Open Line Volunteer Group

Uzbekistan: Joint NGO submission to the Committee on the Rights of the Child

26 August 2022

Prison colony KIN-21 copyright: AHRCA and IPHR

This report was prepared by the Open Line Volunteer Group and Human Rights House in Uzbekistan and the Association for Human Rights in Central Asia (AHRCA), based in exile, with support from the International Partnership for Human Rights (IPHR).

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1. **High child mortality rates in polluted areas of Surkhandarya Region**

In some regions of Uzbekistan poor environmental conditions create high risks for human health and affect life expectancy.

The Tajikistani aluminium smelter (TAZ) contributes to ecological damage in neighbouring Sariasi, Uzun, Denau and Jarkurgan areas of the Surkhandarya region in the South of Uzbekistan. The average annual concentration of hydrogen fluoride in the atmosphere exceeds the maximum permissible concentration in Uzbekistan (hereinafter MPC). For a number of years foetal infantile losses and maternal mortality rates have been significantly higher in these places than in the rest of the region. In recent years, the rate of stillbirths is two to five times higher and neonatal mortality rates are from 1.5-3 times higher than in the rest of the region, indicating a link between pollution from aluminium smelter emissions and population's health. In addition, in the polluted areas of Surkhandarya region more miscarriages occurred (14-16 per 1000 babies carried to term compared with 9 per 1000 in the rest of the region); more abortions for medical reasons, mainly due to fetal pathology (4-8 versus 2 per 1000); more premature births (21-34 versus 15 per 1000); and more underweight babies (35-45 versus 26 per 1000 births). Pregnancy was 2-3 times more likely to be accompanied by thyroid diseases, genito-urinary diseases as well as anaemia, edema, proteinuria, hypertensive and other disorders.

The authorities have kept the average monthly levels of hydrogen fluoride, which are linked with infant mortality, secret for the last twenty years. Victims report being asked to sign non-disclosure agreements. State support for maternity and child protection in this part of the country is extremely weak.

2. **Children born to women prisoners in prison colony No. 21 (KIN-21)**

This section of the report is based on monitoring and interviews carried out by Open Line and AHRCA with 20 people including prisoners, human rights defenders, lawyers and two doctors over the summer 2022.

2.1 **Women prisoners in KIN-21**

Prison colony KIN-21 in the Zangiota district of Tashkent region holds women and girls over 14 who serve sentences for criminal offences. Some prisoners interviewed for this monitoring were over 70.\(^1\) The prison conditions are very poor and violate the standards established by Uzbekistani legislation.

The number of prisoners held in this facility varies depending on acts of amnesty. In December 2021, there were 350 women prisoners and 26 children under the age of three. By May 2022,

\(^1\)In accordance with the Criminal Code of Uzbekistan, imprisonment can last from six months to 20 years. People found guilty of premeditated murder under aggravating circumstances and for terrorism are sentenced to from 20 to 25 years imprisonment. Women and children cannot be sentenced to longer terms of imprisonment.
there were between 700 to 1000 women and 35 children. This is a significant decrease from 2001 when some 3,500 prisoners and over 70 children under three were kept in the prison, with overcrowding so severe that witnesses reported prisoners slept in turns on the floor or in tents.

2.2. Pregnant prisoners in prison colonies KIN-21 and KIN-42
According to our monitoring, there are between five to 20 pregnant women prisoners in KIN-21 every year. They serve their sentences in the same conditions as other prisoners.

Pregnant women are at risk in KIN-21. Former prisoners interviewed by Open Line and AHRCA reported that pregnant women have to carry out the same work as other prisoners and are not exempt from inspections. They find themselves forced to work before giving birth in order to be able to buy basic necessities and groceries.

Women prisoners usually give birth at Kalinin District Hospital No. 16, which is 10 kilometres away from KIN-21. Credible reports indicated that ambulances do not always arrive on time, so women are sometimes delivered by fellow prisoners. Women report that they had to give birth in unsanitary conditions and pay for the hygienic items they required.

