that reason the government banned political parties, and it arrested and imprisoned numerous members of the political opposition. The activities of Birlik were suspended in January 1993 and a number of its leaders were later arrested. Even the registered opposition party, Erk, suffered tremendous harassment from the government, its newspaper shut and its bank account seized.*[746]

One of the early victims of the new political regime was Muhammad Solih, the former leader of *Erk,* who ran against President Karimov in the 1991 Presidential election.[747] On 8 April 1993, Mr. Solih was arrested under Article 62 of the Criminal Code. He was released two days later,[748] fleeing the country and successfully claiming asylum in Norway before being detained in the Czech Republic under an international arrest warrant issued by Uzbekistan in relation to the 1999 Tashkent bombings.[749] An extradition request was denied by the Czech authorities following a decision of the Prague Municipal Court who determined that it could not be guaranteed that he would receive a fair trial.[750] In his absence, Mr. Solih was sentenced to 15 and a half years imprisonment on terrorism charges by the Supreme Court of Uzbekistan.[751]

745 See above, note 541, p. 1.

746 See above, note 714, p. 288.

747 See above, note 541, p. 1, p. 16.

748 Helsinki Watch, *Human Rights in Uzbekistan*, 1993, p. 11, available at: https://www.hrw.org/reports/pdfs/u/ussr/ussr.935/ussr935full.pdf.

749 Amnesty International, *Fear of Forcible Deportation: Muhammad Solih*, 2001, p. 1, available at: https://www.amnesty.org/download/Documents/128000/eur710042001en.pdf.

750 Radio Free Europe, "Czech Republic: Uzbek Dissident Won't Be Extradited", *Radio Free Europe,* 14 December 2001, available at: http://www.rferl.org/content/article/1098254.html.

751 See above, note 749.

Persecution of political activists became a prominent discussion point among human rights groups following the 2005 Andijan massacre. Following the massacre, government attempted to silence critics, arresting and intimidating hundreds of individuals including journalists, human rights defenders, and political opponents.[752] After speaking publically about the events,[753] Sanjar Umarov, leader of the "Sunshine Coalition", a political reform movement, was arrested for "embezzlement".[754] Several NGOs and political groups spoke out against his arrest, and the European Union expressed serious concern regarding the treatment of Mr. Umarov,[755] repeating their anxiety one year later in June 2006.[756] Despite this, he was sentenced to 14 and a half years imprisonment, eventually being released in 2009.[757]

Torture and Ill-treatment

The gravest example of discrimination on the basis of political opinion in Uzbekistan is the practice of torture and other forms of ill-treatment of political activists in detention. There is extensive evidence that political activists are detained and subsequently tortured or exposed to other forms of ill-treatment. Indeed, the practice of torture and ill-treatment has been described by the European Court of human rights as "systematic", "unpunished" and "encouraged".[758] In 2016, the Court reiterated its concerns, in the context of a case in which it held that deportation of an Uzbekistani national from Russia would violate Ar-

752 See above, note 509, p. 21.

753 Braunschweiger, A., "Witness: Surviving the Monkey Cage – Sanjar's Story", *Human Rights Watch*, 26 September 2014, available at: https://www.hrw.org/news/2014/09/26/witness-surviving-monkey-cage-sanjars-story.

754 Human Rights Watch, "Uzbekistan: Jailed Opposition Leader's Health at Risk", *Human Rights Watch,* 1 November 2005, available at: https://www.hrw.org/legacy/english/docs/2005/11/01/uzbeki11946.htm.

755 United Kingdom Presidency of the Council of the European Union, "EU Statement on Uzbekistan", *OSCE,* 3 November 2005, available at: http://www.osce.org/pc/16895?download=true.

756 Council of the European Union, "Declaration by the Presidency on behalf of the European Union on Uzbekistan", *Council of the European Union,* 19 June 2006, available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/cfsp/90141.pdf.

757 See above, note 541, p. 94.

758 *Yakubov v Russia*, European Court of Human Rights, Application No. 7265/10, 8 November 2011, Para. 82.

ticle 3 of the Convention (prohibition of torture).[759] Although Uzbekistan has revised its criminal legislation in recent years, providing additional protections to those accused of committing a crime, Amnesty International has reported that the new legal guarantees are not enforced in practice.[760]

In 2014, Human Rights Watch interviewed 34 individuals who had been arrested on "politically motivated" charges. According to the report, 29 of those persons made "credible allegations of torture or ill-treatment", which occurred during detention.[761] According to Amnesty International, detainees are often beaten, asphyxiated, given electric shocks, sexually assaulted, or stripped naked and paraded in front of officers.[762] Moreover, there is evidence that political detainees are denied basic essentials such as food, water and sleep. In some cases, detainees were made to stand in 50 degree temperatures without water, or in freezing conditions without clothes.[763]

Sanjar Umarov, whose case is discussed briefly above, was reportedly subjected to severe physical and psychological abuse while in detention. In an interview with Human Rights Watch, he explained how prisoners, who had been instructed by the guards, attacked him in order to try and make him sign a false confession implicating the United States in a plot to overthrow the Uzbekistani government.[764] He was severely beaten, having his thumb broken and vocal cords damaged.[765] Mr Umarov stated that in the months preceding his trial, he had been attacked several times by guards who would hit him in the head with a water bottle.[766] On one occasion, in 2008, Mr. Umarov stated that he was placed into the "monkey cage" for five days with only a shirt and a pair of "light pants" despite the freezing temperatures.[767]

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759 See above, note 523, Para 70.

760 See above, note 509, pp. 35–39.

761 See above, note 541, p. 2.

762 See above, note 509, p. 26. The list of torture practices provided here comprises the most commonly used torture techniques, and was drafted by Amnesty International following interviews with over 60 individuals who had been forced to flee Uzbekistan.

763 *Ibid.*, p. 27.

764 See above, note 753.

765 *Ibid*.

766 *Ibid*.

767 *Ibid*.

A second illustrative case is that of the human rights activist, Mutabar Tajibaeva, who was arrested on several occasions between 1 July 2002 and 7 October 2005 as a result of her political activities.[768] She was sentenced to eight years imprisonment on a plethora of criminal charges. During her incarceration, Ms. Tajibaeva was reportedly placed in solitary confinement, denied access to medical treatment and moved to a psychiatric section of the prison.[769] In October 2015, the UN Human Rights Committee (HRC) published its ruling on the treatment of Ms. Tajibaeva in detention.[770] The Committee found that in July 2002, following her initial arrest, Ms. Tajibaeva was reportedly "beaten and threatened with rape".[771] On 15 April 2005, following interrogation by officers who accused her of "spreading propaganda against the Government", this threat was realised. While in detention, Ms. Tajibaeva was repeatedly raped by officers.[772] In March 2008, she was forcibly sterilised; doctors removed her uterus without her consent or knowledge of the purpose of the procedure.[773] These findings were accepted by the Committee, which found *inter alia* a breach of Article 26 of the Covenant,[774] finding that Uzbekistan had discriminated against Ms. Tajibaeva, both on account of her sex (in relation to the rape and forced sterilisation) and political opinion.[775]

There is also evidence of deaths in custody of individuals arrested on account of their political beliefs. Emin Usman, an Uzbekistani writer, allegedly blacklisted by the state for his religious beliefs, was arrested on 11 February 2001 under Article 244^1 of the Criminal Code. On 28 February, Mr. Usman was reported dead, alleged by the authorities of having committed suicide while in detention. When his body was recovered by family in early March, a family member reported noticing a "deep bloody wound on the back of his head".

768 Front Line Defenders, "Case History: Mutabar Tadjibaeva", *Front Line Defenders,* 9 July 2008, available at: https://www.frontlinedefenders.org/en/https%3A//www.frontlinedefenders.org/en/case/case-history-mutabar-tadjibaeva.

769 *Ibid*.

770 *M.T. v Uzbekistan*, Human Rights Committee, Communication No. 2234/2013, UN Doc. CCPR/C/114/D/2234/2013, 2015.

771 *Ibid*., Para 2.1.

772 *Ibid*., Para 2.3.

773 *Ibid*, Para 2.12.

774 *Ibid*., Para 7.6.

775 *Ibid*.

Reports suggest that his body was "covered with bruises." The official cause of death, according to Mr. Usman's death certificate, was a "brain tumour."[776]

In 2002, the UN Special Rapporteur on Torture released the findings of his report exploring allegations of torture and ill-treatment in Uzbekistan.[777] During the visit, Mr. van Boven received several testimonies alleging the deaths of inmates, incarcerated on the grounds of their political or religious belief. Akhmat Turakhanov, "a member of the political opposition" and human rights activist who had allegedly been petitioning for the opening of more mosques, was sentenced to five years imprisonment for "Wahhabism". After being refused insulin by authorities he reportedly died in custody.[778] Mamadjanov Rahmatillo Hamidovich, a "former member of Hizb ut-Tahrir", was imprisoned for seven years. During his detention he alleged that he had been tortured. He died of liver failure in hospital, reportedly as a result of the treatment he had received.[779] On the basis of the available evidence, the Special Rapporteur found that "torture or similar ill-treatment is systematic" in Uzbekistan.[780] Similar conclusions have been reached by the UN Committee against Torture (CAT), which, in its most recent Concluding Observations, expressed serious concern regarding the "numerous, ongoing and consistent allegations that torture and ill-treatment are routinely used by law enforcement (...) to extract confessions or information to be used in criminal proceedings".[781]

Uzbekistan has refuted the Committee's claims, describing the conclusions of the Committee as "prejudiced and biased".[782] More broadly, despite extensive reports and the recommendations of international and regional courts, Uz-

776 World Organisation against Torture, "Uzbekistan: Death in Detention of a Writer", *OMCT,* 19 March 2001, available at: http://www.omct.org/urgent-campaigns/urgent-interventions/uzbekistan/2001/03/d15190.

777 Economic and Social Council, *Report of the Special Rapporteur on the Question of Torture, Theo van Boven*, *Addendum, Mission to Uzbekistan,* UN Doc. E/CN.4/2003/68/Add.2, 3 February 2003.

778 *Ibid*., p. 31.

779 *Ibid*., p. 37.

780 *Ibid*., Para 68.

781 Committee against Torture, *Concluding Observations: Uzbekistan*, UN Doc. CAT/C/UZB/CO/4, 10 December 2013, Para 7.

782 Committee against Torture, *Concluding Observations: Uzbekistan, Addendum*, UN Doc. CAT/C/UZB/CO/4/Add.1, 26 May 2014, Para 5.

bekistan denies its role in violence committed against individuals detained on account of their political or religious beliefs.

Arrests and Detentions

Individuals charged with politically motivated offences are often denied due process contrary to the requirements of Article 14 of the ICCPR.[783] Trials are often conducted in private, while lawyers have been denied access to their clients. In 2011, for example, Human Rights Watch interviewed the lawyer of Dilmurod Saidov, a journalist arrested on charges of extortion following publication of several articles critical of government.[784] The lawyer told researchers that he was not permitted to enter the courtroom, despite the serious nature of the charges.[785] Human Rights Watch also found that individuals detained by police are refused permission to contact their families, or inform others of their arrest.[786] In some cases "police may even deny they are holding a suspect in order to throw family members off the trail."[787] Such denials may amount to enforced disappearances; prohibited under international law.[788]

In its 2013 Concluding Observations, the CAT expressed concern regarding the denial of rights to persons deprived of their liberty, including reports that such persons are denied access to a lawyer and that confessions are "forcibly extract[ed]" by police shortly after detention.[789] Uzbekistan did not address the comments of the CAT instead listing the procedural guarantees to

783 See above, note 485, Article 14. In 2014, Human Rights Watch interviewed 34 individuals who had been imprisoned on "politically motivated charges". Of the 34, 18 had been denied access to a lawyer. See above, note 541, p. 2.

784 Freedom Now, "Dilmurod Saidov: Uzbekistan", *Freedom Now*, 2005, available at: http://www.freedom-now.org/wp-content/uploads/2015/12/Dilmurod-Saidov.pdf.

785 Human Rights Watch, *No One Left to Witness: Torture, the Failure of Habeas Corpus, and the Silencing of Lawyers in Uzbekistan*, 2011, p. 54, available at: https://www.hrw.org/report/2011/12/13/no-one-left-witness/torture-failure-habeas-corpus-and-silencing-lawyers-uzbekistan.

786 See above, note 541, p. 87.

787 *Ibid*.

788 *Ibid*.

789 See above, note 781, Para 13.

be found in domestic legislation.[790] However, human rights groups have noted as recently as 2015 that these guarantees are not recognised in practice, providing examples of individuals arrested on account of their political opinion being denied basic procedural protections.[791]

Several political prisoners have had their prison terms extended upon the completion of their initial sentence.[792] Under Article 221 of the Criminal Code, a violation of prison rules may be punished by up to three years imprisonment.[793] Amnesty International notes that this provision is often applied arbitrarily and on a "politically-motivated" basis,[794] citing the case of Muhammad Bekzhanov, who was imprisoned in 1995 on account of his role as editor of the *Erk* Party newspaper.[795] Despite being scheduled for release in 2012, Mr. Bekzhanov was accused of violating prison rules, and had his sentence extended for a further five years.[796] Having been in prison for over 16 years, Mr. Bekzhanov has been dubbed one of the "world's longest-imprisoned journalists".[797]

Rustam Usmanov was an open supporter of the *Erk* party and founder of the "first Uzbek private bank".[798] In 1998, upon returning to the country to visit family after a period of absence, Mr Usmanov was arrested and sentenced to a term of 14 years' imprisonment.[799] Observers noted that Mr. Usmanov's trial and de-

790 Such as the right to a defence counsel under Article 46 of the Criminal Procedure Code of the Republic of Uzbekistan. See note 783, Paras 56–68.

791 Front Line Defenders give the example of Azam Farmonov, former chair of a regional branch of the Human Rights Society of Uzbekistan. Mr. Farmonov was first arrested in April 2006, and imprisoned on a charge of extortion. In 2015, his sentence was extended following a closed trial, for which he was denied legal representation. See Front Line Defenders, "Case History: Azam Farmanov", *Front Line Defenders,* 2015, available at: https://www.frontlinedefenders.org/en/case/case-history-azam-farmanov.

792 See, for example, International Partnership for Human Rights et al, *A Matter of International Concern: Endemic Torture in Uzbekistan*, 2015, p. 4, available at: http://www.osce.org/odihr/184991?download=true.

793 Extending up to five years for a "dangerous recidivist" or person convicted of a serious offence. See above, note 505, Article 221. See also note 510, p. 57.

794 *Ibid.,* Amnesty International.

795 *Ibid*., p. 58.

796 *Ibid*.

797 *Ibid*.

798 See above, note 541, pp. 63–64 .

799 *Ibid*.

tention lacked basic procedural safeguards. The charges brought against him (primarily economic crimes such as fraud and embezzlement) were said to have been fabricated and it was reported that he was sentenced on account of his "political ambitions".[800] Upon his expected release, he was sentenced to an additional five year term of imprisonment under Article 221 of the Criminal Code.[801]

In 1999, President Karimov announced his intention to adopt a decree "allowing for the arrest of a suspect's father if sons involved in religious extremism could not be found."[802] This announcement is indicative of a wider policy which the state has pursued, whereby individuals have been arrested, threatened, and in some cases imprisoned, on account of their relationship with a person identified as a threat to government.[803] In one well-known case, three brothers of Muhammad Solih, were arrested and charged with offences under the Criminal Code after he fled the country.[804] At the time of writing, Mr Solih's older brother, Muhammad Bekzhanov remains imprisoned.

The authorities exploit family relations in order to pressure political opponents. Amnesty International has noted that in some cases, officers may threaten the welfare of loved ones in order to obtain a false confession.[805] In January 2004, Muidinjon Kurbanov, chairman of a branch of the non-governmental organisation the Human Rights Society of Uzbekistan (HRSU) and a provincial branch of the opposition party *Birlik*,[806] was arrested and questioned "for several hours" regarding his political activity. The following month, on 16 February 2004, he was arrested on narcotics charges. Mr. Kurbanov was coerced into signing a confession by officers who made threats

800 *Ibid*.

801 *Ibid*.

802 See above, note 509, p. 57.

803 *Ibid.*, pp. 50–51.

804 See above, note 541, p. 16.

805 In 2015, Amnesty international noted that "one of the most common methods [of torture and inhumane treatment] is the threat of harm to the immediate family of the detainee or suspect, in particular the threat that police or SNB officers will rape the female relatives of male and female detainees. Other threats against family members include physical harm such as beatings, detention on fabricated charges, and slander." See above, note 509, p. 27.

806 Human Rights Watch, "Uzbekistan: Human Rights Defender Detained", *Human Rights Watch,* 26 February 2004, available at: https://www.hrw.org/legacy/english/docs/2004/02/26/uzbeki7659_txt.htm.

upon his family. According to the UN Special Rapporteur on Torture, officers told him that if he refused "they would bring in his wife and take him to the basement where they would 'show him' why he should confess".[807]

There is also evidence that the authorities exert pressure on families to refuse legal assistance. In a case documented by the International Partnership for Human Rights (IPHR) in 2011, a mother was reportedly instructed by a member of the national security service to dismiss a lawyer representing her son who had been charged with terror-related offences. The lawyer was accused by the official of working for the UN and of "criticising the country" and the mother was instructed to have no more contact with international organisations. The following day, the mother dismissed the lawyer, accusing him of embezzlement; the lawyer's license to practice was eventually revoked.[808]

Denial of Free Movement

The right to freedom of movement is protected by Article 12 of the ICCPR. It includes the right to liberty of movement, freedom to choose one's residence and the right to leave any country, including one's own. Freedom of movement may be restricted under national law to protect national security, public order, public health, or the rights and freedoms of others, but restrictions must be in consistency with other rights.[809]

Under Uzbekistani law, an exit visa must be issued in order for any national to leave the country.[810] The law provides eight different grounds on which the

807 Commission on Human Rights, *Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Addendum*, UN Doc. E/CN.4/2005/62/Add.1, 30 March 2005, Para 1885.

808 International Partnership for Human Rights, *Submission to the Human Rights Committee on Uzbekistan*, 2015, p. 9, available at: http://iphronline.org/wp-content/uploads/2015/10/AHRCA-IPHR-HRC-alternative-report-Uzbekistan-June-2015.pdf.

809 Human Rights Committee, *General Comment No. 27: Article 12 (Freedom of Movement)*, UN Doc. CCPR/C/21/Rev.1/Add.9, 2 November 1999, Para 2.

810 Endorsed by the Resolution of the Cabinet of Ministers # 8 of January 6, 1995. Instructions "On the procedures of issuance by the organs of interior of the Republic of Uzbekistan of the permission to exit the country by the citizens of the Republic of Uzbekistan" and amended by the Resolution # 200, as of 07.07.2011, available at: http://www.norma.uz/osnovy_gosudarstvenno-pravovogo_ustroystva/ob_utverjdenii_polojeniya_o_poryadke_vydachi_biometricheskogo_pasporta_grajdanina_respubliki_uzbekistan_i_proezdnogo_dokumenta_lica_bez_grajdanstva_dlya_lic_ne_dostigshih_16-letnego_vozrasta.

exit visa can be refused, many of which are not consistent with international law, and a number of which are vague and broad, leaving scope for discretion and discrimination in decision-making. In addition, to obtain an exit visa, a citizen must pay a fee equivalent to 50% of the national monthly minimum wage,[811] and undergo a lengthy procedure which, despite being set at 15–30 days in the law,[812] can in practice take far longer.

In 2015, the HRC noted its concerns regarding the retention of the exit visa system, noting that, in practice, exit visas may be used by the state to prevent human rights defenders and journalists from travelling abroad.[813] An Uzbekistani human rights expert consulted by the Trust confirmed that the exit visa process is open to corruption and discrimination.[814]

In the course of producing this report, the Equal Rights Trust has received testimony from human rights defenders who have outlined the problems which they have faced in securing exit visas, and the impact which this has had on their freedom of movement and on their activism. Several other human rights organisations have documented cases of individuals being denied exit visas in order to "punish" political activists.[815] For example, Elena Urlaeva, a member of the non-governmental organisation the Human Rights Defenders Alliance of Uzbekistan, was detained on 19 September 2015, after documenting the cases of several women who had been employed by government to pick cotton.[816] According to reports, she was arrested a total of five times in 2015, and was subsequently denied an exit visa.[817] Unable to leave the country, she was later hospitalised at the Tashkent City Psychiatric Clinic against her will, with activists reporting that

811 *Ibid*, Part I, Para -3.

812 *Ibid*, Part II, Para -2.

813 See above, note 504, Para 20.

814 Equal Rights Trust, consultation with X., an Uzbekistani expert, 2015 (correspondence on record with the Equal Rights Trust; name withheld for security reasons).

815 Human Rights Watch, *Uzbekistan: Events of 2015*, 2016, available at: https://www.hrw.org/world-report/2016/country-chapters/uzbekistan.

816 Front Line Defenders, "Case History: Elena Urlaeva", *Front Line Defenders,* 2015, available at: https://www.frontlinedefenders.org/en/case/case-history-elena-urlaeva.

817 Gearhart, J., "The Price of Silence", *HuffPost*, 12 May 2016, available at: http://www.huffingtonpost.com/judy-gearhart/the-price-of-silence_1_b_9930894.html.

her medical incarceration was being used as a means of "arbitrary and indefinite detention".[818]

In some cases, individuals have been prosecuted for failing to receive an exit visa before leaving the country. In 2010, Dilorom Abdukadirova, a witness to the Andijan massacre, returned to Uzbekistan in order to be reunited with her family, having been assured that she would not be subject to any political retaliation in the event of her return. Upon her arrival, Ms Abdukadirova was detained by officers at Tashkent airport who interrogated her for several days. She was later charged under Article 223 of the Criminal Code for an "illegal exit", before being released. She was re-arrested in March 2010 and eventually sentenced to over 10 years' imprisonment. This sentence was extended by eight years, according to reports, after she was found guilty of "breaking prison rules".[819]

Interference with Privacy

Under Article 17 of the ICCPR, Uzbekistan is required to ensure that "no one shall be subjected to arbitrary or unlawful interference with his privacy" and to provide "protection of the law" against attacks on privacy. However, invasions of privacy by state agents is a widespread problem, which disproportionately affects political activists, journalists and human rights defenders in Uzbekistan.

In 2014, Privacy International published an extensive analysis of government monitoring in Central Asia. According to the report, the "phone calls and emails" of individuals working on "politically contentious topics" are monitored by the authorities.[820] They cite the example of Mutabar Tajibaeva. On the day of her arrest in October 2005, Ms. Tadjibaeva had sent an email to a UN employee with information on human rights abuses committed in Andijan. Some months earlier, following a conversation regarding the massacre, she had received a call from the

818 Cotton Campaign, "Uzbekistan Government Detains Human Rights Defender Elena Urlaeva in a Psychiatric Hospital", *Cotton Campaign,* 19 May 2016, available at: http://www.cottoncampaign.org/uzbekistan-government-detains-human-rights-defender-elena-urlaeva-in-a-psychiatric-hospital.html.

819 See above, note 509, pp. 21–22.

820 Privacy International, *Private Interests: Monitoring Central Asia*, 2014, p. 33, available at: http://www.privacyinternational.org/sites/default/files/Private%20Interests%20with%20annex_0.pdf.

Uzbekistani counterterrorism department and was placed under house arrest by officers of the national security services. Having continued to distribute information, she received a second warning from the department "telling her that should she not stop (...) she would be arrested and treated as a terrorism suspect".[821]

Privacy International also uncovered multiple examples of individuals whose Skype calls were intercepted. Two examples have been extracted below:

Case Study 9: Invasions of Privacy (Privacy International)[822]

In the autumn of 2013, Kudrat Rasulov, a young Uzbek journalist, contacted two exiled Uzbek opposition politicians and human rights activists, Tulkin Koraev and Mukhamad Solikh. The three viewed a documentary about corruption and non-violent resistance on YouTube, which Rasulov later forwarded to his friends in Uzbekistan. On 27 December 2013, Rasulov was found guilty of transmitting undesirable content over Skype and Facebook with the intention to destabilise the state and political order. He is serving an eight-year sentence as a result.

In 2012, in another case involving Skype, Fazliddin Zayniddinov, based in Uzbekistan, used Skype to contact Mukhamadsalikh Abutov, a political blogger and a religious leader who had emigrated to Sweden after serving a jail sentence. They discussed religious subjects. Some months later Zayniddinov was jailed, and in May 2013, a state sponsored YouTube documentary accused Zayniddinov of paying Abutov US$100 to topple the government. According to them both, they had had no contact with each other except by Skype.

Several monitoring centres allegedly exist in Uzbekistan, with the capacity to intercept a range of electronic communications.[823] Moreover, there are reports that the government has spent substantial sums of money to purchase technologies capable of controlling computers and mobiles. Privacy International allege that a trojan virus, developed by the Italian firm, "Hacking Team",

821 *Ibid*., p. 35.

822 Testimony copied directly. See above, note 820, p. 34.

823 *Ibid*., p. 42.

had been used in Uzbekistan.[824] In July 2015, it was confirmed that Uzbekistan had spent over €500,000 on surveillance software.[825] According to the International Research and Exchanges Board, following an Uzbekistani security expert's warning that the software had begun to be used, serious internet access issues were reported across the country, continuing into 2016.[826]

Citizen monitoring is also carried out by members of the *Mahalla*, a traditional form of self-governing community organisation which has existed throughout Uzbekistan for centuries. In modern Uzbekistan, the *Mahalla* has been co-opted by the state. According to Human Rights Watch, as of 2003 there were "approximately 12,000 *Mahallas*" which increasingly functioned as an arm of the authorities:

> *The role of Mahalla committees has increased significantly as they have been absorbed into the government, expanding from a traditional social structure to an administrative unit, tasked with control and surveillance of the population to assist in the implementation of current government policies.* [827]

While some have praised the increasing role which the *Mahalla* plays in Uzbekistani society,[828] for others, the modern *Mahalla* have come to be seen as a part of the state apparatus.[829] Of particular concern is the evidence that these community organisations have taken a central place in the monitoring of citizens.[830] In conducting research for this report, the Trust interviewed a member of a *Mahalla*, seeking information on the role of these entities in collecting information on citizens:

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824 *Ibid*., p. 64.

825 International Research and Exchanges Board, *Europe and Eurasia Media Sustainability Index 2016: Uzbekistan*, 2016, p. 306, available at: https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2016-uzbekistan.pdf.pdf.

826 *Ibid*., p. 307.

827 Human Rights Watch, *From House to House, Abuses by Mahalla Committee's,* 2003, p. 6–8, available at: https://www.hrw.org/sites/default/files/reports/uzbekistan0903full.pdf.

828 Dadabaev, T., "Community Life, Memory and a Changing Nature of *Mahalla* Identity in Uzbekistan", *Journal of Eurasian Studies*, Vol. 4, 2013, p. 192.

829 *Ibid*., p. 193.

830 Freedom House, *Freedom in the World 2015: Uzbekistan*, 2015, available at: https://freedomhouse.org/report/freedom-world/2015/uzbekistan.

Case Study 10: Interview with a Member of the *Mahalla*[831]

I have been involved in *Mahalla*'s women issues for seven years. To the best of my knowledge, every *Mahalla* in Uzbekistan, in addition to its own duties, has to collect information about the people who live in the neighbourhood. All citizens have records in *Mahalla*, which have now been computerised. Each *Mahalla* has files on "unreliable or troublesome" citizens. This list includes: people with a criminal record; political opponents, journalists, and human rights defenders; and religious persons. The list of names is usually provided by the Ministry of Internal Affairs (MVD), and National Security Service (SNB). Each *Mahalla* has an SNB curator, who visits from time to time, and requests information about certain people.

There are two types of surveillance: *Mahallas* that consist of private houses, and *Mahallas* that reside in blocks of houses. At the *Mahalla's* with private houses, as everything is seen easily, we (activists of the *Mahalla*) are gathering information every day. I live in the *Mahalla* with a private house. Mainly, I observe who is coming to the house of those [individuals] whose relatives were convicted upon charges on religious extremism. We also keep records of men attending weekly Juma (Friday) prayers in local mosques.

In *Mahallas* situated in blocks of houses, each house has a Head of House (Domcom), and each unit within the block of houses, has a Head of the Block (Podezdcom.) These people, the Domcom, and Podezdcom, collect information on neighbours, according to the orders of the *Mahalla's* police and curator of the SNB.

Our work is not paid from the *Mahalla* budget, but we are excluded from certain communal payments. Usually, when *Mahalla* receives a request for information on a certain person from the government, SNB, or MVD, it will call the head of the *Mahalla*, Domcom, and Podezdcom. They gather information from neighbours, adding their own observations and providing a written report to the inquiry. In the blocks of houses, we cannot observe everybody easily, it is difficult, and we do not have such capacity to monitor everybody, like in the *Mahalla's* with private houses. We basically rely on neighbours of the person whom we are watching, as well as the Podezdkoms, and Domkoms.

831 Equal Rights Trust interview with W., a Member of the *Mahalla*, November 2014, Tashkent.

Freedom of Expression

Beyond the harassment, arrest, detention, torture and ill-treatment of political and other activists, the Uzbekistani government maintains and enforces laws and policies which discriminate in respect of the freedoms of expression and association.

Uzbekistan is obligated, by Article 19 of the ICCPR to ensure the right to freedom of expression; Article 19(3) states that this right can be restricted by law and only where necessary to protect the rights or reputations of others, or for the protection of national security, public order, public health or public morals. Although, as noted above, Article 29 of the Constitution protects freedom of speech, the protection provided under this heading is limited in a way which is not consistent with the requirements of Article 19(3) of the ICCPR. Expression of information "directed against the existing constitutional system" may be restricted.[832] Likewise, freedom of expression may be limited in respect of state "or other" secrets.[833] Both of these qualifications are drafted in broad, vague terms, increasing the risk that legitimate expression is prohibited; what is to be understood by information directed against the Constitutional order, or "other secrets" is not readily apparent.

In practice, Uzbekistani legislation has developed broad statutory exemptions to the principle of free speech, with the Law on Mass Media; Law on Principles and Guarantees of Freedom of Information; and the Criminal Code each containing provisions which limit enjoyment of the right.[834] Separate regulations provide that media are required to register with the Uzbekistani Agency for Press and Information.[835] Since 2007 this includes online sources that distribute information at least once every six months.[836] According to Freedom House, the procedure for determining what constitutes publishing "in the manner prescribed by law" is "generally known to be content-based

832 See above, note 481, Article 29.

833 *Ibid*.

834 For an overview, see above, note 825.

835 On Further Improvement of the Procedure of State Registration of Mass Media In Uzbekistan, Cabinet of Ministers Resolution No. 214 of 11 October 2006, Para 2.

