



UZBEKISTAN

SUBMISSION TO THE UNITED NATIONS COMMITTEE AGAINST TORTURE

68th Session, 11 November – 6 December 2019

EUR 62/1214/2019

Table of contents

Introduction	3
Comprehensive statistics (Articles 1, 12, 14 and 16)	3
Effective and independent investigations (Article 12 and 13)	5
Legal safeguards in detention (Articles 2 and 11)	6
Bringing perpetrators of past and current abuses to justice (Articles 15 and 16)	7
Redress (Article 14)	8
Places of detention (Articles 2, 11, 13 and 16)	11
Protecting survivors, their family members, human rights defenders and lawyers from reprisals (Articles 13)	14
Persecution and Torture of Lesbian, Gay, Bisexual, Transgender and Intersex People (LGBTI)	15

Introduction

Amnesty International¹, Association for Human Rights in Central Asia (AHRCA)² and International Partnership for Human Rights (IPHR)³ submit this briefing to the United Nations (UN) Committee against Torture (the Committee) ahead of its examination in November 2019, of Uzbekistan's fifth periodic report on the implementation of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention or the Convention against Torture).

The joint submission addresses Uzbekistan's replies to the Committee's List of Issues, CAT/C/UZB/Q/5, dated 16 September 2019, and updates the information provided to the Committee by AHRCA and IPHR in January 2019 as input into the List of Issues.⁴

In their replies to the Committee's List of Issues (CAT/C/UZB/Q/5) the Uzbekistani authorities take pains to list extensive legislative measures which have been introduced in the period under review to prevent torture and other ill-treatment, ensure that evidence obtained under torture is not admissible in court and improve transparency in the criminal justice system. We note and welcome these positive measures, which, if implemented systematically and transparently, could go some way towards addressing the endemic problem of torture in Uzbekistan.

However, we were disappointed to see that the State party's replies include in several places direct denials of the need for thorough and impartial investigations into the many allegations of torture and other ill-treatment in the past, including several cases where our organizations have documented credible evidence of torture and have raised these findings with the Uzbekistani authorities. We were alarmed that the State party flatly refuted that any complaints of sexual violence had been brought to their attention despite concerns raised repeatedly with relevant authorities in Uzbekistan by our organizations, UN mechanisms, other inter-governmental (IGOs) and non-governmental organizations (NGOs). It is important to stress, that unless the Uzbekistani authorities demonstrate the willingness to transparently and thoroughly investigate and rectify past abuses, we fear that the cycle of secrecy and impunity which has marked the last two decades will continue.

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

The Uzbekistani authorities reported in their replies to the List of Issues that over 1,000 complaints of torture, intimidation and pressure were received by the offices of the Prosecutor General (GP, from the Russian Generalnaia Prokuratura) in 2018, compared with 189 in 2017 and 152 in 2016.

We were therefore disappointed to see that despite the ten-fold increase in complaints of torture received and examined by Uzbekistani state bodies during 2018, only three cases against four people were heard in court (points 2a and 4b of the Replies to List of Issues). In June 2019 the news website

1 Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

2 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.

3 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.

4 <https://www.iphronline.org/providing-information-on-uzbekistan-to-the-un-committee-against-torture.html>

gazeta.uz reported that the Government Press Service indicated that 27 persons were brought to justice for “crimes linked with torture” in 2017, seven in 2018 and seven in the first five months of 2019. However, it was not clear from the statement whether the suspected perpetrators were found guilty under Article 235 (torture) or under different articles of the Criminal Code.⁵

We are additionally concerned at the lack of detailed follow up information on individual complaints to other bodies, such as the office of the Parliamentary Ombudsman for Human Rights (Ombudsman) – and note that of the 240 complaints about torture and other ill-treatment received by this office since 2013, no evidence of torture was found in any of the cases. We note that during the period under review, the Ombudsman did not issue any statements related to cases of allegations of torture and other ill-treatment.

Despite the significant increase in the number of torture complaints lodged with the authorities in 2018 and 2019 particularly, we are concerned that GP offices and courts routinely fail to establish any evidence of torture when they examine them. Credible sources report that cases related to torture remain classified as secret and are carefully controlled by officials of the State Security Service (SGB, from the Russian Sluzhba Gosudarstvennoi Bezopasnosti), even though investigations into torture allegations are carried out by the offices of the GP.⁶

Statistics provided by the government in their replies to the Committee do not clearly indicate how many people were investigated under Article 235 of the Criminal Code and how many were convicted under that same Article. The statistics also fail to clarify the punishments handed down to those found guilty of torture, and whether these sentences were reviewed or overturned after appeal.

In their replies, the Uzbekistani authorities do not provide detailed explanations on investigations into torture and other ill-treatment as requested by the Committee in the List of Issues nor do they provide statistics on the number of cases when courts ruled that confessions obtained as a result of torture was unacceptable evidence in court, or on the number of requests for compensation from victims of torture or their relatives in criminal and civil proceedings.

In Uzbekistan human rights defenders and activists working on torture have not been able to compile reliable nationwide statistics as investigations into allegations of torture and other ill-treatment are often shrouded in secrecy. Cases against officials accused of torture are most often held behind closed doors in closed military courts, and participants including survivors of torture and their lawyers, are required to sign non-disclosure agreements. Often state appointed lawyers participate in such hearings, many of whom reportedly used to work for law enforcement agencies such as SGB, Ministry of Internal Affairs (MVD, from the Russian Ministerstvo Vnutrenikh Del) or GP offices.

