



# Rights of the Child in Uzbekistan



The aim of OMCT country reports  
are to prevent torture

In its reports on children's rights, OMCT aims to analyse national law in terms of the international commitments that a government has made. For example, in some countries families are not informed when their child is detained and this removes a precious safeguard against abuse. The absence of such safeguards facilitates situations where the torture of children can and does occur.

In other words, the reports aim to point out where, often unknowingly, legislation facilitates grave abuses against children.

The legal analysis is supported, where possible, by urgent appeals on the torture of children documented by OMCT. These urgent appeals (OMCT intervenes almost daily on such cases) are the foundation of all our work.

The reports are not legal semantics for their own sake, but represent, in addition to the urgent actions, another side of our strategy to end torture. The reports include meaningful and feasible recommendations for legal reform aimed at reducing the incidence of child torture.

The reports are presented to the United Nations Committee on the Rights of the Child who use them to analyse how well a country is fulfilling its international commitments with regards to children. Their recommendations on the issue of torture, drawing from OMCT's reports, send a strong message from the international community on the need for action to end the torture of children.

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COMMITTEE ON THE RIGHTS OF THE CHILD  
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Report on the implementation  
of the Convention  
on the Rights of the Child  
by Uzbekistan

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# Introduction

The Uzbek population is considered to be a “young” one as, according to UNICEF figures, persons under the age of 18 years old represent more than 40% of the total population and approximately 25% of these are under five years of age.<sup>1</sup> These figures show the importance of the issues concerning children in Uzbekistan.

Within the private sphere, there is a strong cohesion between members of the family and often several generations will live together under the same roof as part of a community. Children are considered as an important part of family life and are deemed of great importance for the security and survival of the family in the future; as a result, boys are especially favoured.<sup>2</sup>

Structurally speaking, child protection is poorly organised. There is no ministry, either State committee or agency on childhood specifically dealing with children’s issues. Some ministries (ministry of culture and sport, ministry of labour and social protection of the population, ministry of public education, ministry of higher and middle education, ministry of health) have programmes

or services in charge of children’s issues, but there is no global coordination between them. At the local level, Mahalla committees partly address child rights issues through “modelling the moral and spiritual atmosphere in the family, and the upbringing of the young generation”, by intervening in family conflicts, providing advice on parenting and proper behaviour for children.<sup>3</sup>

Uzbekistan partly protects children through its legislation. Uzbekistan has recognised the supremacy of generally recognised norms of international law in the Preamble of its Constitution. In this framework, the State, its bodies, officials, public organisations and agents shall act in accordance with international standards to which Uzbekistan is a party. Uzbekistan has signed and ratified the main UN human rights standards, most of which contain provisions on

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1 - According to UNICEF statistics, in 2003, the total population was about 26,093, among them 10,600 thousands were under 18 and 2,691 thousands under 5 years old. See UNICEF website <[www.unicef.org/infobycountry/uzbekistan\\_statistics.html](http://www.unicef.org/infobycountry/uzbekistan_statistics.html)>

2 - Minnesota Advocates For Human Rights, Domestic Violence in Uzbekistan; <<http://www.mnadvocates.org/sites/608a3887-dd53-4796-8904-997a0131ca54/uploads/Uzbekreport.pdf>>, p.12

3 - For more information on Mahalla committees, see Human Rights Watch, Uzbekistan, from house to house: abuses by Mahalla Committees.

<<http://www.hrw.org/reports/2003/uzbekistan0903/uzbekistan0903full.pdf>>.

child rights compliance or which include children as beneficiaries: the International Convention on the Elimination of All Forms of Racial Discrimination (ratified on 28th September 1995, entered into force on 28th October 1995); International Covenant on Civil and Political Rights (ratified on 28th September 1995, entered into force on 28th December 1995); Optional Protocol to the International Covenant on Civil and Political Rights (ratified on 28th September 1995, entered into force on 28th December 1995); International Covenant on Economic, Social and Cultural Rights (ratified on 28th September 1995, entered into force on 28th December 1995); Convention on the Elimination of All Forms of Discrimination against Women (ratified on 19th July 1995,

entered into force on 18th August 1995); and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified on 28th September 1995, entered into force on 28th October 1995). Uzbekistan has also ratified the Convention on the Rights of the Child (hereinafter the CRC) on 29th June 1994, which entered into force on 29th July 1994. However it is not party to both Optional Protocols of the CRC.

National law protects children through very general principles: support and care for the children by the parents and the State and the society mentioned in article 64 of the Constitution<sup>4</sup>, protection of childhood by the State in article 65 of the Constitution.

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4 - Article 64 of the Constitution is as follows: "Parents shall be obliged to support and care for their children until the latter are of age. The State and society shall support, care for and educate orphaned children, as well as children deprived of parental guardianship, and encourage charity in their favour."



# I - Definition of the child (article 1 CRC)

- **General age of majority**

In conformity with article 1 of the CRC, article 22 of the Civil Code of Uzbekistan establishes that citizens attain full active capacity at the age of 18. However, the emancipation of a child is possible from 16 years old. Emancipation requires parental consent and is necessary if the child works under an employment contract or entrepreneurial activity.

- **Age of marriage**

The marriageable age is set for men at 18 and for women at 17. It may be lowered in exceptional circumstances by decision of the hokimiyat, a local government, but by no more than one year (article 15 of Family Code). This means that in exceptional cases, women can marry at 16 and men at 17.

- **Minimum age for working**

According to article 17 of the Labour Code,

the minimum age for working is fixed at 16 years old.

- **The minimum age of criminal responsibility**

According to article 17 of the Criminal Code, the minimum age of criminal responsibility is 16 years old. Nevertheless, there are exceptions according to the seriousness of the crime where the age may be lowered to 13 or 14 years old.<sup>5</sup>

- **Sexual intercourse**

Age of consent for sexual activity is 16 years old.

## II - Non discrimination (article 2 CRC)

- **Non discrimination principle in the law**

Article 65 of the Uzbek Constitution<sup>6</sup> which states that “all children shall be equal before the law regardless of their origin and the civic status of their parents” guarantees children the respect of their rights without discrimination. Anti-discriminatory dispositions can also be found in the Code of Criminal Procedure, the Education Act, the Labour Code or the Freedom of Conscience and Religious Organisations Act.

- **Gender discrimination: minimum age for marriage**

As previously mentioned (section 1), the legal age for women to marry (16 or 17 years old) is one year lower than that of men (17 or 18 years old). Despite article 65 of the Constitution, a difference still exist in Uzbek

law between men and women regarding the minimum age for marriage. A consequence of that is early marriage. This leads to numerous difficulties and risks that girls have to face once they are married such as the widespread problem of domestic violence and the traditional role of women. In the southern part of Uzbekistan, there are a number of cases of self-immolation of women and girls, although not all of them are reported. In addition, early marriage also has an impact on the number of girls following higher education compared to boys.<sup>7</sup>

- **Discrimination for religious purposes**

Discrimination for religious purposes led to the discriminatory expulsion of pupils from the ages of seven to sixteen, because of their religious attire. Most of those expelled were girls. For instance, the mother of a primary school student reported that her daughter and a niece, aged eight and nine, attended school each day wearing white headscarves, with

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6 - Uzbek Constitution,  
<<http://www.umid.uz/Main/Uzbekistan/Constitution/constitution.html>>

7 - Uzbekistan, Supplementary NGO Report, 2001  
<http://www.crin.org/docs/resources/treaties/crc.28/Uzbekistan.pdf> p.24.

their faces uncovered. When the teacher asked them to remove their scarves when on campus, they refused to do so. Four or five days after the teacher issued a warning the director of the primary school expelled the girls, but did not give their parents an official expulsion order. The mother of one of the expelled girls claimed that at least two or three girls in each grade were dismissed because of religious dress.<sup>8</sup> Although this case is not very recent, the situation is still the same today.

- **Discrimination regarding the right to education according to social origins**

Although school enrolment is generally high in Uzbekistan, meaning that nearly all children are enrolled in primary and secondary school, poor families, mostly from rural areas, have restricted access to the educational system.

- **Discrimination of other groups according to their vulnerable status**

Refugee children, disabled, street children, children in prison (and those that have been released) and those placed in orphanages and colonies do not enjoy the same access to educational and health facilities as other children who do not face such a vulnerable situation.<sup>9</sup>

Disabled children are especially vulnerable in relation to equal access to education, healthcare services and opportunities for social integration. There is an exceptionally high number of disabled children in Uzbekistan and they receive far from sufficient support. The relief payments are low and are made available only until the age of 16. Children with disabilities are discriminated against firstly, because they are educated separately from other children. Moreover, the quality of education of these

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8 - Uzbekistan. Class dismissed: discriminatory expulsions of Muslim students, HRW, October 1999, Vol. 11, No. 12 (D).

9 - Uzbekistan, Supplementary NGO Report, 2001, p. 4, <http://www.crin.org/docs/resources/treaties/crc.28/Uzbekistan.pdf>.

children is quite low.<sup>10</sup> In addition, in cases where disabled children successfully pass their admission exams, some of them are not actually admitted to schools for unknown

reasons<sup>11</sup>. In Uzbekistan, disabled children are often seen begging in the streets, the only way to make a living.<sup>12</sup>

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10 - [www.unicef.org/infobycountry/uzbekistan\\_background.html?q=printme](http://www.unicef.org/infobycountry/uzbekistan_background.html?q=printme)

11 - Uzbekistan, Supplementary NGO Report, 2001, p. 26, <http://www.crin.org/docs/resources/treaties/crc.28/Uzbekistan.pdf>.

12 - Uzbekistan, Supplementary NGO Report, 2001 <http://www.crin.org/docs/resources/treaties/crc.28/Uzbekistan.pdf>, p.20.

### III - Right to life (article 6 CRC)

Human rights groups reported and denounced arbitrary executions of children during the Andijan events in May 2005.