836 *Ibid*.

and arbitrary (...) [inhibiting] editors and readers from exercising their freedom of expression and right to access information."[837]

Under Article 6 of the Law on Mass Media, and Article 4 of the Law on Principles and Guarantees of Freedom of Information, the rights to freedom of expression and information are qualified. Under the former, the use of media to call for "violent change of the constitutional order" or to disclose state (or other legally proscribed) secrets is prohibited.[838] Under the latter, access to information may be limited for the purposes of the protection of human rights, the constitutional order, the moral values of society, spiritual, cultural and scientific potential, and state security.[839] Both of these provisions have been criticised by groups for the potentially wide ambit of their application.[840]

Under Article 158 of the Criminal Code, public insult or defamation of the president may be punished by imprisonment for up to five years.[841] Other modes of insult, defined as the "humiliation of honour and dignity in an unseemly manner" may, following a prior administrative penalty, be punished by a fine or up to one year's correctional labour. Where the insult is committed in print, these penalties may be doubled. Insult in connection with a person's "official or civil duty" may be punished by imprisonment of up to three years.[842] Article 139 of the Criminal Code further proscribes slander.[843]

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837 Freedom House, *Freedom on the Net 2015: Uzbekistan*, 2015, available at: https://freedomhouse.org/report/freedom-net/2015/uzbekistan.

838 Law of the Republic of Uzbekistan on Mass Media, Law No. 541-I of 26 December 1997, as amended by the Law of the Republic of Uzbekistan on Amendments and Supplements to the Law of the Republic of Uzbekistan on Mass Media, Law No. ZRU-78 of 15 January 2007, Article 6.

839 Law of the Republic of Uzbekistan on Principles and Guarantees of Freedom of Information, Law No. 439-II of 12 December 2002, Article 4.

840 Although predating amendments to the above Acts, Article 19's criticisms are relevant today. See Article 19, *Memorandum on the Law of the Republic of Uzbekistan on Mass Media*, 2004, p. 8, available at: https://www.article19.org/data/files/pdfs/analysis/uzbekistan-mass-media-law-06-2004.pdf; and Article 19, *Memorandum on the Law of the Republic of Uzbekistan on Principles of and Guarantees for Freedom of Information*, 2004, p. 7, available at: https://www.article19.org/data/files/pdfs/analysis/uzbekistan-law-on-freedom-of-information-june-.pdf.

841 See above, note 505, Article 158.

842 *Ibid*., Article 140.

843 *Ibid*., Article 139.

As with those Articles discussed above, these provisions are overly broad, with the potential for arbitrary and discriminatory application. In particular, the prohibition on insulting the President under Article 158 of the Criminal Code poses a serious risk to freedom of expression, which is not consistent with the prescribed grounds for limitation of freedom of expression which are provided at international law. In its General Comment No. 34, the Human Rights Committee (HRC) recommended that state parties consider the de-criminalisation of defamation.[844] On no occasion, the HRC emphasised, may imprisonment be considered an appropriate response to defamation.[845] Furthermore, "laws should not provide for more severe penalties solely on the basis of the identity of the person that may have been impugned" including persons in positions of power.[846]

In 1999, six men were convicted of a range of offences under the Criminal Code, including Article 158, after distributing a copy of the *Erk* Party's newspaper.[847] Muhammad Bekjanov (above), Rashid Bekjanov, Kobil Dierov, Mamadali Mahmudov, Ne'mat Sharipov, and Iusuf Ruzimuradov were sentenced to prison terms of between eight and fifteen years.[848] It seems clear that these convictions were politically motivated, carried out because the *Erk* newspaper challenged the Karimov regime. This case illustrates the extent to which vague or broadly-worded provisions such as those in the Criminal Code are applied in a discriminatory fashion, criminalising those who are seen as opposing the regime.

Alongside the discriminatory application of criminal and civil sanctions serve to silence criticism of government, registration requirements serve to limit freedom of expression. Independent media organisations are practically "non-existent" within the state,[849] while foreign media, are prohibited from

844 See above, note 500, Para 47.

845 *Ibid*.

846 *Ibid*., Para 38.

847 Human Rights Watch, "Uzbek Torture Victims Sentenced to Prison Terms", *Human Rights Watch,* 17 August 1999, available at: https://www.hrw.org/news/1999/08/17/uzbek-torture-victims-sentenced-prison-terms.

848 *Ibid*. See also, Committee to Protect Journalists, "Attacks on the Press 1999: Uzbekistan", *Committee to Protect Journalists,* 22 March 2000, available at: https://cpj.org/2000/03/attacks-on-the-press-1999-uzbekistan.php.

849 Freedom House, *Freedom of the Press 2015: Uzbekistan*, 2015, available at: https://freedomhouse.org/report/freedom-press/2015/uzbekistan.

broadcasting.[850] Several national media outlets have been forced to close.[851] In 2014, the website Uznews.net was shut down. According to Freedom House, the website ceased its activities following the hacking of its Chief Editor's computer. The names of several journalists working for the organisation were leaked to the press. The Uzbekistani Security Service was blamed for the hack and the subsequent data leak.[852]

Freedom of Association

The state remains profoundly distrustful of civil society, adopting several laws and regulations in recent years aimed at reducing the operational and financial capacity of independent organisations.[853] Under Article 15 of the Law on Non-State Non-Profit Organisations, registration of NGOs is made mandatory.[854] Further, under Article 239 of the Code on Administrative Responsibility, those groups implementing activities without prior registration with the Ministry of Justice may be punished with a fine of between 15 and 30 times the national minimum wage.[855]

Excessive limitations on the establishment and operation of NGOs may violate the right to freedom of association, as guaranteed under Article 22 of the ICCPR.[856] In 2011, the Human Rights Committee (HRC) considered an individual petition concerning a decision to refuse the registration application of the Uzbekistani NGO "Democracy and Rights". Stressing that the right to freedom of association encompasses "not only to the right to form an association" but also "the right of such an association [to] freely to carry out its statutory activities", the HRC held that there had been a violation of Article 22(1) of the Covenant.[857]

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850 See above, note 837.

851 *Ibid*. Additionally, Freedom House notes that access to the websites of several leading human rights organisations is blocked.

852 See above, note 849.

853 Giffen, J., et al, *The Development of Civil Society in Central Asia*, 2005, p. 31, available at: http://r4d.dfid.gov.uk/PDF/Outputs/Urbanisation/R7649-report.pdf.

854 See above, note 410, Article 15.

855 See above, note 555, Article 239.

856 See above, note 485, Article 22.

857 *Kungurov v Uzbekistan*, Human Rights Committee, Communication No. 1478/2006, UN Doc. CCPR/C/102/D/1478/2006, 2011, Para 8.2.

Moreover, as the refusal of registration resulted in a restriction on the author's ability to "seek, receive and impart information and ideas" (on account of the prohibition on non-registered NGO activity), the Committee held that Uzbekistan had impeded the right to freedom of expression under Article 19(2) (in conjunction with Article 22(1)) of the Covenant.[858]

Despite the above ruling, Uzbekistani law continues to place serious restrictions on the rights of NGOs to register and operate freely. In the past 15 years, several organisations have been refused registration status, seriously impeding the ability of such groups to promote human rights and advocate for change. The Equal Rights Trust has been informed by an expert whom we consulted that hundreds of national, and several international, organisations have been forced to discontinue operations in the country by the Uzbekistan government. This includes the Open Society Institute, the Eurasia Foundation, Inter-News, American Bar Association, the Central European and Eurasian Law Initiative, Counterpart International, Crosslink Development, Freedom House, the Partnership in Academics and Development, the Urban Institute, the Institute for War and Peace Reporting, Winrock International and Human Rights Watch.[859] There is evidence that Uzbekistan deliberately and strategically prevents the operation of genuine non-government organisations, favouring the development of so-called "government-organised NGOs" which retain closer links to government and are more amenable.[860]

During the Soviet Period, civil society largely comprised "public associations" – semi-autonomous groups which were influenced or controlled by the state.[861] In the years after independence, restrictions on NGOs decreased. In 1996, Human Rights Watch officially established an office in Tashkent, where it continued to operate until 2011.[862] Also in 1996, the

858 *Ibid*., Para 8.9.

859 Equal Rights Trust, consultation with X., an Uzbekistani expert, 2015 (correspondence on record with the Equal Rights Trust; name withheld for security reasons).

860 See Stevens, D., "Osama or the Georges: Shifting Threats and State Policy towards Civil Society in Uzbekistan, Institute of Social Studies", *Development and Change*, Vol. 41(2), 2010, p. 361.

861 *Ibid.*, p. 356.

862 Following a decision of the Supreme Court. See Human Rights Watch, "Uzbekistan: Government Shuts Down Human Rights Watch Office", *Human Rights Watch,* 15 March 2011, available at: https://www.hrw.org/news/2011/03/15/uzbekistan-government-shuts-down-human-rights-watch-office.

Open Society Institute Assistance Foundation-Uzbekistan (OSIAF-Uzbekistan) was founded.[863]

In the late 1990s, the adoption of the Law on Freedom of Conscience and Religious Organisations and the Law on Non-State Non-Profit Organisations saw increased registration requirements imposed on religious and other non-governmental organisations.[864] Nevertheless, service providers focusing on development post-independence enjoyed a level of tacit support.[865] As Stevens notes, the successes of "modern NGOs" in Uzbekistan were often emphasised by government:

> *On the whole the professional project-oriented, service-delivery NGOs, which neatly fitted with foreign donor requirements for short-term results, were also amenable to a regime which was quick to share the credit for projects that benefited the population, and which broadly shared the secular assumptions and modernizing ambitions of these NGOs.*[866]

However, this situation quickly changed. In the 2000s, following the so-called "colour revolutions", which had taken place in neighbouring European and Central Asian states, Uzbekistan grew fearful of the influence of foreign and independent civil society organisations (CSOs).[867] The removal of Georgian Premier Eduard Shevardnadze in 2003, and later, Ukrainian protests in 2004, which led to the victory of opposition candidate Viktor Yushchenko, caused serious concern on the part of the authorities, which blamed the influence of foreign-backed civil society.[868]

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863 Open Society Foundation, "Uzbek Government Forces Closure of Local Soros Foundation", *OSF,* 18 April 2004, available at: https://www.opensocietyfoundations.org/press-releases/uzbek-government-forces-closure-local-soros-foundation.

864 Lischin, L., "The IMU Ascendant: How Uzbek Autocracy Empowers Terrorist Entrepreneurs", *Small Wars Journal*, 2016.

865 See above, note 860, p. 357.

866 *Ibid.*, p. 357.

867 Vernon, R., "Closing the Door on Aid", *The International Journal of Not for Profit Law*, Vol. 11(4), 2009, p. 3.

868 *Ibid*. According to some reports, rumours were circulated that the former Georgian President "personally warned Karimov" of the threat of foreign backed NGOs and their role in the revolution. See above, note 860, p. 366.

In December 2003, Government adopted an internal decree requiring foreign NGOs to register with the Ministry of Justice and Ministry of Foreign Affairs (MFA).[869] Previously, such NGOs were only required to receive accreditation with the MFA.[870] In the process of re-registration, several international organisations working in Uzbekistan were closed. Despite contributing around $22 million to educational and aid programmes within the state, the Soros Foundation was forced to leave the country having been accused of "distort[ing] the essence and the content of socioeconomic, public and political reforms conducted in Uzbekistan" and "discredit[ing] its government's policies".[871]

For those NGOs continuing to work in Uzbekistan, 2004 saw the imposition of strict new measures restricting funding from foreign donors. On 4 February, the Cabinet of Ministers adopted its Decree on "Measures to Improve the Efficiency of Accounting of Funds (...) received from International and Foreign Governmental and Non-Governmental Organisations".[872] The decree established a Commission with effective oversight over all NGO funds, which were required to be deposited in two state run banks.[873] Subsequently, many grants were refused, with the funds being returned or retained and transferred to the state budget,[874] thus seriously impeding the ability of independent NGOs to continue their work.

Women's organisations were also targeted. Following a Presidential Decree in May 2004,[875] all women's groups were required to undergo re-registration.

869 International Federation for Human Rights, *Observatory for the Protection of Human Rights Defenders Annual Report 2004 – Uzbekistan*, 2005, p. 1, available at: http://www.refworld.org/docid/48747ca3256.html.

870 *Ibid*.

871 See above, note 863.

872 On Measures to Improve the Efficiency of Accounting of Funds Technical Assistance, Grants and Humanitarian Aid Received from International and Foreign Governmental and Nongovernmental Organisations, Cabinet of Ministers Resolution No. 56 of 4 February 2004.

873 *Ibid*. See also, Youth Human Rights Movement, "Is there a Civil Society in Uzbekistan? Perspectives of Development", *Youth Human Rights Movement*, 26 November 2010, available at: http://yhrm.org/en/publish/is_there_a_civil_society_in_uzbekistan_perspectives_of_development.

874 Asian Development Bank, *Country Gender Assessment: Uzbekistan,* 2005, p. 79, available at: http://www.gender.cawater-info.net/publications/pdf/adb-uzb-en.pdf.

875 Presidential Decree on Additional Measures to Support the Women's Committee of Uzbekistan, Decree No. UP-3434 of 25 May 2004.

The Women's Committee of Uzbekistan, a state registered NGO (which in practice operates as a government agency)[876] was given an effective veto power over which women's groups were to be accredited, being tasked with approving applications by the Ministry of Justice.[877] Re-registered groups, under the patronage of the Women's Committee, were formed into an alliance, "with a view to act with a united position at the international level".[878] In practice, NGOs report that the mandate of the Women's Committee is narrow in scope; addressing only those issues seen as "safe" by government such as preventing child marriage and protecting maternity.[879] Moreover the Committee has been criticised for its role in promoting gender stereotypes.[880]

Restrictions on the operational capacity of NGOs and the return of Soviet styled "public associations"[881] were further cemented following the Andijan Massacre in 2005.[882] Even before Andijan, President Karimov had begun to warn of the dangers of foreign-funded NGOs operating outside of their Charter.[883] Yet following the events in Andijan, in December 2005, the Criminal Code and Code of Administrative Responsibility were amended, inserting new civil sanctions targeting NGOs who carried out their activities absent registration.[884] Criminal sanctions were also strengthened, with an increase in the level of fines payable for those groups found guilty of offences under the Uzbekistani Criminal Code.[885]

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876 The Women's Committee has strong links to government, and is in fact headed by the Deputy Prime Minister for Women's Issues. See above, note 874, p. 73.

877 *Ibid*., p. 79.

878 Kandiyoti, D., "Post-Soviet Institutional Design and the Paradoxes of the 'Uzbek Path'", *Central Asian Survey,* Vol. 26(1), 2007, p. 40.

879 Uzbek Bureau for Human Rights and Rule of Law, *Submission to the Committee on the Elimination of Discrimination against Women on Uzbekistan*, 2015, p. 2, available at: https://www.fidh.org/IMG/pdf/ubhrrl_cedaw_sept_2015.pdf.

880 *Ibid*., pp. 2–3.

881 For a more in-depth overview of "public associations" in Uzbekistan, see above, note 853, p. 74.

882 See Section 3.1, above.

883 Embassy of Uzbekistan to the United States, "President Declares Long-Term Priorities of Uzbekistan", *Press Office*, 1 February 2005, available at: http://www.uzbekistan.org/press/archive/124/?print=1.

884 See above, note 555, Article 239.

885 In particular, Articles 139, 140, 159, 217 and 244[1]. Likewise, civil fines were also extended. See above, note 879, p. 23.

Starting in 2010, some tentative signs of a potential relaxation in government policy toward independent civil society could be traced.[886] In 2010 President Islam Karimov gave an address to a joint session of the Legislative Chamber and the Senate of the Oliy Majlis,[887] in which he noted the contribution of non-state and non-profit organisations to the process of democratisation.[888] In December 2013, a Presidential Decree on Promoting the Development of Civil Society Institutions[889] led to a reduction in NGO registration fees, as well as a clarification of the registration procedure.[890]

However, in April 2016, legislative amendments saw a new requirement imposed on NGOs to "notify the government about planned trips of CSO representatives to foreign countries".[891] In June 2016, a regulation on the financing of NGOs from foreign states and international organisations was adopted. Under the regulation, any assets received by NGOs from foreign sources must be approved by the Ministry of Justice.[892] According to the International Centre for Not-for-Profit Law, the new procedure is an "addition to the already-existing, extremely burdensome procedure of obtaining permission to receive foreign aid".[893]

Conclusion

Uzbekistan is infamous for its authoritarian and repressive political system, in which civil and political freedoms are severely limited for anyone consid-

886 International Centre for Not-for-Profit Law, *NGO Law Monitor: Uzbekistan*, 2016, available at: http://www.icnl.org/research/monitor/uzbekistan.html.

887 Karimov., I, *The Concept of Further Deepening the Democratic Reforms and Establishing the Civil Society in the Country*, 2010, available at: http://www.osce.org/odihr/77674?download=true.

888 "The civic institutions and non-state and non-profit organizations are now becoming an important factor of protecting the democratic values, rights, freedoms and lawful interests of people, as well as create conditions for citizens to realize their potential, raise their social and economic involvement and legal culture, and contribute to maintain the balance of interests in the society." See *ibid*., p. 22.

889 Presidential Decree on Additional Measures to Assist the Development of Civil Society Institutions, Decree No. PP-2085 of 12 December 2013.

890 See above, note 886.

891 *Ibid*.

892 *Ibid*.

893 *Ibid*.

ered to oppose the regime. The arrest, imprisonment, and. in some cases, torture of individuals critical of government has become a mainstay of post-independence Uzbekistan. Those individuals convicted of criminal offences on the basis of their political opinion have been denied basic procedural rights, have seen their families prosecuted and jail sentences arbitrarily extended. Since independence, political opposition has been systematically dismantled – refused registration and prohibited from participating in elections. Similarly, independent NGOs have had their registration applications denied and revoked, undermining the ability of groups to criticise state policy and advocate for political and social change. At the same time, the ambit of media laws has expanded, while independent media outlets have been forced to close. These measures targeted those expressing views which criticise or question the Karimov regime, thus discriminating on the basis of political opinion. Moreover, our research found evidence of discriminatory violation of the rights to freedom of movement and privacy.

3.4 Discrimination on the Basis of Gender

Uzbekistan is required to eliminate and prohibit all forms of discrimination against women through its obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which it ratified in 1995. Uzbekistan also has specific obligations under Article 3 of the ICCPR and Article 3 of the ICESCR to ensure the equal rights of both men and women to the enjoyment of all of the rights set forth in the Covenants. Further, under Article 26 of the ICCPR, Uzbekistan is required to ensure that the law "shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as (…) sex".

Although gender inequality can affect both men and women, it is overwhelmingly women who experience gender discrimination in Uzbekistan. Consequently, this chapter focuses on discrimination against women. According to official government data the total population of Uzbekistan in 2013 was 29,993,500 persons, comprising 15,018,700 women and 14,974,800 men.[894]

894 Committee on the Elimination of Discrimination against Women, *Fifth Periodic Report: Uzbekistan*, UN Doc. CEDAW/C/UZB/5, 10 April 2014, Appendix 2, p. 67.

Cultural Attitudes and the Position of Women in Society

The advancement of women's rights in Uzbekistan has been cited by some as a key success of the Soviet regime. Increasingly educated and provided a platform for economic empowerment, women in Soviet Uzbekistan gained greater access to the labour market and increased personal autonomy. It has been argued that, by empowering women, the authority of traditional cultural and religious institutions would be diminished, thus securing the allegiance of the "surrogate proletariat".[895] However, as noted by Ashwin,

> *[T]he assumption of natural sexual difference persisted throughout the Soviet era, and informed both the terms on which women were integrated into the labour force (as second-class workers), and what was expected of them as mothers.*[896]

The period since independence has seen a re-emergence of the struggle between women's participation in public life and traditional social norms focused on the "natural" function of women in the domestic sphere. As Human Rights Watch has observed:

> *Social scientists have noted that "one of the more fully elaborated and vigorously promulgated components of Uzbekistan's new national ideology is an imagined pre-revolutionary past in which the restriction of women to the private sphere supposedly enriched the lives of women and the entire nation." Uzbekistan's post-independence government under President Islam Karimov straddles two conflicting positions, on the one hand claiming to promote the Soviet legacy of women's equality, but on the other, seeking to legitimate independence through the reassertion of national culture and selected aspects of pre-Soviet traditions.*[897]

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895 See above, note 462, p. 15.

896 *Ibid*., p. 11.

897 Human Rights Watch, *Sacrificing Women to Save the Family: Domestic Violence in Uzbekistan*, 2001, p. 8, available at: https://www.hrw.org/reports/2001/uzbekistan/uzbek0701.pdf.

In the most recent World Values Survey, over 75% of respondents from Uzbekistan agreed with the statement that "men make better political leaders than women"; almost 67% felt that men make "better business executives", while over half of respondents (59.1%) believed that men should be afforded priority over women in employment at times where "jobs are scarce."[898] As demonstrated below, these social attitudes are reflected in Uzbekistani law and policy, where the influence of patriarchal norms is clear.

Legal and Policy Framework

As detailed in Part 2 of this Report, the Uzbekistani legal framework does not adequately protect the rights to equality and non-discrimination. While Article 46 of the Constitution provides for the equal rights of men and women, the provision does not appear to be directly enforceable.

There is currently no legislative protection from discrimination on the basis of sex or gender and as a result, women are offered very little protection under law. In 2004, Uzbekistan informed the Committee on the Elimination of Discrimination against Women (CEDAW Committee) that it had submitted to Parliament a draft law on "State Guarantees of Equal Rights and Equal Opportunities for Women and Men".[899] However, the draft law has not been adopted, despite recommendations from several UN treaty bodies.[900] In its 2015 Concluding Observations, the CEDAW Committee urged Uzbekistan to accelerate the process of adoption and ensure the bill's compliance with the Convention.[901]

Uzbekistani law does not adequately protect women from acts of gender-based violence. Marital rape is not specifically sanctioned under the Criminal Code,

898 Compared to just 26.7% of individuals who disagreed with the statement. See World Values Survey, *Data Analysis Tool*, 2016, available at: http://www.worldvaluessurvey.org/WVSOnline.jsp.

899 Committee on the Elimination of Discrimination against Women, *Second and Third Periodic Reports: Uzbekistan*, UN Doc. CEDAW/C/UZB/2-3, 26 October 2004, p. 9.

900 See above, note 504, Para 8; Committee on the Elimination of Discrimination against Women, *Concluding Observations: Uzbekistan,* UN Doc. CEDAW/C/UZB/CO/5, 24 November 2015, Para 9; and Committee on Economic, Social and Cultural Rights, *Concluding Observations: Uzbekistan,* UN Doc. E/C.12/UZB/CO/2, 13 June 2014, Para 11.

901 *Ibid*, Committee on the Elimination of Discrimination against Women, Para 10.

nor has the State adopted domestic violence legislation.[902] In 2008, government announced proposals for the adoption of a law on the "Prevention and Eradication of all Forms of Violence against Women".[903] By 2014, a draft bill had been submitted to Parliament,[904] but at the time of writing, the law has not been passed. The Human Rights Committee has urged Uzbekistan, as a matter of urgency, to adopt the law and ensure its "effective implementation".[905]

Another notable omission from the Uzbekistani legal framework concerns sexual harassment. Although "forcing a woman to have sexual intercourse or to satisfy the sexual needs of a person (...) of which the woman was in the service, financial or other dependence" is made punishable under Article 121 of the Criminal Code,[906] this definition is not broad enough to encapsulate all forms of harassment recognised by the CEDAW.[907] Under international law, states are obliged to adopt "effective legal measures" to combat all forms of harassment.[908]

Several policy documents aimed at promoting women's rights have been adopted by Uzbekistan, including a national policy for implementing the Convention on the Elimination of All Forms of Discrimination against Women.[909] However, the CEDAW Committee has noted its concern at the lack of a "comprehensive national plan of action" to address gender equality. [910] More broadly, efforts to enhance the position of women in society are undermined in practice through the promotion of gender stereotypes.[911]

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902 *Ibid*. See also note 781, Para 25.

903 Committee on the Elimination of Discrimination against Women, *Fourth Periodic Report: Uzbekistan*, UN Doc. CEDAW/C/UZB/4, 12 September 2008, Para 344.

904 See above, note 894, Para 95.

905 See above, note 504, Para 9.

906 See above, note 505, Article 121.

907 For instance, Article 121 of the Criminal Code is unlikely to cover sexual remarks made by an employer. See *Belousova v Kazakhstan*, Committee on the Elimination of Discrimination against Women, Communication No. 45/2012, UN Doc. CEDAW/C/61/D/45/2012, 2015, Para 10.12.

908 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 19: Violence against Women,* UN Doc. A/47/38, 1992, Para 24(t).

909 See above, note 576, Para 19.

910 See Committee on the Elimination of Discrimination against Women, above, note 900, Para 11.

911 Asian Development Bank, *Uzbekistan: Country Gender Assessment*, 2014, p. 4, available at: http://www.adb.org/sites/default/files/institutional-document/42767/files/uzbekistan-country-gender-assessment.pdf.

Discriminatory Legal Provisions

Legislation in a number of areas of life discriminates against women, reflecting patriarchal and paternalistic norms which see women as weaker than, and in need of protection from, men.

Under Article 6 of the Labour Code, the "imposition of any restrictions or the granting of privileges in the area of labour relations on the ground of sex (...) is unacceptable and shall be deemed discrimination".[912] This provision is qualified by Article 6(2), which states:

> *Distinctions in the employment sphere resulting from the inherent requirements of a given job or prompted by the State's special concern for persons requiring enhanced social protection (women, minors, persons with disabilities, etc.) do not constitute discrimination.*[913]

While providing an exception to the right to non-discrimination in employment for cases of genuine occupational requirement is a commonplace throughout the world, the second part of Article 6(2), by including women as a group "requiring enhanced social protection" opens up the prospect of paternalism and thus of direct discrimination against women in employment.

Under Article 225 of the Labour Code, the employment of women in "jobs with unfavourable working conditions" is prohibited, and employers are forbidden from requiring women to lift heavy objects beyond maximum permissible limits established by the Ministry of Labour and Social Protection, and the Ministry of Health.[914] The list of jobs with "unfavourable working conditions" was approved in 1999 and registered by the Ministry of Justice in January 2000.[915] It includes hundreds of roles and positions in a number of employment fields, ranging from snow-mobile driver to drill operator.

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912 See above, note 569, Article 6(1).

913 *Ibid.*, Article 6(2).

914 *Ibid.*, Article 225.

915 Works with Unfavourable Working Conditions in Whole or in Part Prohibiting the Use of Female Labour, Registration No. 865 of 5 January 2000.

In its 2015 Concluding Observations on Uzbekistan, the CEDAW Committee criticised the list of jobs with "unfavourable working conditions" for overemphasising "women's role as mothers" and placing "excessive restrictions on working time, overtime work and night work", thus limiting the economic opportunities of women in Uzbekistan.[916] The Committee has criticised similar legislation in Russia as reflecting

> *[P]ersistent stereotypes concerning the roles and responsibilities of women (…) perpetuating traditional roles for women as mothers and wives and undermining women's social status and their educational and career prospects.*[917]

The prohibition of certain forms of work is reflective of a broader paternalistic attitude toward women in the Labour Code. Under Article 228 of the Code "women with children under three years and working in institutions and organisations financed from the budget" are set shorter working hours (35 hours) without a reduction in wages.[918] No equivalent provision exists for fathers. The same issue arises in relation to maternity provisions: under Article 238 of the Labour Code, "guarantees and benefits provided to women in connection with maternity (...) apply to fathers raising children without a mother".[919] Although states may adopt measures aimed at protecting maternity,[920] by failing to provide fathers equal protection (except in those limited situations envisaged in Article 238) the "maternal function" of women is encouraged, re-enforcing stereotypes and stunting women's future economic opportunities.[921]

Article 289 of the Labour Code sets the pensionable retirement age at 55 years for women (with a minimum service of 20 years) and 60 for men (with

916 See Committee on the Elimination of Discrimination against Women, above, note 900, Para 25.

917 *Ibid*., Para 11.3.

918 See above, note 569, Article 228[1].

919 *Ibid*., Article 238.

920 See above, note 559, Article 11(2).

921 The CEDAW Committee raised such fears in relation to the application of Article 225 of the Labour Code. See Committee on the Elimination of Discrimination against Women, above, note 900, Para 25.

a minimum service of 25 years).[922] As noted by the Asian Development Bank, earlier retirement ages for women in Uzbekistan date back to the Soviet era where women "received credit for years out of the labour force while raising children."[923] However, the Asian Development Bank has expressed concern that in modern-day Uzbekistan differential retirement ages have the effect of limiting women's economic advancement, increasing the risk of poverty for older women who struggle to survive on inadequate pensions.[924] Although several countries around the world maintain different retirement ages for men and women, the CEDAW Committee has stressed that, where applicable, lower retirement ages for women should be optional, allowing the opportunity to continue working.[925]

The Uzbekistani Family Code provides different marriageable ages for men and women. Under Article 15, the marriageable age for men is 18, while women may marry at 17. With "good reasons" and in "exceptional circumstances" such as pregnancy, birth or emancipation, the age of marriage may be reduced by one year, to 17 for males and 16 for females.[926]

Any difference in the legal marriageable ages for males and females is directly discriminatory, and has the effect of entrenching gender stereotypes. As noted by the CEDAW Committee in its General Recommendation No. 21, such provisions "assume incorrectly that women have a different rate of intellectual development from men, or that their stage of physical and intellectual development at marriage is immaterial".[927] In its Concluding Observations on Uzbekistan, the Committee noted its concern at the different minimum ages of marriage set for boys and girls, recommending that the legal marriage age be raised to 18.[928]

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922 See above, note 569, Article 289.

923 See above, note 911, Para 66.

924 *Ibid*.

925 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 27: On Older Women and Protection of their Human Rights,* UN Doc. CEDAW/C/2010/47/GC.1, 2010, Para 20.

926 Family Code of the Republic of Uzbekistan, Code No. 607-I of 30 April 1998, Article 15.

927 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 21: Equality in Marriage and Family Relations*, UN Doc. A/49/38, 1997, Para 38.

928 See Committee on the Elimination of Discrimination against Women, above, note 900, Paras 33–34.

Torture and Ill-treatment

In its General Recommendation No. 24 on health, the CEDAW Committee has emphasised that "states parties should not permit forms of coercion, such as non-consensual sterilization".[929] The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has stated that forced sterilization "is an act of violence and a form of social control, and violates a person's right to be free from torture and ill-treatment"[930] and it has also been recognised as a form of violence against women.[931] The term "forced" is interpreted broadly, involving a lack of consent on behalf of the victim.[932] Acceptable health services, according to the CEDAW Committee, are those which ensure "that a woman gives her fully informed consent".[933] The concept of "informed consent" has been clarified by the Special Rapporteur on the Right to Health who has stated that it involves "a voluntary and sufficiently informed decision, protecting the right of the patient to be involved in medical decision-making".[934]

UN Treaty bodies have on numerous occasions expressed serious concern regarding the forced sterilisation of women in Uzbekistan.[935] In 2004, an internal Decree was issued by the Ministry of Public Health establishing a state program on the compulsory sterilisation of women.[936] According to reports by non-governmental organisations, the programme was designed as a form

929 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 24: Article 12 of the Convention (Women and Health),* UN Doc. A/54/38/Rev.1, 1999, p. 3, Para 22.

