



ON SOME PROBLEM ASPECTS OF INTERACTION BETWEEN LAW ENFORCEMENT AGENCIES AND SUBJECTS OF PUBLIC CONTROL IN MODERN UZBEKISTAN

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Abstract:

In the article, the author, based on the legal analysis of the Law of the Republic of Uzbekistan "On Social Partnership" № 376 dated September 25, 2014 and the analysis of the mechanism for responding to law enforcement agencies to socially important events in the Internet space, states that partnerships between the public and law enforcement agencies have not been established at a sufficient level, in this regard, the social security sphere itself remains not fully protected, since the forms of participation of civil society institutions (CSI), their place and role in ensuring security are not spelled out in the fundamental documents. At the same time, the non-governmental system of ensuring public security successfully functions de facto, but to date has not been included in the deployment of a unified system of forces and means of ensuring security. Disputes between law enforcement agencies and public control entities arise mainly due to different interpretations of the norms of the relevant regulatory documents governing the relationship of subjects of social partnership (SP), or even due to its absence. **Objective:** analysis of the state of partnership between law enforcement agencies and civil society institutions. According to the author, it is in the non-state system that the reserve of forces and means necessary to prevent all types of threats to society, the individual and the state lies. **Methods:** empirical methods of comparison, description, interpretation; theoretical methods of formal and dialectical logic. **Results:** as the analysis of this law has shown, the role and place of civil society institutions in ensuring public safety in the law are prescribed only declaratively, while the organizational and legal mechanism for their implementation is not disclosed. Also, issues related to the legal status of security entities, guarantees of their social protection and many others were not reflected. **Conclusions:** in this regard, the author proposes to amend the Law "On Social Partnership", which is an important and urgent task of modern legal science.

Keywords: social partnership, civil society; civil society institutions; public security; legal status of security subjects; guarantees of social security.

INTRODUCTION

The growth of public organizations with law enforcement focus is becoming an attributive feature of public life in modern democratic states. The participation of civil society in law enforcement is considered a condition for the development of a state based on the rule of law. Partnerships between law enforcement agencies and civil society institutions are becoming an important factor in ensuring public security in a modern state.

As the practice of Kazakhstan during the events in early 2022 and Uzbekistan during the events in July 2022 showed, forceful methods alone in

resolving emergencies in the form of public rallies and protests are fraught with disastrous consequences.

In the absence of social justice, strong stratification of society and the assumption of nepotism in appointments to various positions in government bodies, the emergence of destabilizing factors is irreversible. The discontent of the population and the resulting friction in the country is the most favorable soil for the negatively minded part of society and other instigators interested in the emergence of such cases of disorder.

To prevent such cases, it is necessary to use effective methods of implementing public control over



government bodies. In solving social problems, it is necessary to involve not only government bodies, but also representatives of civil society.

In this regard, cooperation of state bodies, in particular law enforcement agencies with civil society institutions in solving public problems is very important for maintaining the political stability of the country.

It should also be noted that in recent years, consistent work has been carried out in the Republic of Uzbekistan to support public control entities in order to increase their role in ensuring political stability.

In this publication, the author set himself the task of defining and characterizing the state of social partnership in modern Uzbekistan. It should be noted that based on the study of a large array of regulatory legal acts, the activities of state bodies, the state of assistance provided by civil society institutions to state bodies, showed that the sphere of social (public) security remains not fully protected, since the participation of civil society institutions, their place and role in ensuring security are not spelled out in the fundamental documents regulating only the activities of state bodies in the security sphere.

At the same time, the non-governmental system of ensuring public safety, which is successfully functioning de facto at the present time (for example: the activities of the media, bloggers, assistants to preventive inspectors in the Department of Internal Affairs, public councils, private security companies and other associations of citizens of various orientations) has not been integrated into the deployment of a single system of forces and means of ensuring security.

By the non-governmental system of ensuring security we mean, first of all, the above-mentioned institutions of civil society, specifically with a law enforcement focus, as well as other non-governmental organizations (NGO), which will be considered below.

These civil society institutions should play the role of assisting in the activities of state bodies, ensuring national security, which includes an organic triad, namely: the security of the individual, society and the entire state as a whole.

It should also be noted that over the past decades, civil society in the Republic of Uzbekistan has significantly strengthened. Over the course of five years, the number of NGOs has increased by 1.6 times, exceeding the mark of 8,240 units. And in 1991, the total number of NGOs in the Republic of Uzbekistan was only 95¹.

