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Statement by International Partnership for Human Rights, Amnesty International, Association for Human Rights in Central Asia, Civic Solidarity Platform, Human Rights Watch

A matter of international concern: Endemic Torture in Uzbekistan

Routine and pervasive torture and other ill-treatment

Our organizations are deeply concerned that torture and other ill-treatment and the admission in criminal trials of evidence extracted under torture remain persistent, endemic problems in Uzbekistan. Torture and other ill-treatment have become defining features of the Uzbekistani criminal justice system. They are central to how the Uzbekistani authorities deal with dissent, combat actual or perceived security threats and repress political opponents.

Security forces and prison guards routinely carry out torture and other ill-treatment, including during arrest and transfer to detention facilities, in police custody, pre-trial detention and in prisons.

Police and secret police use torture and other ill-treatment to extract confessions and other incriminating information, and to intimidate and punish detainees and their families. Those at particular risk include individuals the authorities perceive as a threat to national security, such as those who practice their faith outside state approved mosques and those who are members or suspected members of banned Islamist groups.

Safeguards against torture and ill-treatment are not guaranteed in practice and problems include: Failure to notify family members of detainees' whereabouts¹;

¹ The Criminal Procedural Code provides for the notification of detainees' relatives in Article 217 but this is often not implemented in practice.

failure to provide access to legal counsel²; improper use of administrative proceedings where criminal suspects are sometimes initially arrested for alleged administrative violations, detained for up to 15 days and questioned without a lawyer present.³ In some cases, such as that of human rights defender **Fakhriddin Tillaev**, the detainee is then charged with a criminal offence after being forced to confess under duress. The lack of independent medical examinations for detainees when they are first detained is also a problem.

Forced confessions

A flawed justice system continues to prevail in Uzbekistan. Four directives by the Plenum of the Supreme Court issued since 1996 explicitly prohibiting the use of torture and other ill-treatment to extract confessions and the admissibility of evidence obtained through torture have not been implemented in practice. The provisions in the Supreme Court directives have not been incorporated into the Criminal Procedure Code. Courts in Uzbekistan continue to rely heavily on 'confessions' extracted under torture, duress or deception. Judges ignore or dismiss allegations of torture or other ill-treatment, even when directly presented with credible evidence in court. There are reports of some cases where false confessions have been filmed on camera, and Amnesty International, AHRCA and IPHR are aware of at least two recent cases where people were tortured to "confess" on camera to charges which they later denied in court.

On 11 December 2014, TV channel "Uzbekistan" broadcast a propaganda film, which featured six men who had previously requested refugee status in Norway but had been returned to Uzbekistan. The six had travelled to Norway in 2008 to work as labour migrants. The Norwegian immigration authorities returned them to Uzbekistan in April 2014 after rejecting their asylum applications. The programme presented them as "traitors of the Motherland" and "religious extremists" and showed footage of them being interrogated by officials of the National Security Service (SNB). On 24 December 2014, the men were convicted by the Tashkent Regional Court of attempting to overthrow the constitutional order, of producing materials threatening public safety and for being members of religious extremist, separatist, fundamentalist or other banned organisations. Asadulla Rikhsiev, Zhakhongir Tozhiev, Akhmadzhon Khalikov, Shukhrat

² Despite the Criminal Procedural Code providing for basic rights upon detention, such as the right to a lawyer, in practice detainees are not routinely informed of these rights.

³ The Code of Administrative Responsibility of Uzbekistan does not provide for procedural guarantees such as the presence of a defence lawyer during interrogation.

Ilkhamov, Zafar Karimov and Davron Rakhmanov were sentenced to prison terms ranging from 12 to 13 years. The men described in court how the security forces had held them incommunicado for long periods of time and subjected them to torture by beatings with a rubber truncheon on the soles of their feet, head and body, applied electric shocks and deprived them of food for up to six days. At their trial, bruises reportedly could be seen on their bodies and one of the men had a badly damaged tongue. State-appointed lawyers were aware that their clients had been tortured, but did not request a forensic medical examination or try to lodge a complaint about torture. At trial, the judge did not make any further enquiries into these allegations but admitted the “confessions” as evidence. Also at the trial, the defendants learned from relatives that they had been shown on television and realized they had been filmed during interrogation with a hidden camera.

