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International legal standards for combating modern slavery and their implementation in the legislation of Uzbekistan

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Аннотация. Maqolada zamonaviy qullikka qarshi kurashning xalqaro huquqiy standartlari, ya’ni qullik, qaramlik holati, majburiy mehnat va odam savdosini qamrab oluvchi umumiy tushuncha doirasida, o‘rganiladi hamda ularning O‘zbekiston Respublikasi qonunchiligida qay darajada implementatsiya qilinganligi baholanadi. 1926-yilgi Qullik to‘g‘risidagi konvensiya, 2000-yilgi Palermo protokoli, XMT ning Majburiy mehnat to‘g‘risidagi konvensiyasi va uning 2014-yilgi protokoli, 2005-yilgi Yevropa Kengashi konvensiyasi hamda xalqaro sudlarning davlatlarning ijobiy majburiyatlari bo‘yicha amaliyoti tahlil qilinadi. "Odam savdosiga qarshi kurashish to‘g‘risida"gi Qonun, Jinoyat va Mehnat kodekslari asosida muvofiqlik yo‘nalishlari hamda mavjud bo‘shliqlar aniqlanib, aniq qonunchilik takliflari beriladi.

Калит сўзлар. : zamonaviy qullik, odam savdosi, majburiy mehnat, qaramlik holati, Palermo protokoli, XMT ning 29-sonli konvensiyasi, ijobiy majburiyatlar, javobgarlikka tortmaslik, O‘zbekiston.

Аннотация. В статье рассматриваются международно-правовые стандарты борьбы с современным рабством, понимаемым как собирательный термин, охватывающий рабство, подневольное состояние, принудительный труд и торговлю людьми, и оценивается степень их имплементации в законодательстве Республики Узбекистан. Анализируются Конвенция о рабстве 1926 года, Палермский протокол 2000 года, Конвенция МОТ о принудительном труде и Протокол 2014 года к ней, Конвенция Совета Европы 2005 года, а также практика международных судов о позитивных обязательствах государств. На основе Закона «О противодействии торговле людьми», Уголовного и Трудового кодексов выявляются направления соответствия, прежде всего определение торговли людьми и защита жертв, и сохраняющиеся пробелы, предлагаются конкретные законодательные меры.Ключевые слова:современное рабство, торговля людьми, принудительный труд, подневольное состояние, Палермский протокол, Конвенция МОТ № 29, позитивные обязательства, непривлечение к ответственности, Узбекистан.

Ключевые слова. современное рабство, торговля людьми, принудительный труд, подневольное состояние, Палермский протокол, Конвенция МОТ № 29, позитивные обязательства, непривлечение к ответственности, Узбекистан.

Annotation. The article examines the international legal standards for combating modern slavery, understood as an umbrella term covering slavery, servitude, forced labour and human trafficking, and assesses how far they are implemented in the legislation of the Republic of Uzbekistan. It analyses the 1926 Slavery Convention, the Palermo Protocol of 2000, the ILO Forced Labour Convention and its 2014 Protocol, the Council of Europe Convention of 2005, and the case law of international courts on positive State obligations. Using the Law "On Countering Trafficking in Persons", the Criminal Code and the Labour Code, the author identifies the areas of alignment, notably the definition of trafficking and victim protection, and the remaining gaps, and proposes targeted legislative reforms.

Keywords. modern slavery, human trafficking, forced labour, servitude, Palermo Protocol, ILO Convention No. 29, positive obligations, non-punishment, Uzbekistan.

Introduction. Slavery is formally prohibited in every legal system, yet it persists in new forms. According to the global estimates published by the International Labour Organization, the International Organization for Migration and the Walk Free foundation, 49.6 million people lived in modern slavery on any given day in 2021, of whom 27.6 million were in forced labour and 22 million in forced marriage [1]. The term "modern slavery" is not a legal category. It is an umbrella expression used in policy and research to describe situations of exploitation that a person cannot refuse or leave because of threats, deception, coercion, abuse of power or dependence. Its legal content is found in several overlapping bodies of norms: the law of slavery, the law of forced labour, the law of human trafficking, international criminal law and human rights law.

For a State such as Uzbekistan, whose economy has historically relied on agriculture, notably cotton, and whose citizens work abroad in large numbers, the question of how these norms are transposed into national law has practical weight. The purpose of this article is to identify the international standards that define a State's obligations in this field and to assess, on the basis of the legislation currently available on the official legal portal lex.uz, how far Uzbekistan has implemented them. The study uses doctrinal analysis of treaty texts, a review of the case law of international courts, and a comparative assessment of national provisions against those standards. Its central argument is that Uzbekistan has aligned its legislation closely with the trafficking standards of the Palermo Protocol, but that the protection against forced labour, servitude and slavery as stand-alone phenomena is less developed than the international standards, and in particular the case law on positive obligations, require.

