

**UZBEKISTAN'S LATEST REPORTING
BEFORE UN TREATY BODIES: CESSCR,
CEDAW AND CRC COMMITTEES**

Informal briefing paper on the event

July 2023

Table of Contents

I. INTRODUCTION	2
II. UN TREATY BODIES SYSTEM AND UZBEKISTAN	4
III. KEY POINTS SHARED BY THE EXPERT DISCUSSION PARTICIPANTS ON THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE CESC, CEDAW AND CRC ADDRESSED TO UZBEKISTAN	7
IV. CONCLUSION	11
Annex 1.	12
Annex 2.	21
Annex 3.	28

This briefing paper is based on two Expert Discussions (EDs) held in May 2022 and February 2023 by ICJ on the implementation of recent Treaty Bodies recommendations received by Uzbekistan¹. The EDs focused on the effective implementation of the recommendations of the UN Committee on Elimination of Discrimination against Women (CEDAW), UN Committee on Economic, Social and Cultural Rights (CESC) and UN Committee on the rights of the Child (CRC). The discussions were framed around the findings and recommendations recently published by these three major UN human rights bodies, setting forth what should be the next steps for Uzbekistan.

The Discussions served as a platform for national and international experts, members of the UN Treaty Bodies, civil society representatives, State bodies, and individual experts to deliberate on the essential steps that need to be taken by Uzbekistan to effectively implement the recommendations. The events provided an opportunity for a broad range of stakeholders to engage in a meaningful discourse on the most recent UN recommendations with members of the relevant Treaty Bodies involved in their adoption.

Although the briefing paper has benefited from the discussion at the event, the opinions presented are summarized by the ICJ and may not necessarily reflect the consensus views of all participants. Consequently, it does not necessarily represent the views or legal policies of the ICJ, the event organizers, or the European Union

The three Annexes below serve to provide for a brief overview of the work and recommendations of the CESC, the CEDAW and the CRC Committees, synthesizing their most recent findings. The goal is to contribute to an informed discourse on Uzbekistan's most pertinent human rights issues and ways to address them. This should foster greater awareness and stimulate further action towards the realization of these critical human rights in Uzbekistan.

¹ The EDs were held under the EQUAL which is an EU funded project implemented by the ICJ in cooperation with the National Movement "Yuksalish". The main objective of the EQUAL project is to promote, by supporting civil society, equal protection of ESC rights for groups particularly vulnerable to discrimination in Uzbekistan. More information on two EDs can be found at: <https://www.icj.org/uzbekistan-expert-discussion-on-the-implementation-of-latest-un-treaty-bodies-recommendations/> and <https://www.icj.org/uzbekistan-experts-consider-strategies-to-improve-implementation-of-un-human-rights-treaties/>

I. UN TREATY BODIES SYSTEM AND UZBEKISTAN

The UN Treaty Bodies hold a special place among universal human rights mechanisms². They are composed of independent experts that monitor the implementation of UN human rights treaties by States Parties.³ There are ten human rights Treaty Bodies, mostly⁴ created in accordance with the provisions of the treaty that they monitor⁵.

Upon joining a universal human rights treaty, the associated Treaty Body requests that the State Party submits reports on measures taken to ensure the realization of treaty-embedded rights and freedoms.⁶ Along with States parties' reports, the treaty bodies may receive information on a country's human rights situation from other sources, including national human rights institutions (NHRIs), international and national civil society organizations (CSOs), United Nations agencies, other intergovernmental organizations, professional groups and academic institutions. The committees allocate specific plenary time to receiving submissions from CSOs.⁷ In the light of all the information available, the relevant Treaty Body examines the report in the presence of a State party's delegation.⁸ Based on this constructive dialogue, the Committee publishes its concerns and recommendations, referred to as Concluding Observations.⁹

Treaty Bodies also perform other core functions and activities, including consideration of individual communications: there is an individual complaint (communication) mechanism under each Convention, assuming that anyone may bring a complaint against a State Party alleging a violation of treaty rights to the Committee monitoring

² ICJ Background Note: Overview of the Periodic Reporting Process of the UN Human Rights Treaty Bodies, p. 1, 2014 <https://www.icj.org/wp-content/uploads/2014/02/TreatyBodies-PeriodicReporting.pdf> accessed 19 May 2023

³ OHCHR: Working with the United Nations Human Rights Programme, IV. HUMAN RIGHTS TREATY BODIES, A Handbook for Civil Society, p. 31 <http://www.ohchr.org/civilsocietyhandbook/> accessed 23 May 2023

⁴ With one exception: the Committee on Economic, Social and Cultural Rights was established by the Economic and Social Council (ECOSOC) under its resolution 1985/17. See OHCHR: The United Nations Human Rights Treaty System, Fact Sheet No. 30/Rev.1, 1 <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet30Rev1.pdf> accessed 23 May 2023

⁵ The Human Rights Committee (HRC or CCPR), established by the International Covenant on Civil and Political Rights (ICCPR), the Committee on Economic, Social and Cultural Rights (CESCR), established by the Economic and Social Council (ECOSOC) under its Resolution 1985/17, the Committee Against Torture (CAT), established by the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment (CAT), the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, established by the Optional Protocol of the Convention against Torture (OPCAT), the Committee on the Elimination of Discrimination Against Women (CEDAW), established by the Convention Eliminating all forms of Discrimination Against Women (CEDAW), the Committee on the Rights of the Child (CRC), established by the Convention on the Rights of the Child (CRC), the Committee on the Elimination of Racial Discrimination (CERD), established by the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee on Migrant Workers (CMW), established by the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Committee on the Rights of Persons with Disabilities (CRPD), established by the International Convention on the Rights of Persons with Disabilities, and the Committee on Enforced Disappearances (CED), established by the International Convention for the Protection of All Persons from Enforced Disappearance. See: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Home.aspx.

⁶ ICJ Background Note: Overview of the Periodic Reporting Process of the UN Human Rights Treaty Bodies, p. 1, 2014 <<https://www.icj.org/wp-content/uploads/2014/02/TreatyBodies-PeriodicReporting.pdf>> accessed 19 May 2023

⁷ What the treaty bodies do, < <https://www.ohchr.org/en/treaty-bodies/what-treaty-bodies-do>> accessed 19 May 2023

⁸ What the treaty bodies do, < <https://www.ohchr.org/en/treaty-bodies/what-treaty-bodies-do>> accessed 19 May 2023

⁹ What the treaty bodies do, < <https://www.ohchr.org/en/treaty-bodies/what-treaty-bodies-do>> accessed 19 May 2023

the treaty¹⁰, as well as development of General Comments on the meaning and application of the treaties in respect of which they operate.¹¹

The Committee on the Elimination of Discrimination Against Women (CEDAW Committee) and the Committee Against Torture (CAT Committee)¹² can also initiate inquiries with respect to State Parties who have recognized the competence of the relevant Committee in this regard. The procedure is usually undertaken when Committees receive reliable information containing well-founded indications of serious or systematic violations of the conventions in a State Party.¹³

To date, Uzbekistan has joined two covenants, five conventions and four optional protocols,¹⁴ (or the ICCPR, CESC, CEDAW, CRC, CRPD and CERD). Out of nine individual communication mechanisms, Uzbekistan accepted only the OP under the ICCPR.¹⁵ Moreover, the CAT Committee's inquiry procedure became applicable to Uzbekistan in 1995.¹⁶ Uzbekistan is also a party to the inter-State communication procedure under the Convention for the Protection of All Persons from Enforced Disappearance.¹⁷ The process for inter-State complaints allows a State to submit a complaint to a Treaty Body about alleged violations of a treaty committed by another State. Both States must be parties to the treaty in order to invoke this procedure.¹⁸

The latest reporting period for Uzbekistan was in 2022: the country submitted four State reports and one follow up report¹⁹. The CESC, the CEDAW and the CRC provided their Concluding Observations which included recommendations on how these treaties should be best implemented and what gaps should be addressed in law and in practice to ensure that the treaties are effectively implemented. ICJ together with national and

¹⁰ Individual Communications <https://www.ohchr.org/en/treaty-bodies/individual-communications> accessed 19 May 2023

¹¹ ICJ Background Note: Overview of the Periodic Reporting Process of the UN Human Rights Treaty Bodies, p. 1, 2014 <<https://www.icj.org/wp-content/uploads/2014/02/TreatyBodies-PeriodicReporting.pdf>> accessed 19 May 2023

¹² Read more on the inquiries at: <https://www.ohchr.org/en/treaty-bodies/human-rights-bodies-complaints-procedures/inquiries> accessed 19 May 2023

¹³ Inquiries, <https://www.ohchr.org/en/treaty-bodies/human-rights-bodies-complaints-procedures/inquiries> accessed 19 May 2023

¹⁴ Accession dates by Uzbekistan: Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (28 Sep 1995), International Covenant on Civil and Political Rights (28 Sep 1995), Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty (23 Dec 2008), Convention on the Elimination of All Forms of Discrimination against Women (19 Jul 1995), International Convention on the Elimination of All Forms of Racial Discrimination (28 Sep 1995), International Covenant on Economic, Social and Cultural Rights (28 Sep 1995), Convention on the Rights of the Child (29 Jun 1994), Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (23 Dec 2008), Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography (23 Dec 2008), Convention on the Rights of Persons with Disabilities (28 June 2021). See UN Treaty body Database Ratification Status for Uzbekistan available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=189&Lang=EN accessed 19 May 2023

¹⁵ Ratification Status for Uzbekistan https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=189&Lang=EN accessed 19 May 2023

¹⁶ Ratification Status for Uzbekistan https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=189&Lang=EN accessed 19 May 2023

¹⁷ Ratification Status for Uzbekistan https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=189&Lang=EN accessed 19 May 2023

¹⁸ Treaty Bodies <https://academy.ishr.ch/learn/treaty-bodies/inter-state-complaints> accessed 19 May 2023

¹⁹ In 2022, Uzbekistan also submitted one written report to the Committee on the Elimination of Racial Discrimination, which is to be considered by the Committee further as well as one follow up report to CCPR. See at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx?Lang=En&CountryID=189

international partners organized EDs with the aim to gather recommendations on how to effectively implement the recommendations received by Uzbekistan from Treaty Bodies²⁰. Below is the summary of the key points discussed at the event.

