

REGULATORY AND LEGAL STATUS OF NON-GOVERNMENT NON-PROFIT ORGANIZATIONS IN UZBEKISTAN

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Abstract:

In this article, proposals and recommendations have been developed, identifying the internal opportunities for expanding the activities of non-governmental non-profit organizations operating in the Republic of Uzbekistan, identifying problematic aspects in the development of their activities and eliminating them. In addition, non-government non-profit organizations put forward practical suggestions on improving the regulatory and legal framework for the implementation of programmatic tasks and eliminating the shortcomings of the existing legislation. Furthermore, it is scientifically based that the strengthening of the legal basis of the activities of these organizations not only leads to their development, but also to the stabilization of the socio-economic potential of the country. In this, the rights of these organizations regarding the types of activities they can carry out today, the forms and specific features of their organization according to the procedures stipulated by the law, and the final conclusions are presented.

Keywords: non-governmental non-profit organizations (NGOs), state authorities, legal status, civil society, third sector, public control.

Introduction

The activity of non-government non-profit organizations (NGOs) in our country is expanding more and more. With this, the role of this industry will increase, and we can see the results of their activities in every existing link of our society. We can say that the implementation of their activities on a large scale and the increase in their relevance is, first of all, the diversity of the types of activities promoted by them and is a vital necessity. Of course, a number of positive works are being carried out today to strengthen and improve the legal protection of NGOs.

Methods:

Methods such as induction, deduction, comparison, grouping were used in the formation of this article.

Statistically speaking, there are millions of small NGOs around the world that provide social services to people or the arts. There are over 3 million NGOs in the US.



It is clear from this that in developed countries, all regulatory legal documents on the activities of NGOs have been created and they coordinate and encourage their activities. Ultimately, the increase of their role and importance in the social life of the country, with this, the social development of the country moves towards new stages.

As we noted above, the legal basis of NGO activity is an important lever for their activity. For this reason, the regulatory legal resources put into practice are increasing day by day. “As a proof of this, we can emphasize that over 200 normative legal documents related to this field have been adopted in the past period.”¹. This ensures the legal independence of NGOs in our country.

We can see below that the legal basis of supporting the activities of NGOs is being strengthened by the leadership of our country. In particular, the signing of Decree No. PF-60 of the President of the Republic of Uzbekistan Shavkat Mirziyoyev dated January 28, 2022 “On the development strategy of the new Uzbekistan for 2022-2026”. According to this Decree, “Reorganization of the activities of the Public Fund for the Support of Non-Governmental Organizations and other Institutions of Civil Society” under the Oliy Majlis and a number of other relevant organizations as a research and “mind” center in accordance with international standards and a number of additional tasks is the basis for strengthening the legal foundation of the trust and activity given to them².

In addition, it is an important fact that the 12th goal of the strategy focuses on “Improving the organizational and legal foundations of effective public control”³. In this regard, the development of modern forms of public control, the introduction of the practice of checking the quality of execution of regional, network and state programs on the basis of collective appeals, the wide involvement of public control subjects in the process of implementation of some state functions, the use of social surveys in studying the activities of state bodies. One of the important aspects is to establish the practice of conducting and openly discussing identified shortcomings, to support NGOs and other institutions of civil society under the Councils of People’s Deputies, and to increase the amount of funds allocated to public funds by seven times.

Results and Discussion:

At this point, we can emphasize that NGOs have the following rights defined by the law.

- Representing and protecting the rights and legal interests of its members and participants;
- Coming up with initiatives on various issues of social life, making proposals to state authorities and management bodies;
- Disseminating information about one’s activities;
- Establishment of mass media and implementation of publishing activities in the prescribed manner;

¹ <https://andijon.adliya.uz> social network information

² Paragraph 20 of the Decree of the President of the Republic of Uzbekistan dated January 28, 2022 No. PF-60 “On the Development Strategy of the New Uzbekistan for 2022-2026”

³ Decree of the President of the Republic of Uzbekistan dated January 28, 2022 No. PF-60 “On the new development strategy of Uzbekistan for 2022-2026” Goal 12



- Organization of business structures to fulfill the tasks specified in the charter;
- To establish their own symbols;
- Holding meetings and conferences on issues related to their activities;
- Opening representative offices and establishing branches in accordance with legal documents;
- Non-governmental non-profit organization has other rights stipulated by law.

The use of these rights increases the development of NGOs’ activities, their role in civil society in society, and can help them in solving pressing issues of social importance of the government of the country, including the implementation and implementation of projects and the performance of some functions of the government. For this reason, their legal status is being strengthened and improved in the legal norms related to the activities of NGOs.

