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The visa regime in Uzbekistan.

A failed attempt at balancing regime interests
and freedom of individuals

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The concept of ‘national security’ extends beyond the traditional concerns of military security.¹ It also involves “the ability to navigate safely through the global commons” such as the oceans, the atmosphere, outer space and cyberspace.² Human security implies the free movement of individuals—inside their own states, when crossing state borders, and when migrating to other countries.

On paper, Eurasia is a liberal region in terms of freedom of movement, mostly due to post-Soviet agreements that allow for a unified space for the movement of people. However, in practice, crossing state borders remains challenging for a large part of the population both in terms of logistics and in terms of formal procedures. Turkmenistan and Uzbekistan are especially problematic in this regard. Uzbekistan is one of the few countries in the world that requires those wanting to travel abroad to obtain an exit visa—that is, travelers need to get a “passport sticker,” from the Ministry of Internal Affairs. The Uzbek authorities have offered little in the way of explanation for the exit visa. In the 1990s, they claimed the introduction of the exit visa was a measure to ensure security and order. In the 2010s, Uzbek officials argued that the exit visa was necessary to help prevent human trafficking.

This paper examines to what extent the exit visa has helped maintain public order and prevent human trafficking. It begins by investigating the issue of foreign travel from a historical perspective by exploring rules and regulations in both the Soviet and immediate post-Soviet eras. In the latter era I distinguish two periods—a first wave of travel restrictions instituted in 1995 that were said to be necessary to protect public order and a second wave of travel restrictions instituted

since 2011 that were said to be necessary to prevent human trafficking.

I critically examine these justifications and argue that the first wave of restrictions had more to do with controlling the domestic political opposition and ensuring the security of the regime. The second wave of restrictions was less politically motivated and spurred by the desire to stop the expansion of transnational criminal groups. Unfortunately, these restrictions have not stopped human trafficking and have had the unintended consequence of increasing undocumented labor migration to the Commonwealth of Independent States (CIS) states. The third part of this paper argues in favor of the abolishment of the visa regime and provides recommendations to Uzbekistan and international actors on how to move forward.

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Travel Restrictions: A long history for Uzbekistan

The Soviet era

Controlling mobility inside the country

The Soviet Union introduced the need for travel documentation in 1932 the Central Executive Committee of the Council of People’s Commissars adopted a resolution estab-

¹ M. Flournoy, and S. Brimley, “The Contested Commons,” *Proceedings Magazine* 135 (2009): 7.

² T. Murphy, “Security Challenges in the 21st Century Global Commons”, *Yale Journal of International Affairs* 5, no. 2 (2010).

lishing a single passport system in the USSR and a compulsory residential permit.³ The newly established regime restricted the movement of citizens within the country through the *propiska*, that is, mandatory registration of residency and the use of internal passports.⁴ The introduction of the passport system was justified as a measure: “to ensure better control of people in cities and towns, and to remove from these localities refugees, i.e. kulaks, criminals, and other antisocial elements”.⁵

The very wording of the resolution clearly emphasizes the police function of the Soviet passport system. Kulaks (a rich peasants classified in the Soviet ideology as bourgeois and anti-regime elements) seeking refuge in cities were fleeing the social violence following the collectivization that began at the end of the 1920s. The removal of people in cities and towns not involved in the production process or “community service” meant forced relocation of those people to places in distant regions in need of laborers.⁶ The restrictive residence permit, or *propiska*, was used by the Soviet government to restrict migration to the country's most livable regions: cities, towns, and urban workers' settlements. It also restricted migration to settlements within 100 kilometers of Moscow and Leningrad, within 50 kilometers of Kharkov, Kiev, Minsk, Rostov-on-Don, and Vladivostok, and within a

100-kilometer zone along the western border of the Soviet Union. Residence permits were generally not available for “undesirable elements” and ex-convicts, who were prevented from making their homes in Russia's largest cities. Without a *propiska*, citizens could not work, rent an apartment, marry, or send their children to school.⁷

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One of the main features of the 1932 system was that only residents of cities, workers settlements, state farms, and new building sites were given passports. The collective farmers were denied passports, and therefore bound to remain on their farms.⁸ They could not move to a city and reside without passport, which would incur a fine up to 100 rubles, and repeated violations would lead to a criminal charge.⁹ In 1953, rural residents were finally allowed to get a “temporary *propiska*,” but for no more than thirty days. Even then they needed to also obtain a separate permit from the local administration. Farmers had to wait until 1969 to be able to obtain passports, and it was not until 1974 that they were able to freely travel inside the country. Between 1974 and 1980 over 50 million passports were issued to residents of rural areas.¹⁰

Controlling travel abroad

To travel abroad, all citizens of the Soviet Union had to obtain special permission to cross the Soviet border—i.e., an exit visa – and a permission from a foreign country to enter its territory, –i.e., an entry visa.

³ Resolution of the Central Executive Committee of the USSR and Council of People's Commissars “On establishing single passport system in the USSR and compulsory residential permit of passports” under No. 1917 (December 27, 1932).

