



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Concluding observations on the fourth periodic report of Uzbekistan\*

1. The Committee considered the fourth periodic report of Uzbekistan (CCPR/C/UZB/4) at its 3178th and 3179th meetings (CCPR/C/SR.3178 and 3179), held on 8 and 9 July 2015. At its 3192nd meeting, held on 20 July 2015, it adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the timely submission of the fourth periodic report of Uzbekistan and the information presented therein. It expresses appreciation for the opportunity to engage in a constructive dialogue with the State party's delegation on the measures taken by the State party during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/UZB/Q/4/Add.1) to the list of issues (CCPR/C/UZB/Q/4), which were supplemented by the detailed responses provided by the delegation, and for the supplementary information provided in writing.

#### B. Positive aspects

3. The Committee welcomes the adoption, on 29 September 2011, of the Pretrial Detention during Criminal Proceedings Act.

#### C. Principal matters of concern and recommendations

##### Implementation of the Committee's Views under the Optional Protocol to the Covenant

4. The Committee is concerned about the State party's failure to implement the Views adopted by the Committee under the Optional Protocol and the lack of effective mechanisms and procedures for authors of communications to seek, in law and in practice, the full implementation of the Committee's Views (art.2).

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\* Adopted by the Committee at its 114th session (29 June–24 July 2015).



**The State party should take all institutional and legislative measures to ensure that the Committee's Views are published and that mechanisms and appropriate procedures are in place to give full effect to the Views so as to guarantee the right of victims to an effective remedy when there has been a violation of the Covenant.**

**National human rights institution**

5. The Committee, while noting that both the Human Rights Commissioner (Ombudsman) of the parliament and the National Centre for Human Rights are mandated to promote and protect human rights, is concerned that neither appears to comply with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (art. 2).

**The State party should:**

(a) **Strengthen the independence, in law and in practice, of the existing human rights institutions in compliance with the Paris Principles (General Assembly resolution 48/134, annex);**

(b) **Consider applying for accreditation with the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights.**

**Non-discrimination and gender equality**

6. The Committee, while noting that the prohibition of discrimination is proclaimed in article 18 of the Constitution and is reflected in a series of legislative acts, is concerned that the prohibited grounds for discrimination appear to differ from one law to another and existing legislation does not afford protection against discrimination on all the grounds prohibited under the Covenant (arts. 2 and 26).

**The State party should take all the measures necessary to ensure that its legal framework: (a) provides full and effective protection against discrimination in all spheres, including in the private sphere, and prohibits direct, indirect and multiple discrimination; (b) contains a comprehensive list of grounds for discrimination, including colour, political or other opinion, national origin, property, birth or other status, and sexual orientation and gender identity; and (c) provides for effective remedies in cases of violations.**

7. The Committee remains concerned about reports of discrimination, harassment and violence, including by law enforcement officials, against lesbian, gay, bisexual and transgender individuals. It is further concerned that consensual sexual activities between adult males continue to be criminalized under article 120 of the Criminal Code (arts. 2, 7, 17 and 26).

**The Committee reiterates its previous recommendation (see CCPR/C/UZB/CO/3, para. 22). The State party should take effective measures to combat any form of social stigmatization, hate speech, discrimination or violence against persons based on their sexual orientation or gender identity. It should ensure the investigation, prosecution and punishment of such violent acts and should repeal article 120 of the Criminal Code in line with its obligations under the Covenant.**

8. The Committee is concerned about the lack of progress in adopting a law on equal rights and opportunities for women and men. It is further concerned about cases of forced and early marriage and bride abductions, especially in rural areas, and persistence of de facto polygamy, despite the legal prohibition against such practices (arts. 2, 3, 23, 24 and 26).

**The State party should adopt, without undue delay, a law on equal rights and opportunities for women and men and take more robust measures to ensure gender equality, both in law and in practice, including by:**

- (a) **Developing strategies to combat patriarchal attitudes and stereotypes on the roles and responsibilities of women and men in the family and society at large;**
- (b) **Strengthening efforts to achieve equitable representation of women in the judiciary, and legislative and executive bodies, including in decision-making positions, within specific time frames;**
- (c) **Ensuring effective enforcement of legal provisions prohibiting forced and early marriage and bride abductions;**
- (d) **Eliminating all forms of polygamy.**

#### **Domestic violence**

9. The Committee remains concerned (see CCPR/C/UZB/CO/3, para. 13) that violence against women, including domestic violence, continues to be regarded as a family matter. Such violence remains largely underreported particularly because of the lack of due diligence of law enforcement officers in registering and investigating such complaints and owing to the absence of adequate and sufficient protection measures and support services for victims, including medical, social and legal services, as well as accommodation or shelters. The Committee is further concerned about the lack of specific legislation criminalizing domestic violence and marital rape (arts. 2, 3, 7 and 26).