Of course, with the increasing importance of NGOs, their organizational and legal forms are being organized in different ways.



Figure 1. Organizational and legal forms of non-governmental non-profit organizations 4

We see that NGOs have different organizational and legal forms. However, all of them, based on their characteristics, have a clear goal and direction.

With the strengthening of the legal basis of NGO activity, their number is increasing day by day, besides, the majority of citizens who unite around these organizations and are provided with work. The increase in the number of NGOs operating in our country today and the number of their employees operating on a public basis is also a gratifying situation. A noteworthy aspect of the activities of the organizations that are leaders in establishing the activities of community-based NGOs is that the main activities of NGOs are mainly engaged in activities aimed at solving socially important issues of the population. This aspect is also based on the strong social policy carried out by NGOs in our country, aimed only at increasing the level of

4 Independent development formed by the author on the basis of regulatory and legal norms



well-being of people and their lives. This is the most important direction of the five priority directions of the transition to the market economy.

Today, the organizations operating in our country and considered the leaders in terms of the number of employees have their contribution in solving the problem of unemployment, which is considered the largest economic category. Increasing the list of such organizations is one of the important issues. The list of these organizations can be found in the table below.

Non-governmental non-profit organizations are the most common public employees in the Republic of Uzbekistan⁵

№	Name of non-governmental non-profit organizations	Number of public employees (people)
1	Trade union of healthcare workers of Uzbekistan	959
2	Taekwon-Do National Association of Uzbekistan (ITF).	422
3	“Sharq Ayoli” international women’s public fund	400
4	Federation of Uzbekistan “Uzbek Martial Arts”	385
5	Non-governmental public fund “Blood in the service of people”	146
6	Independent human rights organization of Uzbekistan	82

From the data in the table, we can see that the Union of Healthcare Workers of Uzbekistan is in the leading position in terms of the number and weight of employees operating on a public basis in different regions of the country. It became known that as of January 1, 2022, a total of 959 employees work in this organization on a public basis. The National Taekwon-Do Association of Uzbekistan (ITF) and the International Women’s Foundation “Sharq Ayoli” are in the next ranks. 422 and 400 citizens, respectively, are working in these organizations on a public basis. Of course, it is no exaggeration to say that these indicators are increasing day by day, creating enough opportunities for the activity of the **third sector** in our country.

However, we can see that a number of legal problems arise in practice for them to fully implement their activities. Based on our research, in order to clarify such cases, we consider it appropriate to make the following suggestions to some articles of the regulatory legal norms existing in our country.

First, according to article 2 of the Law “On non-governmental non-profit organizations”, “Non-governmental non-profit organization is established by individuals and (or) legal entities on a voluntary basis, and the main purpose of its activity is to obtain income (profit) it is a self-management organization that does not make and does not distribute the received income (profit) among its participants (members)”. In our opinion, it is appropriate to revise this given definition as follows. After the sentences that he did not achieve its goal, the sentence “it is independent of the state authorities and management bodies” should be added. Because today, as a result of the intervention of a number of state authorities in the activities of NGOs, it has a negative effect on their activities.

⁵ <https://www.minjust.uz/uz/press-center/news/89960/> an independent development created by the author based on the information from the official website



Secondly, it can be noted that even though many legal documents are being adopted to give freedom to the activities of NGOs and to implement systematic projects, we are facing a number of problems related to their application in legal practice.

Thirdly, non-governmental non-profit organizations, by their very nature, operate on a voluntary basis and cannot be recruited.

This provision is strictly defined in Article 18 of the Law “On Non-Governmental Non-Commercial Organizations”, i.e. “In official documents, it is not allowed to claim membership in this or that non-governmental non-commercial organization or participation in its activities. Belonging or not belonging to a non-governmental non-commercial organization of citizens cannot be a basis for restricting their rights and freedoms”⁶.

But we can see that this important legal requirement is denied by other laws from Article 17 of the Law "On the Chamber of Commerce and Industry of the Republic of Uzbekistan", "Membership in the Chamber is voluntary for small business and private business entities, and mandatory for other business entities.

However, the Chamber of Commerce and Industry is actually a non-governmental non-profit organization.