930 Human Rights Council, *Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, UN Doc. A/HRC/31/57, 5 January 2016, Para 45.

931 Human Rights Council, *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Ms. Radhika Coomaraswamy, Addendum*, UN Doc. E/CN.4/1999/68/Add.4, 21 January 1999, Para 51.

932 *Ibid*.

933 See above, note 929, p. 3, Para 22.

934 UN General Assembly, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, UN Doc. A/64/272, 10 August 2009, Para 9.

935 See above, note 782, Para 24; and Committee on the Elimination of Discrimination against Women, above, note 900, Para 27.

936 Sexual Rights Initiative, *Submission to the Universal Periodic Review on Uzbekistan*, 2013, p. 2, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session16/UZ/JS6_UPR_UZB_S16_2013_JointSubmission6_E.pdf.

of population control,[937] applicable to women "of child-bearing age" with two or more children.[938] Gynaecologists were given targets of performing four sterilisations and inserting 12 intrauterine devices each month.[939] Although the programme was renamed in 2012, in 2013 the international non-governmental organisation, the Sexual Rights Initiative reported that women continue to undergo surgery without signing medical documents, and without being offered alternative methods of contraception.[940]

Research for this report found that forced sterilisation of women continues. In 2014, Equal Rights Trust researchers interviewed a doctor on the subject of female sterilisation. According to the testimony provided, the target number of sterilisations has actually increased since the policy was first established. Women are not informed of the consequences of the procedure and, in some instances, are not even informed that sterilisation will take place.

Case Study 11: Interview with an Uzbekistani Doctor[941]

We have a plan to convince at least eight women to be sterilised each month. Once a patient agrees to sterilisation we are obliged to take them personally to hospital and be with them until the operation starts. This is a directive from the head of healthcare. Polyclinic doctors are obliged to make sure that the operation is performed. Every week the head of regional healthcare conducts a meeting with gynaecologists and asks how many women were sterilised during the past week. If the figure is lower than planned, the head of healthcare shouts in front of all colleagues, and threatens to fire staff and cut salaries. During these meetings, the administration puts a lot of pressure on doctors to fulfil the plan on sterilisation. Thus, doctors are forced to lie to patients to persuade them to be sterilised.

I witnessed a case where a woman with three children was lied to by her doctor, who said that her uterus tube function could be restored. She be-

937 See above, note 879, p. 17.

938 See above, note 936.

939 *Ibid*.

940 *Ibid*., p. 3.

941 Equal Rights Trust interview with Y., a doctor, December 2014, Tashkent.

lieved this lie and had her tube cut. If a woman has some kind of problem with a cyst in her uterus or ovary, which according medical protocols should be only monitored, patients are persuaded to have a "free" laparoscopy operation, during which the uterus tube is cut without the consent of the patient.

To convince patients, my colleagues have to tell women that the operation is easy and that two hours after they can go home. However, it is a surgical intervention with several potentially negative consequences. Patients do not sign any kind of paper agreeing to an operation. Furthermore, they are not informed of the consequences. After the operation, for at least three days the woman is usually in pain and some patients suffer from high temperature, and pain for several days after.

The gender discriminatory nature of this policy is clear, as it applies only to women. Doctors are not required to set or meet targets for male sterilisation: according to one doctor, "only women have to carry this burden".[942]

Restrictions on Freedom of Movement

As discussed in section 3.2 above, the Uzbekistani government limits freedom of movement for its citizens, both within the state, through the maintenance of the *propiska* internal passport system, and for travel outside of the state, through the use of exit visas. While the laws which establish these systems are applicable to all citizens, our research has found evidence of gender discrimination in their application.

In 2011, the government introduced amendments to the law governing the exit visa regime. At the same time, according to the US Department of State, government introduced new regulations, ostensibly with the purpose of combating human trafficking.[943] These regulations establish *inter alia* a requirement that women aged between 18 to 35 years old must have documentary evidence of their father's or husband's written permission in order

942 Interviewed by the UBHRRL in 2014. See above, note 879, p. 18.

943 United States Department of State, *Trafficking in Persons Report 2012: Uzbekistan*, 2012, available at: http://www.ecoi.net/local_link/220128/341505_de.html.

to apply for an exit visa.[944] In 2014, the Equal Rights Trust's research team interviewed V., a woman who spoke about her experience of the application of this provision.

> *I am 35 years old. I applied for an exit visa in September 2014. My 35th birthday was in the beginning of October. The visa officer still demanded my husband to come and write permission, stating that he takes a responsibility over me and I will not be involved in prostitution, when I travel abroad. When I said that I would be 35 in less than a month, he said that he did not care, even if my birthday was tomorrow, as I am submitting the documents today. He demanded I bring permission letter testified by my husband at the Notary office.*[945]

Another woman interviewed by the Trust spoke about the humiliation she suffered as a result of the requirement that she get a letter of guarantee.

> *I am 25 years old and an orphan. Recently, in August 2014, I applied to the Exit Visa, having received an invitation from my fiancée in Turkey. The police at the OVIR (District Police) first, rebuked me with strange lecture as if I am a prostitute, then requested me to bring a letter from the Mahalla, since I do not have parents. (…) In this letter, the Mahalla was supposed to guarantee that I would not be involved in prostitution, when I leave the country. When, I went to the Mahalla, the head of the Committee demanded that I write a letter of assurance that I am not going to be involved to prostitution in abroad. I felt shame writing such a letter. I asked the Mahalla Committee Head, why do the police think that I may become a prostitute? I live in that neighbourhood of about 4000 people. There are*

944 *Ibid*.; See also Benois, A., "Women in Uzbekistan in Ordered to get an Exit Visa Forced to Write a Letter of Assurance", *Ferghana*, 21 February 2011, available at: http://www.fergananews.com/articles/6905.

945 Equal Rights Trust, interview with V., November 2014, Tashkent.

> *lots of young women like me. Do police ask every young woman in our neighbourhood to write such letters? It means the police suspect all of us as a prostitute? I think this is a humiliation of my dignity to ask me to write such a letter. This is an absolute non-sense, frustrating and shameful procedure for me. I do not understand, how can government and society request to write such letter? Is there such silly law?*[946]

Our research also found that women are exposed to discrimination in the operation of the *propiska* internal passport system. Traditionally, after marriage women moves into the home of the husband, homes which are often owned by the husband's parents. A woman can only be registered at a property with written permission of the owner, and without registration, her stay is illegal. A., a woman interviewed for this report described the impact of this regime on her.[947]

Case Study 12: Interview with A., from Navoi

I am 28 years old. Originally, I am from Navoi region. I have been married to my husband for 4 years, and we lived in Tashkent. We have two children. During these 4 years, I did not work, as I have been taking care of the home and children. I was not registered in husband's house. The owner of the house is my father in law. They never offered to register me, and I was too shy to ask for it.

My husband has hit me since our first child was born. I have forgiven him many times, but one time he beat me so harshly that I barely escaped to my friend's home, so I decided to divorce him.

My children and I do not have a right even for a room in the house and they evicted us from the house. I am staying temporarily at my friends' place. I cannot work in Tashkent and my children cannot go to kindergarten, as I do not have the propiska in the city. I cannot go back to my parents' house. My

946 Equal Rights Trust interview with J., November 2014, Tashkent.

947 Equal Rights Trust interview with Z., November 2014, Tashkent.

parents are old, and hardly living on their pension, with my brother's family. There is no space for me and my children at my parents' house. I am still thinking about divorce, but also think, maybe, I should ask pardon from my husband and parents in law, as I do not have other choice.

Domestic Violence

Gender based violence has been recognised by the CEDAW Committee as a form of discrimination against women.[948] Under Articles 2 and 3 of the Convention, states are required to eliminate discrimination in all its forms,[949] and may be held responsible if they fail to prevent or punish acts of violence committed by private actors.[950] Domestic and family based violence has been recognised by the CEDAW Committee as one of the "most insidious forms of violence against women".[951]

Despite Uzbekistan's international obligations, legislation, policies and prevention and enforcement mechanisms on domestic violence are inadequate and ineffective.[952] Several UN Treaty bodies have expressed concern regarding domestic violence in Uzbekistan, noting, *inter alia*, the prevalence of domestic and sexual violence,[953] the "limited use protection orders",[954] underreporting,[955] a lack of shelters,[956] and the dismissive attitude of law enforcement to complaints.[957]

948 See above, note 908, Para 6.

949 *Ibid*., Para 10.

950 *Ibid*., Para 9.

951 *Ibid.*, Para 23.

952 As discussed by the CEDAW, the use of protection orders in Uzbekistan is limited. Moreover, "victim assistance and protection services are insufficient" with only two shelters in the country. See Committee on the Elimination of Discrimination against Women, above, note 900, Para 17.

953 *Ibid*.

954 *Ibid*.

955 *Ibid*.

956 See above, note 504, Para 9.

957 See above, note 781, Para 25.

As noted above, domestic violence is not defined or specifically prohibited in Uzbekistani law.[958] In the absence of a specific legal framework, victims must rely on the ordinary provisions of the criminal law in order to seek protection and redress. The Criminal Code, however, is insufficient to respond to women's needs. For example, there is no specific provision criminalising marital rape[959] and the government has indicated that it does not intend to include such a provision in the draft law on domestic violence.[960]

The absence of a specific provision prohibiting marital rape can have serious consequences for women in sexually violent relationships. In a 2014 report concerning child marriage in Uzbekistan, the United Nation Population Fund (UNFPA) researchers noted that interviewees were unwilling to discuss gender based violence, finding that many did not believe it was possible for a man to rape his wife:

> *[I]t had been imprinted in their minds that quarrels, insults, and slaps are an integral part of family life. The child spouses did not understand that sexual assault can also take place between spouses: In the worldview of the child spouses interviewed here, the husband cannot sexually assault his wife because he has the right to her and her body at any moment.*[961]

Uzbekistan has been criticised on several occasions by the CEDAW Committee for failing to provide disaggregated statistics on violence against women.[962] A number of factors feed into this. The UN Human Rights Committee has noted that without effective an effective legal regime, such statistics are

958 *Ibid.*, Para 25; and note 504, Para 9.

959 In its fourth Periodic Report to the Human Rights Committee, Uzbekistan noted that investigative authorities received no complaints of marital rape. See above, note 459, Para 160.

960 "It should be noted that provisions to that effect are provided in general under prevailing criminal law and do not need to be reflected individually in the draft law." See Committee on the Elimination of Discrimination against Women, *Response to List of Issues: Uzbekistan*, UN Doc. CEDAW/C/UZB/Q/5/Add.1, 23 June 2016, p. 6.

961 United Nations Population Fund, *Child Marriage in Uzbekistan (Overview)*, 2014, pp. 6–7, available at: http://eeca.unfpa.org/sites/default/files/pub-pdf/unfpa%20uzbekistan%20overview.pdf.

962 See Committee on the Elimination of Discrimination against Women, above, note 900, Para 17.

difficult to compile.[963] In addition, victims are reluctant to report crimes to the police.[964] According to a government data from 2012, just 42.6% of women who stated that they had experienced domestic violence sought the assistance of law enforcement authorities.[965] A large proportion of interviewees reported requesting assistance from family (27.7%) or from the *Mahalla* (17%).[966]

Reasons for non-reporting of domestic violence to the police vary. Domestic violence is often considered a family matter, and as such is underreported,[967] while in other cases, economic insecurity prevents women from reporting.[968] In its General Recommendation No. 19, the CEDAW Committee noted the relationship between women's economic independence and violence against women, noting that where women's financial wellbeing is tied to that of a partner or family, they may be forced to stay in violent relationships.[969] According to the Asian Development Bank, in Uzbekistan:

> *Women's lower economic status and lack of financial independence are primary reasons why women remain in violent relationships – living independently while supporting children alone does not appear to be a viable option.*[970]

In 2014 the Trust interviewed A., an Uzbekistani woman who had been subject to physical violence at the hands of her husband for whom economic dependency created pressure to return to a violent home setting.

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963 The Human Rights Committee has noted, in the absence of "adequate and sufficient protection measures and support services for victims" domestic violence in Uzbekistan goes largely underreported. See above, note 504, Para 9.

964 See above, note 879, p. 6.

965 See above, note 894, Para 96.

966 *Ibid*.

967 *Ibid*.

968 See World Organisation against Torture, *Submission to the Committee against Torture on Uzbekistan*, 2007, pp. 19–20, available at: http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/UZB/INT_CAT_NGO_UZB_39_10274_E.doc.

969 See above, note 908, Para 23.

970 See above, note 911, p. 126.

> *My husband has hit me since our first child was born. I have forgiven him many times, but one time he beat me so harshly that I barely escaped to my friend's home, so I decided to divorce him. My children and I do not have a right even for a room in the house and [my husband's family] evicted us from the house. I am staying temporarily at my friends' place. I cannot work in Tashkent and my children cannot go to kindergarten, as I do not have the propiska in the city. I cannot go back to my parent' house. My parents are old, and hardly living on their pension, with my brother's family. There is no space for me and my children at my parent's house. I am still thinking about divorce, but also think, maybe, I should ask pardon of from my husband and parents in law, as I do not have other choice.*[971]

In addition to economic dependency, social prejudice, based on patriarchal cultural norms, is a central factor in women's decisions not to report violence. One woman, interviewed by the Trust, noted the importance of family in her decision to remain in an abusive relationship. Fear for her children's job opportunities should their father be convicted of a crime, as well as the social stigma attached thereto, convinced her to return to her husband:

> *My son went to study in University and planned to work at the customs service upon graduation. Soon after he left, my husband started cheating on me and when I found out we had a serious argument. He has severely beaten me several times. Once, it was so bad that I was covered with bruises and my face was swollen. Several days later I went to a lawyer near my house. We had a long talk. She filed a complaint on my behalf to the law enforcement agencies and said to come back the next day. She explained to me that if my husband was sentenced, my son's career would be ruined. I changed my mind and returned to my husband.*

971 Equal Rights Trust interview with Q., an Uzbekistani woman, November 2014, Tashkent.

> *I don't regret it. Anyway, it would be a great shame for my family to have a father who has been convicted for beating me.*[972]

These cultural attitudes are reinforced by the state's emphasis on the role of family and a lack of adequate support mechanisms. Government policies, including those concerning economic development, emphasise the domestic familial role of women,[973] helping to create an imperative of reconciliation with an abusive partner or family member. In addition, organisations working for the protection of women's rights in Uzbekistan have highlighted serious deficiencies in the way in which domestic violence is discussed in official state documents. The phrase "family conflict" is often used, normalising the "private" nature of domestic violence.[974] Consequently:

> *Women suffering from domestic violence are often reluctant to go to police due to the mentioned cultural norms (…) [A]bsence of terminology creates an institutional effect on the ground. No terminology = no problem existent = no funding and resources needed to be allocated to deal with it.*[975]

Thus, patriarchal social values, reinforced by state policy, undermine efforts to assist women affected by domestic violence within Uzbekistan.

Trafficking

Under Article 6 of the CEDAW, Uzbekistan is obligated to "take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women". Research for this report found that for some women in the country, however, economic hardship may put them at risk of trafficking, as exemplified in the case below:

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972 Equal Rights Trust interview with N., an Uzbek woman, November 2014, Tashkent.

973 See above, note 911, p. 6.

974 See above, note 879, p. 6.

975 *Ibid*.

Case Study 13: Interview with a Woman from Tashkent[976]

I graduated from pharmaceutical college in 2013 and this was my second attempt to enter Tashkent Medical University. It is a prestigious profession and the competition for enrolment is always very high. I received a high enough score to be enrolled but the tuition fee is so high, that I could not ask my parents to pay for me, as they are already paying for my brother.

I work at a pharmacy near to my home, but the pay is too low to save enough money to pay for my tuition. Once a woman came into the pharmacy and after a short talk offered me work in Kazakhstan as babysitter. I thought that if I took the job I could earn good money for my studies. The woman told me that she would take me along with a group of other women. The process would be completed officially through the job agency, therefore, I trusted her. I did not say anything to my parents and left for Kazakhstan. Once we passed the border, they took away my passport and locked me and two girls in some house. It was a brothel. There were other women who said that we were going to be sent to Azerbaijan by crossing Caspian Sea on a boat, then to Iran and forced into prostitution. They said that virgin girls like me would receive a big value there.

Meanwhile, my parents started a campaign to find me. Even people from social networks were spreading information about the search. My picture was everywhere [on social media]. I guess that this was the reason that the people who detained me decided to let me go. They put me in a car, and my eyes were covered. We were driving for at least two hours. They threw me into a small village close to Chimkent and drove away. I knocked the door of the nearest house and they helped me to get to local militia and from there I was sent back to Uzbekistan. Here in Uzbekistan I faced another nightmare by law enforcement. They were interrogating me as if I were a prostitute.

Employment

Uzbekistan is obligated, by virtue of Article 11 of the CEDAW, to "take all appropriate measures to eliminate discrimination against women in the field of

976 Equal Rights Trust interview with AA., an Uzbek woman, November 2014, Tashkent.

employment in order to ensure, on a basis of equality of men and women, the same rights".[977] Further, Uzbekistan is required by Article 3 together with Article 6(1) of the ICESCR to ensure the equal right of men and women to enjoy "the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts".[978]

As noted above, the Uzbekistani Labour Code includes a number of discriminatory provisions, reflecting patriarchal and paternalistic stereotypes, which limit the ability of women to have equal choice in employment. These same stereotypes are also reflected in the labour market more broadly. Horizontal segregation in the labour market reflects a strong conception of "male" and "female" jobs. According to state statistics from 2014, the fields of industry (61.2%); agriculture and forestry (53.9%); construction (91.7%); transport and communications (88.3%); housing and communal services (63.1%); and finance (58.7%) are each dominated by men.[979] Women are only better represented than men in trade and catering, (53.7%); healthcare (79.9); and education, culture, art, science and scientific services (70.7%).[980] Sectors where women are better represented are public, rather than private, and as such, incomes tend to be lower.

Even in those sectors where women have a higher representation, there is evidence of vertical segregation, with women underrepresented in leadership positions, despite making up the majority of the workforce. In its fifth Periodic Report to the CEDAW Committee, for example, Uzbekistan reported that while 64.4% of secondary school teachers are women, only 34.4% of head teachers are female.[981] More broadly, vertical segregation has been identified across sectors with men occupying "73% of management positions".[982]

977 See above, note 559, Article 11.

978 International Covenant on Economic, Social and Cultural Rights, 993 U.N.T.S. 3, 1966, Articles 3 and 6(1).

979 Percentages in parentheses correspond to the gender distribution in each of those respective fields. See State Statistic Service of the Republic of Uzbekistan, *Sex Distribution by Economic Sector,* 2014, available at: https://gender.stat.uz/uz/osnovnye-pokazateli-uz/trud-uz/zanyatost-naseleniya-uz/401-usloviya-truda-v-promyshlennosti-na-1-yanvarya-2013-goda-uz.

980 *Ibid*.

981 See above, note 894, Paras 167–168.

982 See above, note 911, Para 58.

Women's participation in the labour market is limited by the widespread adherence to patriarchal stereotypes, in particular regarding responsibilities for childcare. One reflection of this is that the government has actively promoted "home-based work", explaining that "taking into account the limited opportunities for women to combine domestic responsibilities with productive work, [home-based work] gives women the opportunity to earn income without separation from the family."[983] As has been noted by the Asian Development Bank:

> *Creating jobs through home-based work programs does not necessarily address the deeper structural reasons for women's lack of economic activity. Arguably, measures such as home-based work can reinforce notions that a woman's work must accommodate her family obligations, rather than promote a more equitable distribution of household responsibilities.*[984]

While the Labour Code provides for parental leave, as noted above, this is not available to men and women on an equal basis, and the Asian Development Bank has noted that given prevailing stereotypes regarding the role of women in Uzbekistan, "it is assumed that few men are exercising their right".[985] Furthermore, following a policy change in 2009, employers are now responsible for paying maternity leave and benefits.[986] This has had the effect of making the employment less attractive for employers. The Uzbek Bureau for Human Rights reported in 2009 that employers frequently ask women attending job interviews about their plans with regard to pregnancy and childrearing.[987]

More broadly, women with children can face discrimination based on the perception that they will be unable to work full time as a result, as one women interviewed by the Trust explained:

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983 *Ibid.*, Para 50.

984 *Ibid*., Para 51.

985 *Ibid*., Para 65.

986 See Presidential Decree on Forecast of Main Macroeconomic Indicators and Parameters of the State Budget of Uzbekistan for 2010, Decree No. PP-1245 of 22 December 2009.

987 Uzbek Bureau for Human Rights and Rule of Law and Women Fund for Women, *NGO Shadow Report to the Committee on the Elimination of Discrimination against Women*, 2009, available at: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/UZB/INT_CEDAW_NGO_UZB_45_10278_E.pdf.

> *I speak English and German, and thus was interested in a job with the tourism agency. I spent several months submitting CVs and attending interviews. I am tired of having my applications refused because I am alone bringing up my son. Interviewers are always asking me if I plan to marry again and have more children; whether there is anyone who can help me with my child if he gets sick. I currently earn my living through crocheting at home, making hats and toys. I make very little income from this work, which barely covers basic expenses. I do not get any social help from the government. I dream to find a job that fully covers my expenses. I am not motivated to work at home and crochet hats and toys. I would prefer to work in offices and deal with different people but this looks unlikely in the near future.*[988]

As indicated in the CEDAW, one way in which states can facilitate women's access to the employment market is through the provision of childcare services.[989] In its 2014 report to the CEDAW Committee, Uzbekistan noted that there are currently 4950 child-care facilities in the country, attended by 581,539 children (23.3%) aged 2–7 years old.[990] However, NGOs working in Uzbekistan report that these facilities are inadequate, with between 35 and 50 children to a class, and hours of operation which finish before the end of working hours, forcing women to search for "flexible hours or home-based work".[991]

Education

Under Article 10 of the CEDAW "state parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education". This requirement extends to vocational guidance; access to the same curricula; the elimination of stereotyped conceptions of the male and female role; equal opportunities in scholarships; access to programmes of continuing education; the reduction

988 Equal Rights Trust interview with AB., an Uzbek woman, November 2014, Tashkent.

989 See above, note 559 Article 11(c).

990 See above, note 894, Para 171.

991 See above, note 879, p. 6.

of school drop-out rates; participation in sports; and access to specific educational information to ensure the health and well-being of families, including advice on family planning.[992]

Article 41 of the Constitution of Uzbekistan guarantees the right to education,[993] while Article 4 of the Law on Education, provides that "everyone shall be guaranteed equal rights to receive an education, regardless of sex".[994]

Educational participation between boys and girls at the primary level in Uzbekistan is broadly similar, though participation rates are lower for girls than boys. According to the most recent UNICEF data, the gross enrolment percentage for boys in Uzbekistan is 98%, compared to 96% for girls.[995] Net enrolment is 96% for boys and 94% for girls.[996] Net attendance is 95% for both boys and girls.[997] At the secondary education level, net attendance is 91% for boys and 90% for girls.[998] In contrast to primary and secondary education participation rates, a significant gender disparity can be seen in higher education. Nearly two thirds of all university students are male (62.5% of students are male, while just 37.5% arefemales).[999]

The greater proportion of men attending universities when compared to women may be attributed to gender stereotypes.[1000] According to the United Nation Development Program (UNDP), many girls do not continue on to higher education as a consequence of "family restrictions", either because of marriage (where "new families do not wish them to continue their education, or low-

992 See above, note 559, Article 10.

993 See above, note 481, Article 41.

994 Law of the Republic of Uzbekistan on Education, Law No. 464-I of 29 August 1997, Article 4.

995 See above, note 688.

996 *Ibid*.

997 *Ibid*.

998 *Ibid*.

999 State Statistics Service of the Republic of Uzbekistan, *Distribution of Students of Higher Educational Institutions on Sectoral Specialization*, 2015, available at: https://gender.stat.uz/en/osnovnye-pokazateli-en/obrazovanie-en/vysshee-en/516-chislennost-studentov-vysshikh-obrazovatelnykh-uchrezhdenij-po-regionam-na-nachalo-2010-2011-2013-2014-uchebnogo-goda-en.

1000 See above, note 911, Para 108.

income families are reluctant to invest money in an education they may not be able to complete or use after marriage"); or due to the location of the school.[1001]

Moreover, data on university course participation reveals a similar pattern of horizontal segregation to that found in the area of employment. According to state data from 2014–15, there are significant gender disparities in a number of educational fields, including: industry and construction (81.9% of students are male compared to 18.1% of female); transport and communications (88.6%–11.4%); agriculture (75.6%–24.4%); economics and law (78.4%–21.6%); health and physical education (60.6%–39.4%).[1002] The only sector where women were better represented was education, where 56.9% of students were female. Gender segregation in educational choices and lack of advanced study for women inhibits development and limits women's future economic opportunities.[1003]

Family Life

Child Marriage

As noted above, Uzbekistani law provide different marriageable ages for males and females, permitting the marriage of girls at 17, and in exceptional cases at the age of 16. In practice as well as in law, child marriage disproportionately affects girls in Uzbekistan. According to government data from 2014, of the 5145 marriages involving child brides (girls under the age of 18) there was only 1 child groom (boys under the age of 18).[1004] Moreover, it should be noted that not all child marriages are officially registered: according to the United Nations Population Fund (UNFPA), religious marriage, conducted before the age of 18 without official registration, leaves girls "extremely vulnerable."[1005]

1001 United Nations Development Programme, Education in Uzbekistan: Matching Supply and Demand, 2007, p. 115, available at: http://hdr.undp.org/sites/default/files/uzbekistan_2007_nhdr_en.pdf.

1002 See above, note 999.

1003 See above, note 911, Para 111.

1004 State Statistic Service of the Republic of Uzbekistan, *Number of Marriages by Age of Bride and Groom in 2014*, 2014, available at: https://gender.stat.uz/en/osnovnye-pokazateli-en/demografiya-en/braki-i-razvody-en/457-chislo-brakov-po-vozrastu-zhenikha-i-nevesty-v-2013-godu-en.

1005 See above, note 961, p. 5.

Child marriage is perpetuated through social norms which see marriage of underage girls as normal and desirable. As one girl, interviewed in the above UNFPA survey, described, "when you are 16 or 17, everyone wants to marry you: when you're 20 or 21, nobody does".[1006] According to a survey conducted in 2014 by the UNFPA, the decision to marry is often taken by parents who may seek out a suitable partner for their daughter.[1007] Usually the bride and groom will meet on only a few occasions before the wedding, and after going to live with her husband's family, communication with a girl's parents is limited.[1008]

In addition to the concerns regarding gender discrimination and violation of child rights which arise as a result of the practice of marrying underage girls, child marriage can have serious implications for the economic and educational achievement of women.[1009] One husband of a child bride, interviewed by the UNFPA, told researchers that he expected his wife to stay at home:

> *There's no reason for her to work. I don't want to offend you, but women can only do one thing well: run a house and take care of children. It suits both of us.*[1010]

In addition, religious marriages conducted before the age of 18 can leave child brides lacking many of the legal protections afforded to those in legally registered marriages such as alimony in the case of divorce.[1011]

Child marriage is often accompanied by premature pregnancy and childbirth, resulting in "higher than average maternal morbidity and mortality rates".[1012] In 2014, the Trust interviewed an Uzbekistani doctor who recalled one occa-

1006 *Ibid*., p. 4.

1007 *Ibid.*, p. 6.

1008 *Ibid*.

1009 Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, *Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices*, UN Doc. CEDAW/C/GC/31-CRC/C/GC/18, 2014, Para 21.

1010 *Ibid*., p. 5.

1011 See above, note 961, p. 5.

1012 See above, note 1009.

sion where a child died due to pregnancy complications after being forced to marry her cousin:

> *I work as gynaecologist at a local hospital. I have been working for 25 years as a doctor. During this time, I have seen lots of cases of early marriages. For example, in 2013 one girl came with her mother-in -law for a consultation regarding pregnancy. I was shocked when I found out that she was only 16. She was forced to marry her cousin. They had a wedding ceremony but were not registered with Civil Registry, and needed a medical certificate to confirm her pregnancy, so they could register. This girl died shortly after giving a birth as a result of complications, and no one bears responsibility for her death.*[1013]

Discrimination in Divorce Proceedings

The CEDAW Committee has expressed concern regarding "the unequal status [of women] in marriage and family relations" in Uzbekistan.[1014] Of particular concern are the cultural and social barriers which can serve to prevent women – but not men – from dissolving a marriage.

Chapter 7 of the Family Code provides for the dissolution of marriage. The Code provides that divorce is generally to be performed by the courts, except where, with the mutual consent of spouses without minor children, divorce can take place in the civil registry office.[1015] Under Article 41 of the Code, marriage may be dissolved where the court finds that "the further joint life of the spouses and the preservation of the family have become impossible". However, Article 40 provides that divorce proceedings may be delayed by up to six months to allow for reconciliation.[1016]

While the law does not directly discriminate against women in respect of their ability to seek a divorce, in practice, the provision for a period of "rec-

1013 Equal Rights Trust interview with AZ., a doctor, November 2014, Tashkent.

1014 See Committee on the Elimination of Discrimination against Women, above, note 901, Para 15.

1015 See above, note 926, Articles 38 and 42.

1016 *Ibid*., Article 40.

onciliation" before a divorce is granted creates a situation in which women are disadvantaged, Traditionally, women seeking a divorce in Uzbekistan are required to have their case heard by the *Mahalla*. Although the *Mahalla* have no official position in divorce proceedings under law, in practice, "*Mahalla* officials routinely assume the role of gatekeeper, either permitting women to press ahead with divorce suits or blocking those plans by refusing to provide a letter of support, a 'character reference' to the court".[1017] An Uzbekistani expert consulted by the Trust revealed that sessions of the *Mahalla* reconciliation committee often assume an accusatory nature. Moreover, the sessions take place in the neighbourhood of the husband's family and there is a tendency for bias against women:

> *Usually, at these sessions, mother in-laws blame their daughter's inability to be a good housekeeper, for disrespect to family members, and for disobedience (...) [T]he Commission often accepts the accusations of the mother in law as truth. Woman are accused for having their marriage fail, and are forced to recover the relationship (...) [I]n practice (...) women face serious psychological pressure from the Commission members.*[1018]

In 2011, the Supreme Court of Uzbekistan issued a plenary judgement on the Practice of Courts of Law in Cases of Divorce.[1019] While this decision reemphasises that permission from the *Mahalla* is not required in divorce proceedings, the judgment only extends to those couples applying for a divorce through the Courts, rather than the Civil Registry Office.

Beyond the practical challenges to divorce created by the *Mahalla* reconciliation process, cultural norms can also leave women feeling pressurised to stay in relationships, as one woman explained to Human Rights Watch researchers, "by our standards, if a girl gets married and leaves of her own

1017 See above, note 897, p. 26.

1018 Equal Rights Trust, consultation with X., an Uzbekistani expert, 2015 (correspondence on record with the Equal Rights Trust; name withheld for security reasons).

