

DIRECTIONS OF IMPROVEMENT OF LEGAL MECHANISMS OF COOPERATION BETWEEN GOVERNMENT BODIES AND INDEPENDENT NON-GOVERNMENTAL NON-PROFIT ORGANIZATIONS: EXPERIENCE UZBEKISTAN

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Abstract This article analyzes the issues of further improving the legal mechanisms of cooperation between state institutions and independent non-profit organizations in Uzbekistan. Specific proposals and recommendations on some problems in this field and ways of their solution are forwarded.

Key words: non-governmental non-profit organizations, government bodies, civil society institutions, social partnership, law, implementation of the law.

Tendency of impetuous reforms that are being implemented in Uzbekistan in recent years is directed at further strengthening relations between the state and non-governmental organizations.

In the coverage of this theme, special attention first of all should be paid to the phrase “independent non-governmental non-profit organizations”. Political-legal practice shows that there are also relatively independent structures among non-governmental non-profit organizations. They are non-

Shukhrat Yakubov

governmental non-profit organizations that are formed without initiative and support of the state, with their own strengths and capabilities, besides non-governmental organizations in the form of “gongo”¹, as well as large public organizations such as political parties, the mass media, makhalla, trade unions, union of youth, and women’s committee.

It is extremely important to support non-governmental non-profit organizations, the activities of which are aimed at protecting the interests of a certain segment of the population in society on its initiative and operating in this area, strengthen their cooperation with government bodies, improve their legal mechanisms.

Their quantity and quality are increasing as society develops. As of January 1, 2017, the total number of registered non-governmental organizations in Uzbekistan amounted to 8700, of which more than 5000 are independent non-governmental non-profit organizations, established and operating on their own initiative, without state support.

The following form major indicators on quantity, among them: 1873 – on an area of development of entrepreneurship and farming; 1179 – in the sphere of physical training and sports; 577 – legal and democratic institutions; 445 – on spiritual-enlightenment and outreach directions; 205 – healthcare and others².

Of course, non-governmental non-profit organizations in this area have all the same laws and privileges. However, supporting them additionally with legal documents is not at the proper level. In this regard, much attention should be paid to strengthening cooperation of such a large number of non-governmental non-profit organizations with the state and its bodies. They can serve as a reliable partner in implementing certain functions to the government through proper and effectively organized cooperation.

The Article 4 of the Law of the Republic of Uzbekistan “On non-governmental non-profit organizations” reflects the norms relating to relationship of non-governmental non-profit organizations with state bodies. According to it, “The state ensures observance of the rights and legitimate interests of non-governmental non-profit organizations, creates equal legal opportunities for them for participating in public life. The state can support

¹ Non-governmental organizations established in the West for implementing specific strategic objectives by the state are called “gongo”. Non-governmental organizations such as “Development Strategy Center” in Uzbekistan, “Independent Institute for Monitoring Formation of Civil Society” can be given as examples of such organizations.

² See: Atlas of non-governmental non-profit organizations of Uzbekistan // Development of NGOs in Uzbekistan: a brief review / Tashkent: “Baktria press”, 2017.-P. 12. NANNOUz.

certain socially useful programs of non-governmental non-profit organizations”³.

This norm defines responsibility of the state to non-governmental organizations. In our opinion, it would be expedient that the norms of the present law also reflected assistance of non-governmental organizations to the state and cooperation in this area. It is true that some of the system laws contain norms for involvement of non-governmental non-profit organizations in legal relations in this sphere. However, it would be logical to reflect such a norm in this law as a basis for them.

In some of our laws, the legal mechanisms for assisting non-governmental organizations by the state are broadly covered. For example, Article 11 of the Law of the Republic of Uzbekistan of January 3, 2007 “On guarantees of activities of non-governmental non-profit organizations” reflects the forms of state support for the activities of non-governmental non-profit organizations. According to it, the state can support the activities of non-governmental non-profit organizations in the form of subsidies, grants and social orders. The state can also provide other support for the activities of non-governmental non-profit organizations in accordance with the legislation. In order to promote further development of democratic reforms in the country and active participation of non-governmental non-profit organizations in this process, the Public Fund for Supporting Non-Governmental Non-Profit Organizations and Other Civil Society Institutions, as well as the Parliamentary Commission for Managing the Fund’s means are being established under the Oliy Majlis of the Republic of Uzbekistan”.⁴

Since 2008, the Parliamentary Commission has been functioning and, according to its decision, the Public Fund supports the development of activities of the “third sector” and its various socially significant programs and projects.