AHRCA received information that to date some 40 state officials were prosecuted for torture in 2019, but that in many cases the charges were dropped during the course of investigations.

Our organizations are concerned that the replies by the Uzbekistani authorities to the List of Issues demonstrate that they are not prepared to publicly acknowledge the true extent of the problem of torture and other ill-treatment, publish comprehensive statistics on cases and investigations and transparently address entrenched systemic problems – all of which are necessary first steps to achieving accountability and putting a definitive end to the problem.

5 <https://www.gazeta.uz/ru/2019/06/17/torture/>

6 The Criminal Procedure Code provides in Article 345 of Chapter 43 that the Prosecutor General’s Office is responsible for the preliminary investigation of cases of crimes under Articles 230-236, <...> of the Criminal Code, as well as cases of crimes (is there an ellipsis or something missing here?) Certain categories of officials indicated in law, carried out by investigators of prosecution authorities.

RECOMMENDATIONS TO THE UZBEKISTANI AUTHORITIES

- Compile and publish comprehensive statistics disaggregated by sex, age and, where applicable, details of charges brought, complaints, investigations, prosecutions, convictions and means of redress.
- Ensure that not only cases are included that are instigated under the Article of “torture” (Article 235) contained in the Criminal Code, but also cases opened under other articles that involve allegations of torture and other ill-treatment.
- Provide detailed and disaggregated statistics on deaths in detention, including their causes (suicides, injuries and poisonings of prisoners, and deaths from illnesses)

Effective and independent investigations (Article 12 and 13)

As explained in the January 2019 submission for the List of Issues by AHRCA and IPHR, in those cases when complaints of torture and other ill-treatment are lodged with the relevant authorities, investigations are not usually conducted thoroughly and effectively. Uzbekistan has failed to put an independent mechanism in place to investigate allegations of torture and other ill-treatment effectively, despite repeated promises to do so, most recently at the UN Human Rights Committee in 2015 and the Universal Periodic Review (UPR) in 2018. Prosecutors continue to refer investigations into torture allegations to the MVD, the very authority that supervises many of the officers accused of committing torture. This inevitably leads to conflicts of interest, which often result in cases being closed despite glaring evidence of abuse.

Offices of the GP are 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. Investigations lack transparency making it impossible for survivors of torture and their lawyers to effectively engage with the process. Survivors, their relatives, lawyers and human rights defenders often risk reprisals by law enforcement agencies when raising allegations of torture and are left vulnerable, with no functioning mechanisms of protection.

Under domestic law the Ombudsman’s Office has powers to conduct investigations into all reports and complaints of torture and other ill-treatment that come to its attention. However, our organizations found that the Ombudsman often refers all allegations of torture to the GP’s office or the MVD with a request to investigate as appropriate and report back. Despite claims to the contrary, the Ombudsman is not an independent institution; although it reports directly to parliament, all political parties within parliament are pro-presidential and rubberstamp laws and decrees proposed by the executive.

An analysis of the sentences imposed by courts in Uzbekistan shows that the courts rely primarily on regulatory acts, such as presidential and government decrees, but that they do not usually refer to the Constitution nor as a matter of course, refer issues for expert examination or input.

RECOMMENDATIONS TO THE UZBEKISTANI AUTHORITIES

- “Establish [...] as a matter of priority, a genuinely independent complaints mechanism to investigate allegations of torture and other ill-treatment, and ensure that complainants are protected against any form of reprisal,” as recommended by the Human Rights Committee in July 2015.⁷

⁷ Human Rights Committee, Concluding observations on the fourth periodic report of Uzbekistan, CCPR/C/UZB/CO/4, 114th session (29 June–24 July 2015), para 14, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fUZB%2fCO%2f4&Lang=en.

- Ensure the initiation of prompt, thorough, impartial, independent and effective investigations of all complaints of torture and other ill-treatment 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 and other ill-treatment has occurred even if no complaint has been made.
- All trials of persons accused of torture under Article 235 should be open to the public.
- Cease reprisals and pressure on survivors of torture, their lawyers and relatives and civil society activists who assist with lodging complaints of torture and thoroughly, transparently and effectively investigate the allegations.

Legal safeguards in detention (Articles 2 and 11)

The State party's replies to the List of Issues (para. 7.d) indicate that Uzbekistani legislation provides for a three-month detention period before trial, which is shorter than those in place in some other countries of the former Soviet Union. The authorities also responded that detainees are provided with a lawyer of their choice and allowed to meet with them confidentially; as well as being allowed free and confidential medical examinations upon request.

However, information received by Amnesty International, AHRCA and IPHR from cases during the period under review indicates that there are serious and ongoing barriers to protection against torture in both pre-trial and post-conviction detention.

We have received credible reports of law enforcement and prison officials preventing lawyers from visiting their clients and speaking with them in confidence. (Please see case descriptions of Rashitjon Kadyrov and co-defendants, and of Kadyr Yusupov in Annex) putting pressure on detainees to refuse a defence lawyer appointed by the family and instead accept the services of a state appointed lawyer. We have similarly received information about medical doctors who examine survivors of torture suffering pressure from law enforcement agencies if they record injuries inflicted through torture and other ill-treatment.

