

ENGLISH only

EXPERT WORKING GROUP (EWG), TASHKENT, UZBEKISTAN

FREEDOM OF RELIGION OR BELIEF IN UZBEKISTAN

A Policy Brief for the OSCE Supplementary Human Dimension Meeting on Freedom of Religion or Belief, Vienna, 9-10 July, 2009

The Expert Working Group (EWG) is a non-governmental, non-commercial network of independent experts in Uzbekistan who focus on studying how law and public interests affect each other. The EWG's main objectives are to: monitor and analyze trends in the interaction of law and public interests; raise public awareness of the meaning of ongoing legal reforms; assist in establishing a local expert community and independent policy groups; and help stimulate free debate and discussion on ongoing reforms among the general public.

Contact information: Mr. Sukhrobjon Ismoilov – the EWG Coordinator; Email – xprtwg09@gmail.com; Tel. - +99890 1895999

In our view, violation of the right to freedom of religion or belief in Uzbekistan represents one of the most serious escalations of human rights abuses and threatens Uzbekistan's future as a stable nation governed by the rule of law and democratic principles. The Uzbek authorities dismiss the crackdown against independent Islamic groups as necessary to stabilize the country during its transition toward its stated goals of a democratic state and a free-market economy. The government of Uzbekistan justifies its strong-hand tactics as necessary to fend off militant Islamists and religious extremists. It is not clear whether religious fundamentalism and in particular militant Islamism is a real threat to Uzbekistan or merely a political game or a scapegoat.

Irregardless of the legitimacy of the threat of religious fundamentalism the issue of the right to freedom of religion or belief remains essential to the future of Uzbekistan as a stable, constitutional state. Dealing with this issue effectively in line with the national legislation and commonly recognized international standards could help avoid both an increase in resentment on the part of the religious or belief communities, in particular the Muslim population, and allegations on so called "intervention into Uzbekistan's internal affairs by foreign states and organizations".

Country background:

According to the information provided by the State Committee of Uzbekistan on Religious Affairs, Uzbekistan is considered a secular state where the government does not impose any restrictions on religious or belief communities. All religious communities, be it religious organizations with huge membership such as the Muslim Directorate of Uzbekistan, the Russian Orthodox Church or religious communities with small numbers of members, enjoy the same range of rights and freedoms.

Uzbekistan allows regular celebration of the main religious holidays in Uzbekistan such as Kurban Hayit, Ramadan Hayit, Easter, Christmas, Peysakh, Purim and Hanuka. After Uzbekistan has gained its national independent approximately 60 thousand Uzbek citizens have traveling to Saudi Arabia for carrying out Islamic pilgrimage.

According to the Muslim Directorate of Uzbekistan currently approximately 2 million people in Uzbekistan regularly attend mosques. During period of the national independence hundreds of mosques, churches and prayer houses, including orthodox temples have been constructed and restored such cities as Tashkent, Samarkand and Navoiy.

At present all in all 2.231 religious organizations of 16 different religious faiths are registered by the Uzbek government and operate freely. 2.050 of them belong to the Islamic organizations as almost 88 % of the total population is Muslim.

Apart from Muslim religious organizations approximately 180 religious organizations of the other 15 various religious faiths operate in Uzbekistan. There is also a Bible Society of Uzbekistan – an inter-faith religious organization which assists other religious organizations in getting better access to the religious literature.

The policy of the Uzbek government on freedom of religion or belief:

Freedom of religion or belief is considered to be one of the most fundamental human rights protected by international law. All states are obliged to respect and protect this right. Religious freedom, *inter alia*, is the inherent right of a person to profess or not to profess a religious faith; to worship or not to worship, in public or in private, according to one's own conscience, understanding, or preferences; to join in association with others of like faith or beliefs. This right is important to the sanctity and dignity of the human person as it is to the recognition, protection, and maintenance of a free and democratic state. Freedom of religion or belief ultimately forms the basis of constitutional government, a limited state, and a free and democratic society. Recognition of freedom of religion and conscience is integrally related to all other civil liberties and to the maintenance of a free and democratic state.