**The State party should strengthen its efforts to prevent and combat all forms of domestic violence, including by adopting without undue delay a law criminalizing domestic violence and marital rape and ensuring its effective implementation. It should also:**

- (a) **Ensure that law enforcement officers, the judiciary, social workers and medical staff receive appropriate training on how to detect and deal with cases of violence against women;**
- (b) **Strengthen efforts with a view to raising the public's awareness about the adverse impact of domestic violence, and encourage reporting of such violence;**
- (c) **Ensure that cases of domestic violence are thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims have access to effective remedies and means of protection, including to accommodation or shelters in all parts of the country and to other support services.**

#### **Accountability for human rights violations in connection with Andijan events**

10. The Committee remains concerned (see CCPR/C/UZB/CO/3, para. 8) about the lack of a full, independent and effective investigation into the mass killings, including of women and children, by military and security services during the Andijan events in May 2005, and regrets the State party's assertion that the matter has been closed and would not be revisited, citing visits by two international officials without effective investigative powers. It also regrets the lack of clear information on the revision of the regulations governing the use of firearms by law enforcement and security forces (arts. 2 and 6).

**The State party should carry out an independent, impartial, thorough and effective investigation to ensure a full, transparent and credible account of the circumstances surrounding the Andijan events in 2005, with a view to identifying, prosecuting and punishing perpetrators and providing remedies for victims. It should also ensure that its regulations governing the use of firearms by law enforcement and security forces**

**are fully compliant with the provisions of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).**

#### **State of emergency and counter-terrorism**

11. The Committee, while noting that a draft state of emergency act has been prepared, remains concerned (see CCPR/C/UZB/CO/3, para. 9) that existing regulations on states of emergency do not comply with article 4 of the Covenant. It also remains concerned (CCPR/C/UZB/CO/3, para. 15) about: (a) the overly broad definition of terrorism and terrorist activities that is reportedly widely used to charge and prosecute members or suspected members of banned Islamic movements; (b) legal safeguards for persons suspected of, or charged with, terrorism or a related crime and allegations of incommunicado detention, torture and long prison sentences in inhuman and degrading conditions in respect of such persons (arts. 4, 7, 9, 10, 14, 18 and 19).

**The State party should expedite the adoption of a law governing states of emergency and ensure its full compliance with the requirements of article 4 of the Covenant, as interpreted in the Committee's general comment No. 29. It should take all measures necessary to ensure that its counter-terrorism legislation and practices are in full conformity with its obligations under the Covenant, inter alia by:**

- (a) **Amending its overly broad definition of terrorism and terrorist activities;**
- (b) **Ensuring that persons suspected of, or charged with, terrorism or a related crime are provided in practice with all legal safeguards and that any restrictions on their rights are not arbitrary, are lawful, necessary and proportionate and subject to effective judicial oversight.**

#### **Deaths in custody**

12. The Committee is concerned about reports of deaths in custody and denial of adequate medical care. It is also concerned about the lack of effective and independent investigations into such cases (arts. 2 and 6).

**The State party should abide by its obligation to respect and protect the right to life of individuals in custody by, inter alia, taking appropriate measures to address the underlying causes of deaths in custody, ensuring prompt access to adequate medical care and taking immediate steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body, including by ordering forensic medical examinations and by ensuring that victims' families are properly informed at all stages of the investigation and that perpetrators are brought to justice.**

#### **Torture**

13. The Committee remains concerned that the definition of torture contained in the criminal legislation, including article 235 of the Criminal Code, does not meet the requirements of article 7 of the Covenant, as it is limited to illegal acts committed with the purpose of coercing testimony and therefore in practice is restricted to acts of torture committed only by a person carrying out an initial inquiry or pretrial investigation, a procurator or other employee of a law enforcement agency, and results in impunity for other persons, including detainees and prisoners. The Committee is also concerned that the State party continues to grant amnesties to persons who have been convicted of torture or ill-treatment under article 235 of the Criminal Code (arts. 2 and 7).