This national mechanism, which is not available in other countries, is an effective way to support smaller non-governmental non-profit organizations in remote areas. Through this, many non-governmental organizations are able to strengthen their material and technical basis, effectively implement their program goals and objectives.

Since the establishment of the national mechanism for supporting non-governmental non-profit organizations in Uzbekistan, the Parliament has supported more than 1500 projects in the form of state grants, social orders

³ Bulletin of the chambers of the Oliy Majlis of the Republic of Uzbekistan, 2007, N 12, paragraph 608; 2008, N 12, paragraph 640; 2012, N 4, paragraph 106; 2014, N 12, paragraph 343

⁴ Bulletin of the chambers of the Oliy Majlis of the Republic of Uzbekistan, 2007, No. 1, paragraph 2.

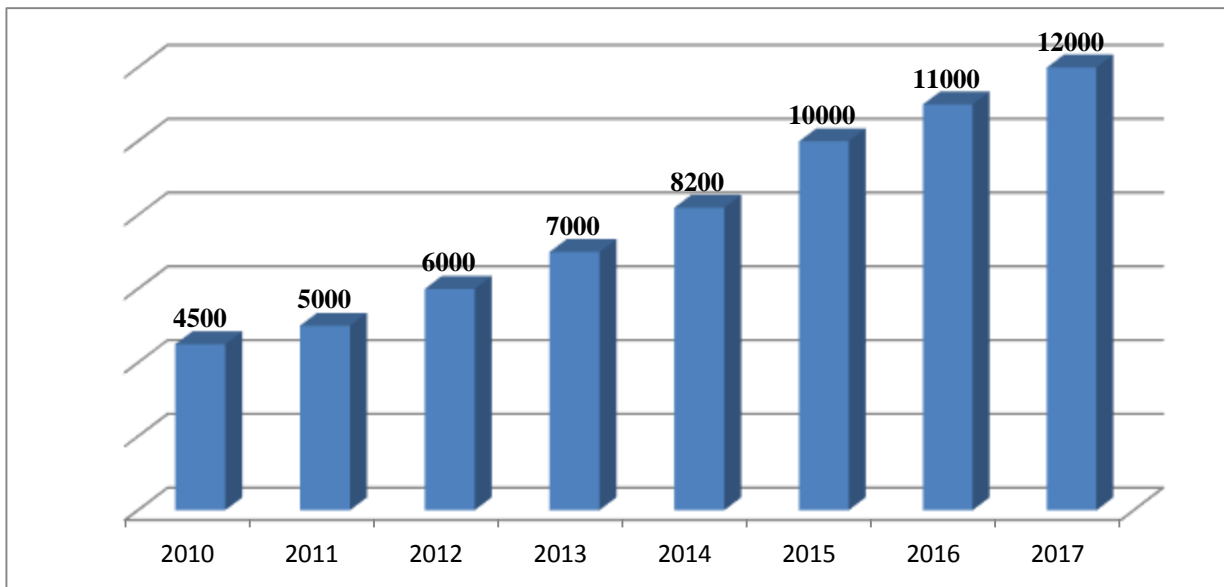
and subsidies. As a result, more than 60 national, state and regional programs ensured participation of civil society institutions' initiatives in addressing urgent issues⁵.

In 2008-2017, according to the decision of the Parliamentary commission, more than 60 billion sums were allocated by the Public Fund for development of activities of the "third sector" and supporting its various socially significant programs and projects.

⁵ See: From the report of Public Fund for supporting non-governmental non-profit organizations and other civil society institutions under the Oliy Majlis of the Republic of Uzbekistan. www.fundngo.uz.

Table 1

Table of the growth rates tendency of funds allocated by the Public Fund for supporting non-governmental non-profit organizations and other civil society institutions under the Oliy Majlis of the Republic of Uzbekistan



Only in 2017, according to the Parliamentary Commission's decisions, the Public Fund has funded 267 projects and programs in the form of state grants, social orders and subsidies. The projects were implemented on the basis of contracts and memorandums, joint working plans concluded in social partnership with state governing bodies and administration in executing objectives defined in state social, regional and sectoral development program, aimed at addressing current socio-economic, socio-political and humanitarian problems at places.

