



# Uzbekistan

## Key human rights concerns and individual cases

FREEDOM OF ASSOCIATION: CIVIL SOCIETY, POLITICAL OPPOSITION – THREATS AND SURVEILLANCE OF INDEPENDENT LAWYERS - FREEDOM OF EXPRESSION: BLOGGERS – SEXUAL ORIENTATION/GENDER IDENTITY – DRAFT CRIMINAL CODE - TORTURE, ILL-TREATMENT - DOMESTIC VIOLENCE– FORCED EVICTIONS

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# **Uzbekistan: What happened to reform? Backsliding on fundamental human rights obligations in the run up to the presidential elections**

## **Introduction**

This briefing, prepared by Association for Human Rights in Central Asia (AHRCA) and International Partnership for Human Rights (IPHR), provides an overview of key human rights concerns and case examples in Uzbekistan, ahead of the EU-Uzbekistan Human Rights Dialogue to take place on 21 June 2021. The document focuses on issues and cases regarding violations of freedoms of association and expression; the rights of gay and bisexual persons; torture and ill-treatment, domestic violence and forced evictions.

We urge you to particularly emphasize in your dialogue with the Uzbekistani delegation the issues of NGO registration and decriminalization of homosexuality considering that new independent civil society organizations are facing an uphill struggle to get their groups registered and that the window of opportunity provided by the drafting of the new Criminal Code is closing fast. In addition, we urge you to raise individual cases of bloggers Miraziz Bazarov and Otabek Sattoriy, politician Makhmud Davronov, torture victim Aleksander Trofimov, former diplomat Kadyr Yusupov, and the eviction case of Dilorom and Shakhnoza Rozikova and their four children. The briefing concludes with suggested recommendations to the authorities of Uzbekistan.

## **Freedom of association: Independent civil society organizations**

In its concluding observations to Uzbekistan of May 2020 the United Nations (UN) Human Rights Committee expressed “concern that current legislation continues to impose restrictions on the right to freedom of association, including: (a) unreasonable and burdensome legal and administrative requirements for registering NGOs and political parties; (b) an extensive list of reasons to deny registration; (c) the requirement for NGOs to obtain de facto approval from the Ministry of Justice when travelling abroad or receiving funds from foreign sources; and (d) the prohibition of NGOs from participating in “political activities”. In this regard, the Committee notes with concern the small number of independent self-initiated NGOs registered in the State party, the high number of rejections for registration, and that no applications were submitted for the registration of new political parties between 2015 and 2018 (arts. 19, 22 and 25)”.

Although the government publicly claims that there are over 10,500 NGOs now operating in Uzbekistan, closer examination of these statistics reveals that the majority of such organisations are in fact government-organised non-governmental organisations (GONGOs). The Uzbekistan Independent Institute for Formation of Civil Society reported that 66 per cent of groups are GONGOs, with nearly half of them established by government decree. On the other hand, independent civil society initiatives, and in particular those which focus on human rights, usually struggle to obtain official registration. In relation

to some groups, the Ministry of Justice has rejected applications for registration up to 20 times.<sup>1</sup> It is believed that the obstacles to register groups whose founding members are included on the “black list” of the State Security Service are particularly numerous.<sup>2</sup>

On 4 March 2021, President Mirziyoyev approved a “Concept on Development of Civil Society in 2021-2025” and Road Map for its implementation. The document set out improvements on issues important to civil society organisations (CSOs), including the legal framework, partnership with state structures, state support for CSOs, and their oversight over state bodies’ activities. Despite this comprehensive package of civil society support, many gaps and concerns remain.

One major concern is that a lack of transparency persists as the documents were drawn up without meaningful consultation with local civil society stakeholders. Moreover, the Concept fails to address issues of key importance for NGOs in Uzbekistan, namely the considerable obstacles facing new NGOs trying to register as legal entities, excessively complex reporting requirements and the need for NGOs to notify and obtain prior approval before receiving foreign grants or conducting events.

Limited details are available about the priority area of “improvement of the legal basis for civil society development”, and no reference is made to revisions of problematic provisions of the laws “On Guarantees and Freedom of Access to Information,” “On Principles and Guarantees of Freedom of Information,” among others.

In April 2021, an Index of Openness of NGO Activities was approved by Presidential Decree which provides that individual NGOs should undergo an annual evaluation of their work and the effectiveness of their use of grants and subsidies. The Decree also introduced the new office of a permanent NGO representative in the Legislative Chamber of the Oliy Majlis (parliament) who is mandated to take part in the decision-making processes on legislation and represent NGOs interest and rights.

An interactive portal was set up in May 2021 by the Public Foundation Mercy and Health of Uzbekistan, which will gather and distribute all charitable donations, monitor their use and ensure transparency, including allowing donors to monitor the use of their donations. Resource centres for NGOs will be established in regions across Uzbekistan in 2021. There are concerns that some of these developments could further tighten state control over the activities of civil society.

Most tellingly, registration for independent CSOs remains a challenging and fraught process, as can be shown by the example below of Human Rights House.

## **NGO HUMAN RIGHTS HOUSE**

In late June 2021 Agzam Turgunov, human rights defender and former political prisoner, and his colleagues will submit an application for registration of their human rights organization for the eighth time since February 2019. The Ministry of Justice’s list of grounds for rejecting the applications were often unclear or unsubstantiated indicating that they have been refused on politically motivated grounds.<sup>3</sup> The applicants have been assisted by the lawyer Sergey Mayorov throughout the application process and have diligently addressed all concerns raised by the Ministry of Justice.