⁴ N. Rubins, “The Demise and Resurrection of the *Propiska*: Freedom of Movement in the Russian Federation,” *Harvard international law journal* 39 (1998): 546.

⁵ Resolution of the Central Executive Committee of the USSR and Council of People's Commissars “On establishing single passport system in the USSR and compulsory residential permit of passports” under No. 1917 (December 27, 1932).

⁶ M. Matthews, *The Passport Society: Controlling Movement in Russia and the USSR* (Boulder: Westview Press, 1993).

⁷ N. Rubins, “The Demise and Resurrection of the *Propiska*: Freedom of Movement in the Russian Federation”.

⁸ *Ibid.*

⁹ Article 192a of the Criminal Code of the RSFSR envisages up to two year imprisonment.

¹⁰ K. Lyubarsky, “The Abolition of Serfdom,” *New Times International*, October 6, 1993, 10.

While largely closed to the outside world during the Stalinist decades, the Soviet Union significantly expanded its connections with the outside world in the 1960s. The Soviet Union entered into multiple agreements regarding visa-free travel (including private business trips) with other socialist and Eastern Bloc countries (Bulgaria, Hungary, East Germany, Czechoslovakia, Poland, Mongolia, Romania, and North Korea). Given the increased demands to allow some categories of citizens to travel abroad, legislation became more complex. In 1959, the Soviet Council of Ministers issued a number of regulations and departmental instructions to control movement across the Soviet border. These new regulations preserved the old rules, but were supplemented by a list of persons who were given diplomatic and service passports and also allowed entry and exit with documents other than passport, such as certificates and internal passports. Henceforth, overseas business or private trips to member countries were regulated through special identity documents (the AB or NJ serial number), and inserts in the Soviet internal passports.¹¹

Trade with foreign countries played an important role in reshaping Soviet visa policy. Despite the relatively limited nature of trade between the United States and the Soviet Union in the early 1970s, the Jackson-Vanik amendment, which the US Congress adopted as a part of the Trade Act of 1972, curtailed trade even more by linking trade relations to a country's emigration policy. Jackson-Vanik essentially stated that if a country denied its citizens the right or opportunity to emigrate, imposed more than a nominal tax on emigration or emigration documents, or imposed more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate, then that country was ineligible under U.S. law for Most Favored Nation (MFN) trade status.

¹¹ S. P. De Boer, E.J. Driessen, H.L. Verhaar, *Biographical Dictionary of Dissidents in the Soviet Union: 1956 - 1975* (Leiden: Brill, 1982), 652.

The Jackson-Vanik amendment was originally aimed at penalizing the Soviet Union for its restrictions on Jewish emigration and was intended to encourage Moscow to lift these limits. The Soviet authorities denounced Jackson-Vanik as "a flagrant attempt by the United States to interfere in the Soviet Union's domestic affairs."¹² Despite these tensions U.S.-Soviet trade rebounded in 1975 and expanded over the next few years. U.S.-Soviet trade and Jewish emigration from the Soviet Union peaked in 1979, and Congress adopted a new Export Administration act which loosened U.S. trade and export restrictions.

Soviet citizens who campaigned for their right to emigrate in 1970s were known as *refuzniks*, or *otkazniki*. In addition, according to the Soviet Criminal Code, a refusal to return from abroad was treason, punishable by imprisonment for a term of 10–15 years or death with confiscation of property.¹³

Despite the loosening of travel regulations in 1988 and 1990, the *propiska* and exit visa systems remained in place and continued to tightly restrict Soviet citizens' right to move for more than six decades. No significant changes were made to this system until 1991 and the collapse of the Soviet Union. The Jackson-Vanik amendment was repealed in December 2012.

1991-1995: Free movement of people

After the collapse of the Soviet Union, a range of measures were undertaken to ensure freedom of movement in the newly established Republic of Uzbekistan. They included the abolition of restrictions on the movement of people and their choice of domicile. The new

¹² K.M. Cowan, "Cold War Trade Statutes. Is Jackson-Vanik still relevant?" *University of Kansas Law Review* 42 (1994): 742-743.

¹³ De Boer, Driessen, Verhaar, *Biographical Dictionary of Dissidents in the Soviet Union: 1956 - 1975*.

draft laws were developed and finalized in 1992.¹⁴¹⁵

The constitution of the newly established independent Republic of Uzbekistan solemnly declared that “any citizen of the Republic of Uzbekistan shall have the right to freedom of movement on the territory of the Republic, as well as a free entry to and exit from it, except in the events specified by law”.¹⁶ Other resolutions further elaborated that citizens “shall enjoy the right to freedom of travelling abroad for private purposes, common purposes, for permanent residence, as tourists, to study, to work, to receive medical treatment, [and] for business purposes” and that documents needed to travel abroad should be limited to the possession of an entry visa for the targeted state.¹⁷¹⁸