In general, such support is important in ensuring financial sustainability of non-governmental organizations. Hence, they are provided with a number of benefits and preferences for implementing various payments and ensuring state support. Today, on the basis of resolutions of the President and Government, 71 public associations have been additionally financed from the state budget for strengthening their material and technical capacities, and 31 non-governmental organizations have been exempted from various taxes, mandatory payments and state duties.

Representatives of non-governmental non-profit organizations actively participated in the discussion of the draft laws and ensuring implementation of the state program. In particular, more than 1500 activists from non-

governmental non-profit organizations took part in discussion of draft laws “On social partnership” and “On public control” in 2014.

In 2014-2017, leaders and activists from non-governmental non-profit organizations participated in more than 60 national interagency commissions. Or, over the past years, representatives of more than 90 non-governmental non-profit organizations were awarded state awards⁶.

On August 9, 2017, the President of the Republic of Uzbekistan signed another important document – a resolution “On establishment of the public fund “Ilkhom” for supporting the art figures of Uzbekistan”. It is important that in this Resolution, providing funds for the development of culture, art and journalism in our country, as well as implementation of relevant programs and projects in these areas are defined as the main tasks of “Ilkhom” public fund. Since then, there have been a number of problems in ensuring financial support of the Association of Composers of Uzbekistan, the Creative Union of Artists, the Theater Workers’ Association and the Creative Union of Journalists, as well as financing their activities. With the establishment of this fund, all of them will find their positive solution. According to the resolution, twenty billion sums were allocated from the state budget to the account of “Ilkhom” public fund⁷.

In our opinion, the benefits of this type are widely used in practice in large, non-governmental non-profit organizations established on the initiative of the state. There is also a need to provide such support to non-governmental organizations that are established at places for protecting the interests of a particular segment of the population. It’s time to reflect its legal mechanisms in the legislation. To this end, it is necessary to introduce additions to the legislation.

As our scientists emphasized, relationship between the non-governmental organizations and the state government has not been fully defined legally, and the existing norms do not fully respond to the daily changing demands of life.⁸

Another important issue is the extent of state assistance, attention and support to smaller non-governmental organizations are reflected in their support for the state, impact for protection of civil rights and interests. Therefore, there is a need for a deeper analysis of this issue.

⁶ See: Development of civil society in Uzbekistan. –T.: Independent Institute for Monitoring Formation of Civil Society, 2017. –P. 11.

⁷ “Halq suzi”, August 10, 2017.

⁸ Musayev F. Democratic development: process of formation of civil society and legal state. –T.: 2007. “Publishing house of the Institute of Philosophy and Law”. –P. 88.

The role of non-governmental non-profit organizations in the regions is not noticeable in preparation, discussion and implementation of current relevant state and regional programs. For example, let's analyze this issue at the example of the Action Strategy for further development of the Republic of Uzbekistan in 2017-2021, published on the basis of the Decree of the President No. DP-4947 of February 7, 2017, and its State Program on implementation in the "Year of Dialogue with People and Human Interest" for 2017.

The State Program covers important tasks that consists of 320 paragraphs. However, no part of its paragraph's implementation has determined the participation of non-governmental non-profit organizations established and operating on their own initiative without state support⁹.

This means that important issues of community life, non-governmental organizations in this format are somewhat out of reforms. The same can be said about their participation in implementation of local programs. This problem is related to the fact that such non-governmental organizations are not paid enough attention by the state and that specific measures are not being taken on effectively using their strengths and capabilities.

Indeed, in line with the Decree¹⁰ of the President of the Republic of Uzbekistan No. D-4849 of February 14, 2017 "On organizational measures for implementation of the Action Strategy on five priority areas of development of the Republic of Uzbekistan in 2017-2021", the Development Strategy Center was established in the form of a non-governmental non-profit organization for assisting in implementation of the Action Strategy. However, this center is also a non-governmental organization founded on a state initiative. We also believe that the Center should develop and implement concrete measures on strengthening cooperation between non-governmental organizations and state bodies.