From the first years of independence (September 1, 1991) and beginning of his presidency the Uzbek leader Islam Karimov has found himself engaged in a struggle with Uzbekistan's Islamic leaders over religious freedom. With the largest Muslim population in the Central Asia region, the Islamic religion flourished in Uzbekistan as a result of the break-up of the Soviet Union. Karimov viewed the Islamic leaders as ideological rivals and a threat to his political interests and stability. The Uzbek government has mounted a crackdown against unofficial, independent Islamic worship and imposed state-dominated Islamic establishment by banning independent Islamic practice. Such suppression of independent Islamic adherence to the state violates the Constitution of Uzbekistan and international human rights standards on freedom of religion or belief, including the right to practice one's religion, the right to a religious education, and the right to teach and lead religious worship without unauthorized state interference or involvement.

The February 1999 bombings in the capital of Uzbekistan, the 2004 bombings in Tashkent and Bukhara cities, the 2005 Andijan public uprising which has also been prompted by an arrest and unfair trial against a group of independent Islamic adherents "Akromiyar" and the latest May 2009 events in Andijan region prove that the Uzbek government's repressive policies threaten rather than ensure peace and stability in Uzbekistan. The disregard for the constitutional protections for freedom of religion or belief raises serious issues concerning the rule of law in Uzbekistan and its future as a constitutional state. So, freedom of religion or belief in Uzbekistan is foremost for determining the limitations of civil liberties in that country as well as Uzbekistan's future as a stable, democratic state governed by the rule of law principle.

The policy of Uzbek government towards religion that it inherited from the Soviet Union is a policy based on an uncompromising premise of “that which is not controlled is forbidden”. The government tries to supervise religious worship and belief, by overseeing the Islamic hierarchy, the content of imams’ sermons, and the substance of their religious materials. In the course of the past years, the Uzbek government has continued to persecute and harass those who practice Islam outside of the government-controlled system. Uzbek law provides for criminal and administrative penalties against those involved in unregistered religious organizations, private religious education, and the possession and distribution of literature recognized as “extremist”.¹ Counter-terror laws are also actively applied in persecution of Muslims who fall beyond the government controlled Islam.²

Uzbek authorities have invoked these penalties to punish Muslims who pray in unregistered mosques, study Islam with private teachers, or who are followers of imams who fall out of favor with the government. Using the aforementioned law enforcement tools, government attempted to portray independent Muslims as “extremists” and the “nation’s enemies”. After September 11, such campaign against independent Muslims is justified as a part of the global campaign against terrorism. The government has persecuted and brought to the court independent Muslims who can be divided into several broad categories which are labeled as fundamentalist and extremist religious groups: first, unaffiliated independent Muslims who were accused of “Wahhabism”, a term used to denote “Islamic fundamentalism”; individuals charged with membership in Hizb ut-Tahrir (Party of Liberation), a transnational organization that advocates reestablishment of the Caliphate (an Islamic state) in traditionally Muslim lands; unaffiliated group of young Muslim entrepreneurs “Akromiylar”; adherents of Said Nursi called “Nurchilar”. Regardless of a person’s affiliation with the above mentioned religious groups, authorities often violate their civil and political rights. Many of the criminal cases against independent Muslims are forged, torture and ill-treatment are widespread, there are usually no fair trials or independent judges, and court trials and decisions severely violate the Criminal Code and Procedure of Uzbekistan.

Currently, more than 7000 political prisoners are being held in colonies on the basis of their religious beliefs. This is seen as a cover for the government’s inability to promote economic progress and prosperity in the country and defame the opposition. Violations of the rights of such independent Muslims start from the moment they are summoned to a law-enforcement agency (usually for detention) till the post-conviction harassment and religious persecution in prisons.

Those gross violations can be divided into following types:

- Prosecution by the mahalla committees: Existence of pre-court prosecuting mechanisms in the face of Uzbek mahalla committees (community-based bodies of self government) which can call and enforce other inhabitants of the area to publicly condemn independent Muslims and their family members and segregate them;

¹ Articles 216 and 244-1 of the Criminal Code of Uzbekistan. Article 9, Law of the Republic of Uzbekistan “On Freedom of conscience and religious organizations”.