Fourthly, according to Article 10 of the Law "On Non-Governmental Non-Profit Organizations", it is mentioned that "Non-governmental non-profit organizations can be organized in the form of a public association, social fund, institution, as well as in other forms provided for by law." According to the situation in practice, we can see more than 15 organizational and legal forms of non-governmental non-commercial organizations. In our opinion, the goals of non-governmental non-commercial organizations mentioned in the existing regulatory and legal norms are similar to each other, as well as the priority tasks on the way to achieving this goal. For this reason, it is appropriate to reduce the organizational and legal forms of non-governmental non-commercial organizations. In the developed countries of the world, including Germany, it is a federal civil law state with three main legal forms of NGOs. “In the German state, there are forms of non-governmental non-profit organizations in the form of associations (Verein), foundations (stiftung), limited liability companies (Gesellschaft mit beschränkter Haftung, or GmbH)”⁷. Otherwise, in articles 6-12 of the Federal Law of the Russian Federation “On Non-profit Organizations”, there are “forms of societies, foundations, cooperatives, private institutions, state and municipal institutions”⁸ of non-profit organizations. Even in Japan, we can see that non-governmental non-profit organizations “are in the form of associations, foundations, special non-profit cooperatives and other public interest organizations”⁹.

6 Law of the Republic of Uzbekistan “On Non-Governmental Non-Commercial Organizations”, 1999. April 14, Article 18

7 Nonprofit Law in Germany, on February 2021 y.

8 Российская федерация, Федеральнқй закон о некоммерческих организациях, 8 декабря 1995 г.

9 <https://cof.org/country-notes/nonprofit-law-japan> расмий сайти маълумотлари асосида тайёрланди



Fifthly, in Article 29 of this law, the categories of “receipts from the founders, participants, (members) coming once and regularly” and “voluntary property contributions and donations” are used in the first category of income and the second category of contribution. At the moment, these indicators have the same meaning. However, there will be no voluntary form of property contributions. We can understand that, If we describe the content of this indicator, “contribution is the fee paid in exchange for something, something else that corresponds to the value of the thing, which can replace it, or the money paid or periodically paid by a person who is a member of an organization to this organization, society, membership fee”¹⁰.

This article is called “Resources of formation of property of non-governmental non-profit organizations” and according to it, “Resources of formation of property of a non-governmental non-profit organization may consist of the following: entry and membership fees, if they are provided for in the charter, one time from the founders, participants and regularly received incomes, voluntary property contributions and donations, incomes (profits) received from business activities, used only for charter purposes, other incomes not prohibited by law.

We have commented above on the application of the concepts mentioned in this article. Now, in addition to the indicators listed in the sources, funds from the extra-budgetary fund of budgetary organizations, targeted subsidies allocated from the saved funds of the state budget, and grand funds directed to the implementation of cooperative programmatic tasks by organizations operating in our country and abroad can also be called sources of wealth formation. In addition, we consider it appropriate to name this article as “Sources of financing the property and activities of non-governmental non-profit organizations”.

Sixth, article 30 of the law describes the types of activities of non-governmental non-commercial organizations. According to it, it is stated that “a non-governmental non-commercial organization may carry out any type of activity that is not prohibited by law and is in accordance with the goals stipulated in its founding documents”¹¹. In addition, in part 3 of this article, it is stated that “Certain types of activities can be carried out by non-governmental non-commercial organizations only on the basis of licenses. Such types of activities are determined by the law”¹². The revision of this article should also be revised, in which it is necessary to clarify the activities of NGOs, as well as the legislation of banks.

As we know, in article 7 of the Law of the Republic of Uzbekistan “On Banks and banking activities”, it is clearly stated that banks have no right to engage in direct production, trade, insurance activities, and other activities that are not related to the implementation of financial operations provided for in the legislation on banks and banking activities. In addition, according to Article 5 of the Law of the Republic of Uzbekistan “On the Central Bank of the Republic of Uzbekistan”, “Profit is not considered the purpose of the Central Bank”¹³,

10 Law of the Republic of Uzbekistan "On Non-Governmental Non-Commercial Organizations", 1999. April 14, Article 29

11 Law of the Republic of Uzbekistan “On Non-Governmental Non-Commercial Organizations”, 1999. April 14, Article 30

12 Law of the Republic of Uzbekistan “On Non-Governmental Non-Commercial Organizations”, 1999. April 14, Article 30

13 Law of the Republic of Uzbekistan “On the Central Bank of the Republic of Uzbekistan”, August 17, 2019,



according to Article 6, “to carry out commercial activities, to provide guarantees for the obligations of third parties, including the Government of the Republic of Uzbekistan, does not have the right to participate in the capital of banks and other legal entities’ authorized funds (authorized capital)”. In the same way, it is desirable to clarify the types of activities of these organizations in the Law “On Non-Governmental Non-Commercial Organizations”. We believe that it is right to note the restrictions on the activities of NGOs in our legislation. In our opinion, NGOs cannot engage in the activities shown in Figure 2.

