



Expert Working Group



The Republic of Uzbekistan

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and

Expert Working Group

and

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1. (A) Introduction

- 1.1** CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizen's freedom of association are threatened.
- 1.2** The Expert Working Group (EWG) is a human rights policy CSO based in Tashkent, Uzbekistan. EWG studies government policies and their effect on fundamental human rights and freedoms enshrined in the International Convention on Civil and Political Rights.
- 1.3** International Human Rights Organisation 'Fiery Hearts Club' is a human rights monitoring CSO currently based in France. Originally established in Uzbekistan in 2000, Fiery Hearts Club has continued to document and report on the human rights situation in Uzbekistan from France since 2011.
- 1.4** In this document, CIVICUS, the Expert Working Group and the International Human Rights Organization "Fiery Hearts Club" outline urgent concerns related to the environment in which civil society activists and human rights defenders operate in Turkmenistan, and discuss threats faced in the exercise of the freedoms of expression, association and assembly.
- 1.5** CIVICUS, the Expert Working Group and the International Human Rights Organisation 'Fiery Hearts Club' express deep alarmed by legislative and extra-legal measures taken by the Government of Uzbekistan that drastically curb the freedom of association and civil society activism.
- 1.6** CIVICUS, the Expert Working Group and the International Human Rights Organization "Fiery Hearts Club" are also greatly concerned by undue and arbitrary restrictions on freedom expression, independence of the media and access to information.
 - In Section B, CIVICUS, the Expert Working Group and the International Human Rights Organisation 'Fiery Hearts Club' highlight concerns related to the freedom of association and restrictions on civil society activities.
 - In Section C, CIVICUS, the Expert Working Group and the International Human Rights Organisation 'Fiery Hearts Club' express concerns involving harassment and arbitrary detention of human rights defenders.
 - In section D, CIVICUS, the Expert Working Group and the International Human Rights Organisation 'Fiery Hearts Club' highlight concerns relating to the freedom of expression.
 - In section E, CIVICUS, the Expert Working Group and the International Human Rights Organisation 'Fiery Hearts Club' highlight concerns regarding the freedom of assembly.
 - In section F, CIVICUS, the Expert Working Group and the International Human Rights Organisation 'Fiery Hearts Club' make a number of recommendations to address the concerns listed.

2. (B) Concerns regarding freedom of association

- 2.1** Article 34 of the Constitution of the Republic of Uzbekistan, adopted in 1992, and Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Uzbekistan is a party, guarantee the right to freedom of association. However,

unwarranted legislative and extra-legal impediments to the fulfilment of this right abound.

- 2.2** The Law on NGOs, the primary legal framework governing CSOs in Uzbekistan, includes several broad and discretionary restrictions on the activities of CSOs. According to Article 15 of the law, registration for CSOs is mandatory. Persons who establish or operate a CSO without official permission are subject to draconian financial penalties and imprisonment. In addition, under Article 216 of the Criminal Code, active participation in an unsanctioned CSO warrants a fine and heavy punishment ranging from six months to five years imprisonment. Further, according to Section 3 of the Rules of the Ministry of Justice of 12 March 1993, “On considering applications for state registration of charters of NGO in Uzbekistan’, applications for registration submitted by human rights NGOs must be sent to the National Center for Human Rights (NCHR), Uzbekistan’s official National Human Rights Institution, for review and approval. The NCHR is empowered to recommend to the Ministry of Justice to approve or deny registrations. The opinions of the NCHR are classified and cannot be challenged by the applying NGO.
- 2.3** The Law on NGOs gives the government significant and undue powers to dictate the internal affairs of national level CSOs. Of principal concern are restrictions on CSOs’ abilities to engage in inter-organisational activities and undertake advocacy initiatives with national and international entities. Domestic organisations that seek to hold a conference or invite international actors to a conference must receive permission from the Ministry of Justice (MoJ). The applying CSO must provide information to the MoJ detailing the motivation and attendees of the proposed event. The CSO is then expected to issue all invitations through the Ministry of Foreign Affairs. Accordingly, the government has a powerful tool to block essential avenues for convening, advocacy and institution building among national CSOs.
- 2.4** Further, the government has wide discretionary powers to silence perceived dissident organisations by denying them access to domestic and foreign resource mobilisation. Of particular concern is the creation of ‘Special Committees’ under the Cabinet of Ministers Decree No. 56 (2004), which are endowed with wide discretionary powers to deny or obstruct access to international funds. The Committees are comprised of representatives of national banks and Uzbek Government law enforcement agencies, including the National Security Service. According to the decree, CSOs that endeavour to secure funding from international sources must first obtain a letter of support from the Special Committees confirming that the proposed grant is worthy of support. If grant funding is approved, all transfers must be sent to one of two state-run banks. These banks have wide discretion to either delay or refuse to release the funds. In practice independent human rights CSOs are routinely blocked from receiving international funds, while pro-governmental CSOs or government organised CSOs are generally allowed to receive and access international funding.
- 2.5** Moreover, there are excessively strict controls to monitor how international funds are utilised. CSOs which receive international funding must choose between providing monthly or transactional reports to a special government body operating under the Ministry of Finance, detailing all expenditures funded from entities outside the country. The transactional reports are particularly burdensome, requiring CSOs to document and submit on each individual purchase made using international funding.
- 2.6** On 31 December 2008, the government adopted law N-ZRU-198 with the purported aim of restructuring the legal profession. However, the law includes several provisions restricting the operating environment of independent lawyers’ associations. Of