In May 2005, several single preliminary events lead to the 13th May massacre in Andijan. Three days earlier, a peaceful demonstration had been organised in Andijan protesting at the trial of 23 local businessmen who were accused of religious (Islamic) extremism. In addition, on the night of 12-13 May, armed men attacked military barracks and broke into the city prison and released hundreds of detainees. Following this event, violence spread and a regional government building on the main square of the city became the focus of the uprising, when protesters occupied it and took police officials hostage. The news then quickly spread, drawing hundreds of ordinary people to the square. The gathering turned into a political rally with claims for better living conditions, justice and freedom.

Eyewitnesses said that in the early evening, security forces began to fire indiscriminately into the crowd and that hundreds of peaceful and unarmed innocent civilians were

gunned down that night. Many of them were children. It seems that injured people were summarily executed and that many bodies, especially of women and children, were taken away and concealed by the authorities.

The Uzbek authorities deny this and explained the events otherwise. They stated that police officers shot only at religious extremists and terrorists who were organising a plot to overthrow the government and set up an Islamic State. The authorities also rejected an independent or international enquiry.

However, it is very difficult to get precise information since official and independent versions of the facts (number of victims, reason for an armed intervention by police officers) differ sharply. The number of child victims is not precisely known but probably amount to several tens of people.

As Andijan is situated in the extreme east part of the country, hundreds of people, including many children, left and crossed the border to Kyrgyzstan during and after the events.

## IV. Violence, abuse, neglect and maltreatment (article 19 CRC)

### 4.1. Child suffering within public premises

In this section the term public premises covers all kinds of institutions where children could be placed for any purpose such as orphanages, children's homes, institutions for disabled children, detention centres, etc. Most of them are closed environments which increase the risk of violence as well as the risk that the violence is not reported. Discipline is very strict within these institutions and in children's homes, there are only two educators for 30 children, and in institutions for disabled children, there is only one educator for 10 children. NGOs report forced labour in these premises.

### 4.2. Child abuse within the family

Although there is no official data on domestic violence and sexual abuse within the family, it is not a secret that latent violence used by parents towards their children is a common

problem in Uzbekistan. Concerning corporal punishment, 37% of parents recognise that they use corporal punishment to control their children.<sup>13</sup> Traditional means of parental education still persists in Uzbekistan and, partly due to the closed Mahalla system, no action has been taken by the government to prevent these occurrences.

Children have a right to complain in case of ill-treatment by relatives. However, despite article 67 of the Family Code that allows a child of 14 years old and up to file a suit against his/her parents/guardians, if the later do not respect his/her child rights, it is very rare that children report being abused. Many children are unaware of their rights and their possible protection. Moreover, there is no information about appropriate contacts in case of abuse, and abuse "hot lines" do not exist within the country.

Support and reinsertion of victims are also very poor: sexually abused girls are often sent to detention centres in order to cover up the family abuser instead of being

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13 - <http://www.unicef.org/uzbekistan/protection.html>.

protected.<sup>14</sup> State agencies dealing with children prefer not to interfere in family matters and seldom resort to deprivation of parental rights in cases of violence against children (articles 83-94 of the Family Code)<sup>15</sup>.

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In the absence of any official statistics, some cases are reported by NGOs and the media:

► Uzbek NGO Orzu reported the case of F., a 10th-grade schoolgirl in a Tashkent school. After the death of her father, F.'s brothers forced her to wear a "khidzhab" (headscarf) even at school. Since the 7th grade, F.'s "khidzhab" and sadness made her stay away from girls of her age. She confessed that her brothers forced her to wear "khidzhab" and did not allow her to communicate with the boys in her class. Once they locked her alone in a room for nine days, because F. had dared to tell them that she did not want to wear a "khidzhab". Her mother herself obeyed her sons, and she could not protect her daughter from the behavior of her sons. Sometimes F. did not go to school, because the traces of beatings were too obvious<sup>16</sup>.

► "Zerkalo" newspaper described a case which occurred in the Syrdar province. "Being intoxicated, Maruf M., an inhabitant of the Akaltynsk region, raped his 14-year-old stepson. As a result the boy died. The rapist was convicted for sexual assault in accordance

with article 119 of the Criminal Code - satisfaction of sexual needs in unnatural way using violence, threats or taking advantage of the helplessness of the sufferer<sup>17</sup>".

► The case law testifies to a societal pattern of domestic violence initiated by stepmothers against their stepchildren, often coupled with ignorance, if not connivance, of the father. For example, in one family in Dzhizak, the stepmother was constantly teasing and beating her stepdaughter. In the end, the latter doused herself with kerosene and burned herself in front of the stepmother<sup>18</sup>.

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14 - US State Department, section Children.

15 - Supplementary NGO Report on the implementation of the CRC by Uzbekistan, p. 18.

16 - Üññ [JRC], electronic journal, No 6, 2004.

17 - E. Usmanov, the judge of Syrdar provincial criminal court, R. Begaliyev, the assistant to the attorney of the Syrdar Province, Infanticide, Zerkalo, ? 11 (196), 14-15 March 2003, p. 4.

18 - The report of a scientific research project, the "Inventory of Protection of Women's and Children's Rights Legislation and Elaboration of Recommendations Concerning Modifications to the Criminal, Administrative, Criminal Procedure and Family Codes of the Republic of Uzbekistan", SOROS, 2002.

# V - Protection from sexual abuse, exploitation, prostitution and trafficking (article 34 CRC)

## 5.1. Legal framework

Uzbekistan has not yet signed the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography.

Legal age of sexual consent is set at 16 years old and prescribed by article 128 CC which asserts that sexual intercourse with a person under the age of sixteen is punishable. In addition, the Criminal Code clearly forbids sexual abuse, child prostitution, exploitation and child pornography in various articles. Article 118 CC states that the rape of a person who was obviously less than 18 years old shall be punished with imprisonment for 10 to 15 years (paragraph 3) and the rape of a person who was obviously less than 14 years old shall be punished with imprisonment for 15 to 20 years (paragraph 4). Other forms (considered as unnatural and forced) of child sexual abuse are punishable under article 119 CC, and also in this article heavier punishment applies to the perpetrator depending on the age of the victim. In case the victim is

younger than 14 years old, the sentence constitutes 15 to 20 years imprisonment.<sup>19</sup>

Article 135 CC prohibits sexual exploitation “or any other exploitation by deceit” and involves aggravated consequences for the perpetrator in case the victim is a juvenile. It is apparent that child prostitution also falls under this definition. The same article also prohibits trafficking outside the borders of Uzbekistan and assigns to it a higher punishment. However there is no reference made to a higher punishment in case a minor has been trafficked.

Article 130 CC concerns the production and dissemination of obscene objects (to persons under 21). The amendment of the article, which took place on August 29 2001, replaced the wording ‘pornographic things’ with ‘obscene objects’ and therewith expanded the scope of activities covered by article 130. In addition, the sentences prescribed have been slightly increased by the amendment.

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19 - This text was adopted after an amendment of Article 119 on the 29.8.2001. Previously paragraph 4 also included capital punishment.



In 2003, the Government drafted comprehensive trafficking legislature, which has not yet entered into force. In March 2004 the Ministry of Internal Affairs created an Anti-Trafficking in Persons Unit under the Criminal Investigation Division. The government has actively worked with NGOs and OSCE to combat trafficking through training of law enforcement and the protection of victims.

## 5.2. Practice

Uzbekistan has a child prostitution problem, but no official data are available to assess its proportions.<sup>20</sup> According to anecdotal reports from NGOs, the number of Uzbek children who are trafficked into prostitution abroad is growing. Traffickers most often target girls aged between the ages of 11 to 16, but boys are also trafficked. There is some information relating to young women who are forced to move to the Persian Gulf, Malaysia, South Korea, Thailand, Turkey and Western Europe for the purpose of prostitution. Many young prostitutes come from poor rural areas and deteriorated families. There are cases when parents, for profits or just in despair, sell their young daughters into sexual slavery. In large

cities such as Tashkent and Samarkand, newspaper advertisements for marriage and work opportunities abroad as dancers or waitresses in private nightclubs or restaurants are often connected to traffickers. Some local officials, operating on a relatively small scale, were reportedly helping women to obtain false passports in order to travel to Dubai to work as prostitutes.<sup>21</sup>

Street children are particularly engaged in prostitution. The State provides modest relief to these children in terms of programmes for shelter and food. They have consequently been compelled to find other means to support themselves. An unofficial estimate expressed that there are about 1500 street children in Uzbekistan.<sup>22</sup> One of the major obstacles in the fight against trafficking for the sex trade has been internal corruption, for example, bribes taken by customs and border guards.<sup>23</sup>

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20 - Supplementary NGO Report on the implementation of the Convention on the Rights of the Child in the republic of Uzbekistan, Tashkent, 2001, p. 33.

21 - Uzbekistan. Country Reports on Human Rights Practices, Bureau of Democracy, Labour and Human Rights, US Department of State, March 31, 2003.

22 - Supplementary NGO Report on the implementation of the Convention on the Rights of the Child in the Republic of Uzbekistan, Tashkent, 2001, p.20.

23 - Country Report on Human Rights Practices 2003, Uzbekistan, US Department of State: <http://www.state.gov/g/drl/rls/hrrpt/2003/27873.htm>.

The sale of children is a recent shocking phenomenon in Uzbekistan. In Samarkand province, women from rural regions sell their children in markets. A market salesgirl testified to have seen two 18 year old women with babies in their hands in the market. They approached salesmen proposing to buy their babies for about \$5 US per baby. The women refer to their misery to justify themselves. On receiving the money for the babies, they immediately disappeared.