Although the State party replies indicate in Point 6.a) that detainees are not held for longer than 48 hours in detention from the moment they arrive at a police station, with a possible 48-hour extension with judicial approval, we have credible reports of cases in the period under review which illustrate that this legislation is not always adhered to in practice and that certain individuals have been held for extended periods of pre-trial detention. We have also documented credible reports of others held in incommunicado detention while they were subjected to torture and other ill-treatment, and of cases of restricted access to necessary medical treatment and care. (Please see the case of Bobomurod Abdullayev in the January 2019 IPHR/AHRCA submission to the Committee and the case of Kadyr Yusupov in the Annex to this document).

RECOMMENDATIONS TO THE UZBEKISTANI AUTHORITIES

- Ensure that the legal safeguards pertaining to the early stages of detention are consistently implemented in practice and provide for sanctions against law enforcement officials who are found responsible for violating these legal requirements.
- Ensure that those summoned to the police as witnesses or those held on administrative charges are not subjected to torture and other ill-treatment and strengthen the safeguards for these categories of people.
- Transfer the penitentiary system from the jurisdiction of the Ministry of Internal Affairs to the Ministry of Justice.

- Ensure that the new forensic medical service under the Ministry of Justice is allowed to act independently.

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

Trials in recent years involving allegations of torture against officials have been mostly held behind closed doors. Cases against officials accused of torture are often held in closed military courts, and survivors of torture and lawyers are required to sign non-disclosure agreements. This lack of public scrutiny is a contributing factor to few convictions for torture being handed down under Article 235. According to our information, most often officials are convicted under Article 301 of the Criminal Code, (abuse of official authority) or Article 302 (negligence). These articles carry lighter sentences.

We regret that the authorities continue to state that there is no need for an independent and impartial investigation into the events at Andijan in 2005. The authorities have not brought to justice any of the officials suspected to be responsible.

Cases of note include that of former Prosecutor General Rashitjon Kadyrov, who failed to initiate investigations into torture and ill-treatment, the extrajudicial killings of protestors in Andijan and the mass human rights violations and abuses committed in its aftermath. The former head of the SGB and former Minister of Internal Affairs have also never faced justice for their alleged roles in the human rights violations committed around Andijan.

In 2018, Rashitjon Kadyrov was detained on charges of embezzlement and corruption, not in relation to his role at the time of the Andijan events. There are serious allegations that he was tortured in pre-trial detention in 2018 and 2019, along with co-defendants and witnesses in the case (See Annex for more information). On 8 April 2019 Amnesty International issued an Urgent Action on fear of torture of Rashitjon Kadirov and the other 12 defendants in the same case.⁸ The GP's office opened an investigation but a few days later announced in court that they had not found any evidence of torture. According to information from reliable sources, the defendants had been told they would be released if they did not raise torture allegations in court, and although they later tried to raise these at the appeal stage, law enforcement officials then threatened to increase their terms of imprisonment.

While it is important that former officials face justice in relation to alleged crimes, the absolute prohibition on torture enshrined in international law must be respected at all times and in relation to all persons without exception.

IBODOV CASE

Ilhom Ibodov died in a SGB detention facility in Bukhara in September 2015 after being subjected to torture along with his brother, Rahim Ibodov. Both men had threatened to expose corruption in the SGB, were initially arrested for "administrative violations" and later charged with bogus tax and other commercial offences.

The sentence in the Ibodov case is significant, as it is the first time that Uzbekistani authorities have acknowledged that prisoners are used by police, prison officials and security services to carry out torture and other ill-treatment of detainees and fellow prisoners on their behalf, and have brought individuals to justice for this.⁹

8 <https://www.amnesty.org/fr/documents/eur62/0170/2019/en/>

9 <https://www.iphronline.org/uzbekistan-investigate-death-custody-torture-20161128.html>

We are concerned that the only cases which appear to solicit a reaction and lead to investigations are those which receive international attention. Overall, given the scale of abuses and the thousands of allegations of torture in the country it is evident that the numbers of those brought to justice for torture do not convince us of the authorities' serious intent or political will to address the pervasive problem of torture in Uzbekistan.

In their replies the State party states that legislation is being drafted which would exclude suspected perpetrators of torture from benefitting from amnesties. Our information indicates that this process remains in the early stages and that in the last three years, perpetrators of torture have benefitted from pardon or amnesties when the individual has served at least half of the sentence.

RECOMMENDATIONS TO THE UZBEKISTANI AUTHORITIES

- Bring those law enforcement officials against whom sufficient and admissible evidence is found of responsibility for torture and other ill-treatment, including those with command responsibility irrespective of rank or status, to justice in proceedings which meet international standards of fairness.

Redress (Article 14)

We are concerned that the plenum of the Supreme Court has not issued directives regarding procedures for compensation for victims of torture. Nor has it issued guidelines stipulating how trials of persons accused under Article 235 of the Criminal Code (torture) should be conducted. So far, all court hearings involving torture are heard behind closed doors.

In Point 12 a) of Uzbekistan's replies, the authorities state that they found no evidence of torture in the cases listed by the Committee in the List of Issues and, therefore, those formerly imprisoned on politically motivated charges have no grounds to appeal for rehabilitation. We regret that the State party reply appears to dismiss the serious and credible reports of torture from the persons listed.

Our organizations have detailed, credible information about serious allegations of torture and other ill-treatment inflicted on all of those persons listed in paras. 15 and 18 of the Replies. We presented some of this information to the Committee in our January 2019 submission and in reports on the issue of torture by Amnesty International and other international organizations.¹⁰ Several of those listed have given detailed and precise accounts of the torture they suffered in detention, including Muhammad Bekjan, who wrote a book about his experiences; Agzam Turgunov; Dilmurod Sayyid; and Bobomurod Abdullayev. Many of those in this list suffer to this day from serious post-traumatic stress disorders and chronic physical conditions as a result of torture and have required medical and psychological treatment since release from prison.