particular concern is Principle 25 of the law, which prohibits the existence of any other professional lawyers' organisations besides the government established Chamber of Lawyers. As a result, the independent Association of Lawyers of Uzbekistan and Collegium of Advocates were both forced to disband. According to the legislation, lawyers are required to join the government created Chambers of Lawyers to practise law. In addition, several Uzbek lawyers who have represented human rights activists or who have previously supported the work of international human rights organisations have been stripped of their licenses following the introduction of law N-ZRU-198.

2.7 The work of international human rights organisations in Uzbekistan remains severely obstructed. Several international organisations, including Freedom House, Open Society Institute, American Bar Association and the International Republican Institute have been abruptly expelled since 2005. In response to a court order, in early 2010, one of the few remaining international organisations operating in Uzbekistan - the representative office of the Institution of New Democracies in Uzbekistan – was closed. In addition, in June 2011, after nearly 15 years in the country, the Supreme Court upheld the Ministry of Justice's decision to disband Human Rights Watch's Uzbekistan Office.

3. (C) Concerns involving harassment, intimidation and attacks against human rights defenders and civil society activists.

3.1 Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection of human rights defenders. The ICCPR t, clearly guarantees the freedoms of expression, association and assembly. Nonetheless, despite firm legal protections, Uzbek authorities continue to harass, arrest and attack civil society activists and human rights defenders.

3.2 At the time of reporting, at least eleven civil society activists remain in prison. They include: Solijon Abdurakhmanov, Azam Farmonov, Nosim Isakov, Gaibullo Jalilov, Abdurasul Khudainasarov, Ganihon Mamatkhanov, Yuldash Rasulov, Dilmurod Saidov, Zafar Rakhimov, Nasim Isakov and Akzam Turgunov. All of these individuals were arrested and imprisoned for undertaking legitimate human rights activities. Several of the detained people have experienced an acute deterioration of health, with at least seven having reported being subject to ill treatment or torture while in custody. The International Committee of the Red Cross (ICRC) is the only independent organisation permitted to visit Uzbek penal institutions. However, it is reported that prison authorities routinely transfer imprisoned activists to other penal institutions prior to ICRC visits to prevent an objective assessment of the activists' condition.

3.3 The Government of Uzbekistan also continues to arrest and detain civil society activists at an alarming rate. For example, Uzbek authorities detained members of prominent several civil society organisations, including representatives of the Expert Working Group and Ezgulik on 10 June 2011 for picketing outside the Kyrgyzstan Embassy to mark the first anniversary of the outbreak of violence in southern Kyrgyzstan. The activists were released several hours later and instructed to desist from taking part in future demonstrations. In addition, on 30 September 2012, Uzbek security officials arrested Uktam Pardaev, head of the Djizakh regional department of the Independent Human Rights Society of Uzbekistan. Despite numerous inquiries to the local police, at the time of reporting, Pardaev's relatives and colleagues have not been able identify where he is being held.

3.4 Physical attacks and intimidation against human rights defenders perpetrated by the Uzbek authorities and government proxies remains rampant. On 5 May 2011, Gulshan

Karaeva, head of the Human Rights Society of Uzbekistan branch in Kashkadarya, published a report revealing that she had refused demands to cooperate as an informant with the Uzbekistan National Security Services. Directly following this publication, Karaeva was subject to attacks. On 19 May 2011, two women physically attacked Karaeva in a store and attempted to pull her out of a shop to a place where several cars were parked and waiting. Karaeva has been subject to other intimidation, including being detained and threatened by local police with criminal charges on 15 September 2011 while attempting to conduct an investigation of forced child labour in southern Uzbekistan. Furthermore, on 27 September 2012 Karshi City police officers arrested Karaeva and escorted her to the local police station where she was informed that a criminal case had been opened against her. According to Karaeva's colleagues, Karaeva has been charged with humiliation and defamation against two local women.