In 2002 Sakhil Khodzhaev, the Chairman of the Society of Invalids of Samarkand

region, witnessed a woman on one of the flea markets of Samarkand called “Distant Camp”, who first wanted to sell, and then simply proposed to give for free two children under 7 years old. She explained that her husband had died, and she could not feed the children. Khodzhaev helped the woman to put the children in an orphanage. Single mothers from rural areas are the first to get rid of their children because of a higher unemployment rate in the rural area in comparison with the city, and miserable wages which are never paid on time.<sup>24</sup>

# VI - Protection from torture and other cruel, inhuman or degrading treatment (article 37 a CRC)

## 6.1. Legal framework

### 6.1.1 Constitution

Article 26 part 2 of the Constitution declares that no one may be subject to torture, violence or any other cruel or humiliating treatment and no one may be subject to any medical or scientific experiments without his consent. In addition, article 44 ensures the right to “appeal any unlawful action of state bodies, officials and public associations.” Those provisions apply to all persons in Uzbekistan, including children.

### 6.1.2 Criminal Procedure Code

Article 17<sup>25</sup> establishes that no one can be subjected to torture, violence or other humiliating treatment.

Article 22 prohibits the obtainment of statements from a suspect, accused, defendant, victim, witness, or other participants of the proceedings by means of violence, threats,

violation of their rights, and other illegal treatment.

Article 88 prohibits: any actions conducive to endangering the life and health or which are an insult to human honour and dignity; the extraction of testimonies, statements, conclusions, experimentations, documents or items by force, threat, fraud and other illegal methods, or the conduction of an investigation at night-time (subject to exceptions); attending while a person of the opposite sex is naked, in connection with investigation or hearing action, etc.

Article 215 disallows inhuman treatment of a person detained.

Article 270 obliges law-enforcement officers to undertake appropriate measures to ensure the safety of any harassed persons participating in criminal case.

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25 - “Judges, procurators, and persons carrying out initial inquiries or pre-trial investigations are under obligations to respect the honour and dignity of persons involved in a case. No one shall be subject to torture, violence or other cruel, humiliating or degrading treatment. It is prohibited to perform acts or hand down judgements which humiliate or demean a person (...) or will cause unjustified physical or mental suffering.”

### 6.1.3 Criminal Code

The Criminal Code prohibits the following acts: bringing to suicide (Article 103), intentional infliction of serious bodily injury (Article 104), intentional infliction of medium bodily injury (Article 105), intentional infliction of serious or medium bodily injury with abuse of authority when apprehending a person who has committed a socially dangerous act (Article 108), tormenting (Article 110), threat of killing or of violence (Article 112), rape (Article 118), forceful sexual intercourse in unnatural form (Article 119).

Some articles of the Criminal Code could be used to denounce acts of violence or degrading treatment against minors committed by state officers: article 127 on the inducement of a juvenile in antisocial conduct; article 128 prohibits sexual intercourse with a person under 16 years old and article 129 states that vicious acts (unforced, by force or threat) with regards to a person known to be under sixteen years of age shall be punishable. But these are only some specific aspects of child violence and torture or other cruel, inhuman or degrading treatment or punishment is not covered. Real protection of the child needs an effective prohibition of

torture against children when committed by State agents with aggravated penalties according to the age of the victim.

The law of Uzbekistan does not apply capital punishment to juvenile offenders (under 18 years of age). The most severe form of punishment is long-term imprisonment.

Finally, a recently introduced provision of Article 235<sup>26</sup> of Uzbek Criminal Code contains a definition of and sanctions torture and other cruel, inhuman or degrading treatment or punishment. Specifically Article 235 states: “Acts of torture and other cruel, inhuman or degrading treatment or punishment i.e. illegal psychological or physical pressure on the suspect, accused/charged, witness, victim or other persons involved in criminal procedure or convicted, including their close relatives by means of threats, assault and battery, beating, torture, torturing or other illegal actions performed by a public inquirer, investigator, public prosecutor or other employee of a law enforcement body, punishment execution agencies with the purpose of obtaining from them any information, acknowledgment of guilt for a crime, their self-willed punishment for committed action or any action forcing them to do any kind of action”. The aforementioned article provides

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26 - Law on Amendments into Certain Legislative Acts of the Republic of Uzbekistan dated 30 August 2003.

criminal sanctions varying from three years (or three years of correctional work) up to eight years imprisonment depending on certain circumstances and other aspects of the action.

The definition contained in the Criminal Code raises more concerns rather than providing any clarity as it refers to “illegal application of torture”. In other words, it was unclear whether the State authorises some form of legal application of torture or not.

The Supreme Court later issued a clarification stating that interpretation of the Article on torture in the Criminal Code must be made in accordance with the spirit and meaning of the Article 1 of CAT.<sup>27</sup> In theory, Uzbek legislation is strict with regards to Supreme Court clarifications in that they are deemed binding within Uzbekistan. However, in practice, neither law enforcement agencies nor other State agencies follow this requirement. Moreover, despite the law and the Supreme Court case law, practice shows that evidence has been rarely declared inadmissible on this basis.<sup>28</sup>

## 6.2. Practice

Regarding detention, as previously regretted by the Committee on the Rights of the Child in 2001, the situation is far from improved and in 2005 information is still lacking in order to properly assess the situation of torture against children in Uzbekistan.<sup>29</sup> NGOs receive claims but they difficult to verify, since visits to prisons by NGOs and other non-governmental groups has been made impossible. According to Uzbek NGOs and testimonies, torture of children has taken place in youth detention facilities, by the staff as well as by other children, and the practice of torture by law enforcement agents exist towards children.

In 2001, the Committee on the Rights of the Child was “concerned by numerous and continuing reports of ill-treatment of persons under 18 by the militia, including psychological intimidation, corporal punishment,

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27 - The criminal code definition differs from the interpretation dicta of Supreme Court which makes the reference to the Convention against torture. In its report, the State party refers to the judicial definition issued by the Supreme Court, not to the one adopted by the Parliament in its amendment to the Criminal Code.

28 - Human Rights Watch Report, Torture in Uzbek Law, <<http://www.hrw.org/reports/2000/uzbek/Uzbekd00-02.htm#TopOfPage>>.

29 - Concluding observations of the Committee on the Rights of the Child : Uzbekistan, CRC/C/15/Add.67, 07/11/2001, point 45 et 69.

including for purposes of extorting confessions [and] deplore[d] the insufficient efforts to investigate allegations of torture, as well as the failure to prosecute alleged perpetrators.”<sup>30</sup>

Problems of systematic torture practices in Uzbekistan are probably the most serious problem among other violations of human rights practiced in Uzbekistan. This fact also concerns children and, in spite of severe international criticism of the Uzbekistan government on the issue of torture, Uzbekistan today leads the list of States most careless on this matter.

Torture is reported to be carried out during all stages of criminal procedures. Violence is especially widespread during arrest and detention. The majority of cases of torture occur during the 72 hours pre-trial detention period, before charges are brought and preventive measures selected, during which prisoners are usually kept incommunicado. From the materials gathered it would appear that the use of torture during this period is the rule rather than the exception. Regarding detention, torture and ill-treatment, in Uzbek pre-trial and post-conviction facilities

remains widespread, and occurs with near-total impunity. Systematic torture practices in Uzbek detention centers has existed for some time.

Most common types of child victims, with certain exceptions, are children of political opponents and poor children (for instance, street children). In the interrogation process, authorities have regularly threatened to inflict harm on family members of the suspect, including their children in order to reach a confession by the detainee. Some children are also ill-treated by State agents only because their parent is a human rights defender.

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A clear example is the case of Mr. Abdousamad Ergachev, son of Mr. Abdousalom Ergachev, a defender well-known for his articles on the human rights situation in Uzbekistan. On March 28, 2003, Abdousamad, aged 17, was arrested on his way home with a friend. Both he and his friend were hit and insulted. They were then taken to the police station without having been informed of the charges against them. Abdousamad suffered beatings to the head and lost consciousness. When he regained consciousness, the policemen began to beat him again, while yelling “your father is an extremist” and “this is an extremist case”.<sup>31</sup>

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30 - Concluding observations of the Committee on the Rights of the Child: Uzbekistan, CRC/C/15/Add.67, 07/11/2001, point 39.

31 - FIDH, Open letter to President A. KARIMOV, President of the Republic of Uzbekistan, 12th/05/2003.

Reportedly, torture or even beatings to death have been executed in the eyes of the child(ren) of the suspect.<sup>32</sup> This is frequent in Uzbekistan and constitutes clear psychological violence.

Uzbekistan does not keep any official records or statistics on torture cases, therefore, reports are usually based on statements made by victims or personal investigations of human rights defenders and international human right organisations.

Impunity of perpetrators is a major problem and torture will continue until the authorities address the question of impunity.

Only a few police officers and security agents have been brought to justice for torture-related deaths. No such cases were brought in 2003, however, and no thorough and independent investigations were carried out into the torture deaths that occurred in 2002 and 2003, despite extensive international attention and pressure on the government to undertake swift action. Uzbek courts continue to accept as evidence confessions extracted under torture, although the Supreme Court issued an instruction to judges to exclude defendants' testimony and confessions extracted under torture.

Indeed, in practice, judges do not implement this instruction.

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## CASES

► A'zam Sharipov was an apprentice learning to make keys. His work place was near the bus stop of the Chilanzar Trade Centre. One day two persons approached him and without presenting their identities complained about the quality of a key made at the same place earlier. Upon the persistent demands of the individuals, A'zam followed them and found himself in the Chilanzar District Department of Interior (RUVD) of Tashkent City, where he was detained for 30 hours. In the RUVD he was charged with the theft of a "Mercedes" car, murder of the owner of the car and insinuated complicity to drug dealing, and was demanded to sign a testimony. A'zam could not say anything, because he had nothing to do with these charges. They then started beating him with hands and legs on his ribs, hips, calves, head, stomach, and with a wooden stick on his soles; they tied the thumbs of his hands together and squeezed and beat his hands; they put a gas mask on him, impeding his breathing; they intimidated him and told him that if he did not confess to the charges brought against him drugs would be planted on him. The boy was denied food, drink and

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32 - HR Watch Report, Torture in Uzbek Law, at <http://www.hrw.org/reports/2000/uzbek/Uzbekd00-02.htm#TopOfPage>.

sleep, and during the time he was kept in RUV D he was only let out once to use the toilet. He could not complain to anyone, because he was held incommunicado, no one was allowed to see him, his requests for a lawyer were ignored, and he was not taken to an investigator. Unable to bear such suffering, he jumped out of the window in a state of utter despair. He was taken to the hospital by a criminal investigation officer, who later was convicted under Article 103 (leading to suicide), 206 (position abuse), 235 (forcing to testify) of the Penal Code. Only after his leg was amputated, was a criminal case opened and A'zam was recognised as a victim".<sup>33</sup> Recently, the Legal Aid Society filed a lawsuit on behalf of A'zam for the compensation of the material damage caused by the acts of torture.