We note that no evidence has been provided by the State party to indicate that they have conducted any effective and thorough investigations in these cases, and they have failed to give any structured and detailed argumentation for their conclusions.

Many of these former prisoners (all of whom are survivors of torture) have resumed their human rights activities in Uzbekistan and are subjected to ongoing surveillance, intimidation and threats from officials of the SGB, particularly during visits of international observers. The activists are determined to hold the authorities accountable and obtain justice and redress for themselves, their families and the thousands of survivors of torture they met during their time in detention. In so doing they expose the

¹⁰ For Amnesty International's research on torture in Uzbekistan refer to reports *Secrets and Lies*, <https://www.amnesty.org/en/documents/eur62/1086/2015/en/>, *Fast track to torture* <https://www.amnesty.org/en/documents/eur62/3740/2016/en/>, *We will find you, anywhere*, <https://www.amnesty.org/en/documents/eur62/5974/2017/en/>

government's failure to effectively implement their much-touted criminal justice reforms. For example, on 19 September 2019, during the visit of the UN Special Rapporteur on the Independence of Judges and Lawyers, Agzam Turgunov was visited on 19 September by two SGB officers who questioned him about his scheduled meeting with the UN Special Rapporteur and offered to drive him to the meeting themselves. Bobomurod Abdullayev reported that during the Special Rapporteur's visit he was under intense surveillance by State Security officials who surrounded his home. (In response to the State party response point 3.i.)

Erkin Musaev, a former Uzbekistani Ministry of Defence official, was sentenced to 20 years in prison in 2007 after a series of unfair trials. He was arrested the previous year while working for a UN agency, tortured and charged with spying and misusing UN funds, which he has flatly denied. In March 2012, the Human Rights Committee concluded that his rights under Article 7 of the International Covenant on Civil and Political Rights had been violated and that the authorities 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. He was released in February 2017 following the personal intervention of the then UN High Commissioner for Human Rights. Despite numerous complaints from Erkin's lawyer, the authorities have not investigated allegations that he was tortured in jail and have failed to follow up on the Committee's findings. Erkin Musaev cannot leave the country and has no access to court case materials, which would allow him to effectively challenge his past conviction.

We also bring to the Committee's attention that four civil society activists convicted on politically-motivated grounds following unfair trials, remain behind bars. These are: author and critic Akrom Malikov, political scientist Rustam Abdumanopov, producer Mirsobir Khamidkoriyev (Khamidkariev) and theologian Rukhiddin Fakhridinov. Rukhiddin Fakhridinov and Mirsobir Khamidkoriyev (Khamidkariev) were forcibly returned to Uzbekistan, held incommunicado and sentenced to long prison terms after unfair trials under former President Karimov, but critic Akrom Malikov (author of publications under the pseudonym "Abdulloh Nusrat") and political scientist Rustam Abdumanopov, were convicted and imprisoned following unfair trials since President Mirziyoyev came to power.

Fakhridinov was forcibly returned to Uzbekistan and tried in a closed court, without legal representation. He is the only prisoner included in the 2014 European Parliament Resolution on Uzbekistan who has not yet been released¹¹. The religious scholar is currently serving the remaining three years and four months of his sentence in the maximum-security prison colony 64/17 in Chirchik. There are serious allegations that Fakhridinov was subjected to torture during his interrogation in 2005. It is also alleged that his family members, including his young daughter, were tortured or otherwise ill-treated to force him to confess.

Our organizations have been informed by credible sources that the recommendations of UN Committees are not made publicly available in Uzbekistan and the Plenum of the Supreme Court has not made one single ruling in relation to individual complaints or UN recommendations.

RECOMMENDATIONS TO THE UZBEKISTANI AUTHORITIES

- Conduct thorough, impartial and independent investigations into the allegations of torture and other ill-treatment and other human rights abuses in relation to these cases;
- Ensure a judicial review of the convictions of those individuals who claim to have been forced to confess under duress and end impunity for the perpetrators;

¹¹ European Parliament resolution of 23 October 2014 on human rights in Uzbekistan (2014/2904(RSP))

http://www.europarl.europa.eu/doceo/document/TA-8-2014-0040_EN.html

- Ensure that victims of human rights violations are provided with access to justice and the right to an effective remedy and reparation, including restitution, fair and adequate financial compensation and appropriate medical care and rehabilitation where necessary, the truth about what happened, as well as effective guarantees of non-repetition; and
- Are protected from being expelled, returned, extradited under risk of torture (Article 3)

The Uzbekistani authorities have continued to secure the return – through extradition proceedings or otherwise – of numerous Uzbekistani citizens they have labelled as opponents or threats to national security. In October 2016, the authorities informed Amnesty International that between January 2015 and July 2016, they had secured the return of 542 individuals. Often the Uzbekistani government has offered ‘diplomatic assurances’ to sending states to secure the returns, pledging free access to detention centres for independent monitors and diplomats. In practice they have not honoured these guarantees.

SGB officers have continued secret renditions from abroad. Many of those abducted or otherwise forcibly returned have been subjected to incommunicado detention, often in undisclosed locations, tortured or otherwise ill-treated to force them to confess or incriminate others.