The prison administrations of colonies KIN-2 and prison colony KIN-42 prevent pregnant prisoners from registering at the prenatal clinic of Kalinin District Hospital for the first 12 weeks of their pregnancies. Our monitoring showed that the prisons carry out ultrasound scans but do not always check the alpha-fetoprotein for foetal abnormalities nor provide other tests. This means that there is an increased risk of complications during childbirth and the postpartum period.

Women prisoners report that the reason not to inform Kalinin District Hospital of their pregnancies in the first 12 weeks is that during this period prison staff put pressure on prisoners to terminate the pregnancies and the requirement for pregnant prisoners to carry out heavy work increases the likelihood of miscarriages during this and later stages of pregnancy. Reportedly, such cases are usually covered up by prison staff.

Mothers are allowed to stay with their newborn babies for 20 days after the birth in the Mother and Child Home (MCH), which is located near the prison itself. In this building they are kept in a separate room, known as the quarantine room.

Many new mothers have problems breastfeeding and most bottle feed. A medical professional examines the newborn babies every day although this is not always a qualified paediatrician but can be a paramedic, doctors specialising in the treatment of HIV or another doctor on duty. None of the prisoners interviewed reported seeing a neonatologist visit the prison.

Women who have given birth to children in prison told Open Line that the attitude of prison colony staff is a cause of great distress. For example, mothers report that while in labour they were being told that the child does not belong to her, but to the state.

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This information does not include the number of women under investigation.

In 2017, when pardons began, the number of women prisoners was 1,200. In 2019, 1,200 people were reported.

Every day, prisoners have a roll call three times a day, the procedure lasts 40 minutes and prisoners have to stand in line regardless of weather conditions.
A mother in custody is unable to protect or influence how others treat her child. Prison staff make decisions on the food, treatment, education of the children as well as the hours the child can spend with its mother. Imprisoned new mothers are usually allowed to see their children for only an hour a day, even when the child is sick. In exceptional cases, the mother is allowed to take care of her child when it is seriously ill. Women prisoners reported that there were frequent cases of prison staff beating their children, and that they saw their children with bruises on their bodies. Many children in prisons do not speak until they are three years old. Women are usually afraid to complain because they are intimidated by threats of punitive detention and extended prison sentences, as well as telling their families compromising information about them.

**2.3. Conditions for children living in KIN-21**

Up to 30 children are born in the KIN-21 prison colony every year. After spending the first 20 days in the quarantine room of the MCH, they are transferred to other parts of the MCH. The house is equipped with air conditioning and ventilation. The children are divided into three age groups: up to 6 months; from 6 to 18 months; from 18 to 36 months. When a child is three years of age and the mother continues to serve imprisonment, the child is transferred to the custody of relatives or to a children's home.

From 2021 onwards, mothers have been allowed to stay with their newborn babies for up to 20 days, sometimes for up to 40 days. Prior to 2021, mothers were only allowed to feed their babies. If the mother cannot get excused from prison work duty, the baby is fed on formula milk by prison staff. Gauze, nappies and soap are in short supply. In violation of hygiene norms, one sponge may be used by more than one person. Clothes and nappies are reportedly only given to the babies when a monitoring delegation visits the prison colony.

The food given to the children in MCH is reportedly of poor quality. The MCH is equipped with a playroom, but prisoners reported that children are not often allowed to play there so as “not to ruin the toys”.

According to testimonies of former prisoners, medication is usually passed to children by their relatives from outside the prison, but not everyone is able to ask their relatives for help. Sometimes medication is provided by the prison administration free of charge. If medication is in short supply, it has to be requested from the Main Department of Penitentiary Execution (GUIN) which means that sometimes children have to wait several months to receive it.

From 2009 until 2015, in those cases where their relatives do not take care of them, prisoners’ children aged over three were transferred to a children’s home located in the Zangiota District of the Yangiyul City in Tashkent region, which also housed the children of people infected with HIV. Since 2015, they have been sent to children’s homes at the place of their mother’s residence, even if this is thousands of kilometres away from the prison. Many women prisoners are thus not able to see their children until they are released, and they often receive very little news about their child’s wellbeing. Worries about the safety and well-being of the children of imprisoned women are not unfounded.