► On May 8, 2003 police arrested 17-year-old Chingiz Suleimanov, without a warrant, on charges of having been involved in a fight. Suleimanov has mental disabilities, and his parents claimed that he was at home on the night the fight allegedly took place. The parents speculated that the real reason for the arrest was that earlier in the year they had written to the prosecutor about alleged criminal activities taking place under the protection of the local police. The parents stated that they arrived at the Akhangaran District Police Station in time to see their son, whose head was bleeding, being forced into a car. Suleimanov screamed

that he was being beaten and begged his parents to help. The parents reported that they were unable to meet with their son but that investigators told them that their son had been arrested to silence the family and would be beaten to death if they persisted in interfering in matters that were none of their concern or complained about their son's treatment. During his trial, Suleimanov maintained his innocence and that he had been beaten. The parents reported that the judge dismissed the allegations, responding that the country's police do not beat people. On June 25, the judge sentenced Suleimanov to 5 years' imprisonment on charges of hooliganism and theft. Before transferring him to the Tashkent Youth Prison, authorities took him back to the Akhangaran Police Station on the judge's orders, where his parents claim he was beaten again. He was released on September 2004 after serving one year.

► Under the suspicion of theft and in the presence of 5 members of the Mahalla Committee, a 50-year-old criminal recidivist citizen, Abbas Sobirov, and his 40-year-old brother-in-law, Murod Khakimov, tortured 14-year-old Farkhod Saliev in order to force him to confess to a house theft of one of the Mahalla dwellers. Despite the fact that the adolescent totally denied his participation in the crime and pleaded that this issue be dealt with by the law enforcement bodies, Sobirov and Khakimov did not bother to notify the parents of Saliev or the inspection on minors' issues. Having detained the child for more than 8 hours, they used

33 - Interview of the Legal Aid Society with A'zam Sharipov of October 8, 2001, "Analysis of the judicial practice with regard to minors in the Republic of Uzbekistan", 2001, Legal Aid Society.



a piece of a rubber hose as a means of obtaining confessions, which was pushed up into the anus of the child, as a result of which the child developed peritonitis. Not a single participant of this outrageous arbitrariness acted as a witness against the criminals. On the contrary, they testified that the victim slandered "a decent person". This Mahalla Committee was composed of several persons in prestigious positions. Finally the guilt of Sabirov and Khakimov was proven and they were convicted to different terms of imprisonment",<sup>34</sup> but there were no actions with respect to the Mahalla members who assisted in the scene, although according to the CAT definition of torture, they can be held responsible for acts of torture.

► In February 2003, police arrested 15-year-old Ravshan Tozhiev on allegations of theft. At the Yunusabad District Police Station, an officer approached Tozhiev's mother and reportedly demanded the equivalent of 600,000 sums (approx. US\$ 545). When she refused, Tozhiev was taken into another room, where he was allegedly tortured. After an hour, his mother was brought into an adjoining office, where she could hear her son's screams; she then agreed to pay. One month later, another officer demanded another 500,000 sums (approx. US\$ 454) to secure Tozhiev's release. The mother then took the case to the Tashkent City Procuracy, which investigated the allegations of police brutality and corruption. In May, one of the officers was sentenced to 7 years imprisonment for attempted bribery but no charges were brought on the

accusations of police brutality. In June, Tozhiev, who had been released on a suspended sentence, was re-arrested on charges of stealing a necklace. When his mother arrived at the police station, she found marks showing ill-treatment on his body. Authorities later harassed the mother and threatened to arrest her, implying retribution for her successful complaint regarding police mistreatment of her son.<sup>35</sup>

► On May 1, 2004, Oleg Mironov was arrested for murder when he was 16 years old. He was taken to the Sabir Rakhim district police department in Tashkent. The police did not formally inform his mother. His mother received a phone call from an unidentified caller telling her where her son was. His mother saw him the day after his arrest. Oleg had a broken thumb, cigarette burns, burns under his chin and had been beaten with a baton. He told his mother that he had also been subjected to suffocation with a gas mask and a bag on his head and that the officers put the legs of a chair on his toes and then sat on the chair to smash his toes. Officers had also threatened to rape him and threatened his family. He was convicted for murder.

► The following incidents occurred on 3 April 2004. Alisher A. (born 1986) and Zafar Z. (born 1991)<sup>36</sup> were living with relatives in Tashkent while attending school. Their parents lived in another city. At 7pm on 3 April,

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34 - LAS case collection 2004.

35 - Country Report on Human Rights Practices 2003, Uzbekistan, US Department of State: <http://www.state.gov/g/drl/rls/hrrpt/2003/27873.htm>.

36 - They are relatives. The boys' families did not want their names published. These are pseudonyms.

four people came to the apartment and searched it. They seized some books in Arabic and then took the boys to an SNB department in one of the districts in Tashkent. The boys were taken to separate rooms. Alisher was handcuffed to a chair and his shirt and belt were removed from him. One officer (who had come to the apartment) said "you asked for my ID, here it is." and he hit Alisher on the sides of his head with the heel of his hand. He tried to make Alisher talk [about the subject of the investigation, who was a relative of Alisher's]. Another officer beat Alisher on his legs and bare shoulders with his own belt and then hit him in

the lower back with his fists. In the next room Alisher heard Zafar. Officers were telling Zafar to talk but the boy answered that he did not know what to say. He heard a loud noise as if Zafar were thrown against the wall. One of the officers extinguished his lit cigarette on Alisher. A third officer came in, drunk, and strangled Alisher three times until he lost consciousness each time. The officers beat him in the head. A fourth officer beat Alisher on the legs with a bar and chain. They told him to write a statement and threatened to put him in prison and warned him not to make any phone calls as they would listen to his phone.

## VII - Deprivation of liberty (article 37 b, c, d CRC)

### 7.1. Legislation: grounds for detention and premises

A juvenile can be deprived of his/her liberty before the trial and after the conviction to a detention sentence:

- pre-trial detention: a juvenile will only be detained awaiting trial only in the framework of article 236 CCP<sup>37</sup> and “in exceptional cases, when charged with a crime intentionally committed that may be followed by imprisonment for a term exceeding five years, and when other preventive measures may not provide for the proper behaviour of the defendant” (article 558 CCP). The maximum time period for pre-trial detention is three months (article 245 CCP) but can be extended by 5 months by the regional public prosecutor, by 7 months by deputy general prosecutor of Uzbekistan and by 9 months by the general prosecutor of Uzbekistan.

- post-conviction detention: in this case, the detention period cannot exceed 15 years when the person who committed crime(s) was between 13 and 18 years old. There are dif-

ferences according to the age of the juvenile offenders:

(1) to those who committed crimes between the ages of 13 and 16 years old, the duration of deprivation of liberty is up to 10 years and, in case of especially serious crimes, up to 12 years;

(2) to those who committed crimes at the age of 16 to 18 years old, the duration of deprivation of liberty is up to 12 years and, in case of especially serious crimes, up to 15 years.<sup>38</sup>

Minors are detained on the same grounds as adults. Detention is possible on both administrative and criminal grounds.

Juveniles shall be detained in educational colonies, separately from adults. Educational colonies are divided into two parts: colonies of “total regime” and colonies of “intensified regime”. Colonies of “total regime” receive minors that have been convicted for a petty offence or a serious crime

37 - Article 236 of the Code of Criminal Procedure set up measures to prevent that the accused person escapes or is a danger to society, etc.

38 - Article 86 Criminal Code.

for the first time and girls being recidivists. Colonies of “intensified regime” receive boys that have been convicted as recidivist for intentional offences. Moreover, according to article 124 of the Penal Code, juveniles aged under 16 shall be detained separately from those over 16 (article 124 CC).

## 7.2. Practice

In its last concluding observations, the Committee on the Rights of the Child was concerned about insufficient information in the area of juvenile justice, and particularly about deprivation of liberty.<sup>39</sup>

Until today it has been difficult (to not say impossible sometimes) to accurately assess the situation in juvenile detention centres and colonies. Foreign delegations have not been granted access to these institutions, although in some cases arrangements were made but cancelled last minute. This has created a strong impression that conditions of detention are not in accordance with international standards. This is reinforced by the existence of cases of unregistered detentions.

As previously mentioned, deprivation of liberty can happen before or after the conviction.

Before the conviction, children can be sent into investigation solitary confinement cells that are on police premises. Despite that the law requires children to be kept separately from adults (articles 228 and 558 of the Criminal procedure Code), this is generally not the case. This often leads to negative influence on the child’s behaviour or abuse by adult inmates. The cells are overcrowded, have insufficient lighting, no ventilation, and no heating.

Since the last CRC’s concluding observations, the situation has hardly improved. Since the last CRC report, there is little improvement regarding the pre-trial detention of children. However, when the child is arrested, judges now mostly let him/her stay at home until the court hearing. There is a current trend according to which pre-trial detention of juveniles is decreasing.

