



**International covenant
on civil and political
rights**

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pHUMAN RIGHTS COMMITTEE
Ninety-second session
17 March – 4 April 2008

VIEWS

Communications Nos. 1209, 1231/2003 and 1241/2004

<u>Submitted by:</u>	Mrs. Bakhrinisso Sharifova (1209/2003), Mr. Saidali Safarov (1231/2003), Mr. Kholmurod Burkhonov (1241/2004) (not represented by counsel)
<u>Alleged victims:</u>	Messrs. Ekubdzhon Rakhmatov (Bakhrinisso Sharifova's son), Alisher and Bobonyoz Safarov and Farkhod Salimov (Saidali Safarov's sons and nephew, respectively), Shakhobiddin Mukhammadiev (Kholmurod Burkhonov's son)
<u>State party:</u>	Tajikistan
<u>Date of communications:</u>	30 April 2003 (initial submissions)
<u>Document references:</u>	Special Rapporteur's rule 97 decisions, transmitted to the State party on 28 October 2003 (1209/2003), 2 December 2003 (1231/2003) and 20 January 2004 (1241/2004), not issued in document form
<u>Date of adoption of Views:</u>	1 April 2008

* Made public by decision of the Human Rights Committee.

Subject matter: Arbitrary detention and subsequent unfair trial.

Substantive issues: Torture, cruel, inhuman or degrading treatment or punishment; arbitrary detention; right to humane treatment and respect for dignity; fair hearing; impartial tribunal; right to adequate time and facilities for the preparation of the defence; right to examine witnesses; separation of accused juveniles from adults.

Procedural issues: Non-substantiation of claims, non-exhaustion of domestic remedies.

Articles of the Covenant: 7; 9, paragraphs 1 and 2; 10; 14, paragraphs 1, 3(b),(d),(e), and(g)

Article of the Optional Protocol: 2

On 1 April 2008, the Human Rights Committee adopted the annexed text as the Committee's Views, under article 5, paragraph 4, of the Optional Protocol in respect of communications Nos. 1209/2003, 1231/2003 and 1241/2004.

[ANNEX]

ANNEX

Views of the Human Rights Committee under article 5, paragraph 4, of
the Optional Protocol to the International Covenant on Civil and Political rights

Ninety-second session

concerning

Communications Nos. 1209/2003, 1231/2003 and 1241/2004*

Submitted by: Mrs. Bakhrinisso Sharifova (1209/2003), Saidali Safarov (1231/2003), Kholmurod Burkhonov (1241/2004) (not represented by counsel)

Alleged victims: Messrs. Ekubdzhon Rakhmatov (Bakhrinisso Sharifova's son), Alisher and Bobonyoz Safarov and Farkhod Salimov (Saidali Safarov's sons and nephew, respectively), Shakhobiddin Mukhammadiev (Kholmurod Burkhonov's son)

State party: Tajikistan

Date of communications: 30 April 2003 (initial submissions)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 1 April 2008,

Having concluded its consideration of communications Nos. 1209/2003, 1231/2003 and 1241/2004, submitted to the Human Rights Committee on behalf of Messrs. Ekubdzhon Rakhmatov, Alisher Safarov, Bobonyoz Safarov, Farkhod Salimov and Shakhobiddin Mukhammadiev under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the authors of the communications, and the State party,

Adopts the following:

* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Prafullachandra Natwarlal Bhagwati, Ms. Christine Chanet, Mr. Yuji Iwasawa, Mr. Edwin Johnson, Mr. Walter Kälin, Mr. Ahmed Tawfik Khalil, Mr. Rajsoomer Lallah, Ms. Zonke Zanele Majodina, Ms. Iulia Antoanella Motoc, Mr. Michael O'Flaherty, Ms. Elisabeth Palm, Mr. Rafael Rivas Posada, Sir Nigel Rodley and Mr. Ivan Shearer.