AHRCA has seen the medical records of Sanzhar Kharchenko, a young boy living in a children’s home, which states that he is fit for adoption, despite the fact that his mother, Olga Kharchenko, who was in KIN-21 at that time, had not abandoned her child. Throughout 2017, Olga wrote
regularly to the home for news, but the children's home did not respond to letters of imprisoned mothers. Kharchenko appealed to the Office of the Ombudsperson for Children's Rights but got no response. The medical records also reveal that Sanzhar suffered from scabies and had been hit on the head by another child at the children's home. At the time the children's home did not inform Olga Kharchenko and the child's grandmother.

2.4. Visiting rights for children with mothers in prison
Meetings with their children who did not live in the MHC anymore, but with relatives or in children's homes are an emotional topic for the women prisoners interviewed for this study. According to them, there is very little state support for such meetings. Women prisoners have to cover all costs, and children’s homes often try to prevent such meetings. Psychologists often recommend that children do not see their mothers in order to avoid stress and emotional pain upon separation.

For these reasons, most children of women prisoners see their mothers once a year, although the law provides for four meetings per year. In addition, an imprisoned mother is allowed to have a telephone call with her child once every one and a half months but in practice this right is limited as prison staff do not always have time to organise such calls which require submitting a request for a phone call and a certificate from the accounting department for a call lasting five minutes at 1200 soums$^5$ (approx. USD 0.10) per minute as prisoners pay for the calls themselves. Each application for a phone call to a children's home must be approved by the head of the prison wing, the accounting department, the educational department, the operational department and the KIN-21 prison director. After the signature of the head of the institution, the application is transferred to the educational department, where a monthly schedule of calls is drawn up. The whole process of organising a phone call between mother and child takes one month from the date of application. From 2020, it is possible to call mobile numbers at the children's home but video calls have not yet been introduced despite the fact that computers are available.

2.5 Vaccinations in prison colony KIN-21
A child born in prison receives its first vaccination in the hospital, a polio vaccination at two months old. Mothers are not consulted as to whether or not their children are vaccinated.

3. Children of women prisoners in prison colony No. 42 (KIN-42)
Prison colony-settlement No. 42 is also located in Ishonguzar village, Zangiota District, a kilometre away from colony KIN-21. Colony No. 42 currently houses over 1500 prisoners, including over 300 women.

In colony-settlements, prisoners are obliged to work in order to provide for themselves, i.e. they are obliged to pay for their meals, even when they are sick or the woman is pregnant. The detention regime in this colony is less strict. For example, prisoners are allowed to have a mobile phone and meet more frequently with relatives.

$^5$ An imprisoned woman's salary is up to 500 000 soums (USD 46)
Currently, nine pregnant women and four children under the age of three live in the colony. Prisoners in colony No. 42 told the NGO monitors that prison staff do not allow pregnant women to see a doctor.

Prisoners held in this colony give birth in Kalinin District Hospital No. 16, and are required to pay for medicines and hygienic items themselves, the cost of which can amount to 2 million soums (USD 183).

There is limited access to medical care, even for newborns. According to Stella Aganova, a former prisoner, babies are examined by a doctor when they are already two months old and babies are not vaccinated unless the mother agrees to pay for the vaccination. Mothers are required to purchase medicines for their children, although the prison colony sometimes provides medicines that are reportedly sometimes already out of date.

Mothers are not allowed to call an ambulance for a sick child without the warden’s permission. In order to see a doctor for their child, mothers reportedly have to submit a written request to the head of the colony two days in advance, even in emergency cases. The deaths of children are reportedly not investigated. In 2019, a five-months old child reportedly died in KIN-42 because the mother’s requests for medical help were ignored.

Prisoners with children are expected to attend roll call several times a day, even if the child is asleep or sick. Women prisoners can be subjected to searches at any time, and the wardens do not always wear gloves, even when searching women who are breastfeeding. Prison staff reportedly inspect babies’ hygiene items, formula, clothes, teats and bottles with dirty hands.