² Law on “Combating terrorism” of December 15 2000, Registration number N 167-II. The Law has overly broad and vague language, and it lacks references to applicable penalties for terrorist offenses. The Criminal Code of Uzbekistan is the primary law that addresses the crime of terrorism and threats to national security. After the February 1999 Tashkent bombings, articles of the Criminal Code were amended, revised or newly adopted, ostensibly to improve national security and better combat terrorism. Article 155 - “Terrorism”, Article 156 - “Instigation of national racial or religious hatred”, Article 159 - “Attacks against the constitutional order of the Republic of Uzbekistan”, and Article 244 “Mass disturbances”.

- Trumped up criminal cases: Uzbek law-enforcement agencies often use illegal tactics to detain independent Muslims. These include often complaints and claims of police planting illegal narcotics or bullets on defendants or in their homes;
- Torture and ill-treatment: During investigation, the detained independent Muslims are very often subjected to torture or other forms of inhuman cruel treatment in order to force self-incriminating testimonies;
- Judges often refute torture claims and recantation of coerced confessions by defendants at trial, without investigation;
- Public bias through media propaganda: There is a practice of showing arrested and convicted independent Muslims on national TV channels and describing them as terrorists and state enemies, thereby turning public opinion against them;
- Uzbek authorities tend to restrict the procedural rights and guarantees of defendants and convicts more if it is religious related charge. For example, access of family members of the convicted and observations by the media and rights organizations of trials are often restricted;
- Post-conviction torture and religious persecution: Religious prisoners continue to suffer torture and persecution as they serve out their prison sentences. In prisons, they are often forced to renounce their faith and beg for the state's forgiveness. Their family and relatives are often victims of persecution, discrimination and harassment;
- Amnesty: Issuing annual presidential decrees on amnesty is a usual practice in Uzbekistan. Usually, such amnesties provide for the release of, among others, those sentenced to 6–10 years or less charges of “anti-state activity” (Article 159). Uzbek authorities often herald the amnesty as a sign of good will and progress toward greater protection of religious freedom whereas it is not. The amnesty affects only a small number of the estimated 7000 religious prisoners. And new arrests continue after its publication, and in several cases authorities harassed and rearrested those who had been amnestied. Given that vast majority of independent Muslims accused of religious infractions have been imprisoned to more than 6 years. The amnesty does not also apply to most prisoners of conscience.

It could be reasonably concluded that independent Muslims in Uzbekistan, who are subject to government persecution and harassment, are one of the most underrepresented members of the country's populace. Most representatives of this category of the population cannot afford to hire lawyers to represent them before law-enforcement agencies and courts. The defense lawyers provided under such situations by the state are usually deemed to be corrupt and serving to the interests of the state. There are a limited number of public institutions in Uzbekistan who are rendering legal assistance and carrying out litigations for the public interest. And there is no public institution / NGO focused on rendering legal assistance and support to independent Muslims and their family members except human rights groups in Uzbekistan. However, they demonstrate underdeveloped skills and knowledge to carry out this task effectively and limit themselves mostly to recording and reporting violations of freedom of conscience and religion but do not protect the victims directly.

Religious prisoners and their family members in Uzbekistan face immense discrimination in all walks of life. The government policy on combating religious fundamentalism and extremism is built on the principle that if there is one religious extremist in the family, all remaining members of the family are then extremists too. There are many cases when the Uzbek authorities have arrested and imprisoned for long years several members from the same family. At the same time being a traditional society ruled by traditions and public morale the Uzbek society tends to isolate the family members of a religious prisoner and avoid contact with them. A religious prisoner among the members of the family makes it impossible to apply for a job in the government body. The family members of religious prisoners are kept under constant surveillance of the local police and mahalla committees.

Different tendencies toward freedom of religion or belief could be noted in the modern Uzbek society. Such trends can also be linked to different stages. For example, during the first years after gaining the national independence the majority of the population has demonstrated rarely highest interest in religion. In general we are witnessing a gradual expansion of the religiosity of the society in Uzbekistan (please note “expansion or religiosity”, not “deepening of religiosity”). Many facts tell us about the growth of the level of religiosity among the society.