Following conviction, juveniles can be sent to colonies. Such facilities are known to be poor in Uzbekistan: they are overcrowded (contrary to adults, children do not have the right to a single room, after having

<sup>39</sup> - Concluding observations of the Committee on the Rights of the Child: Uzbekistan, CRC/C/15/Add.67, 07/11/2001, point 69.

committed especially grave crimes).<sup>40</sup> Very often children are confined in cells together with adults<sup>41</sup> despite the express interdiction of the Code of Criminal Procedure. People are mistreated and even tortured and a number reportedly die. Children are frequently abused by older detainees or forced to prostitution.

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The following information is from a testimony of a boy detained in the Zangiota colony.

They are around 50 children living in the same room. They have to clean their room themselves. The food is monotonous and most of the children complain of being constantly hungry. Every Saturday, priests from the Orthodox Church visit the colony. At first these visits were accompanied by the officials of the colony, then after the priests gained their trust, the officials left the children alone with visitors from the church. However, Muslim children are not allowed to pray daily.

When asked about privacy the interviewee did not know the meaning of this concept. The common bedroom is equipped with 50 beds with a bedside table by each one. There are no rooms with locks and no other possibility for privacy. Furthermore, the written communications of the juvenile prisoners are subjected

to official censorship. If the administration dislikes the content of a letter it will not be delivered.

According to the interviewee, most of the children in the colony were tortured during investigations. In the case of the interviewee, he was threatened by militia officers with physical violence if he would not take the blame for a murder which took place in January 2003. There were other boys who were more badly tortured. The interviewee stated that militia officers tried to avoid leaving any signs of torture on the body during his detention. For example, they placed two books on his head and proceeded to beat the books with a hammer. Also one boy was reportedly put in a safe and then militia officers hit the safe with metallic sticks.

In the colony, it was reported that one boy who forgot to iron his trousers was forced to put his own faeces on his face in front of everyone as punishment. Beatings are also regular. And as punishment the prison administration frequently uses labour duties.

Forced labour is widely used in juvenile prisons which shows a clear contradiction to the UN Rules on the Protection of Juveniles Deprived of their Liberty.

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40 - UN Study on Violence Against Children, Response to questionnaire received from the Government of the Republic of Uzbekistan, UZ/UN/04-134.

41 - Regarding the separation from adults, there is no difference between boys and girls. There is only one colony for women in Uzbekistan and girls are detained with female adult inmates.

Children are also frequently placed in solitary cell called karcer. This cell contains a chair made of concrete and the bed is locked to the wall. At night, a guard is supposed to come and unlock the bed. However, there are reports that this has not happened. The temper-

ature in this cell during the winter is colder than outside. Administrators of juvenile prisons constantly beat children and use obscene language in their regard.

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# VIII - Children in conflict with the law: juvenile justice system (article 40 CRC)

## 8.1. Legal framework

In reality, a juvenile justice system does not exist in Uzbekistan. There are only some particular rules integrated in the general system of criminal law. There are no specific courts with the jurisdiction to judge criminal cases involving minors. Juvenile offenders also suffer from a lack of procedural safeguards. Moreover, there are no special departments of investigation and cases involving children are dealt with by the general jurisdiction. Judges, law enforcement officials, lawyers and all other judicial or para-legal personnel lack adequate training regarding the specific rights and needs of children in conflict with the law.

Commissions on Minors' Affairs are in charge of prevention of juvenile delinquency and should act towards children in need of care, children with antisocial conducts, and deal with the rights and interests of children and rehabilitation of children socially marginalised. Commissions on Minors' Affairs work under the management of the Tashkent hokimiyat, under the Council

of ministers of the Republic of Karakalpakstan or under the Council of ministers of the Republic of Uzbekistan. Those Commissions assign prevention inspectors. They represent the police and one of their duties is the prevention of juvenile delinquency. Unfortunately, the law does not require that these inspectors have a minimum appropriate knowledge and skills in child rights issues. They mainly work in partnership with the Mahalla committees.

This remains a very rudimentary structure which is easily subject to abuses. In this framework, arbitrary arrests and incommunicado custody are frequent. As previously told, torture and other cruel, inhuman or degrading treatment or punishment are not rare.

### 8.1.1. Minimum age of criminal responsibility

According to article 97, paragraph 1 of the Criminal Code (CC) a person is criminally liable from the age of 16 at the moment of the commission of a crime. But the next

paragraphs set up lower ages according to which a person under 16 years old can be criminally responsible:

- a minor can be considered as criminally liable from 13 years old but only on the condition that she/he has committed a crime with premeditation and aggravating circumstances;
- from the age of 14, a minor can be liable in case of serious crimes<sup>42</sup>;
- the minimum age of criminal responsibility for all other crimes is 16 years old.<sup>43</sup>

The variety of ages is a source of confusion and instead of protecting the minors, it can lead to abuse according to the way the law is implemented by the judge. Indeed, the age is lowered according to the seriousness of the crime and that often means that young adolescents of 13 or 14 years of age risk harsh penalties.

### **8.1.2. Law protecting children in conflict with the law**

#### *a) Procedure*

In the absence of a real juvenile justice system, chapter 60 of Section 13 of the Code of Criminal Procedure (CCP) elaborates principles with respect to criminal proceedings regarding minors, i.e. persons aged under 18 years old, during the investigation, when juveniles are arrested and in police custody, when they are brought before the court/judge and during the trial.

The maximum duration of the questioning by the police cannot exceed 6 hours per day, excluding a necessary meal break of an hour (article 553 CCP). And the maximum time period for police custody is 72 hours.

One of the main legal guarantees is the legal representation and/or assistance. The legal representation is mandatory during the proceeding in cases involving juveniles - questioning, accusation, hearing, etc. (articles 549 and next CCP). The juvenile has the right to the presence of a legal representative when the sentence is being pronounced (article 551 CCP). The juvenile

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42 - Juveniles who have turned 14 are liable under sections 97(1), 98, 104-106, 118, 119, 137, 164-166, 169, 173 (2 and 3), 220,222, 247, 252, 263, 267, 271 and 277 (2 and 3) of the Criminal Code.

43 - <http://www.right-to-education.org/home/index.html>



has a right to legal assistance from the moment he/she is first questioned by the police agents or by the judge: the minor can retain the defence counsel of her/his choice but if he/she does not, a defence counsel can be retained by his/her representative(s), the inquiry officer or the court (article 550 CCP). During the time the minor is questioned by the police, he/she can ask for the presence of a teacher or a psychologist (article 554 CCP).

Before the trial, measures of restraint may be imposed on juvenile suspects. The minor will then be committed under the supervision of parents, guardians curators or heads of specialised juvenile institutions (article 555 CCP).<sup>44</sup> If the juvenile may not remain at the place of a former residence, he/she may be committed to a specialised juvenile institution by resolution of investigator, authorised by the prosecutor, or by finding of court.<sup>45</sup> Another measure of restraint could be pre-trial detention but only in exceptional cases.<sup>46</sup>

### *b) Sanctions*

The first paragraph of article 86 of the Criminal Code states that: “When inflicting

a penalty on a juvenile, a court being guided by general principles of inflicting penalty, shall take into account the level of juvenile’s development, conditions of his life and fostering, the reasons of commission of a crime, as well as other circumstances influencing on his personality.”

If the minor is deemed responsible of having committed an offence, he/she is punishable of:

- fines (from 2 to 20 months of salaries),
- penitentiary/correctional works,
- arrest (from 1 to 3 months),
- deprivation of liberty.

A minor may be sentenced to correctional works if he is able to work. If the minor uses working, he will carry out the correctional works with his employer. If not, the judge will decide where the minor should carry out the correctional works, bearing in mind that it should be close to the minor’s home.

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44 - Article 236 CCP sets up the purposes of and grounds for applying measures of restraint: “Measures of restraint shall be applied for the purpose of preventing the evading of a defendant from an inquiry, pre-trial investigation and trial, suppressing further criminal activities of defendant, preventing his attempts made to impede the establishment of the issues and securing the execution of a sentence. A ground for imposing a measure of restraint in the form of custody may be sufficient grounds to believe that the defendant will flee from inquiry, pre-trial investigation, or trial for only the reason of dangerousness of the offence he has committed.”

45 - Article 557 of the CCP.

46 - See section 7 on deprivation of liberty.

Conventional conviction may replace correctional works or deprivation of liberty. According to article 72 of the Criminal Code, the conventional conviction may last from 1 to 3 years. For the minor, it consists in repairing damage, working or carrying out studies. During the conventional conviction, the minor should inform the representatives of the Ministry of internal affairs who monitors any modifications in the life of the minor.

Uzbek law does not apply capital punishment to juvenile offenders under 18, for whom the most severe form of punishment is long-term imprisonment which cannot exceed 15 years for a crime of special gravity.

## 8.2. Practice

It is not rare that some basic guarantees are infringed during the different stages of the proceedings.

Regarding the right to a legal assistance, a legal counsel can be provided in case the juvenile cannot afford one. However, in practice, lawyers are reluctant to defend children because the State only remunerates them

with 600 sums (approx. 0,5 USD). In addition, lawyers are often informed last-minute of the details of the case. It exists also doubt as to whether the right to the presence of a psychologist, pedagogue is ever applied.

The principle of presumption of innocence is also often violated. Indeed, children and their representatives carry the burden of proving lies with the accusation.

In addition, cases of arbitrary arrest and detention without grounds are regularly reported. Motivation for arrest and detention is often lacking. Moreover, infringements of the terms of custody, fabrication of false guilt evidences incidences of bribery, falsification of charges, harassment of the offender's family and torture at the arrest and interrogation phases are also common.<sup>47</sup>

Furthermore, Uzbek society is built on the Mahalla system in which the community and the families are associated. The Mahalla functions as a social regulator. Numerous incidences of domestic violence and other family issues are solved within the Mahalla communities. Due to the importance of the Mahallas, cases of juveniles transgressing the law are also dealt with by the Aksaka (head of Mahalla). However, there is no information

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47 - See the case of Ravshan Tozhiev in section 6 on Torture.

or statistics on how these issues are resolved. Involving the community into children in conflict with law issues could be a good idea particularly in terms of rehabilitation, as it is already used in other countries. However, this kind of process needs to get the

government's support and management, and the persons involved should be made aware of children's rights and of the particular, and often vulnerable, situation when they are in conflict with the law. These are several conditions that still lack in Uzbekistan.