Information and communication technologies, geopolitics and the development of market relations have provided the necessary basis and opportunities for the creation of a certain number of social movements and non-governmental organizations. This process is actively continuing both in Uzbekistan and throughout the world society, causing the development of the latest online and offline forms of influence of civil society institutions on the processes of public administration, ensuring the security of the individual, society and the state.

Thus, it is in the development of a non-state security system that the reserve that civil society has at its disposal is seen, which is not fully used for the benefit of the entire state.

Turning to the present, it should be noted that a developed civil society is an integral part of all democratic legal states in the world. It is obvious that a strong state is impossible without a developed civil society, but civil society and its institutions become an effective factor of the state only under the condition of a constructive and socially responsible dialogue with the state within the legal framework.

It should be noted that if earlier, when analyzing the specifics of ensuring public security, researchers noted the priority role of either the state or public institutions in this process, now we can see a concentration of research efforts on the problems and prospects of practical interaction between the state and civil society institutions.

HISTORY OF THE ISSUE

The beginning of the new millennium is marked by increased attention to the security of society - information, technological, economic, spiritual, humanitarian, etc. Interest in social security, which is a certain systemic characteristic of the state of the social sphere of the country, is noticeably growing. At the same time, recently an important place in research devoted to public security is occupied by issues related to the interaction of the state and civil society institutions.

It is appropriate to note that the legal foundations for ensuring public security are laid down in the Constitution of the Republic of Uzbekistan, generally recognized norms of international law, international treaties and agreements ratified by the Republic of Uzbekistan. These documents contain a set of conclusions in terms of officially accepted views in the field of ensuring security from internal and external threats and challenges.

These documents include:

¹ <http://ngo.uz/old/index.php/ru/khal-aro-faoliyat/165-v-uzbekistane-dinamichno-razvivaetsya-tretij-sektor>



1. Law of the Republic of Uzbekistan "On Social Partnership" № 376 dated 25.09.2014;

2. Law of the Republic of Uzbekistan "On Public Control" № 474 dated 12.04.2018;

3. Resolution of the President of the Republic of Uzbekistan "On measures to organize the activities of public councils under state bodies" № 3837 dated July 4, 2018;

4. Decree of the President of the Republic of Uzbekistan "On measures to approve and implement the concept of public security of the Republic of Uzbekistan" № 27 dated 20.11.2021;

5. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan "On measures to further improve the mechanisms of social partnership and public control" № 208 dated 22.04.2022.

LEGAL ANALYSIS

I. The Law "On Social Partnership" is one of the fundamental documents that includes the organizational and legal mechanisms for interaction between government agencies and civil society institutions.

According to the law, partnerships are implemented in the following forms²:

- participation of non-governmental non-profit organizations and other civil society institutions in the development and implementation of socio-economic development programs;

- participation of non-governmental non-profit organizations and other civil society institutions in the development and implementation of regulatory legal acts;

- participation of representatives of non-governmental non-profit organizations and other civil society institutions in the activities of working groups, commissions and public advisory bodies under government agencies;

- holding of joint events, consultations and negotiations by social partnership entities;

- conclusion of agreements and contracts on social partnership by social partnership entities, development and implementation of joint projects and plans;

- provision of mutual support, exchange of information between social partnership entities.

Public control entities exercise control over the activities of government bodies in the following forms:

- participation of public control entities in the development and implementation of socio-economic development programs;

- participation of public control entities in the development and implementation of regulatory legal acts;

- participation of public control entities in the activities of working groups, commissions and public advisory bodies under government bodies;

- holding of joint events, consultations and negotiations by public control entities;

- conclusion of agreements and contracts on social partnership by public control entities (hereinafter referred to as agreements and contracts), development and implementation of joint projects and plans;

- provision of mutual support, exchange of information between social partnership entities.

The results of the study conducted by the Center for Support of Civil Initiatives together with the Center for Development Strategies, with the support of the USAID Legal Reform Project (LRP) in Uzbekistan in 2020³, showed the following:

- government agencies and public control entities cooperate the least in the development and implementation of regulatory legal acts (only 5.5% of the total number) and the submission of projects (2.5%), most cooperation is manifested in holding events (23%) and participating in consulting groups, commissions, working groups (20.5%). Also, cooperation is manifested in the form of information exchange (14%), program development (14.5%), conclusion of agreements (14%), etc. (6%);

- despite the existence of the Law "On Social Partnership", social partnership is largely formal. An exception are public organizations created on the initiative of the state;

- the implementation of the law is not possible due to the lack of formation of a mechanism for supporting SP in the form of a Public Fund;

- the activities of Public Commissions for the Development of Social Partnership are passive (participants of civil society institutions are not represented in the commission) and do not meet the requirements of the law.