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1 <https://www.opendemocracy.net/en/odr/uzbekistan-has-10000-ngos-what-do-they-do/>

2 <https://www.iphronline.org/human-rights-house-to-apply-for-official-registration-again.html>

3 See <https://www.iphronline.org/human-rights-house-to-apply-for-official-registration-again.html>

For example, the Ministry stated that the applicants had failed to:

- number and stitch the pages of the charter correctly (rejection no. 2 in June 2019 and no.6 of October 2020); **Turgunov and his lawyer maintain that the documents were properly numbered and stitched;**
- pay a fee for the consideration of the registration documents equivalent to the amount of four minimum wages (rejection no. 2). **However, when the HRH founders submitted the documents, the employee of the Ministry of Justice who checked them had told them that everything was in order and assured them that the fee could be paid later and they would be informed in good time;**
- pay the appropriate fee for registering the organization (rejection no. 3 in August 2019). **This time the group paid the fee as advised in the previous rejection, but now the Ministry's rejection letter pointed out that the fee was higher -- 12.5 minimum wages -- for groups that intend to not only operate within Uzbekistan. There was in fact an error in the Charter as the lawyer's secretary wrote "in other countries" instead of "in other regions".**
- state where the group would conduct its activities and name the governing body submitting the application (rejection no. 3); **These claims are inaccurate as the documents had been prepared by the lawyer and the Charter referred to NGO branches in four regions of the country.**
- abide by the Law on non-governmental non-profit organizations<sup>4</sup> in connection with the group's founding meeting, but no details were given (rejection no. 4 in March 2020);
- submit the application in line with online registration procedures in place during the coronavirus pandemic (rejection no. 5 in July 2020). **However, details about the procedure were not publicly available and requests by the group for clarification had gone unanswered;**
- attach the confirmation of payment of the registration fee (rejection no. 6 in October 2020);
- meet the requirement of Article 17 "Charter of a non-governmental non-profit organization" of the Law "On non-governmental non-profit organizations"<sup>5</sup> which requires NGOs and its sub-divisions to demonstrate the availability of sufficient funds (rejection no. 6). **However, the founders of the organization had set up a fund (with donations from founders and supporters) of the amount of an equivalent to 3,000 USD to cover the core staff costs and office rent for a year, as required by law.**

In the seventh and most recent rejection letter dated 7 January 2021 the Ministry of Justice claimed that Human Rights House had not sufficiently regulated the management of funds by the organization and its sub-divisions, and that it had failed to list its sources of funding. The Ministry's letter provides no evidence for these conclusions. Agzam Turgunov and lawyer Sergey Mayorov maintain that they provided the requested information in the registration request.

Agzam Turgunov lodged the first three NGO applications under the name "Restoration of Justice" together with further founding members. After the third refusal to register the group, these founding members left the organization and the others decided to rename the NGO to Human Rights House (or Inson Kukuqlari uyi in Uzbeki or Дом Прав Чековека in Russian).

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4 <https://www.lex.uz/acts/10863>

5 <https://www.lex.uz/acts/10863>

After the seventh rejection by the Ministry of Justice, Agzam Turgunov has been searching several months for a guarantor willing to provide office premises – which is a prerequisite for registration. The guarantor, who provided a letter of guarantee for the previous applications, stated that the State Security Services urged him to withdraw his support to Turgunov. Additionally, the founders of Human Rights House reported that they were all visited by an officer from the State Security Services in order to verify the authenticity of their signatures in the application documents. Agzam Turgunov is currently preparing to appeal the series of refusals to court, as he is afraid that the Ministry of Justice will again refuse to register Human Rights House.

## **Freedom of association: members of the political opposition targeted**

In May 2020 the UN Human Rights Committee expressed concerns that “no applications were submitted for the registration of new political parties between 2015 and 2018”. Prior to the Presidential elections scheduled for October 2021, representatives of political opposition parties that do try to register report coming under increased surveillance and are subjected to harassment.

### **THE CASE OF THE POLITICIAN MAKHMUD DAVRONOV**

On 8 March 2021, Makhmud Davronov was elected as Deputy Chairperson of the opposition Social Democratic Party of Uzbekistan “Truth and Development” at the party’s founding congress in Tashkent. On 10 March, Davronov noticed that his house was under surveillance. On 11 March, a local policeman and a person who gave his name as Ulugbek (but did not show proof of identity) visited Davronov’s home and tried to dissuade him from being involved in setting up the party, telling him that he should remember he has children and a family and that he is in poor health. On 12 March, as Davronov was leaving the city in a taxi to attend a party meeting, law enforcement officials detained him, forcibly removing him from the taxi and confiscating his phone. They then put him into an unmarked car and took him to Zheleznodorozhnoye Regional Department of Internal Affairs in the city of Samarkand where he was held until about 1:00 p.m. before being taken to the Samarkand General Hospital for medical treatment. He refused to undergo a medical examination after which police officers drew up a statement saying that he had no complaints against the law enforcement agencies and he was released.

In April 2021 a group of people who looked like travellers repeatedly fought and made lots of noise near Davronov’s house. Davronov ignored these incidents, fearing that they were state-ordered attempts to provoke him. On 20 May a group of three people shouted insults at him and asked him why he was setting up a new political party. Two of them - a middle aged women and a young man were shouting and a third was filming on a mobile phone. On 25 May Izzat Islamov, the chairperson of the local makhalla (neighbourhood) committee, visited Davronov and informed him that he had been summoned to the police station. Davronov refused to go to the station, saying he had not committed a crime. Then the makhalla chairperson put Davronov in touch with Ulugbek by phone.

On 26 May Davronov reported being detained three times by the traffic police as he drove around. The third time, the police attempted to seize his car due to an alleged non-payment of a fine of 223 thousand soms which Davronov immediately paid electronically and showed the confirmation of payment to the traffic police. He was then released.

At about 9.00 pm that same evening about seven police officers – including Ulugbek -- arrived at Davronov's house to arrest him allegedly for failing to pay the traffic fine of 223 thousand soms. Davronov was not at home. The officers tried to break the door and force their way into the house. They ignored Davronov's wife's explanation that the fine had been paid earlier that day. When Davronov's son arrived Ulugbek threatened to break his arms, but once Davronov's son began filming on his phone he became less aggressive. Davronov's wife called the police but was told that they would transfer the call to the local policeman. The police officers left the house at about 10.30 pm but remained on the corner of the street until midnight.