In the experience of Uzbekistan, the main attention is being paid only to financial support of small non-governmental organizations at places. In our opinion, it is necessary to introduce other forms of supporting and establishing their legal basis. For example, granting tax privileges to non-governmental organizations that contribute to the development of the country and assist state bodies in solving some of the problems in society, achieve significant results in implementing legal interest of various segments of the population, promoting their activities, encouraging them, developing

⁹ See: The State Program of implementing the Action Strategy on five priority areas of development of the Republic of Uzbekistan in 2017-2021 in the "Year of dialogue with people and human interests" (Appendix 8 to the Decree of the President of the Republic of Uzbekistan of 07.02.2017 No. DP-4947). www.lex.uz.

¹⁰ "Collection of legislative acts of the Republic of Uzbekistan", February 20, 2017, No. 7, paragraph 88.

legal mechanisms of nominating candidates for prominent state bodies, promotion of their activities at the international level, and so on.

The second issue is, though, the state is paying attention to non-governmental organizations, even if it is a financial support, but the response of the non-governmental organization to the government is not significant. We also believe that it is necessary to study, analyze activities of non-governmental organizations, if necessary, intensify the work of competent state body in issues of completion of their activities.

Another important issue is intensification of involvement of the practice of non-governmental non-profit organizations in solving current issues of society's life and strengthening its legal mechanisms. For example, it is important to develop legal mechanisms of participation of non-governmental organizations in such areas as ensuring employment of the population on the example of Uzbekistan, providing medical care, preventing offenses, promoting legislation and raising the legal culture of the population, promoting reading, fighting against corruption, enhancing ecological culture, and etc.

In pursuance of paragraph 50 of the State Program on implementation of the Action Strategy on five priority areas of development of the Republic of Uzbekistan in 2017-2021, approved by the Decree No. DP-4947 of February 7, 2017, in the "Year of dialogue with people and human interests", the Law "On introducing amendments and addenda to the Law of the Republic of Uzbekistan "On social partnership" was developed and adopted by the Parliament¹¹.

First of all, it reflects the fact that the state governing bodies may give public order to non-governmental non-profit organizations and other civil society institutions at the expense of extrabudgetary funds for carrying out socially beneficial tasks of the state governing bodies, and secondly, it defines further strengthening the legal mechanisms for cooperation of the state governing bodies with non-governmental non-profit organizations and other civil society institutions, further expansion of partnership on priority areas of their socio-economic development.

In general, according to new addenda, an order was also defined for making a direct social order to non-governmental non-profit organizations besides the the Public Fund under the Oliy Majlis for carrying out socially useful functions by the state governing bodies. These new legal mechanisms

¹¹ The Law of the Republic of Uzbekistan of 14.09.2017 No. LRU-446 "On introducing amendments and addenda to some legislative acts of the Republic of Uzbekistan, as well as on repealing some legislative acts" // "Collection of legislative acts of the Republic of Uzbekistan", September 18, 2017, No. 37, paragraph 978.

will provide a good opportunity for non-governmental organizations to raise cooperation with government bodies to a new level, increase their involvement in addressing some socio-economic problems at places, and implement their program goals and objectives.

In our opinion, the ability of providing public order for non-governmental organizations by the state governing bodies is a good practice, as well as there is also another form of their financial support – allow granting loans and reflecting their legal mechanisms in the above laws.

