



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

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**List of issues to be considered during the examination of the
third periodic report of UZBEKISTAN (CAT/C/UZB/3)**

Article 1

1. It is stated in the State party report that Article 235 of the Criminal Code as amended prohibits torture by “an individual conducting an initial inquiry, an investigator, a procurator or other employee of a law enforcement authority or penal institution” and that it “shall be punishable by punitive deduction of earnings for up to three years or up to three years of deprivation of liberty”. Article 1 of the Convention states that the prohibited acts are those “inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” The Committee understands that the Supreme Court Decree of December 2003 is a secondary source of law reportedly not applied in practice:

a) In light of this, please provide information on what the State party is doing to ensure the Criminal Code is applied in practice to acts carried out by quasi-official agencies other than those of the law enforcement authorities, such as trainees, or individuals or groups of persons acting with the consent or acquiescence of prison authorities. Please clarify how persons cited in complaints alleging such abuses are prosecuted, and provide examples;

b) The new version of Art. 235 of the Criminal Code reportedly clarifies that acts of torture by officials would be punishable by up to three years’ punitive deprivation of earnings or deprivation of liberty, with greater punishments for the same conduct carried out with violence such as to imperil life or health, or against a pregnant woman or minor. Does the State party consider that this punishment is in fact commensurate with the offence of torture? Please cite any cases of investigation and prosecution of persons found guilty of torture in accordance with this new definition.

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2. Instruction No. 334 of 18 December 2003 of the Internal Affairs Ministry makes the study of this newly-revised article mandatory and sets up a special procedure for recording and verifying complaints from citizens alleging violations of the law. Please describe the kinds of complaints that have been made and the responses that have ensued? Has any report been issued on the results of compliance with Instruction No. 334? A number of media articles are cited in annex 2 of the State party report about the existence of the new law and instructions. Please provide a summary of how it has in fact been carried out.

Article 2

3. According to the State party's report and annexes, following the visit of the Special Rapporteur on the question of torture, the Government of Uzbekistan created a national programme of action to follow up on his recommendations, and the Cabinet of Ministers created an interdepartmental working group headed by the Ministry of Justice to monitor observance of human rights by law enforcement agencies. According to the State party, the Government intended to conduct a broad campaign against torture in 2003; it discussed compliance in various official meetings in 2004, and the possibility of closer procuratorial supervision during detention and prosecution. An extraordinary session of the Ministry of Internal Affairs took place; the Supreme Court adopted Decision No. 17 in December 2003, guaranteeing the right to defence of suspects and accused persons; and in December 2004 the Supreme Court acted to make evidence obtained during torture inadmissible. Please clarify what actions have been taken to move beyond discussion of the Government's plans and intentions for actual implementation of the new decisions interpreting the law. Have any cases been refused by judges for review, or overturned on appeal, due to the inadmissibility of evidence? What does closer procuratorial supervision mean?

4. Please also inform the Committee on steps taken to implement the introduction of the right to habeas corpus as of 1 January 2008.

5. Please indicate what preventive legislative measures have been adopted in law and implemented in practice to guarantee:

- a) The right of an arrested person to contact at his/her request a doctor of his/her choice;
- b) The right of an arrested person to contact members of his/her family and inform them of his/her situation and whereabouts. Please indicate instances where this has been found not to take place and what has been done to remedy it;
- c) The right for all arrested persons to be informed of their rights from the moment they are taken into custody;
- d) Access to lawyers. According to information made available to the Committee, six months had passed before the lawyer of imprisoned human rights defender Mutabar Tojibaeva was able to secure access to her client, while the lawyer of Sanjar Umarov has allegedly been denied access to his client since he was transferred from a pre-trial detention facility to prison in spring 2006. Please specify what, in practice, are the rights of an arrested person to contact a lawyer of his/her choice at all stages of an investigation, including pre-trial detention. Please provide information on complaints alleging interference with this right.

6. According to the State party, the Central Investigation Department and the Uzbek Bar Association have drafted rules to bring lawyers into the preliminary inquiries process at an earlier stage. What is the status of these recommendations now? To what extent have they been implemented and in particular how is the recommendation on the provision of counsel not more than 24 hours after detention being implemented? What happens in the period before 24 hours have elapsed? Have the training, professional improvement, refresher courses, etc. outlined in the report of the State party led to an improvement in the rights of detainees? Doctors have also been trained to recognize the signs of torture, but have any doctors been able to submit reports on this to the authorities in charge of investigating such incidents?