On 5 June 2021, Makhmud Davronov was travelling to Tashkent by bus to attend a meeting of the Social Democratic Party "Truth and Development". At a traffic police post called "Highest Point", at the intersection of Samarkand and Jizzak regions, law enforcement officials removed him from the bus.<sup>6</sup> The police officers gave no explanation. This is the second time Davronov has been prevented by the authorities from participating in a party meeting.

Mahmud Davronov said that he was forcibly put into the back seat of a white "Spark" car between two men who did not introduce themselves and was not told where he was being driven. He was taken to an old building on the outskirts of a remote village - there was a sign on the building saying "Preventive police station No. 28 "Yangi kishlok"("New village"). They were met by a senior police officer and for three hours, Davronov was held in a closed room surrounded by four men. Davronov told AHRCA: "They didn't beat or torture me, but they didn't allow me to move and held me in one position for three hours in the 45 degree heat. And then one of the men told me 'Never go online, we're asking you nicely and it is better not to quarrel with us.'"

Other members of the party have also come under pressure. In Autumn 2020, the Chairperson of the Social Democratic Party "Truth and Development", Khidirnazar Allakulov, publicly announced his intention to stand in the October 2021 presidential elections, and criticized the leadership of President Mirziyoyev's economic policies. Now, party members report being subjected to regular harassment and acts of provocation from bloggers and a group of women who are known for carrying out acts of provocations at meetings of activists.<sup>7</sup>

In May 2021 the Ministry of Justice refused to register the opposition party, citing a "shortage" of signatories. However, there are many reports of people who initially supported the party but later withdrew their signatures and stated on video that they had been deceived into supporting the party, after allegedly having been threatened with reprisals by state bodies and representatives of makhalla (neighbourhood) committees.

## Threats and surveillance of independent lawyers:

Last year, in March 2020, the Parliament of Uzbekistan approved legislative amendments introducing new operational-search measures including inspections of technical equipment; control of messages and data from telecommunication devices; obtaining information about connections between subscribers or subscriber devices. Amendments were also approved to Article 6 (inviolability of a lawyer)

6 <http://www.asiaterra.info/news/v-uzbekistane-bez-ob-yasneniya-prichin-zaderzhali-zamestitelya-predsedatelya-nezaregistririvannoj-politicheskoy-partii-makhmuda-davranova>

7 <http://www.asiaterra.info/news/otryad-bab-osobogo-naznacheniya-i-nanyatye-blogery-popytalis-sorvat-sobranie-sozdavushchejsya-nezavisimoy-partii-spravedlivost-i-progress>

of the law “On guarantees of advocacy and social protection of lawyers.” These amendments have legalized state control over lawyers’ conversations and messages and violate lawyer-client confidentiality as well as the equality of sides in court hearings. In recent months, independent lawyers have come under increased pressure and been threatened with the loss of licenses or other.

Lawyers who take up politically sensitive cases are at risk of harassment and other reprisals, including being targeted by repetitive, anonymous trolling online. The following lawyers have faced pressure for representing clients whose cases are featured in this briefing, in addition to other cases:

- **Allan Pashkovsky** (cases: former diplomat Kadyr Yusupov and torture victim of Aleksander Trofimov): From February to June 2021 five anonymous trolling campaigns have been carried out aiming to discredit the lawyer.
- **Sergey Mayorov** (case: blogger Miraziz Bazarov): In the last few days trolling videos have appeared against Mayorov on social networks accusing him in relation to his role in defending Bazarov. The posts included hate speech towards LGBT persons.
- **Umidbek Davlatov** (case: blogger Otabek Sattoriy): During the court hearing he received threats of violence and unknown persons attempted to attack him after a court hearing where he named persons who had provided false information to the court in the Sattoriy case. Davlatov was later hospitalised with a heart problem.

## Freedom of expression: Bloggers targeted

In 2020 the UN Human Rights Committee expressed its concern that “Current legislation regulating mass communication [...] and the use of the Internet unduly restricts freedom of expression, including: (a) the requirement to register online information dissemination platforms, including blogs, as media outlets”. In recent months two cases of bloggers targeted to punish them for peacefully exercising their right to freedom of expression have drawn particular public attention.

### THE CASE OF THE BLOGGER MIRAZIZ BAZAROV

The 29-year-old blogger and outspoken government critic Miraziz Bazarov was charged with “slander/libel” and is currently held under house arrest with strict restrictions on his contact with the outside world. There are allegations that the investigation into an attack on him on 28 March is not being conducted effectively; to our knowledge, no one has yet been charged. It is believed that the authorities intend to silence Bazarov and punish him for peacefully exercising his right to freedom of expression. Miraziz Bazarov’s social media posts have attracted attention on several occasions in recent months. In 2020 he criticised the lack of transparency and public control over the use of COVID-19 related loans by the International Monetary Fund and the Asian Development Bank to Uzbekistan, and these posts were widely disseminated on social media. His posts in defense of LGBT people included criticism of double standards amongst Uzbekistani officials.

### Attack and violent threats

In recent months, Bazarov, his mother and his girlfriend have received numerous threats – online, by phone and in person – of violence, including death threats. The addresses of Bazarov’s mother and his rental apartment have been published online by his opponents.

On 28 March 2021 Bazarov was physically attacked by masked men as he was walking to his girlfriend's house in Tashkent. He was admitted to hospital to receive medical treatment for his injuries. On 28 March the police opened an investigation into the attack against Miraziz Bazarov for "intentional bodily injury of moderate severity by a group of people" (Article 105, part 2"i" of the Criminal Code). The case was later requalified as "serious intentional bodily injury by a group of people" (Article 104, part 2"k"). According to the Tashkent City Police Department, the investigation into the attack is ongoing; it reported that "over 100 individuals have been questioned, 41 172 cars have been examined which may have been used by the perpetrators."

Bazarov's lawyer Sergey Mayorov alleges that the investigation is not conducted impartially and effectively. According to Bazarov's lawyer, the police disseminated a phantom image of one of the attackers although Bazarov had urged them not to use it for the investigation as he was convinced it did not look like the attacker. The lawyer also stated that police have ignored Bazarov's description of the attackers' car and instead issued a search for cars of a different brand and colour.