Views under article 5, paragraph 4, of the Optional Protocol

1. The first author is Mrs. Bakhrinisso Sharifova, a Tajik national born in 1956, who submits the communication on behalf of her son, Mr. Ekubdzhon Rakhmatov, also a Tajik national born in 1985. The second author is Mr. Saidali Safarov, a Tajik national born in 1946, who submits the communication on behalf of his sons, Messrs. Alisher and Bobonyoz Safarov, both Tajik citizens born in 1978 and 1973, respectively; as well as his nephew, Mr. Farkhod Salimov, a Tajik national born in 1982. The third author is Mr. Kholmurod Burkhonov, a Tajik national born in 1942, who submits the communication on behalf of his son, Mr. Shakhobiddin Mukhammadiev, also Tajik born in 1984. At the time of submission of the communications, all five victims were serving their sentences in colony No.7 in Dushanbe, Tajikistan. The authors claim violations by Tajikistan of the alleged victims' rights under article 7; article 9, paragraphs 1 and 2; article 10; article 14, paragraphs 1, 3(b), 3(d), 3(e) and 3(g), of the International Covenant on Civil and Political Rights. Although the first and third authors do not invoke it specifically, their communications appear to raise issues under article 14, paragraph 4, in respect of Messrs Ekubdzhon Rakhmatov and Skahobiddin Mukhammadiev. The authors are unrepresented. The Optional Protocol entered into force for the State party on 4 April 1999.

The facts as presented by the authors

2.1 During the night of 5 to 6 August 2001, the house of one Mr. Isoev was burgled in Morteppa, Gissar district of Tajikistan. Six individuals were arrested (*задержаны*) in August 2001 and June 2002 on the suspicion of having committed the burglary, including the alleged victims. They were sentenced as co-defendants by the Judicial Chamber for Criminal Cases of the Supreme Court on 25 November 2002 to different prison terms.

Case of Mr. Ekubdzhon Rakhmatov

2.2 Mr. Rakhmatov was arrested by militia officers on 8 August 2001. The arrest protocol was only drawn up on 11 August 2001. On an unspecified date, he was charged with burglary committed with use of weapons, ammunition or explosives, under article 249, part 4(c) of the Criminal Code. During his pre-trial investigation he was allegedly subjected to torture for the purpose of extracting a confession. The first author claims that her son was kicked, beaten with truncheons, handcuffed and hung from the ceiling, beaten on his kidneys and tortured with electric current. For three days he was deprived of food, parcels sent by his family were not transmitted to him and relatives were denied access to him. The officers who tortured him included district militia officers, officers of the Criminal Investigation Department and an investigator of the Department of Internal Affairs, Gissar district. The names of eight officers implicated in the torture are on file. Mr. Rakhmatov was told that if he did not confess, his parents would face 'serious problems'. Subsequently, on an unspecified date, his father was charged with "hooliganism" and sentenced. The first author states that, unable to withstand the beatings and psychological pressure, her son confessed to the charges against him. On an unspecified date, her son was beaten up by Mr. Isoev in the investigator's presence and his face was scratched by one of the district militia officers. Investigators, however, subsequently claimed that Mr. Rakhmatov's face was scratched by Mr. Isoev's wife in self-defence during the burglary. This argument was subsequently used by the prosecution as a proof of positive

identification of Mr. Rakhmatov by Mr. Isoev's wife as one of the burglars during the identification parade.

2.3 According to the first author, the investigators had planned the verification of her son's confession at the crime scene in advance. Some days before the actual verification, her son was brought to the crime scene, where it was explained to him where he should stand, what to say. He was shown to individuals who later identified him during an identification parade.

2.4 The first author states that, at the time of his arrest, her son was a minor, and that, according to article 51 of the Criminal Procedure Code (CPC), the authorities were required to provide him with a lawyer from the moment of his arrest. In reality, he only was given a lawyer on 14 August 2001. Further, the first author submits that, where a minor is charged together with adults, article 141 of the CPC requires that the criminal investigation into the activities of the minor should be separated from those of the adults at pre-trial investigation stage whenever possible. This was not done in Mr. Rakhmatov's case. Contrary to article 150 of the Criminal Procedure Code, his interrogation and other investigative actions were carried out in the absence of lawyer.