The legal taxonomy of modern slavery. A precise vocabulary is the condition of any analysis, because the four central concepts differ in their

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elements and consequently in the obligations they trigger. Slavery was defined in Article 1(1) of the 1926 Slavery Convention as the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised [2, Art. 1(1)]. The 1956 Supplementary Convention extended the prohibition to institutions and practices similar to slavery, among them debt bondage, serfdom, servile forms of marriage and the delivery of children for exploitation [3]. The Rome Statute adopted the same definition for the crime against humanity of enslavement and added that it includes the exercise of such power in the course of trafficking in persons, in particular women and children [4, Art. 7(2)(c)].

The ICTY Trial Chamber in the Kunarac case translated the ownership criterion into a set of practical indicia, among them control of movement, control of the physical environment, psychological control, measures taken to prevent or deter escape, force or threats, the duration of the situation, the assertion of exclusivity, the subjection to cruel treatment, control of sexuality and forced labour [5, para. 542]. The Bellagio-Harvard Guidelines of 2012 confirmed that ownership in the legal sense is not required, and that the decisive element is control over a person amounting to effective ownership [6]. This reading is important for national legislation, because a definition that requires formal ownership is practically useless today. The prohibition of slavery also has a special status in general international law: the International Court of Justice listed protection from slavery among the obligations owed to the international community as a whole [7, para. 34], and Article 8 of the International Covenant on Civil and Political Rights, to which Uzbekistan is a party, prohibits slavery and servitude without exception [8].

Forced labour is defined by Article 2(1) of ILO Convention No. 29 as all work or service which is exacted from any person under the menace of any penalty and for which the person has not offered himself voluntarily [9, Art. 2(1)]. The Protocol of 2014 reaffirmed this definition and stated that measures against forced labour must include specific action against trafficking for that purpose [10]. Trafficking in persons is defined in Article 3 of the Palermo Protocol through three cumulative elements: an act (recruitment, transportation, transfer, harbouring or receipt), a means (threat, force, coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability), and a purpose of exploitation. The consent of a victim is irrelevant where any of the means has been used, and for children the means element is not required [11, Art. 3]. Doctrinal studies note that trafficking is best understood as a process leading to exploitation, while slavery, servitude and forced labour describe the resulting conditions [12; 13].

International standards and the obligations of States. The international framework can be grouped into four layers. The first consists of the universal treaties on slavery and forced labour: the Slavery Conventions of 1926 and 1956, ILO Convention No. 29 of 1930 and its Protocol of 2014, together with the complementary ILO Recommendation No. 203, which supplies detailed guidance on prevention, protection, access to remedies, enforcement and international cooperation [9; 10; 14]. The second layer is the Palermo Protocol of 2000, which supplements the United Nations Convention against Transnational Organized Crime. It obliges States to criminalise trafficking (Article 5), to protect and assist victims, including by considering measures for

their physical, psychological and social recovery (Article 6), to ensure that victims can obtain compensation (Article 6(6)), to consider allowing victims to remain on their territory (Article 7), and to take preventive measures (Article 9) [11].

The third layer is regional. The Council of Europe Convention of 2005 goes beyond the Palermo Protocol by establishing a recovery and reflection period of at least thirty days (Article 13), a provision on non-punishment of victims for unlawful activities which they were compelled to commit (Article 26), and an independent monitoring mechanism [15]. Although Uzbekistan is not a party to this instrument, it is a widely used benchmark. The fourth layer is soft law, which includes the Recommended Principles and Guidelines of the UN High Commissioner for Human Rights, which require that victims not be detained, charged or prosecuted for the illegality of their entry or for activities which are a direct consequence of their situation [16], the UN Guiding Principles on Business and Human Rights, which extend the due diligence concept to supply chains [17], and target 8.7 of the Sustainable Development Goals, which commits States to take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking [18].

The most important development of the last two decades is the case law that converts these treaty rules into positive obligations. In Siliadin v. France the European Court of Human Rights held that Article 4 of the European Convention requires States to adopt criminal law provisions that punish practices of servitude and forced labour in a practical and effective manner; because French law at the time did not provide such protection to a minor domestic worker, the State was in breach [19]. In Rantsev v. Cyprus and Russia the Court held that trafficking itself falls within Article 4 and identified a threefold content of the obligation: a legislative and administrative framework to prevent and punish trafficking, operational measures to protect victims at real and immediate risk, and an effective investigation, including cross-border cooperation [20, paras. 282-289]. These principles were applied to labour exploitation of migrant workers in Chowdury and Others v. Greece and extended to forced prostitution by the Grand Chamber in S.M. v. Croatia [21; 22].

