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Uzbekistan: Committee against Torture

**Written information prior to the
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Introduction

This document was jointly prepared by the Association for Human Rights in Central Asia (AHRCA, located in exile in France) and International Partnership for Human Rights (IPHR, Belgium). It is based on the organizations' ongoing monitoring, documentation and analysis of key developments and cases relating to the principles enshrined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

AHRCA is an independent human rights organization founded by émigrés in 2006. Through a network of contacts in Central Asia, AHRCA monitors the human rights situation, documents violations and conducts international advocacy.

IPHR is a non-profit organization based in Brussels. Founded in April 2008, its mandate is to support local civil society groups in their work to eradicate violations of human rights and help their concerns and efforts be heard at the international level.

This submission aims to provide input into the Committee against Torture's (CAT) preparation of the List of Issues that is scheduled to take place at the Committee's 66th session in April/May 2019. The document consists of short thematic chapters, each of which concludes with recommended requests that the CAT may wish to address in its List of Issues.

Since President Shavkat Mirziyoyev came to power in 2016 he and his government have taken pains to improve Uzbekistan's image in the eyes of the international community. They announced a programme of judicial reform, improved legal safeguards against torture and released over two dozen political prisoners and human rights defenders.¹ In 2017 the United Nations (UN) High Commissioner for Human Rights visited Uzbekistan for the first time and the same year the UN special rapporteur on the freedom of religion and belief was the first special rapporteur able to visit Uzbekistan since 2002. In 2017 and 2018 Uzbekistan allowed representatives of international human rights NGOs such as Amnesty International, Freedom House, Human Rights Watch, IPHR and Norwegian Helsinki Committee into the country.

However, it remains to be seen whether the authorities are committed to fundamentally improving the country's human rights record and implementing much needed systemic reforms. In Uzbekistan, the independence of the judiciary continues to be routinely undermined by the executive branch of power. Local human rights defenders continue to face reprisals for activities such as publishing information about human rights violations and many of those civil society activists who were released from prison report are kept under strict state surveillance.² At least six human rights defenders and political activists remain behind bars after being convicted in unfair trials.³ Although many people perceived to be Islamic fundamentalists were released from detention in 2016, thousands more are believed to continue serving prison terms which

1 These include: Bobomurod Razzokov, Samandar Kukanov, Rustam Usmanov, Muhammad Bekjanov, Jamshid Karimov, Erkin Musaev, Azam Farmonov, Solijon Abdurakhmanov, Agzam Turgunov, Ganikhon Mamatkhonov, Dilmorod Saidov, Fakhridin Tillaev, Isroil Kholdarov and Yusuf Ruzimuradov, Gaybullo Dhalilov, Chuan Matmakulov, Yuldash Rasulov, Gairat Mikliboev as well as Dilorom Abdukodirova (witness to Andijan tragedy), Mekriniso Khamadova, Zulkumor Khamadova, Zafarjon Rakhimov.

2 See: <https://iphronline.org/uzbekistan-stop-harassing-human-rights-defenders.html>; <https://iphronline.org/a-call-for-swift-implementation-of-reforms-in-uzbekistan-as-iphr-witnesses-surveillance-of-local-defenders-during-visit.html>

3 Rukhiddin Fakhridinov, (Theologian), Aziz Yusufov, (Independent journalist), Akrom Malikov (Critic, author of publications under the name "Abdulloh Nusrat"), Rustam Abdumanopov (Political scientist), Andrei Kubatin (Oriental academic, associate professor) Mirsyar Khamidokriyev (Producer).

were handed down in unfair trials marred by allegations of torture at the hands of the State Security Services (Russian acronym - SNB).

In relation to putting an end to torture and ill-treatment, the Mirziyoyev government has signed into force some legislative amendments in 2017 and 2018. For example, legislation was introduced that explicitly prohibits the use of torture to obtain confessions and the admission of such confessions as evidence in court proceedings. Amendments to the Criminal Code introduced criminal responsibility for falsifying evidence by making knowingly false statements, compelling someone to give evidence that is untrue, distorting the actual circumstances of the case resulting in unlawful detention, criminal liability or conviction of a person. Severe penalties for perjury were also introduced. In addition, law enforcement agencies were obliged to make video recordings of investigative activities such as inspections of the scene of a crime, searches, verification of evidence and investigative experiments. These are positive steps, however, it is crucial that legal mechanisms are developed and training provided to ensure that these amendments are consistently implemented.

As part of a restructuring of the SNB purportedly aimed at addressing the systematic abuses of power in this government agency in past decades, on 31 January 2018, the government announced the resignation and replacement of the head of the SNB. Rustam Inoyatov's 22-year term was notorious for reports of pervasive torture and ill-treatment. However, most processes and procedures concerning the SNB remain shrouded in secrecy, very little reliable information is available to the public and the victims of human rights abuses by SNB officials are no nearer to attaining justice.