The new regulations clearly stated that the new order applied to travel to all states with the exception of the CIS member states, where no visa documents were necessary.¹⁹ Indeed “open borders and freedom of movement of citizens” were guaranteed by Article 5 of the Agreement on Creation of CIS, signed on December 8, 1991. In order to implement it in 1992, the majority of newly independent states (Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmeni-

stan, and Uzbekistan, with Georgia joining in August 1995) signed the Bishkek Agreement on Free Movement of Citizens of CIS States, which guaranteed the freedom to move to all co-signatories' territories, provided a person was a citizen of one of the parties to the agreement.²⁰

However, economic crises and political instability started to compromise CIS freedom of movement. CIS leaders tried to contain these forces in January 1993 by adopting the Charter of the CIS, with Article 2 encouraging the “Member States' assistance to the citizens of the CIS states with regard to free movement within the Commonwealth”. The charter also states that “questions of social and migration policy lie in spheres of joint activity of the Member States, in accordance with obligations undertaken by the Member States under the framework of the Commonwealth” (Art. 4) and that member states “shall exercise a joint activity in the formation of common economic space on the basis of market relations and free movement of goods, services, capital and labor” (Art. 19). The charter thus became the first document of its kind to unequivocally stress the importance of freedom of movement in the post-Soviet economic and social contexts.

1995-2011: A first wave of restrictions

Legislation on freedom of movement within the CIS began to lose its momentum in the second half the 1990s. In 1995, the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan, “On establishing the procedure of exit for citizens of the Republic of Uzbekistan,” No. 8 dated February 6, 1995, approved and launched the so-called exit visa. This resolution was accompanied by several other documents, “On additional measures to improve the passport system in the Republic of

¹⁴ Law of the Republic of Uzbekistan, “On citizenship of the Republic of Uzbekistan,” under No. 632-XII (July 2, 1992).

¹⁵ Resolution of the Cabinet of Ministers of the Republic of Uzbekistan, “On measures on introduction of the passport of the citizen of the Republic of Uzbekistan,” under No. 533 (November 13, 1992).

¹⁶ Article 28 of the Constitution of the Republic of Uzbekistan.

¹⁷ Resolution of the Cabinet of Minister, “On order of travelling abroad of citizens of the Republic of Uzbekistan” under No. 141 (March 17, 1994).

¹⁸ Decree of the President of the Republic of Uzbekistan, “On measures on further strengthening of economic reforms, protection of private property and entrepreneurship development,” under No. UP-745 (January 21, 1994).

¹⁹ Resolution of the Cabinet of Ministers “On order of travelling abroad of citizens of the Republic of Uzbekistan” under No. 141 (March 17, 1994).

²⁰ “Soglashenie o bezvizovom peredvizhenii grazhdan gosudarstv SNG po territorii ego uchastnikov ot 9 octiabrya 1992 goda” (Agreement on Visa-free Movement of Citizens of the CIS Members within the CIS of the 9 October 1992).

Uzbekistan,” “Statutes on the passport system in the Republic of Uzbekistan,” “Instructions on the implementation of the passport system in the Republic of Uzbekistan,” and “On measures to further improve the passport system in the Republic of Uzbekistan”, which introduced a new order affecting Uzbekistanis’ freedom of movement.

Legislation on freedom of movement within the CIS began to lose its momentum in the second half the 1990s. In 1995, the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan decided that citizens of Uzbekistan wanting to travel abroad needed to obtain an exit visa, that is, a permit sticker in their passports.

According to the above-mentioned resolution, citizens of Uzbekistan wanting to travel abroad needed to obtain an exit visa, that is, a permit sticker in their passports (hereinafter, the sticker). The sticker was valid for a period of two years, and grants multiple exits. The sticker validity period was limited to the passport validity.²¹ Uzbeks who wanted to travel abroad, (except to CIS states which do not require an exit visa) were forced to apply to the local OVIR offices (Local Departments of Exit, Entry, Citizenship) according to their place of registration of residency (*propiska*). The applicant had to provide a passport and pay the state a fee (about US\$20). According to the law, OVIR had to consider the application within 15 business days, and “grant the sticker in the absence of grounds to refuse the right to travel abroad” (Section 2). According to the resolution, the right of a citizen of Uzbekistan to leave the country was to be provisionally restricted if he/she:

- a. has access to especially important data or top secret data constituting a state secret and concluded a labor agreement (contract) stipulating a provisional restriction of the right to leave, until expiration of the period of restriction established by the labor agreement (contract);
- b. has been detained on suspicion of having committed a crime or has been accused, until the court's decision on the case;
- c. has been ruled by the court as an especially dangerous recidivist or is presently under administrative supervision of militia, until the sentence has been served or lifted or the termination of the administrative supervision;
- d. evades the fulfillment of obligations imposed on him/her by a court of law until the obligations have been fulfilled or the sides have reached an agreement;
- e. has presented deliberately false information when legalizing documents for exit from Uzbekistan;
- f. if a civil claim has been instigated against this person, until the court makes a decision on the case; or
- g. in accordance with the Republic of Uzbekistan’s legislation, has been called up to the military service, until the termination of the military service or on the grounds of the law. (Section 3).