**The Committee reiterates its previous recommendation (see CCPR/C/UZB/CO/3, para. 10) and urges the State party, as a matter of urgency, to amend its criminal**

legislation, including article 235 of its Criminal Code, with a view to ensuring that the definition of torture is in full compliance with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and with article 7 of the Covenant and is applied to acts committed by all persons acting in their official capacity, outside their official capacity or in a private capacity when the acts of torture are committed at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. The State party should also end the practice of granting amnesties to persons convicted of torture or ill-treatment, which is incompatible with its obligations under article 7 of the Covenant.

14. The Committee remains concerned about reports that torture continues to be routinely used throughout the criminal justice system; that, despite the existing legal prohibition, forced confessions are in practice used as evidence in court, and that judges fail to order investigations into allegations of forced confessions even when signs of torture are visible; that persons complaining of torture are subjected to reprisals and family members are often intimidated and threatened to ensure that complaints are retracted; and that the rate of prosecution is very low and impunity is prevalent (arts. 2, 7 and 14).

**The Committee reiterates its previous recommendations (see CCPR/C/UZB/CO/3, para. 11). The State party should take robust measures to eradicate torture and ill-treatment, inter alia by:**

- (a) Conducting prompt, thorough, effective, independent and impartial investigations into all allegations of torture and ill-treatment, ensuring that perpetrators are prosecuted and, if convicted, are punished with adequate sanctions and that victims are provided with effective remedies, including appropriate compensation;
- (b) Establishing, as a matter of priority, a genuinely independent complaints mechanism to investigate allegations of torture or ill-treatment and ensuring that complainants are protected against any form of reprisal;
- (c) Ensuring that the prohibitions of forced confessions and the inadmissibility of torture-tainted evidence are effectively enforced in practice by law enforcement officers and by judges;
- (d) Reviewing all criminal convictions based on allegedly forced confessions and providing effective remedy to persons who were wrongly convicted;
- (e) Ensuring mandatory audiovisual recording of all interrogations in every police station and place of deprivation of liberty.

#### **Liberty and security of person**

15. The Committee remains concerned that the State party continues to detain for a period of 72 hours persons suspected of having committed an offence before bringing them before a judge, and therefore welcomes the State party's statement that in the future the length of custody may be reduced to 48 hours. It is also concerned about deficiencies in the application of the legislation governing judicial control of detention (habeas corpus) in practice, particularly allegations of: (a) forging of the time or date of detention to circumvent the legal period of detention; (b) habeas corpus hearings in the absence of the detainee, especially in politically related cases; (c) violations of the right of detainees to a lawyer, including to a lawyer of their choice; and (d) deficient legal representation provided by State-appointed defence lawyers (arts. 9 and 14).

**The Committee reiterates its previous recommendation (see CCPR/C/UZB/CO/3, para. 14). The State party should bring its legislation and practices into compliance**

**with article 9 of the Covenant, taking into account the Committee's general comment No. 35 on liberty and security of persons. Inter alia, the State party should:**

- (a) Reduce the existing maximum period of detention before a person suspected of an offence is brought before a judge from 72 to 48 hours and ensure that the date and time of arrest is that of the actual apprehension and is accurately recorded;
- (b) Ensure that habeas corpus provisions are strictly enforced in practice, including that the physical presence of the detainee during proceedings is secured, that access to a lawyer of the person's own choosing is respected and that legal representation provided by State-appointed defence lawyers is adequate;
- (c) Enhance the use of alternative measures to pretrial detention.

16. The Committee remains concerned that, in practice, the rights of persons deprived of liberty to be informed of their rights upon arrest, to notify relatives of their detention and to have access to a lawyer of their choice, and to a doctor, from the very outset of detention continue to be violated (arts. 7 and 9).

**The State party should ensure that all fundamental legal safeguards are guaranteed in practice to all persons deprived of their liberty from the very outset of detention.**

17. The Committee is concerned about the alleged practice of arbitrarily extending the soon-to-be-completed prison sentences of human rights defenders, government critics and persons convicted of religious extremism or of membership in Islamic movements banned in the State party by prosecuting and convicting such prisoners for repeated violations of the prison rules under article 221 of the Criminal Code (arts. 9 and 14).