Cases of torture and ill-treatment continue to be reported and it is believed that torture and ill-treatment are widely used, particularly in the early stages of detention. The authors of this report are only aware of a fraction of cases because many victims of torture and their relatives do not contact human rights defenders in Uzbekistan, who themselves, are under pressure from the authorities. A full and transparent process of public accountability for torture and ill-treatment, past and present, is essential to restore public trust in the criminal justice system in Uzbekistan. Major concerns remain and are outlined in more detail in the thematic chapters below, for example:

- With the exception of a handful of cases, preliminary investigations into complaints of torture and ill-treatment typically conclude that there is no need for a thorough investigation and the authorities usually do not provide detailed reasons for their decisions. As a result, impunity persists.
- Trials against former officials detained under President Mirziyoyev's government and accused of torture or ill-treatment, among other crimes, are held behind closed doors. Too little information is publicly accessible about them to build trust in the ability of the criminal justice system to bring perpetrators to justice.
- Uzbekistan has not ratified the Optional Protocol to the Convention against Torture (OPCAT) and independent human rights defenders have no access to detention and prison facilities for the purpose of human rights monitoring.
- The authorities do not consult with independent human rights activists on planned reforms or draft laws pertaining to torture or other forms of ill-treatment and have not included them in any of the existing working groups such as those studying the compliance of the definition of torture contained in domestic legislation with that of the Convention against Torture or the group looking into the ratification of the OPCAT.

Recommended request to the Uzbekistani authorities

- How are the authorities planning to consult with and involve independent human rights defenders in the Expert Council of the Ombudsman of Human Rights and government working groups tasked with elaborating draft laws or implementing UN recommendations pertaining to torture and ill-treatment?

Comprehensive statistics (Articles 1, 12, 14 and 16)

In their Fifth periodic report to the CAT the Uzbekistani authorities provide statistics on the number of criminal cases opened against suspected perpetrators of torture and how many have been convicted to deprivation of liberty or other sanctions. However, these statistics only include cases of torture that were opened under Article 235 of the Criminal Code entitled “torture”, not those that were opened under other articles of the Code such as “abuse of authority”, “exceeding official authority” or “negligence”. The statistics also do not provide other crucial information such as the length of prison terms handed down and whether the victims have had access to full redress.

Recommended request to the Uzbekistani authorities

- Provide the CAT with comprehensive statistics on complaints, investigations, prosecutions, convictions and means of redress relating to cases involving allegations of torture and other forms of ill-treatment, disaggregated by sex, age, charges brought and the agency implicated in the complaint. Ensure to include not only cases instigated under Article 235 of the Criminal Code, but all cases involving allegations of torture and other forms of ill-treatment including those opened under articles such as “abuse of authority”, “exceeding official authority”, “negligence”. Provide detailed information about the sentences that were handed down.

Prisoner amnesties and statute of limitation for torture (Articles 2, 4 and 16)

Domestic legislation does not exclude perpetrators of torture and ill-treatment from benefiting from amnesties and there is a statute of limitations for torture.

In the state report to the CAT the Uzbekistani authorities indicate that draft legislation is being prepared to exclude those convicted under Article 235 and other serious crimes from amnesties.

Recommended requests to the Uzbekistani authorities

- Are there also plans to exclude from amnesties perpetrators of other forms of ill-treatment, e.g. in cases where perpetrators are not charged under Article 235, but articles such as “abuse of authority”, “exceeding official authority” or “negligence”?
- Will the proposed draft legislation only ensure that those convicted of torture are excluded from amnesties or will it also apply to those charged but not yet convicted?
- Are there plans to abolish the statute of limitations for torture and ill-treatment?

Legal safeguards in detention (Articles 2 and 11)

AHRCA and IPHR are concerned that local and international independent human rights defenders have no access to places of deprivation of liberty in Uzbekistan for the purpose of unannounced and independent monitoring. The UN Special Rapporteur on Torture last visited Uzbekistan in 2002. Uzbekistan has not issued a standing invitation to UN special procedures. The International Committee of the Red Cross has no monitoring access to Uzbekistani’s detention facilities. The Ombudsman’s mandate includes monitoring of detention facilities, but the Ombudsman’s Office is not independent. In 2018 Human Rights Watch researcher Steve Swerdlow was able to visit three prison colonies together with the Ombudsman, but the facilities were chosen by the Ombudsman.

Uzbekistani legislation provides for some legal safeguards in detention, but credible reports received since President Mirziyoyev came to power state that many detainees have no access to basic safeguards and that they are held in incommunicado detention that can last for days, weeks or longer. Most allegations concern torture committed in the early hours or days of detention. Legal safeguards have to be strengthened and diligently implemented in practice.

CASE EXAMPLES:

The case of independent journalist Bobomurod Abdullayev:

On 27 September 2017 SNB officers detained independent freelance journalist Bobomurod Abdullayev in Tashkent who previously headed the media organization OZOD OVOZ (Free Voice) and was a correspondent for the Institute for War and Peace Reporting and Fergana.ru. After his arrest, he was held in incommunicado detention for two days at an SNB pre-trial detention centre in Tashkent, before relatives were allowed a visit. On 14 December 2017, Bobomurod Abdullayev was allowed to see his defence lawyer for half an hour for the first time since he was arrested.⁴ Abdullayev’s meetings with relatives were also restricted and he was repeatedly subjected to torture and ill-treatment at the SNB pre-trial detention centre which is notorious for human rights violations against prisoners.⁵ He was

4 <http://www.fergananews.com/news/27575>

5 <https://www.amnesty.org/en/documents/eur62/7235/20...%2520https://rsf.org/en/news/journalists-detention-past...>

reportedly kept in a freezing cell naked and forced to stand for long periods of time. He was denied food on several occasions and repeatedly tied to a bed in his cell for several hours at a time. He was deprived of sleep for several days, beaten if he closed his eyes for a few seconds. Bobomurod reported that his mattress and bedclothes were confiscated and he was made to pace his cell all night. He said *“In prison I learned to sleepwalk. I was made to walk back and forth all night long. If the guard saw me closing my eyes he would come in and beat me. I worked out I could snatch a few seconds of sleep while I paced the eight or ten paces across the cell with my back to the hatch. When I turned round to walk back, I had to force my eyes open. Eventually I couldn't keep awake and collapsed. And then the beatings began again”*. The SNB officials also threatened Abdullayev with reprisals including rape of his daughter who lives in Russia (they showed him a video tape of her walking across a street in Russia) and reprisals against his other children in Uzbekistan. His wife was reportedly warned by SNB officials that speaking out about her husband's treatment would have serious consequences for him.