Moreover, Article 223 of the Criminal Code of the Republic of Uzbekistan clearly stated “exit from or entry in the Republic of Uzbekistan, or crossing the state border, which violates the duly set procedures shall be punished with a fine from fifty to one hundred minimum monthly wages, or imprisonment from three to five years”. Violation of set procedures to exit from or enter into the Uzbekistan should be interpreted as:

- a. Crossing the border with an invalid or void passport.
- b. Illegally crossing the border, or
- c. Crossing the border without proper documents.

²¹ Para 2. Section 2 of Appendix 1 to Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On the establishment of procedure for exit of citizens of the Republic of Uzbekistan and regulations on diplomatic passports of the Republic of Uzbekistan” under No.8 (January, 6 1995).

Laws against crossing the border with an invalid or void passport aim to prevent criminals and other violators, along with persons indebted to the state or any other legal or natural persons, from leaving Uzbekistan.

2011: A second wave of restrictions

In 2011, a new resolution of the government of Uzbekistan, No. 200 dated July 7, 2011, introduced a new procedure, “On the establishment of procedure for exit of citizens of the Republic of Uzbekistan and regulations on diplomatic passports of the Republic of Uzbekistan”. According to it, restrictions to exit the country now included the following:

if certain information has been received by the Ministry of Internal Affairs or the Ministry of Foreign Affairs from competent authorities that the applicant, while abroad, violated the law of the host country (list of offenses defined by the relevant authorities), or if certain information has been received indicating non-expediency of granting permission to exit from Uzbekistan—until the termination of a two year period since the registration of this person.²²

The law fails to provide an explicit definition of “relevant authorities” who are to define the list of “offenses” that might be used by the Ministry of Internal Affairs and the Ministry of Foreign Affairs to refuse the right to exit. It also introduces a very broad and confusing term—“non-expediency”—that might cover a multitude of undefined violations. The blurry nature of this terminology allows overly expansive leeway as to the interpretation of what can be deemed non-expedient by the above-mentioned ministries. Therefore, this

²² Para h. Section 3 Appendix 1 to Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On the establishment of procedure for exit of citizens of the Republic of Uzbekistan and regulations on diplomatic passports of the Republic of Uzbekistan” under No.8 dated January, 6 1995 amended by new Resolution of the government of Uzbekistan under No.200 (July 7, 2011).

ground for refusal leaves open a great deal of room for local administrative discretion. The regulations do provide for appeal of refusal of the exit visa through the courts or superior administrative bodies. However, should this restriction of the right to exit be imposed privy to Clause H, the amended Resolution No. 8 denies the applicant the right to appeal against such a decision.²³

In 2011, a new resolution introduced a blurry terminology that allows to refuse exit visa. The ground for refusal leaves open a great deal of room for local administrative discretion.

In addition, in 2012 President Islam Karimov approved amendments to the Criminal Code aimed at strengthening the legal ramifications for illegal entry and exit from the state. According to the amendments to Article 223 of the Criminal Code, exit from or entry into the Republic of Uzbekistan, or crossing the state border, in violation of the duly set procedures is punishable with 5-10 years imprisonment²⁴ if committed by state officials, persons that require special approval to travel abroad, or if committed repeatedly. This measure also applies to foreigners, whose right of entry into Uzbekistan is limited in accordance with the procedure for entry and exit from Uzbekistan of foreign citizens and stateless persons, approved by the Cabinet of Ministers. The law took effect on January 4, 2013.

Rationales of the visa regime: Two hypotheses

The Uzbek authorities have offered little in the way of explanation for the visa regime. However, two major hypotheses can be put forward.

²³ Ibid.

²⁴ Disposition of Article 223 as amended by the Law of the Republic of Uzbekistan under No.ZRU-345 dated December 29, 2012.

Hypothesis 1. To ensure domestic security ... and eradicate opposition

The 1995 law introducing the permit sticker affirms that the new order was introduced “to ensure the protection of rights, freedoms, and lawful interests of citizens, as well as to ensure security and order”. It is therefore crucial to analyze the political and social environment in Uzbekistan in the mid-1990s in order to understand the reasons behind this decision.

In the transition to independence, the Uzbek government adopted a set of domestic policies built upon the twin pillars of stability and consolidation of the country’s independence. In numerous speeches, President of Uzbekistan, Islam Karimov argued that, given Uzbekistan’s domestic and international circumstances, the country’s first priority should be stability.²⁵ The result was a set of domestic initiatives designed to forge a strong centralized state, promote Uzbek national self-identity and suppress all potential sources of opposition (particularly those inspired by political Islam).²⁶ The attempts to eradicate any potential opposition movements, especially those that emerged in 1988-1992, during the *glasnost* and *perestroika* years, resulted in Soviet-style tactics of using fear and coercion. Political activists were denied the right to assemble, advance their views, meet with foreign journalists, and distribute publications.²⁷ The main independent organizations were the Birlik (Unity) People’s Movement and the associated Birlik Party, which promoted principles of independence and national rebirth.²⁸ The Birlik movement was

²⁵ N. Melvin, *Uzbekistan. Transition to authoritarianism on the Silk Road* (Amsterdam, Netherlands: Harwood Academic Publishers, 2000), 29.