²⁰ The EDs were held under the EQUAL which is an EU funded project implemented by the ICJ in cooperation with the National Movement "Yuksalish". The main objective of the EQUAL project is to promote, by supporting civil society, equal protection of ESC rights for groups particularly vulnerable to discrimination in Uzbekistan. More information on two EDs can be found at: <https://www.icj.org/uzbekistan-expert-discussion-on-the-implementation-of-latest-un-treaty-bodies-recommendations/> and <https://www.icj.org/uzbekistan-experts-consider-strategies-to-improve-implementation-of-un-human-rights-treaties/>

II. KEY POINTS SHARED BY THE EXPERT DISCUSSION PARTICIPANTS ON THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE CESCR, CEDAW AND CRC ADDRESSED TO UZBEKISTAN

During the Expert Discussions, a number of insightful recommendations were proposed for the advancement of ESC rights in Uzbekistan. These suggestions, which originated from various participating experts, encapsulated a wide array of thematic areas from developing national action plans to enhancing the role of the Ombudsman.

This chapter divides these recommendations into three categories: recommendations implemented by the time of the present briefing paper, relevant general recommendations, and treaty-specific recommendations. The recommendations underscore the importance of ongoing monitoring and engagement with stakeholders, ensuring the practical implementation of written laws, and establishing a constructive dialogue between CSOs and civil servants. These recommendations suggest a possible roadmap for Uzbekistan's efforts to uphold and enhance human rights in line with Uzbekistan's international obligations. Their effective implementation will not only fulfil the country's obligations under international law but also foster an environment conducive to the realization of ESC rights for all in Uzbekistan.

Recommendations implemented by the time of publishing this Briefing Paper:

By the time of publishing this briefing paper, several general recommendations have already been implemented. For instance, the recommendation to develop national action plans for implementing the UN Treaty Bodies' recommendations received significant attention. This involved the collaboration of relevant State authorities, national human rights institutions, CSOs, and international partners. Consequently, the National Centre for Human Rights (NCHR) developed three successive National action plans. However, it was brought to attention during the second Expert Discussion that civil society did not partake in any processes related to the implementation of these recommendations by the NCHR.

Furthermore, it was recommended that the UN Committees' recommendations be propagated through information campaigns and translated into the Karakalpak language. The recommendation also included setting specific timelines for implementing the recommendations, allocating the necessary budget for their realization, and identifying national indicators to measure progress. The Office of the High Commissioner for Human Rights (OHCHR) Regional Office for Central Asia (ROCA) successfully completed the translation process by the end of 2022.

Additionally, by the time this Briefing Paper was published, the recommendation to criminalize sexual harassment, previously categorized as hooliganism by law enforcement agencies, was implemented. In 2022, the CEDAW shared its concern about the high incidence of gender-based violence against women and called on Uzbekistan to apply measure. In April 2023, Uzbekistan adopted the Law on violence against women and children, which criminalized sexual harassment and domestic violence and ensured

that the definition of rape is based on lack of consent rather than the use or threat of force.²¹

Relevant General Recommendations

Moving on to other general recommendations, experts stressed the need for ongoing monitoring of the recommendations and submission of a follow-up report on measures taken. This should also include a summary of the work done on implementing the recommendations and discussions held with stakeholders.

For the recommendations to genuinely make an impact, it is necessary that written laws mirror the practical reality and are consistently and predictably enforced.²²

Moreover, it was suggested to establish a system of CSOs oversight over the State's fulfillment of its international human rights obligations, including fostering a constructive dialogue between CSOs and State bodies and officials through activities such as seminars and public meetings.

State bodies should hold public hearings on the implementation of human rights obligations, and officials should receive training in international human rights standards from CSO specialists.

Treaty specific recommendations

The treaty-specific recommendations were organized with respect to the ICESCR, the CEDAW, and general observations on the CRC.

Under the aegis of ICESCR and CRC, it was recommended to introduce simplification of the registration requirements for non-governmental organizations (NGOs). The right to association is a cornerstone of civil society's active participation in public affairs. Currently, complex registration requirements are a key hurdle preventing civil society from fully participating and making their contribution. Simplifying these procedures would remove this roadblock and enhance civil society's role in public life.

The role of the Ombudsman in Uzbekistan was another point of focus. To enable the Ombudsman to effectively and independently fulfill its mandate—which includes the promotion and protection of economic, social, and cultural rights—it was recommended that sufficient financial and human resources be allocated. Strengthening the role of the Ombudsman would foster the realization of these rights in a more profound manner.

²¹ Read more at:

https://www.norma.uz/novoe_v_zakonodatelstve/za_bytovoe_nasilie_ustanavlivaetsya_administrativnaya_i_ugolovnaya_otvetstvennost

²² Both CESCR and CEDAW repeatedly recommended raising public awareness about the treaties and providing capacity-building programmes for judges, prosecutors and lawyers, to allow them to invoke and apply economic, social and cultural rights in domestic courts. See CESCR: general comment No. 9 (1998) on the domestic application of the Covenant. See E/C.12/UZB/CO/3: Concluding observations on the third periodic report of Uzbekistan. Published 04 March 2022 Available at: <https://www.ohchr.org/en/documents/concluding-observations/ec12uzbco3-concluding-observations-third-periodic-report>

Another significant recommendation under the ICESCR was to legislate the right to strike. This would provide workers with a crucial tool to express their concerns and protect their interests, reinforcing the democratic fabric of the nation.

Housing rights also emerged as a focal point, with the proposal to provide training for judges and lawyers to ensure proper interpretation of legal norms pertaining to housing. By doing so, it would help safeguard citizens' housing rights more effectively and prevent misinterpretations that could potentially lead to violations.

Lastly, under the ICESCR, there was a call to combat corruption, as it can lead to incorrect court rulings and violations of ESC rights, particularly in relation to housing rights. Anti-corruption measures would help in creating a fair and equitable environment that respects and protects the ESC rights of the citizens.

Switching to the recommendations for the CEDAW, the first proposal stressed the need to conduct training for judges and judicial staff to eliminate gender bias and persistent stereotypes within the judicial system. This step would promote a more gender-sensitive justice system, eradicating biases that could otherwise influence judgements and court proceedings making them biased based on sex and gender of the parties.

Moreover, it was suggested that efforts be increased to raise awareness among women and girls about how they can protect their rights. Notably, it was pointed out that judges dealing with family disputes related to violence often lack the necessary qualifications to effectively apply reconciliation processes. Therefore, improving education in this area could help safeguard the rights of women and girls in such situations.

A key recommendation under the CEDAW was to implement comprehensive anti-discrimination measures aimed at eliminating intersectional forms of discrimination. This includes discrimination against persons with disabilities and based on sexual orientation. Such a holistic approach to anti-discrimination would ensure the protection of rights for all individuals, regardless of their circumstances or identity.

The last CEDAW recommendation pertained to revising the legislation concerning court proceedings related to marriage, with specific regard to the mandatory six-month review period for divorcing parties. Such a revision would help to streamline the divorce process, ensuring that it respects and protects the rights of those involved.

The general observations on the CRC highlighted a few issues. Firstly, participants noted the issue of timing. Implementing legislative measures immediately prior to the reporting period can make it challenging to evaluate progress in promoting and assuring involvement in primary, secondary, and vocational education; increasing the participation of women in political spheres and decision-making roles; and protecting vulnerable women groups from exclusion and discrimination.

The participants reached a consensus on the need for Uzbekistan to transition from *de jure* (in law) to *de facto* (in practice) fulfillment of its obligations. This means bridging the gap between legislation that ensures the implementation of treaty provisions and their practical enactment.

Finally, participants underscored the need for a separate, detailed report to the CESCR Committee, outlining how Uzbekistan has implemented recommendations of particular importance. These include intensifying anti-corruption initiatives, ensuring protection from all forms of discrimination to guarantee equal access to economic, social, and cultural rights, and enhancing efforts to decrease the number of young individuals without jobs, education, or vocational training.

Lastly, some concerns were raised regarding recommendations of the CESCR and CEDAW Committees, specifically relating to Article 113 (the deliberate spread of sexually transmitted diseases or HIV infection/AIDS) and Article 120 (sodomy) of the Criminal Law. Representatives from the General Prosecutor's Office deemed these recommendations as unfit for implementation, marking a potential challenge to the full realization of treaty provisions.

III. CONCLUSION

The discussions highlighted a variety of salient issues concerning human rights obligations in Uzbekistan. They emphasized the need for continuous monitoring of these recommendations and a regular follow-up report on measures taken, underscoring the need for the practical implementation of laws to mirror the legislative reality. The discourse further reinforced the idea that constructive dialogue between CSOs and State bodies is essential for the effective application of international human rights obligations.

While certain strides have been made towards these objectives, as evidenced by the implementation of several general recommendations, there remain challenges that need to be addressed. These include the simplification of registration requirements for NGOs, strengthening the role of the Ombudsman, legislating the right to strike, combating corruption, eliminating gender bias in the judiciary, implementing comprehensive anti-discrimination measures, and revising legislation related to marriage.

