



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

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COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Third periodic reports of States parties due in 2004

Addendum

UZBEKISTAN* ** ***

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[1 July 2005]

* For the initial report of Uzbekistan, see CAT/C/32/Add.3; for its consideration, see CAT/C/SR.405, 408 and 409 and *Official Records of the General Assembly, fifty-fifth session, Supplement No. 45 (A/55/44)*, paras. 76-81.

For the second periodic report, see CAT/C/53/Add.1; for its consideration, see CAT/C/SR.506, 509 and 518 and *Official Record CAT/C/CR/28/7*.

** Annexes to the present report are available with Secretariat.

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2. Ministry of Justice
3. Ministry of Foreign Affairs
4. Supreme Court
5. Office of the Procurator-General
6. National Security Service
7. Central Investigation Department, Ministry of Internal Affairs
8. Central Penal Correction Department, Ministry of Internal Affairs
9. Centre for the Further Training of Legal Specialists, Ministry of Justice
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1. Association of Judges of the Republic of Uzbekistan
2. Bar Association of the Republic of Uzbekistan
3. Ijtimoiy Fikr Centre for the Study of Public Opinion

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Introduction

1. This report is submitted under article 19, paragraph 1, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter the Convention) and was drafted in accordance with the general guidelines concerning the form and contents of periodic reports to be submitted by States parties under article 19, paragraph 1, of the Convention.
2. Uzbekistan has been a party to the Convention since 31 August 1995.
3. The Committee against Torture considered the initial report of Uzbekistan in 1999 (CAT/C/32/Add.3).
4. The Committee discussed the second periodic report of Uzbekistan on its implementation of the basic provisions of the Convention in May 2002 (CAT/C/53/Add.1).
5. This third periodic report describes the salient points of efforts made in Uzbekistan over the last two years or so to comply with the basic provisions of the Convention and the recommendations of the Committee against Torture (CAT/C/CR/28/7, 8 May 2002).
6. Chronologically, it covers the period 2002-2004.
7. As distinct from the first few years after independence, the opening of the twenty-first century in Uzbekistan has been marked by turbulent developments in domestic politics and moves to bring legislation into line with international legal norms and generally accepted standards, not least where human rights and liberties are concerned.
8. The liberalization of the judicial system began in August 2001 at the sixth session of the Oliy Majlis, where President Karimov, exercising his constitutional right to initiate legislation, submitted for consideration by the Oliy Majlis a bill to amend the Criminal Code, the Code of Criminal Procedure and the Administrative Liability Code in connection with the easing of criminal penalties.
9. The democratic changes that have taken place since then have brought with them fundamental alterations to the judicial system: independent courts and new types of legal proceedings and rules governing them that are in keeping with the spirit and requirements of the times. Much has been accomplished. The changes made to the law governing criminal procedure are designed to reduce the amount of time spent in custody, i.e. to reduce the number and duration of the occasions when citizens come into contact with the law-enforcement system.
10. One milestone has been the establishment in law of a maximum duration for pretrial investigations; this is an important safeguard of the civic right to protection against interminably protracted investigations and red tape.
11. In November 2002, the Special Rapporteur on the question of torture of the United Nations Commission on Human Rights, Mr. Theo van Boven, visited Uzbekistan at the invitation of the Government.

12. During his visit, the Special Rapporteur held a series of meetings with high-ranking government officials, representatives of civil society, international organizations and foreign embassies. Mr. van Boven also visited places of detention.

13. In February 2003, Mr. van Boven presented to the Government of Uzbekistan a draft report in which he summed up the results of his visit, making it available to the leaders of Uzbekistan for consideration so that their views of the draft could be reflected.

14. After a careful study of the report, the Government commented on points that it did not agree with. However, not all of its comments were taken into account and, in April 2003, the report of the Special Rapporteur on the question of torture (E/CN.4/2003/68/Add.2) was officially released, including on the Internet.¹

15. Mr. Latif Huseynov, the independent expert of the United Nations Commission on Human Rights on the situation of human rights in Uzbekistan, was in Uzbekistan from 23 to 31 October 2004 in accordance with a decision taken by the Commission at its sixtieth session. During his visit, he had a number of official meetings with heads of ministries and government departments, visited places of custody and detention, and met representatives of various international, non-governmental human rights organizations and individual Uzbek citizens. His recommendations have been taken into account by the Government of Uzbekistan.

16. The current reform and liberalization of the system of criminal, criminal-procedural and administrative penalties in Uzbekistan, and the need to deal with the shortcomings to which the Special Rapporteur has drawn attention, have also made it necessary to establish other international human rights standards more firmly in legislation.

17. An immense amount of work has been done. Notably, the Agency for the Preservation of State Secrets in the office of the Chairman of the State Committee on the Press was decommissioned in 2002. The result of this move was the appearance in the national media of a series of hard-hitting reports, some of them relating to the operation of the law-enforcement authorities.

18. After consideration of proposed action by State bodies and non-governmental human rights organizations, a National Plan of Action to comply with the recommendations of the Special Rapporteur on torture was drawn up.

19. An initial draft of the National Plan was put forward for discussion by State administrations, international organizations, embassies and non-governmental human rights organizations in September 2003. A second draft, taking account of the observations and proposals made, was produced in October 2003 and discussed that same month.