The case of Alisher Umarov:

Alisher Umarov, born in 1974, was arrested on 6 April 2015 and held in the SNB facility on Gvardeyskaya Street in Tashkent until 8 June 2018. During the pre-trial investigation by the SNB's Investigation Department of Tashkent Region he reportedly had no access to a lawyer. He was placed in a cell with a so-called *lokhmach*, a fellow-detainee who allegedly physically abused Umarov on the orders of the authorities. In addition, Alisher Umarov was reportedly ill-treated by an SNB official of Tashkent region and a senior official of the counterterrorism department of the Nizhne-Chirchik district of Tashkent region on a regular basis, forcing him to admit that he knew many individuals who had left Uzbekistan to travel to Syria. During the trial he was given a state-appointed lawyer.

As part of legal amendments approved by President Mirziyoyev in 2017 and purportedly aimed at strengthening human rights protection, some legal safeguards were strengthened regarding the early hours of detention. Most importantly, the time between placing a detainee suspected of a criminal offence in a police station or other law enforcement facility up to the remand hearing was reduced from 72 to 48 hours, although the time between the actual arrest and entering the detainee in the facility is still unregulated and courts are entitled to extend this period for another 48 hours (Article 226 of the Criminal Procedure Code).

In his first years in office President Mirziyoyev approved numerous new pieces of legislation and legislative amendments but reportedly, for various reasons, many are not implemented in practice.⁶ For example, while the official electronic version of legislation is updated on a regular basis, printed copies of Codes are not updated quickly but still frequently used by law enforcement agents and prison personnel. Poor internet connection in rural areas reinforces the practice of working with outdated legislation.

⁶ According to some reports, there have been up to 2000 new pieces of legislation since President Mirziyoyev came to power.

CASE EXAMPLE:

The case of Mukhammad Bekjan

According to the current version of the Criminal Procedure Code, the lawyer is entitled to meet his or her client in detention provided he or she has a defence lawyer's licence, but the older written version additionally requires an agreement of the client. In April 2015 Mukhammad Bekjan's lawyer wanted to gain access to his client Mukhammad Bekjan in detention but Mukhammad Bekjan was not aware that his relatives had hired a lawyer for him. As a result he did not state his agreement to meet with the lawyer and his lawyer was refused entry.

In addition to the need to consistently implement existing legal safeguards in detention, Uzbekistani legislation needs further legal amendments and enforcement mechanisms to protect detainees from torture and other forms of ill-treatment. Here are a few examples:

- According to Article 225 of the Criminal Procedure Code, a detainee's arrest should be recorded "swiftly" after she or he is entered into the police station or other law enforcement agency. But the period of time between the actual arrest and the arrival at the detention facility is not regulated, thus potentially exposing the detainee to a period of unprotected incommunicado detention.
- Articles 46 and 48 of the Criminal Procedure Code stipulate that the detainee is entitled to a phone call to inform "the lawyer or a close relative" of his or her detention, but again no time frame is given. Article 217 stipulates that law enforcement officers notify the detainee's family within 24 hours, a time period during which the detainee is at an increased risk of torture and other ill-treatment.
- Article 48 of the Criminal Procedure Code stipulates that detainees are entitled to meet their lawyer as of the moment of detention and both Article 46 and 48 stipulate that the detainee is entitled to an unlimited number and length of meetings with their lawyer, held in confidential circumstances. However, there is no mechanism to ensure that these provisions are implemented in practice and there are many cases when law enforcement officers prevent detainees from hiring a lawyer of their choice; from notifying family of their detention, thus making it impossible for relatives to hire a lawyer on the detainee's behalf; and law enforcement officers very often prevent lawyers from meeting their clients under confidential circumstances or at all.
- Pre-trial and post-trial detention facilities are under the jurisdiction of the Ministry of Internal Affairs.
- Uzbekistani legislation does not provide for the institution of independent forensic examinations and the courts solely rely on state forensic experts when considering cases involving allegations of torture and ill-treatment. In January 2019 the Uzbekistani authorities announced that an "independent" forensic medical centre would be established under the jurisdiction of the Ministry of Justice.