Other international courts have reached comparable conclusions. The ECOWAS Community Court of Justice held Niger responsible for failing to protect a woman from slavery in the Hadijatou Mani case [23], and the Inter-American Court of Human Rights in the Brasil Verde case found Brazil responsible for failing to prevent and respond to contemporary forms of slavery on a rural estate, and treated the prohibition of slavery as a peremptory norm [24]. Together these decisions establish a structure of obligations that can be summarised as the duties to criminalise, to prevent, to identify and protect victims, to investigate and prosecute, to provide remedies and to cooperate. This structure serves below as the framework for assessing Uzbek law.

Uzbekistan's international commitments and their place in the national legal system. Uzbekistan has accepted a large part of the relevant framework. It signed the Palermo Protocol on 28 June 2001 and ratified it on 12 August 2008 [25]. It ratified ILO Convention No. 29 by Resolution of the Oliy Majlis No. 492-I of 30 August 1997 [26], and on 16 September 2019 deposited the instrument of ratification of the Protocol of 2014, becoming the fortieth State

to do so; the Protocol entered into force for Uzbekistan on 16 September 2020 [27]. The ILO described this step as part of the effort to address all forms of forced labour, including trafficking, and linked it to target 8.7 of the Sustainable Development Goals [27].

Under Article 15 of the Constitution of 2023, international treaties form part of the national legal system, and where the rules of a treaty differ from those of a law, the rules of the treaty apply [28]. The same technique is repeated in sectoral legislation: Article 2 of the Law “On Countering Trafficking in Persons” provides that if an international treaty establishes rules other than those of the legislation, the treaty rules apply [29]. This is significant for implementation, because it means that the definitions and guarantees of the Palermo Protocol and the ILO instruments are in principle directly applicable where national law is silent or less protective. In criminal matters, however, the principle of legality requires offences to be defined in the Criminal Code, so for the criminal law dimension the precision of statutory provisions matters more than the principle of treaty priority.

National legislation: content and alignment. The central instrument is the Law “On Countering Trafficking in Persons” in the new edition of 17 August 2020 (No. ZRU-633), as amended, including by Law No. ZRU-780 of 23 June 2022, which changed the definition of exploitation, and by a later law amending Article 31 [29]. Article 3 defines trafficking as the recruitment, transportation, transfer, harbouring or receipt of persons for the purpose of exploitation, and the definition incorporates the means of coercion, fraud, abuse of power or of a position of vulnerability, and bribery. A victim is defined as a person harmed by trafficking irrespective of consent [29, Art. 3]. These elements follow the structure of Article 3 of the Palermo Protocol, including the irrelevance of consent, and the definition can therefore be regarded as aligned with the international standard.

The Law also contains a developed system of victim protection. Article 4 sets out the principles of legality, inevitability of liability for traffickers and non-discrimination against victims. Identification proceeds in two stages: primary identification of a presumed victim by law enforcement bodies within five days, followed by final identification by territorial commissions (Articles 20 and 21). Presumed victims are entitled to temporary shelter, medical, psychological and legal assistance and a free interpreter, and to a recovery period of not less than thirty days in which to decide whether to cooperate with law enforcement (Article 22). Specialised shelters and state-funded social rehabilitation are provided for (Articles 25 to 27). A foreign national or stateless person recognised as a victim receives the right to temporary residence, and deportation is barred while a criminal case is pending in which the person is a victim or witness; information on victims is confidential (Articles 27 and 28) [29]. Compared with the standards, the thirty-day recovery period matches Article 13 of the Council of Europe Convention, and the right to residence is stronger than Article 7 of the Palermo Protocol, which obliges States only to consider such measures.

The institutional architecture is also notable. The National Commission on Countering Trafficking in Persons and Forced Labour coordinates state bodies through two subcommissions, one for trafficking and one for forced labour, territorial commissions operate in the regions, and a National Rapporteur

reports annually to the President (Articles 6 to 16) [29]. The combination of a coordination body and a rapporteur corresponds to the monitoring and coordination elements of the international standards, although the independence of the rapporteur from the executive, which the Council of Europe model emphasises, cannot be assessed from the text alone.

Criminal liability is regulated by the Criminal Code, whose Article 135 is entitled "Trafficking in persons" [30]. Amendments signed in 2025 increased the penalties: imprisonment of five to ten years for aggravated forms, such as trafficking of two or more persons, of a person in a helpless state, of a pregnant woman, by a group by prior agreement, across the State border, with forged documents or the taking of the victim's documents, or for the removal of organs; and ten to fifteen years where the act involves abduction, violence, a victim under eighteen, repetition, the death of the victim or commission by an organised group [31]. These penalties are consistent with the requirement of Article 5 of the Palermo Protocol that trafficking be established as a criminal offence with effective sanctions.