4. (D) Concerns regarding freedom of expression and access to information

- 4.1** Article 29 of the Constitution of Uzbekistan guarantees the freedom of expression, thought and information. Article 19 of the ICCPR also guarantees the freedom of expression and the right to hold opinions without interference. However, in contrast to these rights, several journalists and reporters have come under attack and harassment for reporting on sensitive topics and questioning official government policy. Further, the government continues drastically to limit access to international media and internet news sites and strictly controls domestic media outlets. The Uzbek Government's campaign to silence dissenting voices has severely jeopardised freedom of expression and has cast a chill over independent media.
- 4.2** At the time of reporting, 10 journalists remain in prison in Uzbekistan. In January 2012, days before his expected release from prison following a 13-year sentence, Muhammad Bekjanov, former editor of the Uzbekistan-based Erk newspaper, was sentenced to an additional five-year sentence for violations of internal prison rules. Bekjanov, who was first detained in 1999 along with journalist Yusuf Ruzimuradov, has been imprisoned longer than any other journalist in the world. In addition, in 2009 Dilmurod Saiid, a reporter from Tashkent, was convicted of extortion and sentenced to 12 years. Saiid wrote frequently for independent news website Uznews and pro-opposition internet outlets.
- 4.3** Since 2010, the government has convicted several independent journalists, including Elena Bondar, Viktor Krimzalov, Abdumalik Boboev and a photographer Umida Akhmedova, of libel and defamation in highly politicised cases. For example, on 15 October 2010, Boboev, an Uzbek Voice of America correspondent, was convicted on charges of criminal defamation, insult and disseminating materials that threaten public security and order. The court ordered Boboev to pay 400 times the minimum wage, approximately US\$11,000.
- 4.4** International media outlets and foreign journalists are almost entirely barred from working in Uzbekistan. Currently Agence France-Presse is the sole remaining international news outlet with an accredited reporter in the country. In March 2012, Uzbek authorities refused entry to two prominent international journalists, the BBC's Natalia Antelava and Viktoriya Ivleva of Russia's Novaya Gazeta at Tashkent international airport. In addition, in March 2011 the government greatly intensified its campaign to limit contact with foreign delegations. Principally, the National Association of Electronic Mass Media Information of Uzbekistan (NAEMMIU) decreed that editors of national radio stations must submit a report on and seek approval to undertake any joint proposals with foreign embassies. Applicants are expected to receive explicit

consent from the chairman of NAEMMIU to undertake joint projects or trips or issue invitations to foreign delegations to press conferences.

- 4.5** Access to national media outlets and internet based informational resources is severely curtailed and censored by the government. According to Resolution No. 228, 'on additional measures on development system of monitoring in sphere of mass communications', adopted on 5 August 2011 by the Cabinet of Ministries, an 'expert commission' will be established to distinguish and classify information that could ostensibly exert "a negative social impact on the citizens of Uzbekistan and the source of that information." The 'expert commission' is also endowed with excessive discretionary powers, including authorisation to recommend the closure of any media outlet and proscribe the dissemination of information resources.
- 4.6** In addition, the government regularly censors internet-based news outlets that are perceived as dissident as well as international advocacy organisations and media outlets. For example, in August 2011, directly proceeding celebrations scheduled to commemorate 20 years of Uzbek independence, Uzbek authorities obstructed access to several websites regarded as incendiary or critical of government policy, including the BBC, Russia's Nezavisimaya Gazet, Deutsche Welle, the International Women's Rights Project, Radio Free Europe/Radio Liberty, and numerous domestic sites including Uznews.net, Uzmanom.com, and Eurasianet.org.