Governments have been willing to accept at face value official explanations from their Uzbekistani counterparts as to the circumstances of the return of an individual sought for extradition despite often compelling evidence that the individual had been abducted or forcibly returned with the tacit or explicit acquiescence of the authorities in the sending country.

Uzbekistani film producer Mirsobir Khamidkariev was abducted by officers of the Russian Federal Security Service in Moscow in June 2014 and secretly transferred to Uzbekistan. In Uzbekistan he was tortured by SGB officers for two months to force him to confess. He was sentenced to eight years in prison on “anti-state” charges following a grossly unfair trial. He has always denied all the charges. The Russian authorities accepted the official version provided by their Uzbekistani counterparts that he had travelled voluntarily to Uzbekistan in June 2014 to visit his mother, who was ill, but that he had not wanted to tell anyone because of the criminal charges outstanding against him in Uzbekistan. That this version was based on a confession obtained after Mirsobir Khamidkariev’s return to Tashkent did not appear to give cause for concern to the Russian authorities, nor did the fact that his abduction had been officially registered with police in Moscow and that they had subsequently launched an official investigation into his kidnapping, based on CCTV footage from the scene of his abduction. Nor did the fact that his Russian lawyer reported that Mirsobir Khamidkariev was tortured in Uzbekistan to force him to confess raise any question marks. The Russian authorities also did not question the assertion by their Uzbekistani counterparts that Mirsobir Khamidkariev had travelled some 2,000km overland from Moscow to Tashkent, crossing several state borders, without his passport or other travel documents. Following its examination of Mirsobir Khamidkariev’s application the European Court of Human Rights held in its judgment of 26 January 2017 that there had been violations of Article 3 of the Convention in its substantive and its procedural aspects.”¹²

RECOMMENDATIONS TO THE UZBEKISTANI AUTHORITIES:

- Ensure that all trials, including those of people forcibly returned to Uzbekistan, are conducted in proceedings that fully meet international fair trial standards, including Uzbekistan’s obligations under the International Covenant on Civil and Political Rights.

12 See *Khamidkariev v Russia* (Application No. 42332/14), European Court of Human Rights (2017) available at <http://hudoc.echr.coe.int/eng?i=001-170468>. See also Fast-Track to Torture, Abductions and Forcible Returns from Russia to Uzbekistan, 2.1 “Rendition to Torture”, pages 8-9 for more information on Mirsobir Khamidkariev’s case, available at <https://www.amnesty.org/en/documents/eur62/3740/2016/en/>.

- Ensure that all detainees and prisoners, including those who have been extradited or otherwise returned from other countries including the Russian Federation, are able, from the outset of detention, to exercise their rights to contact their family or another third party, and to consult in private and in confidence with a lawyer of their choice and with an independent medical practitioner.

Places of detention (Articles 2, 11, 13 and 16)

CLOSURE OF JASLIK HIGH SECURITY PRISON

The organizations submitting this briefing welcome the decision by the authorities on 2 August 2019 to finally implement the 2003 recommendations of the Special Rapporteur on torture to close high security prison camp Jaslik (UYA 64/OF1, also called Yaslik, Jaslyk or Zhaslyk), notorious for the torture and other ill-treatment of inmates, the majority of whom were convicted of anti-state offences.

However, we are concerned to learn that the prison buildings and infrastructure will be used as a pre-trial detention centre by the MVD of Karakalpakstan, meaning in effect, that Jaslyk prison has not been closed, but repurposed. We are extremely concerned that Jaslyk's remote location will inevitably make it difficult for defence lawyers and relatives to see detainees, which will have negative repercussions for pre-trial detention rights including safeguards against torture and other ill-treatment.

Our organizations were also disturbed to hear public statements made by government officials that the main objective of closing Jaslyk was to improve the international reputation of Uzbekistan.

No information was given by the State party as to the whereabouts of the prisoners transferred out of Jaslyk following its closure as a high-security prison.

LACK OF INDEPENDENT DETENTION MONITORING

The State party asserts in its replies to Point 15 of the List of Issues (paras 127 – 140) that the authorities have established an effective system of detention monitoring through the creation of a National Preventive Mechanism (NPM), which incorporates recommendations by the Committee, the Human Rights Committee, international experts, NGOs, including Amnesty International, and IGOs. According to the authorities, during the period under review the Ombudsman has conducted 47 monitoring visits to 31 places of detention together with members of parliament and NGO representatives. New legislation allows for members of the National Human Rights Center to conduct prison monitoring.

However, checks by our organizations confirm that Uzbekistan has no effective independent monitoring mechanisms in place to inspect any places of detention, and no independent NGOs, domestic or international, carry out any form of regular, unannounced and unsupervised prison monitoring. Diplomats and NGO representatives, while granted access to some detention facilities, are as a rule accompanied by prison or law enforcement officials during their visits. The Ombudsman and the National Human Rights Center are not independent and the organizations listed to join them on regular prison inspections are not independent NGOs. Prison visits are not unannounced and unsupervised.

TREATMENT OF PRISONERS CONVICTED OF ANTI-STATE OFFENCES

Reports received by AHRCA from former inmates indicate that large numbers of prisoners convicted on charges of religious "extremism" were released between 2016 and 2019. Although the majority of these people had reportedly been convicted on fabricated evidence after having been forced to confess under torture, none have lodged complaints of torture since their release. There are reports that this was made a condition of their release, i.e., not to appeal their sentence nor lodge complaints about torture or abuse.