Recommended requests to the Uzbekistani authorities

- Are there plans to ensure independent human rights monitoring access to closed and semi-closed facilities, for example by ratifying the OPCAT and setting up a National Prevention Mechanism and by issuing permission to independent human rights defenders to inspect facilities unannounced and to confidentially interview detainees and prisoners?
- What are the remaining obstacles to ratifying the OPCAT and what steps have been taken or are still necessary to take to overcome them?
- How do the authorities ensure that the legal safeguards pertaining to the early stages of detention are consistently implemented in practice?
- What legal safeguards are in place to ensure that prisoners are not subjected to physical abuse by officials or fellow inmates and what steps have the authorities taken to ensure that they are implemented in practice?
- Provide comprehensive statistics on complaints lodged about the lack of access to fundamental safeguards in detention since Uzbekistan was last reviewed by the CAT. Indicate what measures have been taken in each case and what the outcome was.
- Explain how police officers and other government agents are notified and able to access up-to-date versions of relevant legislation such as the Criminal Procedure Code and provide details about how they are trained to integrate them into their working practices and procedures.
- How do the authorities ensure that those summoned to the police as witnesses or those held on administrative charges are not subjected to torture or other forms of ill-treatment? Are there plans to strengthen safeguards with regard to these categories of people?
- Are there plans to transfer the penitentiary system from the jurisdiction of the Ministry of Internal Affairs to the Ministry of Justice?
- Provide information on why the authorities are planning to set up a forensic medical service under the Ministry of Justice and how they plan to ensure that the service can act independently.

Effective and independent investigations (Article 12 and 13)

There are a number of obstacles that prevent victims of torture in Uzbekistan from lodging complaints and having their complaints investigated effectively.

According to domestic legislation, the victim or his or her lawyer can petition the investigator in charge of the case, the supervisory body of the Interior Ministry or the SNB or the prosecutor's office to order a forensic medical examination and urge prosecutors to instigate a criminal case. Domestic legislation also

provides the authorities with the possibility to open a criminal case based on media reports containing details about a crime (Article 327 of the Criminal Procedure Code).

In practice, however, detainees often refrain from lodging complaints for fear of reprisals or because they do not believe that they can attain justice through the criminal justice system. Investigators and other officials often actively prevent detainees and their lawyers from lodging complaints, e.g. by refusing lawyers' visits as long as injuries resulting from torture and ill-treatment remain visible.

Reprisals against prisoners who complain also reportedly occur under Article 105 of the Criminal Executive Code of Uzbekistan, which provides for disciplinary punishment for violations of prison rules. Prisoners who complain about their treatment – and they can subsequently be transferred from a general regime prison colony to a stricter regime prison colony where more dangerous criminals are held.

CASE EXAMPLE:

The Case of Kabul Kuleshev

Kabul Kuleshev was transferred three times from a general regime prison colony to a strict regime colony, after he complained about the detention conditions. Each time he was transferred from one colony to another, he was tortured. When he was sent to the prison colony 64/71, he was subjected to a "quarantine" (beatings on arrival), and one of the administration staff hit him in the groin, causing severe damage. He was in pain for several months but was not given medical assistance until a civilian doctor visiting a relative heard his groans and arranged for him to be operated on in a civilian hospital where one of his testicles was removed.

After President Mirziyoyev came to power Kuleshev was released from prison but no investigation has been undertaken into his complaints of torture and no one has been brought to justice.

Lawyers also risk reprisals – such as losing their licence -- when challenging law enforcement agencies and many therefore refrain from recording injuries and lodging complaints.

In prison colonies there are boxes in which inmates can deposit a complaint to the special prosecutor, the Ombudsman and the National Center for Human Rights. Interviews in recent years with former prisoners show that the complaints mechanisms are ineffective as complaints often do not reach the intended recipients and prison staff reportedly has keys to the complaint boxes. Former prisoners also reported that when in exceptional cases foreign diplomats have visited the prison colony prisoners likely to ask uncomfortable questions or make critical comments are locked in their cells for the duration of the visit.

In those cases when complaints are lodged the investigation is usually not conducted effectively. In Uzbekistan there is no independent body tasked with investigating allegations of torture. In line with domestic legislation, law enforcement officers and prosecutors are involved in investigating complaints about torture. While law enforcement agencies are typically themselves implicated in the complaint, prosecutor's offices are also not fully independent since they have an inherent conflict of interest originating from their roles of both taking forward the criminal prosecution and supervising the legality of the investigative process.

The UN Human Rights Committee issued several rulings on cases from Uzbekistan that had been submitted under the individual complaint procedure and called on the authorities to effectively investigate allegations of torture or other ill-treatment. It is believed that many of these rulings have not been implemented by the Uzbekistani authorities.

CASE EXAMPLE:

The case of Orif Eshonov

Orif Eshonov died in custody on or around 15 May 2003. Olimjon Eshonov, Orif's father and author of the September 2003 communication to the Human Rights Committee, alleges that his son died in custody as a result of torture and complains in the submission to the Committee that the circumstances of his death have not been effectively investigated. The Committee found in August 2010 that the "persistent failure of the State party's authorities (to) properly (...) investigate the circumstances of his son's death effectively denied the author a remedy." The Committee found that Articles 2 (right to an effective remedy) and 7 (protection from torture and ill-treatment) were violated. The Human Rights Committee concluded that the "State party is under an obligation to provide the author with an effective remedy in the form, inter alia, of an impartial investigation into the circumstances of his son's death, prosecution of those responsible and adequate compensation." AHRCA was able to ascertain that no such investigation has been carried out.