Lack of independent complaints mechanism and redress, resulting in impunity for use of torture

Uzbekistan has no independent complaints mechanism or body to examine torture complaints promptly and effectively. Usually the Prosecutor’s Office will refer investigations into torture allegations to the Ministry of Internal Affairs, the very agency to which officers accused of committing torture belong. The absence of an effective independent mechanism has allowed impunity to thrive. No effective investigation into any of the allegations of torture and other ill-treatment in the cases documented by our organizations has ever been conducted despite numerous complaints lodged with the competent authorities by victims, their lawyers and families and supported by credible evidence. The lack of independence of judges and independent complaints mechanisms results in impunity for many state actors and officials responsible for human rights violations, including torture.

Erkin Musaev, a former Ministry of Defence official, was working for the UN Development Programme (UNDP) in Uzbekistan when he was detained in January 2006. He was sentenced to a total of 20 years’ imprisonment for treason and abuse of office following three separate unfair trials in 2006 and 2007. His family claims that he was tortured to force him to confess. No effective investigation has taken place into the allegations that he was tortured in detention, despite numerous complaints submitted to the authorities by Erkin Musaev, his lawyer and his family.

In March 2012, the UN Human Rights Committee concluded in the case of Erkin

Musaev that his right under article 7 of the ICCPR had been violated and that the authorities in Uzbekistan were obliged to provide him with an effective remedy, including an impartial and effective investigation into his allegations of torture and other ill-treatment in detention.

Calls for a fair trial for Erkin Musaev have been ignored for eight years.

Failure to protect the lives of those in detention

The Uzbekistani authorities fail to protect the lives of prisoners and detainees. The number of reports of deaths in custody of detainees and prisoners has increased in recent years (85 deaths reported, 36 of which the Association for Human Rights in Central Asia has been able to verify). In not one of these cases was an effective investigation carried out into the circumstances of the deaths and lawyers acting for families of the deceased were pressured by law enforcement officials into not asking for forensic examinations. The bodies of detainees and prisoners allegedly killed as a result of torture were often not given back to relatives for burial.

The practice of arbitrarily extending prison terms based on unsubstantiated allegations of disobedience of prison rules under Article 221 of Criminal Code leads to many prisoners serving *de facto* life sentences with no hope of release. For example, former MP **Murad Dzhuraev** has had his prison sentence extended four times successively and has spent 21 years in prison, 12 of which were not part of his original sentence. He is due to be released in November of this year. Other examples include the former editor-in-chief of the banned Erk political opposition party newspaper **Muhammad Bekzhanov** who has spent 16 years in prison and has had his sentence extended twice; disabled human rights defender **Isroil Kholdorov**, who has spent nine years in prison and had his sentence extended in 2012; and human rights activist **Azam Farmonov** who was sentenced to nine years in prison in 2006 had his sentence extended by five years in May 2015, just as he was due to be released. The practice of arbitrary extension of prison terms in relation to such individuals, and other imprisoned human rights defenders, journalists, political opponents and thousands of people convicted of crimes related to “religious extremism” has become routine. These extended sentences are handed down in unfair closed trials which violate international fair trial guarantees.

Prison conditions amounting to torture and other cruel, inhuman and degrading treatment or punishment

Based on our research, our organisations have concluded that prison conditions are often so substandard that they amount to torture and other cruel, inhuman and degrading treatment or punishment. There are numerous credible reports of severe overcrowding in cells in prisons and pre-trial detention centres (SIZOs) and that prisoners in some SIZOs have to take turns to lie down on bunks to sleep. There are consistent reports about appalling conditions in some prisons where there is inadequate drinking water, food, medication, sanitation and ventilation. Former political prisoners have reported that sick prisoners are not exempt from heavy manual work.

