

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report -

Universal Periodic Review:

UZBEKISTAN

I. BACKGROUND INFORMATION AND CURRENT SITUATION

The Republic of Uzbekistan is not a State party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter referred to jointly as the *1951 Convention*), and neither has it adopted any national protection mechanisms for asylum-seekers and refugees. Uzbekistan therefore treats persons in need of international protection as migrants, applying its migration regulations. As a result, the specific rights of refugees are not adequately safeguarded.

The Republic of Uzbekistan has not acceded either to the *1954 Convention on the Status of Stateless Persons* or to the *1961 Convention on the Reduction of Statelessness*. Its national legal and administrative framework does not fully comply with international standards, and contains gaps that may give rise to statelessness.

In 2006, when UNHCR's office in Tashkent was closed, there were 1,412 refugees in the country; the majority has since been resettled in third countries under the UNHCR resettlement programme. Currently, approximately 200 refugees registered by UNHCR are still present in Uzbekistan. This population includes individuals who have not been accepted for resettlement, as well as those who wish to remain in Uzbekistan due to their prolonged stay in and/or strong links with Uzbekistan (mostly acquired through marriage). Most refugees are Afghan nationals; only two are from Azerbaijan. They are all Russian speakers, and are well adjusted to Uzbekistan's socio-cultural environment.

Since the closure of its operation in 2006, UNHCR's international protection mandate continues to be carried out by the Refugee Support Unit operating under UNDP; no NGOs have been authorized to provide assistance to refugees.

Lacking a presence in Uzbekistan, UNHCR has no information on either the number or the situation of stateless persons in Uzbekistan.

II. ACHIEVEMENTS AND BEST PRACTICES

Emergency response in cooperation with UNHCR

In June 2010, following the outbreak of violence in south Kyrgyzstan, a large number of Kyrgyz citizens of Uzbek ethnicity - 93, 000, according to official statistics - sought refuge in Uzbekistan. The Government of Uzbekistan actively cooperated with UNHCR to ensure the protection of the Kyrgyz refugees in this emergency situation. UNHCR was allowed to establish a temporary field presence to assist the Government in providing humanitarian assistance to these refugees. This field presence was eventually discontinued following the refugees' voluntary return to Kyrgyzstan.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Accession to the 1951 Refugee Convention and establishment of a national asylum framework

During the 1st Universal Periodic Review (UPR) cycle, Uzbekistan was recommended to accede to the *1951 Convention*. In its addendum to the report of the UPR Working Group Uzbekistan indicated that “the issue of joining to the Convention relating to the Status of Refugees (1951) will be examined.”¹ The Government indicated that it would study the recommendation's compatibility with national legislation, and would provide its answer in due time. However, since the 1st UPR cycle, UNHCR has received no indication whether Uzbekistan has conducted this study or what decision, if any, it has made regarding accession.

In this context, UNHCR further supports the recommendations made by the Committee on the Elimination of Racial Discrimination², the Committee on the Elimination of Discrimination against Women³ and the Committee against Torture⁴, which all encouraged the Government of Uzbekistan to accede to the 1951 Convention and to adopt refugee legislation.

Accession greatly facilitates UNHCR's task of mobilizing international support to address refugee situations that may arise in any country. UNHCR believes that it is necessary to broaden the base of State support for these refugee instruments, ensuring that the protection provided to refugees is more universal in scope, and the burdens and responsibilities of

¹ See: Report of the Working Group on the Universal Periodic Review, Uzbekistan, A/HRC/10/83 11 March 2009, page 22, available at

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/120/07/PDF/G0912007.pdf?OpenElement> and the addendum, para. 19 at:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/120/95/PDF/G0912095.pdf?OpenElement>

² See the Annex to this document, CERD, 77th session, 15.09.2010, concluding observations on Uzbekistan, paragraph 12, also available at the following link:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/449/70/PDF/G1044970.pdf?OpenElement>

³ See the Annex to this document, CEDAW, 45th session, 10.01.2010, concluding observations on Uzbekistan, paragraph 39, also available at the following link:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/242/94/PDF/N1024294.pdf?OpenElement>.