Recommended requests to the Uzbekistani authorities

- **Are there plans to set up an independent complaint and investigation mechanism?**
- **What measures have the authorities taken to implement the decisions involving allegations of torture that the Human Rights Committee has issued under the individual complaints procedure?**

Bringing perpetrators of past and current abuses to justice (Article 15 and 16)

In a welcome development, on 30 November 2017, President Mirziyoyev signed into force a law prohibiting the use in court of evidence obtained through torture, and forbade legal decisions on the basis of any evidence that was not confirmed during trial. The law stipulates that the prosecutor in charge of the criminal case should check whether physical or psychological pressure has been used in relation to defendants or their relatives. It is now crucial to ensure that this provision is consistently implemented in practice.

We are aware of several trials in recent years involving allegations of torture that have been shrouded in secrecy as the court hearings were held behind closed doors. The exact reasons for holding these trials behind closed doors are not known to the authors of this document, but closed trials increase the risk that violations of procedural norms are hidden, that defendants and their relatives are subjected to

pressure to provide false confessions, witness statements or incriminating evidence and that impunity for torture and ill-treatment persists. AHRCA and IPHR are aware of such trials both with regard to victims of torture and alleged perpetrators.

CASE EXAMPLES:

The case of former Prosecutor General Rashitjon Kadyrov and 12 co-defendants

The trial against the former Prosecutor General Rashitjon Kadyrov and 12 co-defendants started behind closed doors on 7 January 2019 in the Yunusabad District Criminal Court in the city of Tashkent. Rashitjon Kadyrov had been taken into custody on 21 February 2018, was held incommunicado until 24 February and subsequently had limited access to his lawyer until October. Several independent sources informed AHRCA that Rashitjon Kadyrov was tortured and subjected to death threats in order to force him to confess and testify against his relatives and former colleagues. There were also reports that his co-defendants were subjected to torture and ill-treatment. Rashitjon Kadyrov's "confession" was filmed and broadcast on television. Two of his co-defendants arrived in court in wheelchairs after suffering health problems allegedly resulting from torture and ill-treatment. The judge has several times refused to accept the lawyers' petitions to delay the court hearing on humanitarian grounds relating to serious illnesses of two further co-defendants, one of whom had a stroke and suffered loss of speech and the other has cancer. AHRCA and IPHR are also concerned that President Mirziyoyev made public statements in May and October 2018 claiming that Kadyrov is guilty of the crimes he was charged with, thus undermining his right to the presumption of innocence.

The case of Bobomurod Abdullayev

On 27 September 2017, independent journalist Bobomurod Abdullayev was detained by SNB officers in Tashkent on charges of "conspiracy to overthrow the constitutional order". His relatives told representatives of several human rights groups on 3 February 2018 that he had been tortured and otherwise ill-treated following his arrest. In May 2018 the court released Bobomurod Abdullayev after sentencing him to a fine in a trial that was closely observed by the international community. In October 2018 Abdullayev reported that after meeting IPHR representatives in Tashkent, as he ate lunch in a tea house with other human rights defenders, he was approached and greeted by one of the secret service officers who tortured him while he was in pre-trial detention the previous year. It had previously been reported that this officer would be investigated in relation to the torture. It is currently unknown whether the official is under investigation in relation to torturing Bobomurod, whether he has been suspended from duty and whether any other conditions have been imposed on him during the investigation.

Over the past decade thousands of individuals were convicted for so-called "anti-constitutional" crimes and alleged religious extremism. Many of these cases were accompanied by credible allegations of torture and ill-treatment at the hands of SNB officers and violations of international fair trial standards.⁷ In 2017 and 2018 the authorities released many of these prisoners, but their release was not unconditional and their cases have not been reviewed. Given the pervasive extent of the practice of torture used by the

⁷ According to Article 345 of the Criminal Procedure Code of Uzbekistan, the SNB is responsible for the investigation of certain crimes including those contained in the following articles of the Criminal Code: Article 159 ("Infringements on the constitutional system of the Republic of Uzbekistan"); 216 ("Illegal organization of public associations or religious organizations"); 244-1 ("Production or distribution of materials containing a threat to public safety and public order"); 244-2 ("Creation, leadership, participation in religious extremist, separatist, fundamentalist or other prohibited organizations").

SNB in many of these cases it is important that the authorities put in place an independent investigatory mechanism to end the impunity of the perpetrators and provide redress to the victims.

To date, the Uzbekistani authorities have yet to carry out an independent and impartial investigation into the events of 13 May 2005, when law enforcement and security forces indiscriminately fired at a crowd of protesters in Babur Square, Andijan. Demonstrators had peacefully gathered to voice their grievances over repressive government policies and economic hardships. According to officials, 187 people were killed, but unofficial estimates put the number at between 500 and 1500. None of the officials involved in the organization of the shooting have been brought to justice.⁸

Recommended requests to the Uzbekistani authorities

- Provide the Committee with statistics on the number of cases where detainees or defendants made allegations of torture or ill-treatment in court detailing at what stage of the proceedings the allegations were made; which actions the judge took; whether prosecutors opened an investigation; how many disciplinary and criminal cases were opened as a result; and which sanctions were handed down on perpetrators; and how and when this information is made available to the public
- Provide information on what steps have been taken to investigate allegations that former Prosecutor General Rashitjon Kadyrov and his co-defendants were tortured in pre-trial detention and explain why this trial is held behind closed doors.
- Have criminal cases been opened against officials suspected of involvement in physically abusing journalist Bobomurod Abdullayev and what conditions have been imposed on them during the investigation?
- Does the government intend to open an independent investigation into the events in Andijan in 2005 and bring to justice those found responsible for indiscriminately firing at protesters in Babur Square?
- Provide information on what steps have been taken to investigate allegations of other past abuses such as torture allegations with regard to hundreds of prisoners accused of “anti-constitutional” activities and religious extremism in recent years.
- Provide information on how many of these prisoners remain in prison currently and how many have died in custody?