Importantly, the discourse around the recommendations also emphasized the transition from *de jure* to *de facto* fulfillment of obligations. This crucial shift is an essential component in ensuring that the treaty provisions are not just present in the legislative framework, but also actively enforced and upheld in the daily lives of the citizens of Uzbekistan.

The briefing paper, therefore, serves as a valuable resource in understanding the current human rights issues in Uzbekistan as per the UN Treaty Bodies' recommendations and the insightful discussions on their implementation. The hope is that this discourse will continue to stimulate further discussion, and most importantly, action towards the realization of these critical human rights in Uzbekistan.

Annex 1.

CESCR Committee and the rights protected under ICESCR

The Committee on Economic, Social and Cultural Rights (CESCR), established under ECOSOC Resolution 1985/17 of 28 May 1985²³, is the body of 18 independent experts that monitors implementation of the ICESCR by its State parties.²⁴ All States parties are obliged to submit reports every five years to the Committee on the implementation of the rights under the ICESCR. The Committee examines each report and addresses its concerns and recommendations to the State party in its Concluding Observations".²⁵ In addition to the reporting procedure, the OP to the ICESCR, which entered into force on 5 May 2013, gives the Committee competence to receive and consider communications from individuals claiming that their rights under the Covenant have been violated. The Committee may also undertake inquiries on grave or systematic violations of any of the rights set forth in the Covenant, and consider inter-State complaints.²⁶ The Committee publishes its authoritative guidance on the provisions of the Covenant, known as General Comments.²⁷

The rights protected by the ICESCR include the rights to work and rights in the workplace including rights to receive a fair wage, safe working conditions, and to form and join trade unions (Article 8).²⁸ ICESCR also guarantees the right to the "enjoyment of just and favorable conditions of work" including, as examples, fair and equal remuneration that provides a "decent living" for workers and their families. Article 8 of ICESCR provides for the right to "join the trade union of [one's] choice" and the right to strike. It also provides for a right to establish trade union federations and provides for trade unions' independence.²⁹ The CESCR has confirmed that forced labor and slavery are implicitly outlawed by articles 6–8 of ICESCR.³⁰

Other rights protected by the ICESCR include the rights to education, social security, protection of the family, an adequate standard of living (including freedom from hunger,

²³ Committee on Economic, Social and Cultural Rights, <<https://www.ohchr.org/en/treaty-bodies/cescr>> accessed 19 May 2023

²⁴ Committee on Economic, Social and Cultural Rights, <<https://www.ohchr.org/en/treaty-bodies/cescr>> accessed 19 May 2023

²⁵ Committee on Economic, Social and Cultural Rights, <<https://www.ohchr.org/en/treaty-bodies/cescr>> accessed 19 May 2023

²⁶ Committee on Economic, Social and Cultural Rights, <<https://www.ohchr.org/en/treaty-bodies/cescr>> accessed 19 May 2023

²⁷ Committee on Economic, Social and Cultural Rights, <<https://www.ohchr.org/en/treaty-bodies/cescr>> accessed 19 May 2023

²⁸ Article 6 of ICESCR protects the right to work which is "freely chosen" in order to have the opportunity to "gain a living". The right to work is not a right to a job, but, rather, both a right to access employment opportunities, and a right to just and favorable conditions of employment. Read more at: ICJ Report, "Accessing Economic and Social Rights in Uzbekistan: An Analysis of Selected Laws and Practices", March 2021, (hereinafter "ICJ Report"), p.59 <<https://www.icj.org/wp-content/uploads/2021/05/Access-to-justice-for-ESC-ENG-002.pdf>> accessed 19 May 2023 See also Economic, social and cultural rights, <<https://ijrcenter.org/thematic-research-guides/economic-social-and-cultural-rights-2>> accessed 19 May 2023

²⁹ ICJ Report, p.59

³⁰ ICJ Report, p.59

access to clean water, adequate housing, and protection of property), and mental and physical health.³¹

The ICESCR devotes two articles to the right to education³² guaranteeing availability, accessibility, acceptability and adaptability of education in all its forms and at all levels.³³ When establishing an education system, the State Party should give priority to the best interests of students.³⁴ Paragraph 2 of article 13 obligates all States-parties to provide free primary education on a mandatory basis.³⁵ States Parties have an obligation to take concrete steps to gradually introduce free education at the secondary and higher education levels.³⁶ Sometimes the right to education is referred to as cultural rights.³⁷ Education must be culturally appropriate and take into account students' cultural settings.³⁸

The right to social security encompasses the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, inter alia, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents.³⁹ The right to social security includes the right not to be subject to arbitrary and unreasonable restrictions of existing social security coverage, whether obtained publicly or privately, as well as the right to equal enjoyment of adequate protection from social risks and contingencies.⁴⁰

The ICESCR does not merely "entitle" the family to generic protection and assistance, as the ICCPR, but requires governments to make all "possible" efforts to ensure this entitlement is fulfilled in law and fact.⁴¹ The protection of the family encompasses also the right to an adequate standard of living. The ICESCR establishes the obligation of State Parties to provide the "widest possible protection and assistance to the family, "and that the right to an adequate standard of living extends not only to individuals but

³¹ ICESCR, art. 13, 14. See also Economic, social and cultural rights, <<https://ijrcenter.org/thematic-research-guides/economic-social-and-cultural-rights-2>> accessed 19 May 2023

³² UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 13: The Right to Education (Art. 13 of the Covenant), 8 December 1999, E/C.12/1999/10, para. 2, <<https://www.refworld.org/docid/4538838c22.html>> accessed 19 May 2023

³³ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 13: The Right to Education (Art. 13 of the Covenant), 8 December 1999, E/C.12/1999/10, para. 6, <<https://www.refworld.org/docid/4538838c22.html>> accessed 19 May 2023

³⁴ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 13: The Right to Education (Art. 13 of the Covenant), 8 December 1999, E/C.12/1999/10, para. 7, <<https://www.refworld.org/docid/4538838c22.html>> accessed 19 May 2023

³⁵ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, para. 2, Article 13, United Nations, Treaty Series, vol. 993, p. 3, <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>> accessed 19 May 2023

³⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 13: The Right to Education (Art. 13 of the Covenant), 8 December 1999, E/C.12/1999/10, para. 14, <<https://www.refworld.org/docid/4538838c22.html>> accessed 19 May 2023

³⁷ The Right to an Education is one of the most important principles in becoming a Rights Respecting School, <<https://www.unicef.org.uk/rights-respecting-schools/the-rrsa/the-right-to-education/>> accessed 19 May 2023

³⁸ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 13: The Right to Education (Art. 13 of the Covenant), 8 December 1999, E/C.12/1999/10, para. 8, <<https://www.refworld.org/docid/4538838c22.html>> accessed 21 May 2023

³⁹ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 19: The right to social security (Art. 9 of the Covenant), 4 February 2008, E/C.12/GC/19, para. 2, <<https://www.refworld.org/docid/47b17b5b39c.html>> accessed 19 May 2023

⁴⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 19: The right to social security (Art. 9 of the Covenant), 4 February 2008, E/C.12/GC/19, para. 9, <<https://www.refworld.org/docid/47b17b5b39c.html>> accessed 19 May 2023

⁴¹ Center for Family and Human Rights (C-Fam), The Family and Human Rights, Submission to the OHCHR, p. 1, <<https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/ProtectionFamily/CivilSociety/CenterFamilyHumanRights.pdf>> accessed 28 October 2022

also to their families".⁴² Under Article 11 of the ICESCR, everyone has the right to "an adequate standard of living for himself and his family". The right to an adequate standard of living includes the provision of adequate housing, food, water and continuous improvement of living conditions.⁴³

ICESCR safeguards the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.⁴⁴

States Parties to the ICESCR shall undertake to ensure the right of everyone to take part in cultural life, the right to enjoy the benefits of scientific progress and its applications, the right of everyone to benefit from the protection of moral and material interests resulting from any scientific, literary or artistic production of which they are the author and the right to freedom indispensable for scientific research and creative activity.⁴⁵

Recent concerns and recommendations by CESCR

In its most recent Concluding Observations of 2022, the CESCR⁴⁶ welcomed the legislative, institutional and policy measures taken by the country to enhance the realization of ESC rights in particular noting the adoption of the Law on Combating Corruption⁴⁷ and the establishment of the Anti-Corruption Agency.⁴⁸

Moving to the principal subjects of concern and recommendations, the Committee noted that the provisions of the Covenant are rarely invoked in courts and recommends the State party to raise public awareness about the Covenant and provide capacity-building programmes for judges, prosecutors and lawyers, to allow them to invoke and apply economic, social and cultural rights in domestic courts⁴⁹.

The Committee also expressed concern in regard to the independence of the judiciary, noting the interference by the executive and the legislative branches in the selection of

⁴² UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, Articles 10 and 11, United Nations, Treaty Series, vol. 993, p. 3, <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>> accessed 19 May 2023

⁴³ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, Article 11, para. 1, United Nations, Treaty Series, vol. 993, p. 3, <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>> accessed 19 May 2023

⁴⁴ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, Article 12, para. 1, United Nations, Treaty Series, vol. 993, p. 3, <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>> accessed 19 May 2023

⁴⁵ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, Article 15, United Nations, Treaty Series, vol. 993, p. 3, <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>> accessed 19 May 2023

⁴⁶ The Committee considered the third periodic report of Uzbekistan¹ at its 13th, 15th and 17th meetings, held on 22, 23 and 24 February 2022, and adopted the present concluding observations at its 30th meeting, held on 4 March 2022.