1019 Supreme Court Plenum Ruling on the Practice of Courts of Law in Cases of Divorce, Judgement No. 6 of 20 July 2011.

accord, she is damaged and cannot get married again".[1020] Legal barriers arise as a result of a complex and time-consuming process to divorce. The CEDAW Committee has expressed concern that such cultural norms, together with the fact that cases are often referred to the *Mahalla* for reconciliation, can lead to some women in Uzbekistan remaining in violent or damaging relationships.[1021]

Political Life

Women are underrepresented in public life, something which can be attributed to traditional social norms which cast women in a primarily domestic, family-focused role. Despite the introduction of a 30% quota for female nomination to the Oliy Majlis in 2003, women remain underrepresented in public office.[1022] In the 2009 elections, only 33 women were elected as deputies to the Oliy Majilis (22%); while just fifteen members of the Senate were women (15.3%).[1023]

A woman holds the position of "Deputy Local Governor", in every local government entity 14 regional authorities, 26 city authorities and 168 district authorities.[1024] However, each of these women holds the position *ex officio,* as a representative of the relevant local Women's Committee, and according to one expert consulted by the Trust:

> *[T]hese old Soviet style positions are created by the government in order to "window dress" and show women's participation to the international community. They do not interfere in major decision-making.*[1025]

In addition, according to government statistics, the number of women working in the courts is in decline. In 2010, 136 women worked in such courts,

1020 See above, note 897, p. 24.

1021 See Committee on the Elimination of Discrimination against Women, above, note 900, Para 17.

1022 *Ibid.*, Para 21.

1023 See above, note 911, Para 126.

1024 See above, note 894, Para 129.

1025 Equal Rights Trust, consultation with X., an Uzbekistani expert, 2015 (correspondence on record with the Equal Rights Trust; name withheld for security reasons).

compared to 114 in 2011, 86 in 2012, and 75 in 2013; women in leadership positions in the courts have also fallen, from 26 in 2010, to 15 in 2013.[1026]

Multiple Discrimination Affecting Lyuli Women

As was recognised by the Committee on the Elimination of Racial Discrimination in its General Comment No. 27, "Roma women [are] are often victims of double discrimination". States should adopt measures aimed at protecting such groups.[1027] Already exposed to discrimination and disadvantage as a result of their gender, Lyuli women are vulnerable to multiple discrimination arising on the basis of their gender and ethnicity, exposing them to severe social and economic disadvantages.

One of the clearest manifestations of the severe multiple discrimination to which Lyuli women are exposed is the fact that they are disproportionately affected by forced sterilisation. In 2013, the Open Society Foundation published a report on the forced sterilisation of women in Uzbekistan.[1028] According to the report, Lyuli women are particularly exposed to the practice:

> *"Lyuli (Gypsies) are useful for fulfilling quotas because doctors don't even need to work to get consent out of them. They know that Gypsies will not sue or get them in trouble so if a Gypsy woman gives birth, often even after one child, she will be sterilized."*[1029]

As a consequence of social stigma, particularly the prevailing stereotype of Lyuli as beggars, such women "often stand no chance of avoiding sterilization".[1030] One nurse, interviewed by the Open Society Foundation, explained, "they use their children to beg so they are better off without them".[1031]

1026 See above, note 894, Para 139.

1027 See above, note 689, p. 154, Paras 2 and 6.

1028 Antelava, N., *Forced Sterilization of Women in Uzbekistan*, 2013, available at: https://www.opensocietyfoundations.org/sites/default/files/sterilization-uzbek-20131212.pdf.

1029 *Ibid*., p. 31.

1030 *Ibid*.

1031 *Ibid*.

Lyuli women are also particularly vulnerable to domestic violence. Eighteen out of 30 women interviewed by the Trust reported being beaten by their husband.[1032] Surprisingly, for many of those women interviewed, domestic violence was seen as routine, with many accepting the practice as a "common occurrence, which happens in the majority of Lyuli families".[1033] Victims also reported fearing that if they called the police, their husbands would be put in jail and on returning would subject them to further abuse, and as such, most never reported a case of domestic violence to the police or the *Mahalla*.[1034] The proportion of this small sample of women who had experienced domestic violence is broadly consistent with patterns of domestic violence affecting non-Lyuli women which are discussed elsewhere in this report. However, considering the increased economic pressures and marginalisation from the rest of society which Lyuli women experience, opportunities for intervention and protection are particularly limited.

In 2014, the Trust interviewed several Lyuli women in the streets and bazaars of Tashkent city. These women face substantial barriers preventing their equal participation in society. According to those interviewed, pregnant women are forced to beg to support themselves, regardless of the time of year. Moreover, many are unable or unwilling to access medical assistance, relying instead, on traditional folk medicine.[1035]

Conclusion

As with other groups subject to discrimination in Uzbekistan, it is not possible to separate women's experience of inequality from the role of the state in creating, perpetuating and legitimising this inequality. For example, the state has maintained a number of severely discriminatory policies, including notably the forced sterilisation of women, which qualifies as a form of discriminatory torture and ill-treatment. Practices such as serve to legitimise violence

1032 Equal Rights Trust interview with 30 Lyuli women on the issue of domestic violence, October – November 2014, Tashkent. Of those women interviewed, 11 were originally from Tashkent, compared to 19 who had moved to the city from other parts of the country.

1033 *Ibid*.

1034 *Ibid*.

1035 Equal Rights Trust interviews with 8 Lyuli women in the bazaars of Tashkent, Tashkent, October 2014.

against women, a problem which is compounded by a lack of adequate protection and prevention mechanisms. In the areas of education and employment, the adopted a dichotomous policy toward the role of women in society. On the one hand, the state has sought to support women's rights in certain areas, in particular regarding education where boys and girls enjoy a level of parity at the primary and secondary level. On the other, the state has appropriated, and continues to emphasise, cultural attitudes which emphasise the central position of women in the home and family. The result is that women in Uzbekistan, whilst highly educated and afforded many of the same rights as men in law, are underrepresented in certain fields of education and employment, and are at the top levels in both business and public bodies. Women have a right to non-discrimination in employment, but the law prohibits them from working in certain fields. women are prohibited (and otherwise discouraged) from working in certain fields. Child marriage, which disproportionately affects girls, is legal and commonplace. Additionally, women may face difficulties divorcing their husbands, often being subjected to pressure to reconcile.

3.5 Discrimination on the Basis of Sexual Orientation and Gender Identity

Under Article 2(1) of the ICCPR, Uzbekistan is required to "ensure to all individuals (…) the rights recognised in the (…) Covenant, without distinction of any kind", on grounds including "other status".[1036] The same obligation to ensure enjoyment of Covenant rights without discrimination arises under Article 2(2) of the ICESCR.[1037] In addition, under Article 26 of the ICCPR, Uzbekistan is required to ensure that "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground".[1038] The CESCR has stated that both sexual orientation and gender identity are forms of "other status" within the meaning of Article 2(2).[1039] The Human Rights Committee (HRC) in its jurisprudence has held that the prohibition of discrimination under Articles 2(1) and 26 extends to

1036 See above, note 485, Article 2(1).

1037 See above, note 978, Article 2(2).

1038 See above, note 485, Article 26.

1039 Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights*, UN Doc. E/C.12/GC/20, 2009, Para 32.

discrimination on the grounds of sexual orientation.[1040] The Committee has also held that laws criminalising homosexual conduct breach Article 17 of the Covenant, under which no person "shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation".[1041]

Cultural Attitudes and the Position of LGBT Persons in Society

The number of Lesbian, Gay, Bisexual and Transgender (LGBT) persons in Uzbekistan is unknown. As a consequence of discriminatory laws and negative societal attitudes, many LGBT individuals choose to hide their identity, fearing both criminal prosecution and violence by public and private actors. As one man, interviewed by the Equal Rights Trust, described:

> *When I realised my sexuality in the first moment, I thought, what I will do? What if people would not understand me, what if they are going to kill me once they would find out about my orientation?*[1042]

Similarly, though same-sex acts between women are not legally prohibited under Uzbekistani law, seven out of nine lesbian women interviewed by the Trust stated that they were reluctant to reveal their sexuality, including to family members, and all reported fearing discrimination due to social prejudice.[1043] These fears are well-founded: in the most recent round of the World Values Survey conducted in Uzbekistan, 65% of respondents stated that they would not like a "homosexual" as a neighbour, while an even higher number of persons expressed the view that homosexuality could never be "justified" (76.5%).[1044] In preparation for this report, the Trust interviewed an Uzbekistani expert on LGBT issues, who stated that:

1040 *Young v Australia*, Human Rights Committee, Communication No. 941/2000, UN Doc. CCPR/C/78/D/941/2000, 2003, Para 10.4.

1041 *Toonen v Australia*, Human Rights Committee, Communication No. 488/1992, UN Doc. CCPR/C/50/D/488/1992, 1994, Para 8.7.

1042 Equal Rights Trust interview with AC., a gay man, November 2014, Tashkent.

1043 Equal Rights Trust interview with 9 lesbian women, November 2014, Tashkent.

1044 See above, note 898.

> *I work with a local group of lesbian and bisexual women in Uzbekistan. We conducted research in 2011, on the situation of rights of lesbian and bisexual women in the country, and interviewed 57 women. All of them recorded that their sexuality and gender identity creates problems with parents, relatives, neighbours and, for some of them, with law enforcement. Among them, 13 women had problems with local police. We found that the majority of women needed psychological support in overcoming inner homophobic stereotypes and to withstand the negative reactions of family, relatives and friends during the process of coming out.*[1045]

Discussion of sexual orientation and gender identity is extremely limited in the state-controlled media and where these topics are discussed, reports are largely critical.[1046] Furthermore, Russian media, which has been criticised by international groups in recent years for promoting homophobia,[1047] is widely available in Uzbekistan.[1048]

Homophobic attitudes have also been expressed by leading Uzbekistani politicians. In a confidential diplomatic cable released by WikiLeaks, the South Korean Ambassador to Uzbekistan, Moon Hayong, revealed a conversation said to have taken place between Uzbekistani President Islam Karimov and South Korean President Myu-Hyun in 2006. According to the cable, Mr. Karimov informed the South Korean President that the government of Uzbekistan would only implement democratic principles consistent with Uzbekistan's moral values. Homosexuality, according to the President, was "disgusting" to

1045 Equal Rights Trust interview with G., an expert on LGBT issues, November 2014, Tashkent.

1046 See Labrys and the Sexual Rights Initiative, *Submission to the Universal Periodic Review on Uzbekistan*, 2008, Para 14, available at: http://sexualrightsinitiative.com/wp-content/uploads/Uzbekistan-UPR-3.pdf. See also, Labrys et al, *Submission to the Human Rights Committee on Uzbekistan*, 2010, p. 6, available at: http://www.osce.org/cio/68798?download=true.

1047 See, for example, Coming Out et al, *Submission to the Human Rights Committee on Russia*, 2014, p. 7, available at: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/RUS/INT_CCPR_ICO_RUS_17137_E.pdf.

1048 Press Reference, Country Profile: Uzbekistan, 2016, available at: http://www.pressreference.com/Uz-Z/Uzbekistan.html.

the people of Uzbekistan. A US-style democratic system would contravene the "moral purity" of Uzbekistan as it would permit homosexuality.[1049] In February 2016, President Karimov restated his opinion. At a televised meeting of the people's deputies of the Tashkent region, he was quoted as saying:

> *We talk about so-called Western culture. We call it vulgar culture. You know what I mean. It's inappropriate even to speak about this in front of women. When men live with men and women live with women, I think there must be something wrong up here (...) something is broken here. There is a saying: When God wants to reveal someone's vulgarity, he first takes his reason away.*[1050]

Legal and Policy Framework

Discrimination on the basis of sexual orientation and gender identity is not explicitly prohibited in Uzbekistan. Although the term "individual" status in Article 18 of the Constitution, which prohibits discrimination, could be interpreted as including sexual orientation and gender identity, no jurisprudence exists to that effect. Similarly, whilst some other laws prohibit discrimination on other grounds, there is no jurisprudence explicitly recognising the right to freedom from discrimination on the basis of sexual orientation and gender identity. Moreover, provisions in the Criminal Code which provide enhanced penalties for bias-motivated crimes do not extend to acts committed on the basis of a victim's sexuality or gender identity.

Discriminatory Legal Provisions

Several laws discriminate against LGBT persons in Uzbekistan, with the most severe provisions being those which criminalise same-sex sexual conduct. Same-sex sexual conduct between men is explicitly prohibited under the Criminal Code of Uzbekistan. Under Article 120 of the Code, "homosex-

1049 Wikileaks, "Karimov in Korea: Foreign Investment Good, but Western-Style Democracy Violates our Moral Purity", *Wikileaks,* 11 April 2006, available at: https://wikileaks.org/plusd/cables/06TASHKENT699_a.html.

1050 Tomiuc, E., "Uzbek President Calls Homosexuality 'Vulgar' Western Habit", *Radio Free Europe*, 8 February 2016, available at: http://www.rferl.org/content/uzbekistan-karimov-calls-homosexuality-vulgar-western-habit/27539247.html?.

ual acts, which are defined as the gratification of a man's sexual drive with another man without the use of force", are made punishable with a term of imprisonment of up to three years.[1051] In its 2015 Concluding Observations, the Human Rights Committee (HRC) criticised the retention of Article 120, despite previous recommendations, calling on Uzbekistan to repeal the law and ensure that sexual and gender minorities are provided legal protection:

> *The state party should take effective measures to combat any form of social stigmatization, hate speech, discrimination or violence against persons based on their sexual orientation or gender identity. It should ensure the investigation, prosecution and punishment of such violent acts and should repeal Article 120 of the Criminal Code in line with its obligations under the Covenant.*[1052]

Exact figures on the number of men imprisoned under Article 120 of the Criminal Code have not been made available by the state. According to statistics compiled by the non-governmental Central Asian Gender, and Sexuality Advocacy Network, in 2012 the number stood at approximately 500 persons.[1053] In its 2013 submission to the HRC, the state reported that 57 charges had been brought under this provision between 2007 and November 2012.[1054] In the same report, Uzbekistan expressed its unwillingness to reform its laws, stating that "such decriminalization would lead to propagation of HIV/AIDS in the country and undermine the moral and physical health of young generations."[1055] This directly contradicts the established jurisprudence of the HRCwhich has stressed that "the criminalization of homosexual practices cannot be considered a reasonable means or proportionate measure to achieve the aim of preventing the spread of AIDS/HIV".[1056] In its 2013 Universal Periodic Review, Uzbekistan once again rejected recommendations to abolish Article 120 from its Criminal Code.[1057]

1051 See above, note 505, Article 120.

1052 See above, note 504, Para 7.

1053 See above, note 1051.

1054 See above, note 459, Para 803.

1055 *Ibid*.

1056 See above, note 1041, Para. 8.5.

1057 See above, note 662, Recommendation 136.52.

Under Article 3 of the Family Code of Uzbekistan, all citizens are to be guaranteed equal rights in family relations. This provision prohibits the "direct or indirect restriction of rights, the establishment of direct or indirect advantages for marriage or interference in family relations on the ground of sex, race, nationality, language, religion, social origin, beliefs or personal or social status, and other circumstances".[1058] However, Article 2 provides that marriage is to be based on the union of a "man" and "woman",[1059] thus discriminating against gay, lesbian and bisexual persons, despite the protection from discrimination on the basis of "other circumstances". Although same-sex marriage is not explicitly required by the ICCPR,[1060] states have been urged to provide legal recognition of same-sex relationships.[1061]

In addition to the discriminatory nature of Article 2 of the Family Code itself, the lack of provision for same sex couples to marry means that lesbian, gay and bi-sexual couples are denied equal access to rights in a number of other areas. For example, Chapter 5 of the Family Code governs property rights. Joint property provisions, including the determination of shares in the division of common property, only extend to spouses.[1062] Given the factual impossibility of same sex marriage in Uzbekistan, gay and lesbian couples are denied many of the legal protections established under the Code, which may impact the determination of property division in the event of separation.[1063]

Although there does not appear to be any legal impediment preventing LGBT individuals from adopting children,[1064] only one partner would be able to register as a parent, due to the non-recognition of same-sex relationships. Moreover, under Article 152 of the Family Code, individuals previously convicted of an intentional crime are prohibited from adopting children,[1065]

1058 See above, note 926, Article 3.

1059 *Ibid*., Article 2.

1060 *Joslin v New Zealand*, Human Rights Committee, Communication No. 902/1999, UN Doc. CCPR/C/75/D/902/1999, 2002, Para 8.3.

1061 See Committee on Economic, Social and Cultural Rights, *Concluding Observations: Bulgaria*, UN Doc. E/C.12/BGR/CO/4-5, 30 November 2012, Para 17.

1062 See above, note 927, Chapter 5.

1063 *Ibid*.

1064 Under Article 152 of the Code, "Adoptive parents can be adult citizens of both sexes."

1065 *Ibid*., Article 152.

thus effectively excluding gay men who have been convicted under Article 120 of the Criminal Code.

Discrimination by State Actors

The UN High Commissioner for Human Rights has concluded that laws which criminalise homosexuality endanger LGBT individuals who may be subject to hate crimes, police abuse, societal discrimination and violence.[1066]

While reports are scarce, several groups working within Uzbekistan have documented instances of extortion and intimidation at the hands of state agents. In a 2015 submission to the HRC, the Central Asian Gender and Sexuality Advocacy Network reported the case of two gay men who were forced to leave Uzbekistan after being intimidated by police.[1067] The men were seen holding hands by police officers and sent to the police station where they were told that they would be charged under the Criminal Code. According to the report, the men had their possessions taken, were "repeatedly beaten, ridiculed, and forced to write a statement saying that they were involved in a relationship with one another". Eventually, police informed the men that they could be released provided that they pay the Chief of Police $500. Having agreed to do so, the men were warned that if they returned they would be killed. Subsequently, the men left Uzbekistan and sought asylum.[1068]

Similar stories have been reported by the media. In one case, two men reported registering with the dating website "mamba.ru". Having agreed to meet with other men though the site, both were surprised by police. The men reported having to pay large bribes in order to avoid being prosecuted under the Criminal Code.[1069]

1066 Human Rights Council, *Discrimination and Violence against Individuals based on their Sexual Orientation and Gender Identity, Report of the United Nations High Commissioner for Human Rights*, UN Doc. A/HRC/29/23, 4 May 2015, Para 45.

1067 Central Asian Gender and Sexuality Advocacy Network, *Submission to the Human Rights Committee on Uzbekistan*, 2015, pp. 4-7, available at: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/UZB/INT_CCPR_CSS_UZB_20794_E.pdf.

1068 *Ibid.*

1069 See Ilyin, O., "Uzbekistan: The Law against Homosexuality Keeps at Bay the Gay and Enriches Police", *Ferghana*, 23 January 2014, available at: http://www.fergananews.com/articles/8023; and Radio Free Europe, "Story of Sattorov K.M", *Radio Free Europe,* 29 November 2013, available at: http://www.ozodlik.org/content/blog/25184164.html.

NGOs also report that Article 120 of the Criminal Code has been used as a pretext to extend the sentences of persons imprisoned on account of their political opinion.[1070] In 2003, Human Rights Watch reported the case of Ruslan Sharipov, an activist and "fearless critic of police corruption and human rights abuses in Uzbekistan".[1071] Despite initially denying the charges brought under Article 120 of the Criminal Code, Sharipov refused legal counsel and expressed willingness to confess to the charges. He later agreed to "beg for the forgiveness of President Karimov" and "retracted all articles critical of the government that he had written from 2001 to 2003".[1072] Upon his release, Mr. Sharipov was granted political asylum in the United States, and was awarded the "2004 Golden Pen of Freedom".[1073]

Gender Reassignment

While international law on the issue of gender reassignment is not settled, jurisprudence from regional bodies, and principles endorsed by international experts point to an emerging consensus on the obligations of states. The European Court of Human Rights has held that an individual should be able to identify themselves as a particular gender, and that their identification should be recognised in law.[1074] The Yogyakarta Principles provide that individuals should not be expected to undergo any medical or surgical procedures, including reassignment surgery, in order for their gender reassignment to be legally recognised.[1075]

1070 Central Asian Gender and Sexuality Advocacy Network, *Submission to the Universal Periodic Review on Uzbekistan*, 2012, Para 9, available at: http://www.upr-info.org/sites/default/files/document/uzbekistan/session_16_-_april_2013/cagsanupruzbs162013centralasiangenderandasexualityadvocacynetworke.pdf.

1071 Human Rights Watch, *Free Uzbek Rights Defender Ruslan Sharipov*, 2003, available at: https://www.hrw.org/legacy/campaigns/uzbekistan/sharipov.htm.

1072 *Ibid*.

1073 *Ibid*.

1074 *Goodwin v The United Kingdom*, European Court of Human Rights [GC], Application No. 28957/95, 11 July 2002; *Van Kück v Germany*, European Court of Human Rights, Application No. 35968/97, 12 June 2003.

1075 Yogyakarta Principles – Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity, International Commission of Jurists, 2007, pp. 11–12.

While Uzbekistani law permits legal reassignment of gender identity, the process requires medical certification and a "diagnosis" of transsexualism – an arduous process which is contrary to international standards. Under Article 229 of the Family Code, Civil Registry Acts may be amended to reflect a change in gender only following medical certification from health care authorities.[1076] In interviews conducted for this report, two transgender persons shared their experiences of the process:

Case Study 14: Transgender Person from Tashkent[1077]

I started understanding my sex at the age of seven when I needed to go to school. I had to wear a girl's uniform and this was extremely unpleasant for me as I preferred shorts and trousers and having a short haircut. I was always interested in playing war games with other boys (…) With the collapse of Soviet Union, the requirement to wear school uniform was less strict and I was free to dress like a boy. The only signs of my feminine body were my breasts, absence of facial hair, and identity documents.

When, I finished school, I decided to undergo an operation to remove my breasts. I consulted plastic surgery clinics across Tashkent. Everywhere I went, people refused to do the operation. In order to legally change my documents, I was forced to stay in a psychiatric hospital to prove that I do not have any mental illness. After checking me, the doctors provided me with a diagnosis of "persistent transsexualism". On the basis of this conclusion, finally, I was able to change sex in my documents. I had an operation to remove my breasts.

One individual was forced to spend three months in a psychiatric hospital in order to receive a diagnosis:

> *I was born male, according to my birth certificate. However, from childhood my mother dressed me like my sisters, and I felt as though I was a girl. After graduating school, I could not submit my documents to the Uni-*

1076 See above, note 926, Article 229.

1077 Equal Rights Trust interview with two transgender persons, November 2014, Tashkent.

> *versity, as my female appearance was not in line with my male documents, and I thought that no one would understand my situation. After finishing high school, my parents put me into a psychiatric hospital for three months to treat me, as they believed that I had some kind of mental disease. The hospital discharged me with a diagnosis of "persistent transsexualism". This decision allowed me to avoid serving in the military. Afterwards, with the help of a lawyer, I changed my documents: birth certificate and passport.*[1078]

Of even greater concern is the evidence that some individuals are required to undergo gender reassignment surgery in order to change their gender identity on official documents. One trans-man interviewed by the Los Angeles Times in 2016 explained how registry officials refused to issue new documents until he received surgery, while doctors were reluctant to operate until they saw documents evidencing his change of sex.[1079] The requirement to undergo surgery to obtain legal gender recognition is inconsistent with best practice standards: Principle 3 of the Yogyakarta Principles states no one "shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity."[1080]

Discrimination Against Lesbian Women

UN Special Procedures have noted that, already subject to prejudice and discrimination on the basis of their gender, lesbian and bisexual women may face "double or triple forms of aggravated discrimination".[1081] As noted in the preceding section, Uzbekistani society places a great deal of emphasis on the role of the family, where women are expected to marry and support their hus-

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1078 *Ibid*.

1079 Mirovalev, M., "In Uzbekistan, Transgender Man Breaks Barriers with Transparent Transition", *LA Times*, 17 March 2016, available at: http://www.latimes.com/world/asia/la-fg-uzbekistan-transgender-20160317-story.html.

1080 See above, note 1075, p. 11.

1081 Human Rights Council, *Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir*, UN Doc. A/HRC/4/21, 07 October 2005, Para 36.

band. It is notable that such beliefs appear to enjoy support even among lesbian and bisexual women. In a 2011 survey, the majority of bisexual and lesbian women interviewed expressed the view that "family is a union between [a] man and woman", that two women cannot raise children together, and that in a family "it is necessary to have a father".[1082] Moreover, 14% of questioned women believed that their own sexuality was "a sin".[1083]

Prevailing social attitudes toward sexuality and the role of women within the family detrimentally impacts the ability of lesbian and bisexual women to participate equally in society. One of the particularly severe manifestation is the phenomenon of forced or coerced marriage. In a submission to the CEDAW Committee in 2010, the LGBT Organisation Labrys documented the case of a lesbian woman who was pressured into marrying a man by members of her family. According to the report:

> *[A] week following the marriage, the woman came back home because her mother is accepting of her sexuality. [Y]et [she] insisted on following the marriage tradition in order to avoid family pressure. Being a lesbian is considered to be shame for the family and when relatives found out about it, they were shocked and put a lot of pressure on the mother. Some relatives sexually harassed the 19-year-old woman. She does not see her future in Uzbekistan and wants to move to another country.*[1084]

In the absence of an explicit provision criminalising marital rape, lesbian women pressured into marriage are also exposed to a serious risk of sexual violence.

Despite the absence of a specific legal prohibition on female-female relationships, in its 2012 report to the Universal Periodic Review, the Central Asian Gender and Sexuality Advocacy Network explained how lesbian women may be subject to blackmail by police officers:

1082 Equal Rights Trust interview with AG., an expert on LGBT issues, November 2014, Tashkent.

1083 *Ibid.*

1084 Labrys, *Submission to the Committee on the Elimination of Discrimination against Women on Uzbekistan*, 2010, p. 4, available at: http://www2.ohchr.org/english/bodies/cedaw/docs/LGBTO_E.pdf.

> *The majority of cases begin similarly: police address women whom they suppose to be lesbians, and start intimidating them or deceive that in Uzbekistan there is a criminal punishment for female homosexuality, or threaten to blackmail that they will inform about their homosexuality colleagues at work, in educational institution or will tell to parents. It is for the purpose of extortion of money or for the purpose of satisfaction of sexual needs.*[1085]

The risk of unemployment acts as a particularly strong disincentive for lesbian women to reveal their sexual orientation. Where one's sexuality becomes known, dismissal from employment is a real possibility. Two women interviewed by the Trust in 2014 explained how they were verbally abused by their employers before being fired:

> *I was working as a manager in a restaurant and used to stay at work very late. Every night my girlfriend would meet me at the gate of the cafe, which was video monitored. I was not paying attention to the fact that our hugs and kisses were being recorded. The next day my boss called me to his office and showed me the camera footage. He shouted at me, swearing, and fired me. He also told me that if I came back to his office he would disclose my orientation to everyone with whom I am acquainted, or would put my picture on the internet.*[1086]

> *Two years ago, I was working as salesperson in small shop. I have been hiding my sexuality for many years. Once, I met with my girlfriend at work and we kissed in the corner of the shop. Accidently, the shop owner had seen us and she fired me. She shouted at me, and said that she did not want to see someone like me in her shop, as I am dirty animal. Now I am hiding my sexuality, and am very careful at my new work.*[1087]

1085 See above, note 1053.

1086 Equal Rights Trust interview with 2 lesbian women, November 2014, Tashkent.

1087 *Ibid*.

When the Trust asked the two women why they would not sue the business owners, the responses were the same: in Uzbekistan disclosing homosexual orientation is offensive and if their sexuality were to become known, their neighbours and friends would disown them.[1088]

Conclusion

Discrimination on the basis of sexual orientation appears common in Uzbekistan. Laws criminalising homosexuality permit the arrest, blackmail and extortion of gay men. Although lesbian relationships are not illegal within the state, our research found that criminalisation of same sex conduct between men contributes to social stigma and exposes lesbians to physical and sexual violence, including at the hands of the police. Lesbians interviewed by the Trust have been dismissed from work upon their sexuality becoming known. Consequently, many women (and gay men) choose to hide their sexuality, contributing to social exclusion and stigma. Although gender reassignment is permitted by law, this appears to be predicated on the requirement of corrective surgery, contrary to international best practice. There is evidence that transgender persons are forced to undergo an intensive medical evaluation, requiring a stay in a psychiatric hospital; in some cases, for months at a time.

3.6 Discrimination and Inequality Affecting Persons with Disability

Despite signing the Convention on the Rights of Persons with Disabilities (CRPD) in 2009, Uzbekistan is yet to complete ratification process. In response to recommendations made on this topic at its Universal Periodic Review, Uzbekistan noted several measures undertaken in order to prepare for ratification of the Convention,[1089] but stopped short of committing to a particular timeframe for ratification. While the state has signed but not ratified the Convention, it is obligated not to defeat the object and purpose of the Treaty.[1090] Moreover, as a party to ICESCR, Uzbekistan is required to prohibit

1088 *Ibid*.

1089 Human Rights Council, *Report of the Working Group of the Universal Periodic Review: Uzbekistan, Addendum*, UN Doc. A/HRC/24/7/Add.1, 2 August 2013, Paras 1–5.

1090 Vienna Convention on the Law of Treaties, 1155 U.N.T.S. 331, 1969, Article 18.

discrimination on the basis of disability in the enjoyment of all economic, social and cultural rights.[1091]

There is no clear consensus on the total number of persons with disabilities in Uzbekistan. In its 2012 report to the Committee on the Rights of the Child, the government reported that there were around 850,000 persons with disabilities in the country,[1092] which would equate to around 2.83% of the population.[1093] In a 2015 United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) survey which used government data, the disability prevalence in Uzbekistan was reported as 1.3%, the second lowest rate of all Asia-Pacific countries.[1094] Both of these estimates statistics fall well below World Health Organisation estimates on the global prevalence of disability, which indicate that on average, 15% of the population has some form of disability.[1095] While the prevalence of disability may vary from country to country, the significant discrepancy between national and international estimates indicates that the processes for identifying persons with disabilities – and the definition of what constitutes a disability – which are used in Uzbekistan are inadequate.

Cultural Attitudes

In the Soviet period, state attitudes toward persons with disabilities were characterised by denial.[1096] The process of determining and responding to the needs of persons with disabilities was highly medicalised. Individuals were divided

1091 *Ibid*., Article 2. See also note 1040, Para 28.

1092 See above, note 648, Para 206.

1093 Based on the most recently provided government population statistics. See above, note 894, Appendix 2, p. 67.

1094 UN Economic and Social Commission for Asia and the Pacific, *Disability at a Glance 2015*, 2015, p. 4, available at: http://www.unescap.org/sites/default/files/SDD%20Disability%20Glance%202015_Final.pdf.