Lack of independent detention monitoring

Uzbekistan has no independent monitoring mechanisms in place to inspect all places of detention. Due to government-imposed restrictions, no independent NGO or other monitoring body - domestic or international - carries out any form of regular, unannounced and unsupervised prison monitoring. In April 2013, the International Committee of the Red Cross (ICRC) terminated all visits to detainees in Uzbekistan due to restrictions on their standard working procedures and as a result, according to the ICRC, those visits were “pointless”. Foreign diplomats, while granted access to some detention facilities, are usually accompanied by prison or law enforcement officials during their visits. The same applies to human rights defenders who have on rare occasions been allowed to visit imprisoned colleagues. The Uzbekistani authorities refuse to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which requires states to accept a system of regular visits to all places of detention by independent “national preventive mechanisms” and by an international expert body.

It is imperative that the Uzbekistani authorities agree to establish systems of effective and independent monitoring of all detention places as a priority. Currently, there are 13 pending requests for country visits by the Special Procedures of the Human Rights Council, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

Extradition and Forcible Return to Torture

The Uzbekistani authorities have relentlessly pursued the extradition or forcible return of hundreds of people they have suspected of having organized or participated in a number of violent attacks in Uzbekistan. Many of these

extradition requests are based on fabricated or unreliable evidence. The Uzbekistani government frequently offers “diplomatic assurances” to sending states to secure the returns, pledging free access to detention centres for independent monitors and diplomats. However, there are no independent detention monitoring mechanisms in place and once a person is returned to a country like Uzbekistan, where torture and other ill-treatments are endemic, his or her safety cannot be ensured. Diplomatic assurances from the Uzbekistani authorities, the same authorities that routinely practice the torture and ill-treatment of detainees, are inherently unreliable.

24-year-old Uzbekistani citizen **Davron Komliddinov** was forcibly disappeared in Russia in April 2015. He was detained on 3 April in the Russian city of Krasnoyarsk after the Uzbekistani authorities requested his extradition. Two Uzbekistani citizens who he had met in Russia had reportedly given evidence against him in 2012 when they were detained upon returning to Uzbekistan. In 2013 law enforcement officials regularly visited Davron Komliddinov’s home in Uzbekistan and put pressure on his relatives to tell them where he was living.

Davron Komliddinov’s parents have had no news from their son since his detention by the Russian authorities in April this year. The Russian authorities told them that Davron Komliddinov is no longer in Russia, but the family has been unable to find out anything about his whereabouts from the Uzbekistani authorities. It is feared that he has been taken to Uzbekistan, where he is held in incommunicado detention and at real risk of torture and other ill-treatment. Information on this case has been sent to the UN Working Group on Forced and Involuntary Disappearances.

Recommendations to the authorities of Uzbekistan:

- Take meaningful steps to fully address the concerns and effectively implement all the recommendations of the UN Special Rapporteur on torture, Committee Against Torture and the Human Rights Committee;
- Issue a standing invitation to the Special Procedures of the UN Human Rights Council, and facilitate a country visit in particular by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment;
- Immediately and publicly condemn the use of torture and other ill-treatment;
- Bring domestic law into full compliance with Uzbekistan's international obligations regarding the absolute prohibition against torture and other

cruel, inhuman or degrading treatment or punishment. In particular, the Uzbekistani Criminal Code and Criminal Procedure Code must be amended to define torture as established in the UN Convention against Torture and explicitly prohibit any confession extracted under torture from being admitted as evidence in criminal and other proceedings, except as evidence of abuse in a case against an alleged perpetrator;

- Issue and ensure the implementation of rules to ensure that all judges at every level are instructed regarding the proper actions to take and procedures to follow to determine whether confessions and/or other evidence submitted by prosecutors in criminal proceedings and by any state actor in any other proceeding have been extracted by the use of torture or other cruel, inhuman or degrading treatment or punishment;
- Establish an effective system of independent, unannounced inspection and supervision of all places of detention by competent, independent and impartial bodies;
- Initiate prompt, impartial and comprehensive investigations of all complaints of torture or other cruel, inhuman or degrading treatment or punishment of any person subjected to any form of arrest, detention or imprisonment, as well as when there are reasonable grounds to believe that the torture or ill-treatment has occurred even if no complaint has been made;
- Cease the practice of secretly filming suspects during interrogations and using the secretly recorded video footage as evidence in criminal cases as such practice compromises a suspect's right against self-incrimination and to be presumed innocent until found guilty in fair proceedings in a court of law.