Our organizations remain concerned that prison authorities continue to target prisoners convicted of anti-state offences or affiliation with banned religious groups for particularly harsh treatment.

AHRCA has received information confirming that the so-called system of “Dotted Files” remains in place. Prisoners convicted of crimes related to religion, espionage and other anti-state offences have their case files marked with a red dot in the corner – these prisoners are known as “dotted”. These categories of prisoners are often subjected to severe punishment regimes in prisons where they serve their sentences, and have their sentences extended for long periods even for alleged minor infractions of the prison rules. For example, they are often put into punishment cells (called SHIZO – from the Russian “shtrafnoi izoliator”), which have been described by former prisoners as small, often windowless rooms made of concrete, with no heating, no natural light or ventilation and too small for a bed. Prisoners are often denied adequate medical care and forced to work long hours doing physically demanding manual labour such as construction or making bricks, with basic tools, inadequate clothing, no protective gear, and little food and water. Former prisoners and prisoners’ relatives report frequent beatings and other ill-treatment by prison guards and other prisoners, including sexual violence.

Former prisoners report that religious mentors are appointed from among the prisoners by the prison administration and these are expected to advise the prison authorities on the religious leanings and beliefs of fellow prisoners. Based on information from the mentor the authorities can decide whether to reduce, increase or review sentences. For example, AHRCA has received credible information that an Islamic scholar who is an inmate in one of the prison colonies is expected to talk to prisoners serving sentences for religious “extremism” and pass his conclusions to the authorities. He is also sent to other prison colonies.

EXTENSIONS OF PRISON SENTENCES UNDER ARTICLE 221 OF THE CRIMINAL CODE

Recent information indicates that although the number of prisoners having their prison sentences extended under Article 221 (disobedience of prison rules) of the Criminal Code has decreased in some prison institutions, it remains a problem in others. Our information indicates that in prison colonies 64/47 and 64/6 in Chirchik the use of Article 221 has almost stopped, but in the prison colony of Tavaksai prison sentences continue to be extended based on Article 221.¹³

DEATHS IN CUSTODY

According to information received by AHRCA between 2017-2018 forensic medical experts conducted 200 exhumations of prisoners who had died in custody, to determine the cause of death. Relatives of the victims have reported (on condition of anonymity) that the new examinations confirmed the original cause of death in all cases and did not take into account evidence which indicated injuries inflicted by torture and ill-treatment on the bodies (such as broken bones). (See Annex for an example of one such case).

SEXUAL VIOLENCE IN PLACES OF DETENTION

Amnesty International, AHRCA and IPHR were gravely concerned by the State party’s short response under Point 4 a) in the Replies to the Committee’s request for information on the number of complaints of sexual violence received by the authorities. Namely that the Ombudsman had not received any complaints about sexual violence in places of detention.

13 Article 221 of the Criminal Code punishes prisoners for committing infractions of the prison rules by imposing further terms of imprisonment of up to five years. There are no publicly available official lists of prison rules and application often appears to be arbitrary and politically-motivated.

Our organizations have expressed grave concern about allegations of widespread and targeted sexual violence and sexual humiliation of women and men throughout the period under review.

Survivors report rape and sexual assault with objects, such as bottles and batons, and group rape of women and men by police officers. Former prisoners and torture survivors have alleged that rape and sexual assault are used deliberately to break the will of devout Muslim men and women. Because of the stigma attached to rape many torture survivors find it particularly difficult to talk about it. They feel that their “honour”, and that of their families, has been tarnished and fear that their standing in society will be diminished as a result.

There are also allegations that devout Muslim prisoners are subjected to beatings, humiliation, and rape by other prisoners with the complicity of prison authorities. As rape victims or suspected rape victims, these prisoners would automatically be considered “untouchables” in the prison system, reportedly the lowest category in the prison hierarchy, vulnerable to systematic abuse by both other prisoners and prison staff.

Sexual humiliation of women and men includes being stripped naked and made to stand in front of a group of police or SGB officers and other detainees who shout obscenities or sexual taunts. Sexual humiliation has featured prominently in the vast majority of cases of torture and other ill-treatment that have come to our attention. Women, especially devout Muslim women who wear the hijab (Islamic headscarf) and jilbab (long Islamic overcoat), have reported that they found it particularly traumatic to be stripped naked by unknown men, to be touched by them and to be beaten or otherwise ill-treated while naked. However, sexual humiliation is also commonly used against secular detainees. Many report being stripped or forced to undress by police or SGB officers, and bend over while being sexually taunted. Muslim women also report that police officers frequently forcibly remove their hijab, pulling the woman to the floor in the process, and then dragging the woman around the floor by her hair. In some cases, police officers have cut off women’s hair.

Please see also the section below on violations of rights of LGBTI persons.

RECOMMENDATIONS TO THE UZBEKISTANI AUTHORITIES

- Establish as a matter of priority an effective system of independent, unannounced inspection and supervision of all places of detention by competent, independent and impartial bodies. This mechanism should be separate from and in addition to the NPM.
- Guarantee that these independent monitors, as well as NPM members, have the right to confidentially interview detainees and prisoners and investigate any complaints of torture or other ill-treatment.
- Ratify OPCAT.
- Set a timeframe for the facilitation of the visit requested by the Special Rapporteur on Torture.
- Promptly, thoroughly, and effectively review all allegations of sexual violence and sexual humiliation that have been brought to their attention by survivors, relatives, lawyers, NGOs, the media.