⁴ See the Annex to this document, CAT, 39th session, 26.02.2008, concluding observations on Uzbekistan, paragraph 24. also available at the following link:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/406/89/PDF/G0840689.pdf?OpenElement>

governments are equitably distributed and consistently applied. Moreover, accession to the 1951 Convention, and establishment of a national legal framework would provide a clearer basis for the Government of Uzbekistan to provide refugees with international protection, and a mechanism that enables the appropriate engagements of relevant international organisations like UNHCR.

The absence of national refugee/asylum legislation continues to impact negatively on persons in need of international protection. The majority of mandate refugees in Uzbekistan live in a precarious situation due to the country's lacking a refugee protection regime or alternative legal opportunities for regularization. UNHCR is concerned that persons in need of international protection in Uzbekistan may be at risk of *refoulement*. Strict migration regulations make it extremely difficult for refugees to obtain visas. As a result, many refugees lack documents, and are consequently exposed to risks of arrest, detention and deportation.

Recommendations:

- UNHCR recommends that the Government of Uzbekistan accede to the 1951 Convention.
- UNHCR recommends that the Government of Uzbekistan accept UNHCR's technical support in drafting national refugee legislation, capacity-building for Government officials and assistance in the development of a national refugee status determination procedure.
- UNHCR recommends that the Government of Uzbekistan accept UNHCR's training to relevant officials to integrate 'good practices' and international standards of asylum/refugee protection into operational guidelines and procedures.
- UNHCR encourages the Government of Uzbekistan to take all necessary safeguards to fully ensure the protection of asylum-seekers and refugees against *refoulement*.
- UNHCR recommends that Uzbekistan allows the reopening of its office in Uzbekistan to enable it to pursue its protection mandate, and cooperate on emergency preparedness, including in situations of natural disasters.

Issue 2: Lack of local integration prospects

As most refugees are not lawfully resident in Uzbekistan, they cannot access employment or health care. Furthermore, no local integration prospects are available, even for those refugees who are married to Uzbek nationals and who have common children of Uzbek nationality. Such situation affects the right to family life/unity.

UNHCR recommends that Uzbekistan facilitates local integration by granting residency status to mandate refugees present in Uzbekistan, including those married to Uzbek nationals, as well as all long staying mandate refugees for whom resettlement and/or repatriation is not a viable option.

Recommendations:

- UNHCR recommends that the Government of Uzbekistan enhances reception conditions for asylum-seekers and ensures access of all persons in need of international protection to health services, employment and education.
- UNHCR recommends that the Government initiate and implement public advocacy and awareness-raising campaigns so as to promote a better understanding of issues relating to human rights, migration, and persons in need of international protection. The Government should also

encourage media, professional institutions and educational institutions to include in their curricula courses related to multiculturalism, diversity, equal opportunities, human rights, and the particular situation of persons in need of international protection.

Issue 3: Difficulties facing refugee women

In addition to the protection issues currently faced by all refugees in Uzbekistan, women refugees are confronted with additional difficulties. Refugee women from Afghanistan must contend with patriarchal practices in Afghan culture. In many cases, the only family member with a valid passport or visa is the male head of the family. Most refugee women do not work outside their homes due to lack of legal status and because of cultural restrictions. While there are indications of domestic violence in certain refugee families, refugee women prefer not to report it. In addition, refugee women are reluctant to report abuse to the authorities.

Another problem is the inability of refugee women to divorce legally in Uzbekistan. The courts would not accept an application on a matrimony issue from a foreigner, and would refer refugees to the authorities of the country of origin. In addition, a refugee without a visa would not be able to initiate a court case on divorce, especially when the documents confirming marriage are missing or have never been issued. Indeed, this lack of access to the court system applies not only in respect of matrimony disputes, but to any other legal protection issue that mandate refugee women might face.

Recommendation:

UNHCR recommends that the Government of Uzbekistan take specific measures to protect refugee women recognized under UNHCR's mandate from gender-based violence. Such measures should also include a provision to exempt women applying for asylum in Uzbekistan from punishment for violation of migration regulations.