20. Another no less important step towards respect for human rights has been the formulation and approval by the Uzbek Government of a Programme for compliance with the Convention against Torture which covers, besides the recommendations by the Committee against Torture

¹ <http://hrlibrary.ngo.ru>.

itself, all 22 recommendations made by the Special Rapporteur of the Commission on Human Rights (see annex 1). The Government has set up an interdepartmental working group chaired by the Minister of Justice to monitor the Programme's progress.

21. To date, Uzbekistan has fully complied with 18 recommendations. It has had significant assistance in complying with Mr. van Boven's recommendations from European Union countries such as Germany, United Kingdom, Italy, the Netherlands, Poland and Sweden (see annex 2).

22. At a joint meeting of the Senate and Legislative Chamber of the Oliy Majlis on 28 January 2005, a report presented by President Karimov put forward genuine proposals for further harmonization of Uzbek legislation with international standards (application of the habeas corpus procedure, a gradual move towards abolition of the death penalty, and further liberalization of the judicial system).

23. This national report uses material submitted by non-governmental, not-for-profit organizations such as the Association of Judges, the Bar Association and the Ijtimoi Fikr Centre for the Study of Public Opinion.

PART I

INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

Article 1. Definition of "torture" in Uzbek legislation

24. One step towards execution of the Government's Programme for compliance with the Convention against Torture was the addition of language to the Criminal Code to establish a definition of "torture" fully in conformity with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

25. A parliamentary sitting in August 2003 amended article 235 of the Criminal Code to make torture and other cruel, inhuman or degrading treatment or punishment at any stage of criminal proceedings a punishable criminal act which can be prosecuted by law.

26. Article 235 of the Criminal Code is entitled: "Use of torture and other cruel, inhuman or degrading treatment".

27. In wording, the article is as close as possible to article 1 of the Convention against Torture. It establishes that officials and other persons are liable if they exert pressure of various kinds on a suspect, accused person, witness, victim or other party to criminal proceedings, on a convict, or on near relatives of the above, in order to secure information of any kind or an admission of criminal behaviour, to punish them arbitrarily for what they have done or to coerce them into any kind of action. The Criminal Code prescribes deprivation of liberty as the punishment for such conduct. Those considered capable of such punishable conduct are officials conducting preliminary inquiries and pretrial investigations, procurators and other employees of law-enforcement organs and penal correction institutions.

28. While meeting in plenum in December 2003, the Supreme Court of Uzbekistan adopted Decision No. 17 of 19 December 2003, which states: “In keeping with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is 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.”

29. Thus the plenum introduced into the decision a requirement for a broader interpretation of the definition of “torture”, consistent with article 1 of the Convention against Torture.

30. In passing judgement, courts and judges are guided not only by the rules of criminal law but also by decisions of the plenum of the Supreme Court. From the juridical standpoint, decisions by the plenum are authoritative interpretations.

31. It may thus be considered that article 1 of the Convention against Torture is fully implemented in Uzbek law, since the plenum of the Supreme Court has recommended interpreting the term “torture” as used in article 235 of the Criminal Code in the sense of article 1 of the Convention.

32. Altogether 11 employees of the law-enforcement authorities were convicted under article 235 of the Criminal Code in 2004.

Article 2. Legislative, administrative, judicial and other measures to prevent torture

33. The system of legislative safeguards against torture has been supplemented, as indicated above, by the introduction into the Criminal Code of an article making “torture” a punishable offence.

34. During the reporting period, due regard being had to the observations made by the Committee against Torture, Uzbekistan has passed the following legislation:

- (a) The Procurator’s Office Act (new wording) (October 2001);
- (b) The Freedom of Information (Safeguards and Principles) Act (December 2002);
- (c) The Citizens’ Complaints Act (new wording) (January 2003);
- (d) The Human Rights Commissioner of the Oliy Majlis (Ombudsman) Act (new wording) (December 2004);
- (e) The Courts Act (amended) (2004).

35. Cabinet of Ministers Decision of 27 August 2003 on improving the system of the Ministry of Justice established a department for the protection of human rights in that ministry and analogous departments in the Ministry of Justice of the Republic of Karakalpakstan and judicial administrations at the regional level.
36. Regulations to govern the national Ministry of Justice have been drawn up in accordance with that Decision; they call for further improvements to the forensic medical examination system and for monitoring of that system by the Ministry of Justice. This will allow the causes of fatalities in custodial facilities and penal correctional establishments to be objectively investigated.
37. On the strength of a decision taken by senior management at the Ministry of Internal Affairs on 22 May 2003, Ministry order No. 187, "Establishment of a Central Commission on Respect for Human Rights", was issued on 24 June 2003. A programme of measures to entrench regard for the law and respect for human rights in the operations of the internal affairs authorities was produced, approved and appended to the order; a master plan for further development and refinement of the penal correctional system up to the year 2010 was also drafted.
38. Pursuant to the order, the Commission was set up under the chairmanship of the Deputy Minister of Internal Affairs. Instructions have been given that the Commission is to be informed monthly about operations in the field, and the Commission will discuss and draw conclusions from that information.
39. Expanded judicial protection for citizens' individual rights and legitimate interests, and established priority for judicial remedies in civil proceedings, are indispensable to the existence of a democratic State subject to the rule of law such as Uzbekistan is striving to create. The courts uphold citizens' rights not only in civil proceedings but also by means of criminal prosecutions, which afford victims protection from crime and abuses of power, compensate them for the injury they have suffered, and uphold the rights of all other parties to the proceedings: accused persons, witnesses and so forth.