2.5 The first trial of Mr. Rakhmatov by the Judicial Chamber for Criminal Cases of the Supreme Court took place from 13 March to 26 April 2002. The first author claims that her son's trial was not fair and that the court was partial. Thus:

- a) The first author's son retracted his confessions obtained under torture during the pre-trial investigation in court and claimed to be innocent. He affirmed that when the crime was committed he had an alibi that could be confirmed by numerous witnesses. The testimonies of Mr. Rakhmatov and of witnesses appearing on his behalf were ignored.
- b) Several witnesses against Mr. Rakhmatov made contradictory depositions.
- c) The prosecution exercised pressure on the witnesses and the presiding judge limited the lawyer's possibility to ask questions.
- d) The court did not objectively examine the circumstances of the crime – such as the nature of the crime committed or the existence of a causal link between the criminal acts and their consequences.
- (e) Allegedly no witness could identify the co-accused in court as participants in the crime.

2.6 In the course of the first trial, another defendant facing another charge, one Mr. Rasulov, was examined in court in the case of Mr. Isoev's house burglary. On 26 April 2002, the judge referred the latter case back to the General Prosecutor for further investigation and elimination of inconsistencies. On 15 July 2002, Mr. Rasulov wrote a letter to the Chairperson of the Supreme Court, in which he confessed to having burgled Mr. Isoev's house, expressed readiness to identify Mr. Isoev's stolen belongings and Mr. Isoev's family, and requested the Chairperson to take this information into account in the case of the other individuals who were wrongly accused of having committed this crime. Mr. Rasulov's testimony, however, was ignored as unreliable during the second trial which took place from 3 September to 25 November 2002.

2.7 From the judgment of the Judicial Chamber for Criminal Cases of the Supreme Court of 25 November 2002, it becomes clear that the Judicial Chamber examined the victims' statements to the effect that their confessions had been obtained under torture during pre-trial investigation and concluded that they were not trustworthy. The Court considered them as an attempt to avoid responsibility and punishment for the crime committed. The judgment notes that testimonies of a number of district militia officers, officers of the Criminal Investigation Department and an investigator of the Department of Internal Affairs, Gissar district, were examined in court. Specifically, the prosecutor and deputy prosecutor of the Gissar district testified that Messrs. Rakhmatov, Alisher Safarov and Salimov's parents filed a complaint with the prosecutor's office, alleging that during the pre-trial investigation their sons were forced to confess to having committed the burglary of Mr. Isoev's house under torture. These allegations were reportedly investigated by an independent expert from Dushanbe, who interrogated the alleged victims and ordered their medical examination. This revealed some bruises on Alisher Safarov's left shoulder that reportedly preceded his arrest; no other injuries on any of the alleged victims were identified. Since all victims confirmed that they had confessed guilt voluntarily, an investigation of the parents' complaint was terminated and they were sent an official reply on the matter.

2.8 On 25 November 2002, the Judicial Chamber for Criminal Cases of the Supreme Court sentenced Mr. Rakhmatov to 7 years' imprisonment. A cassation appeal to the Judicial Chamber for Criminal Cases of the Supreme Court was dismissed on 25 February 2003.

2.9 The first author notes that the investigator of the Department of Internal Affairs of the Gissar district, who was implicated in her son's torture, was later indicted for taking bribes in the context of this same case. The criminal charges against him, however, were later dropped and he was transferred to another district.