1095 World Health Organization, *World Report on Disability*, 2011, p. 261, available at: http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf?ua=1.

1096 Famously, in response to a question regarding participation in the 1980 Paralympic games, a Soviet official was alleged to have responded "there are no invalids in the USSR". See Phillips, S., "There Are No Invalids in the USSR!": A Missing Soviet Chapter in the New Disability History", *Disability Studies Quarterly*, Vol. 29(3), 2009.

into three different classes, each denoting a degree of disability.[1097] Classification determined eligibility for state benefits and guarantees, with one's disability grouping impacting the level of social assistance one could expect to receive.[1098] Individuals were required to undergo regular re-evaluations, in part due to the construction of disability as medical issue. As noted by Katsui:

> *The category system was premised on a supposed healing cycle in which a person was temporarily sick or injured and expected to recover after treatment and rehabilitation (...) Under this system, disabled people were therefore regarded as abnormal, firstly because they were not "able to work" and secondly because they could not be "cured."*[1099]

Medical Commissions were established with the purpose of recommending persons with disabilities for employment. At the same time, access to the labour market was undermined through the adoption of legislation prohibiting certain forms of work, alongside other 'protective benefits' such as shorter working hours.[1100] This approach served to distinguish persons with disabilities from the rest of society, increasing exclusion and limiting interaction. Paternalistic attitudes toward disability also extended to children, leading in many cases to institutionalisation and separation from mainstream education.[1101] This separation remains a current issue in Uzbekistan, with UNICEF reporting that "18 percent of children with disabilities (...) are living in institutions".[1102]

1097 International Labour Organization, *Advisory Report on Vocational Rehabilitation and Employment of People with Disabilities in Eastern Europe and Central Asia*, 2014, p. 4, available at: http://www.ilo.org/public/libdoc/ilo/2014/485185.pdf.

1098 Katsui, H., "The Challenges of Operationalizing a Human Rights Approach to Disability in Central Asia", in Rasell, M. (ed), *Disability in Eastern Europe and the Former Soviet Union: History, Policy and Everyday Life*, Routledge, 2013, p. 205.

1099 *Ibid*.

1100 See above, note 1097, p. 3.

1101 UNICEF, *Children with Disabilities: Nodira's Story*, 2013, pp. 5–6, available at: https://teachunicef.org/sites/default/files/documents/units-lesson-plans/children_with_disabilities_9-12_0.pdf.

1102 *Ibid*. As explained in Part 2 of this report, the Committee on the Rights of the Child have expressed concern regarding the "inadequacy of measures to ensure that children with disabilities are provided with inclusive education". See Committee on the Rights of the Child, *Concluding Observations: Uzbekistan*, UN Doc. CRC/C/UZB/CO/3-4, 10 July 2013, Para 49.

Uzbekistan has retained many of the characteristics of Soviet approaches to disability, including the benefit and employment determination process. As a result, persons with disabilities are ostracised – unable to contribute or fully interact with society. As discussed in more detail below, in recent years, government has reduced disability pensions citing the need to curb benefit fraud. In the process, persons with disabilities are equated with criminality, leading to yet further social exclusion.

In 2012 the United Nations Development Programme issued a policy brief on Uzbekistan, sharing the results of a survey conducted concerning public perceptions toward persons with disabilities. The survey identified several harmful stereotypes which have the effect of limiting employment opportunities for persons with disabilities. The UNDP noted a "pitying attitude" in society; disability is equated with sickness and may in fact "lower [the] social status of [a] family." Additionally, "there is (...) a belief that a 'respectable' family would have enough money to support 'a sick person', and therefore will never 'force' him or her to work."[1103] Negative cultural stereotypes regarding disability inhibit the ability of individuals to successfully seek employment. These attitudes are further reinforced by a weak legislative framework and the existence of several discriminatory laws which undermine the autonomy of persons with disabilities.[1104]

Legal and Policy Framework

Article 18 of the Constitution of Uzbekistan does not expressly prohibit discrimination on the grounds of disability. However, Article 45 requires that the rights of persons with disabilities are to be protected by the state, while under Article 39 "[e]veryone shall have the right to social security (...) in the event of disability".

The primary piece of legislation providing for the protection of persons with disabilities in Uzbekistan is the amended Law on the Social Protection of

1103 United Nations Development Programme, *Policy Brief: Uzbekistan*, 2012, p. 6, available at: http://www.undp.org/content/dam/uzbekistan/docs/Publications/UN-Publications/PB_PWD/un_uzb_PB_PWD_eng.pdf.

1104 In particular, those persons with severe intellectual disabilities.

Disabled People.[1105] Under Article 3 of the law, "disabled person" is defined as "a person who, due to the limitation of vital functions was recognised as a person with disability in the order established by the law and is in need of social protection and assistance".[1106] The term "limitation of vital functions" is further defined as "full and partial loss by a person of a capacity or possibility to carry out self-service, movement, orientation, communication, control of behaviour as well as possibility to study or to work".[1107] Thus, it is clear that Uzbekistani law follows a "medical" model of disability, where disability is viewed as a "condition" requiring treatment. By contrast, under a social model, as exemplified in the CRPD,[1108] the focus is on ensuring the full and effective participation of persons with disabilities in society. The "social" model is preferable as it requires the state to address the attitudinal and environmental barriers faced by persons with disabilities.[1109]

Discriminatory Laws

The most pressing concern identified in Uzbekistan's legal and policy framework governing disability concerns guardianship and the deprivation of legal capacity. Chapter 33 of the Civil Procedure Code sets out the procedure for determining mental capacity. At the request of a family member, specified government bodies may submit an application for recognition of a citizen as "incapable" to the court.[1110] The application must set out the evidence of mental illness, due to which a person cannot account for or control their

1105 The Law on the Social Protection of Disabled People was adopted in 1992. In 2008, amendments to the law were introduced via the Law on Making Amendments and Addenda to the Law of the Republic of Uzbekistan "On Social Protection of Disabled People in the Republic of Uzbekistan".

1106 Law of the Republic of Uzbekistan on the Social Protection of Disabled Persons in the Republic of Uzbekistan, Law No. 422-XII, of 18 November 1991, as amended by the Law of the Republic of Uzbekistan on Making Amendments and Addenda to the Law of the Republic of Uzbekistan on Social Protection of Disabled Persons in the Republic of Uzbekistan, Law No. ZRU-162 of 11 July 2008, Article 3.

1107 *Ibid*. See UNICEF, *Uzbekistan: Country Profile*, 2014, p. 1, available at: http://www.unicef.org/ceecis/UZ_Country_profile_eng_29July_FINAL_proofed.pdf.

1108 Convention on the Rights of Persons with Disabilities, 2515 U.N.T.S. 3, 2006, Article 1.

1109 *Ibid*., Paragraph e.

1110 Civil Procedure Code of the Republic of Uzbekistan, Code No. 477-I of 30 August 1997, Article 291.

actions.[1111] Where a court finds an individual incapable or incapacitated, a guardian may be appointed.[1112]

Article 12(3) of the CRPD provides that state parties "shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity". Article 12(4) requires that measures to support the exercise of legal capacity include

> *[A]ppropriate and effective safeguards to prevent abuse [and] are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body.*[1113]

In its First General Comment, the Committee on the Rights of Persons with Disabilities elaborated the meaning of Article 12:

> *In order to fully recognize "universal legal capacity", whereby all persons, regardless of disability or decision-making skills, inherently possess legal capacity, states parties must abolish denials of legal capacity that are discriminatory on the basis of disability in purpose or effect.*[1114]

Laws governing guardianship and trusteeship ought to be reviewed and aligned with the Convention; including the replacement of "substitute decision making" mechanisms with "supported decision making" alternatives which afford primacy to the rights of the individual concerned.[1115] It is clear that the Uzbekistani Civil Procedure Code provides for substitute rather than supported decision making, and so contravenes Article 12 of the CRPD.

1111 *Ibid*., Article 292.

1112 *Ibid*., Article 295.

1113 See above, note 1108, Article 12(4).

1114 Committee on the Rights of Persons with Disabilities, *General Comment No. 1: Article 12: Equal Recognition before the Law*, UN Doc. CRPD/C/GC/1, 2014, Para 25.

1115 *Ibid*., Paras 26–29.

In addition to the discriminatory nature of the guardianship provisions themselves, denial of legal capacity to persons with disabilities may severely impede the enjoyment of other rights. For example, under Article 16 of the Uzbekistani Family Code, marriage between two persons of whom at least one of which has been recognised as legally incapable is prohibited.[1116] Article 23 of the CRPD provides that all persons with disabilities of marriageable age have a right to marry and found a family, on the basis of their free and full consent,[1117] and the denial of familial and marriage rights to persons with disabilities on the basis of lack of legal capacity has been recognised by the Committee on the Rights of Persons with Disabilities as a breach of Convention rights.[1118]

Denial of legal capacity leads to discrimination and inequality not only in respect of marriage. Several laws in Uzbekistan remove the right to vote from persons judged incapable by a court.[1119] Moreover, under Article 117 of the Constitution, citizens "who have been legally certified as insane (...) may neither elect nor be elected".[1120] Under Article 29 of the CRPD, state parties are required to ensure that voting procedures are "appropriate, accessible and easy to understand and use". In its Communication No. 4/2011, the Committee considered the question of voting rights and legal capacity, concluding that "states parties must recognize and uphold the legal capacity of persons with disabilities "on an equal basis with others in all aspects of life", including political life, which encompasses the right to vote".[1121] The Committee concluded that:

1116 See above, note 926, Article 16.

1117 See above, note 1108, Art 23(1)(a). The necessity of consent is also recognised in the International Covenant on Civil and Political Rights, above, note 485 Art. 23.

1118 See above, note 1114, Para 8.

1119 See, for instance, Law of the Republic of Uzbekistan on Guarantees of Electoral Rights of Citizens, Law No. 1051-XII of 5 May 1994, Article 5; Law of the Republic of Uzbekistan on Referendums, Law No. 417-XII of 18 November 1991, as amended by the Law of the Republic of Uzbekistan on Amendments and Supplements to the Law of the Republic of Uzbekistan on Referendums, Law No. 265-II of 30 August 2001, Article 6; and Law of the Republic of Uzbekistan on the Election of the President of the Republic of Uzbekistan, Law No. 414-XII of 18 November 1991, Article 2.

1120 *Ibid.*

1121 *Bujdosó and others v Hungary*, Committee on the Rights of Persons with Disabilities, Communication No. 4/2011, UN Doc. CRPD/C/10/D/4/2011, 2013, Para 9.5.

> *Under Article 12, paragraph 3, of the Convention, states parties have a positive duty to take the necessary measures to guarantee to persons with disabilities the actual exercise of their legal capacity. Accordingly, the Committee is of the view that, by depriving the authors of their right to vote, based on a perceived or actual intellectual disability, the state party has failed to comply with its obligations under Article 29 of the Convention, read alone and in conjunction with Article 12 of the Convention.*[1122]

These two examples indicate the range of discriminatory impacts arising from the denial of legal capacity to persons with intellectual disabilities in Uzbekistan.

Accessibility

Under Article 9 of the CRPD, state parties are obligated to eliminate obstacles and barriers to accessibility.[1123] The Law on Social Protection of Disabled People in Republic of Uzbekistan, is broadly consistent with the Convention in this regard, obliging state bodies, companies, associations, enterprises and organisations to create conditions to ensure that persons with disabilities (including wheelchair users and those with guide-dogs) can enjoy unhindered access to infrastructure.[1124]

Despite legal guarantees, in practice, persons with disabilities struggle to gain access to social infrastructure. According to an expert consulted by the Trust, transportation is not designed for the use of disabled persons, whilst state and non-state buildings are not equipped with ramps.[1125] In 2014 it was reported that in Tashkent, there were only four buses with low-floors designed for wheelchair users, despite the city having a population of over two million people.[1126]

1122 *Ibid*.

1123 See above, note 1108, Article 9.

1124 See above, note 1106, Article 10.

1125 Equal Rights Trust, consultation with X., an Uzbekistani expert, 2015 (correspondence on record with the Equal Rights Trust; name withheld for security reasons).

1126 Yahyaev., A, "Public Transportation in Uzbekistan", *Arbuz-uz*, 30 July 2014, available at: http://anhor.uz/society/obshestvenniy-transport-tashkenta.-avtobusi.-razbor-poletov.

Under Article 51 of the Code on Administrative Responsibility, "failure to comply with the requirements for the creation of conditions for people with disabilities unrestricted access to social infrastructure (...) may be punishable by a fine on officials from ten to fifteen times the minimum monthly wage."[1127] The US Department of state has reported that approximately 2500 individuals and organisations were fined in 2015 for failing to meet accessibility requirements for persons with disabilities.[1128] However, in 2013, the Code on Administrative Responsibility was amended, and the maximum level of fines payable decreased dramatically, from between 6.4 and 9.2 million soum ($2,415 to $3,470) in 2013, to approximately 2.2 million soum ($830) today.[1129]

Social Security

In 2013, President Karimov stated that "[a]bout 59.2% of state spending was directed at financing social sphere and population social protection measures, including 34% to education and 14.5% to healthcare".[1130] Using state budget reports for the same year, it can be calculated that only approximately 0.4% of state expenditure is provided annually for all forms of social security – including provision for persons with disabilities.[1131]

In order to receive social security, persons with disabilities in Uzbekistan are required to go through a complicated procedure of examination to assess the "severity" of their disability. There are three disability groups recognised in law: group I, which includes persons with severe disabilities; group II, which includes persons with moderately severe disabilities; and group III, which includes persons with less severe disabilities.[1132] An Uzbekistani expert consulted by the Equal Rights Trust explained the differences between the categories as follows:

1127 See above, note 555, Article 51.

1128 United States Department of State, *Country Reports on Human Rights Practices for 2015: Uzbekistan*, 2016, available at: http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252981.

1129 *Ibid*.

1130 Dreyfus, A., "Taxes Scheme Divides Citizens", *Ferghana*, 2013, available at: stat.uz.

1131 Ministry of Finance of Uzbekistan, *Execution of the State Budget of Uzbekistan for the year 2013*, not available online.

1132 See above, note 1103, p. 1.

> *For example, in group one would be those who are completely blind, in group two would be those who have very high degree of myopia and the third group would include those who have some conditions preventing them from working, such as herniated disk.*[1133]

Article 4 of the Law on the Social Protection of Disabled Persons in Uzbekistan provides that the determination of disability status for adults is to be made by a medical-labour expert commission (VTEK) (Vrachebno Trudovaya Expertnaya Komissiy); for minors under the age of 16, determination is made by a separate body.[1134] According to the most recently available data, 8.5% of total registered persons with disabilities belong to the first group; 71% to the second; and 20.5% to the third.[1135] Classification into the different categories determines fitness to work, and eligibility for social security benefits.

Research conducted for this report indicates that the assessment and reassessment process managed by the VTEK is fraught with problems.[1136] One woman interviewed by the Trust described the problems which she faced and the corruption within the system.

Case Study 15: Interview with a Person with Disabilities in Uzbekistan[1137]

I have a disability related to the cardiovascular system. I have ischemic heart disease and had a heart attack four years ago.

To apply for disability allowance I need to go to the polyclinic according to my place of residence. I have been on continuous sick-leave for four months, as is the official requirement. During these four months I was not paid a full salary.

1133 Equal Rights Trust, consultation with X., an Uzbekistani expert, 2015 (correspondence on record with the Equal Rights Trust; name withheld for security reasons).

1134 See above, note 1106, Article 4.

1135 *Ibid*.

1136 Equal Rights Trust, consultation with X., an Uzbekistani expert, 2015 (correspondence on record with the Equal Rights Trust; name withheld for security reasons).

1137 Equal Rights Trust interview with AD., a person with disabilities, November 2014, Tashkent.

> The therapist issues a clinical examination list which has to be filled out by all narrow specialisation doctors in my policlinic. Afterwards, the same procedure takes place at VTEK. Then the Commission decides if a person deserves to be given disability allowance. It is given for a period of 12 months.
>
> To reapply for disability allowance, I need to provide three discharge records from the illness specialised hospital. It means that three times, for 15 days, I must have medical treatment in hospital, either by daily visits or staying in hospital for several days. In order to have this treatment for free, I must get a special order. These orders are limited and [the process of acquiring one is] subject to corruption. If I did not have one, I would have to pay for the hospital expenses. Even if I have this order, I still have to buy all medications myself.
>
> So, receiving disability allowance is very difficult. Others simply buy such a certificate through bribery, but a person with real illness has to go through all these complicated procedures. My neighbour (…) also receives disability allowance, but she gets it on a fake disease. According to her, she bribes the VTEK by 200 US dollars, and pays 100 US dollars for three discharge records as if she had been in hospital. As she worked in construction company, her allowance is high, and these 300 dollars mean only 1.5 months of her yearly allowance. For the other 10.5 months she receives it in full amount, thus, she bribes doctors.

While this testimony indicates the extent to which the system is open to corruption, our research found that due to the complexities of obtaining a disability classification, in some cases, persons with severe disabilities resort to paying bribes in order for their medical certificates to be processed. For example, a lawyer, interviewed by the Trust, explained how a client with a severe coronary disease was required to pay a bribe equal to the amount of two monthly disability allowances in order to receive a disability classification from his doctor.[1138]

In January 2009, authority over the VTEK was transferred to the Ministry of Finance from Ministry of Labour and Social protection,[1139] a move which was

1138 Equal Rights Trust interview with AF., a lawyer, November 2014, Tashkent.

1139 Resolution of the Cabinet of Ministers On Additional Measures to Improve the Organisation of Activity of Service of Medical Labour Examination, Resolution No. 193 of 2 September 2010, available at: http://www.lex.uz/pages/GetAct.aspx?lact_id=1675223.

perceived by many persons with disabilities as a step towards reducing expenditure on disability benefits.[1140] These concerns were realised in December 2010, when the Finance Minister announced that 60,000 persons with disabilities had been dismissed from receiving disability allowances during the year.[1141] Further evidence of an apparent effort to reduce the number of disability benefit claimants comes from the International Labour Organization, which concluded in 2014 that the number of newly recognised disability cases in Uzbekistan had declined "spectacularly" since 1995, despite increases documented in many surrounding countries during the same period.[1142]

One key reason for the reduction in the number of people claiming disability-related benefits is a change in eligibility criteria introduced in 2010. In December 2010, amendments were introduced to the Law on State Pensions, restricting certain benefits to persons with disabilities in groups I and II, and effectively removing these benefits from those in group III.[1143] Consequently those persons adjudged to have less serious forms of disabilities (and a greater opportunity to work) were excluded from this form of assistance. The removal of benefits from persons in the group III disability classification may constitute a retrogressive measure, as prohibited by the ICESCR. In its General Comment No. 3, the UN CESCR emphasised that in line with the progressive realisation obligation arising from Article 2, "any deliberately retrogressive measures (...) would require the most careful consideration" requiring justification "by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources".[1144] In relation to social security, there is a "strong presumption" against retrogressive measures.[1145]

1140 Anonymous, "Who needs people with disabilities in Uzbekistan?", *LiveJournal,* 18 December 2010, available at: http://optimizator-rus.livejournal.com/7110.html.

1141 *Ibid*.

1142 See above, note 1097, p. 9.

1143 See above, note 572, Article 18. See Shagazatova, M., *Republic of Uzbekistan: Updating and Improving the Social Protection Index*, 2012, Para 87, available at: http://www.adb.org/projects/documents/uzbekistan-updating-and-improving-social-protection-index-tacr.

1144 Committee on Economic, Social and Cultural Rights, *General Comment No. 3: The Nature of States Parties' Obligations*, UN Doc. E/1991/23, 1990, Para 9.

1145 Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security*, UN Doc. E/C.12/GC/19, 2008, Para 42.

Another change introduced in 2010 – ostensibly with the goal of tackling corruption and abuse of the system – is a requirement of regular re-examination that requires collecting number of certificates and visiting several different institutions.[1146] The re-examination process can take up to three months and is required even of those classified in group III, who are not eligible for benefits in any case, and for those with genetic or chronic conditions, such as Down's Syndrome where the status will not change.[1147] In one case reported in the media, parents of a child born with one hand were required to prove that the hand had not grown during the year.[1148]

Aside from challenges related to assessment and eligibility for disability related benefits, a further problem is the level of payments. According to the Law on State Pension Provision, where a person has worked in the past, disability allowance should be calculated on the basis of the salary a person received before they acquired their disability.[1149] High inflation and a lack of indexation for benefits means that benefits calculated on previous income can be inadequate to meet basic needs.

Employment

Under Article 27 of the CRPD, "state parties recognise the right of persons with disabilities to work on the basis of equality with others" and are under a duty to ensure the right to work freely in a chosen labour market in an open, inclusive and accessible environment". Appropriate steps must be taken to ensure the equality of persons with disability in the employment sphere.[1150]

1146 See above, note 572, Article 18. See also Shagazatova, M., above, note 1143, Para 87.

1147 The government has produced a list of those conditions where regular re-examination is not required (available at: http://www.fmc.uz/legisl.php?id=zabol_bez_sroka), but a number of conditions are not included, and re-examination is required at least every seven years for conditions on this list.

1148 Kravets, P., Interview with Natalya Plotnikova, the Chairperson of Kibray Society of Disabled Women "Sisters," *Ferghana*, 27 January 2011, available at: http://www.fergananews.com/article.php?id=6881.

1149 Article 17 and 18 of the Law "On State Pension Provision" http://www.lex.uz/pages/getpage.aspx?lact_id=112312.

1150 See above, note 1108, Article 27.

Employment prospects for persons with disabilities are limited, in part because of lack of reasonable accommodation by employers. An expert consulted by the Trust cited the reduction in tax exemptions for businesses who employ persons with disabilities as a factor in the limited number of job opportunities.[1151] Thus, while in 1991, the Central Board of the Uzbekistan Disability Society listed more than 400 businesses as organisations with opportunities for persons with disabilities, by 2010, there were fewer than 20.[1152]

In addition, the way in which persons with disabilities are classified in Uzbekistan has serious implications for access to employment. Article 24 of the Law on the Social Protection of Persons with Disabilities provides for the right of persons with disabilities to work.[1153] Employers are prohibited from refusing to sign a contract of employment with a disabled person on the basis of their disability. However, there is a significant exception to this rule, where a decision of the expert VTEK commission finds that such a person's health condition would prevent them from carrying out their work duties or would threaten the health and safety of others.[1154] Determination of capacity to work is carried out by the VTEK, which is also required to develop an individual programme of rehabilitation for any person categorised into groups I, II, or III (above), which may include recommendations regarding the type of work and activities that an individual can perform.[1155]

In practice this system gives rise to a number of problems. First, and most obviously, where an individual programme of rehabilitation does not include express recommendations for work, employers may refuse to employ the person.[1156] Second, as discussed above, the classification procedure is itself complex and problematic, resulting in delays and other difficulties for persons with disabilities seeking work, while the introduction of regular re-examination has, created further problems. Finally, the relationship between the level of disability classification and eligibility for benefits means

1151 Equal Rights Trust, consultation with X., an Uzbekistani expert, 2015 (correspondence on record with the Equal Rights Trust; name withheld for security reasons).

1152 See above, note 1140.

1153 See above, note 1106, Article 24.

1154 *Ibid*.

1155 See above, note 1103, p. 7.

1156 *Ibid*.

that some persons with disabilities may be reluctant to either seek work or to challenge the assessments of the VTEK, for fear of being re-classified. As noted by the UNDP:

> *A person who requests the VTEK reconsider their ability to work within specified disability group also runs into the risk that his/her disability group may also be revised. (...) This also causes a concern that people with disabilities may lose their pensions, either due to their removal from a disability group or the detection that they are capable of working. This situation reduces the incentive to actively seek employment in the formal labour market for people with disabilities and push them towards informal employment. This problem has been identified as the most 'acute' by all study respondents, including people with disabilities themselves.*[1157]

As the UNDP's findings indicate, the 2010 decision to remove benefits for those persons given a group III classification, increases the risk that persons with disabilities are discouraged from seeking work altogether, due to the fear of re-classification.

Education

Access to education for persons with disabilities in Uzbekistan is limited as a result of a lack of reasonable accommodation measures in educational facilities. An expert consulted by the Equal Rights Trust stated that:

> *While the state officially declares equality in terms of rights to education, in practice, disabled people do not have full access to education, especially, to higher education. There are no proactive government policies (...) concerning disabled people in Uzbekistan. Besides, all universities in Uzbekistan are not designed for access of people with disabilities, especially for wheelchair users. Even newly built or reconstructed universities have only*

1157 *Ibid*., p. 7.

exterior ramps, while interior stairs and toilets are not provided for easy access of wheelchair users.[1158]

Conclusion

Persons with disabilities in Uzbekistan face substantial impediments to their participation in life on an equal basis with others. This situation arises as a consequence of discriminatory laws, failures to ensure an accessible environment and make reasonable accommodation, and discrimination by private actors. Persons with mental disabilities are subject to a number of discriminatory legal provisions arising as a result of a guardianship system which is inconsistent with international law. The 1992 Law on the Social Protection of Disabled People is also inconsistent with the CRPD, which Uzbekistan is party to. This and other Uzbekistani laws continues to apply a medical model of disability, with a medicalised determination of disability used to determine eligibility for both employment and social security. Moreover, despite legal provision for accessible infrastructure, this guarantee does not appear to be ensured in practice.

3.7 Discrimintion and Inequality on the Basis of Health Status

Health status is a well-recognised ground of discrimination in international law. The CESCR has recognised that Uzbekistan and other states party to the ICESCR are required to guarantee all of the economic, social and cultural rights in the Covenant without discrimination on the basis of health status, including HIV status.[1159] This reflects a consensus position that the term "other status" in both the ICESCR and the ICCPR should be read as inclusive of health status as a protected characteristic.[1160] Consequently, Uzbekistan is required to guarantee all of the civil and political rights in the ICCPR without discrimination on the basis of health status, by virtue of Article 2(1) and, by virtue of Article 26 of the ICCPR, it is required to ensure that "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination", including on the grounds of health status.

1158 Equal Rights Trust, consultation with X., an Uzbekistani expert, 2015 (correspondence on record with the Equal Rights Trust; name withheld for security reasons).

1159 See above, note 1039, Para 33.

1160 See, for example: Commission on Human Rights, *Report on the Fifty-First Session*, UN Doc. E/CN.4/1995/176, 30 January – 10 March 1995, p. 141, Para 1.

HIV is a significant problem in Uzbekistan, which has one of the largest HIV positive populations in the region.[1161] As of January 2015 there were 30,315 cases registered in the country.[1162] Between 2012 and 2015, the prevalence of HIV infection was 13.5 cases per 100,000 persons.[1163] HIV infection rates vary between regions, with the highest concentration of HIV positive persons residing in Tashkent, as well as Andijan, Ferghana, and Samarkand.[1164] The highest at-risk group are injecting drug users, with HIV prevalence estimated at 8.4% in 2011, followed by persons providing commercial sex services (2.2%) and men who have sex with men (0.7%).[1165] In 2013, a "downward trend" was identified in HIV prevalence among injecting drug users, while rates among men who have sex with men increased.[1166]

Cultural Attitudes

Discrimination on the basis of HIV status is common in Uzbekistan. In preparing this report, our research team interviewed several doctors working with persons with HIV in Tashkent. The following testimony, extracted from those interviews, indicates high levels of social stigma, inhibiting HIV testing and detrimentally impacting treatment services. As one doctor recalled:

> *A colleague of mine, who is a doctor herself, deliberately kept her child from receiving an HIV examination. She was afraid of condemnation from her colleges and others. The boy, who was very weak, and often ill, was finally diagnosed with AIDS when doctors decided to give him a check-up. The mother complained that the doctors did not have a right to perform such a test. Now she is ashamed before her colleagues and friends. However,*

1161 UNESCO, *Country Programming Document (UCPD) for the Republic of Uzbekistan (2014–2017)*, 2013, p. 13, available at: http://unesdoc.unesco.org/images/0022/002261/226136E.pdf.

1162 UNAIDS, *Progress Report: Uzbekistan*, 2015, p. 3, available at: http://www.unaids.org/sites/default/files/country/documents/UZB_narrative_report_2015.pdf.

1163 *Ibid.*, p. 9.

1164 *Ibid*., p. 3.

1165 See above, note 1161, pp. 13–14.

1166 See above, note 1162, p. 9.

> *if he had received timely antiretroviral treatment his prognosis would be better.*[1167]

Another doctor interviewed by the trust gave testimony regarding the welfare of one of his patients who was removed from her family home:

> *Among my patients there is young woman who was infected with HIV. Just recently she gave birth to a child. Her husband's infection status is not clear yet. From her words, I know that her husband's family forces her to live in cow-shed, isolated from other family-members. Moreover, her own parents are not willing to rescue their daughter, and grandchild from such terrible living conditions.*[1168]

Legal and Policy Framework

The Constitution of Uzbekistan does not expressly prohibit discrimination on the grounds of health status. Similarly, while laws such as the Labour Code prohibit discrimination on the basis of "circumstances unrelated to an employees' qualifications and the results of their work"[1169] the law does not explicitly prohibit discrimination on the basis of health status.

Under Article 19 of the Law of the Republic of Uzbekistan on Countering the Spread of the Disease caused by the Human Immunodeficiency Virus (the Law on HIV), persons living with HIV are to be guaranteed humane treatment and psychological support.[1170] Article 21 further provides that the termination of an employment contract or refusal of work (except where provided for in regulations), refusal of housing, denial of access to education (except where provided by law), or any other restriction of the rights of persons living with HIV is prohibited.[1171]

1167 Equal Rights Trust, interview with 3 doctors, November 2014, Tashkent.

1168 Equal Rights Trust interview with AE., a doctor, November 2014, Tashkent.

1169 See above, note 569, Article 6.

1170 Law of the Republic of Uzbekistan on Countering the Spread of the Disease caused by the Human Immunodeficiency Virus, Law No. ZRU-353 of 23 September 2013, Article 19.

1171 *Ibid*., Article 21.

Under Article 13 of the Law on the Protection of Public Health, "the state [shall] guarantee its citizens protection against discrimination irrespective of the presence of any disease".[1172] Persons found guilty of violating this provision shall be held "liable in the manner prescribed by law."[1173]

Discriminatory Legal and Policy Provisions

Several laws directly discriminate against persons with HIV. Under Article 57 of the Code of Administrative Responsibility, "concealment of the source of infection with a venereal disease or HIV" is made punishable by a fine of two to three times the minimum monthly wage.[1174] This provision effectively requires individuals found to be HIV positive to inform authorities of their sexual partners. The same punishment is applicable to those found guilty of avoiding examination where there is sufficient evidence to suggest that an individual may have HIV or another sexually transmitted disease.[1175]

Article 15 of the Law on HIV imposes compulsory HIV testing for persons donating blood, pregnant women; persons suspected of injecting drugs; children born to HIV-positive mothers; health care workers in contact with blood, body fluids, organs and tissues of human beings; the sexual partners of persons with HIV; persons who marry before the age of fifty years; and workers in certain occupations set by the Ministry of Health.[1176] Forcible testing can be carried out without the consent of the patient or their legal representatives following a decision of an inquiry officer, investigator, prosecutor or court.[1177] Compulsory HIV testing carried out in a discriminatory manner may constitute degrading treatment,[1178] which is prohibited under the UN Convention against Torture. The CEDAW Committee has urged states to prohibit forced

1172 Law of the Republic of Uzbekistan on the Protection of Public Health, Law No. 265-I of 29 August 1996, Article 13.

1173 *Ibid*.