Redress (Article 14)

To the knowledge of the authors of this report, no victim of torture in Uzbekistan has been granted compensation for moral damages in recent years. Victims of torture/ill-treatment rarely lodge suits for compensation for a variety of reasons. The victims themselves and their families usually lack the necessary legal knowledge and most cannot afford to pay for the services of a lawyer. The authorities do not provide free legal aid in such cases and there is not government hotline for victims of torture.

⁸ <http://iphronline.org/uzbekistan-continuing-repression-in-the-wake-of-andijan-20160513.html>

Human rights defenders are under pressure and Uzbekistan lacks a functioning system of civil society based legal support.

Recommended requests to the Uzbekistani authorities

- Provide detailed statistics indicating the number of victims or their families who lodged suits to compensation for moral harm sustained through torture or other forms of ill-treatment with civil courts since 2013 and the number of cases where courts awarded such compensation.
- If there were cases where compensation was granted to victims of torture or their families provide detailed information about the actual amounts that victims of torture received since 2013 and explain how it is ensured that the amounts granted are fair and adequate.
- What other measures of redress are made available to victims of torture?

Protection from being expelled, returned, extradited under risk of torture (Article 3)

The Uzbekistani authorities continue to use extradition proceedings, as well as other methods of forcible return for Uzbekistani nationals who they have identified as threatening “constitutional order” or national security. SNB officials have been involved in abductions of wanted individuals from abroad. Once in Uzbekistan, those returned were often held in incommunicado detention and subjected to torture and ill-treatment to force them to confess or incriminate others.

CASE EXAMPLES:

Group extradited from Kazakhstan in 2005

On 20 November 2005, nine citizens of Uzbekistan were arrested in the city of Shymkent in Kazakhstan: Farhod Islamov (year of birth 1972), Sharofiddin Latipov (1979), Nozim Rakhmonov (1975), Shoirmat Shorakhmedov (1960), Abdurahman Ibragimov (1960), Alisher Mirzaholov (1976), Abdurauf Kholmurodov (1958) and Ruhiddin Fahriddinov (1967). They were subsequently extradited to Uzbekistan in violation of article 3 of the CAT. Upon arrival in Uzbekistan, all men were sentenced to long terms of imprisonment. In 2010, the men were shown in a television documentary testifying against the religious leader in Obid Kori Nazarov, who has refugee status in Sweden.⁹ Of these nine men, the fate of only Ruhiddin Fakhridinov is known. Ruhiddin Fakhridinov figures on the list of the 2017 resolution of the European Parliament as imprisoned for religious reasons. AHRCA has received information indicating that he was severely and repeatedly tortured, that he is currently ill from tuberculosis and being held in a settlement colony. The fate of the other eight men is not known.

⁹ In 2012, an assassination attempt was made against Obid Kori Nazarov.

Group extradited from Kazakhstan in 2011

In 2011, according to our information, Kazakhstan extradited 32 Uzbekistani citizens to Uzbekistan, in violation of its international obligations: Toirzhon Abdusamov, Fazulkhon Akhmadov, Bakhtiyor Nurallaev, Ulugbek Ostonov, Isokbek Paradaev, Oybek Pulatov, Uktam Rakhmatov, Otabek Sharipov, Sherzod Shernazarov, Akmaljon Shodiyev, Tursunboy Sulaymonov, Sirozhdin Tolibov, Ravshan Turaev, Fazliddov Sulaymonov, Sirozhddin Tolibov, Ravshan Turaev, Shev Fazliddov, Saidakbar Dzhalothonov. AHRCA received credible reports that many of these men were tortured and sentenced to terms of imprisonment from 8 to 22 years, some of which were extended under article 221 of the Criminal Code of Uzbekistan (for violation of prison rules). No information is publicly available about the fate and whereabouts of this group of people.

The “Norwegian Uzbeks”

In 2014 a group of Uzbekistani citizens were tried in connection with watching videos in Norway which belonged to organizations banned in Uzbekistan. In Uzbekistan there is no official, publicly available list of prohibited organizations and prohibited literature. They were: Asadulla Rizsiyev, Zafar Karimov, Davron Rahmonov, Ahmadjon Khalikov, Shuhrat Ilhomov, Jahongir Tojiev. In violation of the presumption of innocence, they were declared “traitors of the motherland” in a programme broadcast on Uzbekistani state television before the trial began. The programme also claimed that the men were gay. The fate of the “Norwegian Uzbeks”, as they are known remains unknown.¹⁰