² Article 6 of the Law of the Republic of Uzbekistan No. 474 "On Public Control" dated 12.04.2018.

³ Analysis of the Law "On Social Partnership" in Uzbekistan // Center for Support of Civil Initiatives. Center for Development Strategies. USAID Project "Strengthening Social Partnership in Uzbekistan and Improving Access to Legal Services for Vulnerable Groups in the Andijan and Khorezm Regions". – Page-13.



It should also be noted that the law does not contain specific mechanisms for implementing the SP. In addition, the law does not contain provisions that would provide for control over the implementation of this law by the deputy corps.

It should be noted that the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan "On measures to further improve the mechanisms of social partnership and public control" № 208 dated 04/22/2022 focuses on solving a number of problems existing in the Law "On Social Partnership" itself.

Thus, the resolution speaks of the introduction by the end of 2022 of the procedure for submitting the results of research conducted by NGOs to government agencies and publishing responses to them.

However, there is no norm or provision on the mandatory consideration and publication of comprehensively substantiated responses to the results of the study.

Another problem is the lack of effective mechanisms for responding to violations of these requirements.

Also, the title of paragraph 3 of this resolution speaks of the mandatory implementation of the procedure for posting the results of competitions, social orders, social and economic projects, orders sent to the Public Fund under the Oliy Majlis, etc. in the electronic portal by state bodies and organizations from January 1, 2023.

Despite this, the last paragraph of this clause states that the Public Fund (an average of \$2 million is allocated to the Public Fund annually) and its territorial funds are "recommended" to post competitions and their results on state grants and state social orders on the electronic portal, while, according to a number of experts, this should be mandatory.

Reference: *Public Fund funds are distributed locally by a public commission, which is created (in current practice) from the head and employees of the local government body (the law on social partnership states that these commissions are formed from representatives of NGOs, CSIs and deputies).*

Whereas, the results of the social survey showed that more than 4/5 of all respondents (representatives of NGOs, CSIs and local government bodies) either do not know about the presence of a Public Fund in the region or find it difficult to answer⁴.

Thus, this clause contradicts the current policy of the Republic of Uzbekistan on establishing transparency in state bodies and organizations, and thus gives the OF and its territorial funds the opportunity to manipulate funds by holding closed competitions, keeping their results secret, which in turn can lead to the emergence of dubious orders that are contrary to the interests of the state.

II. In the age of technology, it is impossible to hide socially significant events from the public eye. In order to maintain its legitimacy, each government must strive to correctly explain certain actions related to the life of society.

Timely and objective response of government bodies to socially significant events is the key to maintaining the people's trust.

In various countries, based on the specifics of the governance regime, government bodies, in particular law enforcement agencies, use the press service, independent media, bloggers, NGOs, etc. to cover such events.

Traditionally, the media play a special role in organizing interactions between government bodies and society: "they can identify the interests of citizens, bring their concerns about certain problems to the attention of the authorities, accumulate and form public opinion regarding the actions and intentions of the authorities, providing them with support or, conversely, contributing to the consolidation of protest sentiments and efforts in society⁵."

In 1956, American researchers presented their view on the models of functioning of the media. According to them, "... the press always takes the form and coloring of those social and political structures within which it functions". Therefore, society is often inclined to trust independent (local and foreign) media, bloggers and NGOs.

In recent years, the Republic of Uzbekistan has been experiencing problems with timely response to socially significant events. This, in turn, leads to misinterpretations of certain events, the dissemination of false information in society, and increased social tension.

Legal Services for Vulnerable Groups in the Andijan and Khorezm Regions".

⁵ Andreev A. V., Tokarev D. S. Interaction of internal affairs agencies with the media in the interests of the development of Russian society // Economy and Politics. 2015. No. 1. Page. 140.

⁴ Analysis of the Law "On Social Partnership" in Uzbekistan // Center for Support of Civil Initiatives. Center for Development Strategies. USAID Project "Strengthening Social Partnership in Uzbekistan and Improving Access to



Thus, in May 2022, information about the use of stun guns against foreign tourists by police officers in Samarkand spread across the Internet.