Article 3. Extradition, expulsion or return (refoulement) of persons who may be subject to torture

40. The liability for crimes committed in Uzbekistan of aliens who, in accordance with current legislation or international treaties or agreements, are not subject to the jurisdiction of the Uzbek courts, is determined with reference to the rules of international law.
41. The extradition, expulsion or return (refoulement) of persons who, there are serious grounds to suspect, might be tortured is generally regulated by bilateral agreements.
42. Uzbekistan has concluded such agreements with a number of countries: the People's Republic of China (2000), India (2000), the Islamic Republic of Iran (2000), the Republic of Tajikistan (2000), the Islamic Republic of Pakistan (2001), the Republic of Korea (2003), the Republic of Bulgaria (2003), and all members of the Commonwealth of Independent States. A draft extradition treaty has been sent to Jordan.

43. Arrangements of this kind are usually governed by model rules under the heading “Extraditable offences”, on the following pattern:

(a) The contracting parties undertake, in accordance with the provisions of the treaty (on legal assistance and legal relations in civil, family and criminal matters), reciprocally to extradite upon request, for the purposes of criminal prosecution or enforcement of a court judgement, persons present in their respective territories;

(b) Extradition is possible for acts that are offences under the law of both contracting parties, and for which the prescribed penalty is deprivation of liberty for more than one year or other more serious punishment.

44. Extradition for the purpose of enforcing a court judgement is possible when the person in question has been sentenced to more than six months’ deprivation of liberty or other more serious punishment.

45. Extradition may be refused if:

(a) The person whose extradition has been requested is a citizen of the contracting party receiving the request, or has been granted the right of asylum in that State;

(b) The law in both contracting parties provides that criminal proceedings may be initiated only if the victim lodges a private complaint;

(c) At the time the request is received, criminal prosecution under the law of the contracting party receiving the request or enforcement of a court judgement is time-barred or precluded for some other legitimate reason;

(d) A legally enforceable ruling or decision to halt proceedings against the person whose extradition has been requested has been handed down in the territory of the requested contracting party in respect of the same offence.

46. An extradition request may also be refused if the offence to which it refers was committed in the territory of the contracting party receiving the request.

47. Upon refusal of an extradition request, the requested contracting party must notify the requesting contracting party of the grounds for refusal.

48. Uzbekistan ratified the agreement between it and the Government of the United States of America on the transfer of individuals to the International Criminal Court in 2002.

49. Between 2000 and 2004, on the basis of international agreements, the Office of the Procurator-General submitted applications through the diplomatic channel to the competent authorities of CIS member States and more distant countries which secured the extradition to Uzbekistan of 697 internationally wanted individuals so that they could be brought to justice. Of the 697, a total of 473 were extradited from the Russian Federation, 153 from Kazakhstan, 24 from Kyrgyzstan, 18 from Ukraine, 14 from Tajikistan, 6 from Belarus, 4 from Turkmenistan, 2 from Azerbaijan, 2 from Armenia and 1 from Lithuania.

50. There are no special rules in Uzbek law prohibiting extradition, expulsion or return (refoulement) to another State where there are serious grounds to suspect that a person might be tortured; there are only referential rules to the effect that the principle of the primacy of international law applies in such cases.

Article 4. Classification of torture as an offence under national legislation

51. Under its internal legislation, Uzbekistan has singled out crime associated with torture as a separate category of offence.

Article 235 of the Criminal Code, “Use of torture or other cruel, inhuman or degrading treatment or punishment”, reads:

“The use of torture or other cruel, inhuman or degrading treatment or punishment, i.e. illegal exertion of mental or physical pressure on a suspect, accused person, witness, victim or other party to criminal proceedings, or on a convict serving sentence, or on close relatives of the above, by a person carrying out an initial inquiry or pretrial investigation, a procurator or other employee of a law-enforcement agency by means of threats, blows, beatings, cruel treatment, victimization, infliction of suffering or other illegal acts in order to obtain from them information of any kind or a confession, or to punish them arbitrarily for action they have taken, or to coerce them into action of any kind:

“shall be punishable by up to three years’ punitive attachment of earnings or deprivation of liberty for up to three years.

“The same conduct, perpetrated:

“(a) With violence such as to imperil life or health, or with the threat of such violence;

“(b) On any grounds stemming from ethnic, racial, religious or social discrimination;

“(c) By a group of individuals;

“(d) More than once;

“(e) Against a minor or a woman whom the culprit knows to be pregnant; “shall be punishable by three to five years’ deprivation of liberty;

“(f) The conduct referred to in the first and second subparagraphs of this article shall, if it results in serious bodily harm or other grave consequences, be punishable by five to eight years’ deprivation of liberty and forfeiture of a specified right.”

52. Under the Uzbek Criminal Code, preparation to commit an offence and attempted offences are punishable under the same article of the Special Section of the Code as a consummated offence (art. 25).