⁴⁷ See No. LRU-419 as of 3 January 2017

⁴⁸ UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the third periodic report of Uzbekistan, E/C.12/UZB/CO/3, para. 3, March 2022, <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fUZB%2fCO%2f3&Lang=en> accessed 17 June 2022 (hereinafter referred to as CESCR, para 3)

⁴⁹ See CESCR, para 4, 5. See also CESCR: General Comment No. 9: The domestic application of the Covenant, 3 December 1998, E/C.12/1998/24, available at: <https://www.refworld.org/docid/47a7079d6.html> [accessed 7 June 2023]

the judges of the Constitutional Court and the Supreme Court and in the appointment of judges. It was recommended to strengthen the mandate of the Supreme Judicial Council and strengthen efforts to prevent interference in the selection and appointment of judges⁵⁰.

As for National human rights institution (NHRI), the lack of a transparent process for the selection and appointment of the Ombudsman and the inadequate level of resources, adversely affecting functioning of the latest were mentioned by the Committee. The Committee referred the State Party to the Paris Principles, noting that the full compliance with Principles would let to effectively and independently carry out mandate, including the promotion and protection of ESC rights.⁵¹

The Committee remained concerned about the administrative and procedural burdens for the registration of new civil society organizations, their inability to operate freely due to restrictions, and the low number of newly registered organizations, notwithstanding the recent reforms.⁵² The Committee recommended accelerating the consultation process for adoption of the Non-Governmental Non-Profit Organizations Law, with effective and meaningful participation of civil society organizations and enabling an effective registration procedure for non-governmental organizations engaged in the promotion and protection of economic, social and cultural rights.⁵³

Among other problems, the Committee noted corruption remaining prevalent and lack of information on the availability of safe and accessible channels for reporting corruption.⁵⁴ In this regard, the Committee recommended a) to ensure effective implementation of the Law on Combating Corruption⁵⁵ and strengthening the role of the Anti-Corruption Agency, including with the provision of adequate financial and human resources, ensuring its independence and expanding its inspection and monitoring role, b) to develop and adopt a comprehensive and long-term strategy on combating corruption, including at the local level and c) to establish safe and accessible channels for reporting corruption, while noting that anti-corruption activists, whistle-blowers and witnesses shall be protected.

As the share of gross domestic product allocated by Uzbekistan to public spending remains low, the Committee recommended to increase the level of social spending at both the national and the local levels, while paying particular attention to disadvantaged and marginalized individuals and groups, and to undertake a human rights impact assessment of macroeconomic and budgetary policies, with a view to maximizing the resources available to achieve the full realization of economic, social and cultural rights.⁵⁶

⁵⁰ See CESCR, para 6, 7. See also recommendations made by the Special Rapporteur on the independence of judges and lawyers in his report on his visit to Uzbekistan (A/HRC/44/47/Add.1).

⁵¹ See CESCR, para 8, 9

⁵² See CESCR, para 10

⁵³ See CESCR, para 11. See also CESCR: statement on human rights defenders and economic, social and cultural rights <http://undocs.org/en/E/C.12/2016/2>

⁵⁴ See CESCR, para 12

⁵⁵ See CESCR, para 13. See also No. LRU-419 of 3 January 2017 available at: <https://lex.uz/docs/4056495>

⁵⁶ See CESCR, para 18, 19

The Committee noted that due to the discriminatory provisions in the legislative framework, including the criminalization of sexual relations between consenting male adults, under article 120 of the Criminal Code.⁵⁷ In this regard, the Committee recommended expediting the adoption of the Equality and Non-Discrimination Law, to repeal article 120 of the Criminal Code, to review legislative framework with the aim of eliminating discriminatory provisions against persons with HIV/AIDS and to establish mechanisms for redress, including effective administrative and judicial remedies. The Committee also noted the importance of the awareness-raising campaigns targeting the public, health-care providers, and law enforcement and other public officials to eliminate negative stereotypes and stigma against members of marginalized groups, such as persons living with HIV, and lesbian, gay, bisexual, transgender and intersex persons.⁵⁸

As for the rights of refugees and asylum seekers, the Committee noted the lack of a comprehensive legal and policy framework for refugees and asylum seekers hindering their access to economic and social rights. The Committee recommended to establish national legal and policy frameworks in line with international standards for refugees and asylum seekers and to ensure their access to employment, social assistance, and education and health services. It also recommended Uzbekistan to accede to the Convention relating to the Status of Refugees, of 1951, and the Protocol relating to the Status of Refugees, of 1967, the Convention relating to the Status of Stateless Persons, of 1954, and the Convention on the Reduction of Statelessness, of 1961.⁵⁹

The Committee shared concerns about barriers that people with disability face in accessing ESC rights, due to the lack of effective implementation of reasonable accommodation, especially in schools, universities and medical facilities.⁶⁰ It recommended ensuring inclusive education, access to employment, health services and social services by improving the physical accessibility of schools and universities, providing adequate transportation, equipping educational facilities with adapted learning materials and providing teachers and educators with adequate training.⁶¹

The Committee remained concerned about reports that women earn less than men in the labour market and are concentrated in the informal sector, the low level of enrolment of women and girls in higher education and secondary education and the low representation of women in decision-making and leadership positions.⁶² It recommended a) establishing mechanisms to ensure effective implementation of its legislative and policy frameworks on gender equality and to guarantee full access for women and girls to economic, social and cultural rights, b) adopting measures to eliminate gender-role stereotypes and to address the low enrolment of women in secondary education and higher education, including through awareness-raising campaigns targeted at the general public, in particular with a view to facilitating women's and girls' participation in the economy, the labour market, education and other areas of social and cultural life, c) strengthening efforts to reduce the gender pay gap, and provide training and capacity-building for women in non-traditional fields of

⁵⁷ See CESC, para 20

⁵⁸ See CESC, para 21. See also CESC: general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

⁵⁹ See CESC, para 22, 23

⁶⁰ See CESC, para 24

⁶¹ See CESC, para 25

⁶² See CESC, para 26

employment and in areas that will provide them with equal career opportunities, and d) strengthening the system of quotas and adopt measures to tackle the underrepresentation of women in leadership and decision-making positions, particularly at the local level.⁶³

While commending Uzbekistan for reduction in forced labour, particularly child labour, the Committee shared its concern about reports indicating that forced labour still existed in the cotton harvest season.⁶⁴ It recommended strengthening the State Labour Inspectorate to ensure proper investigation and prosecution of such cases and by ensuring the provision of full reparations to victims.⁶⁵

In regard to the minimum wage remaining insufficient to ensure a decent living for workers and their families, the Committee recommended to ensure the participation of social partners in the annual periodic review of the minimum wage, and index it to the cost of living.⁶⁶ It also recommends setting up enforcement mechanisms for the payment of the minimum wage, especially for the informal sector, and ensuring safe and accessible channels of complaint and strengthening the State Labour Inspectorate to enforce the minimum wage and carry out inspections in the informal economy.⁶⁷

The Committee also recommended strengthening efforts to reduce the number of young people who are not in employment, education or training, also by increasing technical and vocational training opportunities tailored to the labour market with a special focus on women.⁶⁸

The Committee recommends eliminating the requirement of prior authorization by the Ministry of the Justice as well as other obstacles for registration of trade unions which resulted in no increase in the number of registered trade unions since 2016.⁶⁹ Noting the low participation level among employees from the public and private sectors in trade unions, it recommends expediting the adoption of the Law on Rallies, Meetings and Demonstrations, with the effective and meaningful participation of trade unions and relevant stakeholders, while guaranteeing that trade unions can exercise their rights and activities freely and without undue restrictions and intimidation.⁷⁰

The Committee being concerned about the lack of regulatory framework on the right to strike. It recommended to accelerate the adoption of the amendments to the Labour Code and to ensure the introduction of the right to strike in accordance with international standards.⁷¹

The Committee expressed concerns about the lack of coordination among governmental entities regarding different social protection measures and the inadequate level of social

⁶³ See CESCR, para 27

⁶⁴ See CESCR, para 28

⁶⁵ See CESCR, para 29

⁶⁶ See CESCR, para 30

⁶⁷ See CESCR, para 31. See also CESCR: general comment No. 23 (2016) on the right to just and favourable conditions of work.

⁶⁸ See CESCR, para 32, 33

⁶⁹ See CESCR, para 34

⁷⁰ See CESCR, para 35. See also CESCR: general comment No. 18 (2005) on the right to work and joint statement with the Human Rights Committee on freedom of association, including the right to form and join trade unions, adopted in 2019.

⁷¹ See CESCR, para 36, 37. See also art. 8. 7 E/C.12/66/5-CCPR/C/127/4. E/C.12/UZB/CO/3 7 37.

benefits and their unavailability to all relevant population groups.⁷² It is recommended to effectively implement the National Strategy for Social Protection, including by establishing a clear coordination and administrative mechanism, with a view to covering all segments of the population, particularly those in the informal sector, and that it accelerate the roll-out of the compulsory health insurance.⁷³ It also recommended ensuring an appropriate level of social protection benefits for persons with disabilities, older persons, Roma/Lyuli, refugees and asylum seekers, and conducting periodic recalculations of social allowances.⁷⁴

The inadequate level of family-based and alternative care support for children, particularly for children belonging to disadvantaged and marginalized groups as well as the lack of systematic data collection on the situation of children belonging to disadvantaged and marginalized groups were mentioned by the Committee.⁷⁵

The Committee recommended a) to accelerate the adoption of the Law on Domestic Violence to criminalize all forms of domestic violence, including marital rape, and ensure its effective implementation, with a view to protecting all victims, bringing perpetrators to justice and preventing impunity and b) to accelerate the adoption of the Law on Social Protection of Orphans and Children Deprived of Parental Care and intensify its efforts to strengthen family-based and alternative care support for children, particularly children with disabilities, while ensuring the effective implementation of its deinstitutionalization policy, c) to ensure the systematic collection of statistics on children belonging to disadvantaged and marginalized groups.