Issue 4: Accession to the Statelessness Conventions and prevention of statelessness

Stateless persons who satisfy the refugee definition contained in article 1A(2) of the *1951 Convention* are afforded the necessary international protection associated with that status. However, the international refugee protection regime does not specifically address the rights of non-refugee stateless persons in need of international protection. Thus, accession to the Statelessness Conventions would establish a framework to prevent and reduce statelessness and avoid the detrimental effects of statelessness on individuals and society by ensuring minimum standards of treatment for stateless persons

The *1954 Convention relating to the Status of Stateless Persons* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. Importantly, the *1954 Convention* also guarantees stateless persons a right to identity and travel documents and to administrative assistance.

Furthermore, the *1961 Convention on the Reduction of Statelessness* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties.

An increase in the number of State parties to the two Statelessness Conventions is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

UNHCR welcomes the recommendations made by CERD and CEDAW to the Government of Uzbekistan to consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

The national legal and administrative framework in Uzbekistan is not fully in compliance with the 1954 and 1961 Conventions related to statelessness. It is one of only two countries in Central Asia, which retains a provision whereby citizens who reside permanently abroad for five years lose their citizenship, if they fail without good reason to register with the Uzbek consular authorities (Article 21 of the 1992 Law of the Republic of Uzbekistan on Citizenship of the Republic of Uzbekistan). The Citizenship Law also has inadequate safeguards to prevent statelessness at birth among children born on State territory and to nationals abroad and fails to guarantee that persons who renounce their Uzbek citizenship become stateless, as it does not require the possession or an assurance to acquire another citizenship. Another example relates to the naturalisation requirements, which may lead to statelessness. According to the national Law on Citizenship, the conditions for admission to the Uzbek citizenship are the renunciation of foreign citizenship, permanent residence in Uzbekistan during the past five years and availability of lawful sources of subsistence. However, the renunciation of nationality is required at the stage of application for naturalization when grant of Uzbek citizenship is not yet guaranteed and may result in statelessness. Furthermore, it should be noted that refugees should not be obligated to contact the authorities of their country of citizenship, i.e. country in which they were persecuted, with a request to renounce their citizenship, as this may cause serious hardship or put the person – as well as potentially family members – at renewed risk. Stateless persons may have additional difficulties in obtaining documents proving that they are not citizens of another country.

In its concluding observations on Uzbekistan, the Committee on the Elimination of Racial Discrimination (CERD) expressed concern “*about the substantial number of stateless persons in the State party, the complicated procedures regulating the acquisition of Uzbek citizenship and the limited other measures taken to avoid statelessness. The Committee is concerned in particular about the conditioning of the acquisition of Uzbek citizenship on the renunciation of any other citizenship, which may lead to statelessness. The Committee is also concerned about the situation of children of stateless parents.*”⁵

The administrative practice may furthermore be an impediment to the acquisition of nationality of Uzbekistan. UNHCR is aware of cases when stateless residents, who fulfilled all the legal and administrative requirements, were informally advised to withdraw their application indicating that naturalization in Uzbekistan was impossible.

The Government of Uzbekistan could be encouraged to undertake a comparative analysis between their national laws and practices governing citizenship and statelessness and the

⁵ See the Annex to this document, CERD, 77th session, 15.09.2010, concluding observations on Uzbekistan, paragraph 11, also available at the following link: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/449/70/PDF/G1044970.pdf?OpenElement>

international standards set up in the 1954 and 1961 Conventions, respectively, in order to identify the gaps. UNHCR stands ready to provide assistance in this process and to assist in drafting amendments to the citizenship law to remedy the identified gaps.

Recommendations:

- UNHCR recommends that Uzbekistan positively considers acceding to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*.
- UNHCR recommends the Government of Uzbekistan to review its nationality legislation to ensure compliance with international standards in the field of prevention of statelessness and the protection of stateless persons.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
September 2012**

ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies - Universal Periodic Review:

Uzbekistan

We would like to bring your attention to the following excerpts, taken directly from **UN Treaty Monitoring Bodies' Concluding Observations and Recommendations**, relating to issues of interest and persons of concern to UNHCR with regards to Uzbekistan.