53. Article 40 of the Code establishes that “an individual committing an offence on orders or other instructions that he or she knows to be criminal shall be held jointly responsible [for the offence]”.

54. The Government of Uzbekistan consistently opposes torture and other cruel, inhuman or degrading treatment. Primary responsibility for ensuring compliance with the law in this area lies with the procuratorial authorities, which operate the legal safeguards established by the State in defence of citizens’ rights and interests.

55. This is established in the Procuratorial System Act which, thanks to a new chapter devoted to the protection of citizens’ rights and interests by procuratorial authorities, has significantly increased the related functions of the procuratorial system.

**Numbers of complaints and applications reaching the
procuratorial authorities, 2002-2004**

	2002	2003	2004
Total complaints and applications	3 059	3 277	3 427
Of which, alleging:			
– threats, victimization and other forms of duress	523	544	457
– illegal detention	180	160	110
– illegal preventive measures	153	173	37
– illegal searches and confiscations	103	136	18
– lack of impartiality in the conduct of initial inquiries and pretrial investigations	671	744	493
No. of complaints lodged against:			
– Ministry of Internal Affairs staff	2 363	2 803	2 541
– employees of the procuratorial authorities	121	-	115
– staff of the National Security Service	60	97	26
No. of complaints:			
– satisfactorily resolved	509	352	323
– partly resolved	186	264	123
– rejected with explanation	1 022	1 143	1 878
Proceedings brought in response to verified complaints and applications:			
– criminal	434	417	333
– disciplinary	543	653	343

56. Together with other law-enforcement agencies, the procuratorial authorities are also studying the circumstances and reasons that tend to encourage unlawful criminal prosecutions and are taking the necessary steps to prevent and prohibit such action.

57. In accordance with a plan of action drawn up by the Office of the Procurator-General, a discussion of compliance with the law in dealing with citizens’ complaints and applications and of improper conduct by employees of the law-enforcement and supervisory authorities took place at the Coordinating Council of Law-Enforcement Authorities in the first half of 2004.

58. Senior management at the Office of the Procurator-General has also discussed greater procuratorial supervision of the observance of citizens' constitutional rights during detention, criminal prosecution and remand in custody.

59. Figures from the Supreme Court of Uzbekistan² indicate that 15 individuals (all employees of the internal affairs authorities) have been convicted of offences under articles 234 and 235 of the Criminal Code (illegal detention in custody and coercion to testify). Between January 2003 and March 2004, the ordinary courts made more than 1,100 individual determinations under article 298 of the Code of Criminal Procedure in matters relating to illegal conduct by employees of the law-enforcement authorities including the procuratorial system, the internal affairs authorities and the National Security Service, and took steps to address the causes of such conduct.

Article 5. Jurisdiction of the State over torture and cruel treatment

60. Uzbek criminal law establishes jurisdiction over all types of crime committed inside and outside the Republic. Under article 11 of the Criminal Code, "a person who commits a crime within the territory of Uzbekistan shall be liable under this Code.

"A crime committed within the territory of Uzbekistan is an act which:

"(a) Is begun, completed or broken off within the territory of Uzbekistan;

"(b) Is committed outside Uzbekistan, but whose criminal effect arises within Uzbek territory;

"(c) Is committed within the territory of Uzbekistan, but whose criminal effect arises outside the country;

"(d) Constitutes in conjunction or combination with other acts a crime part of which is committed within the territory of Uzbekistan.

"When a crime is committed on an aircraft or inland waterway vessel that is outside the borders of Uzbekistan but not within the territory of another State, liability shall arise in accordance with the present Code if the aircraft or vessel is operating under the flag of, or is registered in, Uzbekistan."

61. Article 12 of the Code defines the applicability of criminal law to persons who commit crimes outside Uzbekistan: "Citizens of the Republic of Uzbekistan and stateless persons permanently resident in Uzbekistan who have committed a crime in the territory of another State shall be liable under the present Code if they have not served a sentence passed upon them by a court in the State in whose territory the crime was committed."

62. No citizen of Uzbekistan may be extradited for an offence committed in a foreign State except where international treaties or agreements provide otherwise.

² On 1 April 2004.

Article 6. Preventive measures applied by Uzbekistan to individuals guilty of the crimes covered by article 4 of the Convention

63. The prosecution of persons who commit offences such as those indicated in article 4 of the Convention is conducted in strict accordance with the rules of criminal law and the law of criminal procedure.

64. Under Uzbek law governing criminal procedure, persons suspected or accused of a crime, including crimes falling within the meaning of “torture”, can be subjected to preventive detention. Accused persons may also be subjected to other preventive measures.

65. Article 236 of the Code of Criminal Procedure states that justifiable suspicion that an accused person or defendant might evade a preliminary inquiry, pretrial investigation or trial simply because of the dangerousness of a perpetrated offence under article 15, fourth and fifth subparagraphs, of the Criminal Code, may afford grounds for preventive detention (article 15, subparagraphs 4 and 5, sets forth the concept of serious and exceptionally serious crimes).

66. The procedure for and duration of such detention and the procedure for extending periods of detention are governed by articles 242-247 of the Code of Criminal Procedure.

67. When authorizing pretrial detention, the procurator must acquaint himself thoroughly with all the records of a case and, if necessary, personally interview the suspect or the accused.