1174 See above, note 555, Article 57.

1175 *Ibid*., Article 58.

1176 See above, note 1170, Article 15.

1177 *Ibid*., Article 16.

1178 Human Rights Council, *Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak,* UN Doc. A/HRC/10/44, 14 January 2009, Para 65.

testing for sexually transmitted diseases,[1179] whilst the CESCR has emphasised that states must "refrain from enacting laws and policies that create barriers in access to sexual and reproductive health services", including mandatory HIV testing.[1180]

Under Article 113 of the Criminal Code, knowingly placing a person at risk of infection or contamination with HIV is made punishable by imprisonment of between five and eight years.[1181] The criminalisation of HIV transmission is increasingly recognised as a violation of human rights.[1182] Moreover, as Article 113 requires intent, it may create a perverse incentive to avoid testing, as individuals who could claim ignorance of their HIV status would stand a greater chance of successfully defending criminal charges brought against them.[1183] In its General Comment No. 22, the CESCR have emphasised that "states must reform laws that impede the exercise of the right to sexual and reproductive health", including "laws (criminalising (...) exposure to and transmission of HIV".[1184]

Discrimination by State Actors

Our research found evidence that government officials use prejudicial language regarding persons living with HIV. One doctor interviewed by the Trust expressed concern regarding the comments of key government officials in a high-level government meeting led by the Prime Minister in March of 2013. He stated that:

> *The Prime Minister made negative statements against people with HIV/AIDS. He literally called all doctors to*

1179 See above, note 929, p. 3, Para 22.

1180 Committee on Economic, Social and Cultural Rights, *General Recommendation No. 22: The Right to Sexual and Reproductive Health*, UN Doc. E/C.12/GC/22, 2016, Para 41.

1181 See above, note 505, Article 113.

1182 See Human Rights Watch's comments on Uganda's HIV Prevention and Control Bill. Human Rights Watch, *Comments to Uganda's Parliamentary Committee on HIV/AIDS and Related Matters about the HIV/AIDS Prevention and Control Bill*, 2009, available at: https://www.hrw.org/news/2009/11/06/comments-ugandas-parliamentary-committee-hiv/aids-and-related-matters-about-hiv/aids#_MandatoryNotification.

1183 *Ibid*.

1184 See above, note 1180, Para 40.

> *label the houses of people with HIV/AIDS so that everyone could see what kind of person lived in the house.*[1185]

Moreover, there are no comprehensive programmes for the prevention of discrimination against people with HIV/AIDS in schools, universities and other public institutions. This is particularly concerning, considering the lack of mandatory sex education in schools, which is considered to run contrary to "national values".[1186] In 2009 a psychologist, Maxim Popov, was arrested and sentenced to seven years imprisonment under Articles 127,[1187] 129[1188] and 274[1189] of the Criminal Code.[1190] Mr. Popov was a founder of the non-governmental organisation Izis, which worked with several international development agencies such as United States Agency for International Development (USAID) and the World Bank on HIV/AIDS prevention and safe-sex education in Uzbekistan.[1191] The charges related to the use of teaching materials, including the UNAIDS report "HIV and Men who have Sex with Men in Asia and the Pacific", the brochure "HIV and Aids Today", and a textbook "Healthy Lifestyles, the Guidance for Teachers", all of which concern HIV prevention and include discussion on condom use, injecting drug users and men who have sex with men.[1192] According to the Court, these documents contained "propaganda of beliefs and behaviour not conducive to physical, spiritual and moral health (...) contrary to the traditions of the (Uzbek) people" and were "of a nature not conducive to the development of self-consciousness among young people".[1193] Following international pressure, Mr. Popov was eventually released, two and half years after his arrest.[1194]

1185 Equal Rights Trust interview with AH., a doctor, March 2013, Tashkent.

1186 See Committee on the Rights of the Child, above, note 1102, Para 55.

1187 Which concerns "involving a minor in anti-social behaviour". See above, note 505, Article 127.

1188 Which concerns sexual abuse of a person under the age of 16. *Ibid.*, Article 129.

1189 Which concerns engaging in the use of narcotic drugs or psychotropic substances. *Ibid.*, Article 274.

1190 See Labrys et al, above, note 1046, p. 7.

1191 Ferghana, "Uzbekistan: Psychologist Maxim Popov freed from Jail", *Ferghana*, 1 September 2011, available at: http://enews.fergananews.com/articles/2718.

1192 Canning, P., "Uzbekistan's Aids Shame", *Guardian*, 12 May 2010, available at: https://www.theguardian.com/commentisfree/2010/may/12/uzbekistan-aids-shame-maxim-popov.

1193 See above, note 1191.

1194 *Ibid*.

Following the imprisonment of Mr. Popov, his organisation, Izis, was forced to close.[1195] According to the Kyrgyz-based LGBT organisation, Labrys, efforts to combat HIV/AIDS in Uzbekistan have been stunted by the closure and de-registration of NGOs like Izis.[1196] The state has established "quasi-NGO" networks which "do not disclose data around issues such as the number of HIV cases to non-state entities".[1197] Consequently, beyond individual instances of persecution of HIV activists, little information exists on state persecution of persons with HIV.

Contrary to the recommendations of the World Health Organisation (WHO), in 2009 Uzbekistan closed down its Opioid Substitution Therapy (OST) pilot which had been running since 2006.[1198] OST, which involves replacing illegal opioids such as heroin with legally prescribed alternatives such as methadone, has been noted by UNAIDs for its ability to "curb drug use [and] reduce vulnerability to infectious diseases".[1199] Despite the pilot suffering from a "lack of political commitment and public hostility," by 2007 the WHO had begun to note improvements in patient conditions.[1200] According to the Canadian HIV/AIDS Legal Network, upon its discontinuation, Uzbekistan became the "only country in the world to have shut down existing OST programs."[1201] In 2014, the Committee on Economic, Social and Cultural Rights called on Uzbekistan to reconstitute its OST programme,[1202] however, as of April 2016, OST remains unavailable.[1203]

1195 See above, note 1192.

1196 See Labrys et al, above, note 1046, p. 6.

1197 *Ibid*.

1198 Canadian HIV/AIDS Legal Network and the Eurasian Harm Reduction Network, *Submission to the Committee on Economic, Social and Cultural Rights on Uzbekistan*, 2013, p. 1, available at: http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/UZB/INT_CESCR_NGO_UZB_14098_E.doc.

1199 UNAIDS, *Do No Harm: Health, Human Rights and People who Use Drugs*, 2016, p. 3, available at: http://www.unaids.org/sites/default/files/media_asset/donoharm_en.pdf.

1200 See above, note 1198, p. 2.

1201 *Ibid*.

1202 See Committee on Economic, Social and Cultural Rights, above, note 900, Para 24.

1203 See above, note 1199, p. 122.

Education

While Article 21 of the Law on HIV provides that "denial of admission to educational institutions" on the basis of HIV status is prohibited,[1204] compulsory testing prior to admission is not explicitly prohibited.[1205] The UN Committee on the Rights of the Child has expressed concern at evidence that persons living with HIV face discrimination in education institutions.[1206] In its 2013 Concluding Observations, the Committee noted its concern at the lack of mandatory sex education programmes in Uzbekistan and discrimination against children with HIV.[1207]

Employment

Article 15 of the Law on HIV provides for the mandatory HIV testing of persons working in professions specified in a list produced by the Ministry of Health.[1208] Under Article 21 of the Law, such persons may be refused the opportunity to work, or have their employment contracts terminated.[1209] The list of professions prohibited to persons with HIV is primarily medical,[1210] and focuses on roles where there is a perceived risk of infection, such as professions related to cosmetic and plastic surgery and those involving injections or dialysis.[1211] While the list of jobs prohibited for persons with HIV is ostensibly aimed at protecting patients from the risk of infection, the experience of many countries around the world would suggest that such restrictions, imposed on healthcare professionals, may not be necessary provided that sufficient safeguards are put in place. For example, in the UK the ban on healthcare professionals with HIV performing Exposure Prone

1204 See above, note 1170, Article 21.

1205 United Nations Office for Drugs and Crime, *Accessibility of HIV Prevention, Treatment and Care Services for People who Use Drugs and Incarcerated People in Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan*, 2010, p. 372, available at: https://www.unodc.org/documents/centralasia/Accessibility_of_HIV_prevention_treatment_and_care_eng.pdf.

1206 See Committee on the Rights of the Child, above, note 1102, Para 55.

1207 *Ibid*.

1208 See above, note 1170, Article 15.

1209 *Ibid*., Article 21.

1210 See List of Professional Activities Prohibited for Persons Infected with the Human Immunodeficiency Virus, Registration No. 2581 of 7 May 2014.

1211 *Ibid*.

Procedures (EPPs) was lifted in 2014. Healthcare workers living with HIV may perform EPPs provided that they are (i) on an effective combination antiretroviral therapy; (ii) have a plasma viral load <200 copies/ml; (iii) are subject to plasma viral load monitoring every three months; (iv) are under joint supervision of a consultant occupational physician and their treating physician; and (v) are registered with the UKAP Occupational Health Monitoring Register.[1212]

Despite the employment guarantees found in the Law on HIV, and the prohibition on discrimination provided in the Law on the Protection of Public Health, reports suggest that many employers in Uzbekistan employ their own HIV testing policy. According to a 2010 United Nations Office for Drugs and Crime (UNODC) report:

> *[S]ome agencies and organisations have introduced their own rules mandating HIV testing in certain employment contexts (e.g., police officers; employees of the National Security Service; physicians, surgeons and gynaecologists, dentists; food industry workers, people cleaning medical and cosmetic equipment, manufacture of medicine, care for newborns, child care).*[1213]

Denying access to employment on the basis of HIV status is direct discrimination on the basis of health status which cannot be justified in line with the requirements of international law. While protecting public health is a legitimate aim and may, in certain seriously limited circumstances provide a justification for differential treatment, the existence of measures to ensure that public health is safeguarded means that limiting access to employment on the basis of HIV status is not necessary, and therefore not justified.

Healthcare

Our research for this report identified stigma surrounding HIV as barriers preventing equal access to healthcare. A doctor explained to our research

1212 Public Health England, *The Management of HIV Infected Healthcare Workers who Perform Exposure Prone Procedures: Updated Guidance*, 2014, p. 6, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/333018/Management_of_HIV_infected_Healthcare_Workers_guidance_January_2014.pdf.

1213 See above, note 1205, p. 356.

team how the negative attitudes of healthcare professionals can lead to discrimination and adversely impact the treatment of HIV patients.

> *This problem is stigma among healthcare professionals. When I send my patients to hospital for treatment, medical personnel try to get rid of patients with HIV/AIDS using different excuses. I think there is a cynical opinion held by many doctors and nurses that people living with HIV/AIDS are doomed persons and do not need medical services and support. Even during high-level meetings with healthcare officials, doctors working with people living with HIV/AIDS, complain of the difficulties with placing their patients in hospitals. This is true in all regions of Uzbekistan. I had one case involving a 35 years old woman with AIDS who was taken by ambulance to the city hospital in a grave condition. Three days later she was taken on a wheeled stretcher out of the hospital door and told: "this is not a hotel for you, go away from here!" She died the day after this incident (…).*[1214]

In the research for this report, doctors with whom the Trust's researchers spoke expressed their frustration at the limited amount of time they could spend with patients living with HIV, being required to see up to four patients in an hour. In the limited time allocated per patient, doctors could not adequately provide psychological support to those newly diagnosed with HIV. This situation contributes to the exclusion of persons living with HIV in Uzbekistani society, enhancing the feeling of separation and potentially impacting upon treatment:

> *I work at local clinics as a doctor and my area of responsibility includes patients with HIV/AIDS. According to a recently introduced policy, I am obliged to receive four patients an hour. It means an average of 15 minutes per person. However, if a patient with HIV/AIDS comes to see me, collection of anamneses (medical history) itself requires at least 30 minutes. It is also my responsibility*

1214 Equal Rights Trust, interview with 3 doctors, November 2014, Tashkent.

> *to explain to them the importance of lifelong, timely and exact intake of antiretroviral therapy, which also takes a lot of time. No psychological assistance is provided to these patients. I spend my time to provide at least minimal anti-suicide therapy. Yet, my supervisors, pressure me to receive another 4–5 patients during the time I must spend to patients with HIV/AIDS.*[1215]

Conclusions

Uzbekistani law does not adequately protect individuals with health conditions from discrimination. On the contrary, several laws directly discriminate against persons with HIV. Mandatory testing, the criminalisation of HIV transmission and restrictions on the employment opportunities of persons living the HIV each result in incidents of discrimination, enhance social stigma and impede efforts to halt transmission rates. Information on the prevalence of HIV is not easily available. Nevertheless, our research identified evidence of discrimination in employment, education and healthcare for persons with HIV.

3.8 Conclusion

Research for this report has found evidence of discrimination on the basis of religion, ethnicity, political opinion, gender, sexual orientation and gender identity, disability, and health status. The research has identified one common factor which unites many Uzbekistani's experience of discrimination: challenge to the vision of Uzbekistan promoted by President Karimov, who ruled with almost unchecked power from independence in 1991 until his death in 2016.

In the face of political and economic uncertainty following the collapse of the USSR, Karimov sought to consolidate political power in part by crafting a new identity for Uzbekistan. The overarching conclusion of our research is that contravention of this identity – whether as a result of political opinion, religion, ethnicity or gender – is a key determinant of a person's experience of discrimination.

1215 *Ibid.*

At the centre of Karimov's vision for Uzbekistan was a cultural revival of Islam – state-sanctioned and state-approved – which has been utilised in order to secure popular support and underpin legitimacy. Yet this revival of Islam has been narrow and singular, as Karimov sought to juxtapose Uzbekistan's "secular Islam" against ill-defined extreme or dangerous interpretations. Independent modes of worship have been seen as a rejection of state ideology. In the name of security, the right to freedom of religion has been curtailed to the point of extinction, and "independent Muslims" in particular have been subjected to a range of discriminatory practices, including arrest and detention.

Karimov's desire to consolidate and exert power also determined the treatment of ethnic minority groups within Uzbekistan. Thus, the state established Inter-ethnic Cultural Centres, headed by supporters of the regime, to manage relations with large ethnic minorities such as the Tajiks, Russians and Kyrgyz, thus minimising dissent. Yet for groups such as the Lyuli, who are excluded from this system, this approach increases exposure to discrimination. The Lyuli population are largely invisible, facing substantial barriers to education and employment as a consequence of their ethnicity. State law and policy, in particular the retention of *propiska*, discriminate against them, and the state has failed to address long-standing disadvantages in areas such as education, employment and housing.

Nowhere has Karimov's approach to governance had a more direct impact on equality in Uzbekistan than in respect of discrimination on the basis of political opinion. Over 25 years, Karimov sought to suppress all forms of dissent, resulting in widespread discrimination in the enjoyment of civil and political rights, ranging from the right to privacy to the right to freedom of assembly. Opponents of the regime have been subjected to discriminatory arrest, detention and torture.

The influence of Karimov and his regime can also be seen in the experience of Uzbekistani women. A range of discriminatory laws and policies impede women's participation in life on an equal basis with men. In its most serious manifestations, women are subject to coercive sterilisation measures and to child marriage. Women are subject to multiple forms of gender-based violence, where the legal and policy framework is inadequate. In other areas, while gender parity has almost been achieved in education, segregation between educational fields and underrepresentation in higher education inhibit women's access to employment, where horizontal and vertical segregation, and the maintenance of gender stereotypes further fuel inequalities.

In respect of LGBT persons, persons with disabilities and persons living with HIV, the influence of Karimov can be seen in the legitimisation of discrimination through the perpetuation of stereotypes, the maintenance of discriminatory laws and the failure to prevent discrimination by state actors.

Thus, homosexuality in Uzbekistan is viewed as a sexual aberration, entailing criminal consequences for men who have sex with men. Although lesbian women are not criminalised, social condemnation – legitimised by these discriminatory laws – means that few LGBT people openly disclose their sexuality or gender identity. As a result of the intersection between their gender and sexuality, lesbian women may be at an increased risk of sexual violence. Transgender persons are required to undergo medical procedures in order to change identity documents.

Disability in Uzbekistan is approached from the medical, rather than social model, contributing to the maintenance of a range of discriminatory laws, policies and practices. Persons with mental disabilities are denied legal capacity, stripped of autonomous decision making and unable to vote or marry. The government has made little progress in creating a more accessible environment. Eligibility for social benefits is based on an assessment of fitness to work, and changes to the criteria in recent years have exposed many persons with disabilities to poverty. Rates of employment are low.

Persons living with HIV in Uzbekistan are treated with fear and suspicion. State policy requires mandatory HIV testing for broad categories of persons, further increasing the risk of exclusion and adversely impacting the likelihood of mandatory testing. Transmission of HIV is a criminal offence. There is evidence of discrimination and inequality in access to employment, education and healthcare.

Thus, this report finds that experiences of discrimination in Uzbekistan cannot be separated from the nature of the Karimov regime, and the vision which he presented for the country. Challenge – whether direct or indirect, intended or perceived – to this vision has been a defining factor in experiences of discrimination for decades. The question now arises, does the death of Karimov after 25 years of unchecked power, offer an opportunity to forge a new vision, and create a more equal society in Uzbekistan?

4. RECOMMENDATIONS

In light of the foregoing analysis, a series of recommendations are offered to the government of Uzbekistan. These recommendations are offered in order to enable Uzbekistan to meet its obligations under international law to respect, protect and fulfil the rights to non-discrimination and equality both by improving the legal and policy framework with respect to equality and through other means. Uzbekistan finds itself at an important turning point in its history. It is hoped that these recommendations provide timely assistance in determining a way forward for the state to realise the equality of all persons.

All recommendations are based on international law related to equality, and on the Declaration of Principles on Equality, a document of international best practice which consolidates the most essential elements of international law related to equality. Recommendations are also based on the conclusions reached at the ends of Parts 2 and 3 of this report.

Recommendation 1:
Strengthening of International Commitments Related to Equality

Uzbekistan should ratify the following United Nations human rights instruments, which are relevant to the rights of equality and non-discrimination.

- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008) (ICESCR – OP)
- Declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (allowing individual complaints)
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999) (CEDAW-OP)
- Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2002) (CAT-OP)
- Convention on the Rights of Persons with Disabilities (2006) (CRPD)
- Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006) (CRPD-OP)
- Optional Protocol III to the Convention on the Rights of the Child (2011) (communicative procedure) (CRC-OP III)
- Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) (ICRMW)

- International Convention for the Protection of All Persons from Enforced Disappearances (2006) (ICPPED)

Uzbekistan should further ratify the following international treaties, which have an important bearing on the rights to equality and non-discrimination:

- Convention relating to the Status of Refugees (1951)
- Convention relating to the Status of Stateless Persons (1954)
- Convention on the Reduction of Statelessness (1961)
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956)
- Rome Statute of the International Criminal Court (1998)
- Indigenous and Tribal Peoples Convention (1989) (ILO Convention No. 169)

Recommendation 2: Constitutional and Legislative Reform Regarding the Right to Equality

Uzbekistan should undertake a review of certain provisions of the Constitution, as well as all legislation and policy, in order to (i) assess their compatibility with the rights to equality and non-discrimination as defined under the international instruments to which it is party and (ii) amend and, where necessary, repeal existing laws, regulations and policies that conflict with the right to equality. The Trust urges Uzbekistan to consider the following as part of its review:

Constitution

- Introduce a Constitutional provision clarifying the status of international law in the domestic legal system. Where treaty provisions are required to be transposed into the law of Uzbekistan, the Constitution should define the process – requiring that international obligations produce a domestic legal effect.
- Article 18 of the Constitution guarantees the right to equality but a number of shortcomings should be addressed: the right should be guaranteed to "all persons", not only "citizens"; the list of characteristics protected under Article 18 should be expanded in order to accommodate those grounds referenced under Principle 5 of the Declaration of Principles on Equality and to provide flexible criteria

for identifying additional characteristics so that forms of multiple discrimination can be recognised and prohibited; the Constitution should clarify that it prohibits direct and indirect discrimination, harassment and failure to make reasonable accommodation; and the Constitution should mandate, rather than permit, positive action.

Law on the Social Protection of Disabled Persons

- Make amendments to bring the law fully in line with the requirements of the CRPD. This should include introducing provisions: defining discrimination, including denial of reasonable accommodation, in line with international standards; and guaranteeing that people have access to the courts and specific remedies for violations of all rights guaranteed under the law.
- Move from a medical model of disability to a social model of disability by reviewing Article 3 of the Law. In particular, review the composition of the VTEK to ensure that it includes non-medical members from the social, labour and education fields.
- Review Articles 16 and 17 in order to provide a clear definition and guarantee of inclusive education.

Code of Administrative Responsibility

- Ensure that the requirement of accessibility of social infrastructure extends to both public and private bodies.
- Ensure that prohibitions on the illegal production, storage, import or distribution of religious materials (Article 184[2]) and the manufacture, storage or distribution of materials promoting national, racial, ethnic or religious hatred (Article 184[3]) comply with the rights to freedom of expression and freedom of religion as defined in Articles 19 and 18 of the ICCPR respectively.
- Further, Articles 240, 241, and 184[1] (concerning respectively violations of the legislation on religious organisations; violations of the order of teaching religion; and citizens' appearance in public places in religious attire) should be removed.
- Articles 57 and 58 should be removed. HIV testing should only be performed where an individual has given their full and informed consent.

Civil Code

- Amend the Civil Code to ensure that individuals with severe intellectual disabilities continue to enjoy legal capacity. Guardianship should be replaced with a form of assisted decision making.

Civil Procedure Code

- Chapter 33 should be amended in order to ensure the rights of persons with disabilities to legal capacity.

Criminal Code

- Uzbekistan should remove the criminal prohibition on male same-sex sexual relations provided by Article 120, in line with its obligations under the ICCPR and other relevant international treaties.
- Articles 141 and 156 of the Criminal Code should be amended, removing criminal sanctions for acts of discrimination. As stated in the Declaration of Principles on Equality, criminal sanctions should be reserved for only the most serious forms of discrimination involving violence or incitement to violence on the basis of the personal characteristics of the victim.
- Hate speech laws should be reviewed by the state for compliance with international law. In particular, Article 156 of the Criminal Code should be amended, removing reference to "acts injurious to national honour and dignity", which is overly broad and does not meet the requirements of Article 19 of the ICCPR.
- Sentences should be reviewed, ensuring that sanctions are proportionate to the gravity of the offence and that sanctions are uniformly applied, reducing the risk of arbitrary application.
- Extend the list of characteristics to which sentence enhancing and aggravating factor provisions in the Criminal Code apply. Hate crime provisions should be reviewed by the state for compliance with international standards.
- Article 229^2 of the Criminal Code, which prohibits the teaching of religious beliefs without specialist religious education and without the permission of a central governing body or teaching religious beliefs privately following the application of an administrative

sanction, and Article 145, which prohibits involving minors in religious organisations, violate the right to freedom of religion and should be repealed.

- Articles 156, 159, 242, 244, 244 and 246 have been broadly interpreted by courts to target religious and political minorities. Prohibitions on unconstitutional or anti-state activities and the dissemination of "fundamentalist materials" should be reviewed and amended in line with Uzbekistan's obligations under the ICCPR. These Articles contain insufficient definition and have been used to arrest and imprison individuals critical of government and practising independent religious beliefs, so should be amended.
- Criminal sanctions for the illegal organisation of religious organisations under Article 216 of the Criminal Code; inducement to participate in the operation of illegal religious organisations under Article 216; and violation of legislation on religious organisations under Article 216 should be removed. These provisions deny the right of peaceful adherents to non-state sanctioned forms of religious worship to manifest their beliefs, as guaranteed under Article 31 of the Constitution.
- HIV transmission under Article 113 of the Criminal Code should be decriminalised.
- A definition of marital rape should be introduced into the Criminal Code, making clear that non-consensual sex within marriage is impermissible.
- Article 158 of the Criminal Code, which prohibits criticism of the President, should be removed.

Labour Code

- Article 116, which imposes limitations on the freedom to work of women with children under three, should be reviewed.
- Article 220, which imposes conditions for the employment of persons with disabilities which restrict their freedom, should be reviewed.
- Article 225 of the Labour Code should be deleted. Prohibitions on certain forms of work for women are not in line with international best practice, serving to limit the economic opportunities of, and entrenching a paternalistic attitude towards, women in Uzbek society.

- Article 289 of the Labour Code should be amended in order to equalise the retirement age for men and women.

Law on Citizenship

- An article should be introduced into the law to ensure that children born on state territory to parents without a permanent right to reside are registered at birth as citizens.
- Documentation requirements for stateless persons should be reviewed to ensure that such persons – often lacking forms of identification – are able to complete the process, with state assistance provided where necessary.
- The requirement by Presidential Decree that stateless and foreign citizens attempting to gain citizenship under the law through naturalisation must complete a survey indicating their health and HIV status should be removed.

Law on Education

- Ensure that persons with disabilities, to the greatest extent possible, are ensured access to the general education system. Institutionalisation must not be seen as the best option in relation to children with disabilities.

Family Code

- Amend the Family Code to recognise and ensure the equal rights of same sex couples in committed long term relationships. The state should ensure that any legal benefits conferred upon different sex couples are extended to same sex couples.
- Equalise the marriageable age for men and women under Article 15.
- Review Article 16 of the Family Code to ensure that persons with severe intellectual disabilities are capable of exercising their right to legal capacity regarding marriage.

Recommendation 3:
Adoption of Comprehensive Equality Legislation

Uzbekistan should adopt comprehensive equality legislation appropriate for the implementation of the right to equality.

Such legislation should build on a robust constitutional protection for the rights to equality and non-discrimination. In particular, it should:

- give effect to the principles of equality under international law and ensure constitutional protection against discrimination and the promotion of the right to equality;
- cover all prohibited grounds listed in Principle 5 of the Declaration of Principles on Equality;
- prohibit direct and indirect discrimination and harassment in all areas of life regulated by law;
- mandate positive action measures in accordance with Principle 3 of the Declaration of Principles on Equality;
- attribute obligations to public and private actors, including in relation to the promotion of substantive equality and the collection of data relevant to equality;
- ensure access to remedies for violations of the rights to equality and non-discrimination.

Comprehensive equality legislation could either take the form of: (i) a single Equality Act, which offers consistent protection against discrimination across all grounds of discrimination and in all areas of life regulated by law; or (ii) a coherent system of acts and provisions in other legislation which together address all grounds of discrimination in all areas of life regulated by law.

Members of groups who may be distinguished by one or more of the prohibited grounds should be given the opportunity to participate in the decision-making processes which lead to the adoption of such legislative measures.

In addition, the Draft Laws on "State Guarantees of Equal Rights and Equal Opportunities for Women and Men" and "Domestic Violence" should be subject to review by the state, civil society and international observers to ensure that they comply with international best practice and human rights standards and should then be adopted.

Recommendation 4:
Implementation and Enforcement of Laws Aimed at Prohibiting Discrimination

The Uzbek government should introduce reforms to ensure the full and effective implementation of legislative provisions aimed at prohibiting discrimination. For this purpose:

- The government should undertake a comprehensive review of all legislation which prohibits discrimination including (i) the Law on the Social Protection of Disabled Persons and (ii) stand-alone non-discrimination provisions in other pieces of legislation. The review should seek to harmonise the provisions so that the relationship between the different protections offered is clear and complementary.
- The Uzbekistani government should review all legislation and ensure that monitoring mechanisms, specific sanctions and remedies for violations of the rights to equality and non-discrimination are provided for in law.
- In line with international law and best practice, legal aid should be made available in cases concerning a breach of the rights to equality and non-discrimination, including in relation to civil, administrative and criminal cases.
- In relation to cases concerning gender-based violence, Uzbekistan should remove the right to reconciliation under Article 66 of the Criminal Code. This provision allows pressure to be exerted on victims of domestic and gender-based violence, potentially perpetuating patterns of abuse.

Recommendation 5:
Actions to Address Discrimination against Specific Groups

Uzbekistan should take specific actions to address the discrimination and disadvantage faced by different groups in the state, including all of those highlighted in Part 3 of this report. Such steps should be taken in addition to improving protection from discrimination in law by acting on recommendations 2, 3 and 4. These steps should include, but not be limited to, the following:

Religion

- Uzbekistan should amend the Law on Freedom of Conscience and Religious Organisations to remove excessive registration requirements, including the requirement of a 100 citizen membership.
- State authorities should ensure all individuals are protected from discrimination on the basis of religion or belief, including in employment and educational institutions. In particular, Muslim women who choose to wear the hijab or other forms of Islamic dress should be protected from discrimination.
- State authorities should ensure that all individuals arrested on the grounds of religious extremism are afforded basic procedural protections, including access to a lawyer and legal aid. Use of evidence obtained by torture must be prohibited. Where a *prima facie* case has been made suggesting that evidence has been obtained by unlawful means the burden of proof should be reversed, requiring prosecutorial authorities to prove that the evidence was obtained legally and without coercion.
- Uzbekistan should review the role of the *Mahalla*, National Security Service and Ministry of Internal Affairs in monitoring individuals on the basis of their religious beliefs. The widespread practice of citizen monitoring without a court order and established legal guarantees breaches the right to privacy.

Ethnicity

- The state should facilitate the establishment of Inter-ethnic Cultural Centres for all communities seeking to establish such a centre, including but not limited the Lyuli.
- Uzbekistan should ensure the right to freedom of movement within the state by removing the internal residency system which discriminates against, *inter alia*, nomadic groups such as the Lyuli.
- Uzbekistan should adopt measures to ensure the increased participation of Lyuli in Uzbekistani Society. In particular, measures should focus on increasing the participation of Lyuli children in the general education system and on ensuring opportunities for permanent paid work.

Political Opinion

- Uzbekistan should ensure the lawful registration of opposition political parties.
- Opposition party members should be provided protection under the law and the practice of arresting such persons should end immediately.
- Uzbekistan should end the practice of persecuting the family members of those individuals identified as opponents of the regime.
- Uzbekistan should take all necessary measures to prevent ill-treatment and torture in detention, and should thoroughly investigate allegations of such practices, including through engaging with international agencies and ensuring redress for victims.
- Uzbekistan should review its legislation to ensure that the rights to privacy, freedom of movement and the freedoms of expression, association and assembly are enjoyed equally.
- Uzbekistan should ensure that state actors do not violate or restrict the rights to privacy, freedom of movement and the freedoms of expression, association and assembly, such that these rights can be enjoyed equally.