There are many reasons why the level of religiosity is growing in Uzbekistan as this process has been affected by a strong combination of numerous internal and external factors. First of all, Islam as a religion claims for universality and accomplishes different social and political functions, e.g. the function of formulating a point of view on the ongoing processes, or the role played by religion in “channeling social discontent or protest”. Islam as a strongly socialized religion has its own point of view on all socially important issues. Surprisingly, both in times of social-economic crises and in times of social-economic welfare the Muslim communities look at the situation through the prism of religious criteria. In modern Uzbekistan Islam mainly plays a role of alternative channel for expressing public discontent or protest and seeking console. For some people it is a tool to become isolated in himself / herself or one’s micro-society. To date the Uzbek society remains unable to formulate neither liberal mind, nor national consciousness as such. Islam remains as a main complete element of the public consciousness.

Second, the form of self-identification in the consciousness of Muslims in Uzbekistan is gradually changing. Under globalization such self-identity features as “ethnicity”, “nationality” lose their meaning and the idea of belonging to a global faith community starts prevailing. Today an average Muslim from Uzbekistan looks at what is going on in the world through the eyes of “Muslim”. Thus, external factors also catalyze the growth of the religious identity.

Third, the Government of Uzbekistan practices the policy of restraint against the freedom of religion and belief. The government has learnt that there are strong need and inclination towards religion or belief among the Uzbek society. The Uzbek authorities have reasonably concluded that as it is impossible to get rid of such need it should be used to maintain and strengthen the political power of the ruling elite. As a result today the authoritative government and traditional religious establishment, including official Islamic establishment, have reached a mutually beneficial deal. The authorities support the official religious establishment in their activities while suppressing and persecuting unaffiliated religious groups or communities, the official religious establishment work for proving the legitimacy of the ruling political elite. For instance, during their Friday prayer sermons all imams of the mosques in Uzbekistan are obliged to express gratitude to the Uzbek authorities for “creating such good conditions for practicing religion and belief”. The same proves true for other religions and beliefs in Uzbekistan.

The Uzbek authorities have always tried to control the growth and level of religiosity in the society. This is one of the priority issues among the government policies in Uzbekistan. Such control and supervision is composed of multi-level measures. One of the vectors of such control lies at the level of mosques. The Uzbek authorities have set rigid informal quotas on the number of registered officially allowed mosques. Only a few new mosques are registered by the government each year while many others are forcedly closed. The government controls the content of the religious sermons and religious literature. The religious or belief communities clearly understand the essence of such government policy and accept that as a humiliation though they are reluctant to express publicly their dissent. The task of maintaining the secular character of the state has been transformed in Uzbekistan into forced secularization of the public consciousness. Despite its contradiction to the existing national laws and international standards

the Uzbek government keep on going accomplishing this task. Thus, in the public consciousness of the majority in Uzbekistan the state policy and Islamic values are opposing to each other.

The government has understood that there is a great demand for religious education, especially education on Islam, among the society. Thus, in 1999 the Uzbek authorities established the Tashkent State Islamic University which was meant to prepare religious intellectuals and formulate contemporary religious teachings conforming to the government policy on freedom of religion. Surprisingly, this university was established under the Decree of the Cabinet of Ministers and submits to this central governmental body which contradicts the principle of a secular state laid out in the Uzbek Constitution and other national laws. Apart from the Islamic University, there are also several official religious educational centers throughout Uzbekistan which prepare religious cadres. However, those official religious educational centers are not in the position to cover the demand of the whole society to religious education.

Islam as a religion accomplishes different social functions. For adherents of Islam concrete forms of the perception of religion depends on the social-psychological situation of a separate group or individual. For example, for elderly people the religion is a tool of self-consoling and preparation for death. That explains why elderly people tend to become more religious. The state-orchestrated concept of Islam, for example, nurtures the ideas of “patience and submission to the power of the rulers”. However, the main trends of religious activism in Uzbekistan show that the religion, in particular Islam, has a very dynamic and pro-active role in this country. For example, almost all major social protests or conflicts in the recent history of Uzbekistan had an Islamic attributes (clashes of the government and religious authorities in Namangan in 1992, bombings of 1999 and 2004, the Andijan event of 2005 and 2009). It is almost a norm that persons with higher level of religiosity are noted to be socially pro-active, dynamic and politicized.