68. Under article 217 of the Code of Criminal Procedure, the Uzbek Ministry of Foreign Affairs must be notified within 24 hours when a national of another State is apprehended, detained or committed to a medical institution.

Article 7. Submission by the State to its competent authorities of the cases of persons found to have committed torture

69. Should it come to the attention of the competent Uzbek authorities that a person suspected of torture who has not been appropriately punished is in Uzbek territory, there is a general procedure whereby the jurisdiction to which that person is subject will be established by the Uzbek Code of Criminal Procedure and international treaties and agreements.

70. Proceedings in Uzbekistan relating to crimes committed by foreign citizens and stateless persons are conducted in accordance with the Uzbek Code of Criminal Procedure.

71. In the case of persons enjoying immunity, article 4, subparagraph 2, of the Code states that the Code will apply wherever it is not contrary to international treaties and agreements to which Uzbekistan is party.

72. If criminal proceedings are brought against persons suspected or accused of torture, the law-enforcement authorities operate in accordance with the general principles of criminal justice as laid down in the Code of Criminal Procedure (arts. 11-27). In accordance with article 16 of the Code, justice in criminal cases is administered on the premise that citizens are equal before

the law and the courts, irrespective of their sex, race, nationality, language, religion, social origin, beliefs or personal or social status. Article 17 prohibits actions or decisions which are humiliating or demeaning to human dignity.

73. The rules of evidence which are also laid down in the principles of criminal procedure established by the Code are identical in all circumstances, irrespective of the seriousness of the crime. All details of a case requiring to be demonstrated must be scrupulously, fully and objectively investigated from all angles. The presumption of innocence is established in article 23 of the Code.

74. Punishment or other legal sanctions against a convicted offender must be fair and commensurate with the gravity of the offence, the degree of fault and the risk which the individual poses to society.

75. Anyone facing an initial inquiry is guaranteed fair treatment, whatever crime he or she may have committed.

**Article 8. Inclusion in extradition treaties as extraditable offences
of the offences referred to in article 4 of the Convention**

76. The practice in Uzbekistan is that the Convention against Torture serves as the legal basis for the extradition of individuals guilty of offences such as torture and complicity in torture if the State requesting extradition is a party to that Convention.

77. The Ministry of Foreign Affairs is considering adding torture to the list of extraditable offences in model extradition treaties.

Article 9. Assistance in prosecuting persons found to have committed torture

78. Since the consideration of its second periodic report on compliance with the Convention in 2002, Uzbekistan has concluded treaties on judicial assistance and legal relations in civil and criminal cases with the Czech Republic (2002), the Republic of Korea (2003), and Bulgaria (2004).

79. Under article 5 of the Uzbek Code of Criminal Procedure, the procedure for contacts between judges, procurators and investigators and their counterparts in foreign countries in connection with the extradition of accused persons and the execution of particular procedural actions is as defined in Uzbek legislation and treaties and agreements which Uzbekistan has concluded with other States.

80. The Code of Criminal Procedure also makes provision for the execution of instructions from foreign institutions to take procedural actions. Article 6 of the Code states: "The courts and investigative organs of Uzbekistan shall carry out instructions transmitted to them from foreign institutions to take particular judicial or investigative action: to question witnesses, accused persons, experts and other individuals, to conduct inspections, expert appraisals, searches and confiscations and hand over material evidence, to formulate and transmit any necessary documents and so forth. Instructions from foreign institutions sent directly to courts and investigative organs may be carried out only by agreement with the Ministry of Justice of Uzbekistan or the Office of the Procurator-General of Uzbekistan, as appropriate.

“If instructions from a foreign institution cannot be carried out, any documents sent shall be returned through the Ministry of Justice of Uzbekistan or the Office of the Procurator-General of Uzbekistan to the institution where the instructions originated, with an indication of the reasons why execution was impossible.

“The Supreme Court of Uzbekistan may contact its counterparts in foreign States directly on the above matters.”

**Article 10. Distribution of information and teaching material
on the prohibition of torture**

81. Much effort is being put into the distribution of information and teaching material on the prohibition of torture in Uzbekistan; many State institutions, non-governmental and international organizations are involved. Three editions (altogether about 10,000 copies) of a compilation of basic international documents from the United Nations, the Organization for Security and Cooperation in Europe and the United Nations Children’s Fund were published in the official language of Uzbekistan in the course of 2002-2004. Five thousand of these copies were specially intended for staff of the law-enforcement authorities. The remaining copies were distributed among higher educational institutions within the country, law schools in particular (*International human rights documents. A compendium*, ed. T. Saidov, Adolat press, 2004, 520 pp. - 1,000 copies; *UNESCO international standards*, ed. L. Saidova, Adolat press, 2004, 289 pp. - 2,000 copies; *International texts regulating the activities of internal affairs authorities (conventions, treaties, protocols)*, ed. T. Saidov, Adolat press, 2004, 212 pp. - 5,000 copies).

82. With backing from the Embassy of the United Kingdom to Tashkent, a compilation entitled “The Torture Reporting Handbook” was published in Uzbek in January 2004.³ A pamphlet entitled “What do you need to know about your rights?” was produced in an edition of 10,000 copies in September 2004, with backing from the American Bar Association and the Embassy of Switzerland. This pamphlet is issued to all detainees upon detention. The entire edition was intended for the internal affairs authorities, but since then thought has been given to the production of a similar pamphlet for the procuratorial authorities and the National Security Service.