²⁶ J. Critchlow, *Nationalism in Uzbekistan: A soviet republic’s road to sovereignty* (Boulder: Westview Press, 1991), 17.

²⁷ A. Bohr, *Uzbekistan Politics and Foreign Policy* (London: the Royal Institute of International Affairs, 1998), 10.

²⁸ Melvin, *Uzbekistan. Transition to authoritarianism on the Silk Road*, 35.

officially recognized in 1991, but denied registration as a party. Several activists, notably Muhammad Salih, left Birlik and formed the Erk party as the “official opposition” in April 1990.

In 1993, the government issued a decree requiring all officially recognized public organizations and political parties to re-register or face suspension. On October 1, 1993, the government used technical pretexts to prevent both Birlik and Erk from registering with the Ministry of Justice, which resulted in the permanent ban of both parties.²⁹ The government began to actively persecute members of the Birlik party, and a number of opposition leaders disappeared or were assaulted or imprisoned.³⁰ The Members of both parties, including the Birlik chairman, fled the country. As a part of a political crackdown, conspiracy charges were issued against five Erk leaders who had been living in exile since 1993. In June 1994, Uzbek security services seized dissidents Murod Zurayev and Erkin Ashurov from exile in Almaty and took them to Uzbekistan to stand trial along with other dissidents. The Supreme Court found the seven dissidents guilty of “participating in a conspiracy to forcibly overthrow the constitutional government”. The government used this trial as a part of an ongoing effort to discredit opposition groups by linking them with extremism.³¹

It is hardly a coincidence that the exit visa was launched in a time of political repression, when many opposition figures fled to Russia, Turkey, and the United States, and continued to be active abroad. In 1995, the Uzbek authorities closed seven major newspapers on the grounds that they were “disloyal to the current regime”.³² Some publications were banned outright, such as *Mustaqil Haftalik* and *Erk*, the newspapers of the *Birlik* and *Erk* opposition groups respectively. Individuals have

²⁹ *Ibid.*, 35.

³⁰ *Ibid.*, 36.

³¹ Melvin, *Uzbekistan. Transition to authoritarianism on the Silk Road*, 36.

³² Bohr, *Uzbekistan Politics and Foreign Policy*, 15.

been imprisoned for merely possessing one of these newspapers.³³ However, both movements continued to operate from abroad. In addition to the new law on the media, a law on political parties introduced in January 1997 imposed further obstacles for political party registration and “justified” the government’s full control over political life.³⁴

The introduction of a visa exit regime in 1995 can be understood in the context of the political struggle between the Karimov regime and its first generation opposition. The authorities were afraid of the possibility of opposition leaders creating dissident cells abroad, and being able to travel freely to and from Uzbekistan.

The introduction of a visa exit regime in 1995 can therefore be understood in the context of the political struggle between the Karimov regime and its first generation opposition. The authorities were afraid of the possibility of opposition leaders creating dissident cells abroad, and being able to travel freely to and from Uzbekistan. Subsequent years have shown evidence of the regime’s attempts to prevent activists and independent journalists from traveling abroad and developing contacts with foreign groups and institutions that could provide support. In the second half of the 1990s, the Government also restricted cross-border travel with some of its Central Asian neighbors.

Hypothesis 2. To prevent human trafficking... and make labor migration more difficult

The second round of restrictions, in the early 2010s, seems more of a response to new social dynamics than to any change in the political agenda of the authorities.

³³ *Ibid.*

³⁴ Melvin, *Uzbekistan. Transition to authoritarianism on the Silk Road*, 38.

Although the Uzbek authorities remain discreet on the topic, the idea that the exit visa prevents human trafficking is widespread among Uzbek experts and official circles. Human trafficking has increased immensely since the collapse of Soviet Union.³⁵ Due to its declining economy and rising poverty, Uzbekistan, as Central Asia's most populous state, has become a growing source country for human trafficking and the sex industry. Uzbek women and children are subjected to sex trafficking, often through fraudulent offers of employment in the United Arab Emirates, India, Kazakhstan, Russia, Turkey, Thailand, Malaysia, the Republic of Korea, Japan, China, Indonesia, and also within Uzbekistan.³⁶ Small numbers of victims from Uzbekistan were identified in the United States, Turkmenistan, Tajikistan, Belarus, and Georgia.

The government of Uzbekistan has raised awareness of this issue and ostensibly taken measures for its prevention, such as the introduction of the law of the Republic of Uzbekistan, “On Combating Human Trafficking,” and the presidential decree, “On measures to improve the efficiency of the fight against human trafficking,” on July 8, 2008. The same year the country ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. It should be noted that prior to adoption of the law, the only provision to entail criminal responsibility for human trafficking was Article 135 of the Criminal Code of the Republic of Uzbekistan, stating that “engagement of people for sexual or any other exploitation by deceit,” as well as “with a purpose of traffic of such persons outside the Republic of Uzbeki-

³⁵ SIDA, *Anti-trafficking Activities in Central Asia Financed by SIDA. SIDA evaluation 06/30* (Stockholm: SIDA, 2006).