We are concerned about his safety as the address where Bazarov is held under house arrest has been published online by unknown individuals.

## **Charges against Bazarov**

Until late at night on 29 April 2021, Miraziz Bazarov was interrogated by an investigator of Tashkent City Police in the Republican Clinical Hospital No.1, where he was treated and held after being attacked by unknown men on 28 March 2021. In the presence of Bazarov's lawyer, the investigator questioned the young blogger about a wide range of issues including content of his social media posts. During the interrogation Bazarov learnt that he was suspected of "slander/libel via mass media for selfish or other base motives" (Article 139, part 3"g" of the Criminal Code of Uzbekistan). On 8 May the charge was officially brought against him. Article 3"g" carries punishments of up to three years' imprisonment.

On 30 April 2021 the Tashkent City Police Department reported on its [website](#) that it had received 28 complaints from citizens about Miraziz Bazarov's social media posts which formed the basis for the slander charge. One of them was a complaint from several teachers of school no. 110 in the capital's Mirabad district stating that Bazarov had "denigrated their honour and dignity" by disseminating information on social media about the professional and personal qualities of teachers at this school.

In March 2021 Bazarov had posted a video on Tiktok where he had called on parents not to enroll their children in this school in Tashkent, remembering his own attendance at the school, and stating that the "school is the place where elderly female slaves and losers teach children to be slaves and losers". The video does not mention any teacher by name and is clearly an expression of Bazarov's personal opinion.

## **Limiting communication with the outside world**

Since the attack on Bazarov on 28 March the authorities have strictly limited his contact with the outside world and they have prevented the blogger from using the internet.

When he was hospitalized in the Republican Clinical Hospital No.1 in Tashkent, i.e. from the day he was attacked on 28 March until he was discharged on 29 April and put under house arrest, he was guarded around the clock. While the authorities claimed this was done to protect his security, we are concerned that their primary aim was to limit his ability to communicate with the outside world and

publish social media posts. The first few days he was not allowed any communication with the outside world. Subsequently, he was permitted limited access to his mother and lawyer, albeit always in the presence of government agents. The guards checked that no one would enter Bazarov's room with a mobile phone.

On 29 April, the same day that Bazarov was discharged from hospital, Tashkent's Mirobad District Court placed him under house arrest. The conditions of his arrest include strict limitations of his contact with the outside world. He is not allowed to leave his house with the exception of medical emergency; to be in contact with his friends, acquaintances and neighbours; to use social media; to engage in any kind of correspondence; and he is allowed to use a land line phone only in exceptional cases such as for conversations with his lawyer, law enforcement agencies and medical emergency.

## **THE CASE OF THE BLOGGER OTABEK SATTORIY**

On 10 May 2021 Muzrabad District Court in the Sukhodarya region sentenced the 41-year-old blogger Otabek Sattoriy from the region's capital of Termez in southern Uzbekistan to six and a half years' imprisonment for "slander" (Article 139, part 3 of the Criminal Code) and "extortion" (Article 165, part 3). There are credible allegations that the case was fabricated to punish Sattoriy for peacefully exercising his right to freedom of expression. On his Telegram and YouTube channels Otabek Sattoriy repeatedly accused representatives of local authorities of corruption.

On 30 January 2021 plainclothes police officers detained the blogger near his house and on 1 February Termez City Criminal Court remanded him in custody. He was accused of extorting a new mobile phone from the director of the local Sherabad bazaar in December 2020 by threatening him to publish information about shortcomings at the bazaar unless he gave him the phone.

During the trial Sattoriy stated that he had gone to the bazaar in December 2020 together with a journalist of the media outlet *effekt.uz* to report about food prices after President Mirziyoyev had promised lower prices ahead of the New Year festivities. Two men who introduced themselves as employees of the bazaar reportedly told Sattoriy that it was not allowed to take photos at the bazaar. After a verbal fight the men reportedly grabbed Sattoriy's mobile phone and damaged his jacket.

According to Sattoriy's lawyer Umidbek Davlatov, the blogger then filed a complaint with the district authorities. Sattoriy's lawyer and a fellow journalist both stated that the director of the bazaar subsequently offered Sattoriy to compensate him by replacing the damaged phone with a new one.

On 30 January Sattoriy reportedly called the director of the bazaar and they agreed to meet near the blogger's house. However, as soon as the director gave him the new phone and Sattoriy was walking away, plainclothes police officers approached and detained him. He was charged with extortion in connection with the phone and shortly afterwards additional charges of slander and extortion were brought against him that were based on complaints by individuals whom Sattoriy had accused of corruption in his blogs.

According to Sattoriy's supporters, it transpired during the trial that the director of the bazaar had kept the bazaar running although the tax authorities had ordered it to close down. This was apparently why no filming was allowed in the bazaar and employees reacted aggressively when Sattoriy and the journalist – who were not aware of this background – started taking photos.

## Gays, bisexuals and those perceived to be gay

*Article 120* of the Criminal Code of Uzbekistan punishes consensual sexual relations between adult men by up to three years' imprisonment. The draft of the new Criminal Code published by the Prosecutor General's Office on 22 February 2021 retains the offence and leaves its wording unchanged. The crime was moved from Article 120 in the current Criminal Code to Article 154 in the new chapter of the draft Code entitled "Crimes against family, children and morality". The first reading in Parliament of the draft Criminal Code has not yet been scheduled.

In April 2021 the Main Department for the Administration of Punishment of the Interior Ministry was *reported as saying* that from 2016 to 2020 a total of 44 individuals were convicted under this article. Currently, 49 individuals are serving prison terms.

The criminalization of homosexuality poses a constant threat to gay and bisexual men, as well as to those perceived to be gay, and makes it impossible for them to lodge complaints with the authorities about violence and discrimination to which they are subjected, for fear of revealing their sexual orientation or gender identity. Those imprisoned under Article 120 suffer serious abuse in places of deprivation of liberty. Police exploit the fear of imprisonment under Article 120 for blackmail and extortion purposes. Police are also known to exploit the fear of being labelled as "gay" (an accusation perceived as extremely shameful in Uzbekistani society) by extending the threat of imprisonment under Article 120 beyond gay and bisexual, to heterosexual and pious Muslim men. HIV prevention and treatment are hampered by the criminalization of homosexuality. Homophobes attack LGBT people with virtual impunity.