83. Mention must be made of the material and financial backing which Uzbekistan received from a variety of international organizations - the United Nations Development Programme and its Development Support Service Programme, and the OSCE Centre in Tashkent in particular - while arranging to publish the above compilations.

84. A “training the trainers” course on international human rights standards in criminal proceedings was conducted in November 2002, at the instigation of the American Bar Association’s Central and Eastern Europe Law Initiative (ABA-CEELI), the OSCE Office for Democratic Institutions and Human Rights and the Uzbek National Centre for Human Rights. It was attended by judges, lawyers, procurators’ office staff and employees of the Ministry of

³ Camille Giffard, Human Rights Centre, University of Essex, United Kingdom, 2000.

Internal Affairs and the National Security Service. The objective was to prepare national trainers and specialized instructors to pass on to students and auditors at their home institutions and professional refresher courses the knowledge they have acquired. The main texts studied during the course were the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

85. Under the heading of training for staff of penitentiary institutions, a staff training course on the topic “Women in the criminal justice system: international standards of treatment for detainees” was conducted in cooperation with the OSCE Office for Democratic Institutions and Human Rights at the UY-64/7 women’s colony in 2002. A seminar on “Legal status of and medical treatment for detainees: international standards and practice” was conducted in Tashkent in December 2002 in collaboration with the regional office of Penal Reform International (PRI).

86. In August 2003, under the teaching programme run by the OSCE Office in Tashkent for employees of the penitentiary system, three regional seminars on human rights and international standards of treatment for detainees were held in the cities of Tashkent, Navoi and Karshi. Seven members of the penal correction system trained as trainers in human rights attended a course in Poland in October 2003 which was run with assistance from experts from the Helsinki Fund for Human Rights. In May 2003, seven employees of the Ministry of Internal Affairs system of penal correction institutions attended the Summer School on Human Rights at the Pavlodar Law School run by the Kazakh Ministry of Justice’s Penal Correction System Committee.

87. As regards 2004, arrangements have been made with backing from the Konrad Adenauer Fund to run law seminars on “Liberalization of the penal correction system in Uzbekistan” in the various regions of the country.

88. UNDP, Freedom House and the Embassy of the United States of America to Tashkent helped to organize a study tour to Slovenia (23 October-2 November 2004) for five Uzbek Government representatives (from the Ministry of Internal Affairs, the National Security Service and the Office of the Procurator-General) and four human rights defenders, to see how the country had negotiated the transition as it incorporated human rights standards into the work of its law-enforcement authorities and to build contacts that would enable them to study the feasibility of establishing a standing committee with powers to inquire into human rights violations and fatal incidents in places of detention and incarceration. After the tour, several discussions between the various authorities, human rights defenders and the donor community on a variety of human rights problems and specific cases took place under Freedom House auspices.

89. The Ministry of Internal Affairs has officially requested UNDP to lay on training for middle-level officials in monitoring civic rights issues, investigating situations and preparing documentation. Such training has been provided for 20 officials.

90. Three small grants have been introduced for the execution of human rights initiatives undertaken jointly by the Government and not-for-profit organizations. The aim of one project, run jointly by the internal affairs administration in Djizak Region and Istikboli Avlod, a non-governmental organization, is to set up a law studies centre offering advice and instruction

in human rights for members of the law-enforcement authorities. So far 120 staff members from the Ministry of Internal Affairs and 13 districts within Djizak Region have undergone instruction in human rights and a variety of other subjects.

91. Uzbekistan is working to improve the level of training of skilled staff employed in the law-enforcement system.

92. As at civilian institutions of higher education, a course on international law has been introduced at the training establishments operated by the law-enforcement authorities.⁴

93. Under the plan for compliance with the Committee against Torture's recommendations, the OSCE Centre in Tashkent, working in conjunction with the Central Penal Correction Department of the Ministry of Internal Affairs, is running a project to improve legal literacy among prison and penal-colony staff and inmates and introduce them to the chief international human rights standards. As part of this project, the Department has opened its own study centre where penal correction staff can take refresher courses and improve their qualifications.

94. The Central Investigation Department has now put forward for consideration by senior management the question whether, as its staff are recertified, appointed to new positions or raised in grade, they should have to pass an examination in international human rights standards. The suggestion is supported at senior levels in the Ministry. If a decision to this effect is taken, other Uzbek police and security forces and law-enforcement institutions will also seek to benefit from this positive development.

95. The Internal Affairs Academy has established a Theory and Practice of Human Rights department for teaching and research on human rights protection. Two subjects are taught: "General theory of human rights", at the bachelor's level, and "Human rights and the workings of the internal affairs authorities" for the master's degree and in the management training faculty. Both include separate modules on the Convention against Torture comprising lectures, seminars and practical classes. Study material includes the Committee against Torture's observations and recommendations on Uzbekistan's national reports.

96. In 2003-2004, doctoral dissertations were defended by Z.K. Gulyamov, on "Fighting crimes against justice: theory and practice", and A.K. Sattarov, on "Human rights theory and current problems with the defence of human rights in the activities of the internal affairs authorities".