# Recommendations

OMCT recommends the State party to:

1. ensure the structural and legal coordination of issues on childhood between the various relevant departments;
2. sign and ratify the two Optional Protocols to the CRC;
3. set up a single age for marriage applicable to both women and men;
4. ensure equality in law and in practice of vulnerable children and provide them with adequate education, health, social support, etc;
5. carry out impartial investigation on the events which happened in Andijan in May 2005;
6. allow independent bodies to visit places where children could live or be detained;
7. lower the minimum age to file a complaint against a parent responsible of having beaten his/her child and ensure that proceedings to file a complaint are easily usable and child friendly;
8. organise a awareness campaign towards children to make them aware of their rights;
9. for all cases of child torture or other inhuman, cruel or degrading treatment or punishment, order a thorough and impartial investigation into the circumstances of the event in order to bring those responsible to trial and apply the penal and/or administrative sanctions as provided by law;
10. ensure the registration of each arrest and police custody;
11. ensure the effective presence of a social worker, relative, guardian, pedagogue, etc that would be the safeguard against abuses of the child rights and interest;
12. ensure that no court or tribunal accept evidence extracted under torture;

13. ensure that detention is only used against juvenile offender as a measure of last resort;
14. develop educational measures as an alternative to deprivation of liberty;
15. ensure that minors are rigorously separated from adults when deprived of their liberty;
16. ensure that correctional works are not painful and in compliance with ILO standards and Beijing rules;
17. organise regular training of law enforcement personnel working with children, including Mahalla committees;
18. ensure that legal assistance is effectively provided to children during all the proceedings, from the arrest to the accomplishment of the sentence in order to prevent violations of their rights;
19. address the issue of child trafficking.





COMMITTEE ON THE RIGHTS OF THE CHILD  
42<sup>nd</sup> Session - Geneva, December 2005

Concluding Observations  
of the Committee  
on the Rights of the Child:  
Uzbekistan





# CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

1. The Committee considered the second periodic report of Uzbekistan (CRC/C/104/Add.6) at its 1133rd and 1135th meetings (see CRC/C/SR.1133 and 1135), held on 19 June 2006, and adopted at the 1157th meeting, held on 2 June 2006, the following concluding observations.

## **A. Introduction**

2. The Committee welcomes the submission of the State party's second periodic report, as well as the detailed written replies to its list of issues (CRC/C/UZB/Q/2), which gave a clearer understanding of the situation of children in the State party. It further welcomes the constructive dialogue during the discussion.

## **B. Follow-up measures undertaken and progress achieved by the State party**

3. The Committee notes with appreciation:
  - (a) The information about the progress in the implementation of the National Plan of Action, adopted in 2001, based on the recommendations of the Committee on the Rights of the Child;
  - (b) The information that a law on the Guarantees of the Rights of the Child has been drafted;
  - (c) The declaration of the delegation about the possible establishment of the Ombudsperson for Children.

## **C. Principle areas of concern and recommendations**

### **1. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)**

#### *Committee's Previous Recommendations*

4. The Committee notes with satisfaction that various concerns and recommendations (CRC/C/15/Add.167) made upon the consideration of the State party's initial report (CRC/C/41/Add.8) have been addressed through legislative measures and policies. However, recommendations regarding, inter alia, adoption of a comprehensive children's code, non-discrimination, ill-treatment and abuse of children, the protection of refugees and displaced children and street children, and child labour and administration of juvenile justice have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.
5. The Committee urges the State party to make every effort to address those recommendations from the concluding observations of the initial report that have

not yet been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.

#### *Legislation and implementation*

6. The Committee notes the efforts on legislative reform made by the State party, such as the review of existing legislation on the Office of the Ombudsperson and the various bills prepared by the National Human Rights Centre (e.g. the draft law on the Guarantees of the Rights of the Child), but it is concerned at the lack of enactment of new laws.
7. The Committee recommends that the State party complete as soon as possible the current legislative efforts with a view to bringing the law into compliance with the provisions of the Convention (e.g. by adopting the law on the Guarantees of the Rights of the Child), thereby ensuring that the principles and the provisions of the Convention are fully integrated in the laws of the State party.
8. The Committee further recommends that the State party ensure adequate financial

and human resources for an effective implementation of new laws in accordance with the Convention.

### *Coordination and National Plan of Action*

9. While noting the National Plan of Action to implement the recommendations of the Committee on the Rights of the Child adopted in 2001, the Committee is concerned that it does not cover the full scope of the Convention. The Committee takes note of the Cabinet of Ministers, but it is concerned that the State party does not have a coordinated approach for the implementation of the Convention. One area of particular concern is the coordination of the national and local governmental offices responsible for children's issues.
10. The Committee recommends that the State party develop, in collaboration with civil society, a national plan of action for the full implementation of the Convention that takes into account, inter alia, the Plan of Action "A world fit for children" adopted by the General Assembly special session in May 2002, e.g. by expanding the current national plan of action to all the principles and

provisions of the Convention. The Committee also urges the State party either to establish a body at the inter-ministerial level or entrust an existing one within its administration with a clear mandate to coordinate all activities related to the implementation of the Convention, and to provide it with the necessary human and financial resources.

### *Independent Monitoring*

11. The Committee welcomes the information that the Office of the Ombudsperson receives and deals with complaints on violations of children's rights. However, the Committee is concerned at the reported insufficient financial and human resources of the Office of the Ombudsperson, and that it may not be a fully independent national institution in accordance with the Paris Principles.
12. The Committee recommends that the role of the Office of the Ombudsperson be strengthened in accordance with the Paris Principles (General Assembly resolution 48/134, annex),

taking into account the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2), and that the State party provide the Office of the Ombudsperson with adequate human and financial resources. The Committee also recommends that the State party further strengthen the expertise of the Office to deal with complaints submitted by or on behalf of children; ensure that the procedure for dealing with these complaints are child-sensitive, easily accessible; and further pursue the establishment of Children's Ombudsperson as foreseen in the draft law on the Guarantees of the Rights of the Child.

#### *Resources for children*

13. The Committee welcomes the information on the significant increase of budget allocations for health care, preschool and primary education, but is concerned that allocated financial resources are not resulting in significant improvements and that some areas

covered by the Convention are not sufficiently provided with financial resources.

14. The Committee encourages the State party to further increase its budget allocations for the implementation of all provisions of the Convention (in line with article 4) and to provide detailed information about the results in its next report. The Committee further recommends that the State party take measures to ensure that budget allocations are spent in the most efficient and effective way in order to achieve the necessary improvements.

#### *Data collection*

15. The Committee welcomes the efforts of the State party to improve data collection, e.g. by developing a list of indicators to be used at various levels, but it remains concerned that disaggregated data on persons under the age of 18 years relating to the rights contained in the Convention are not systematically collected and used effectively to assess progress and design policies to implement the Convention.

16. The Committee urges the State party to continue and strengthen its efforts to develop a comprehensive system for collecting data on all areas of the Convention to cover all those under the age of 18 years as a basis for assessing progress achieved in the realization of the children's rights and to help design policies to implement the Convention. It also recommends that the State party seek technical assistance from, inter alia, the United Nations Children's Fund (UNICEF) in this regard.

#### *Dissemination and training*

17. The Committee welcomes the efforts made by the State party to organize information and training activities. However it remains concerned that there does not seem to be a systematic training programme, and that children and the public at large, as well as many professionals working with and for children, are not sufficiently aware of the provisions of the Convention and the rights-based approach enshrined therein.

18. The Committee recommends that the State party:

(a) Strengthen public awareness campaigns on the Convention aimed at the general public and specifically at children;

(b) Develop a systematic training programme on the principles and provisions of the Convention at both the national and local levels, addressed to all professionals working with and for children, in particular teachers, judges, parliamentarians, law-enforcement officials, civil servants, local administrative workers, local authorities, Mahalla Committees, personnel working in relevant institutions and health personnel, including psychologists and social workers.

#### **1. Definition of the child (art. 1 of the Convention)**

19. The Committee welcomes the information that the minimum age of marriage will be set at age 18 for both girls and boys as recommended in previous concluding observations.

20. The Committee recommends that the State party expedite the legislative reform to that effect.

## **2. General principles (arts. 2, 3, 6 and 12 of the Convention)**

### *Non-discrimination*

21. While noting that according to the 1992 Constitution all children are equal before the law and that it guarantees to children respect of their rights without discrimination, the Committee is concerned at the lack of specific anti-discrimination legislation and at the low level of awareness of international anti-discrimination standards among judges, lawyers and law-enforcement personnel.

22. The Committee is also concerned at the prevailing disparities in the enjoyment of rights of children, in particular those belonging to the most vulnerable groups such as refugees, asylum-seekers, internally displaced children, children with disabilities, abandoned children and those living in institutions and in re-

gions with socio-economic development problems.

23. Furthermore, the Committee remains concerned about the continuing existence of a compulsory residence registration system (*propiska*), as it affects the enjoyment of a number of rights and freedoms of children, placing them in more vulnerable circumstances.

24. The Committee recommends that the State party:

(a) Adopt specific anti-discrimination legislation, as also recommended by the Committee on the Elimination of Racial Discrimination in its concluding observations adopted in April 2006 (CERD/ C/ UZB/CO/5, para. 9);

(b) Take necessary measures to ensure that all children enjoy their rights and freedoms without *de facto* discrimination;

(c) Ensure that the existing compulsory residence registration system (*propiska*) does not limit the rights and freedoms of children;

(d) Undertake (all necessary) proactive measures to combat societal discrimination, in particular against girls, refugee and asylum-seeking and internally displaced children, children with disabilities, abandoned children and those living in institutions and in regions with socio-economic development problems through inter alia public education and awareness campaigns; (e) Launch a comprehensive public education campaign to prevent and combat all forms of discrimination; (f) Undertake training activities for local authorities, Mahalla Committees, judges, lawyers and law-enforcement personnel on international anti-discrimination standards.