**The State party should take all measures necessary to ensure that article 221 of the Criminal Code is not applied to arbitrarily extend prison sentences that are close to completion and that, if new charges are brought, due process rights are fully respected and the proportionality principle is strictly observed in all sentencing decisions.**

#### **Conditions of detention**

18. The Committee is concerned about numerous reports of abuses, including beatings by prison guards and other prisoners, poor conditions of detention, inadequate medical care and imposition of long and physically demanding working hours, disproportionately affecting human rights defenders, government critics and individuals convicted of membership in Islamist parties and groups. The Committee is also concerned about the lack of a national independent mechanism mandated to regularly monitor and inspect all places of detention without prior notice, and about obstacles to the proper functioning of independent national and international human rights and humanitarian organizations (arts. 7 and 10).

**The State party should:**

- (a) As a matter of priority, take measures to establish a system of regular and independent monitoring of places of detention without prior notice and create all the conditions necessary to facilitate effective monitoring by independent organizations and reinforce its efforts to grant meaningful access to places of detention to the International Committee of the Red Cross;
- (b) Ensure that persons deprived of liberty are treated with humanity and with respect for the inherent dignity of the human person, put an end to all the forms of abuses in custody outlined above and investigate promptly and independently any

**such abuses, prosecute those responsible and provide effective remedies to victims, including adequate compensation.**

#### **Forced labour**

19. While acknowledging the measures taken by the State party to reduce forced labour involving children under the age of 16 years in the cotton sector, the Committee is concerned about consistent reports indicating an increase in the use of individuals above the age of 16 years and adults to carry out forced labour in the cotton and silk sectors. It is also concerned about allegations of widespread corruption and extortion and hazardous working conditions in the cotton sector and poor living conditions during the harvest, which have even resulted in deaths (arts. 6, 8 and 24).

**The State party should put an end to forced labour in the cotton and silk sectors, inter alia, by enforcing effectively the legal framework prohibiting child and forced labour, including by rigorously prosecuting those responsible for violations and by improving the working and living conditions in those sectors. The State party should also review its laws and practices to ensure financial transparency and address corruption in the cotton industry and take all measures necessary to prevent deaths in connection with cotton harvesting, investigate thoroughly such cases when they occur and provide effective remedies, including adequate compensation, to victims' families.**

#### **Freedom of movement**

20. The Committee remains concerned that the State party still retains the exit visa system and the compulsory address/residence registration system (*propiska*). It is also concerned about reports that the State party prevents the travel of human rights defenders, independent journalists or members of the political opposition abroad by delaying the issuance of exit visas (art. 12).

**The Committee reiterates its previous recommendation (see CCPR/C/UZB/CO/3, para. 18) that the State party abolish the exit visa system and bring its compulsory address/residence registration system (*propiska*) into full compliance with the Covenant.**

#### **Independence of the judiciary and fair trial**

21. The Committee remains concerned (see CCPR/C/UZB/CO/3, para. 16) about the insufficient independence and impartiality of the judiciary, including the lack of security of tenure of judges—who have their term renewed by the Executive every five years—and regrets the lack of information on the appointment, promotion, suspension and removal of judges. It is also concerned about the independence of the Chamber of Lawyers from the executive branch (art. 14).

**The State party should take all measures necessary to ensure (a) the full independence and impartiality of the judiciary, including by guaranteeing judges' security of tenure; (b) that the appointment, promotion, suspension and removal of judges is compliant with the Covenant; (c) that the independence of the Chamber of Lawyers from the executive branch is guaranteed in law and in practice; and (d) that sufficient safeguards are in place to guarantee the independence of lawyers.**

#### **Freedom of conscience and religious belief**

22. The Committee remains concerned (see CCPR/C/UZB/CO/3, para. 19) that the legal provisions prohibiting proselytism and other missionary activities continue to be in force. It is also concerned about reports of (a) the unlawful arrest, detention, torture and ill-treatment and conviction on religious extremism-related charges of independent Muslims practising

their faith outside registered structures; (b) arrest for “illegal religious activity”, detention, fines and prison sentences for Christians and members of other minority religions conducting peaceful religious activities outside registered structures; and (c) censorship of religious materials and restriction of their use to inside buildings of registered religious groups only (art. 7, 9, 10 and 18).