7. The State party report indicates (paragraphs 35 and 37 respectively) the role and functions of the new department for the protection of human rights established in the Ministry of Justice and that of the Central Commission on Respect for Human Rights under the Ministry of Internal Affairs:

a) Please describe how the Interdepartmental Working Group of the Government of Uzbekistan (that was created pursuant to a decree of the Cabinet of Ministers on 24 February 2004) participated in the preparation of the report of the State party and explain what measures, if any, it is taking to monitor law enforcement agencies regularly, including information on any reports it has issued, and the status of any recommendations it has made.

b) Please indicate whether the above-mentioned bodies are authorised to accept and investigate individual communications on torture from alleged victims of torture, their lawyers, relatives and concerned non-governmental organizations (NGOs).

8. According to the State party report and annexes, the Internal Affairs Ministry constantly monitors how the right to appeal under Art. 241 of the Code of Criminal Procedure is being implemented and how prosecutors have met to discuss the findings of the monitoring. Please provide a summary of these findings and what decisions were made by the Office of the Prosecutor General and the Coordinating Council of Law Enforcement Authorities which, according to annex 2, “passed decisions” based on these issues?

9. The State party’s report and annex 2 note the recommendation of the Special Rapporteur on the question of torture to transfer the right to issue detention and arrest warrants to the courts, as well as the proposals presented by President Karimov at the joint parliamentary meeting on 28 January 2005 for further harmonization of Uzbek legislation with international standards. Have bills been drafted or laws passed in this regard?

10. Please indicate whether the State party’s legislation specifically provides that no exceptional circumstances whatsoever may be invoked as a justification for torture? Is there an explicit legal provision which clearly stipulates that an order from a superior officer or a public authority may not be invoked as a justification for torture? If so, please provide examples of its application by the Uzbek courts.

Article 3

11. The Committee has received allegations that at least four refugees and one asylum seeker who were initially *refouled* following abductions in August 2006 from Osh, Kyrgyzstan, have been investigated and some sent to court. Fear for the safety of these individuals was expressed publicly, after which two of them were believed to have been held in police custody in Andijan, Uzbekistan. Can the State party please inform the Committee of the outcome of these investigations. In particular has access to the individuals held in custody been allowed, as requested by the Secretary-General?

12. Please provide information to the Committee as to what mechanisms exist to ensure compliance with article 3. Who is the responsible authority for coordinating compliance? Are individuals able to challenge being returned if they believe they face a risk of torture? Please provide examples, if any. Please also comment on the current status of the State party's relations and cooperation with the United Nations High Commissioner for Refugees (UNHCR).

13. Please provide the Committee with information on the whereabouts and treatment of the individuals believed to have been returned to Uzbekistan from neighbouring countries following extradition requests (see also questions under articles 7, 8 and 9). Please clarify what measures, if any, exist to monitor the status of such persons, and for them to lodge complaints, as appropriate; please also clarify the offences for which the returned persons have been sent back to Uzbekistan.

Article 4

14. The Committee has received information that as recently as the summer of 2006 psychiatric methods (including the forcible administration of psychotropic drugs) were used to silence and punish human rights activist Mutabar Tojibaeva and other human rights defenders. Please specify whether amended article 235 prohibits such forced administration of drugs as a possible form of torture, inhuman or degrading treatment or punishment. Have the allegations been investigated and if so, with what result? Please clarify the consent procedure for persons sent for psychiatric care, and the right to challenge such committal. Please provide information on the number of such committals and how many have been challenged and with what result.

15. The State party's report provides different statistics on convictions under articles 235 and 234 of the Criminal Code. Please provide updated statistics regarding complaints of torture in Uzbekistan and provide full details of related convictions, specifically what rank and position the convicted persons held, for what actions they were convicted, including the duration of sentences passed or disciplinary measures imposed, and under what article of the Criminal Code they were convicted. Please also indicate how many public officials were suspended from duty or removed from their posts pending trial. Please also provide information on steps taken to address the causes of such conduct.

16. Please provide information on the existing internal disciplinary processes within the law enforcement agencies including how these are enforced. Are officers under investigation suspended from duty, including being barred from promotion or removed from their posts? Please describe how

inquiries are conducted and their average length, and information on the final dissemination of the outcomes. Are these made public?