The case of Bakhtiyor Khudoiberdiyev

Bakhtiyor Khudayberdiev is an ethnic Uzbek who was born in Osh in Southern Kyrgyzstan. He obtained Russian citizenship and simultaneously gave up his Kyrgyz one in 2009 after moving to Russia from Kyrgyzstan for work. On 8 January 2016, Bakhtiyor Khudayberdiev left Seoul in South Korea, where he had been seeking work, to travel to Osh to see his mother. On 9 January, he arrived at Tashkent airport intending to take a taxi from there to Osh. He was detained on charges of producing and distributing extremist materials after airport security officials allegedly found recordings of prayers from the Koran on his mobile phone as well as news items about the 2010 ethnic unrest in Osh downloaded from the internet. He was charged under Article 244-2 of the Criminal Code of Uzbekistan (Production and distribution of materials containing threat to public security and public order) and sentenced to eight years’ imprisonment. Khudayberdiev denies the charges and maintains that he exercises his faith in a peaceful way. For over three weeks after his arrest, Bakhtiyor’s relatives were not informed of his detention or his whereabouts. Finally, on 1 February 2016, Bakhtiyor Khudoyberdiev’s mother was able to locate him in the National Security Services’ (SNB) Yunusabad temporary detention facility in Tashkent. Bakhtiyor ‘s mother told AHRCA that her son looked frightened, emaciated and exhausted during their meeting, at which an SNB investigator was present. On 17 March 2016, a representative of the Interpol bureau in Russia, who was accompanied by another man who introduced himself as a representative of the Embassy of Uzbekistan in Russia visited Bakhtiyor Khudoyberdiev’s father at his home in Vladivostok, Russia by visited at his home in Vladivostok, Russia and informed him that an Interpol warrant allegedly had been issued against his son at the request of Uzbekistan. Bakhtiyor Khudayberdiev is not known to have been wanted for any crimes by any country prior to his arrest and he has no criminal record. AHRCA and IPHR are concerned that it appears that Bakhtiyor Khudoyberdiev’s name was included on the Interpol wanted list only after he was arrested in Uzbekistan.¹¹

10 See: <http://nadejda-atayeva-en.blogspot.com/2014/12/uzbekistan-trial-of-traitors-of.html> <http://nadejda-atayeva-en.blogspot.com/2014/12/uzbekistan-traitors-to-motherland-are.html>

11 <https://iphronline.org/russian-citizen-at-risk-of-torture-in-uzbekistan-20160325.html>

Many of those who witnessed the violent repression against demonstrations that took place in 2005 in Andijan and subsequently fled Uzbekistan encountered difficulties in being recognized as refugees abroad, because once they are absent from their place of residence in Uzbekistan for over three months the Uzbekistani authorities often placed them on wanted lists, including Interpol, as suspects of involvement in terrorism and participation in banned organizations. This goes against the Interpol charter.¹²

Recommended requests to the Uzbekistani authorities

- Please provide the Committee with details about what sources of information and what criteria the authorities use to determine whether or not a person wanted under an extradition request or an asylum seeker would be subjected to torture if returned to the country of origin. If the authorities consider certain countries to be “safe”, please provide a list of these countries.
- Please provide comprehensive statistics of all cases and countries in relation to which Uzbekistan has refrained from returning asylum seekers or turned down extradition requests due to a risk of torture.
- Please provide information about the whereabouts and state of health of those returned from Kazakhstan to Uzbekistan in 2005: Farhod Islamov, Sharofiddin Latipov, Nozim Rakhmonov, Shoirmat Shorakhmedov, Abdurahman Ibragimov, Alisher Mirzaholov, Abdurauf Kholmurodov and Ruhiddin Fakhridinov; as well as those extradited from Kazakhstan to Uzbekistan in 2011: Toirzhon Abdusamov, Fazulkhon Akhmadov, Bakhtiyor Nurallaev, Ulugbek Ostonov, Isokbek Pardaev, Oybek Pulatov, Uktam Rakhmatov, Otabek Sharipov, Sherzod Shernazarov, Akmaljon Shodiyev, Tursunboy Sulaymonov, Sirozhdin Tolibov, Ravshan Turaev, Fazliddoff, Fazliddov Sulaymonov, Sirozhddin Tolibov, Ravshan Turaev, Fazliddoff Shev, Saidakbar Dzhalothonov. Also the group of men returned from Norway in 2014, namely: Asadulla Rizsiyev, Zafar Karimov, Davron Rahmonov, Ahmadjon Muhammadjonovich Khalikov, Shuhrat Ilhomov, Jahongir Tojiev, as well as Russian citizen Bakhtiyor Khudarberdiyev, arrested in Tashket airport in 2016.

Places of detention (Articles 11, 13 and 16)

Since Uzbekistan was last reviewed by the CAT, AHRCA has continued to receive allegations of physical abuse of prisoners by prison staff and fellow-inmates and prison conditions in Uzbekistan can amount to inhuman or degrading treatment. The authorities do not publish statistics on the numbers of prisoners who died in the penitentiary system.

12 Article 2.a “to ensure broad cooperation of all bodies (institutions) the criminal police under the existing laws of the country and in the spirit of the Universal Declaration of Human Rights”; and Article 3 specifies that “Organizations are strictly forbidden to carry out any intervention or activities of a political, military, religious or racial character.”

CASE EXAMPLE:

The case of Akram Malik:

Akram Malik was detained on 22 July 2016 and held in the temporary detention center of the Ministry of Internal Affairs of Tashkent region until 21 October 2016. During this time he was taken to Tashtyurma (prison in Tashkent notorious for the practice of torture) three times, where he was reportedly beaten by police officers in the facility's 4th building in cells 487, 498, 4110, 4116. From 4 to 17 March 2017, he was kept in quarantine in the detention centre UY-29 in Nawai. There he was additionally beaten by a so-called *lokhmach*, a fellow-detainee who allegedly physically abused him on the orders of the authorities and strangled until he lost consciousness. Other fellow inmates reportedly also beat and insulted him.