Gender

- Uzbekistan should review its legislation to identify laws which discriminate against women, and should amend or repeal any such laws.
- Uzbekistan should collect disaggregated statistics on violence against women within the state and adopt a policy aimed at improving prevention mechanisms.
- Uzbekistan should ensure that the phrase "domestic violence" is used in official state documents rather than the term "family conflicts".
- The state should adopt legislative and other measures aimed at prohibiting the forced sterilisation of women. Any current government or Ministry of Health directives promoting targets for the sterilisation of women should be discontinued with immediate effect.
- Uzbekistan should adopt measures aimed at increasing women's access to the job market, in particular for those women working at home and for women with children.
- Uzbekistan should adopt measures aiming to increase the participation of women in academic fields and industries traditionally dominated by men.

- The practice of child marriage should be prohibited, and the marriageable age for both men and women should be set at the age of majority (18 years).
- Uzbekistan should pay particular attention to the needs of Lyuli women, who may be subject to multiple forms of discrimination. The state should ensure that Lyuli are protected against forced sterilisation, and that young mothers are afforded access to healthcare.

Sexual Orientation and Gender Identity

- Uzbekistan should review its legislation to ensure that the right to non-discrimination extends to lesbian, gay, bisexual and transgender persons.
- Uzbekistan should review its legislation to identify laws which discriminate against lesbian, gay, bisexual and transgender persons, and should amend or repeal any such laws.
- The judiciary of Uzbekistan should state categorically that the right to equality enshrined within Article 18 of the Constitution of Uzbekistan extends to individuals on account of their sexual orientation and gender identity.
- Uzbekistan should review its gender recognition process and revise its legislation in order to ensure that transgender persons may change their identity documents to reflect their chosen gender identity without the need of surgical correction.

Disability

- In preparation for its eventual ratification of the Convention on the Rights of Persons with Disabilities, Uzbekistan should align its disability legislation with the Convention. In particular, Uzbekistan should adopt a social model of disability.
- Uzbekistan should review its disability registration system. The low number of persons recorded as living with disabilities in Uzbekistani society (compared to world averages) indicates problems in identification.
- Uzbekistan should review its legislation, including the Constitution, in order to ensure that persons with mental disabilities are allowed the opportunity to vote, with assistance provided where necessary.

- The state should ensure that accessibility requirements under the Law on the Social Protection of Disabled Persons are effectively enforced. Uzbekistan should exercise caution when deciding to reduce financial sanctions for failure to make accessible social infrastructure. Such reductions may send out the wrong message regarding the importance of accessibility for persons with disabilities.

Health Status

- Uzbekistan should adopt appropriate measures to ensure that persons living with HIV and other permanent health conditions are protected against discrimination, in particular in relation to employment and education.
- The Ministry of Health should adopt measures to eliminate discrimination by healthcare professionals. Similarly, government officials should refrain from using stigmatising language to describe persons with certain health conditions, including HIV.
- The State should conduct a campaign aiming to improve social understanding of HIV, which, provided appropriate medical treatment is provided, is no longer a death sentence and is not easily transmitted.
- Uzbekistan should amend the Law on HIV to remove the compulsory testing requirements under Article 15. Any medical test for HIV, except in the most narrowly defined circumstances (such as in relation to blood donation) should be performed on the basis of the full and free consent of individuals.

Recommendation 6: Ensuring the Independence of Legal Actors and Human Rights Institutions

Uzbekistan should review its legislation in order to ensure the independence of the judiciary, advocates and human rights institutions. In doing so, the state should consider the following specific measures:

- Uzbekistan should amend its legislation, including Article 3 of the Law on Courts, to provide security of judicial tenure. Five year renewable term limits for judges should be removed. In establishing security of tenure, Uzbekistan should ensure that the principle of the

irremovability of judges is observed. In this respect, the Presidential Decree on further reform of the judicial system in October 2016 does not go far enough.

- Uzbekistan should review the composition of the Higher Qualification Commission, ensuring its independence from the executive by requiring a majority of judicial members among appointees. The appointment, tenure and administration of the Commission, as well as for judges at all levels of the legal system, should be brought in line with international best practice. To this end, attention should be paid to the recently adopted Cape Town Principles on the Role of Independent Commissions in the Selection and Appointment of Judges.
- Re-registration requirements for advocates should be removed as a matter of urgency. This requirement impedes access to justice for victims and defendants in discrimination cases. Advocates should be provided a measure of tenure. Licences to practice should only be revoked in accordance with narrowly defined legal criteria.
- Independence of human rights institutions, including the office of the ombudsperson, should be guaranteed in accordance with the principles relating to the status of national institutions (the Paris Principles).

Recommendation 7:
Data Collection

During the research for this report, it has been established that there is a lack of information, including statistics, in relation to key indicators of equality in Uzbekistan. State authorities should collect and publicise information, including relevant statistical data, in order to identify inequalities, discriminatory practices and patterns of disadvantage, and to analyse the effectiveness of measures to promote equality. Wherever statistics are collected in relation to key indicators of equality, they should be disaggregated in order to demonstrate the different experiences of disadvantaged groups within Uzbekistan's society. Hate crime statistics must be collected and publicised, including statistics on gender-based violence. Uzbekistan should further ensure that such information is not used in a manner that violates human rights.

Recommendation 8:
Education on Equality

Uzbekistan should take action to raise public awareness about equality, and to ensure that all education establishments, including those which are privately run, provide suitable education on equality as a fundamental right. Such action is particularly necessary in order to modify social and cultural patterns of conduct and to eliminate prejudices which are based on the idea of the superiority or inferiority of one group within society in relation to another.

Recommendation 9:
Prohibition of Regressive Interpretation

In adopting and implementing laws and policies to promote equality, Uzbekistan should not allow any regression from the level of protection against discrimination that has already been achieved.

BIBLIOGRAPHY

INTERNATIONAL AND REGIONAL TREATIES, AUTHORITATIVE INTERPRETATIONS AND GUIDELINES

United Nations Human Rights Treaties

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1465 U.N.T.S. 85, 1984.

Convention on the Elimination of All Forms of Discrimination against Women, 1249 U.N.T.S. 13, 1979.

Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 2220 U.N.T.S. 3, 1990.

Convention on the Reduction of Statelessness, 989 U.N.T.S. 175, 1961.

Convention on the Rights of Persons with Disabilities, 2515 U.N.T.S. 3, 2006.

Convention on the Rights of the Child, 1577 U.N.T.S. 3, 1989.

Convention relating to the Status of Refugees, 189 U.N.T.S. 137, 1951.

Convention relating to the Status of Stateless Persons, 360 U.N.T.S. 117, 1954.

International Convention for the Protection of All Persons from Enforced Disappearance, 2716 U.N.T.S. 3, 2006.

International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, 1965.

International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, 1966.

International Covenant on Economic, Social and Cultural Rights, 993 U.N.T.S. 3, 1966.

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2375 U.N.T.S. 237, 2002.

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 2131 U.N.T.S. 83, 1999.

Optional Protocol to the Convention on the Rights of Persons with Disabilities, 2518 U.N.T.S. 283, 2006.

Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2173 U.N.T.S. 222, 2000.

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2171 U.N.T.S. 227, 2000.

Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, G.A. Res. 66/138, 2011.

Optional Protocol to the International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, 1966.

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, G.A. Res. 63/117, 2008.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2237 U.N.T.S. 319, 2000.

Second Optional Protocol to the International Covenant on Civil and Political Rights, 1642 U.N.T.S. 414, 1989.

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 266 U.N.T.S. 3, 1956.

UNESCO Convention against Discrimination in Education, 429 U.N.T.S. 93, 1960.

United Nations Convention against Transnational Organized Crime, 2225 U.N.T.S. 209, 2000.

Other International Treaties

Rome Statute of the International Criminal Court, 2187 U.N.T.S. 3, 1998.

Vienna Convention on the Law of Treaties, 1155 U.N.T.S. 331, 1969.

Regional Treaties

CIS Convention on Human Rights and Fundamental Freedoms, 3 I.H.R.R. 1, 212, 1996.

Resolutions

United Nations General Assembly, Human rights in the administration of justice, G.A. Res. 40/146, 1985.

United Nations General Assembly, Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, G.A. Res. 40/32, 1985.

General Comments and Recommendations

Committee against Torture, *General Comment No. 3: Implementation of Article 14 by States Parties* , UN Doc. CAT/C/GC/3, 2012.

Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights*, UN Doc. E/C.12/GC/20, 2009.

Committee on Economic, Social and Cultural Rights, *General Comment No. 5: Persons with Disabilities*, UN Doc. E/1995/22, 1995.

Committee on Economic, Social and Cultural Rights, *General Comment No. 3: The Nature of States Parties' Obligations*, UN Doc. E/1991/23, 1990.

Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security*, UN Doc. E/C.12/GC/19, 2008.

Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, UN Doc. E/C.12/2000/4, 2000.

Committee on Economic, Social and Cultural Rights, *General Recommendation No. 22: The Right to Sexual and Reproductive Health*, UN Doc. E/C.12/GC/22, 2016.

Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, *Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices*, UN Doc. CEDAW/C/GC/31-CRC/C/GC/18, 2014.

Committee on the Elimination of Discrimination against Women, *General Recommendation No. 28: The Core Obligations of States Parties under Article 2 of the Convention*, UN Doc. CEDAW/C/GC/28, 2010.

Committee on the Elimination of Discrimination against Women, *General Recommendation No. 21: Equality in Marriage and Family Relations*, UN Doc. A/49/38, 1997.

Committee on the Elimination of Discrimination against Women, *General Recommendation No. 27: On Older Women and Protection of their Human Rights,* UN Doc. CEDAW/C/2010/47/GC.1, 2010.

Committee on the Elimination of Discrimination against Women, *General Recommendation No. 24: Article 12 of the Convention (Women and Health),* UN Doc. A/54/38/Rev.1, 1999.

Committee on the Elimination of Discrimination against Women, *General Recommendation No. 19: Violence against Women,* UN Doc. A/47/38, 1992.

Committee on the Elimination of Racial Discrimination, *General Comment No. 27: Discrimination against Roma*, UN Doc. A/55/18, 2000.

Committee on the Elimination of Racial Discrimination, *General Recommendation No. 32: The Meaning and Scope of Special Measures in the International Convention on the Elimination of Racial Discrimination*, UN Doc. CERD/C/GC/32, 2009.

Committee on the Rights of Persons with Disabilities, *General Comment No. 2: Article 9: Accessibility*, UN Doc. CRPD/C/GC/2, 2014.

Committee on the Rights of Persons with Disabilities, *General Comment No. 1: Article 12: Equal Recognition before the Law*, UN Doc. CRPD/C/GC/1, 2014.

Committee on the Rights of the Child, *General Comment No. 9: The Rights of Children with Disabilities*, UN Doc. CRC/C/GC/9, 2007.

Human Rights Committee, *General Comment No. 15: The Position of Aliens under the Covenant*, UN Doc. HRI/GEN/1/Rev.6, 1986.

Human Rights Committee, *General Comment No. 18: Non-Discrimination*, UN Doc. HRI/GEN/1/Rev.1, 1989.

Human Rights Committee, *General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion*, UN Doc. CCPR/C/21/Rev.1/Add.4, 1993.

Human Rights Committee, *General Comment No. 27: Article 12 (Freedom of Movement)*, UN Doc. CCPR/C/21/Rev.1/Add.9, 2 November 1999.

Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN Doc. CCPR/C/21/Rev.1/Add.13, 2004.

Human Rights Committee, *General Comment No. 34: Freedoms of Opinion and Expression*, UN Doc. CCPR/C/GC/34, 2011.

Human Rights Committee, *General Comment No. 35: Liberty and Security of Person*, UN Doc. CCPR/C/GC/35, 2014.

Lists of Issues and Concluding Observations

Committee against Torture, *Concluding Observations: Uzbekistan, Addendum*, UN Doc. CAT/C/UZB/CO/4/Add.1, 26 May 2014.

Committee against Torture, *Concluding Observations: Uzbekistan*, UN Doc. CAT/C/UZB/CO/4, 10 December 2013.

Committee on Economic, Social and Cultural Rights, *Concluding Observations: Bulgaria*, UN Doc. E/C.12/BGR/CO/4-5, 30 November 2012.

Committee on Economic, Social and Cultural Rights, *Concluding Observations: Uzbekistan,* UN Doc. E/C.12/UZB/CO/2, 13 June 2014.

Committee on the Elimination of Discrimination against Women, *Concluding Observations: Armenia*, UN Doc. A/52/38/Rev.1, 12 August 1997.

Committee on the Elimination of Discrimination against Women, *Concluding Observations: Uzbekistan,* UN Doc. CEDAW/C/UZB/CO/5, 24 November 2015.

Committee on the Elimination of Discrimination against Women, *Response to List of Issues: Uzbekistan*, UN Doc. CEDAW/C/UZB/Q/5/Add.1, 23 June 2016.

Committee on the Elimination of Racial Discrimination, *Concluding Observations: Kazakhstan*, UN Doc. CERD/C/KAZ/CO/6-7, 14 March 2014.

Committee on the Elimination of Racial Discrimination, *Concluding Observations: Uzbekistan*, UN Doc. CERD/C/UZB/CO/8-9, 14 March 2014.

Committee on the Elimination of Racial Discrimination, *Concluding Observations: Uzbekistan*, UN Doc. CERD/C/UZB/CO/6-7, 15 September 2010.

Committee on the Elimination of Racial Discrimination, *Concluding Observations: Uzbekistan, Addendum*, UN Doc. CERD/C/UZB/CO/8-9/Add.1, 2 June 2015.

Committee on the Rights of Persons with Disabilities, *Concluding Observations: Turkmenistan*, UN Doc. CRPD/C/TKM/CO/1, 13 May 2015.

Committee on the Rights of the Child, *Concluding Observations: Uzbekistan*, UN Doc. CRC/C/UZB/CO/3-4, 10 July 2013.

Committee on the Rights of the Child, *Response to the List of Issues: Uzbekistan,* UN Doc. CRC/C/UZB/Q/3-4/Add1, 17 May 2013.

Human Rights Committee, *Concluding Observations: Russia*, UN Doc. CCPR/C/RUS/CO/7, 28 April 2015.

Human Rights Committee, *Concluding Observations: Uzbekistan, Addendum*, UN Doc. CCPR/CO/71/UZB/Add.1, 17 October 2002.

Human Rights Committee, *Concluding Observations: Uzbekistan*, *Annex*, UN Doc. CCPR/C/UZB/CO/4/Add.1, 2 February 2016.

Human Rights Committee, *Concluding Observations: Uzbekistan,* UN Doc. CCPR/C/UZB/CO/4, 17 August 2015.

Human Rights Committee, *Concluding Observations: Uzbekistan*, UN Doc. CCPR/C/UZB/CO/3, 7 April 2010.

Human Rights Committee, *List of Issues: Uzbekistan,* UN Doc. CCPR/C/UZB/Q/4, 21 November 2014.

Human Rights Committee, *Replies to List of Issues: Uzbekistan,* UN Doc. CCPR/C/UZB/Q/4/Add.1, 9 March 2015.

Special Procedures

Commission on Human Rights, *Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Addendum*, UN Doc. E/CN.4/2005/62/Add.1, 30 March 2005.

Commission on Human Rights, *Report on the Fifty-First Session*, UN Doc. E/CN.4/1995/176, 30 January – 10 March 1995.

Economic and Social Council, *Report of the Special Rapporteur on the Question of Torture, Theo van Boven*, *Addendum, Mission to Uzbekistan,* UN Doc. E/CN.4/2003/68/Add.2, 3 February 2003.

Human Rights Council, *Discrimination and Violence against Individuals based on their Sexual Orientation and Gender Identity, Report of the United Nations High Commissioner for Human Rights*, UN Doc. A/HRC/29/23, 4 May 2015.

Human Rights Council, *Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir*, UN Doc. A/HRC/4/21, 07 October 2005.

Human Rights Council, *Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak,* UN Doc. A/HRC/10/44, 14 January 2009.

Human Rights Council, *Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, UN Doc. A/HRC/31/57, 5 January 2016.

Human Rights Council, *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences*, *Ms. Radhika Coomaraswamy, Addendum*, UN Doc. E/CN.4/1999/68/Add.4, 21 January 1999.

UN General Assembly, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, UN Doc. A/64/272, 10 August 2009.

Documents of Best Practice

Declaration of Principles on Equality, Equal Rights Trust, London, 2008.

Vienna Declaration and Programme of Action, World Conference on Human Rights, Vienna, 1993.

Yogyakarta Principles – Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity, International Commission of Jurists, 2007.

NATIONAL LAW

Constitution

Constitution of the Republic of Uzbekistan, 1992.

Legislation

Civil Code of the Republic of Uzbekistan, Code No. 256-I of 29 August 1996.

Civil Procedure Code of the Republic of Uzbekistan, Code No. 477-I of 30 August 1997.

Code of Administrative Responsibility of the Republic of Uzbekistan, Code No. 2015-XII of 22 September 1994.

Criminal Code of the Republic of Uzbekistan, Code No. 2012-XII of 22 September 1994.

Criminal Procedure Code of the Republic of Uzbekistan, Code No. 2013-XII of 22 September 1994.

Family Code of the Republic of Uzbekistan, Code No. 607-I of 30 April 1998.

Labour Code of the Republic of Uzbekistan, Code of 21 December 1995.

Law of the Republic of Uzbekistan on Advocacy, Law No. 349-I of 27 December 1996.

Law of the Republic of Uzbekistan on Amendments and Supplements to the Law of the Republic of Uzbekistan on Elections to the Oliy Majlis of Uzbekistan, Law No. 518-II of 29 August 2003.

Law of the Republic Of Uzbekistan on Amendments and Supplements to the Law on the State Language of the Republic Of Uzbekistan, Law No. 167-I of 21 December 1995.

Law of the Republic of Uzbekistan on Amendments and Supplements to the Law of the Republic of Uzbekistan on Freedom of Conscience and Religious Organisations, Law No. 618-I of 1 May 1998.

Law of the Republic of Uzbekistan on Amendments and Supplements to the Law of the Republic of Uzbekistan on Mass Media, Law No. ZRU-78 of 15 January 2007.

Law of the Republic of Uzbekistan on Amendments and Supplements to the Law of the Republic of Uzbekistan on Referendums, Law No. 265-II of 30 August 2001.

Law of the Republic of Uzbekistan on Amendments and Supplements to the Law of the Republic of Uzbekistan on the Commissioner of the Oliy Majlis for Human Rights (Ombudsman), Law No. 669-II of 27 August 2004.

Law of the Republic of Uzbekistan on Citizen's Self-Governing Bodies, Law No. 915-XII of 2 September 1993.

Law of the Republic of Uzbekistan on Citizenship of the Republic of Uzbekistan, Law No. 632-XII of 2 July 1992.

Law of the Republic of Uzbekistan on Countering the Spread of the Disease caused by the Human Immunodeficiency Virus, Law No. ZRU-353 of 23 September 2013.

Law of the Republic of Uzbekistan on Courts, Law No. 924-XII of 2 September 1993.

Law of the Republic of Uzbekistan on Education, Law No. 464-I of 29 August 1997.

Law of the Republic of Uzbekistan on Elections to the Oliy Majlis of Uzbekistan, Law No. 990-XII of 28 December 1993.

Law of the Republic of Uzbekistan on Employment, Law No. 510-XII of 13 January 1992.

Law of the Republic of Uzbekistan on Freedom of Conscience and Religious Organisations, Law No. 289-XII of 14 June 1991.

Law of the Republic of Uzbekistan on Guarantees of Electoral Rights of Citizens, Law No. 1051-XII of 5 May 1994.

Law of the Republic of Uzbekistan on Informatization, Law No. 560-II of 11 December 2003.

Law of the Republic of Uzbekistan on International Treaties of the Republic of Uzbekistan, Law No. 172-I of 22 December 1995.

Law of the Republic of Uzbekistan on Making Amendments and Addenda to the Law of the Republic of Uzbekistan on Citizens' Self-Government, Law No. ZRU-350 of 22 April 2013.

Law of the Republic of Uzbekistan on Making Amendments and Addenda to the Law of the Republic of Uzbekistan on Courts, Law No. 162-II of 14 December 2000.

Law of the Republic of Uzbekistan on Making Amendments and Addenda to the Law of the Republic of Uzbekistan on Social Protection of Disabled Persons in the Republic of Uzbekistan, Law No. ZRU-162 of 11 July 2008.

Law of the Republic of Uzbekistan on Making Amendments and Addenda to the Law on Employment, Law No. 616-I of 1 May 1998.

Law of the Republic of Uzbekistan on Making Amendments and Addenda to the Law of the Republic of Uzbekistan on Normative Legal Acts, Law No. ZRU-342 of 24 December 2012.

Law of the Republic of Uzbekistan on Mass Media, Law No. 541-I of 26 December 1997.

Law of the Republic of Uzbekistan on Non-State Non-Profit Organisations, Law No. 763-I of 14 April 1999.

Law of the Republic of Uzbekistan on Normative Legal Acts, Law No. 160-II of 14 December 2000.

Law of the Republic of Uzbekistan on Prevention of Diseases caused by the Human Immunodeficiency Virus (HIV), Law No. 816-I of 19 August 1999.

Law of the Republic of Uzbekistan on Principles and Guarantees of Freedom of Information, Law No. 439-II of 12 December 2002.

Law of the Republic of Uzbekistan on Public Associations in the Republic of Uzbekistan, Law No. 223-XII of 15 February 1991.

Law of the Republic of Uzbekistan on Ratification of International Labour Organization Convention No. 87 on Freedom of Association and Protection of the Right to Organise, Law No. ZRU-412 of 25 October 2016.

Law of the Republic of Uzbekistan on Referendums, Law No. 417-XII of 18 November 1991.

Law of the Republic of Uzbekistan on State Language, Law No. 3561-XI of 21 October 1989.

Law of the Republic of Uzbekistan on State Pensions, Law No. 938-XII of 3 September 1993.

Law of the Republic of Uzbekistan on the Commissioner of the Oliy Majlis for Human Rights (Ombudsman), Law No. 392-I of 24 April 1997.

Law of the Republic of Uzbekistan on the Constitutional Court of the Republic of Uzbekistan, Law No. 103-I of 30 August 1995.

Law of the Republic of Uzbekistan on the Election of the President of the Republic of Uzbekistan, Law No. 414-XII of 18 November 1991.

Law of the Republic of Uzbekistan on the Protection of Labour, Law No. 839-XII of 6 May 1993.

Law of the Republic of Uzbekistan on the Protection of Public Health, Law No. 265-I of 29 August 1996.

Law of the Republic of Uzbekistan on the Social Protection of Disabled Persons in the Republic of Uzbekistan, Law No. 422-XII, of 18 November 1991.

NATIONAL POLICIES AND STATE REPORTS

National Policies, Government Decisions and Regulations

About the Organisation of Activity of the National Centre for Human Rights, Cabinet of Ministers Resolution No. 399 of 13 November 1996.

Approval of Normative Legal Acts Necessary for the Implementation of the Law of the Republic of Uzbekistan on Introducing Amendments and Addenda to the Law on State Pensions and Labour Code of the Republic of Uzbekistan, Cabinet of Ministers Resolution No. 107 of 7 April 2011.

Decision of the Ministry of Justice and Ministry of Finance, Regarding the Approval of the Procedure Credited to Expenditures of the State to Provide Legal Counsel Assistance to the Suspect, Accused or Defendant, Decree No. 8, 109 of 26 November 2008.

List of Professional Activities Prohibited for Persons Infected with the Human Immunodeficiency Virus, Registration No. 2581 of 7 May 2014.

On Additional Measures to Improve the Organisation of Activity of Service of Medical Labour Examination, Cabinet of Ministers Resolution No. 193 of 2 September 2010.

On Further Improvement of the Procedure of State Registration of Mass Media In Uzbekistan, Cabinet of Ministers Resolution No. 214 of 11 October 2006.

On Improving License Lawyers and Law Firms Creation, Cabinet of Ministers Resolution No. 60 of 9 March 2009.

On Measures to Improve the Efficiency of Accounting of Funds Technical Assistance, Grants and Humanitarian Aid Received from International and Foreign Governmental and Nongovernmental Organisations, Cabinet of Ministers Resolution No. 56 of 4 February 2004.

On Measures to Improve the Order of Activities in the Field of Manufacturing, Import and Distribution of Religious Materials, Cabinet of Ministers Resolution No. 10 of 20 January 2014.

On the Approval of the Program for the Development and Introduction of the Legislative Chamber of Oliy Majlis of the Draft Laws in 2016, Cabinet of Ministers Resolution No. 42 of 17 February 2016.

On the Procedures of Issuance by the Organs of Interior of the Republic of Uzbekistan of the Permission to Exit the Country by the Citizens of the Republic of Uzbekistan, Cabinet of Ministers Resolution No. 8 of 6 January 1995.

Presidential Decree on Additional Measures to Support the Women's Committee of Uzbekistan, Decree No. UP-3434 of 25 May 2004.

Presidential Decree on Forecast of Main Macroeconomic Indicators and Parameters of the State Budget of Uzbekistan for 2010, Decree No. PP-1245 of 22 December 2009.

Presidential Decree on Improving the Activity of the High Qualification Commission for Selection and Recommendation of Judges under the President of the Republic Of Uzbekistan, Decree No. P-3949 of 29 December 2012.

Presidential Decree on Introduction of the Regulations on the Passport System in the Republic of Uzbekistan, Decree No. UP-1027 of 23 December 1994.

Presidential Decree on Measures for the Fundamental Improvement of the Social Protection of Judicial System Workers, Decree No. UP-4459 of 2 August 2012.

Presidential Decree on Measures to Further Reform the Judicial System, Strengthening Guarantees for Protection of the Rights and Freedoms of Citizens, Decree No. UP-4850 of 21 October 2016.

Presidential Decree on Regulations on the Procedure for Consideration of Issues Related to the Citizenship of the Republic of Uzbekistan, Decree No. UP-500 of 20 November 1992.

Presidential Decree on the Establishment of the National Centre of the Republic of Uzbekistan for Human Rights, Decree No. UP-1611 of 31 October 1996.

Presidential Decree on the Improvement of the Passport System of the Republic of Uzbekistan, Decree No. UP-2240 of 26 February 1999.

Presidential Decree, on Additional Measures to Assist the Development of Civil Society Institutions, Decree No. PP-2085 of 12 December 2013.

Procedure for State Registration of Religious Organisations in the Republic of Uzbekistan, Cabinet of Ministers Resolution No. 263 of 20 June 1998.

Regulations on the Registration of Citizens with the Employment Bodies, their Employment, Assignment and Payment of Unemployment Benefits, Registration No. 831 of 13 October 1999.

The Number of Population On the Measures for the Preparation and Implementation of Statistical Sampling, Cabinet of Ministers Resolution No. 71 of 14 March 2011.

Works with Unfavourable Working Conditions in Whole or in Part Prohibiting the Use of Female Labour, Registration No. 865 of 5 January 2000.

State Reports

Committee on the Elimination of Discrimination against Women, *Fifth Periodic Report: Uzbekistan*, UN Doc. CEDAW/C/UZB/5, 10 April 2014.

Committee on the Elimination of Discrimination against Women, *Fourth Periodic Report: Uzbekistan*, UN Doc. CEDAW/C/UZB/4, 12 September 2008.

Committee on the Elimination of Discrimination against Women, *Second and Third Periodic Reports: Uzbekistan*, UN Doc. CEDAW/C/UZB/2-3, 26 October 2004.

Committee on the Elimination of Racial Discrimination, *Eighth to Ninth Periodic Report: Uzbekistan*, UN Doc. CERD/C/UZB/8-9, 13 May 2013.

Committee on the Rights of the Child*, Third and Fourth Periodic Reports: Uzbekistan*, UN Doc. CRC/C/UZB/3-4, 26 January 2012.

Human Rights Committee, *Fourth Periodic Report: Uzbekistan*, UN Doc. CCPR/C/UZB/4, 30 October 2013.

Human Rights Council, *Report of the Working Group of the Universal Periodic Review: Uzbekistan, Addendum*, UN Doc. A/HRC/24/7/Add.1, 2 August 2013.

Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Uzbekistan*, UN Doc. A/HRC/24/7, 5 July 2013.

United Nations, *Core Document Forming Part of the Reports of States Parties: Uzbekistan,* UN Doc. HRI/CORE/UZB/2015, 8 January 2016.

United Nations, *Core Document Forming Part of the Reports of State Parties: Uzbekistan*, UN Doc. HRI/CORE/UZB/2010, 18 January 2012.

INTERNATIONAL JURISPRUDENCE

A. K. and A. R. v Uzbekistan, Human Rights Committee, Communication No. 1233/2003, UN Doc. CCPR/C/95/D/1233/2003, 2009.

Alyne da Silva Pimentel Teixeira v Brazil, Committee on the Elimination of Discrimination against Women, Communication No. 17/2008, UN Doc. CEDAW/C/49/D/17/2008, 2011.

Belousova v Kazakhstan, Committee on the Elimination of Discrimination against Women, Communication No. 45/2012, UN Doc. CEDAW/C/61/D/45/2012, 2015.

Bujdosó and others v Hungary, Committee on the Rights of Persons with Disabilities, Communication No. 4/2011, UN Doc. CRPD/C/10/D/4/2011, 2013.

Hudoyberganova v Uzbekistan, Human Rights Committee, Communication No. 931/2000, UN Doc. CCPR/C/82/D/931/2000, 2004.

Joslin v New Zealand, Human Rights Committee, Communication No. 902/1999, UN Doc. CCPR/C/75/D/902/1999, 2002.

Kungurov v Uzbekistan, Human Rights Committee, Communication No. 1478/2006, UN Doc. CCPR/C/102/D/1478/2006, 2011.

M.T. v Uzbekistan, Human Rights Committee, Communication No. 2234/2013, UN Doc. CCPR/C/114/D/2234/2013, 2015.

Malakhovsky and Pikul v Belarus, Human Rights Committee, Communication No. 1207/2003, UN Doc. CCPR/C/84/D/1207/2003, 2005.

Mavlonov and Sa'di v Uzbekistan, Human Rights Committee, Communication No. 1334/2004, UN Doc. CCPR/C/95/D/1334/2004, 2009.

Prosecutor v Anto Furundzija, International Criminal Tribunal for the former Yugoslavia, Case No. IT-95-17/1-T, 1998.

South-West Africa Cases (*Ethiopia v South Africa; Liberia v South Africa*), International Court of Justice, 1996.

Svetlana Medvedeva v Russian Federation, Committee on the Elimination of Discrimiantion against Women, Communication No. 60/2013, UN Doc. CEDAW/C/63/D/60/2013, 2016.

Toonen v Australia, Human Rights Committee, Communication No. 488/1992, UN Doc. CCPR/C/50/D/488/1992, 1994.

Young v Australia, Human Rights Committee, Communication No. 941/2000, UN Doc. CCPR/C/78/D/941/2000, 2003.