The level of religiously motivated detentions and criminal prosecution of religious groups hasn't fallen lately. Independent observation of the situation and monitoring of the government controlled Uzbek mass media indicate that the authorities are not thinking of changing their policy on freedom of religion or belief based on persecution and subjugation. For now, this is an issue of maintaining a secular character of the state for the Uzbek authorities but in the long-run this risks to become a fundamental problem for Uzbekistan. As a result of inadequate and brutal policy based on repression and persecution the bulk of the Uzbek society doesn't believe in the policy of the ruling elite on combating religious fundamentalism and extremism.

It is difficult to assess the presence, level of activism and strength of religious fundamentalist and extremist groups in Uzbekistan. With the government's repressive regime, poor living and economic conditions, and reports of common and unusual torture make a fertile breeding ground for Islamist fundamentalist and extremist groups in Uzbekistan (the Hizb-ut-Tahrir, Wahhabism and the Islamic Movement of Uzbekistan (IMU). Unlawful or inhumane actions committed by the Uzbek government are viewed by those groups as an attack on the Muslim community. They view the current status of Islam in Uzbekistan to be shrinking due to the government's repression despite the fact that mosques have been erected and refurbished. Even though many operations and campaigns against the group have been conducted, it is resilient in that it has proven the ability to recruit members rather quickly. This is problematic for Uzbekistan primarily because there is only so much they can do to stop a group that considers itself a political party, not a militant group.

In general the Uzbek authorities control the situation by applying punitive measures. But the consequences of this are conflicting. On one hand, the influence of and threats from religious fundamentalist and extremist groups are reduced. On the other hand, the imprisonment, jailing,

and crackdown on religious groups falling of the government set boundaries will possibly fuel those groups and push them to become more radical. One of the main places of radicalization of peaceful Muslim groups today in Uzbekistan are Uzbek prisons. Whatever the consequences, it is quite clear that Islamist fundamentalist and extremist groups are not leaving Uzbekistan and will continue to challenge the difficult line between rising political dissent and rising extremism.

The answer to a question “To what degree the threat from Islamist fundamentalist and extremist groups is realistic and legitimate?” would be very tricky as religious fundamentalism and extremism are not a new phenomenon, nor is there anything novel in the government tendency to justify repressive policies by reference to the extremist and fundamentalist threat. Yet current government efforts to combat religious extremism and fundamentalism in Uzbekistan pose significant normative threats to the human rights framework.

The Uzbek government is increasingly taking actions in the name of counter-terrorism that violate basic human rights norms. Already the Uzbek authorities have tried to assimilate their own situations to the global “war on terror.” In Uzbekistan non-traditional religious groups and belief communities, and even non-violent dissident activities are being stigmatized by governments as extremists and terrorist. Such labels are used to rob the targeted groups of legitimacy, both domestically and internationally, and to allow governments to recast their struggles against these groups as counter-terrorism. The danger of this tendency, from a human rights perspective, is the presumption that normal human rights and humanitarian law constraints are relaxed in the fight against terrorism. Equally worrisome is the fact that such claims are often asserted in the hope of attracting the western support, or at least of tempering the West’s criticism of abuses.

It is difficult to tell now when and how the religious extremist and fundamentalist groups started finding supporters and adherents in Uzbekistan as it is equally complicated to indicate what has prompted this process, although independent observers point to dire social-economic situation, lack of available lawful channels for expressing public dissent and crackdown on political and civil liberties as a root causes of support the religious extremists find among some groups of the population. Anyway, it can be concluded that there is a legitimate threat of Islamist extremism and fundamentalism in Uzbekistan. However, this threat is too exaggerated by the Uzbek government in order to curtail civil and political rights and strengthen the power positions of the ruling political elite. The government policy on freedom of religion is repressive and that is why ineffective. Such policy on combating religious extremism and fundamentalism doesn’t convince the society but scares and makes more sympathetic and closer to the extremist and fundamentalist groups. In the Muslim dominated societies such strategy proves to be not effective.