Instead of being sympathetic to the suffering of gay and bisexual Uzbekistanis and enabling them to lead their lives without fear of imprisonment, violence, blackmail and discrimination, government officials and politicians have expressed homophobic views in public on many occasions, reinforcing widespread stereotypes. For example, in March 2021 Alisher Kadyrov, the head of one of Uzbekistan's leading political parties called on his Telegram channel to strengthen the criminalization of homosexuality even further. "Propaganda of homosexuality should be prohibited (...) the Criminal Code article should stipulate forced treatment, deprivation of liberty stripping of citizenship, up to deportation from the country."

Along with Turkmenistan, Uzbekistan is the only country of the former Soviet Union that has not decriminalized homosexuality. Muslim majority countries that have legalized homosexuality include Uzbekistan's neighbours Kazakhstan, Kyrgyzstan and Tajikistan, as well as Azerbaijan and Turkey.

## Draft Criminal Code

A new draft of the Criminal Code of Uzbekistan<sup>8</sup> was published on the internet in Uzbek on 22 February 2021 with a deadline for public comments of 9 March 2021. It is not yet known when Parliament will adopt the new Code, but the draft states that it will enter into force in January 2022.

We are concerned to see that the new draft Code introduces criminal punishments for disseminating 'false' information (Article 319) which could be used to restrict freedom of expression and for "violating the rules on holding meetings, rallies, street processions or demonstrations" (Article 284) which could be used to restrict freedom of assembly.

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8 <https://regulation.gov.uz/ru/d/29646>

The draft Code retains punishments for “illegal exit or entry into the Republic of Uzbekistan” Article 289. The current equivalent (Article 223) has been applied to ban citizens from entry to the country.

In addition, we are concerned that it retains criminal punishment for consensual sexual relations between men, for “public insult or slander against the President of the Republic of Uzbekistan, as well as using the press or other media” (Article 205) and other articles used in recent years to suppress fundamental rights and freedoms in Uzbekistan. Among them are many so-called “political articles” that have been used to bring politically-motivated charges against individuals, including human rights defenders, who criticize official policies.

Like the current Criminal Code, the new draft Code in many cases lacks clear definitions and terminology opening the door to human rights violations. In the past the lack of clear and overbroad definitions of key concepts has been used to arbitrarily prosecute individuals in Uzbekistan, particularly human rights defenders, journalists and critics as well as religious believers.<sup>9</sup> It has also contributed to impunity and problems for victims of torture and other human rights violations accessing compensation. Terms and concepts contained in the draft Code that are not clearly defined include “extremism”, “prohibited organisations, information and materials”, “victim of torture”, “victim of slavery”, “victim of corruption” and “victim of domestic violence. Unclear definitions of “bullying”, “cyberbullying” and “moral and ethical violence” have already in the past led to a lack of national jurisprudence in cases related to bullying in schools, the armed forces, in prisons and on the internet and has undermined efforts at awareness raising and prevention.

## **PROTECTION FROM TORTURE AND ILL-TREATMENT**

Article 169 of the draft Code punishes the “use of torture” with a maximum sentence of 15 years in prison. The Article does not reflect the exact wording of Article 1 of the UN Convention against Torture.

In the draft Code, perpetrators of torture would be eligible for amnesty, and statutes of limitation are applicable (Article 75 draft Code) to crimes including torture and inhumane treatment. The UN Committee against Torture recommended in its 2020 Concluding Observations that amnesties or pardons should not be granted to perpetrators of torture, and that there be no statute of limitations for torture crimes.

## **Torture and other forms of ill-treatment**

Since President Mirziyoyev came to power, the authorities in Uzbekistan have taken some steps to address the endemic problem of torture in the country. Legislation was adopted stipulating that evidence obtained under torture is not admissible in court and to improve transparency in the criminal justice system. However, IPHR and AHRCA continue to receive allegations of torture and ill-treatment on a regular basis indicating that sustained change is still to be achieved. Many of these reports relate to torture and ill-treatment during the early hours or days of detention when detainees in Uzbekistan are frequently held incommunicado, without contact with the outside world.

It remains difficult to assess the exact scale of the problem of torture as the authorities do not compile comprehensive statistics on the issue featuring numbers of complaints, investigations, prosecutions

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9 For example, over the last 30 years, thousands of religious believers have been prosecuted for their involvement in religious organisations, banned in Uzbekistan and for the distribution of banned materials. However, publicly available information about which organizations and materials are banned is lacking, and the websites of the General Prosecutor’s Office and the Ministry of Justice do not provide any clarification about this.

and appeals. The available government statistics refer only to cases opened under Article 235 of the Criminal Code entitled “torture”, although cases involving allegations of torture and ill-treatment are often opened under other articles of the Code such as “abuse of authority”, “exceeding official authority” or “negligence”. Many victims refrain from complaining for fear of reprisals and lack of trust in the criminal justice system.

## **THE CASE OF ALEKSANDER TROFIMOV**

In May 2021, AHRCA received reports that Alexander Trofimov, 29-year-old father of two, who is registered as disabled, was tortured by police on 6 and 7 May 2021 while being detained at Chilanzar District Police Directorate in the capital city of Tashkent without contact with the outside world. We urge the authorities of Uzbekistan to promptly conduct an effective investigation into these allegations, publish the results and ensure that those reasonably suspected of being responsible are brought to justice.