REGIONAL JURISPRUDENCE

Dudgeon v United Kingdom, European Court of Human Rights, Application No. 7525/76, 22 October 1981.

Goodwin v The United Kingdom, European Court of Human Rights [GC], Application No. 28957/95, 11 July 2002.

Identoba and Others v Georgia, European Court of Human Rights, Application No. 73235/12, 12 May 2015.

Juridical Condition and Rights of Undocumented Migrants, Inter-American Court of Human Rights, Advisory Opinion OC-18/03, No. 18, 17 September 2003.

Kholmurodov v Russia, European Court of Human Rights, Application No. 58923/14, 1 March 2016.

Van Kück v Germany, European Court of Human Rights, Application No. 35968/97, 12 June 2003.

Yakubov v Russia, European Court of Human Rights, Application No. 7265/10, 8 November 2011.

NATIONAL JURISPRUDENCE

National Coalition for Gay and Lesbian Equality v Minister of Justice, (CCT11/98) [1998] ZACC 15; 1999 (1) SA 6; 1998 (12) BCLR 1517, 9 October 1998.

Supreme Court Plenum Ruling on Some Issues of Application of the Law on Compensation for Moral Damage, Judgment No. 7 of 28 April 2000.

Supreme Court Plenum Ruling on the Practice of Courts of Complaints against Actions and Decisions Violating the Rights and Freedoms of Citizens, Judgment No. 18 of 19 July 1996.

Supreme Court Plenum Ruling on the Practice of Courts of Law in Cases of Divorce, Judgement No. 6 of 20 July 2011.

Supreme Court Plenum Ruling on the Practice of Courts of Law to Ensure a Suspect, or the Accused the Right to Protection, Judgment No. 17 of 19 December 2003.

BOOKS, ARTICLES, REPORTS AND STUDIES

Abramson, D., *The Political Culture of Islam, Gender and Development in Uzbekistan*, 2000.

American Bar Association, *Judicial Reform Index for Uzbekistan*, 2002.

Amnesty International, *Fear of Forcible Deportation: Muhammad Solih*, 2001.

Amnesty International, *Secrets and Lies: Forced Confessions under Torture in Uzbekistan*, 2015.

Amnesty International, *Uzbekistan: Fast-Track to Torture: Abductions and Forcible Returns from Russia to Uzbekistan*, 2016.

Antelava, N., *Forced Sterilization of Women in Uzbekistan*, 2013.

Arel, D., *Fixing Ethnicity in Identity Documents: The Rise and Fall of Passport Nationality in Russia*, 2001.

Article 19, *Memorandum on the Law of the Republic of Uzbekistan on Mass Media*, 2004.

Article 19, *Memorandum on the Law of the Republic of Uzbekistan on Principles of and Guarantees for Freedom of Information*, 2004.

Ashwin, S., *Gender, State and Society in Soviet and Post-Soviet Russia,* Routledge, 2000.

Asian Development Bank, *Country Gender Assessment: Uzbekistan,* 2005.

Asian Development Bank, *Uzbekistan: Country Gender Assessment*, 2014.

Babak, V., (ed.) et al, *Political Organisation in Central Asia and Azerbaijan: Sources and Documents*, Taylor & Francis e-Library, 2004.

Barnett, R., *Blood on the Doorstep: The Politics of Preventive Action*, Council on Foreign Relations Press, 2002.

Beckwith, B., "Uzbekistan: Islam, Communism, and Religious Liberty: An Appraisal of Uzbekistan's 1998 Law on Freedom of Conscience and Religious Organizations", *BYU Law Review*, Vol. 2000(3), 2000.

Bianchi, A., "Human Rights and the Magic of Jus Cogens", *The European Journal of International Law*, Vol. 19, 2008.

Bingham Centre for the Rule of Law, *The Appointment, Tenure and Removal of Judges under Commonwealth Principles. A Compendium and Analysis of Best Practice*, 2015.

Canadian HIV/AIDS Legal Network and the Eurasian Harm Reduction Network, *Submission to the Committee on Economic, Social and Cultural Rights on Uzbekistan*, 2013.

Canadian HIV/AIDS Legal Network, "Legislative and Policy Analysis of HIV Prevention, Treatment and Care for People who use Drugs and Incarcerated People in Central Asia and Azerbaijan", *Legislative and Policy Analysis,* Vol. 15(2), 2011.

Carlson, C., "Nation-Building in Central Asia through Language Legislation", *MANAS Journal of Social Studies*, Vol. 4(4), 2015.

Cassel, D., "Equal Labour Rights for Undocumented Migrant Workers", in Bayefsky, A. (ed), *Human Rights and Refugees, Internally Displaced Persons and Migrant Workers: Essays in Memory of Joan Fitzpatrick and Arthur Helton*, Martius Nijhoff Publishers, 2006.

Central Asian Gender and Sexuality Advocacy Network, *Submission to the Human Rights Committee on Uzbekistan*, 2015.

Central Asian Gender and Sexuality Advocacy Network, *Submission to the Universal Periodic Review on Uzbekistan*, 2012.

Coming Out et al, *Submission to the Human Rights Committee on Russia*, 2014.

Constitute Project, *Timeline of Constitutions*, 2016.

Dadabaev, T., "Recollections of Emerging Hybrid Ethnic Identities in Soviet Central Asia: the Case of Uzbekistan", *Nationalities Papers*, Vol. 41(6), 2013.

Dadabaev, T., "Community Life, Memory and a Changing Nature of Mahalla Identity in Uzbekistan", *Journal of Eurasian Studies*, Vol. 4, 2013.

De Schutter, O., *International Human Rights Law: Cases, Materials, Commentary*, Cambridge University Press, 2010.

Equal Rights Trust, *In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine*, 2015.

Freedom House, *Freedom in the World 2015: Uzbekistan,* 2015.

Freedom House, *Freedom in the World 2016: Uzbekistan*, 2016.

Freedom House, *Freedom of the Press 2015: Uzbekistan*, 2015.

Freedom House, *Freedom on the Net 2015: Uzbekistan*, 2015.

Freedom House, *Nations in Transit 2012: Uzbekistan*, 2012.

Freedom House, *Worst of the Worst 2012: the world's most repressive societies,* 2012.

Fumagalli, M., "Ethncity, State Formation and Foreign Policy: Uzbekistan and 'Uzbeks abroad'", *Central Asian Survey*, Vol. 26(1), 2007.

Giffen, J., et al, *The Development of Civil Society in Central Asia*, 2005.

Glenn, J., "Contemporary Central Asia: Ethnic Identity and Problems of State Legitimacy", *European Security*, Vol. 6(3), 1997.

Global IDP Project, *Uzbekistan: Authorities Deny Return of Several Thousand Villagers Displaced from Tajik Border*, 2005.

Hanks, R., "Repression as Reform: Islam in Uzbekistan during the Early Glasnost' Period", *Religion, State & Society*, Vol. 29(3), 2001.

Helsinki Watch, *Human Rights in Uzbekistan*, 1993.

Hojaqizi, G., "Citizenship and Ethnicity: Old Propiska and New Citizenship in Post-Soviet Uzbekistan", *Inner Asia*, Vol. 10(2), 2008.

Human Rights Ombudsperson, *Submission to the Committee on the Elimination of Racial Discrimination on Uzbekistan*, 2014.

Human Rights Watch, *Comments to Uganda's Parliamentary Committee on HIV/AIDS and Related Matters about the HIV/AIDS Prevention and Control Bill*, 2009.

Human Rights Watch, *Creating Enemies of the State: Religious Persecution in Uzbekistan*, 2004.

Human Rights Watch, *Discriminatory Expulsions*, 1999.

Human Rights Watch, *Free Uzbek Rights Defender Ruslan Sharipov*, 2003.

Human Rights Watch, *From House to House, Abuses by Mahalla Committee's,* 2003.

Human Rights Watch, *No One Left to Witness: Torture, the Failure of Habeas Corpus, and the Silencing of Lawyers in Uzbekistan*, 2011.

Human Rights Watch, *Sacrificing Women to Save the Family: Domestic Violence in Uzbekistan*, 2001.

Human Rights Watch, *Saving its Secrets: Government Repression in Andijan*, 2008.

Human Rights Watch, *Submission to the Human Rights Committee on Uzbekistan*, 2014.

Human Rights Watch, *Until the Very End: Politically Motivated Imprisonment in Uzbekistan*, 2014.

Human Rights Watch, *Uzbekistan: Events of 2015*, 2016.

Human Rights Watch, *World Report 2016*, 2016.

Human Rights without Frontiers, *Prisoner List 2016: Uzbekistan*, 2016.

Ijtimoii Fikr, *Submission to the Committee on the Elimination of Racial Discrimination on Uzbekistan*, 2013.

INS Resource Information Centre, *Profile Series, Uzbekistan: Political Conditions in the Post-Soviet Era*, 1994.

Institute of Demography of the National Research University "Higher School of Economics", *All-Union Census in 1989, National Composition of the Population of the Republics of the USSR: Uzbek SSR*, 2016.

International Centre for Not-for-Profit Law, *NGO Law Monitor: Uzbekistan*, 2016.

International Commission of Jurists, *Independence of the Legal Profession in Central Asia*, 2013.

International Commission of Jurists, *Submission to the Human Rights Committee on Uzbekistan*, 2009.

International Federation for Human Rights, *Observatory for the Protection of Human Rights Defenders Annual Report 2004 – Uzbekistan*, 2005.

International Labour Organization, *Advisory Report on Vocational Rehabilitation and Employment of People with Disabilities in Eastern Europe and Central Asia*, 2014.

International Partnership for Human Rights et al, *A Matter of International Concern: Endemic Torture in Uzbekistan*, 2015.

International Partnership for Human Rights, *Submission to the Human Rights Committee on Uzbekistan*, 2015.

International Research and Exchanges Board, *Europe and Eurasia Media Sustainability Index 2016: Uzbekistan*, 2016.

Japan International Cooperation Agency Planning and Evaluation Department, *Country Profile on Disability: Uzbekistan*, 2002.

Joint Submission 1, *Submission to the Universal Periodic Review on Uzbekistan*, 2012.

Kandiyoti, D., "Post-Soviet Institutional Design and the Paradoxes of the 'Uzbek Path'", *Central Asian Survey,* Vol. 26(1), 2007.

Karimov., I, *The Concept of Further Deepening the Democratic Reforms and Establishing the Civil Society in the Country*, 2010.

Katsui, H., "The Challenges of Operationalizing a Human Rights Approach to Disability in Central Asia", in Rasell, M. (ed), *Disability in Eastern Europe and the Former Soviet Union: History, Policy and Everyday Life*, Routledge, 2013.

Khalid, A., "A Secular Islam: Nation, State, and Religion in Uzbekistan", *International Journal of Middle East Studies*, Vol. 35(4), 2003.

Labrys and the Sexual Rights Initiative, *Submission to the Universal Periodic Review on Uzbekistan*, 2008.

Labrys et al, *Submission to the Human Rights Committee on Uzbekistan*, 2010.

Labrys, *Submission to the Committee on the Elimination of Discrimination against Women on Uzbekistan*, 2010.

Legal Aid Society of Uzbekistan, *General Evaluation Report*, 2004.

Lischin, L., "The IMU Ascendant: How Uzbek Autocracy Empowers Terrorist Entrepreneurs", *Small Wars Journal*, 2016.

Martin, F. F. et al, *International Human Rights and Humanitarian Law: Cases, Treaties and Analysis*, Cambridge University Press, 2006.

Marushiakova, E., and Popov, V., *Central Asian Gypsies: Identities and Migrations*, 2015.

Mashrabbekova, A., "Some Pedagogical Strategies and Approaches in L2 Acquisition: The Case of the Uzbek Language" *International Journal of Humanities Social Sciences and Education*, Vol. 3(6), 2016.

Miller, A., *To Balance or Not to Balance: Alignment Theory and the Commonwealth of Independent States*, Ashgate, 2006.

Ministry of Finance of Uzbekistan, *Execution of the State Budget of Uzbekistan for the year 2013.*

Minority Rights Group International, *Central Asia: Conflict or Stability and Development?*, 1997.

Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2016*, 2016.

Minority Rights Group International, *State of the World's Minorities 2008 – Uzbekistan*, 11 March 2008.

OECD, *Social Institutions and Development Index: Uzbekistan*, 2014.

Office for Democratic Institutions and Human Rights, *Report on the Regional Expert Roundtable on Legal Aid in Criminal Proceedings in Central Asia*, 2013.

Ohlsson, H., "Islam and Secular State in Uzbekistan: State Control of Religion and its Implications for the Understanding of Secularity", *Cahiers d'Asie Centrale*, Vol. 19-20, 2011.

Open Society Foundation, *Tackling Corruption in Uzbekistan: A White Paper*, 2016.

Organization for Security and Cooperation in Europe, *OSCE/ODIHR Limited Election Observation Mission Final Report: Parliamentary Elections*, 2015.

Organization for Security and Cooperation in Europe, *OSCE/ODIHR Limited Election Observation Mission Final Report: Presidential Election*, 2015.

Parker, K. and Neylon, L. B., "Jus Cogens: Compelling the Law of Human Rights", *Hastings International and Comparative Law Review*, Vol. 12, 1988–1989.

Pasilov, B., "National Policy and Identity under the Soviet Authorities in Uzbekistan in the 1920s and 1930s", *Copenhagen Journal of Asian Studies*, Vol. 28(2), 2010.

Pellett, A., "Comments in Response to Christine Chinkin and in Defense of *Jus Cogens* as the Best Bastion against the Excesses of Fragmentation", *Finnish Yearbook of International Law*, Vol. 17, 2006.

Petrova, D., "The Declaration of Principles on Equality: A Contribution to International Human Rights", in *Declaration of Principles on Equality*, Equal Rights Trust, London, 2008.

Phillips, S., "There Are No Invalids in the USSR!": A Missing Soviet Chapter in the New Disability History", *Disability Studies Quarterly*, Vol. 29(3), 2009.

Pipko, S., and Pucciarelli, A. J., "The Soviet Internal Passport System", *The International Lawyer*, Vol. 19(3), 1985.

Press Reference, *Country Profile: Uzbekistan*, 2016.

Privacy International, *Private Interests: Monitoring Central Asia*, 2014.

Public Health England, *The Management of HIV Infected Healthcare Workers who Perform Exposure Prone Procedures: Updated Guidance*, 2014.

Redress, *Uzbekistan*, accessed 1 September 2016.

Republic of Uzbekistan, *Uzbekistan Health Examination Survey*, 2002.

Sexual Rights Initiative, *Submission to the Universal Periodic Review on Uzbekistan*, 2013.

Shagazatova, M., *Republic of Uzbekistan: Updating and Improving the Social Protection Index*, 2012.

Shaw, M., *International Law*, Fifth edition, Cambridge University Press, 2003.

Shaw, M., *International Law*, Sixth edition, Cambridge University Press, 2008.

Shoemaker, W., *Russia and the Commonwealth of Independent States*, Stryker-Post Publications, 2012.

State Statistic Service of the Republic of Uzbekistan, *Demographics*, 2016.

State Statistic Service of the Republic of Uzbekistan, *Number of Marriages by Age of Bride and Groom in 2014*, 2014.

State Statistic Service of the Republic of Uzbekistan, *Sex Distribution by Economic Sector,* 2014.

State Statistics Service of the Republic of Uzbekistan, *Distribution of Students of Higher Educational Institutions on Sectoral Specialization*, 2015.

Stevens, D., "Osama or the Georges: Shifting Threats and State Policy towards Civil Society in Uzbekistan, Institute of Social Studies", *Development and Change*, Vol. 41(2), 2010.

Thibault, H., "The Soviet Secularization Project in Central Asia: Accommodation and Institutional Legacies", *Eurostudia – Revue Transatlantique de Recherche sur L'europe*, Vol. 10(1), 2015.

Transparency International, *Corruption Perceptions Index 2015*, 2015.

Tukmadiyeva, M., "Propiska as a Tool of Discrimination in Central Asia", *Central Asian Fellowship Papers*, Vol. 12, 2016.

UN Economic and Social Commission for Asia and the Pacific, *Disability at a Glance 2015*, 2015.

UNAIDS, *Do No Harm: Health, Human Rights and People who Use Drugs*, 2016.

UNAIDS, *Progress Report: Uzbekistan*, 2015.

UNESCO, *Country Programming Document (UCPD) for the Republic of Uzbekistan (2014–2017)*, 2013.

UNICEF, *Children with Disabilities: Nodira's Story*, 2013.

UNICEF, *The State of the World's Children 2016*, 2016.

UNICEF, *Uzbekistan: Country Profile*, 2014.

United Nations Development Programme, *Accessing Justice: Legal Aid in Central Asia and the South Caucasus*, 2013.

United Nations Development Programme, *Education in Uzbekistan: Matching Supply and Demand*, 2007.

United Nations Development Programme, *Human Development Report 2015*, 2015.

United Nations Development Programme, *Policy Brief: Uzbekistan*, 2012.

United Nations Economic Commission for Europe, 2010 Population Census Round, 2016.

United Nations High Commissioner for Refugees, *Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1–4 of the 1961 Convention on the Reduction of Statelessness*, 2012.

United Nations High Commissioner for Refugees, *Statelessness in Central Asia*, 2011.

United Nations Office for Drugs and Crime, *Accessibility of HIV Prevention, Treatment and Care Services for People who Use Drugs and Incarcerated People in Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan*, 2010.

United Nations Population Fund, *Child Marriage in Uzbekistan (Overview)*, 2014.

United States Department of State, *Country Reports on Human Rights Practices for 2015: Uzbekistan*, 2016.

United States Department of State, *Trafficking in Persons Report 2012: Uzbekistan*, 2012.

USAID, *Violent Extremism and Insurgency in Uzbekistan*, 2013.

Uzbek Bureau for Human Rights and Rule of Law and Women Fund for Women, *NGO Shadow Report to the Committee on the Elimination of Discrimination against Women*, 2009.

Uzbek Bureau for Human Rights and Rule of Law, *Submission to the Committee on the Elimination of Discrimination against Women on Uzbekistan*, 2015.

Uzbek Bureau for Human Rights and Rule of Law, *Submission to the Committee on the Rights of the Child on Uzbekistan*, 2013.

Uzbek-German Forum for Human Rights, *Submission to the Human Rights Committee*, 2009.

Vernon, R., "Closing the Door on Aid", *The International Journal of Not for Profit Law*, Vol. 11(4), 2009.

WIN-Gallup International, *Global Index of Religiosity and Atheism*, 2012.

Wixman, R., *The Peoples of the USSR: An Ethnographic Handbook*, Routledge, 1988.

World Bank, *Birth Rate, Crude (Per 1000 People): Uzbekistan*.

World Bank, *Death Rate, Crude (Per 1000 People): Uzbekistan.*

World Bank, *FY16-20 Country Partnership Framework for Uzbekistan*, 2016.

World Bank, *GDP (Current US$): Uzbekistan*, 2016.

World Bank, *GDP Per Capita Growth (Annual %): Uzbekistan*, 2016.

World Bank, *GNI per capita, Atlas Method (Current US$): Uzbekistan*, 2016.

World Bank, *Life Expectancy at Birth, Females: Uzbekistan*, 2016.

World Bank, *Life Expectancy at Birth, Males: Uzbekistan*, 2016.

World Bank, *Life Expectancy at Birth: Uzbekistan*, 2016.

World Bank, *World Bank Country and Lending Groups*, 2016.

World Health Organization, *World Report on Disability*, 2011.

World Organisation against Torture, *Submission to the Committee against Torture on Uzbekistan*, 2007.

World Values Survey, *Data Analysis Tool*, 2016.

NEWSPAPER AND MAGAZINE ARTICLES AND OTHER ONLINE SOURCES

Amnesty International, "Fish Farmer Tortured, Jailed after Unfair Trial", *Amnesty International*, 19 February 2016.

Amnesty International, "Public Statement: More than 140,000 People across the World Demand the Release of Uzbekistani Journalist Muhammad Bekzhanov", *Amnesty International,* 1 October 2015.

Anonymous, "Who needs people with disabilities in Uzbekistan?", *LiveJournal,* 18 December 2010.

Association for Human Rights in Central Asia, "How many prisoners are there in Uzbekistan?", *Association for Human Rights in Central Asia*, 6 April 2015.

Azizov, D., "Uzbekistan Reforming Judicial System", *Trend News Agency,* 23 October 2016.

Barnabas Fund, "Police in Uzbekistan Search Christian Homes and Jail Church Pastor in Illegal Raid", *Barnabas Fund*, 17 March 2016.

Bayram, M., "Uzbekistan: Contradictory "Expert Analyses", Four People Fined", *Forum 18*, 4 October 2016.

Bayram, M., "Uzbekistan: Fines, Rape Threat for Religious Literature", *Forum 18*, 25 May 2016.

Bayram, M., "Uzbekistan: Harshened Criminal and Administrative Code Punishments", *Forum 18*, 15 June 2016.

Bayram, M., "Uzbekistan: His Only Fault was to Have Some Sermons on his Mobile Phone"", *Forum 18*, 7 April 2016.

Bayram, M., "Uzbekistan: Large Fines for "Illegal" Religious Literature", *Forum 18*, 7 June 2016.

Bayram, M., "Uzbekistan: Meals and Under-18s in Mosques Banned", *Forum 18*, 12 July 2016.

Bayram, M., "Uzbekistan: Raids, Prison, Fines for Home Religious Meetings", *Forum 18*, 8 August 2016.

BBC News, "In Pictures: Negative Images of Uzbekistan?", *BBC*, 10 February 2010.

BBC News, "Islam Karimov: Uzbekistan President's Death Confirmed", *BBC*, 2 September 2016.

Benois, A., "Women in Uzbekistan in Ordered to get an Exit Visa Forced to Write a Letter of Assurance", *Ferghana*, 21 February 2011.

Braunschweiger, A., "Witness: Surviving the Monkey Cage – Sanjar's Story", *Human Rights Watch*, 26 September 2014.

Canning, P., "Uzbekistan's Aids Shame", *Guardian*, 12 May 2010.

Centre for International Development and Conflict Management, "Assessment for Russians in Uzbekistan", *University of Maryland*, 2006.

Committee to Protect Journalists, "Attacks on the Press 1999: Uzbekistan", *Committee to Protect Journalists,* 22 March 2000.

Cotton Campaign, "Uzbekistan Government Detains Human Rights Defender Elena Urlaeva in a Psychiatric Hospital", *Cotton Campaign,* 19 May 2016.

Council of the European Union, "Declaration by the Presidency on behalf of the European Union on Uzbekistan", *Council of the European Union,* 19 June 2006.

Dreyfus, A., "Taxes Scheme Divides Citizens", *Ferghana*, 2013.

Embassy of Uzbekistan to the United States, "President Declares Long-Term Priorities of Uzbekistan", *Press Office*, 1 February 2005.

Ferghana, "Uzbekistan: Psychologist Maxim Popov freed from Jail", *Ferghana*, 1 September 2011.

Freedom Now, "Dilmurod Saidov: Uzbekistan", *Freedom Now*, 2005.

Front Line Defenders, "Case History: Azam Farmanov", *Front Line Defenders,* 2015.

Front Line Defenders, "Case History: Elena Urlaeva", *Front Line Defenders,* 2015.

Front Line Defenders, "Case History: Mutabar Tadjibaeva", *Front Line Defenders,* 9 July 2008.

Front Line Defenders, "Case History: Umida Akhmedova", *Front Line Defenders*, 13 January 2014.

Gearhart, J., "The Price of Silence", *HuffPost*, 12 May 2016.

Human Rights Watch, "Uzbek Torture Victims Sentenced to Prison Terms", *Human Rights Watch,* 17 August 1999.

Human Rights Watch, "Uzbekistan: Government Shuts Down Human Rights Watch Office", *Human Rights Watch,* 15 March 2011.

Human Rights Watch, "Uzbekistan: Human Rights Defender Detained", *Human Rights Watch,* 26 February 2004.

Human Rights Watch, "Uzbekistan: Jailed Opposition Leader's Health at Risk", *Human Rights Watch,* 1 November 2005.

Ilyin, O., "Uzbekistan: The Law against Homosexuality Keeps at Bay the Gay and Enriches Police", *Ferghana*, 23 January 2014.

Inosmi.ru, "Why Russians leave Uzbekistan", 16 April 2013.

Institute for War and Peace Reporting, "Islamic Clothing Vanishes From Tashkent Markets", *IWPR*, 14 March 2012.

International Partnership for Human Rights, "Uzbekistan: Continuing Repression in the Wake of Andijan", *IPHR*, 13 May 2016.

Kravets, P., Interview with Natalya Plotnikova, the Chairperson of Kibray Society of Disabled Women "Sisters," *Ferghana,* 27 January 2011.

Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples, Uzbekistan: Tajikistan.*

Mirovalev, M., "In Uzbekistan, Transgender Man Breaks Barriers with Transparent Transition", *LA Times*, 17 March 2016.

Open Society Foundation, "Uzbek Government Forces Closure of Local Soros Foundation", *OSF,* 18 April 2004.

Organization for Security and Cooperation in Europe, "New Restrictions in Uzbekistan Further Limit free Expression on Internet", *OSCE*, 8 September 2014.

Organization for Security and Cooperation in Europe, "Recent Legislative Amendments in Uzbekistan Worrying", *OSCE,* 29 April 2016.

Parliament of Karakalpakstan, *Official Website of the Parliament of Karakalpakstan*, 2016.

Radio Free Europe, "Czech Republic: Uzbek Dissident Won't Be Extradited", *Radio Free Europe,* 14 December 2001.

Radio Free Europe, "Story of Sattorov K.M", *Radio Free Europe,* 29 November 2013.

Radio Free Europe, "Uzbekistan Bans Children from Mosques on Eid Al-Adha Festival", *Radio Free Europe*, 25 September 2015.

Rotar, I., "Uzbekistan: Crackdown on all Faiths Follows Terrorist Bombings", *Forum 18*, 13 April 2004.

Samari, A., "Uzbekistan: Luli Hit the Road", *Institute for War and Peace Reporting*, 21 February 2005.

The Government Portal of the Republic of Uzbekistan, "Interethnic harmony – factor for peace and stability", 2011.

Tomiuc, E., "Uzbek President Calls Homosexuality 'Vulgar' Western Habit", *Radio Free Europe*, 8 February 2016.

Turghunov, P., "Islam Karimov: Uzbekistan Faces Questions after Leader's Death", *BBC*, 4 September 2016.

United Kingdom Presidency of the Council of the European Union, "EU Statement on Uzbekistan", *OSCE,* 3 November 2005.

United Nations High Commissioner for Refugees, "Uzbekistan: UNHCR Regrets Office Closure, Alternative Arrangements in Place for Care of Refugee Caseload", *UNHCR*, 18 April 2006.

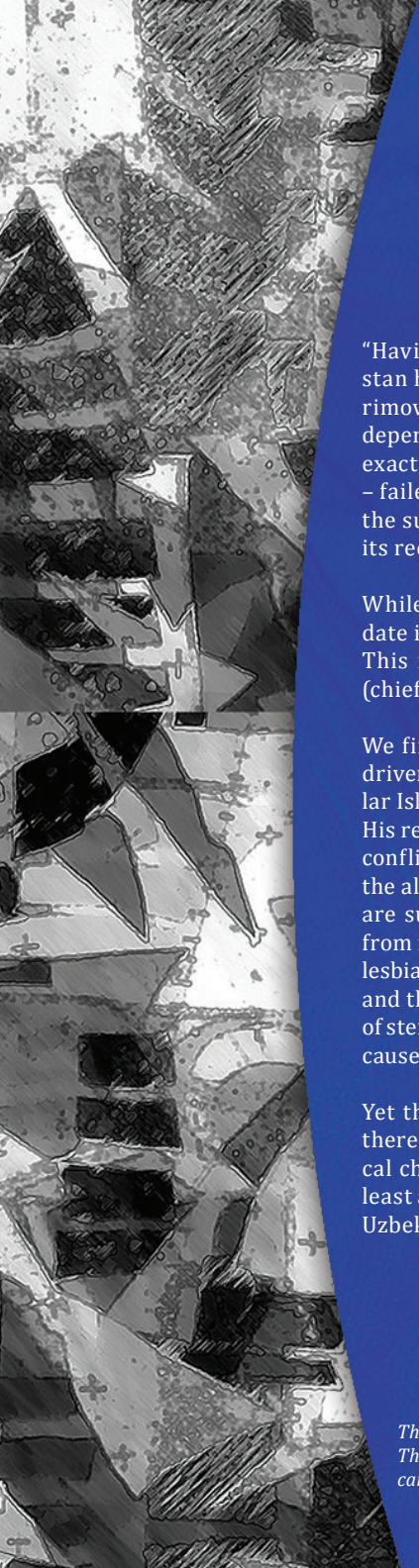
Uzbekistan Today, "Prosperity of Motherland – Achievement of Multiethnic People", 2012.

Wikileaks, "Karimov in Korea: Foreign Investment Good, but Western-Style Democracy Violates our Moral Purity", *Wikileaks,* 11 April 2006.

World Organisation against Torture, "Uzbekistan: Death in Detention of a Writer", *OMCT,* 19 March 2001.

Yahyaev., A, "Public Transportation in Uzbekistan", *Arbuz-uz*, 30 July 2014.

Youth Human Rights Movement, "Is there a Civil Society in Uzbekistan? Perspectives of Development", *Youth Human Rights Movement*, 26 November 2010.



The Equal Rights Trust is an independent international organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice.

"Having now shaken off the chains of the totalitarian system, Uzbekistan has chosen the path of democratic transformation", said Islam Karimov, the first President of Uzbekistan, as he announced the state's independence in 1991. Yet Karimov's presidency – which lasted for almost exactly 25 years, from the date of independence to his death in 2016 – failed to fulfil this promise. Instead, Uzbekistan became infamous for the suppression of dissent, labelled among the "worst of the worst" for its record on civil and political rights.

While this record is well-known, what has not been well-documented to date is the Uzbekistani experience of discrimination and disadvantage. This report, published just months after the death of the "Padishah" (chief ruler), as Karimov was known, aims to fill that gap.

We find that for 25 years, Karimov's position and polices were the key drivers of discrimination. Karimov promoted a state-sanctioned "secular Islam" and enabled the targeting of so-called "independent Muslims". His regime sought to co-opt ethnic minorities, using the spectre of ethnic conflict to justify authoritarianism, an approach which in turn enabled the almost complete marginalisation of minorities like the Lyuli. Women are subject to discriminatory policies imposed by the regime, ranging from forced sterilisation to paternalistic restrictions in employment. For lesbian, gay, bisexual and transgender persons, people with disabilities and those living with Human Immunodeficiency Virus, the perpetuation of stereotypes and the maintenance of discriminatory laws by the regime cause or exacerbate discrimination by private actors.

Yet this report concludes with the hope that with Karimov's passing, there is an opportunity. While there is no immediate prospect of a radical change in governance, the death of an all-powerful leader offers at least a moment to change. Thus, the report poses the question: how will Uzbekistan change, after the Padishah?

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