Overview of the national legislation and practical regulation under bylaws:

Some understanding of Uzbekistan’s more recent religious history is necessary to analyze the current law and practices and understand their future implications.

The Uzbek Constitution establishes the limits of Uzbek religious freedom and human rights in general. The Preamble to the Constitution asserts Uzbekistan’s general devotion to human rights and recognizes the primacy of norms of international law. Article 31 explicitly guarantees freedom of religion, and protects the right to manifest a religion:

Art. 31 (Guaranteeing freedom of religion): “Freedom of conscience is guaranteed for all. Each person has the right to practice any, or no, religion. Forced imposition of religious views is not permitted”.

Separation of religion and state is mandated in Article 61:

Art. 61 (mandating separation of religion and State): “Religious organizations and associations are separate from the state and equal before the law. The state does not interfere in the activities of religious associations”.

The Uzbek Constitution, however, also restricts the right to freedom of religion in three articles of the Constitution. First, Article 16 provides that the rights and interests of the Republic of Uzbekistan supersede any provision of the Constitution.³ The meaning and limitation of this restriction is unclear and undermines freedom of religion. Article 16 authorizes the government to limit the right to manifest one’s religion in light of *any* rights and interests of the state, which in this case are political interests.

Second, Article 20 states that one’s exercise of rights and freedoms may not violate the lawful interests, rights, and freedoms of the state or society:

Art. 20 (Providing restrictions to the rights and privileges set forth in the Constitution): “A citizen’s exercise of rights and freedoms may not violate the lawful interests, rights, and freedoms of other people, the state, or society”

Like Article 16, the ambiguity of the language in Article 20 provides an additional obstacle for religious adherents because Uzbek officials interpret the words “lawful interests, rights, and freedoms” to suit their own purposes, including suppressing perceived ideological and political opponents.

Finally, Article 61, which provides for the separation of religion and state, falls prey to the state’s “rights and interests” and “lawful freedoms” limitations provided in Article 16 and Article 20, respectively. Thus, Uzbekistan may call itself a secular state, but the state maintains control over religious life. According to Shireen Hunter, a Central Asian scholar, secularism in Uzbekistan means subordination of religion to the state, rather than separation. The state illegitimately subjugates religion to the state apparatus in order to pursue one political goal of eliminating any potential Islamic political power and one personal goal of retaining power at all costs.

Although the Uzbek Constitution clearly provides for freedom of religion, the state distorts and abuses constitutional limitations of this human right for questionable purposes. State-sponsored Islam violates the Separation of Religion and State article of the Uzbek Constitution. Moreover, the lack of a true separation of powers and an independent judiciary undermines the power and meaning of the Uzbek Constitution. The integrity of and respect for this supreme body of law is reportedly threatened by repeated violations of its provisions by the Uzbek government.

The main law in Uzbekistan declaring the separation of state and religion is the Law of Uzbekistan “On freedom of conscience and religious organizations”⁴. Though article 5 of the

³ See Uzb. Const. at § 1, Ch. III, Art. 16 (Providing a limitation to the rights and liberties set forth in the Constitution): “No provision of this Constitution may be interpreted to prejudice the rights and interests of the Republic of Uzbekistan”.

⁴ Uzbekistan is also a signatory of the Universal Declaration of Human Rights. Article 18 of the Universal Declaration of Human Rights that declares that “everyone has the right to freedom of thought, conscience, and

Law secures the principle of the separation of state and religion in Uzbekistan, there are other provisions of the Law that appear to contradict with this principle⁵. The state secures the right to register all religious organizations and the regulation of their activities.

Several enacted laws, amendments, and decrees are of particular relevance. Beginning 1997, the government began closing all mosques and Islamic schools that did not register according to the 1991 religion law. The government does not provide any legal explanation for closing these religious institutions. Further, beginning January 1998 the Muslim Board of Uzbekistan, a state-created and controlled religious agency, ordered the removal of loudspeakers from all mosques, citing "preserving the social order" as a justification for that ban. In May 1998 the Uzbek Parliament amended the state religion law so that religious non-governmental associations are required to register with the government and any unregistered religious activity or unofficial religious speech is illegal. Again, the government has not provided any legal justification for imposing these burdensome and arbitrary restrictions, aside from alleged threats of Islamic fundamentalism. Additionally, the government imposed, by law, a state test that every religious leader must pass for authorization to lead Islamic worship or to teach. The test included questions outside the traditional sphere of a religious cleric and is often used to weed out unwanted clerics.