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

SURVEILLANCE, INTIMIDATION AND HARASSMENT OF CIVIL SOCIETY ACTIVISTS AND JOURNALISTS

In the period under review, local independent civil society activists, journalists and human rights defenders have continued to face reprisals for their peaceful activities, including their work on the issues of torture and other ill-treatment. Many of the prisoners of conscience and those prisoners convicted on politically motivated charges who were released from prison since President Mirziyoyev has come to power have been subjected to state surveillance.

The SGB is reported to continue to keep and update lists with the names of former prisoners convicted on politically motivated charges and government critics, including civil society activists and journalists, who have been taking part in small-scale public protests or actions or have issued or signed up to social network petitions. Surveillance and harassment continue in relation to the people on these lists, including by local police officers and representatives of mahalla (neighbourhood) committees.

For example, since October 2018, human rights defenders Agzam Turgunov, Azam Farmonov and Dilmurod Saidov have reported regular state surveillance; their telephones, both landline and mobile, have been tapped, police and SGB officers have monitored their movements and their homes, and they have verbally and physically intimidated them and their families. On 20 October 2018 IPHR representatives visited Tashkent and witnessed how unknown plain-clothed individuals walked in front of Agzam Turgunov's home.¹⁴ The same day Turgunov told IPHR that he had seen unknown people standing under his window intimidating him, had been followed by cars as he moved around the city on public transport; and had been warned by representatives of his mahalla committee that law enforcement officials were asking questions about him. On 28 October 2018, as Turgunov travelled to Paris to attend the World Summit of Human Rights Defenders he was questioned by the authorities at the airport as he left and returned to the country. Late in 2018, Dilmurod Saidov was warned that he would be subjected to enforced psychiatric treatment if he refuses to cease his human rights work and, on 25 March 2019, an SGB officer, who was watching Turgunov's home, told him he should be careful in case he is knocked down by a car. The same month both Turgunov and Saidov reported being prevented on several occasions from leaving their homes during the day by law enforcement officials. On 11 September 2019, Turgunov was summoned by police and questioned for several hours - particularly as to whether he is in contact with the exiled leader of the banned Erk opposition party, and what he thought of him. In September 2019, during the visit of the UN Special Rapporteur on the Independence of Judges and Lawyers, several human rights defenders reported that SGB surveillance had increased, and several reported being asked what they wanted to talk to the UN Special Rapporteur about (see above).

One of the most common methods of psychological intimidation documented by our organizations is the threat of harm to the immediate family of human rights defenders, detainees or suspects and prisoners, in particular the threat that police or SGB officers will rape female relatives. Other threats against family members include physical harm such as beatings, detention on fabricated charges, and slander. (Please see IPHR and AHRCA statement in Annex for threats of harm against family members of detained former diplomat Kadir Yusupov.)

¹⁴ [<https://www.iphronline.org/a-call-for-swift-implementation-of-reforms-in-uzbekistan-as-iphr-witnesses-surveillance-of-local-defenders-during-visit.html>]; [<https://www.iphronline.org/uzbekistan-stop-harassing-human-rights-defenders.html>]

RECOMMENDATIONS TO THE UZBEKISTANI AUTHORITIES:

- Cease reprisals, violence and pressure on human rights defenders, survivors of torture, lawyers and members of their families, including threats of harm and sexual violence.
- Thoroughly, transparently and effectively investigate all complaints and reports of such abuse and bring the suspected perpetrators to justice in fair trials.

Persecution and Torture of Lesbian, Gay, Bisexual, Transgender and Intersex People (LGBTI)

LGBTI persons are in a highly vulnerable situation with regard to torture, sexual abuse, other ill-treatment and extortion. Uzbekistan's continued criminalization of consensual sexual relations between men and widespread societal homo- and transphobia, encouraged by the systematic promotion at all levels of government of cultural and traditional norms and models of behaviour, policy influences from contemporary Russia, and anti-Western sentiment – all create a toxic mix.

No groups defending the human rights of LGBTI persons are able to operate safely in Uzbekistan and any attempts to draw attention to rights violations are suppressed. In August 2019, shortly after Shokhrukh Salimov, an LGBTI activist from Uzbekistan in exile, posted a video message online calling on President Mirziyoyev to decriminalize consensual sexual relations between men, law enforcement officers visited Salimov's relatives in Uzbekistan to put pressure on Salimov and discourage further activism.

Article 120 of the Criminal Code of Uzbekistan punishes consensual sexual relations between men by one to three years' imprisonment. Detained and imprisoned homosexual and bisexual men frequently become victims of intimidation and humiliating sexual and other cruel, inhuman and degrading treatment by police officers, prison guards and fellow inmates. Torture methods documented by our organizations include police, prison guards and SGB officers raping homosexual and bisexual men with bottles and truncheons, attaching heavy water bottles to their genitals, wrapping newspaper around their genitals and setting the paper on fire. Homosexual and bisexual prisoners and those suspected or accused of being gay have the lowest status in prisoner hierarchy and are regularly used as 'slaves' by other inmates and guards, forced to clean dirty toilets with their bare hands, for example. (Please see also section on sexual violence in detention above).