17. The State party report indicates (paragraph 57) the existence of a discussion in the first half of 2004 regarding compliance with the plan of action drawn up by the Procurator-General (referred to in annex 1 of the State party's report as the Programme of Action to Comply with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). Please provide details of the outcome of the discussion. Has there been an assessment of the implementation of this plan, in particular with regard to the prohibition against torture?

Article 5

18. Please elaborate on whether acts of torture are considered universal crimes under national law.

Article 6

19. Please provide information on existing legal provisions prohibiting confessions being extracted under duress. If these exist, how are they guaranteed in practice?

Articles 7, 8 and 9

20. Please elaborate on whether the Ministry of Foreign Affairs has added torture to the list of extraditable offences in model extradition treaties.

21. The State party report (paragraph 49) states that 697 individuals were extradited to Uzbekistan from the Russian Federation, Kazakhstan, Kyrgyzstan, Ukraine, Tajikistan, Belarus, Turkmenistan, Azerbaijan, Armenia and Lithuania and "brought to justice" between 2000 and 2004. Please provide information as to how many of these persons were refugees or asylum seekers and how many were prosecuted and convicted and for what offences.

Article 10

22. With respect to human rights training activities organized in 2002 and 2003, please provide information on the number of staff that participated in each activity, disaggregated by level, function and Ministry. How are the trainees from the 2002 and 2003 training courses provided to the staff of penitentiary institutions, members of the penal correction system and employees of the Ministry of Internal Affairs, being monitored? Please provide information on the training of forensic doctors, medical personnel and others dealing with persons in detention. Please describe the extent to which training courses include information on identification of the sequelae of torture and the requirement to report and investigate such evidence. Please outline any gender-sensitive training, particularly with regard to forms of gender-related violence.

23. Please provide information regarding the outcome of the discussion at the Central Investigation Department of the option of including an examination on international human rights standards for staff wishing to be recertified, appointed to new positions, or promoted.

24. In annex 2, in response to point 5.2, the State party cites a public opinion study conducted among convicts and ex-prisoners by the Ijtimoi Fikr Centre about the use of torture and similar cruel treatment. Please provide the results of this survey.

Article 11

25. Please provide information on any measures taken to improve conditions in prisons, in accordance with recommendation 6 (g) of the Committee Against Torture (CAT) of 2002. Regarding general conditions of detention, please update the Committee on what the State party has done to implement key recommendations by the Special Rapporteur on the question of torture, in particular the recommendation to consider closing Zhaslyk penal colony.

26. According to the State party report (paragraphs 106 and 112 and annex 2, response to points 8.1 and 8.3), the Central Penal Correction Department staff have been tasked with regular on-site prison inspections of Ministry facilities and other organizations, including the office of the Parliamentary Commissioner for Human Rights (Ombudsman), the International Committee of the Red Cross (ICRC), the Organization for Security and Co-operation in Europe (OSCE) and the non-governmental organization (NGO) Freedom House, inspected a number of prisons in 2003 and 2004. The Ministry of Justice has issued instructions for visits by international representatives of NGOs and diplomats. Please provide details of the current process for inspections of detention facilities, in particular for the periods 2005-2007, including:

- a) What kinds of detention facilities are open for inspection by which government bodies or organizations;
- b) Whether such inspections require the agreement of any other State body or prior notification of any kind;
- c) Whether the inspecting authority has the possibility of conducting private interviews with detainees;
- d) Whether the findings of the visits are made public and if so when and where;
- e) What specific measures have been taken as follow-up to the findings of each respective visit;
- f) Please also indicate whether any NGO or body external to the Government has access to all detention facilities with a view to monitoring conditions of detention.
- g) Were the ICRC, OSCE and others able to continue their visits after April 2005?

27. Please describe what the State party is doing to ensure that detention conditions for juveniles are appropriate. What are the complaints mechanisms for children in institutions? Please specify the number and condition of children in the juvenile justice system and how the State party responds to

allegations of ill-treatment of children who are not separated from adults in pre-trial detention and in police custody.

28. Please elaborate on the measures taken, if any, to prevent possible torture or ill-treatment of women in places of detention. Does the State party monitor sexual violence in places of detention and if so with what result? Please provide statistical data on the number of complaints received and investigated and the measures taken to discipline and/or prosecute and convict offenders. Also please inform the Committee of measures to protect complainants from reprisal.