By the time of publishing of this paper, the Law on Violence against Women and Children had been adopted.⁷⁶

In regard to forced evictions, remaining an acute problem for last years, the Committee regretted the reports about the expropriation of property, the demolition of houses and forced eviction in the light of urban development projects.⁷⁷ It was also concerned about reports of non-compliance with the national legal framework on property deprivation, especially about the absence of prior consultation with the residents affected and the lack or inadequacy of compensation and alternative housing.⁷⁸ The Committee recommended ensuring that evictions were carried out only as a last resort, and in accordance with the law and in conformity with the provisions of the international human rights treaties, to ensure conducting genuine consultation, adequate and reasonable notice, and the availability of alternative accommodation in a reasonable time, and the provision of legal remedies.⁷⁹ It is also recommended to ensure the availability of and

⁷² See CESCR, para 38

⁷³ See CESCR, para 39

⁷⁴ See CESCR, para 39. See also CESCR: general comment No. 19 (2007) on the right to social security, and the statement, adopted in 2015, entitled "Social protection floors: an essential element of the right to social security and of the Sustainable Development Goals".

⁷⁵ See CESCR, para 40

⁷⁶ In April 2023, Uzbekistan adopted the Law on violence against women and children, which criminalized sexual harassment and domestic violence and ensured that the definition of rape is based on lack of consent rather than the use or threat of force.

⁷⁷ See CESCR, para 42

⁷⁸ See CESCR, para 43

⁷⁹ See CESCR, para 45

accessibility to affordable legal aid for residents affected and to prevent homelessness in cases of evictions by ensuring the availability of adequate alternative housing.⁸⁰

The Committee is also concerned about reports on the demolition of houses and facilities in neighbourhoods near United Nations Educational, Scientific and Cultural Organization (UNESCO) world cultural heritage sites, on account of urban development projects and recommended to ensure that the management and development of world cultural heritage sites are in line with the best practices recommended by the UNESCO and the International Council on Monuments and Sites, including by providing for full participation of the local communities with a view to ensuring their well-being and with full guaranty of the enjoyment of their cultural rights.⁸¹

With reference to the insufficiency of social housing, especially for members of disadvantaged and marginalized groups, the Committee recommends the State party to intensify its efforts to provide affordable and social housing.⁸²

Noting the lack of a comprehensive legislative framework on the right to food and being concerned about the food insecurity and the nutritional status of the population, the Committee recommended adopting a comprehensive legislative framework to guarantee the right to adequate food and to strengthen efforts in combating hunger and chronic malnutrition, especially for disadvantaged groups.⁸³

While referring to the reports about the inadequate quality of services provided in the public health sector, the Committee to strengthen and develop the public health-care system, including by allocating sufficient human and financial resources and by adopting measures to combat corruption, to ensure the availability and accessibility of quality health-care services, in particular in rural and remote areas and for persons belonging to marginalized groups.⁸⁴ The inadequate level of mental health services due to the insufficient number of facilities and of professional mental health-care providers and the high suicide rate and the high level of self-harm among the population were mentioned by the Committee.⁸⁵ It recommended increasing the availability and accessibility of quality mental health services throughout Uzbekistan, to address the root causes of the high prevalence of suicide and to provide individuals and groups who are at risk of suicide with effective prevention programmes and support services.⁸⁶

The repressive laws and policies to deal with the use of drugs are said to hinder the access by drug users to employment and prevent them from gaining access to the necessary treatment or harm reduction programmes due to fear of criminalization.⁸⁷ The Committee regretted the non-availability of the opioid substitution therapy in

⁸⁰ See CESCR, para 45. See also CESCR: general comment No. 7 (1997) on forced evictions

⁸¹ See CESCR, para 44

⁸² See CESCR, para 45. See also CESCR: general comment No. 4 (1991) on the right to adequate housing,

⁸³ See CESCR, para 46, 47. See also CESCR: general comment No. 12 (1999) on the right to adequate food, and to the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by the Council of the Food and Agriculture Organization of the United Nations in 2004.

⁸⁴ See CESCR, para 48, 49

⁸⁵ See CESCR, para 50

⁸⁶ See CESCR, para 51

⁸⁷ See CESCR, para 52

Uzbekistan.⁸⁸ The Committee recommended removing the mandatory registration of drug users, and considering decriminalizing drug possession for personal consumption.⁸⁹ It also recommends developing policies to prevent drug abuse, strengthen harm reduction programmes, and provide appropriate health care, psychological support services and rehabilitation to drug users, including by resuming opioid substitution therapy.⁹⁰ The social stigma against drug users, by training law enforcement officers and medical professionals and by raising public awareness, especially about drug users' right to health shall be combated.⁹¹

As for the right to education, the Committee recommends to achieve universal access to quality education at all levels, including by a) strengthening measures to improve the quality of education by allocating sufficient resources to the education sector, increasing the number of qualified teachers and the quality of teaching material, b) improving the educational infrastructure to ensure the accessibility of persons with disabilities to all schools and universities and to achieve inclusive education and c) taking effective measures to improve access to education for Roma/Lyuli children, and their retention, and to increase their secondary school completion rates.⁹²

The limited access to the Internet, particularly for marginalized and disadvantaged groups, which hinders their access to ESC rights, particularly in view of the coronavirus disease (COVID-19) pandemic is noted by the Committee.⁹³ The accessible and affordable Internet provision, particularly for marginalized and disadvantaged groups was recommended to be ensured.⁹⁴

In the last part of the Concluding observations the Committee encourages Uzbekistan to accede to the Optional Protocol to the ICESCR, to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.⁹⁵

⁸⁸ See CESCR, para 52

⁸⁹ See CESCR, para 53

⁹⁰ See CESCR, para 53

⁹¹ See CESCR, para 53

⁹² See CESCR, para 54, 55

⁹³ See CESCR, para 58

⁹⁴ See CESCR, para 59. See also CESCR: general comment No.25 (2020) on science and economic, social and cultural rights.

⁹⁵ See CESCR, para 61

Annex 2.

CEDAW Committee and the rights protected under the CEDAW Convention

The Committee on the Elimination of Discrimination against Women (CEDAW) is the body consisting of 23 independent experts that monitor implementation of the Convention on the Elimination of All Forms of Discrimination against Women adopted by the United Nations in 1979.⁹⁶ States parties must submit reports every four years to the Committee on how the rights of the Convention are implemented. During its public sessions, the Committee reviews each State party's report and addresses its concerns and recommendations to the State party in its Concluding Observations.⁹⁷ In accordance with the Optional Protocol to the Convention, the Committee is mandated to receive communications from individuals or groups of individuals submitting claims of violations of rights protected under the Convention to the Committee and initiate inquiries into situations of grave or systematic violations of women's human rights. These procedures are optional and are only available where the State concerned has accepted them.⁹⁸ The Committee also holds days of general discussion and formulates general recommendations. These are suggestions and clarifications directed to States that concern articles or topics in the Conventions.⁹⁹

In particular, Article 5 obligates States Parties to "take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."

States Parties also agree to take appropriate measures against all forms of trafficking in women and exploitation of women.¹⁰⁰ The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life including the right to vote and to stand for election as well as education, health and employment. Article 9 of the Convention affirms women's rights to acquire, change or retain their nationality and the nationality of their children.¹⁰¹

The CEDAW Convention is the only human rights treaty which affirms the reproductive rights of women.¹⁰² Women have the right to receive free health services necessary for

⁹⁶ Committee on the Elimination of Discrimination against Women, <<https://www.ohchr.org/en/treaty-bodies/cedaw/introduction-committee>> accessed 19 May 2023

⁹⁷ Committee on the Elimination of Discrimination against Women, <<https://www.ohchr.org/en/treaty-bodies/cedaw/introduction-committee>> accessed 19 May 2023

⁹⁸ Committee on the Elimination of Discrimination against Women, <<https://www.ohchr.org/en/treaty-bodies/cedaw/introduction-committee>> accessed 19 May 2023

⁹⁹ Committee on the Elimination of Discrimination against Women, <<https://www.ohchr.org/en/treaty-bodies/cedaw/introduction-committee>> accessed 19 May 2023

¹⁰⁰ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) <<https://www.un.org/womenwatch/daw/cedaw/>> accessed 19 May 2023

¹⁰¹ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, Article 9, <<https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>> accessed 19 May 2023

¹⁰² The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) <<https://www.un.org/womenwatch/daw/cedaw/>> accessed 19 May 2023

safe motherhood of women.¹⁰³ Under Article 16 State Parties shall guarantee elimination of discrimination against women in all matters relating to marriage and family relations.¹⁰⁴

With regard to equality in economic and social life, the Convention guarantees equal rights in the following areas: family benefits, bank loans, mortgages and other forms of financial credit; participation in recreational activities, sports and all aspects of cultural life.¹⁰⁵ State Parties undertake to improve the economic situation of rural women including their living conditions, employment and education.¹⁰⁶ Under article 15 all women and men are equal before the law.

Overview of the concerns and recommendations raised by CEDAW

It its latest Concluding observations the CEDAW¹⁰⁷ commended Uzbekistan in undertaking legislative reforms¹⁰⁸ and improving its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality¹⁰⁹.