LGBTI individuals and those convicted for “consensual sexual intercourse of adult men” under Article 120 of the Criminal Code are particularly vulnerable to physical and sexual abuse in places of deprivation of liberty; experience particularly harsh conditions in prison and discrimination. Article 120 has been used in several cases to punish critics or perceived critics of the authorities.

Prison officials often reduce prisoners' exercise times, and sometimes prisoners are reportedly made to exercise with a bag over their heads. Former prisoners reported that prisoners are sometimes also made to wear bags over their heads during transfer from one prison colony to another. Several such reports received by AHRCA in recent years came from prisoners and relatives of those held in prison colony 64/71 in Jaslyk (Karakalpakistan), and reports indicate that these practices are being used in other prison colonies as well.

Conditions in closed prison colonies are particularly harsh. One of these facilities, Andijan prison, has been closed recently.

Numerous reports indicate that prison food is extremely poor, inadequate in quantity and nutritional value. Some food is past its sell by date. Drinking water is in short supply in many prisons – with each prisoner reportedly receiving from one to three liters of water per week. According to prisoners, water is stored in plastic containers which are often old and not always clean.

Toilet facilities are frequently inadequate – recent reports from several former prison inmates indicate that in some prison colonies there were 12 toilet urns and urinals for use by 300 inmates. Shower facilities are also reported to be in disrepair in several prison facilities, with unsanitary conditions and insufficient water supplies. Washbasins in cells and shower rooms reportedly often do not have enough water supplies due to the dilapidated condition of the drainage/ sewage system.

Conditions for prisoners in transit are also very poor – prisoners being moved from one prison colony to another are held in temporary detention centres. During this time their conditions of detention are very poor: they are not allowed to receive family visits, to shower and food is of poor quality. Access to toilet facilities is also reportedly restricted.

In 2017 AHRCA received credible reports of ill-treatment and inadequate access to medical care from the Tashkent prison hospital “Sangorod” (UYa 64/18), which is Uzbekistan's central hospital for prisoners. The reports indicated that medical officers from Sangorod were often negligent and indifferent to prisoners' pain and that there is a high mortality rate. In recent years AHRCA has received many reports

from former prisoners who were treated at Sangorod that prisoners had to queue for medication for hours and that those who complained risked being subjected to torture or ill-treatment. In one case, officials were reported by a former inmate to have tied a sick prisoner to a metal chair and that officials struck him until he lost consciousness. There are inadequate medical supplies including single use syringes and hygienic products. Prisoners in other prison colonies reportedly try to hide their illnesses in order not to be sent to Sangorod.

Recommended requests to the Uzbekistani authorities

- Please provide information about the number of deaths in the penitentiary system disaggregated by sex, age and causes.
- Please explain steps to be taken to ensure that this information will be publicly accessible in the future.
- Are the authorities planning to take any special measures to ensure that LGBTI persons and those charged with Article 120 of the Criminal Code do not become victims of beatings, intimidation and (threats of) sexual violence by fellow inmates?
- Please outline the steps being taken to ensure that prison conditions meet international standards including facilitation of access of independent monitors to detention facilities including the prison hospital facilities for unannounced monitoring visits.

Protecting victims, their family members, human rights defenders and lawyers from reprisals (Articles 13)

AHRCA and IPHR are aware of many cases when law enforcement agents put pressure including physical abuse and threats of abuse on victims of torture or their relatives to force them to withdraw complaints about police abuse. Human rights defenders and lawyers raising allegations of torture are also at risk of reprisals.

CASE EXAMPLE:

The case of Uzbekistani academic Andrei Kubatin

Uzbekistani academic Andrei Kubatin, born 1984, was detained on 25 March 2017 and taken to the police station of Mirzo-Ulugbek district in Tashkent. Reportedly, officials openly planted drugs on him and subjected him to physical abuse to force him to confess to drug-related crime. They reportedly additionally said that if he did not confess they bring his wife, hinting that they would rape her in front of his eyes. He was reportedly also beaten by investigators, officials at the SNB remand prison and by a fellow inmate. Reportedly, the state-appointed lawyer who represented Kubatin was often drunk and signed documents without Kubatin being present. The lawyer, hired by Kubatin's relatives, was not allowed to meet him.

Andrei Kubatin was later convicted of treason by a military court on 1 December 2017 and sentenced to 11 years' imprisonment. The prosecution claimed that Kubatin had sold electronic books, allegedly from the Central State Archive of Uzbekistan and the Institute of Oriental Studies of the Academy of Sciences, to a foreign citizen for 1,000 USD. The prosecution claimed that these books could be used for pan-Turkism propaganda, inciting inter-ethnic and inter-religious hostility, as well as for obtaining information about the geological wealth of Uzbekistan. Kubatin initially served his sentence in UYa-3 (village of Tavaksay, Bostanlyk district, Tashkent region) and is currently in the settlement colony 64/50 (formerly 75) in Pskentsky district of the Tashkent region.

Recommended requests to the Uzbekistani authorities

- **What steps do the authorities take to ensure that victims and their families are not subjected to reprisals when they lodge complaints about torture or other ill-treatment?**
- **What steps do the authorities take to ensure that lawyers and human rights defenders working on torture cases are not subjected to intimidation, threats or physical abuse by law enforcement officers or other government agents?**