The government enforces restrictions against activities and expressions of Islamic faith. Those restrictions negatively affect several activities and expressions of independent Islamic practice, including dress, worship, and education. For instance, the free exercise of Islam includes the right to wear certain types of clothing and to have a beard. The Uzbek police often arbitrarily forces men who wear beards to shave against their will. Female students and schoolgirls are threatened that they will be punitively expelled from school for wearing Islamic head scarves. Male students and schoolboys are also threatened that they will be expelled from school for attending the local mosques for daily prayers. The parents of the students and schoolchildren are forced to pledge in writing obliging not to allow their children attend mosques and Internet cafes. The very threat of expulsion, harassment, arrest or possible violence is enough to force submission to the state-imposed Islamic practice and inhibit religious freedom.

The government harasses, detains, and arrests independent Islamic leaders and followers on questionable evidence, which limits religious freedom and forces adherence to official Islamic practice. According to the Uzbek Constitution, no one may be subject to arrest or detention other than on legal grounds.⁶ Moreover, no one has the right to enter a home, conduct searches, or

religion." The declaration goes on to state, "this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion in teaching, practice, worship, and observance."

⁵ For example, article 6 of the Law creates a Committee on Religious Issues (the Committee) in order to regulate the state's relationship with religious organizations in Uzbekistan. Section 2 of the same article lays excessive control function of the regulation of religious organizations by local governments in the regions of Uzbekistan. The article also requires for approval by the Committee for an alien to head a religious organization. Article 9 of the Law secures a state monopoly to religious education in Uzbekistan and bans private religious teaching practice. In addition, Article 14 of the Law bans appearance in religious clothing in a public places except for representatives of religious organizations. Article 5 prohibits private teaching of religious principles, Article 14 forbids wearing "ritual" attire in public, where violations of these provisions can result in a fine of five to ten times the amount of the minimum monthly wage or up to fifteen days in jail, and all religious groups face burdensome registration requirements under the law, with penalties of up to five years in jail for failure to register or participation in an unregistered religious group.

⁶ See Uzb. Const. at § 2, Ch. VII, Art. 25 (asserting that each person has the right to freedom and personal inviolability and that no one may be subject to arrest or detention other than on legal grounds).

maintain surveillance except by lawful means.⁷ In practice, however, the law enforcement officials have detained or arrested pious Muslims on questionable charges and conducted searches of personal property without legal authorization.

Numerous Uzbek and international human rights groups have found out that persons accused and convicted for anti-state crimes [usually, religiously or politically motivated crimes] were subject to particularly rude conditions of detention and to harsh treatments. Religious prisoners, who are serving prison terms in the same prison facilities than other types of inmates, do not enjoy the same range of rights. Their rights, such as the right to correspondence and written communication with home or the right to receive food and other necessary hygiene items from home, are widely restricted. Letters and other written communications are widely censored and do very rarely reach the recipients. Food and hygiene items, addressed to the religious and political prisoners by their family and their friends, often do not reach them.⁸

The religious prisoners, unlike other types of inmates, are annually forced by the prison authorities to write official letters of apologies to the name of the Uzbek people and the head of state. This process is video-recorded by the prison authorities. During such process the religious prisoners are also often requested to sign a paper in which he / she pledges to cooperate with the secret service and police after being released and report on his / her peers, fellow brothers / sisters and colleagues. This is a main condition for applying amnesty act on religious prisoner. The prison authorities really often deprive them of their rights. They tend to easily blame religious and political prisoners of any breach of internal regulations and rules and to put them into isolated cells. This is a useful tool, in the hands of the Uzbek authorities, to control detainees release, which could be possible under annual amnesty acts. If a prisoner breaks internal regulations twice and more, he might not be eligible for amnesty. Other inauspicious practices are developed by groups of inmates who are willing to cooperate with the prison administration. They are given official power and position, as members of squad. With the help of such squads, the prison authorities maintain a constant control over religious prisoners, stay informed about everything in the prison, and use them to build false criminal cases against the religious prisoners and to accuse them with breach of internal rules.⁹