Malika Sobirova, a prisoner serving a 10-year sentence for murder is currently being held in very difficult conditions. She is a mother of three children, two of whom she gave birth to while in custody. She has her four-months-old daughter with her but has reportedly not been given any material support to allow her to care for her child.

Prisoners told Open Line and AHRCA that they usually do not lodge complaints for fear of reprisals and because they do not believe that their complaints will be considered impartially.

**Recommendations:**

**Article 3. Right to the best interest of the child**

As recognised in a resolution by General Assembly⁶ “when the child’s sole or main carer may be the subject of deprivation of liberty as a result of preventive detention or sentencing decisions,

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non-custodial remand measures and sentences should be taken in appropriate cases wherever possible, the best interests of the child being given due consideration. States should take into account the best interests of the child when deciding whether to remove children born in prison and children living in prison with a parent. The removal of such children should be treated in the same way as other instances where separation is considered. Best efforts should be made to ensure that children remaining in custody with their parents benefit from adequate care and protection, while guaranteeing their own status as free individuals and access to activities in the community."

**Recommendation 1:**

In the light of the above, we recommend that Uzbekistan:

- **Ensures that the best interest of the child whose parent(s) is deprived of his/her liberty, is always taken in consideration, and that such children benefit from adequate care and protection.**

**Article 6. Right to life**

According to article 6 of the Convention every child has the inherent right to life and States Parties shall ensure to the maximum extent possible the survival and development of the child. As in some regions of Uzbekistan, environmental conditions have persisted for many years that create high risks for human health and affect life expectancy.

**Recommendation 2:**

We thus recommend that Uzbekistan:

- **Take appropriate measures to ensure a favourable environment in which every child has opportunities to survive, grow and develop to each child’s full potential. Jointly with the authorities of Tajikistan;**

- **Sets up an Tajikistan-Uzbekistan expert group to revise the recommended levels of permissible emissions from the Tajikistan aluminium smelter (TAZ) and take immediate steps to ensure that the concentration of hydrogen fluoride in parts of Surkhandarya region does not exceed the MPC, and develop and implement measures to address the environmental pollution.**

**Article 7. Right to documentation and care**

According to article 7 every child has the right to identity documentation and any “child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents”.

**Recommendation 3:**

We recommend that Uzbekistan:

- **Ensures that every child born in detention is registered and that appropriate and sufficient conditions are provided for detained parents to take care of their children.**
Article 9. **Right to direct contact with parents**

According to article 9 “States Parties shall ensure that a child shall not be separated from his or her parents against their will […] States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests”.

**Recommendation 4:**

Thus, we recommend that Uzbekistan:

- Ensures that every parent and child in detention has the opportunity to maintain family relations through regular meetings by facilitating the administrative procedures necessary to obtain permission for meetings and by providing access to modern technology which facilitates online meetings. Uzbekistan should ensure that meetings between detained parents and their children take place in an environment that is safe and conducive to a positive visiting experience.⁷

Article 19. **Right to freedom from violence**

According to Article 19 of the Convention “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”.

**Recommendation 5:**

Thus, we recommend that Uzbekistan:

- Ensures that all appropriate measures are taken to end violence against children. Uzbekistan should particularly strengthen and expand preventive measures to end violence in government institutions and should ensure that those responsible for violence and abuse are brought to justice.

Article 21. **Rights of adoption**

According to Article 21 of the Convention “States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration” and “adoption is permissible in view of the child’s status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary”.

**Recommendation 6:**

In this regard we recommend that Uzbekistan:

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⁷ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), Rule 28
Ensures in all cases of children born in detention, the full consent of their parents and legal guardians is obtained without pressure or coercion before the child is adopted outside the family.

Article 24. Right to health

Article 24 recognizes the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. It is the State’s responsibility to take appropriate measure to ensure these rights including:

“(a) To diminish infant and child mortality;
(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
(d) To ensure appropriate prenatal and postnatal health care for mothers;”

As recognised by the Committee “most mortality, morbidity and disabilities among children could be prevented if there were political commitment and sufficient allocation of resources directed towards the application of available knowledge and technologies for prevention, treatment and care.”