25. The Committee reiterates its request that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking into account general comment No. 1 on article

29, paragraph 1, of the Convention (aims of education).

*Best interests of the child*

26. While taking note of the intention of the State party to incorporate the principle of best interests of the child in the domestic legislation, the Committee is concerned that the principle of the best interests of the child is not yet reflected in legislation and appears not to be fully respected in practice.

27. The Committee recommends that the State party incorporate the principle of best interests of the child in the domestic legislation related to children, inter alia within the draft law on the Guarantees of the Rights of the Child, and encourages the State party to promote this principle in the society at large and in particular among parents and professionals working with and for the children (see paragraph 18 (b)) and the Mahalla Committees through, inter alia, public education and awareness campaigns. Respect for the views of the child.

28. The Committee reiterates its concern that traditional societal attitudes towards children limit the respect for their views, within the family, schools, other institutions and society at large.

29. The Committee recommends that the State party, in accordance with article 12 of the Convention:

(a) Promote and facilitate respect for the views of children and their participation in all matters affecting them;

(b) Ensure that children be provided the opportunity to be heard in any judicial and administrative proceedings;

(c) Provide educational information to, inter alia, parents, professionals working with and for the children (see paragraph 18 (b)), the Mahallas Committees and society at large on children's right to have their views taken into account and to participate;

(d) Undertake a regular review of the extent to which children's views are taken into consideration and of the impact this has on policies, programmes and on children themselves.

### **3. Civil rights and freedoms (arts. 7, 8, 13-17 and 37 (a) of the Convention)**

#### *Birth registration*

30. The Committee is concerned at the existence of fees for the issuance of birth certificates, which affects in particular families living in poverty, and that refugee families face particular difficulties when attempting to register their children.

31. The Committee urges the State party to take all necessary measures to ensure that children are registered immediately after birth. The Committee also urges the State party to ensure that the national legislation regulating birth registration is in accordance with the provisions of article 7 of the Convention, and to abolish the practice of charging fees for birth certificates and ensure full implementation of this prohibition.

#### *Right to life*

32. The Committee is concerned at the reports of children being killed during the



events in Andijan on 13 and 14 May 2005, and at the lack of independent investigations into these cases.

33. The Committee urges the State party to establish an independent commission of inquiry into the incidents of 13-14 May 2005 in Andijan, and to invite the Special Rapporteur on extrajudicial, summary or arbitrary executions, and other special procedure mandate holders who have made specific requests, to visit the country.

#### *Protection of privacy*

34. While noting that the right to privacy of correspondence and telephone conversations is protected in article 27 of the Constitution, the Committee is concerned at the lack of information on rules, regulations and practice regarding the protection of this right, particularly for children in institutions.
35. The Committee recommends that the State party submit specific information on these rules, regulations and practice, and on the procedure for submission and handling of complaints in case of viola-

tions of the rights to privacy. Torture and other forms of ill-treatment

36. While noting the National Plan of Action for the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee is deeply concerned at the numerous reports of torture and ill-treatment of persons under the age of 18 years, and the reportedly insufficient efforts by the State party to investigate allegations of torture and prosecute the alleged perpetrators. The Committee is also concerned at the definition of torture in the State party's Criminal Code, which seems to allow for various interpretations by the judiciary and the law enforcement authorities.
37. The Committee urges the State party:
  - (a) To amend the relevant provisions of its Criminal Code in order to ensure a consistent interpretation of the definition of torture by the judiciary and the law enforcement authorities, as recommended by the Committee against Torture and the Human Rights Committee in 2002 and 2005, respectively (CAT/C/CR/28/7 and CCPR/CO/83/UZB);

(b) To undertake systematic training programmes at the national and local level, addressed to all professionals working with and for children (see paragraph 18 (b)), and the Mahalla Committees, on prevention of and protection against torture and other forms of ill-treatment;

(c) To investigate the allegations of torture and ill-treatment of persons under 18, and take all measures to bring the alleged perpetrators to justice;

(d) To implement the National Plan of Action for the implementation of the Convention against Torture and pay particular attention to measures related to children.

**4. Family environment and alternative care (arts. 5; 18, paras. 1-2; 9-11; 19-21; 25; 27, para. 4; and 39 of the Convention)**

*Separation from parents and alternative care*

38. The Committee reiterates its concern that a high number of children, especially with disabilities, are abandoned or are otherwise deprived of a family environ-

ment. The Committee also reiterates its concern that foster care or other forms of family-based alternative care are not yet sufficiently developed and available. The Committee is also concerned at the high number of children in institutions, and that children are often placed in institutions due to parent's lack of economic means or their migrating to other countries in pursuit of work. The Committee is further concerned about the quality of care and living conditions of children placed in institutions. The Committee also notes with concern the lack of effective mechanisms for children to communicate concerns and complaints about their placement in institutions, as well as the lack of follow-up measures to support children who leave institutional care.

39. The Committee urges the State party:

(a) To adopt a comprehensive strategy and take effective measures to reduce and prevent the abandonment of children and the deprivation of their family environment, e.g. community programmes at local level, inter alia, those aiming at poverty reduction, services accessible to parents, training programmes for parents,

parental guidance and counselling, and family mediation services;

(b) To develop policies and procedures to ensure that children do receive, when necessary, adequate alternative care that fully respects the provisions of the Convention;

(c) To ensure that the implementation of the law on the Guarantees of the Rights of the Child respects the principles of the Convention in particular with regard to family environment, adoption, parental authority, legal guardianship, foster placement, placement in institutions;

(d) To take measures to increase and strengthen foster care, in particular family-type foster homes and other family-based alternative care, and to place children in institutions only as a last resort;

(e) To ensure that the decisions to place children in institutions be for a certain period of time and examined periodically to evaluate the possibility that the child might be reintegrated into his/her family or identifying an adoptive family;

(f) To take all necessary measures to ensure that children are placed in institutions only as a last resort, and that they enjoy all rights of the Convention and in particular receive appropriate protection, education and health care, and that the living conditions in institutions are of the highest standard and regularly monitored;

(g) To strengthen complaints mechanisms for children in institutions to ensure that they deal with complaints of ill-treatment effectively and in a child-sensitive manner.

### *Adoption*

40. The Committee reiterates its concern at the practice of keeping the identity of biological parents of the adoptee secret, and at the reports of abuses of adoption procedures and the lack of information on inter-country adoptions.

41. The Committee urges the State party:

(a) To establish a comprehensive national policy and guidelines governing adoption in order to ensure that domestic and

inter-country adoption is performed in full compliance with the best interests of the child and the appropriate legal guarantees in accordance with the Convention;

(b) To ensure that adopted children at the appropriate age have the right to access to the identity of their biological parents;

(c) To strengthen its monitoring of inter-country adoptions, in particular by ratifying and implementing the 1993 Hague Convention No. 33 on Protection of Children and Cooperation in Respect of Inter-country Adoption.

### *Child abuse and neglect*

42. The Committee expresses its concern at the reports of abuse and neglect with regard to children that take place in families and institutions, and at the lack of an effective reporting system. The Committee is also concerned at the lack of specific legislation on domestic violence.

43. The Committee recommends that the State party:

(a) Adopt specific legislation on domestic violence, and that it provide a definition of domestic violence and consider domestic violence as a criminal offence;

(b) Carry out effective public-awareness campaigns and adopt measures to provide information, parental guidance and counselling with a view, inter alia, to preventing violence against children;

(c) Carry out systematic training and awareness campaigns at the national and local level addressed to all professionals working with and for children (see paragraph 18 (b)), as well as the Mahalla Committees on prevention of ill-treatment and neglect of children within the family, in schools and in institutions;

(d) Establish an effective system for the reporting of child abuse and neglect and provide training for professionals working for and with the children on how to receive, monitor and investigate complaints in a child-sensitive manner, and how to bring the perpetrators to justice;

(e) Ensure access to counselling for all victims of violence as well as assistance for their recovery and social reintegration.

### *Corporal punishment*

44. While noting that corporal punishment is prohibited in schools, the Committee notes with concern the reports that it is widely practiced in the family and in institutions.
45. The Committee recommends that the State party take into account its general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (2006), and:
- (a) Prohibit corporal punishment by law in institutions and the family and ensure that legislation is properly enforced in schools and institutions, and complied with in the family;
  - (b) Carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes about corporal punishment, and promote positive, non-violent forms of discipline in schools, in institutions and at home.

### **5. Basic health and welfare (arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1-3 of the Convention)**

#### *Children with disabilities*

46. The Committee is concerned that children with disabilities remain disadvantaged in the enjoyment of their rights guaranteed by the Convention, and are not fully integrated into the education system as well as into recreational or cultural activities.
47. The Committee recommends that the State party:
- (a) Review all policies affecting children with disabilities to ensure they meet the needs of children with disabilities and are in accordance with the Convention and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities adopted by the United Nations General Assembly on 20 December 1993 (A/RES/48/96);
  - (b) Ensure that children with disabilities may exercise their rights to education and facilitate their inclusion in the mainstream education system;

(c) Increase the human and financial resources allocated to mainstream education and services for children with disabilities, and when necessary, increase the human and financial resources allocated to special education for children with disabilities;

(d) Promote greater integration of children with disabilities into recreational and cultural activities;

(e) Pursue efforts to avoid the marginalization and exclusion of children with disabilities.

### *Health and health service*

48. The Committee takes note of the State party's efforts towards health sector reform aimed at strengthening the preventive health services, making curative services more effective and efficient, and strengthening management at the local level. The Committee also acknowledges the high immunization coverage throughout the country, and the initiative from the Ministry of Health to start introducing the World Health Organization (WHO) live birth definition.