To date the penitentiary system in Uzbekistan, including the custodies run by the National Security Service remain out of monitoring, evaluation and reach of independent observers and NGOs. The overall responsibility for the penitentiary system is carried by the Main Directorate of the Ministry of Internal Affairs on penitentiary facilities but the National Security System maintains its pre-trial custody separately. Since 2003 the time when the issue of independent access to the penitentiary facilities of Uzbekistan was first touched by the UN Special Rapporteur on the issue of torture the Uzbek government has argued that the Ministry of Internal Affairs developed a special form of agreement on cooperation and partnership for independent observers, including NGOs, who wish to visit the penitentiary facilities. Ostensibly those independent observers who signed such agreements with the Ministry could visit penitentiary institutions. But this statement needs to be disallowed as it is not true.

We can guess about the situation in the penitentiary system of Uzbekistan only relying on the information and stories of former inmates, relatives of the inmates, and their lawyers. Periodic

⁷ See Uzb. Const. at § 2, Ch. VII, Art. 27 (mandating that no one has the right to enter a home, conduct searches or surveillance, or violate the privacy of correspondence and telephone conversations other than in the circumstances and through the procedures anticipated by law).

⁸ The EWG interview with Mamura Qodirova, a mother of a religious prisoner Surat Qodirov, who is now held in prison facility 64/51 in the Koson district of Kashkadarya region, September 12, 2007, Tashkent, Uzbekistan.

⁹ The EWG interview with Muqaddas Shahidova, Umida Jumaeva and Mamura Qodirova, mothers of religious prisoners from prison facility 64/51 in Koson district of Kashkadarya region, September 12, 2007, Tashkent, Uzbekistan.

visits to penitentiary facilities by the Uzbek Ombudsman, inspections of the Ministry of Internal Affairs or Office of Public Procurator can not obviously be considered as independent and impartial.

The Uzbek Constitution permits the establishment of private, independent [139] religious schools.¹⁰ The state is not required to provide religious education but, at the same time, may not proscribe religious education. The Uzbek government, however, violates the right to a private, religious education by arbitrarily closing independent religious schools and leaving only state-sponsored religious schools open. The government asserts that closures of independent religious schools are temporary, but offers no legal justification for the official action. Additionally, the Uzbek government prohibits independent religious lessons or sermons, and the government strictly controls the distribution of religious educational materials. In doing so, the government eliminates independent Islamic education, leaving the state-sponsored Islamic education as the only alternative.

Conclusion:

Restrictive religious legislation and practical regulation present a grave problem for Uzbekistan's future. Because of this frustration, some turn to extremism, just as many from poor urban and rural families in Uzbekistan turn to extremism because local elites have blocked their paths to advancement. Although the political elite in Uzbekistan blames external factors for the accelerated radicalization of youth in the country, the truth is that they themselves are the culprits. It is the repressive legislation and official regulation of freedom of religion that they have imposed on the poor that is to blame. It is the absence of opportunity caused by the stranglehold of the ruling political elite in the rural areas and cities that has led thousands of youths towards radicalism and religious extremism.

However, what the people of Uzbekistan - the Muslim-majority country needs most is democratic governance, the removal of feudal constraints to personal advancement, and the creation of educational infrastructure that can once again propel the citizens to the forefront of human creativity. The ruling political elite fools the people by blaming on external factors problems caused exclusively by their own oppression and bad governance. Religion and its symbols are shamefully misused in order to conceal the absence of internal reform, to divert public attention towards external conflicts in order to prevent people from looking too closely at their own situation and its real causes. The roots of religious extremism and fundamentalism are internal, not external.

¹⁰ See Uzb. Const. at § 2, Ch. IX, Art. 41 (guaranteeing the right to a free, general education and silent as to any restrictions with regard to private, religious education); see also Uzb. Const. at § 3, Ch. XIII, Art. 61 (stating that the state shall not interfere in the activities of religious associations [which shall include private religious schools]).