³⁶ IOM, *Case Data on Human Trafficking: Global Figures and Trends, 2012*, <http://www.humantrafficking.org/uploads/publications/IOM-Global-Trafficking-Data-on-Assisted-Cases-2012.pdf>

stan” shall be punished with imprisonment from five to eight years.

However, the expansion of transnational criminal groups and the emergence of new global strategies to combat trafficking in humans encouraged the Uzbek government to develop more targeted legal instruments.

It is also safe to assume that Uzbekistan’s domestic and international policy at that time was heavily influenced by its preoccupation with relations with the United States. After September 11, 2001, the United States was sometimes seen an ideal international partner, not only as an ally against the Islamist threat but also as a source of financial aid and investment.³⁷ The establishment of close ties between the United States and Uzbekistan, however, proved to be more challenging than Tashkent expected. Despite the importance of the security agenda, the Clinton and both Bush administrations were concerned with human rights and democracy as determining factors in relations between Washington and Tashkent, and human rights violations could be sufficient to merit a cut-off of US assistance.³⁸ As of the FY2003 foreign operations appropriation, Congress has prohibited foreign assistance to the government of Uzbekistan unless the Secretary of State determines that Uzbekistan is making substantial progress in meeting commitments to respect human rights.³⁹

After the US Department of State gave the lowest possible grade (Tier 3: country does not fully comply and is not making significant efforts to do so) to Uzbekistan on the trafficking of people in its 2003, 2006, and 2007 Trafficking in Persons (TIP) country reports, Uzbekistan became very keen to gain US ap-

³⁷ Sh. Akbarzadeh, *Uzbekistan and the United States: Authoritarianism, Islamism and Washington’s Security Agenda* (New York: Palgrave Macmillan, 2005), 56.

³⁸ *Ibid.*, 68.

³⁹ J. Nichol, *Uzbekistan: Recent Developments and U.S. Interests* (Washington DC: Congressional Research Service, 2013) 3.

proval and change its image as one of the worst human rights violators.⁴⁰ Tashkent developed a special National Work Plan to increase efficiency in combating human trafficking for 2008-2010.⁴¹ In all regions of Uzbekistan, interdepartmental commissions were set up to prevent the threat.⁴² As a result, Uzbekistan’s rating was moved to Tier 2 (Tier 2: country does not fully comply with the minimum standards for the elimination of trafficking but is making significant efforts to comply).⁴³ In 2008, an official US Department of State communication acknowledged that “[the Uzbek authorities have] a written plan that, if implemented, would constitute making significant efforts to meet the minimum standards for the elimination of trafficking”.⁴⁴

The government of Uzbekistan has raised awareness of the issue of human trafficking. Although Tashkent seems ready to discuss human trafficking and is implementing new laws, travel restrictions have also major consequences with regard to labor migration. This unfortunately is an issue the Government is not keen to address. Uzbekistan is now the primary source of labor migration to Russia.

The national Work Plan imposed responsibility upon and granted additional discretion to the National Security Service and the Ministry of Internal Affairs, to “strengthen border control against persons [who could] become po-

⁴⁰ US Department of State *Trafficking in Persons 2013 Report: Country Narratives*, <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215647.htm>.

⁴¹ Decree of the President "On measures to improve the efficiency of the fight against human trafficking" under No. PP-911 (July 8, 2008).

⁴² Uzbekistan National News Agency, “Human trafficking issues considered in Muynak,” January 3, 2011, <http://uza.uz/en/society/1747/>.

⁴³ US Department of State, *Trafficking in Persons 2013 Report: Country Narratives*.

⁴⁴ *Ibid.*

tential victims of human trafficking".⁴⁵ The obvious link between this provision and the aforementioned restrictions (i.e., the amendments to the exit visa introduced in 2011) indicates that the government of Uzbekistan saw the exit visa as the first and most effective tool to prevent human trafficking.

Although Tashkent seems ready to discuss human trafficking and is implementing new laws, travel restrictions have also major consequences with regard to labor migration. This unfortunately is an issue the Government is not keen to address. Unlike its Kyrgyz and Tajik neighbors, which recognize the numerical importance of labor migration and its key role in sustaining households through remittances, Uzbekistan seems to ignore that there is a problem.

Estimates of labor migration from Uzbekistan to Russia between 2004 and 2008 vary widely. Official figures estimate that 250,000 Uzbek migrants traveled abroad in that period, while more realistic estimates put those numbers at about three million. According to the official statistics published in December 28, 2012, by the Federal Migration Service of the Russian Federation, Uzbekistan is now the primary source of labor migration to Russia^{with} approximately 2.3 million people.⁴⁶ In other words, every fourth labor migrant in Russia is a citizen of Uzbekistan.⁴⁷ However, the regime refuses to recognize the large numbers of this emigrating workforce and President Karimov has been very negative about them,

⁴⁵ Appendix 1 to Decree of the President "On measures to improve the efficiency of the fight against human trafficking" under No. PP-911 (July 8, 2008).