On 6 May, Trofimov was arrested on suspicion of stealing money from Food Optimal Group in Tashkent (Article 169 of the Criminal Code of Uzbekistan). He was taken to Chilanzar District Police Directorate in Tashkent City (RUVD – Russian acronym), where his detention was registered at 4:30 am before being transferred to Chilanzar Police Station (GOM-8 – Russian acronym). Trofimov’s mother’s mobile phone records show that her son called her from GOM-8 on 6 May at 6:55 am. She took him food at 8:00 am and saw him in person, he was healthy. At around 9:00 or 10:00 she was present when Trofimov, along with other suspects in the case, was transferred from GOM-8 back to Chilanzar ROVD accompanied by officers of the Chilanzar District Criminal Investigation Directorate. At 00:24 am on 7 May, Trofimov called his mother twice from a cell in the Chilanzar ROVD asking her to bring food and a change of clothes. She took the clothes to the police station, but was not allowed to see her son. Later, she learned that he had already been subjected to torture.

According to Trofimov, he was subjected to police abuse several times between 10:00 am on 6 and 11:00 pm on 7 May. In the duty office at Chilanzar District Police Directorate four or five police officers kicked Trofimov, hit him with truncheons and punched him on the head, body and legs. They reportedly then forced him to do the splits, pressing him to the floor and officers took turns to sit on him, jump on his back and hit him on the back while his hands were handcuffed. During this beating, Trofimov begged not to be hit on the head, explaining that he had sustained a skull fracture in 2002. Despite this, RUVD officers hit him on the site of the injury. At some point some police officers (Trofimov could not say how many) put a plastic bag over his head and continued beating him. Police allegedly told Trofimov that if he confessed to theft he would be released. They also threatened him with additional violence if he told his lawyer that he had been tortured or ill-treated. Two suspects in the same case have confirmed to witnessing Trofimov being tortured while they were also being held in the RUVD, and that they were warned they would be tortured if they did not confess.

AHRCA and IPHR are additionally concerned at reports that law enforcement officials falsified detention records in order to conceal acts of torture that took place on 6 and 7 May. The detention register of Chilanzar RUVD records the time of Trofimov’s detention as 6 May 2021 at 4:30 am. However, during the remand hearing on 8 May, Chilanzar Criminal Court only referred to the investigation files of the RUVD which state that Trofimov’s detention began on 7 May 2021 at 11.00 pm. Additionally, in a violation of procedural regulations which state that investigating officers cannot fulfill the role of accompanying detainees during transfer – but in this case RUVD officials were present with the suspects continually, in an attempt to prevent them from speaking out.

Trofimov was not allowed to see a lawyer for the first 48 hours after his arrest, and instead was repeatedly told that he would be released very soon. Reportedly, a RUVD representative also told Trofimov's mother that he did not need a lawyer as he would be imminently released. It was only on 8 May, shortly before the remand hearing began, that lawyer Hakim Saparov was able to meet with his client. The lawyer took a photo of a large bruise on Trofimov's leg allegedly sustained as a result of beatings during the interrogation. During the hearing Hakim Saparov told the judge that his client was subjected to torture and requested that a medical forensic examination be carried out. The judge refused to grant this motion. Only on 10 May was Trofimov transferred to a medical centre for examination. To date, the results of this examination have not been made available to Trofimov's lawyer or relatives.

On 12 May, Tashkent City Criminal Court turned down Trofimov's petition against being remanded in custody pending trial.

Trofimov's mother has sent several complaints to relevant authorities requesting an investigation into the allegations of torture of her son, including to the Prosecutor of Chilanzar District; the Prosecutor of Tashkent City; the Prosecutor General; the President of Uzbekistan; the Ministry of Justice and the Inspectorate of the Main Department of Internal Affairs of Tashkent. A complaint was also sent to the Office of the Ombudsperson for Human Rights.

On 7 June 2021, the General Prosecutor's Office launched an official investigation into the allegations of torture - nearly one month after the events.

## **UN WGAD CALLS FOR THE RELEASE OF FORMER DIPLOMAT KADYR YUSUPOV**

On 31 May 2021, the United Nations Working Group on Arbitrary Detention (UN WGAD) informed the applicant of its conclusions that the detention of 69-year-old Kadyr Yusupov is arbitrary. It called on the authorities of Uzbekistan to release him immediately and provide him with adequate compensation.

Former diplomat to Austria, the United Kingdom and Organization for Security and Co-operation in Europe, Kadyr Yusupov, who has been imprisoned since December 2018, suffers from serious heart disease and mental illness, and is being held in Prison Colony No. 4 in the city of Navoi in conditions of detention which pose a threat to his health and life. Kadyr Yusupov was sentenced to five and a half years' imprisonment in January 2020, after the Military Court of Uzbekistan found him guilty of treason under Article 157 of the Criminal Code in a trial that fell short of international standards of fairness. Yusupov maintains his innocence. The case against him is reportedly based on a statement he made during a psychotic episode in December 2018, when he was being treated by medical personnel following a failed suicide attempt in the Tashkent metro. Whilst in hospital, suffering from concussion and clearly confused, Yusupov reportedly said that he had been a spy for the West. After his arrest on 10 December 2018, Yusupov was held for over a year in pre-trial detention, during which time law enforcement officers subjected him to ill-treatment, including psychological torture and threats of rape and reprisals against him and members of his family. He was not allowed to see a lawyer for over five months, and among other things, authorities withheld necessary medication which he requires for his long-term mental illness.