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION CERD/C/UZB/CO/6-7, 77th session 15 September 2010

11. The Committee is concerned about the substantial number of stateless persons in the State party, the complicated procedures regulating the acquisition of Uzbek citizenship and the limited other measures taken to avoid statelessness. The Committee is concerned in particular about the conditioning of the acquisition of Uzbek citizenship on the renunciation of any other citizenship, which may lead to statelessness. The Committee is also concerned about the situation of children of stateless parents (art. 5 (b)).

The Committee encourages the State party to amend its national legislation and remove administrative barriers to the acquisition of Uzbek citizenship by stateless persons, including the children of stateless persons in its territory, in an effort to prevent statelessness, as well as to consider ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

12. The Committee is concerned about the absence of specific legislation on refugees, in particular the lack of legal safeguards against forced removal of individuals to a country where their life/health may be at risk. The Committee notes the information submitted by the State party on the implementation of bilateral extradition agreements and regrets that no information was submitted on the domestic legal mechanisms ensuring the implementation of the *non-refoulement* principle. The Committee welcomes the statement made by the delegation that the issue of ratification of the 1951 Convention relating to the Status of Refugees and its Optional Protocol (1967) is currently under examination.

The Committee reiterates its recommendations for the State party to elaborate a legislative framework for the protection of refugees in accordance with international standards, to pursue its cooperation with the Office of the United Nations High Commissioner for Refugees and to protect persons who have sought refuge in Uzbekistan. The Committee also recommends that the State party, in accordance with article 5 (b) of the Convention, ensure that no person will be forcibly returned to a country where there are substantial grounds for believing that he/she will face persecution and that his/her life or physical integrity may be put at risk. In this regard, the State party is invited to establish a mechanism to permit review of decisions to remove aliens, with a suspensive effect on removals, pending examination of the review.

The Committee further encourages the State party to ratify the 1951 Convention relating to the Status of Refugees and its Optional Protocol (1967).

13. The Committee takes note of the continuing existence of a compulsory residence registration system (propiska) in the State party. While acknowledging that it is maintained for the purposes of address registration, retention of this system may affect de facto the enjoyment of a number of rights and freedoms (art. 5, para. d (i) and (ii)) for foreigners residing in the country and persons from groups vulnerable to racial discrimination.

The State party is invited to present, in its next periodic report, statistical data on the number of compulsory residence registration applications (disaggregated by region/ethnic origin of applicants) and their outcome.

15. The Committee notes the data provided on the appointment of interpreters in cases involving persons who do not understand the language in which the legal proceedings are being conducted. The Committee regrets that no statistical data appears to exist on the ethnicity of detainees in pretrial detention and of prisoners in correctional facilities.

The Committee recalls its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, and requests the State party to provide in its next report updated information on the appointment of interpreters in cases involving persons who do not understand the language in which the legal proceedings are being conducted, as well as data on the ethnicity of detainees in pretrial detention facilities and of prisoners in correctional facilities.

HUMAN RIGHTS COMMITTEE

CCPR/C/UZB/CO/3, 98th session

7 April 2010

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

The State party should take steps to adopt domestic legislation governing the treatment of refugees and asylum-seekers in compliance with the Covenant and international refugee law. The State party should also: (a) ensure that no one can be extradited, expelled, deported, or forcibly returned to a country where he or she would be at risk of torture or ill treatment or violation of the right to life; (b) establish a mechanism allowing persons who consider that such forced removal would put them at risk, to appeal against the removal decisions, with suspensive effect. In this regard, the State party should seek assistance from relevant international organizations.

COMMITTEE ON THE ELIMINATION DISCRIMINATION AGAINST WOMEN

CEDAW/C/UZB/CO/4, 45th session

26 January 2010

Trafficking

26. While welcoming the measures included in paragraph 5 above,⁶ the Committee remains concerned at the persistence of trafficking, including cross-border trafficking, and sexual exploitation of women and girls in the country, and at the fact that the country has become both a country of origin and destination, as well as a transit point, for trafficking in persons. It is further concerned at the inadequate rehabilitation procedures available to victims of trafficking who have returned from abroad and at the failure of the State party to address the root causes of trafficking, which impedes the efforts of the State party to address the trafficking problem in a serious way. The Committee also regrets the lack of information provided on the existence and implementation of regional and bilateral memorandums of understanding and/or agreements with other countries on trafficking and the inadequate information provided on the prosecution and punishment of traffickers.