**The State party should guarantee in practice the freedom of religion and belief and freedom to manifest a religion or belief and refrain from any action that may restrict such freedoms beyond the narrow restrictions permitted in article 18 of the Covenant. It should bring its legislation into conformity with article 18 of the Covenant, including through the decriminalization of proselytism and other missionary activities, and investigate all acts of interference with the freedom of religion of independent Muslims, Christians and other minority religions practising their religion outside registered structures.**

#### **Freedom of expression**

23. The Committee remains concerned (see CCPR/C/UZB/CO/3, para. 24) about consistent reports of harassment, surveillance, arbitrary arrest and detention, torture and ill-treatment by law enforcement officers and prosecutions on trumped-up charges of independent journalists, government critics and dissidents, human rights defenders and other activists, in retaliation for their work. It is also concerned about reports that freedom of expression on controversial and politically sensitive issues is severely restricted in practice, that websites providing such information are blocked and that news agencies are forbidden to function (arts. 7, 9, 10, 14 and 19).

#### **The State party should:**

(a) **Immediately take steps to provide, in practice, effective protection of independent journalists, government critics and dissidents, human rights defenders and other activists against any action that may constitute harassment, persecution or undue interference in the exercise of their professional activities or of their right to freedom of opinion and expression, and ensure that such acts are thoroughly and independently investigated, prosecuted and sanctioned and that victims are provided with effective remedies;**

(b) **Ensure that any restrictions on the exercise of freedom of expression comply with the strict requirements of article 19 (3) of the Covenant.**

#### **Peaceful assembly**

24. The Committee is concerned about reports of arbitrary restrictions on the right to peaceful assembly in law and in practice, including: (a) the excessive requirement that authorizations for holding mass events be filed at least one month in advance; and (b) the disruption of peaceful assemblies by law enforcement officers and arrests, detentions, beatings and sanctioning of participants (arts. 7, 9, 19 and 21).

**The State party should revise its laws and practices with a view to ensuring that individuals fully enjoy their right to freedom of assembly and that any restrictions imposed are in compliance with the strict requirements of article 21 of the Covenant. It should also effectively investigate all cases of violence, arbitrary arrest and detention of peaceful protesters and bring to justice those responsible.**

#### **Freedom of association**

25. The Committee remains concerned about unreasonable, burdensome and restrictive requirements for registering political parties and public associations, as well as about

termination of registration of international human rights organizations or other obstacles to the work of human rights non-governmental organizations (NGOs) (arts. 19, 22 and 25).

**The Committee reiterates its recommendation (see CCPR/C/UZB/CO/3, para. 25) that the State party should bring its regulations and practice governing the registration of political parties and NGOs into full compliance with the provisions of articles 19, 22 and 25 of the Covenant.**

#### **Participation in public life**

26. The Committee is concerned about reports that opposition political parties are denied registration and participation in elections. It is also concerned that the current electoral legal framework appears not to ensure the right of citizens to genuinely take part in the conduct of public affairs, to vote and to be elected, due to a number of undue limitations, including long-residency and language-proficiency requirements, professional exclusions and comprehensive restrictions for anyone convicted of a crime, and the denial of the right to vote to those declared incapacitated by a court or serving a prison sentence. The Committee is also concerned about reports that the 2014 parliamentary and 2015 presidential elections were conducted in the absence of genuine competition and that, despite the limit of presidential terms contained in the Constitution, the incumbent was registered as a candidate (arts. 2, 19, 21, 22 and 25).

**The State party should bring its electoral legal framework into compliance with the Covenant, including with article 25, *inter alia* by:**

- (a) **Fostering a culture of political pluralism and refraining from arbitrarily denying registration to opposition political parties and preventing their participation in elections;**
- (b) **Ensuring freedom of genuine and pluralistic political debate;**
- (c) **Revising the limitations on the right to stand for election and on the right to vote, with a view to ensuring compatibility with the Covenant;**
- (d) **Ensuring that the constitutional requirement limiting presidential terms is respected when registering candidates for presidential elections.**

#### **D. Dissemination of information relating to the Covenant**

27. The State party should widely disseminate the Covenant and the First Optional Protocol, the text of its fourth periodic report and the present concluding observations among the judicial, legislative and administrative authorities, civil society and NGOs operating in the country, as well as the general public.

28. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 11 (state of emergency and counter-terrorism), 13 (torture) and 19 (forced labour).

29. The Committee requests that the State party submit its next periodic report by 24 July 2018 and that it include specific up-to-date information on the implementation of all its recommendations and of the Covenant as a whole. The Committee requests that the State party, in preparing the report, broadly consult civil society and NGOs operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.