Cases of Messrs. Alisher Safarov and Bobonyoz Safarov

2.10 On 9 August 2001, Mr. Alisher Safarov was arrested at his family's home by militia officers and brought to the Department of Internal Affairs (Gissar district). The arrest protocol was only drawn up on 11 August 2001. He was subjected to the physical torture as described in paragraph 2.2 above, and also threatened with creating 'serious problems' for his parents if he did not confess to the allegations against him. These threats, however, did not materialise. Furthermore, officers of the Department of Internal Affairs, Gissar district, were aware that Mr. Alisher Safarov suffers from the night blindness since childhood, and were deliberately interrogating him at night. Unable to withstand the beatings and psychological pressure, he confessed to the charges against him.

2.11 When the case was sent back to the prosecutor for further investigation (see paragraph 2.6 above), the second author's elder son, Mr. Bobonyoz Safarov, was arrested during the night of 5 to 6 June 2002. The second author claims that the arrest took place without an arrest warrant issued by the prosecutor, and that his son was held in detention in the Department of Internal Affairs for 15 days and tortured with a view to extracting a confession, before being transferred to the Investigation Detention Centre.

2.12 The remaining facts of Messrs. Alisher and Bobonyoz Safarov's case presented by the second author are identical to those described in paragraphs 2.3, 2.5 – 2.7 and 2.14. On 25 November 2002, the Judicial Chamber for Criminal Cases of the Supreme Court sentenced them

to 10 years' imprisonment, with confiscation of property. A cassation appeal to the Judicial Chamber for Criminal Cases of the Supreme Court was dismissed on 25 February 2003.

Case of Mr. Farkhod Salimov

2.13 On 8 August 2001, Mr. Salimov was arrested at his family's home by militia officers and brought to the Department of Internal Affairs, Gissar district. The arrest protocol was only drawn up on 11 August 2001. He was subjected to physical torture as described in paragraph 2.2 above, and also threatened with creating 'serious problems' for his parents if he did not confess to the allegations against him. These threats, however, did not materialise. Unable to withstand the beatings and psychological pressure, he confessed to the charges against him. The remaining facts of the case presented by the second author are identical to those described in paragraphs 2.3, 2.5 – 2.7 and 2.14. On 25 November 2002, the Judicial Chamber for Criminal Cases of the Supreme Court sentenced Mr. Salimov to 10 years' imprisonment, with confiscation of property. A cassation appeal to the Judicial Chamber for Criminal Cases of the Supreme Court was dismissed on 25 February 2003.

Case of Mr. Shakhobiddin Mukhammadiev

2.14 On 7 August 2001, Mr. Mukhammadiev, a relative of Mr. Isoev and a minor at that time, was arrested at his grandfather's home by the district militia officer accompanied by Mr. Isoev. The arrest protocol was only drawn up on 11 August 2001. He was subjected to torture as described in paragraph 2.2 above and, unable to withstand the beatings and psychological pressure, he confessed to the charges against him. His confession and testimonies were drawn up on his behalf by militia officers and by the investigator of the Department of Internal Affairs, Gissar district, and only shown to Mr. Mukhammadiev for him to sign. On a few occasions, he was forced to sign blank pages of paper that were later filled in by the investigator. On 17 August 2001, while being interrogated by the prosecutor and deputy prosecutor of the Gissar district at pre-trial investigation, he stated that he had not committed the crime in question and that his confession was obtained under duress. This statement was ignored by the prosecutor and deputy prosecutor, and no forensic medical examination was carried out. Moreover, the same day, Mr. Mukhammadiev was allegedly pressured by the investigator to withhold the statement he had given to the prosecutor. On 18 August 2001, unable to withstand the pressure, he withdrew the statement. The rest of the facts of Mr. Mukhammadiev's case presented by the third author are identical to those described in paragraphs 2.3 – 2.7 above. On 25 November 2002, the Judicial Chamber for Criminal Cases of the Supreme Court sentenced Mr. Mukhammadiev to 7 years' imprisonment. A cassation appeal to the Judicial Chamber for Criminal Cases of the Supreme Court was dismissed on 25 February 2003.

The complaint

3.1 All authors claim that in violation of articles 7 and 14, paragraph 3(g), the alleged victims were beaten, tortured, and put under psychological pressure and thus forced to confess guilt.