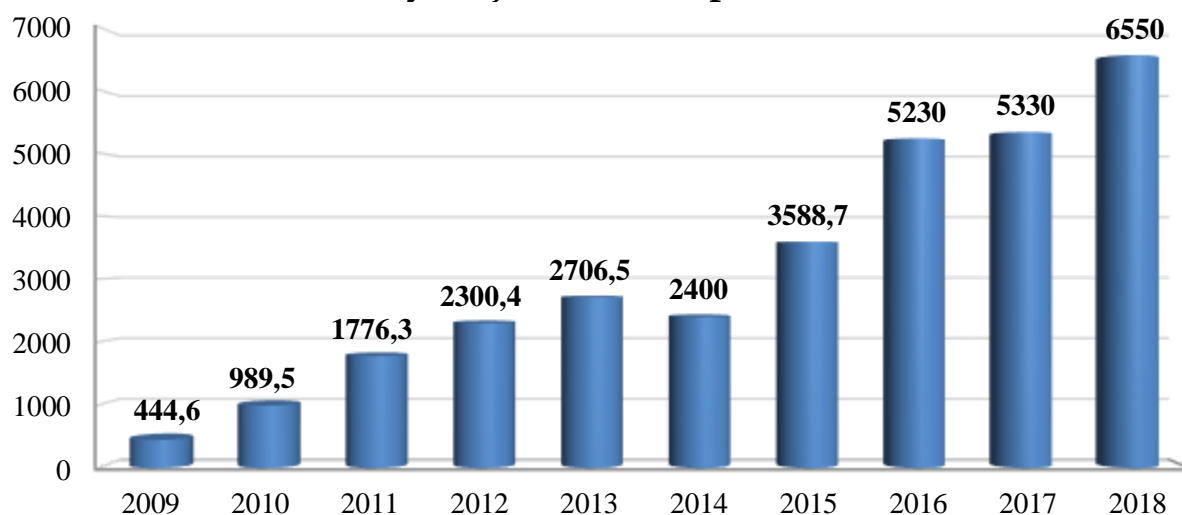
In practice, it shows that it is more effective to provide non-governmental organizations with “grant-based” support than “social order”, and it is reaching far beyond small non-governmental organizations.

This creates enormous opportunities for effective cooperation between non-governmental organizations and state bodies. Because, supporting in the form of the state grants have been expanding from year to year, and it is of particular importance for development of local non-governmental organizations. In particular, 444.5 million sums were directed to these goals by the Public Fund under the Oliy Majlis in 2009, and in 2018 it reached 6 billion 550 million sums¹². The growing tendency of funds allocated in the form of grants for supporting is shown in the following table.

Table 2

The growing tendency of grant funds by the Public Fund for Supporting Non-Governmental Non-Profit Organizations and Other Civil Society Institutions

under the Oliy Majlis of the Republic of Uzbekistan



¹² See: From the report of the Public Fund for supporting non-governmental non-profit organizations and other civil society institutions under the Oliy Majlis of the Republic of Uzbekistan. www.fundngo.uz.

In our opinion, the following issues need to be addressed in order to further improve the legal mechanisms of cooperation between the state bodies and independent non-governmental non-profit organizations:

First of all, the law should be improved, taking into account the current realities, and the need for further development of relations between the state and non-governmental organizations. In this, it is particularly important to clearly define the forms and legal mechanisms of participation of business entities in financial support of their activities in social partnership.

First of all, it is necessary to include entrepreneurship subjects in the list of social partnerships referred to in the Article 3 of the Law "On social partnership". In particular, the phrase "business entities" should be inserted after the words "state bodies" in the second part of the Article 3 of this law, to the norm "State bodies, non-governmental non-profit organizations and other civil society institutions are subjects of social partnership". As well as, the Law "On social partnership" should include a new chapter reflecting the system of "Supporting social partnership by business entities". This chapter should reflect the following articles such as "Types of supporting social partnership by business entities", "Providing material and property support by business entities", "Participation of business entities in financing social partnership activities" and others.

Secondly, it is necessary to decentralize the system of state financial support for non-governmental non-profit organizations. At the same time, it is important to organize financial assistance not through the center but through the local state bodies. Indeed, local state governing bodies, the public in the region are well aware of effectiveness of non-governmental organizations, their strengths and capabilities, the role and effectiveness in protecting the interests of various segments of the population at places.

Thirdly, it is desirable to attach non-governmental non-profit organizations, operating in the regions, to relevant state bodies on the issues of cooperation, taking into account their main objectives, to introduce them to each other, and to develop a joint plan of measures, and organize activities on this basis.

As well as, another important issue is that we should consider a broad public opinion on the issue of management of civil society institutions in the future in Uzbekistan, coordinate their activities, the issue of establishment of a separate ministry that has relationship with state bodies. The experience on organizing such a ministry is available in the neighboring Republic of Kazakhstan. In 2016, the Ministry of Religious and Civil Society Institutions was established in this country.

Shukhrat Yakubov

In conclusion, the improvement of organizational and legal frameworks for effective use of powers and capacities of a large number of non-governmental organizations creates new opportunities for the protection of the interests of different sections of the population, in ensuring their rights and freedoms. At the same time, it leads to a reduction in the burden of the state bodies in solving various socio-economic problems at places.

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