Recommendation 7:

Thus, we recommend that Uzbekistan:

Takes appropriate measures to diminish child mortality by ensuring that the rights to health of every child, including those born in detention, are respected from the moment of their birth until maturity through the provision of adequate pre- and post-natal healthcare for expectant mothers; the adequate and sufficient care for newborns and by ensuring good conditions for the growth of the child in respect to its physical, emotional and social well-being.

Ensures that every pregnant woman has the right to access sufficient healthcare and support during pregnancy.

Article 31. Right to leisure

The importance of play and recreation in the life of every child has long been acknowledged by the international community. The Convention explicitly states in article 31 that “States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.” As recognised by the Committee “play and recreation are essential to the health and well-being of

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8 UN Committee on the Rights of the Child (CRC), General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), 17 April 2013, CRC/C/GC/15, available at: https://www.refworld.org/docid/51ef9e134.html
children […] they contribute to all aspects of learning […] [and play a] significant role in the development of the brain\textsuperscript{9}.

**Recommendation 8:**

Thus, we recommend that Uzbekistan:

*Respects the right to leisure of children in detention by ensuring that there are adequate, sufficient and accessible conditions for play.*

**Article 37. Right to dignity**

Article 37 of the Covenant states that: “(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances”. Although this article is initially addressed to children “in conflict with the law”, such rules shall apply also to children born in detention. Moreover, as underlined in the Bangkok rules “Prison staff shall demonstrate competence, professionalism and sensitivity and shall preserve respect and dignity when searching both children in prison with their mother and children visiting prisoners”\textsuperscript{10}.

**Recommendation 9:**

Thus, we recommend that Uzbekistan:

*Ensures that the dignity of children born in detention and their mothers is respected by prison staff throughout the period of their detention.*

**Rights of mothers in detention**

Based on the Bangkok principles, notably rules 42.2, 43.2 and 48.1

** Recommendation 10:**

We recommend that Uzbekistan:

*Ensures that the prison regime is flexible enough to respond to the needs of pregnant women, nursing mothers and women with children; takes particular care to provide appropriate programmes for pregnant women, nursing mothers and women with children in prison; *

*Ensures that pregnant or breastfeeding women prisoners receive advice on their health and diet by a qualified health practitioner and adequate*

\textsuperscript{9} UN Committee on the Rights of the Child (CRC), General comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31), 17 April 2013, CRC/C/GC/17, available at: [https://www.refworld.org/docid/51ef9b9c4.html](https://www.refworld.org/docid/51ef9b9c4.html)

\textsuperscript{10} United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), Rule 21
nutritious food, a healthy environment and regular exercise opportunities free of charge;

Allows imprisoned women maternity leave upon the birth of their child;

Provides imprisoned women with free legal support.

Ensures that imprisoned mothers and their children are allowed to communicate regularly and easily, including by providing the right to free calls to the children's home or with the family where the child is temporarily living, as well as meetings with the child with the mother at least four times a year at the expense of the state budget; provides children with adequate, nutritious food; ensures that there are no restrictions on exercise and walks for an imprisoned mother with a child.

Ensures regular control over the development and education of children and imprisoned mothers, who are held in Main Directorate for the Execution of Punishments (GUIN) institutions and children's homes;

Allows regular monitoring of NGOs in women's colonies where the children of imprisoned women are held.

Contact information:

**International Partnership for Human Rights**
Brigitte Dufour Brigitte.dufour@iphronline.org
Tel: +32-28 80 03 99
Web: www.iphr.org

**Association for Human Rights in Central Asia**
Ms. Nadejda Atayeva ahrca@ahrca.org
Tel: + 33 6 49 38 86 59; Web: http://www.ahrca.org/

**Open Line Volunteer Group**
Tatiana Dovlatova tanya56asilevna@gmail.com
Tel: +998 90 958 32 64

**Human Rights House**
Klara Sakharova klara.sakharova@protonmail.com
Tel: +998 97 736 37 86