However, the Committee remains concerned at discrepancies between urban and rural areas regarding infant and under-five child mortality, and at the continuing need for primary health care at community level and the implementation of effective nutrition programmes in the health sector. The Committee is also concerned at the increasing number of children infected with preventable diseases, such as Tuberculosis, Hepatitis A and Hepatitis B.

49. The Committee recommends that the State party:

(a) Continue its reform of the health sector and its efforts to strengthen the primary care centres and the preventive health services;

(b) Plan and implement systematic health programmes, in particular nutrition programmes covering the different regions, especially those with socio-economic development problems;

(c) Continue its efforts to fully introduce the WHO live birth registration at the national level, and to implement a basic package for newborn care;

(d) Increase the parent's awareness on the monitoring of nutritional status of the children.

### *Adolescent health*

50. The Committee is concerned at the increasing number of adolescents using drugs. It is further concerned that sexually transmitted infections (STIs) and HIV/AIDS among youth are on the rise.

51. The Committee recommends that the State party:

(a) Undertake a study of adolescent health with a view to developing a comprehensive adolescent health policy that addresses in particular sexual health and drug abuse;

(b) Develop health promotion programmes for adolescents taking into account the Committee's general comment No. 4 on adolescent health and development in the context of the Convention on the Rights of the Child (2003);

(c) Train teachers, social workers and others working with children on how to address drug abuse and other adolescent health issues in a manner that is child-sensitive;

(d) Provide educational services and adequate treatment and recovery services for adolescent drug users;

(e) Take urgent measures to prevent and to combat the spread of HIV/AIDS, taking into account the Committee's general comment No. 3 on HIV/AIDS and the rights of the child (2003).

### *Standard of living*

52. The Committee notes with concern that in spite of growth rates, a large number of families live in economic hardship, near or below the level of subsistence, and that there are growing disparities in the socio-economic situation of families in rural and urban areas. The Committee is also concerned at reports of widespread practices of corruption, which are believed to have an adverse effect on the level of resources available for the implementation of the Convention.

53. The Committee recommends that the State party:

(a) Take all measures to provide support and material assistance to economically disadvantaged families, including the implementation of the Interim Poverty Reduction Strategy Paper (2005-2010) and targeted programmes with regard to the population in the greatest need in order to guarantee the right of all children to an adequate standard of living;

(b) Ensure that the financial support system provided to families living under difficult economic conditions is expanded and that day-care centres and schools assist disadvantaged families with regard to childcare and education;

(c) Take all measures to investigate allegations of practices of corruption and to prevent and eradicate corruption.

#### *Environmental health*

54. The Committee shares the State party's concern at the ecological disaster that continues to affect the Aral Sea and its environment. The Committee is deeply

concerned at the negative consequences of this disaster for the health and development of children living in the Aral Sea region (Karakalpakstan) due to the lack of safe drinking water, the use of pesticides in agriculture (cotton) and the extreme poverty of their parents.

55. The Committee recommends that the State party take all necessary measures to provide the children in the Aral Sea region with the best possible health care and to develop income-generating projects for their parents. The Committee further recommends that the State party take all necessary measures to stop the deterioration of the Aral Sea region, improve the water management and the irrigation network in the region, and systematically try to re-establish as much as possible the Aral Sea and its wetland ecosystem.

#### **6. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)**

56. The Committee welcomes the information that public education is free and compulsory until the completion of secondary



education, and the State party's efforts to improve the quality of education (e.g. the elaboration of the National Personnel Training Programme). However, the Committee remains concerned about the hidden costs of education; the lack of reliable information on dropout, repetition and absenteeism rates in primary and secondary schools; and the educational consequences of children working during cotton harvest season.

57. The Committee is also concerned at information that refugee children may have difficult access to free primary education and that they find it difficult to attend secondary school, as they are required to pay fees as foreigners.

58. The Committee recommends that the State party, taking into account the Committee's general comment No. 1 on the aims of education (2001), undertake all necessary measures to ensure that articles 28 and 29 of the Convention are fully implemented. In particular, the State party should:

(a) Ensure that primary education is free and accessible to all children, taking also

into account the Dakar Framework for Action (2000);

(b) Take measures to eliminate all hidden costs of school attendance;

(c) Take the necessary measures to improve the quality of education and to provide quality training for teachers;

(d) Ensure that refugee children have access to free primary education and facilitate access to secondary education;

(e) Guarantee that the cotton harvest season does not compromise children's right to education.

**7. Special protection measures (arts. 22, 38, 39, 40, 37 (b)-(d), 32-36, and 30 of the Convention)**

*Refugee and asylum-seeking children*

59. The Committee is concerned that the national legal framework does not provide for the protection of refugee and asylum-seeking children as well as at the situation of internally displaced and

stateless persons. The Committee is further concerned at the possible consequences that the closure of the office of UNHCR in Tashkent, upon request of the Government, may have on the protection of refugee and asylum-seeking children in the country.

60. The Committee recommends that the State party adopt national refugee and migration legislation consistent with basic human rights standards and in particular with the Convention, and that it ensure human and financial resources for its implementation.
61. The Committee encourages the State party to consider ratifying the Convention on Refugee Status of 1951 and the Optional Protocol of 1967, as well as the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on Reduction of Statelessness.

#### *Street children*

62. The Committee shares the State party's concern at the increasing number of street children. The Committee is also

concerned that these children do not have access to health and other services because they live in places where they have no residence registration.

63. The Committee recommends that the State party:
- (a) Undertake an in-depth study on the root causes and extent of this phenomenon and, based on the results of this study, establish a comprehensive strategy to prevent it and to reduce the number of street children;
  - (b) Provide further information on the situation of abandoned and homeless children in its next report;
  - (c) Ensure that these children, regardless of their residence registration, have access to health and other services, and that their rights are fully guaranteed.

#### *Economic exploitation/child labour*

64. The Committee welcomes the information that the Uzbekistan law on child labour is in compliance with international standards and the State party's efforts to

address child labour in consultation with ILO/IPEC. Nevertheless, the Committee is deeply concerned at the information about the involvement of the very many school-age children in the harvesting of cotton, which results in serious health problems such as intestinal and respiratory infections, meningitis and hepatitis.

65. The Committee urges the State party:

(a) To take all necessary measures to ensure that the involvement of school-age children in the cotton harvesting is in full compliance with the international child labour standards, inter alia in terms of their age, their working hours, their working conditions, their education and their health;

(b) To ensure regular inspection of the harvesting practice to monitor and guarantee full compliance with international child labour standards;

(c) To establish control mechanisms to monitor the extent of all other forms of child labour, including unregulated work; address its causes with a view to enhancing prevention; and, where children

are legally employed, ensure that their work is not exploitative and is in accordance with international standards;

(d) To seek assistance from the International Programme on the Elimination of Child Labour (IPEC/ ILO) and UNICEF in this regard. 66. The Committee encourages the State party to ratify ILO Conventions No. 138 (1973), concerning the Minimum Age for Admission to Employment, and No. 182 (1999), concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

*Sexual exploitation and trafficking*

67. The Committee reiterates its concern at the lack of data on and insufficient awareness of the phenomenon of sexual exploitation and trafficking of children in the State party. It is also concerned that victims of sexual exploitation do not have access to appropriate recovery and assistance services.

68. The Committee recommends that the State party:

(a) Train law-enforcement officials, social workers and prosecutors on how to receive, monitor and investigate complaints, in a child-sensitive manner;

(b) Increase the number of trained professionals providing psychological counselling and other recovery services to victims;

(c) Develop preventive measures that target those soliciting and providing sexual services, such as materials on relevant legislation on the sexual abuse and exploitation of minors as well as on education programmes, including programmes in schools on healthy lifestyles.

### *Juvenile justice*

69. While taking note of a draft special law on juvenile justice, the Committee is concerned at the lack of information on the number and conditions of children in the juvenile justice system, and at the allegations of ill-treatment of children who

are kept with adults in pre-trial detention and in police custody.

70. The Committee recommends that the State party bring the system of juvenile justice fully in line with the Convention, in particular with articles 37, 39 and 40, and with other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines); the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System; and the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238).

In this regard, the Committee recommends that the State party:

(a) Establish juvenile courts staffed with appropriately trained professional personnel;

(b) Take all measures to ensure that de-

tention, including pre-trial detention, is used only as a measure of last resort, and not in the case of status offences;

(c) Ensure that persons under the age of 18 in custody are separated from adults;

(d) Take urgent measures to improve the conditions of detention of persons under the age of 18, and bring them into full conformity with international standards;

(e) Strengthen recovery and reintegration programmes and train professionals in the area of social recovery and social reintegration of children;

(f) Introduce training programmes on relevant international standards for all professionals involved with the administration of justice;

(g) Seek technical assistance from the United Nations Panel Interagency Panel on Juvenile Justice among others.

### **8. Optional Protocols to the Convention on the Rights of the Child**

71. The Committee notes that the State party has not ratified the Optional Protocols to

the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

72. The Committee recommends that the State party ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

### **9. Dissemination and follow-up**

#### *Follow-up*

73. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Cabinet of Ministers, the Parliament and to municipal Governments and Parliaments, and the Mahalla Committees when applicable for appropriate consideration and further action.

## **Dissemination**

74. The Committee further recommends that the second periodic report and written replies submitted by the State party, and related recommendations (concluding observations) it adopted, be made widely available, including through Internet (but not exclusively), to the public at large, civil society organizations, youth groups, and children in order to generate debate and awareness of the Convention, its implementation and its monitoring.

## **10. Next report**

75. The Committee invites the State party to submit a consolidated third and fourth report, by 28 January 2010 (that is, 18 months before the due date of the fourth report). This is an exceptional measure due to the large number of reports received by the Committee every year and the consequent delay between the date of submission of a State party's report and its consideration by the Committee. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.