Police often detain homosexual or bisexual men, threaten them with imprisonment under Article 120, intimidate, physically or sexually abuse them and use their knowledge of the individual's sexual orientation or gender identity to blackmail and extort money from them or coerce them into collaboration. As many LGBTI persons in Uzbekistan lead double lives they believe they have much to lose if their wives, husbands, parents, other relatives, neighbours, teachers or employers find out about their sexual orientation or gender identity. Depending on the victim's financial circumstances, police will either extort money from them, force them to incriminate and entrap other LGBTI persons or open a criminal case against them. In the majority of cases the victims are transgender, homosexual or bisexual men, but lesbians and bisexual women are also targeted.

For example, in July 2018 Ravshan (his real name has been withheld for security reasons) was detained by police in Uzbekistan after police officers burst into his apartment and filmed him and his male partner having sex. Ravshan later found out that police had put pressure on his partner, an old childhood friend, to cooperate with them and entrap him.

The officers took him to the local police station where they humiliated and physically and sexually abused him. He told IPHR that two police officers beat him severely after handcuffing and suspending

him from the ceiling. The police officers reportedly raped him with a truncheon and hit him on the head. They then detached him from the ceiling, and he fell to the floor where the beatings continued. Another officer in plainclothes reportedly entered the room and, when he learnt that Ravshan was homosexual, also administered beatings, stepped on his stomach and jumped up and down. "I have never been beaten and intimidated like that in my whole life. I wanted to die to free myself from this torture ", he told IPHR.

Later the officers told Ravshan that he would be imprisoned for having had homosexual relations (Article 120 of the Criminal Code) unless he gave them 2000 USD. One officer threatened that he would be raped by other prisoners and that police officers would rape his wife. He and his wife paid the money, but the police kept the incriminating video.

Law enforcement agents are known to exploit the fear of being labelled "homosexual", one of the accusations perceived to be most shameful in Uzbekistani society, and to have used the threat of imprisonment under Article 120 not only against homosexual and bisexual men, but also against heterosexual and pious Muslim men. The authors of this submission are aware of several cases in recent years when police forced men to hand over large sums of money or property or to "confess" to serious crimes such as "terrorism" or "attempting to overthrow the constitutional order", to avoid being charged with Article 120.

Transgender, homosexual and bisexual men and women are also at risk of being abused and subjected to extortion by non-state actors, and there are allegations that some men have been killed to punish them for their sexual orientation or gender identity. Often homophobic men first make contact via social media pretending to be interested in a date. When the victim arrives at the agreed place he is met by an individual or a homophobic mob who humiliate and physically abuse him -- using methods such as forcing him to take off all his clothes, driving the neck of a bottle up his anus and administering severe beatings. Sometimes the perpetrators record the abuse and disseminate videos via the internet or extort money from the victim in exchange for not disseminating them.¹⁵ Some homophobic men run internet-based messaging services that call for the killing and abuse of homosexual and bisexual men.¹⁶ Sometimes they disseminate personal information of LGBTI persons such as addresses, telephone numbers, photos and even passport details. To our knowledge, the authorities have not taken any action to prevent the dissemination of such information via the internet.

Exiled LGBTI activists from Uzbekistan told Amnesty International, AHRCA and IPHR in 2019 that they knew of several gay men who were targeted in this way in recent years and killed or severely injured. The activists alleged that law enforcement officers failed to investigate the crimes effectively and that the perpetrators were not brought to justice.¹⁷

Shokir Shavkatov, a 25-year old gay man, was killed in the Yunusabad district of Tashkent on the night of 12 September 2019. There are allegations that the young man was targeted because of his sexual orientation. When asked about the case by Radio Ozodlik (Radio Liberty), Tashkent police confirmed the death and stated that two suspects had been charged with "murder". It is crucial that police carry out a thorough and effective investigation into the circumstances of the crime and that suspected perpetrators are brought to justice.

15 For example: <https://youtu.be/HiwgVS8bnbA>

16 Currently, for example: https://t.me/TEMA_NEWS_UZB, https://t.me/anti_gey, <https://t.me/tashgangs>

17 In August/early September 2019 a video was disseminated among subscribers to anti-gay internet communication channels featuring a man complaining that he and friends had planned to kill a gay man in the Yunusabad district of Tashkent, but the man didn't show up to the meeting.

Due to their extreme vulnerability, crimes against LGBTI persons typically go unpunished, whether the suspected perpetrators are police officers or non-state actors. In the large majority of cases victims do not lodge complaints fearing reprisals and imprisonment under Article 120 of the Criminal Code.

When their sexual orientation or gender identity becomes known many LGBTI persons see no option but to cut all ties and leave the country, if they have the means, in order to avoid imprisonment, abuse and isolation on the fringes of society. Amnesty International and IPHR were also told of cases where LGBTI people could not cope with the threat of imprisonment and the intimidation and abuse they faced in their communities and committed suicide.

RECOMMENDATIONS TO THE UZBEKISTANI AUTHORITIES

- Decriminalize consensual sexual relations between men by abolishing Article 120 of the Criminal Code of Uzbekistan.
- Ensure that all credible allegations of arbitrary detention, extortion, torture and other ill-treatment of LGBTI persons by government agents or of their abuse by non-state actors are promptly, thoroughly, impartially and independently investigated, and that suspected perpetrators are brought to justice in fair trials.
- Devise and implement specific procedures to ensure that LGBTI persons who lodge complaints or provide witness reports about extortion or physical abuse by police or non-state actors are protected against reprisals as soon as the authorities receive the complaint/witness report and that appropriate disciplinary or, where relevant, criminal measures are imposed against suspected perpetrators for such actions.