In February 2021, Kadyr Yusupov was again punished for allegedly violating prison rules and therefore was not transferred to a colony-settlement where conditions are better than in Colony No. 4 where he is currently being held. This is a common practice in relation to prisoners investigated by the State Security Service (SSS), which inherited the activities of the National Security Service under the leadership of Rustam Inoyatov, the current Presidential Adviser for the Control of Law Enforcement Agencies.<sup>10</sup>

## Domestic violence

The number of complaints lodged by women about gender-based violence grew in the first three months of 2021 alone, with 11,000 filed to law enforcement agencies. In addition to violence, victims face legal, social, medical and economic challenges. Our NGO partners in Uzbekistan outlined some of the main concerns:

- A **culture of silence** prevails in many families where domestic violence occurs. Most victims of domestic violence do not contact the police due to a lack of faith in the law enforcement and the justice system, fear of reprisals from the abuser or his relatives; fear of societal stigma, shame and humiliation in a climate where victims are usually blamed and made to feel responsible for the behaviour of a violent husband. Many victims of sexual violence do not even turn to the health system, leading to serious consequences for physical and mental health.
- **Failure to protect:** Often, victims of abuse call the police, informing that they and their children are being beaten by a drunken husband or other family members, but the police reportedly often fail to get to the scene quickly and/ or to issue a protection order once on site. Law enforcement officials and judges often have preconceptions about the allegedly provocative behaviour of victims and police investigations and inquiries are often traumatic for victims.
- **Protection orders not effective:** Protection orders are often unenforceable in practice where victims of abuse and their abusers frequently share a single room dwelling and the protection order does not provide for temporary eviction from the dwelling. Between January and October 2020, 8430 protection orders for victims of violence were issued.
- **Barriers to justice:** Lack of trust in the police and the judiciary, challenging evidentiary procedures and a weak system of sanctions against perpetrators contribute to impunity in Uzbekistan. As violence against women is not prosecuted ex-officio, the burden to initiate prosecutions lies with the victim: In order to prove that violence took place, victims are required to provide not only evidence of injuries but also witnesses. However, witnesses are rarely present at the time of the abuse, and access to professional forensic medical examinations is very limited, especially in the regions.
- **Economic dependence:** Victims are often economically dependent on the aggressors, do not own their homes and are unable to support themselves and their children without assistance. The system of social support for victims of violence is poorly developed. This often leads to women not reporting the perpetrator to the police.
- Due to a **lack of specialized support services** such as shelters, crisis centre and social housing, victims of domestic violence have nowhere to go. Recently some services such as helplines for teenagers, children's centres and social rehabilitation centres are being set up. The official number of shelters for women victims of domestic violence in Uzbekistan is misleading. While the State Commission on Gender Equality reports that 197 shelters were established in the country since 2018, NGO employees reported that in reality most of these centres do not exist or do not operate

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<sup>10</sup> <https://www.iphronline.org/uzbekistan-un-wgad-kadyr-yusupov.html>

effectively. Statistics provided by the Commission for March 2021 indicated that only 154 women were accommodated in shelters although there were 782 requests. In addition, a Presidential decree of 19 May replaced the 197 shelters by 29 women's centres, which supports the allegation that the government had been grossly exaggerating the number of functioning shelters.<sup>11</sup> We are also concerned at reports from December 2020 that the hotline of the Tashkent shelter is no longer working because its only employee had not been paid in several months.

## Forced evictions and ill-treatment

In Uzbekistan, cases of forced evictions continue, with the involvement of private enterprises and investors' and often with the strong interference of the regional government structures (Khakimyats) in related court proceedings. The following example illustrates the intimidation used by powerful building companies to pressure owners to sell their flats, fair trial concerns when people try to defend themselves against forced eviction, and the injustice of inadequate compensation.

Dilorom and Shakhnoza Rozikova and their four children (aged 2, 6, 9 and 15) had been living in two apartments next to each other in a two-storey apartment building on Navoishokh Avenue in Samarkand. Their other sister, Rozikova Umida, the official owner of one of the apartments, was not involved in the long legal dispute and eviction, as she lives mainly abroad. Although not the legal owner, Dilorom was registered in the flat belonging to her sister Shakhnoza, where she lived with her 15-year-old son.

In August 2017 representatives of the company Samarkand Agro Export Servis (later renamed Silk Voyage) announced plans to demolish their house and three others nearby in order to build a multi-storey building. The project developers referred to a decision of the mayor office (Khokimiyat) – made without the approval of the homeowners, including the Rozikova sisters.

As the sisters were amongst those resisting the eviction most actively the developer filed a lawsuit against them to forcibly relocate them to another dwelling of the developer's choice. Although initially the company did not succeed: courts ruled in December 2018 and March 2019 in favour of the Rozikova sisters, the municipality appeared as a second plaintiff on the developer's side in a new claim made to the same court for the forced eviction of the Rozikovas' apartments. This time both the first and second instance courts (ruling in June and September 2019), and the Supreme Court (November 2019) and ruled to evict the sisters and their children to apartments of the developer's choice.

The trial was marked by serious procedural violations and violations of substantive law, inter alia the courts' reference to non-legal acts as the basis for its decision (mayor's decision as a basis for the eviction instead of legislative act). The court also accepted the justification of "public interest" given by the developers and the Khokimat for the demolition, although this clearly violated national law. Moreover, one court based its decision on the ruling of another court which had heard the case without the Rozikova sisters being present.

The court ordered the developer to provide alternative accommodation. But the flat provided was reportedly substandard, Dilorom had not been consulted if the flat and its location were suitable for her and her child's needs. An assessment of the market value was not carried out in accordance with the law: the court did not use a professional real estate evaluator, but an engineer.

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11 <https://www.opendemocracy.net/en/odr/uzbekistan-has-10000-ngos-what-do-they-do/>

While the Rozikova sisters and other families were still living in the building the developer began to demolish one apartment after another as soon as the owners agreed. Gradually, the building was demolished, putting psychological pressure on the residents still living there to “sell” or “agree” to the developer’s conditions. No actions were taken by the law-enforcement despite of numerous appeals.

The Rozikova sisters and their children were evicted on 21 January 2020 at just one day’s notice. When the large group of bailiffs and police officers (23 men) arrived, Dilorom Rozikova suffered a nervous breakdown and threw a burning towel towards the entrance where the officers were standing. The towel fell on the floor without touching anyone. Dilorom was arrested and placed in a pre-trial detention center where she had spent almost five months awaiting trial. Her lawyer told IPHR that Dilorom was subjected to a series of rights violations after her arrest, including ill-treatment and lack of access to a lawyer and family members. On 11 June 2021 she was sentenced to two years of restricted freedom for “resisting state authority”, and subsequently released. The sisters’ apartments, which still belonged to them, had been destroyed on the day of their eviction. On 7 January 2021, the court ordered Rozikova’s criminal sentence to be annulled and she was released on parole for good behaviour. At the time of writing, Dilorom Rozikova has not accepted the new accommodation and continues to fight for adequate compensation and against forced evictions in Uzbekistan.