97. Having studied international experience in the matter, the Ministry of Internal Affairs is working on the possibility of producing didactic video films and clips offering instruction in human rights.

⁴ The Internal Affairs Academy, the National Security Service Institute, the Ministry of Justice's Centre for the Further Training of Legal Specialists and the Central Institute for the Advanced Training of Officials of the Office of the Procurator-General.

106. In order to monitor conditions in detention and how people are treated in prison, Central Penal Correction Department staff conduct regular on-site inspections of Ministry facilities.

107. It is the procuratorial authorities in Uzbekistan which oversee compliance with the law in custodial and penal correction facilities. The Ministry of Internal Affairs and the Office of the Procurator-General held two interdepartmental coordination meetings in 2003, and a similar one in 2004, on the problems of ensuring that the penal correction system operates in accordance with the law.

108. By Presidential Decree dated 11 March 2004, a department to monitor compliance with the law in the execution of judicial decisions and the detention of arrestees has been established within the Office of the Procurator-General; similar units have been set up in the procurators' offices in the Republic of Karakalpakstan, the various provinces, and the city of Tashkent, and staffing has been increased.

109. Monitoring in this instance is governed by an order from the Procurator-General dated 11 May 2004, "Better monitoring of compliance with the law in the execution of judicial decisions and acts of other organs, and in the detention of arrestees."

110. Procurators carried out 1,499 inspections in Central Penal Correction Department facilities in 2004, taking action in 3,753 instances: they issued 1,009 recommendations, 138 protests, admonitions to 678 officials about the impermissibility of breaching the law, ordered disciplinary proceedings against 642 penal correction-system employees and administrative proceedings against 95, and had 33 employees held liable for material damage.

111. Inquiries by procurators have revealed no incidents in which the penal correction authorities have used torture on detainees or convicts.

112. The office of the Parliamentary Commissioner for Human Rights (Ombudsman) monitors respect for prisoners' rights on behalf of the Oliy Majlis. Penal correction institutions in Fergana, Andijan, Tashkent, Kashkandar, Khorezm and Djizak regions, the city of Tashkent and the Republic of Karakalpakstan were inspected in 2003. Ombudsman office officials visited an institution in the village of Zhaslyk, in the Republic of Karakalpakstan, in June 2004 to inquire into the conditions in which convicts were being held. Between 1999 and 2004, members of the Ombudsman's office have visited practically every institution in the penal correction system.

113. The Ombudsman's office and the Ministry of Internal Affairs signed an agreement to cooperate in upholding human rights and freedoms on 10 December 2004.

114. The Central Penal Correction Department has drawn up an Instruction governing the organization of visits to penal institutions by representatives of the diplomatic corps, international non-governmental organizations, local not-for-profit organizations and the mass media. This has been registered with the Ministry of Justice.

115. Uzbekistan is setting up a system that will allow representatives of civil institutions access to penitentiary facilities. The Central Penal Correction Department has produced a model agreement governing access by not-for-profit organizations to places of detention.

116. The country is also cooperating with OSCE, which over the past few years has arranged special training sessions on human rights monitoring and reporting.

117. Experts from the OSCE Office for Democratic Institutions and Human Rights have visited penitentiary facilities in the city of Tashkent and in Tashkent, Samarkand, Bukhara, Navoi, Khorezm and Kashkadar regions over the period 2002-2004.

118. Under an agreement between the Government of Uzbekistan and the International Committee of the Red Cross on humanitarian work in places of detention, ICRC delegations visited four penal correction system institutions in 2001, 5 in 2002, 33 in 2003 and over 50 in 2004.

119. With assistance from the Central Penal Correction Department, ICRC staff held confidential interviews with 893 inmates of detention facilities on the use of torture and other inhuman and degrading treatment and punishment and on conditions in detention. The Department officially announced its intention of establishing permanent contacts, meetings and other arrangements to monitor respect for human rights in places of detention.

120. OSCE experts visited six penal correction institutions in 2003; the head of Penal Reform International (PRI), Baroness Stern, visited two, and the head of the Freedom House office in Tashkent, one. Penal correction system facilities have been repeatedly visited by European Union experts, diplomatic representatives from the embassies of the United States, France, Germany, the United Kingdom, Italy, the Netherlands, the Russian Federation, Iran and elsewhere, correspondents from the Reuters, France-Presse and Associated Press news agencies, BBC radio, a BBC Channel 4 television crew, etc.

121. In June 2004 the head of the Freedom House office in Tashkent, Ms. M. Server, and the counsellor on socio-economic and political matters to the United States Ambassador to Uzbekistan, Ms. S. Curran, visited the institution in the village of Zhaslyk, Republic of Karakalpakstan.

122. The independent expert of the United Nations Commission on Human Rights, Mr. L. Huseynov, visited a series of penal correction institutions in October 2004.

123. Professor Rein Mullerson of London University, the Regional Adviser of the Office of the United Nations High Commissioner for Human Rights in Central Asia (Almaty, Kazakhstan), visited the Zhaslyk penal colony on 16 October 2004 to acquaint himself with living conditions for inmates at work and at rest; he also had several conversations with prisoners convicted of involvement in the activities of Hisb ut-Tahrir and the Uzbekistan Islamic Movement.