⁴⁶ Federal Migration Service of the Russian Federation, *Data on migration situation in the Russian Federation in 2012*, <http://www.fms.gov.ru/about/statistics/data/>.

⁴⁷ UN Department of Social and Economic Affairs, Population Division, *International Migration 2013: Migrants by origin and destination*, http://www.un.org/en/ga/68/meetings/migration/pdf/International%20Migration%202013_Migrants%20by%20origin%20and%20destination.pdf.

stating "I call lazy those people who disgrace all of us by wanting to make a lot of money faster there".⁴⁸ Labor migration shines a harsh light on the growing difficulties of Uzbekistan's rural population and accentuates the country's dependency on Russia. In 2013, Russia's Central Bank calculated that \$5.7 billion in remittances were sent to Uzbekistan, the equivalent of 16.3 percent of Uzbekistan's GDP at the black-market exchange rate.

Even if the exit visa does not apply to Russia, which does not require an entry visa for the majority of CIS countries, the structures created to supervise cross-border flows and criminalize them is part of the Uzbek state's strategy to hamper labor migration.

Rationales for the Abolishment of the Exit Visa

The exit visa is going against a basic human right, the freedom of movement

The exit visa is a violation of the right to freedom of movement. In visa regulations are at odds not only with Uzbekistan's international obligations, such as the Universal Declaration of Human Rights (1948), and the International Covenant on Civil and Political Rights, but also with its own constitution, whose Article 28 states that "a citizen of the Republic of Uzbekistan has the right to freedom of movement across the state, to enter the Republic of Uzbekistan and exit from it, except for in cases restricted by law".

The exit visa is a political tool against human right activists

The exit visa is also used to prevent human rights activists from engaging in international activity or, simply, going abroad. At the end of 2013, for instance, Surat Ikramov, the leader of the Independent Human Rights Workers

⁴⁸ David Trilling, "Uzbekistan's President Attacks 'Lazy' Labor Migrants," *Eurasianet*, January 21, 2013, <http://www.eurasianet.org/node/67157>.

Initiative (IGNPU), was prevented from leaving the country for an Organization for Security and Co-operation in Europe (OSCE) conference.⁴⁹ He told Uznews.net that he was not allowed to board his flight to Istanbul because he did not have an extension for his exit visa for Uzbekistan.⁵⁰

Rationales for the Abolishment of the Exit Visa:

It is going against a human right, the freedom of movement.

It is a political tool against human right activists.

It fails to combat human trafficking.

It is a discriminatory instrument used against women.

It fosters undocumented migration to CIS states.

The exit visa fails to combat human trafficking

The exit visa has not helped in the fight against human trafficking. According to the International Migration Organization (IMO), in 2011, Uzbekistan was ranked fifth in countries of origin for victims of human trafficking. It had 292 recorded victims (the undocumented numbers are probably at least of several thousand more), falling behind only Ukraine (835), Haiti (709), Yemen (378), and Laos (359).⁵¹ The most immigrants falling under the trafficking category are women who travel to the CIS states (Russia, Kyrgyzstan, and Kazakhstan) and to Turkey, Thailand, UAE, and Israel.⁵² Most of them are recruited by private tour agencies or bridal agencies, and are taken abroad illegally under the promise of highly paid jobs as bartenders,

⁴⁹ "Surat Ikramov prevented from leaving the country to attend OSCE conference," *UzNews*, October 24, 2013, accessed at http://www.uznews.net/news_single.php?lng=en&cid=3&nid=24166.

⁵⁰ *Ibid.*

⁵¹ IOM, *Case Data on Human Trafficking: Global Figures and Trends*.

⁵² *Ibid.*

dancers, babysitters, etc. The overly optimistic numbers reported by Uzbek law enforcement agencies say they conducted 1,013 trafficking investigations and 531 trafficking cases in 2012 (compared with 951 investigations and 444 cases in 2011).⁵³

However, the State Department's annual Global Trafficking in Persons report for 2012 downgraded Uzbekistan to the lowest category, Tier 3. Although in 2008, Uzbekistan presented a written plan to bring itself into compliance with the minimum standards for the elimination of trafficking, it failed to attain the standard set by Congress in the Trafficking Victims Protection Act (TVPA).⁵⁴ In the 2011 and 2012 TIP reports, Uzbekistan was granted consecutive waivers from an otherwise required downgrade to Tier 3 based on the 2008 plan. TVPA authorizes a maximum of two consecutive waivers. A waiver is no longer available to Uzbekistan, which is therefore deemed to be not making significant efforts to comply with minimum standards.⁵⁵

The exit visa is a discriminatory instrument used against women

Various reliable sources have also documented the use of the exit visa as a discriminatory measure targeting women. Under the guise of curtailing prostitution and "criminality" and ostensibly in an effort to combat trafficking in persons, the government introduced regulations in 2011 that require male relatives of

⁵³ US Department of State, *Trafficking in Persons 2013 Report: Country Narratives*.