Similar to the CESCR, the CEDAW Committee noted with concern that the Convention has not been directly applied or invoked in court proceedings, despite the existing provisions ensuring the precedence of international treaties over national legislation and the related capacity-building provided to judges and lawyers, therefore recommending

¹⁰³ UN Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW General Recommendation No. 24: Article 12 of the Convention (Women and Health), 1999, A/54/38/Rev.1, chap. I, para. 27, < <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom1>> 19 May 2023

¹⁰⁴ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, Article 16, par. 1, < <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>> accessed 19 May 2023

¹⁰⁵ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, Article 13, < <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>> accessed 19 May 2023

¹⁰⁶ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, Article 14, < <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>> accessed 19 May 2023

¹⁰⁷ UN Committee on the Elimination of Discrimination against Women, Concluding observations on the sixth periodic report of Uzbekistan, CEDAW/C/UZB/CO/6. March 2022, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fUZB%2fCO%2f6&Lang=en accessed 06 July 2023 (hereinafter referred to as CEDAW, para. _)

¹⁰⁸ See CEDAW, para 4. In particular, the adoption of the Law on Guarantees of Equal Rights and Opportunities for Women and Men, in 2019, the Law on Protection of Women from Harassment and Violence, in 2019, the Law on the Protection of Reproductive Health of Citizens, which proclaims equal rights and opportunities for women and men in the exercise of their reproductive rights, in 2019, the Law on Combatting Trafficking in Persons, in 2020, the amendment to article 15 of the Family Code, establishing the minimum age of marriage at 18 years for both women and men, in 2019, the Electoral Code, establishing a minimum quota of 30 per cent for the women candidates nominated for national elections, in 2019.

¹⁰⁹ See CEDAW, para 5. In particular, the adoption of the Strategy for Achieving Gender Equality for the period 2020–2030, in 2021, the National Human Rights Strategy in 2020, the introduction of the “Iron notebook”, “Women’s notebook” and “Youth notebook” to identify and support disadvantaged families and persons in need, including women and girls, in particular during the coronavirus disease (COVID-19) pandemic in 2020, the action plan for the implementation of the Committee’s concluding observations on the fifth periodic report of Uzbekistan in 2017, and the ratification of the Convention on the Rights of Persons with Disabilities in 2021. See UN Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding observations on the sixth periodic report of Uzbekistan, CEDAW/C/UZB/CO/6, 1 March 2022, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fUZB%2fCO%2f6&Lang=en accessed 30 May 2023

once again to strengthen the capacity-building for members of the judiciary and legal professionals regarding domestic application of the Convention.¹¹⁰

The Committee also drew attention to the definition of discrimination in the Law on Guarantees of Equal Rights and Opportunities for Women and Men (2019) noting that it did not cover intersecting forms of discrimination.¹¹¹ It also notes that the reservation to article 12 of the recently ratified by Uzbekistan Convention on the Rights of Persons with Disabilities preserves substitute decision-making practices, which contradicts the object and purpose of the CEDAW Convention and prevents the State party from fully implementing and addressing all human rights of women and girls with disabilities. The Committee therefore recommended adopting comprehensive anti-discrimination legislation with a definition of discrimination against women that covers intersecting forms of discrimination and withdrawing reservation to article 12 of the CRPD.¹¹²

The Committee expressed concerns about the persistent barriers to women's and girls' access to justice, including their limited knowledge of their rights and the remedies available to claim them, as well as judicial gender bias, persistent gender stereotypes and the use of reconciliation procedures before mahallas in cases of gender-based violence against women.¹¹³ It recommends ensuring that prosecution takes precedence over reconciliation procedures before mahallas in cases of gender-based violence against women and raising awareness among religious and community leaders about the need to destigmatize women claiming their rights and provide training on women's rights and gender equality to the judiciary, the police and other law enforcement officials to dismantle patriarchal attitudes, discriminatory gender stereotypes and judicial bias against women claiming their rights.¹¹⁴

The Committee noted with concern the fragmented national machinery and its limited cooperation with civil society, in particular in rural areas, despite increased funding for civil society organizations, including women's rights organizations.¹¹⁵ In this regard, the Committee recommended to a) clearly define the mandates and responsibilities of the different components of the national machinery for the advancement of women and provide it with adequate human, technical and financial resources to enable it, b) strengthen cooperation of the national machinery with civil society organizations, in particular those working on women's rights, to ensure that they meaningfully participate in decision-making in all areas covered by the Convention.¹¹⁶

The Office of the Ombudsman is said to lack a specific mandate to protect and promote women's rights, and the Committee recommends similarly to CESC, providing it with adequate human, technical and financial resources to discharge its mandate effectively, independently and in compliance with the Paris Principles and provide the Office with a

¹¹⁰ See CEDAW, para 9

¹¹¹ See CEDAW, para 10

¹¹² See CEDAW, para 11

¹¹³ See CEDAW, para 12, See also CEDAW: general recommendation No. 33 (2015) on women's access to justice.

¹¹⁴ See CEDAW, para 12

¹¹⁵ See CEDAW, para 13

¹¹⁶ See CEDAW, para 14

specific mandate to promote and protect women's rights and address complaints from women and girls in a confidential, gender-sensitive manner.¹¹⁷

Among the problems frequently mentioned by the Committee is the limited use of temporary special measures where women are underrepresented or disadvantaged, as well as the limited impact of existing temporary special measures.¹¹⁸ The Committee recommended a) promoting understanding of the purpose of temporary special measures among State officials, parliamentarians, policymakers, employers and the general public, b) establishing a mechanism to monitor the implementation of temporary special measures and assess their impact on achieving the substantive equality of women and men, d) adopting adequate sanctions for non-compliance, adopt temporary special measures, including measures to improve data collection, and establish monitoring mechanisms to reduce the prevalence of gender-based violence against women.¹¹⁹

The Committee remains concerned about family mediation as an alternative way of settling family conflicts and disputes, as well as persistent patriarchal attitudes and discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and society in the State party.¹²⁰ It also noted the lack of a comprehensive strategy to address discriminatory gender stereotypes as well as the persistence of discriminatory gender stereotypes and portrayals of women in the media.¹²¹

The Committee repeated its previous recommendations¹²² to eliminate discriminatory stereotypes regarding the roles and responsibilities of women and men in the family and in society, to continue to raise awareness among media workers to address discriminatory gender stereotypes and the objectification of women, to promote positive portrayals of women as active drivers of development in the media and the equal sharing of domestic and childcare responsibilities, as well as responsible fatherhood.¹²³

The recommendation of the Committee to ensure criminalization of domestic violence and its prosecution ex officio as well as that definition of rape which should be based on lack of consent rather than the use or threat of force was implemented with the adoption of the Law on violence against women and children as of April 2023.¹²⁴ However, the limited enforcement of protection orders and the absence of expulsion orders, lack of victim support services, the barriers to women's and girls' access to justice in cases of gender-based violence, including revictimization during criminal proceedings, and the wide use of reconciliation and mediation procedures by mahallas still remain the acute problem.¹²⁵

¹¹⁷ See CEDAW, para 15, 16

¹¹⁸ See CEDAW, para 17. See also article 4 (1) of the CEDAW and the Committee's general recommendation No. 25 (2004) on temporary special measures, and previous recommendations (CEDAW/C/UZB/CO/5, para. 14),

¹¹⁹ See CEDAW, para 18

¹²⁰ See CEDAW, para 19

¹²¹ See CEDAW, para 19

¹²² See CEDAW/C/UZB/CO/5, para. 16

¹²³ See CEDAW, para 20

¹²⁴ See CEDAW, para 22

¹²⁵ See CEDAW, para 22. See also CEDAW: general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19

The Committee noted with concern that national legislation does not exempt transnational victims of trafficking from criminal liability for illegally crossing the border, and that there are still social stigma, discrimination and gender-based violence experienced by victims of trafficking and the lack of rehabilitation and reintegration programmes.¹²⁶ The Committee recommends ensuring that women and girl victims of trafficking have adequate access to support services, including shelters, counselling services and reintegration programmes, and adequately fund or subsidize the premises and utility costs of non-governmental organizations operating shelters and providing victim support services.¹²⁷

In regard with the participation in political and public life, the Committee remained concerned that women are still underrepresented in decision-making positions, including in the Oliy Majlis, academia, the judiciary, the public service and the diplomatic service.¹²⁸

While the Committee noted the progress achieved by Uzbekistan in promoting girls' and women's right to education since the consideration of its previous periodic report, it is concerned about the low enrolment rate of women and girls in tertiary and higher education and the high dropout rates among girls in secondary education, attributable to early pregnancies and child marriage as well as the preference given to the school enrolment of boys and the high cost of school fees.¹²⁹ It notes with concern persistent gender stereotypes in the education system and the absence of age-appropriate sexual education, the concentration of women and girls in traditionally female-dominated fields of study and their underrepresentation in the areas of science, technology, engineering, mathematics, and information and communications technology, which reduces their prospects in the labour market, the limited use of gender-sensitive language and portrayals in textbooks and education materials at all levels of education, and the underrepresentation of women at the decision-making level in the education system.¹³⁰

The Committee was concerned about the list of professions and jobs, advising against employing women in those professions and other barriers to women's promotion to management positions, higher-paid jobs and decision-making positions, including in national and local administration.¹³¹ It was noted about women's concentration in the informal economy and in low-paid jobs, often in exploitative conditions and without access to labour and social protection, especially during the COVID-19 pandemic, limited access to decent employment for disadvantaged and marginalized groups of women.¹³²

The Committee recommended once again¹³³ to create a pool of women eligible for managerial positions, to promote women's access to formal employment, to implement

¹²⁶ See CEDAW, para 23. See also general recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration and previous recommendations (CEDAW/C/UZB/CO/5, para. 20)

¹²⁷ See CEDAW, para 24

¹²⁸ See CEDAW, para 25. See also CEDAW: general recommendation No. 23 (1997) on women in political and public life