# Recommendations to the authorities of Uzbekistan

## REGISTRATION CHALLENGES FOR INDEPENDENT HUMAN RIGHTS ORGANIZATIONS

- Simplify the registration procedures for independent civil society organizations, increase the transparency of the process and provide support and advice for citizens trying to register organisations.
- Remove all obstacles for groups to register that unduly restrict the right to freedom of association, including by removing the requirement to secure sources of funding for full-time employees and office rental, and reduce the registration fee as the current fee amounting to the equivalent of almost 100 USD is a high amount for small new groups, particularly when rejections require them to pay repeatedly.
- welcome a constructive, critical dialogue between civil society and the state as a key precondition for achieving meaningful improvements in the human rights situation in the country.

## HUMAN RIGHTS HOUSE:

- Swiftly register Human Rights House.

## THREATS AND SURVEILLANCE OF INDEPENDENT LAWYERS:

- Promptly, thoroughly and impartially investigate all allegations of threats and harassment and other violations of the rights of lawyers particularly **Allan Pashkovsky, Sergey Mayorov and Umidbek Davlatov**, and hold those responsible accountable.
- Ensure that lawyers are not subjected to pressure by state bodies or officials because of their work and that they can carry out their work without fear of reprisals.
- Ensure respect of the UN basic principles on the Role of Lawyers that stipulate: *“governments shall ensure that lawyers ... are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference”* (principle 16), and *“lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions”* (principle 18).

## BLOGGERS TARGETED

### Miraziz Bazarov:

- Raise concern at allegations that Bazarov has been charged with “slander/libel to punish him for his legitimate exercise of the right to freedom of expression.
- Raise concern at allegations that the investigation into the attack on Bazarov has not been conducted effectively and that police ignored Bazarov’s information about the attackers; and urge that the perpetrators are brought to justice.
- Protect Miraziz Bazarov, his mother and his girlfriend, who have received numerous anonymous threats of violence including death threats in recent weeks from non-state actors; investigate the threats and bring those reasonably suspected of being responsible to justice.

### **Otabek Sattoriy:**

- Raise concern at credible allegations that the blogger Otabek Sattoriy was sentenced to 6.5 years' imprisonment to punish him for peacefully exercising his right to freedom of expression.

## **MEMBERS OF THE POLITICAL OPPOSITION TARGETED**

### **Makhmud Davronov:**

- Comply with the recommendation of the UN HRC from May 2020 to bring regulations and practice governing the registration of political parties into full compliance with the provisions of articles 19, 22 and 25 of ICCPR
- Cease persecution and harassment of members or potential members of opposition parties, including Makhmud Davronov.

## **LGBT**

- Repeal legislation that punishes consensual sexual relations between adult men and that is used to repress individuals' freedom, personal security and privacy and persecute them for peacefully exercising their human rights, in line with concluding observations issued in *January* and *May* 2020 by the United Nations (UN) Committee against Torture and the UN Human Rights Committee.
- Conduct effective investigations into all allegations of homophobic attacks, bring to justice the perpetrators; also bring to justice those who disseminate contact details of LGBT people and calls to attack these individuals.

## **TORTURE AND OTHER FORMS OF ILL-TREATMENT**

- Establish a genuinely independent complaints and investigation mechanism to investigate allegations of torture and other ill-treatment, and ensure that complainants are protected against any form of reprisal.
- Ensure the consistent implementation in practice of the National Strategy on Human Rights of the Republic of Uzbekistan, according to which the state undertakes to ensure that representatives of state authorities who are involved in torture are brought to account.

### **Aleksander Trofimov:**

- Conduct a prompt, thorough, impartial and independent investigation into allegations that Aleksander Trofimov was tortured, publish the findings and bring anyone suspected of being responsible to justice.
- Launch an investigation to establish responsibility of officials for failing to ensure that Trofimov had access to all legal safeguards aimed at preventing torture in detention.
- Ensure that all evidence extracted under torture is excluded from the case against Trofimov.

### **Kadyr Yusupov:**

- Release Kadyr Yusupov immediately and provide him with adequate compensation.

## DRAFT CRIMINAL CODE

- Remove articles from the draft Code that are in violation with Uzbekistan's international human rights commitments, e.g.: "public insult or slander against the President of the Republic of Uzbekistan, as well as using the press or other media" (Article 205) and Article 154 criminalizing homosexuality.
- Amend draft articles 284 and 319 to ensure that they are not used to unduly limit freedoms of assembly and expression;
- Clarify in the draft Criminal Code definitions of terms and concepts such as "extremism", "prohibited organisations, information and materials", "victim of torture", "victim of slavery", "victim of corruption" and "victim of domestic violence.
- Bring Article 169 ("use of torture") in line with Article 1 of the Convention against Torture.
- Remove the statute of limitation for the crime of torture and amend the draft to the effect that perpetrators of torture are not eligible for amnesty.

## DOMESTIC VIOLENCE

- Ensure that cases of violence against women are thoroughly investigated, and that the perpetrators are brought to justice
- Publish transparent information about the number and location of shelters actively operating in the country
- Ensure that victims have access to effective means of protection and assistance, including accommodation or shelters in all parts of the country and to other support services

## FORCED EVICTIONS AND ILL-TREATMENT

- Conduct a prompt, thorough, impartial and independent investigation into all allegations of the ill-treatment of **Dilorom Rozikova** and bring the perpetrators to justice in fair proceedings.
- Ensure that evictions are only carried out as a last resort.
- Conduct genuine and transparent consultation processes with the community at risk of eviction, give them reasonable notice.
- Provide adequate alternative housing for evictees or adequate compensation, as well as adequate legal support and legal aid if necessary.
- Ensure that no one is made homeless or vulnerable to human rights abuses because of an eviction
- Ensure that special attention is given to the vulnerable groups (children, elderly, women, people with disabilities etc.)