5. (E) Concerns regarding freedom of peaceful assembly

- 5.1** Article 33 of the Constitution of Uzbekistan guarantees the right to freedom of assembly. In addition Article 21 of the ICCPR also protects the right to freedom of peaceful assembly. Nonetheless, severe limitations exist to the realisation of this right. In practice, the threat of government reprisals greatly discourages groups from holding demonstrations and protests, while constitutional guarantees providing for freedom of assembly are also severely undermined by regressive legislation.
- 5.2** According to the Uzbek Decree No.15, adopted in 2003, organisers of all planned public events must submit a detailed application at least one month in advance of an event outlining the parameters of the proposed event, including information pertaining to its objectives and the projected number of participants. A specialised commission, which includes government officials from the National Security Service and Department of the Interior, was established to evaluate all requests. The Commission is authorised to determine if the application will be denied or accepted.
- 5.3** In addition, strict limitations are placed on organisers and participants of sanctioned demonstrations, severely inhibiting application of the right to peaceful assembly. For example, according to Article 217 of the Criminal Code, fines of 50% to 75% minimum monthly wages or detention for up to six months can be imposed against organisers of an assembly if the event disrupts public order and safety. In addition, under Article 277 of the Criminal Code, persons engaged in acts of hooliganism accompanied by resisting a representative of the authorities can be sentenced to three to five years in prison.
- 5.4** On 27 June 2011, Uzbek Press and Media Day, President, Islam Karimov gave a public speech highlighting the increasing importance of the internet and the need to strengthen the environment for media. During the speech, Saodat Omonova and Malokhat Eshankulova, two Tashkent-based journalists, were arrested outside the presidential administration building. Omonova and Eshankulova were initially arrested for displaying posters announcing a hunger strike to highlight censorship and

corruption in national television and the repeated denial of requests to meet with the president. They were held for five hours and fined approximately US\$1,700 for holding an unsanctioned picket.

6. (F) Recommendations to the Government of Uzbekistan

CIVICUS, the Expert Working Group and the International Human Rights Organisation 'Fiery Hearts Club' call on the Government of Uzbekistan to create an enabling environment for civil society to operate in, in accordance with the rights enshrined in the ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In the light of this, the following specific recommendations are made.

6.1 Regarding restrictions on the freedom of association:

- The Law on NGOs should be repealed or suitably amended to ensure that restrictions on the freedom of association are removed;
- The requirement for mandatory registration of civil society organisations should be repealed;
- Law N-ZRU-198 should be amended to allow for the establishment of independent lawyers' associations;
- All undue restrictions on cooperating with international actors should be removed;
- Regulations and practices for obtaining international funding for CSOs should be made more enabling;
- The practice of obtaining confidential expert opinions by the National Center for Human Rights to inform decision on the registration of NGOs should be abolished;
- The practice of indefinite postponement of registration permissible under current legislation governing NGOs should be abolished;
- The procedure for judicial review to guarantee effective remedy in cases of violations of the right to association should be clarified.

6.2 Regarding the arbitrary detention and harassment of civil society activists:

- All due process guarantees in accordance with Article 14 of the ICCPR should be ensured to all detained persons;
- Civil society members and human rights defenders should be provided a safe and secure environment to carry out their work. All instances of violations of their rights should be independently investigated;
- All imprisoned civil society activists and human rights defenders should be unconditionally released;

- Travel restrictions placed on civil society members should be removed, permitting them to exercise their right to freedom of movement;
- International organisations should be allowed unhindered access to enter Uzbekistan and carry out their lawful mandates.

6.3 Regarding restrictions on freedom of expression and access to information, and intimidation, harassment and attacks on journalists:

- All journalists detained for exercising their freedom of opinion and expression should be unconditionally and immediately released. Their sentences should be reviewed to prevent further harassment;
- Attacks on and threats to journalists should be publicly condemned by senior government officials to ensure protection by law enforcement agencies;
- Licensing procedures for setting up independent media establishments should be simplified to support the creation of an independent and vibrant media sector;
- Unfettered access to online information resources should be allowed by removing restrictions on access to national and international news websites and social media outlets.

6.4 Regarding restrictions on freedom of assembly:

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) and the Organisation for Security and Cooperation in Europe Office for Democratic Institutions and Human Rights (ODIHR) Guidelines on Freedom of Peaceful Assembly (2007) which call for simple notification rather than explicit permission to assemble;
- Recourse for judicial review and effective remedy should be provided, including compensation, in cases of unlawful denial of the right to freedom of assembly by state authorities;
- Current criminal legislation pertaining to the violations of the procedure of holding and participating in public events, particularly Article 217 and 277 of the Criminal Code, should be repealed on the basis of their repressive nature.

6.5 Regarding access to UN Special Procedures mandate holders :

- A standing invitation should be extended to the UN Special Procedures, particularly to the Special Rapporteur on Human Rights Defenders, Special Rapporteur on Freedom of Expression, the Special Rapporteur on Freedom of Peaceful Assembly and Association and the Special Rapporteur on Independence of Lawyers and Judges.