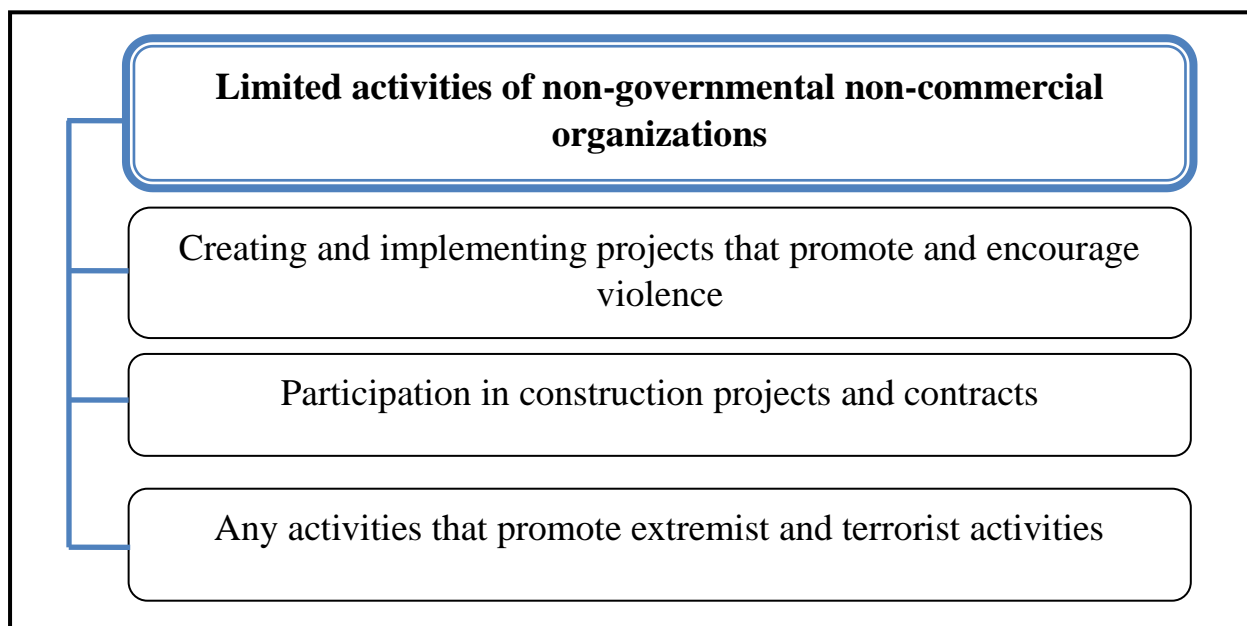


Figure 2. Limited activities of non-governmental non-commercial organizations

Seventh, we propose adding the following article to the Law on Non-Governmental Non-Commercial Organizations. According to our legislation, the cases of supporting the activities of NGOs and the system and the employees working in the system’s organizations are provided with additional financial incentives and social support with employees and the allocation of housing for them, and the transfer of movable and immovable property as permanent property on the basis of preferential payments. However, in actual practice we can see rampant aspects of nepotism and corruption in some cases. For this reason, we offer to provide employees with the right of temporary use, and not to give them permanent ownership of property in terms of social and economic support. It is then that the issue of satisfying personal interests will be regulated from the point of view of the enterprise.

Ninth, as we all know, the symbols of non-governmental non-profit organizations are approved by the Intellectual Property Agency, registered and recorded in the register of formation of symbols of non-governmental non-profit organizations. However, at the same time, the Ministry of Justice of the Republic of Uzbekistan and its regional offices approve and register the symbols of non-governmental non-commercial organizations. As a result of our scientific

Article 5

studies, we believe that it is appropriate to implement the symbols of NGOs only by one responsible organization.

In order to eliminate these situations, it is the need of the hour to make appropriate changes in a way that does not contradict the history of our legislation.

Therefore, illegal interference in the activities of NGOs by state authorities and management bodies, according to article 4 of the Law of the Republic of Uzbekistan “On non-governmental non-profit organizations”, despite the fact that state bodies and their officials will not be allowed to interfere in the activities of NGOs, it is showing its negative effects.

Conclusion:

In order to eliminate such negative situations, we consider it expedient to include the relevant article(s) in the Code of the Republic of Uzbekistan “On administrative responsibility” providing for administrative responsibility in the prescribed manner for the illegal interference of state bodies and their officials in the activities of NGOs.

As a result of the application of the above-mentioned proposals to our legislation and their implementation, it will be possible to improve the regulatory and legal basis of the activities of NGOs, as well as to make their activities legally justified.

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