⁵⁴ *Ibid.*

⁵⁵ International Labor Rights Forum, "Testimony by Brian Campbell, Director of Policy and Legal Programs before the United States House of Representatives, Committee on Foreign Affairs, Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, Hearing *Tier Rankings in the Fight Against Human Trafficking* and the government of Uzbekistan, April 16, 2013, <http://docs.house.gov/meetings/FA/FA16/20130418/100697/HHRG-113-FA16-Wstate-CampbellB-20130418.pdf>.

women between the ages of 18 and 35 to submit a statement pledging that the women would not engage in illegal behavior, including prostitution, while abroad.⁵⁶ These measures are obviously discriminatory because they do not target prostitution per se, or criminality, but women as a class (or at least women between the ages of 18-35). Even though the above mentioned regulations concerning the exit visa have never been officially codified and exist only at the level of “confidential” internal regulations and instructions for law enforcement bodies, they have, in fact, turned into a common practice. A clear illustration of this is the case of Yelena Bondar, a 22 year old journalist who was denied an exit visa on the grounds of age and insufficient proof of non-criminal intent.⁵⁷

It is worth noting that it is not the only discriminatory provision found in the legislation of the Republic of Uzbekistan. Since the beginning of 2004, women’s NGOs working for women’s equality and empowerment have come under increasing pressure from the Uzbekistan government with the proclamation of decrees and the issuing of secret directives to banks that have obstructed the activities of women’s NGOs and at times made their work impossible.

The example of such regulations is the decree issued on May, 25 2004 requiring all women’s NGOs to apply for re-registration and that only those that are recommended by the Women’s Committee of the Republic of Uzbekistan can be re-registered. The mere existence of such discriminatory regulations contradicts both national legislation and numerous international agreements. Indeed, Uzbekistan has signed and adopted several international instruments that condemn discrimina-

⁵⁶ United States Department of State, *Country Reports on Human Rights Practices for 2012*, <http://www.state.gov/documents/organization/204629.pdf>.

⁵⁷ “Uzbekistan restricts women’s freedom of movement amid concerns over prostitution,” *Uznews*, May 4, 2011, http://www.uznews.net/news_single.php?lng=en&cid=3&nid=17106.

tion and protect the rights of women. Amongst these are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and most importantly the UN Committee on the Elimination of Discrimination against Women (CEDAW).

Like many other Muslim countries and most Central Asian states, Uzbekistan is a male-dominated society. Gender discrimination is common practice in all facets of life, especially in relation to family and gender issues. In the name of protecting women from human trafficking – a more than legitimate concern – the exit visa regime is also a way to institutionalize the refusal of empowering young women in their professional and personal autonomy. High proportions of women, especially those at the grass roots level, face negative traditional beliefs that put them in disadvantaged position on a daily basis. Furthermore the nature and extent of discrimination against women in Uzbekistan varies considerably from other parts of the world, in that it is legally sanctioned and reinforced by existing practices.

The exit visa fosters undocumented migration to CIS states

In refusing to recognize the significance of labor migration, Uzbekistan is doing its own citizens no favors. Although Uzbek migrants can enter Russia and Kazakhstan without entry visas, and thus without an exit visa from Uzbekistan, they then must find the means to legalize their status. Getting a work permit remains challenging. Tashkent cannot just put pressure on these two neighbors and demand legislation that would force them to respect the rights of Uzbek migrants (legal work permits, health insurance, housing, pensions, and fair work contracts). Uzbekistan’s denial thus indirectly contributes to fostering undocumented migration and puts migrants in a permanent state of fear, increasing the likelihood that they will resort to engaging in illegal activities. Moreover, this permanent status of illegality has a financial counterpart, which

is that the supervision of labor migration feeds the rent-seeking mechanisms of the Uzbek security services in charge of borders.⁵⁸

and German embassies currently do not do so.

Recommendations

1. *Uzbekistan must sign interstate agreements with Russia and Kazakhstan protecting the interests of its citizens abroad.* One of the first steps would be to send specialized diplomats representing the Ministry of Labor and Social Protection of the Population to Uzbekistan's embassies in Moscow and Astana. A second step would be to work closely with both countries to ensure the rights of Uzbek migrants in terms of work permits and conditions. Specific documents need to be signed, as Uzbekistan is not part of the Customs Union and suspended its membership in the Eurasian Economic Community (EurAsEc), which warrants freedom of movement among member states.
2. *The World Bank and the IMF should initiate a cost analysis of the exit visa regime's economic ramifications.* Both institutions should assess the cost of the current visa regulations and their impact on domestic situations, the investment environment, and international trade. The research should include detailed statistics on the number of people applying for an exit visa, and should be disaggregated in terms of gender. The endemic corruption of the services in charge of migration should be included in this cost analysis in order to explore one of the least known financial aspects of the exit visa regime.
3. *Embassies operating in the Republic of Uzbekistan should not base their decisions on granting/refusing entry visas on the status of the exit visa.* Only the US

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