3.2 The alleged victims' rights under article 9, paragraphs 1 and 2, were reportedly violated, because they were arrested unlawfully and were not charged for long periods of time after their arrest.

3.3 They claim that in violation of article 10, conditions of detention during the early stages of the alleged victims' confinement were inadequate. In order to exercise psychological pressure on the alleged victims, the latter were threatened that their parents would be tortured. For three days, they were deprived of food, parcels sent by their families were not transmitted to them and relatives were denied access to them. The food received during the later stages of detention was monotonous and inadequate.

3.4 The authors claim that the alleged victims' rights under article 14, paragraph 1, were violated because the trial court was partial. Article 14, paragraph 3(e), was violated as the testimonies of the witnesses on their behalf were rejected under the simple pretext that they were false.

3.5 They also claim that the alleged victims' rights under article 14, paragraphs 3(b) and (d), were violated without specifying, however, what exact actions or omissions by the State party's authorities they considered to have been in contravention of these Covenant provisions.

3.6 Although the first and third authors do not invoke it specifically, their communications appear to raise issues under article 14, paragraph 4, in respect of Messrs Ekubdzhon Rakhmatov and Skahobiddin Mukhammadiev.

State party's failure to cooperate

4. By Notes Verbales of 28 October 2003 (Rakhmatov), 2 December 2003 (Safarovs, Salimov), 20 January 2004 (Mukhammadiev), 18 November 2005 (Rakhmatov), 21 November 2005 (Safarovs, Salimov, Mukhammadiev) and 7 September 2006 (Rakhmatov, Safarovs, Salimov, Mukhammadiev), the State party was requested to submit to the Committee information on the admissibility and merits of the communications. The Committee notes that this information has not been received. The Committee regrets the State party's failure to provide any information with regard to admissibility or the substance of the authors' claims. It recalls that under the Optional Protocol, the State party concerned is required to submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that it may have taken. In the absence of a reply from the State party, due weight must be given to the authors' allegations, to the extent that these have been properly substantiated.¹

Issues and proceedings before the Committee

Consideration of admissibility

5.1 Before considering any claim contained in the communications, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not the communications are admissible under the Optional Protocol to the Covenant.

5.2 The Committee notes that the same matter is not being examined under any other international procedure, in line with the requirements of article 5, paragraph 2(a), of the Optional Protocol.

¹ See, e.g., Communication No. 1208/2003, Kurbonov v. Tajikistan, views adopted on 16 March 2006, paragraph 4.

5.3 The second author claims that in violation of article 7; article 10; and article 14, paragraph 3(g), his elder son, Mr. Bobonyoz Safarov, was beaten, tortured, put under psychological pressure in order to obtain a confession, as well as detained in inadequate conditions. The second author, however, has not provided any details or supporting documents in substantiation of these claims. It remains unclear whether these allegations were ever raised in court in relation to this particular victim. In the circumstances, the Committee considers that this part of the communication is unsubstantiated, for purposes of admissibility, and is therefore inadmissible under article 2 of the Optional Protocol.

5.4 The authors claim that the alleged victims' rights under article 9, paragraphs 1 and 2, were violated, as they were arrested unlawfully and detained for long periods of time without being charged. The Committee notes, however, that the material before it does not allow it to establish the exact circumstances of their arrest, or the exact dates on which they were charged. It also remains unclear whether these allegations were ever raised before the domestic courts. In these circumstances, the Committee considers that this part of the communications is unsubstantiated, for purposes of admissibility, and therefore inadmissible under article 2 of the Optional Protocol.

5.5 The authors further claim that the alleged victims' rights under article 14, paragraph 3(b) and (d), were violated. The State party has not commented on these allegations. The Committee notes, however, that the second author has failed to provide any detailed information or documents in support of this claim in relation to Messrs. Alisher Safarov, Bobonyoz Safarov and Salimov, and that it also remains unclear whether the allegations in question were ever drawn to the attention of the State party's courts in relation to Messrs. Rakhmatov and Mukhammadiev. In these circumstances, the Committee considers that this part of the communication is unsubstantiated, for purposes of admissibility, and is therefore inadmissible under article 2 of the Optional Protocol.