27. The Committee requests the State party to take proactive and sustained measures, including through the effective implementation of the 2008 law on combating human trafficking and the national action plan on trafficking for 2008-2010, to ensure the prevention of trafficking; the timely prosecution and punishment of traffickers, both those who are directly or indirectly involved in trafficking and those who are negligent in dealing with or preventing cases of trafficking; and the provision of protection from traffickers/agents and support to victims. The Committee also recommends that information and training on the anti-trafficking legislation be provided to the judiciary, law enforcement officials, border police, public officials and social workers in all parts of the country. The Committee further calls upon the State party to increase its international, regional and bilateral cooperation with countries of origin, transit and destination by exchanging information in order to prevent trafficking, and it requests the State party to provide information about the existence and implementation of regional and bilateral memorandums of understanding and/or agreements on trafficking in its next periodic report. The Committee also recommends that the State party conduct comparative studies on trafficking and address the root causes of trafficking in order to eliminate the vulnerability of girls and women to sexual exploitation and traffickers, and undertake efforts for the recovery and social integration of the victims. The Committee further requests the State party to take the necessary steps to ensure that trafficked women and girls have access to quality medical care, counselling, financial support, adequate housing and opportunities for further training, as well as access to free legal services. The Committee calls upon the State party to ensure systematic monitoring and periodic evaluation in this respect, including the collection and analysis of data.

Refugee and asylum-seeking women

38. The Committee is concerned that the national legal framework does not provide for the protection of refugees and asylum-seekers, including women, and by the situation of the internally displaced and stateless persons. The Committee is further concerned at information that refugees who do not have valid passports or visas are not reporting violations of their rights, including gender-based violence, to the authorities, owing to fear of deportation, and

⁶ '5. The Committee commends the State party for the adoption, in April 2008, of the law on combating human trafficking, the establishment of the national interdepartmental commission on the prevention of human trafficking, with territorial interdepartmental commissions in all *raions* of Uzbekistan, and the adoption of a national action plan for 2008-2010 to improve the effectiveness of efforts to combat human trafficking.'

that the situation of refugee women is further complicated by patriarchal practices. The Committee also expresses its concern at the reported inability of refugee women to divorce legally in Uzbekistan.

39. The Committee calls on the State party to elaborate a legislative framework for the protection of refugees and asylum-seekers in accordance with international standards and to ensure human and financial resources for its implementation. The Committee calls on the State party to pursue its cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) and to protect persons who have sought refuge in Uzbekistan. In this respect, the Committee calls on the State party to take concrete measures to protect refugee women recognized under the mandate of UNHCR from gender-based violence and to ensure that refugee women can divorce legally. The Committee welcomes the statement made by the delegation of the State party that the issue of accession to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol is currently under examination, and encourages the State party to accede to these instruments without delay. The Committee also encourages the State party to consider ratifying or acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

COMMITTEE AGAINST TORTURE

CAT/C/UZB/CO/3, 39th session

26 February 2008

Violence against Women

22. The Committee remains concerned at trafficking in women for purposes of sexual exploitation.

The State party should adopt and strengthen effective measures to prevent and combat trafficking in women.

Non-refoulement

24. The Committee is concerned at the allegations received that individuals have not been afforded the full protection provided for by article 3 of the Convention in relation to expulsion, return or deportation from another country. The Committee is particularly concerned at reports of forcible return of recognized refugees and/or asylum-seekers from neighbouring countries and the unknown conditions, treatment and whereabouts since their arrival in the State party, some of whom were extradited from neighbouring countries. Although the State party's representatives stated that there is no longer a need for the United Nations High Commissioner for Refugees to be present in the country, the Committee is concerned that at least 700 recognized refugees are resident in the State party and are in need of protection and resettlement.

The State party should adopt a refugee law that complies with the terms of the Convention. The State party should invite the United Nations High Commissioner for Refugees to return and to assist in providing protection and resettlement for the refugee population. It is encouraged to consider becoming party to the 1951 Refugee Convention and its 1967 Optional Protocol.