The protection against forced labour as such is found in labour legislation and, more narrowly, in criminal law. The Labour Code of 28 October 2022 includes among its principles, in Article 5, freedom of labour and the prohibition of forced labour, alongside the principle of equality of labour rights and the prohibition of discrimination in Article 4 [32]. In the Criminal Code, the table of articles shows Article 148 on the violation of the right to labour and Article 148-2, entitled "Administrative coercion to labour" [30]. The latter appears to target coercion exercised through administrative authority, which may reflect the cotton-harvest practices that attracted international criticism. Within the sources reviewed for this article, no offence entitled slavery, servitude or forced labour in the general sense of ILO Convention No. 29 was identified, which is relevant for the gap analysis below.

The practical significance of these reforms is illustrated by the cotton sector. The ILO has monitored the cotton harvest in Uzbekistan since 2015 [33]. Its third-party monitoring of the 2021 harvest, based on about 11,000 interviews with pickers, concluded that Uzbek cotton was free from systemic child labour and systemic forced labour, while noting that around one per cent of those involved reported direct or perceived coercion, including threats from local community officials concerning social benefits and threats from employers concerning jobs or wages [34]. The international Cotton Campaign ended its boycott of Uzbek cotton in March 2022 [35]. These developments show that the combination of legislative reform, political commitment and independent monitoring can change practice, but the residual cases confirm that the legal framework must be capable of addressing isolated instances of coercion and not only systemic state-imposed practices.

Three points deserve emphasis. First, in the field of trafficking the alignment is strong and in several respects goes beyond the minimum standards. Second, the weak points are concentrated in three areas: the criminalisation of forced labour, servitude and slavery independently of trafficking, the formulation of the non-punishment principle, and the guarantees of compensation. Third, the structural reliance on the trafficking paradigm leaves unaddressed those exploitative situations, such as domestic servitude or debt bondage within the country, in which no recruitment or

transfer takes place.

The case law on positive obligations shows why the first gap is significant. In Siliadin the European Court found a violation precisely because the available criminal provisions did not cover servitude and forced labour as such, and Article 25 of ILO Convention No. 29 requires that the illegal exaction of forced labour be punishable as a penal offence with penalties that are adequate and strictly enforced [19; 9, Art. 25]. A State whose criminal law contains an offence of trafficking and an offence of administrative coercion to labour, but no general offence of forced labour or servitude, risks failing the test of practical and effective protection in a case in which an individual employer exploits a worker. Likewise, Article 4(2) of the Protocol of 2014 contemplates that victims of forced labour should not be prosecuted for unlawful activities which they were compelled to commit, and Article 4(1) requires access to appropriate remedies such as compensation [10]. The Uzbek Law refers the release of victims from liability to the manner established by legislation [29, Art. 27], which makes the actual protection dependent on other acts and invites inconsistent practice.

Conclusions and recommendations. The analysis leads to the following conclusions. First, modern slavery is not a single legal concept but a cluster of related ones, and international law responds to it through a combination of prohibitions of slavery and forced labour, the law of trafficking and human rights obligations of a positive character. Second, the case law of international and regional courts has developed these obligations into a recognisable standard that includes criminalisation, prevention, protection of victims, effective investigation, remedies and cooperation. Third, Uzbekistan has built a modern and in many respects advanced legal framework against trafficking, including a definition consistent with the Palermo Protocol, a two-stage identification procedure, a recovery period of thirty days, residence rights for foreign victims, a national coordination body and a rapporteur, and increased criminal penalties. Fourth, the framework is less complete for forced labour, servitude and slavery outside the trafficking context.

On this basis the following reforms are proposed. First, the Criminal Code should be supplemented with an offence of slavery, servitude and forced labour, formulated in line with Article 2 of ILO Convention No. 29 and the indicia developed in the case law, and covering conduct by private persons and employers as well as by public officials. Second, the principle of non-punishment of victims should be incorporated directly into the Criminal Code and the legislation on administrative offences, with a clear reference to acts committed as a direct consequence of exploitation, following Article 4(2) of the Protocol of 2014 and Article 26 of the Council of Europe Convention. Third, the legislation should provide an accessible procedure through which victims can obtain compensation from offenders and, where this is impossible, from a state fund, and should guarantee legal aid for this purpose.

Fourth, the role of the National Rapporteur should be reinforced by guarantees of functional independence and by the regular publication of data on identification, prosecution and conviction, which would allow external assessment of enforcement. Fifth, in light of target 8.7 and the UN Guiding Principles, the Government should consider introducing due diligence and transparency requirements for businesses regarding forced labour in supply

chains, building on the experience of the cotton sector. Finally, the continued cooperation with the ILO, including independent monitoring, and the consideration of accession to the Council of Europe Convention as a regional benchmark, would help to keep national practice aligned with the developing international standards.

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