5.6 The authors also claim that contrary to article 14, paragraph 3(e), the court heard the testimonies of witnesses on the alleged victims' behalf and then simply ignored them. The State party has not commented on this claim. The Committee notes however, that the material available to it does not permit to conclude that the court indeed failed to evaluate the testimonies in question or to assess them. In the circumstances, and in the absence of any other pertinent information in this regard, the Committee considers this part of the communication inadmissible as unsubstantiated under article 2 of the Optional Protocol.

5.7 The Committee considers that the remaining part of the authors' allegations, raising issues under article 7; article 14, paragraph 3(g); article 10; and article 14, paragraph 1, in relation to Messrs Ekubdzhon Rakhmatov, Alisher Safarov, Farkhod Salimov and Shakhobiddin Mukhammadiev, the second author's allegations raising issues under article 14, paragraph 1, in relation to Mr. Bobonyoz Safarov, as well as the first and third authors' allegations raising issues under article 14, paragraph 4 (in relation to Messrs Ekubdzhon Rakhmatov and Skahobiddin Mukhammadiev) have been sufficiently substantiated, for purposes of admissibility, and declares them admissible.

Consideration of the merits

6.1 The Human Rights Committee has considered the communications in the light of all the information made available to it by the parties, as provided for under article 5, paragraph 1, of the Optional Protocol.

6.2 The authors claim that the alleged victims were beaten and tortured by district militia officers, officers of the Criminal Investigation Department and an investigator of the Department of Internal Affairs, Gissar district, to make them confess their guilt, contrary to article 7 and article 14, paragraph 3(g), of the Covenant. In the absence of any explanation from the State party, due weight must be given to the authors' allegations. The Committee recalls that once a complaint about ill-treatment contrary to article 7 has been filed, a State party must investigate it promptly and impartially.² In this respect, the Committee notes the authors' detailed description of the treatment to which their relatives were subjected (paragraphs 2.2, 2.8, and 2.12 above), except in relation to one alleged victim, Mr. Bobonyoz Safarov (paragraphs 2.11 and 5.3 above). They have also identified the alleged perpetrators of these acts. The material before the Committee also reveals that the allegations of torture were brought to the attention of the Prosecutor's Office of the Gissar district and that they were raised in court. The Committee considers that in these circumstances, the State party has failed to demonstrate that its authorities adequately addressed the torture allegations advanced by the authors.

6.3 Furthermore, on the claim of a violation of the alleged victims' rights under article 14, paragraph 3 (g), in that they were forced to sign a confession, the Committee must consider the principles that underlie this guarantee. It recalls its previous jurisprudence that the wording, in article 14, paragraph 3(g), that no one shall "be compelled to testify against himself or confess guilt", must be understood in terms of the absence of any direct or indirect physical or psychological coercion by the investigating authorities on the accused with a view to obtaining a confession of guilt.³ The Committee recalls that in cases of forced confessions, the burden is on the State to prove that statements made by the accused have been given of their own free will⁴. In the circumstances, the Committee concludes that the facts before it disclose a violation of article 7, read together with article 14, paragraph 3 (g), of the Covenant (except in relation to Mr. Bobonyoz Safarov).

6.4 The authors claim that the conditions of detention during the early stages of the alleged victims' confinement were inadequate. They point out that, in order to exercise psychological pressure on the victims, the latter were threatened that their parents would be harmed, should they do not confess guilt. In addition, they were deprived of food for three days and parcels sent by their families were not transmitted to them and relatives were denied access to them. Finally, the food provided to the victims during the later stages of detention was monotonous and

² See, e.g., Communication No. 781/1997, *Aliev v. Ukraine*, views adopted on 7 August 2003, paragraph 7.2.