¹²⁹ See CEDAW, para 29, 30

¹³⁰ See CEDAW, para 30. See CEDAW: general recommendation No. 36 (2017) on the right of girls and women to education and its previous recommendations (CEDAW/C/UZB/CO/5, para. 24)

¹³¹ See CEDAW, para 31

¹³² See CEDAW, para 31

¹³³ See CEDAW, para 32. See also CEDAW/C/UZB/CO/5, para. 26

the principle of equal pay for work of equal value to review the list of non-recommended occupations restricting women's access to certain professions and jobs; facilitate women's access to such occupations; and ensure that any restrictions are proportionate and applied on a case-by-case basis and not sweepingly for all women, to ensure maternity protection for women working in the informal economy; facilitate the return to work of young mothers; and promote equal sharing of household and childcare responsibilities between women and men, including by expanding the use of paternity leave.¹³⁴

The Committee noted with concern the high maternal mortality rate and infant mortality rate which can be solved by ensuring access to safe abortion and post-abortion services and obstetric care, addressing the high number of early pregnancies, and increasing the number of skilled birth attendants, including in rural and remote areas.¹³⁵ It also mentions the increased rates of suicide and self-injury among adolescent girls.¹³⁶

The disproportionate share of unpaid domestic and care work carried out by women and the substantial increase in women's burden of unpaid care during the COVID-19 pandemic, the disproportionate effect of poverty on women, especially rural women, women single heads of households and women engaged in unpaid care work.¹³⁷ In this regard, CEDAW reiterated its previous recommendation¹³⁸ to combat poverty among rural women by ensuring access to education, adequate water and sanitation, formal employment, low-interest loans without collateral and other forms of financial credit for agribusinesses, and ownership and use of land.¹³⁹

The Committee recommends adopting targeted measures, including temporary special measures, to ensure access to justice, employment and health care, including sexual and reproductive health services, respecting the confidentiality of patient information, social protection and food security for disadvantaged groups of women, taking into account their specific needs.¹⁴⁰

The Committee notes with concern that women who undergo a wedding ceremony under religious law without civil marriage registration do not benefit from the protection of the Family Code and are denied economic protection upon dissolution of the union, that in exceptional circumstances such as pregnancy or childbirth, the khokim (local government) can authorize marriages at 17 years of age, as well as the persistence of polygamy and forced marriage, in particular in rural areas, despite their legal prohibition.¹⁴¹ In this regard, the Committee recommended ensuring that religious wedding ceremonies can be administered only after the civil registration of a marriage, protecting the rights of women upon dissolution of religious and customary unions¹⁴², reviewing article 15 of the Family Code to remove the exception to the age of marriage

¹³⁴ See CEDAW, para 32

¹³⁵ See CEDAW, para 33

¹³⁶ See CEDAW, para 34. See also CEDAW: its general recommendation No. 24 (1999) on women and health

¹³⁷ See CEDAW, para 35

¹³⁸ See CEDAW/C/UZB/CO/5, para. 30

¹³⁹ See CEDAW, para 36

¹⁴⁰ See CEDAW, para 39, 40

¹⁴¹ See CEDAW, para 41

¹⁴² See CEDAW, para 42. See also CEDAW: general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution

and pursue its efforts to combat polygamy and child and forced marriage, especially in rural areas.¹⁴³

The Committee also encouraged Uzbekistan to ratify the Optional Protocol to the Convention, International Labour Organization (ILO) Workers with Family Responsibilities Convention, 1981 (No. 156), the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, to which it is not yet a party.¹⁴⁴

¹⁴³ See CEDAW, para 42, See also CEDAW: general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices (2014)

¹⁴⁴ See CEDAW, para 46

Annex 3.

CRC Committee and the rights protected under CRC Convention

The Committee on the Rights of the Child (CRC) is a body of 18 independent experts that monitors implementation of the Convention on the Rights of the Child and its two Optional Protocols on the involvement of children in armed conflict (OPAC) and on the sale of children, child prostitution and child pornography (OPSC). It also considers individual complaints with allegations of violations of the Convention and its two OPs by State parties to third OP on a communications procedure (OPIC).

All States parties are obliged to submit reports to the Committee on the implementation of the CRC Convention every five years. The Committee then shares its concerns and makes recommendations in its Concluding Observations. As other Treaty Bodies, the CRC Committee also publishes authoritative guidance on the provisions of the Convention: to date, twenty five general comments were adopted by the Committee.

Being the most universally accepted human rights instrument, ratified by every country in the world except the United States, the Convention on the Rights of the Child incorporates the full range of human rights - civil, political, economic, social and cultural rights - of children into one single document. The Convention recognizes a child as every human being under 18 years old and builds on the principles of non-discrimination and devotion to the best interests of the child, implying that all rights shall apply to all children without exception and that all actions concerning the child shall take full account of his or her best interests. It spells out the basic human rights such as the right to survival and to develop to the fullest, to protection from harmful influences, abuse and exploitation, and to participate fully in family, cultural and social life. Preservation of identity, separation from parents and reunification of the family are also codified among others. Article 13 states that the child shall have the right to freedom of expression including freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice. Moreover, the right of the child to freedom of thought, conscience and religion is also enshrined. The Convention also protects children's rights to the highest attainable standard of health care, right to education, and legal, civil and social services.

Overview of the concerns and recommendations raised by CRC

In its Concluding Observations, the CRC¹⁴⁵ welcomed the ratification by Uzbekistan of the CRPD and the establishment of the Office of the Ombudsman for the Rights of the Child.¹⁴⁶ The Committee underlined the progress made in registering births and reducing statelessness, and in eliminating mother-to-child HIV transmission and the widespread use of child labour as well as the equalization of the age of marriage at 18 years for

¹⁴⁵ UN Committee on the Rights of the Child: Concluding observations on the 5th periodic report of Uzbekistan, CRC/C/UZB/CO/5, October, 2022, para 2, <https://digitallibrary.un.org/record/3992529?ln=en#record-files-collapse-header> (hereinafter referred to as CRC, para 2)

¹⁴⁶ See CRC, para 3

boys and girls and the measures taken to enhance the quality of and access to education.¹⁴⁷

The CRC further noted that urgent measures had to be taken in regard to respect for the views of the child, violence against children, children deprived of a family environment, children with disabilities, health and health services and education.¹⁴⁸

In regard to legislative framework, the Committee reiterated its recommendation to ensure the incorporation of all principles and provisions contained in the Convention and its OPs into domestic legislation and their application by relevant authorities and to develop a comprehensive policy, strategy and action plan on children, encompassing all areas of the Convention, and that it allocate adequate human, technical and financial resources to their implementation.¹⁴⁹ The Committee recommended popularizing the Convention and its Optional Protocols to be widely known by the general public, including by parents and children themselves, and to provide mandatory training on the rights of the child to all professionals working with and for children.¹⁵⁰

The Committee drew attention to the main principles enshrined in the Convention: non-discrimination and best interests of the child¹⁵¹ to be explicitly stipulated in the legislation, integrated and consistently applied in all administrative and judicial proceedings concerning children.¹⁵²

The Committee noted as a positive development the measures to expand the social assistance to low-income families with children.¹⁵³

CRC mirrored the recommendations by CESC on the corruption and enabling environment for NGOs, including those working on children's rights.¹⁵⁴

Recalling its General Comment No. 5 (2003), the Committee recommended that the State party further strengthen its system of collection and analysis of disaggregated data and access thereto and ensure that it covers all areas of the Convention and its Optional Protocols.¹⁵⁵

While welcoming the establishment of the Office of the Ombudsman for the Rights of the Child, the Committee recommends providing it with adequate human, financial and technical resources to effectively discharge its mandate and to strengthen the mandate to address complaints from or on behalf of children in a child-friendly manner.¹⁵⁶ It also recommends aligning the draft Law on the Children's Ombudsman with the Paris

¹⁴⁷ See CRC, para 3

¹⁴⁸ See CRC, para 4

¹⁴⁹ See CRC, para 5

¹⁵⁰ See CRC, para 6

¹⁵¹ See CRC, para 17. See also CRC: general comment No. 14 (2013)

¹⁵² See CRC, para 18

¹⁵³ See CRC, para 9

¹⁵⁴ See CRC, para 10, 14

¹⁵⁵ See CRC, para 11

¹⁵⁶ See CRC, para 9

Principles and with the Committee's general comment No. 2 (2002), with a view to the Act's swift adoption.¹⁵⁷

The Committee called upon the State party to remove all exceptions that allow marriage below the age of 18.¹⁵⁸

In regard to the respect for the views of the child, the Committee was concerned about children, especially those below 10 years of age, rarely being heard in judicial proceedings, including on civil law matters and in relation to alternative care, the abolishment of the children's parliament and the lack of child-friendly procedures and spaces for children to express their views, including in schools and barriers to accessing participatory structures for girls and children in vulnerable situations.¹⁵⁹

The Committee recalled its recommendation to safeguard the right of children in alternative care and in child justice facilities to the privacy of their personal belongings and correspondence.¹⁶⁰

The Committee noted that definition of tortures shall be aligned with the definition stipulated in the CAT, children should have access to confidential, child-friendly complaint mechanisms for reporting cases, particularly in children's detention centres and alternative care, and that those reporting such cases do not face reprisals.¹⁶¹ It also recommended considering ratifying the Optional Protocol to the Convention against Torture, assess the conditions of detention of children in the child justice system, and ensure that monitoring mechanisms, including the national preventive mechanism, have further unhindered access to such institutions for monitoring purposes.¹⁶²

In regard to violence against children, the Committee was seriously concerned about the lack of data on the prevalence, forms and causes of violence against children, which remains largely underreported and socially invisible and which does not allow for the accurate assessment of the magnitude of the phenomenon; the insufficient legislative and institutional frameworks to prevent and combat violence against children; the near-universal acceptance of corporal punishment, in the absence of a clear legal prohibition; the lack of capacity to identify victims of violence and of a multidisciplinary and child-sensitive approach to victim protection and insufficient victim support services and the absence of a specific hotline for child victims.¹⁶³

While welcoming the prohibition of child marriage, the Committee recommends that the State party effectively enforce this prohibition; strengthen its efforts to promote attitudinal change, including through awareness-raising campaigns and programmes on

¹⁵⁷ See CRC, para 12

¹⁵⁸ See CRC, para 16

¹⁵⁹ See CRC, para 19, 20. See also CRC: general comment No. 12 (2009)

¹⁶⁰ See CRC, para 25. See also CRC: general comment No. 25 (2021)

¹⁶¹ See CRC, para 26. See also CRC: general comment No. 13 (2011), Sustainable Development Goal target 16.2 and its previous recommendations as well as 4 CAT/C/UZB/CO/5, para. 22.