The Instagram post stated that tourists were forcibly taken to the police station, stating that they were not allowed to be outside after 11:00 p.m. because the city was holding a "Safe Night" event, and that they had a "plan"⁶.

Information about this incident quickly spread on the Internet segment not only in Uzbekistan, but also throughout Central Asia and Russia, which dealt a serious blow to the country's image and the reforms being carried out.

Later, a few days after the incident, the Ministry of Internal Affairs of the Republic of Uzbekistan officially commented on the case with the tourist, in connection with which it turned out that the stun guns were not used against tourists at all, but against citizens of Uzbekistan accompanying foreign tourists, which is also a gross violation of the requirements of the laws. Also, it was reported later that the police officers who used force were fired, and a criminal case was opened against them⁷.

Also, at the end of January this year, information about the detention of the famous blogger, director of the Human.uz website H. Dalliev and editor-in-chief⁸ M. Mirzajonov spread across the Internet.

For several days, this event was hotly discussed in independent media and telegram channels, which led to the formation of a negative attitude towards law enforcement agencies. A few days later, official information from law enforcement agencies appeared on the Internet with an explanation and details of the detention.

As is known, initial information about events plays a major role in forming an opinion about certain events. Therefore, the imposition of a mechanism for timely provision of information (refutation) by law enforcement agencies is a guarantee for maintaining social stability and reducing tension in society.

The existing vertical in the law enforcement agencies of the Central Asian countries requires the coordination of each action or reaction. The situation is further complicated by the unprofessionalism of employees, the ambiguity and often unreasonableness of some instructions, as well as additional instructions that are not within the competence of employees. This in turn affects the efficiency of notifying higher

authorities when such incidents occur, which will lead to untimely reactions from law enforcement agencies, the formation of public opinion regarding the event based on various unverified sources.

Such cases, as is known, worsen the relationship between law enforcement agencies and society, and lead to various frictions in society.

Based on the research, the author **recommends taking the following organizational and legal measures:**

I. Specifically and accurately describe in the Law "On Social Partnership" the responsibility of officials for failure to comply with the provisions of the law:

- introduce an amendment or article to the text of the law on the mandatory development of programs aimed at strengthening social partnership, both by local authorities and by the heads of institutions and departments, with the obligatory fixation of the expenditure item on social partnership in the cost estimates of government bodies and institutions;

- The Law "On Social Partnership", in its current version, is declarative in nature, since: it does not contain rules for the implementation of its provisions (implementation mechanism); does not regulate relations directly related to the participation of the CSI in social partnership; does not establish the rules and procedure for financing the CSI in the implementation of social partnership activities. In order to eliminate these shortcomings, it is necessary to introduce into the law articles on the procedure for the formation of public fund funds indicating specific sources of deductions and amounts;

- amendments to Article 18 of this Law "on strict observance of the 50% to 50% principle from each party of the partnership when forming the composition of the commission on social partnership" (these commissions distribute the funds of the fund);

- exclude reference norms by indicating a specific list of rights and obligations (Articles 24, 26 contain the concepts of "other obligations" for CSI) of subjects of social partnership in accordance with the legislation;

- implementation of a system of mandatory placement by Public Funds (PF annually allocates an average of 2 million dollars) in the electronic portal of competitions and their results for state grants and state social orders. At present, the publication of competition results is only recommended.

II. Development of a mobile application with the ability to anonymously report to the press of the services and the relevant units of internal security (based on the type of offense) about socially

⁶ <https://www.instagram.com/p/Cd3mHhUtoFK/>

⁷ <https://www.gazeta.uz/ru/2022/06/03/samarkand/>

⁸ <https://t.me/humanuzofficial/36911>



significant incidents that have occurred (about corruption cases, violations of the labor code by managers, illegal orders, incidents with citizens, etc.) with the possibility of applying the principle of remuneration;

- wide involvement of famous journalists, bloggers, NGO representatives in public councils;

- the composition of public councils to be formed from among the most active representatives of the public (currently, these councils at law enforcement agencies often consist of retirees of these services, elderly public figures or loyal representatives of the media, etc.).

According to the author, the adoption of the above measures serves to increase the level of social partnership in the country, cooperation of government agencies with the public, as well as to increase the trust of the people and the legitimacy of the elite.

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