³ Communication No. 330/1988, *Berry v. Jamaica*, views adopted on 4 July 1994, paragraph 11.7, Communication No. 1033/2001, *Singarasa v. Sri Lanka*, views adopted on 21 July 2004, paragraph 7.4, and Communication No. 912/2000, *Deollall v. Guyana*, views adopted on 1 November 2004, paragraph 5.1.

⁴ See General Comment No. 32, paragraph 49, CCPR/C/GC/32, 23 August 2007.

inadequate. The State party has not commented on these allegations, and in the circumstances, due weight must be given to the authors' allegations. The Committee, therefore, concludes that the facts before it amount to a violation by the State party of the alleged victims' rights under article 10 of the Covenant (except in relation to Mr. Bobonyoz Safarov).

6.5 The authors claim a violation of article 14, paragraph 1, as the trial did not meet the requirements of fairness and that the court was biased (see paragraphs 2.5-2.7, and 2.12-2.14 above). The Committee observes that these allegations relate primarily to the evaluation of facts and evidence by the court. It recalls that it is generally for the courts of States parties to evaluate facts and evidence in a particular case, unless it can be ascertained that the evaluation was clearly arbitrary or amounted to a denial of justice.⁵ It further notes, however, that in the present case, the State party has not presented any information to refute the authors' allegations and to demonstrate that the alleged victims' trial did in fact not suffer from any such defects. Accordingly, the Committee concludes that in the circumstances of the present case, the facts as submitted amount to a violation by the State party of the alleged victims' rights under article 14, paragraph 1, of the Covenant.

6.6 The first and third authors have also claimed, in relation to their respective sons Messrs. Ekubdzhon Rakhmatov and Skahobiddin Mukhammadiev, that at the time of arrest, both alleged victims were minors, but did not benefit from the special guarantees prescribed for criminal investigation of juveniles; the State party has not commented on these allegations. These allegations raise issues under article 14, paragraph 4, of the Covenant. The Committee recalls⁶ that juveniles are to enjoy at least the same guarantees and protection as those accorded to adults under article 14 of the Covenant. In addition, juveniles need special protection in criminal proceedings. They should, in particular, be informed directly of the charges against them and, if appropriate, through their parents or legal guardians, be provided with appropriate assistance in the preparation and presentation of their defence. In the present case, Messrs Ekubdzhon Rakhmatov and Skahobiddin Mukhammadiev were arrested without access to a defence lawyer. In the circumstances, and in the absence of any other pertinent information, the Committee concludes that Messrs Ekubdzhon Rakhmatov's and Skakhobiddin Mukhammadiev's rights under article 14, paragraph 4, of the Covenant have been violated.

7. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it disclose a violation of the rights of Messrs Ekubdzhon Rakhmatov, Alisher Safarov, Farkhod Salimov and Shakhobiddin Mukhammadiev under article 7, read together with article 14, paragraph 3(g); article 10; and article 14, paragraph 1; a violation of the rights of Mr. Bobonyoz Safarov under article 14, paragraph 1 only; and a violation the rights of Messrs Ekubdzhon Rakhmatov's and Skakhobiddin Mukhammadiev under article 14, paragraph 4, of the Covenant.

⁵ See, *inter alia*, Communication No. 541/1993, Errol Simms v. Jamaica, inadmissibility decision adopted on 3 April 1995, paragraph 6.2.

⁶ See the Committee's General Comment No. 32 (article 14 ICCPR), paragraphs 42 and al., CCPR/C/GC/32, 23 August 2007

8. In accordance with article 2, paragraph 3(a), of the Covenant, the State party is under an obligation to provide Messrs Ekubdzhon Rakhmatov, Alisher and Bobonyoz Safarov, Farkhod Salimov and Shakhobiddin Mukhammadiev with an effective remedy, to include such forms of reparation as early release and compensation. The State party is also under an obligation to prevent similar violations in the future.

9. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]