¹⁶² See CRC, para 26

¹⁶³ See CRC, para 27. See also CRC: general comments No. 8 (2006) and No. 13 (2011)

the harmful effects of child marriage on the physical and mental health and wellbeing of children; and establish protection schemes for victims who file a complaint.¹⁶⁴

In regard to family support schemes and the increased migration rates leading to a rise in the number of children left without parental care along with a punitive approach to parents, the Committee recommends increasing social assistance benefits, and develop and scale up parenting programmes, strengthening efforts to prevent child abandonment and family separation and to facilitate family reunification, including by allocating adequate resources to ensure community-based services, giving particular attention to poor families, families with children with disabilities and children left behind by migrant parents, by enlarging the pool of trained social workers and psychologists to provide such services and by raising the awareness of children and families about them; promote parenting roles of men and equal sharing of parental responsibilities between mothers and fathers, including by using awareness-raising campaigns and expanding the use of paternity leave and flexible working arrangements for both parents.¹⁶⁵

The Committee, recalling the Guidelines for the Alternative Care of Children and its previous recommendations, recommends to establish a single social protection agency working for the welfare of children, to speed up the adoption of the deinstitutionalization strategy and its action plan, with a view to transforming the child protection and social protection systems, prioritizing family-based options over institutional placements. It also notes the importance to conduct regular and substantive reviews of placements in institutional and family-based childcare facilities and monitor the quality of care therein.¹⁶⁶

It underlines that poverty, disability or divorce should never be the sole justification for family separation and that children are separated from their family only if it is in their best interests after a comprehensive assessment of their situation;

- Increase the number and strengthen the capacity of professionals working with families and children, in particular social workers, service providers, guardianship inspectors and mahalla workers, in order to ensure family-based care responses and to enhance their awareness of the rights and needs of children deprived of a family environment;
- Establish a formal foster-care system, set selection criteria and conduct a national recruitment campaign for foster parents, and provide regular and adequate training for foster parents and for guardianship and patronage care providers before and during the placement of children, especially with regard to fostering children with disabilities;
- Put an end to the institutionalization of children under 3 years of age and ensure that they are exclusively cared for in a family environment;
- Ensure sufficient family-based and community-based care options for children who cannot stay with their families, including by allocating sufficient financial

¹⁶⁴ See CRC, para 29. See joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) and Sustainable Development Goal target 5.3.

¹⁶⁵ See CRC, para 30, 31

¹⁶⁶ See CRC, para 32

resources for foster care and adoption and facilitating the reunification of children with their families when possible;

- Put in place procedures and facilities to ensure that all children have opportunities to maintain contact with family and that siblings are accommodated together whenever possible, when it is in their best interests;
- Ensure the availability of accessible and child-friendly channels for reporting, monitoring and remedying violence and/or abuse for children in care, and provide children with information on the risks of trafficking and of economic and sexual exploitation;
- Ensure adequate support for children leaving care, including housing options and business loans, and develop community-based services to help them to start independent lives.¹⁶⁷

In regard to the children deprived of liberty, the Committee highlights that the best interests of the child principle is the primary consideration in all decisions taken, including when sentencing caregivers, and that alternatives to incarceration are considered.¹⁶⁸

The Committee recommends guaranteeing the visitation rights of the children of incarcerated caregivers in adequate and child-friendly premises and ensuring that, when the incarceration of caregivers is not avoidable, children have access to adequate early childhood education, nutrition and health services, enjoy the right to play and are visited regularly by social workers to guarantee their physical, mental and social development.¹⁶⁹

In regard to the children with disabilities, the Committee urges¹⁷⁰ to:

- Adopt a child rights-based approach in legislation and policies regarding children with disabilities, including a definition of disability in compliance with the Convention on the Rights of Persons with Disabilities;
- Harmonize the methodology, tools and criteria for the identification of disabilities;
- Strengthen support for the parents of children with disabilities by increasing the availability of community-based services, including early intervention services and home attendance by patronage nurses and social work assistants;
- Ensure that children with disabilities have equal access to early childhood development and school readiness opportunities as other children;
- Develop alternative family-based care options for children with special needs and disabilities, instead of placing them in Muruvvat homes;
- Ensure that the social sector and other professionals who are regularly in contact with children have adequate knowledge and minimum standards of conduct, inclusive of disability;
- Strengthen awareness-raising programmes, including campaigns, aimed at government officials, judges and law enforcement officials, lawyers, the public

¹⁶⁷ See CRC, para 32

¹⁶⁸ See CRC, para 34

¹⁶⁹ See CRC, para 34

¹⁷⁰ See CRC, para 35. See also CRC: general comment No. 9 (2006), its joint statement with the Committee on the Rights of Persons with Disabilities on the rights of children with disabilities, available at <https://www.ohchr.org/en/treaty-bodies/crpd/statements-declarations-and-observations>.

and families, to combat the stigmatization of children with disabilities, and to promote both their positive image as rights-holders and opportunities for them to express their views on matters affecting them, including at school.¹⁷¹

In regard to health and health services sector, the Committee recommended pursuing efforts to further reduce neonatal, infant, under-five and maternal mortality rates, including by improving the quality of and access to prenatal and postnatal services and facilities, and early identification and intervention and screening programmes.¹⁷²

In regard to adolescents, the Committee recommends the following:

- Adopt a comprehensive sexual and reproductive health policy for adolescents and ensure that sexual and reproductive health education is part of the compulsory school curriculum and is targeted at all adolescents, girls and boys, with special attention given to preventing sexually transmitted infections;
- Ensure that adolescents have access to modern contraception, confidential testing and HIV treatment;
- Develop and implement a mental health policy and strategy, with a focus on prevention on developing outpatient services and on addressing emerging mental health issues in children and adolescents, including self-injuries and suicidal behaviour, ensure the availability and accessibility of mental health services and programmes for children and adolescents, increase the availability and accessibility of trained child psychiatrists and child psychologists in all areas and encourage children to seek mental health services, without stigma;
- Continue its efforts to prevent substance abuse and provide accessible and youth-friendly substance dependence treatment and support services.¹⁷³

Taking note of the joint project undertaken by the State party with the United Nations Children's Fund to promote diversion and restorative justice in Tashkent, and also taking note of the closure of two out of four closed facilities for children in conflict with the law and the rise of the minimum age for referrals to such institutions from 11 to 14, the Committee, recalling its general comment No. 24 (2019) and its previous recommendations and with reference to the global study on children deprived of liberty, urges the State party to:

- (a) Establish a specialized comprehensive child justice system with adequate human, technical and financial resources, designate specialized judges and prosecutors for children and ensure that they receive specialized training, and seek technical assistance from the United Nations Children's Fund to this end;
- (b) Ensure that the procedural safeguards for children who are suspects or accused of crime are respected and that children benefit from free and quality legal aid from the investigation onwards;

¹⁷¹ See CRC, para 36

¹⁷² See CRC, para 37

¹⁷³ See CRC, para 39. See also CRC: general comments No. 3 (2003), No. 4 (2003) and No. 20 (2016), and Sustainable Development Goal targets 3.5, 3.7 and 5.6

- (c) Promote non-judicial measures, such as diversion, mediation and counselling, for children accused of criminal offences and, wherever possible, the use of non-custodial sentences, such as probation or community service;
- (d) Ensure that detention is used as a measure of last resort and for the shortest possible period of time and that its use is reviewed on a regular basis with a view to its withdrawal;
- (e) For the few situations where deprivation of liberty is used as a measure of last resort, ensure that children are not detained together with adults and that the conditions of detention and their treatment comply with the Convention and with the United Nations Rules on the Protection of Juveniles Deprived of their Liberty, including with regard to access to education and health services;
- (f) End the use of any kind of solitary confinement (kartcers) as a punishment and disciplinary measure, and repeal the law allowing such solitary confinement;
- (g) Develop community-based rehabilitation and reintegration services, including psychological support, to prevent recidivism.

The Committee noted the lack of information on the implementation of its concluding observations in the report of the State party submitted under article 12 of the Optional Protocol¹⁷⁴ and reiterates its previous concluding observations, urging the State party to explicitly define and criminalize all offences under articles 2 and 3 of the Optional Protocol and address the distinction between the sale and trafficking of children.

To further strengthen the fulfilment of children's rights, CRC once again recommended ratifying the Optional Protocol on a communications procedure as well as considering ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.¹⁷⁵

¹⁷⁴ See CRC, para 49. See also 2019 guidelines on the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography

¹⁷⁵ See CRC, para 52