29. EU representatives twice visited penal colony UY-64/71 (Zhaslyk) in 2003 and reporters also visited it. In July 2004, a national commission of justice, interior, and human rights officials carried out a study of the conditions in this facility. The U.S. Embassy and Freedom House also visited in 2004. What were the findings from these visits and the study and what measures have been taken to improve the conditions in Zhaslyk?

Article 12

30. Please clarify the results in practice of the redrafted Human Rights Commissioner of the Oliy Majlis (Ombudsman) Act (paragraph 181 of the State party's report). Noting that amongst the provisions of the revised act is the right of the Ombudsman to undertake independent investigations into incidents of torture and other abuses, it appears that the holder of this post is also required to consider citizens' complaints. Has the Ombudsman conducted inspections and if so, what were his findings? Has he reported on his findings based on citizens' complaints and his inspections, or advocated implementation of his recommendations vis à vis other law enforcement agencies? Has any other body apart from the procuracy been set up to investigate allegations of torture and ill-treatment promptly and independently, and which is capable of prosecuting perpetrators, as recommended by CAT?

31. Please elaborate on the use to date of the procedure for independent investigations into deaths in custody, as outlined in paragraph 183, and please provide specific examples.

Article 13

32. According to the State party report, the Central Investigations Department and the Uzbek Bar Association have drawn up regulations to implement a procedure to uphold the rights of detainees accused persons. Please provide information on how these regulations have been implemented. What have prosecutors been mandated to ask suspects and convicts about their treatment and how are they reporting on this work under article 253 of the Code of Criminal Procedure? Please clarify if the prosecutor's office itself monitors their work, without external oversight, and if so, please explain how effective this approach is.

33. Please clarify the status of the plans for a mechanism described in paragraph 180 of the report to create a central register to respond to complaints of torture or other unlawful action, and

the plan noted in annex 1 to assess it periodically. Has the register been established and the assessment plan implemented? Please clarify what cases have been initiated as a result of this and with what outcome.

34. In light of the allegations received by the Committee that witnesses have been beaten into agreeing with the official Government account of the events in Andijan and concerns about torture in relation to the trials, how is the State party ensuring that all such claims are promptly and effectively investigated?

Article 14

35. Please provide information on the number of torture victims who have received compensation for torture and the levels of compensation provided. Please also provide information on those persons convicted of torture, the sentences received, the articles of the criminal code under which they are charged, and whether such persons once they have completed their sentences have returned to law enforcement posts. Please provide information on any measures taken to provide rehabilitation to victims of torture with physical or psychiatric conditions.

36. According to the State party, in 2003, in an effort to improve compensation for torture victims, 850 million SUM and US \$450,000 were paid in compensation. What kinds of cases were involved? Please also provide figures for the period 2003-2006.

Article 15

37. Please indicate what specific measures have been taken to ensure in practice the absolute respect for the principle of inadmissibility of evidence obtained by torture, and the review of cases of convictions achieved solely on confessions. Please provide examples of any cases that have been dismissed due to the introduction of such evidence or testimony, or as a result of such review. In which cases, if any, have the 24 September 2004 decisions of the Supreme Court been specifically implemented (paragraph 168 of the report) and where have criminal proceedings been brought against those responsible (paragraph 169 of the report)? Please provide details.

Article 16

38. Please provide information on reports that the State party routinely refuses to provide information on the details of executions to the relatives of persons who have been executed, or to promptly issue a death certificate and/or to reveal the place of burial when prisoners are executed. What is the latest development on proposals to declassify the secrecy of the date of execution and place of burial of those executed? For what crimes has the death penalty been imposed? Please provide precise numbers of those executed between 2000 and 2004, since the State party report and annex 2 merely indicate that the number "has fallen" by nearly 90 percent during that period. Please also provide the numbers of persons executed in each year since 2004.

Other

39. Please indicate whether the State party plans to ratify the Optional Protocol to the Convention against Torture.

40. Please indicate why the State party's working group for the preparation of the third periodic report does not appear to include independent non-governmental human rights organisations. In view of reports that numerous international NGOs were closed down by the authorities in 2006, and that at least a dozen human rights defenders have been convicted, allegedly on politically motivated charges, please clarify why the State party decided not to involve them in the Working Group.

41. Please inform the Committee of any legislative, administrative and other measures the Government has taken to respond to the threat of terrorism, and please indicate if, and how, these measures have affected human rights safeguards in law and practice.