124. Overall, Mr. Mullerson was favourably impressed by his trip, including his visit to the Zhaslyk penal colony, in view of the openness and readiness of the State authorities to cooperate with a variety of international organizations on any issue.

125. The principal aim of all the visits referred to has been to ascertain how in practice convicts are treated, in what conditions they are detained, and whether there have been any instances of torture or other degrading treatment or punishment.

126. The Central Investigations Department, in conjunction with the Tashkent municipal bar association, has drawn up regulations to govern access to detainees by lawyers, under which persons detained by internal affairs organs can have access to a lawyer within one and a half to two hours at any time of the day or night so that investigations can be pursued.

127. The Ministry of Internal Affairs has also set up a special commission, comprising the heads of leading Ministry services, to draft basic regulatory standards for internal affairs bodies which will make provision for a mechanism to prevent irregularities of various kinds, and other steps to improve operations.

128. The Ministry has issued an order relating to the powers of the commission and endorsed a programme of action to entrench proper regard for the law and uphold citizens' constitutional rights. On 24 June 2003, Ministry order No. 187, on the establishment of a central commission on regard for human rights, was issued. To this, after formulation and approval, was appended the Programme of Action to entrench proper regard for the law and for human rights and liberties in the operations of internal affairs bodies. One item on the Programme is to develop new criteria for evaluating the activities of internal affairs bodies, root out the pernicious practice of covering up crimes and the fixation on figures and indices, and hold unit chiefs more accountable for any breach of the law by their subordinates.

129. The Ministry has produced a master plan for the establishment and operation of the Commission. Similar commissions have been set up in all regional internal affairs branches and training institutions operated by the Ministry.

130. Besides the law-enforcement authorities, which do a significant amount of regulation of investigative rules, instructions, methods and practices (interrogations, conditions in detention etc., in particular), the judicial authorities in Uzbekistan are also active in this field.

131. Decision No. 17, "Application by the courts of laws guaranteeing suspects' and accused persons' right to defence", which was adopted on 19 December 2003 by the plenum of the Supreme Court, states in section 19 that persons conducting an initial inquiry or a pretrial investigation, procurators and judges must always ask individuals fetched from places of detention how they have been treated during the initial inquiry and investigation, and in what conditions they have been held. Any reported incident of torture or other illegal methods of inquiry or investigation must be thoroughly checked by forensic examination and other means, and depending on the findings, procedural and other legal steps must be taken, up to and including the initiation of criminal proceedings against officials.

Article 12. Prompt and impartial investigation of acts of torture

132. The intended purpose of Uzbekistan's criminal-procedure (judicial) legislation is to elucidate crimes swiftly and fully, identify the culprits and ensure that the law is correctly applied so that all offenders are justly punished while not a single innocent person is called to account or convicted. There is just one procedure established under criminal law and the law governing criminal procedure, and this is binding on all law-enforcement bodies and courts.

133. There has been an increase in reported incidents of impermissible investigation methods over the period 2002-2004. While in the past such reports came in the main from independent human rights defenders and human rights organizations in the form of communications or information bulletins, more recently the law-enforcement authorities themselves have become actively involved in combating such conduct.

134. The procuratorial authorities responsible for overseeing due regard for citizens' constitutional rights are also involved in ensuring prompt, impartial investigation of incidents of torture. Together with other law-enforcement agencies, they are studying the circumstances and reasons that lend themselves to unlawful criminal prosecutions and are taking the necessary steps to prevent and prohibit them.

135. A typical example of this, and of the Office of the Procurator-General's willingness to be open and forthcoming, is the investigations into the cases of A. Shelkovenko and I. Umarov. In the first instance the investigation into the circumstances of the death in detention facilities was conducted with assistance from experts from Freedom House, and in the second, with representatives from a not-for-profit organization. The conduct of the two investigations was a vindication of the institution of independent investigation.

136. The Office of the Procurator-General is constantly submitting, for the consideration of the coordinating committee of law-enforcement authorities, matters to do with due regard for the law when dealing with citizens' complaints and reports of improper conduct by members of the law-enforcement and supervisory authorities.

137. At approximately 3.50 p.m. on 6 August 2002, for example, in the classified block at penal establishment UY 64/71 (at Zhaslyk, Kungrad district, Republic of Karakalpakstan), mutual dislike and a sudden quarrel led to a fight between K.S. Alimov and M.M. Avezov, on the one hand, and A.A. Abdullaev and Y.I. Ruziev, on the other. Each side inflicted a variety of injuries on the other with their hands, feet and objects lying to hand, and by dousing each other with water which was being kept extremely hot for housekeeping purposes.

138. Alimov and Avezov were badly scalded in the incident. The victims were given first aid and then, in view of their serious condition, needed to be evacuated to the town of Nukus for intensive care and skilled therapy. Because evening was drawing in, however, they were not evacuated until 8.30 a.m. on 7 August. The victims' condition deteriorated markedly in transit, and despite the medical care they received on arrival at penal institution UY 64/IZ-9 (Nukus), convicted prisoners Avezov and Alimov both died.

139. The Karakalpakstan Ministry of Internal Affairs conducted a judicial investigation into the deaths; on the strength of its findings, 10 penal colony staff members, including the chief, were disciplined and 2 were relieved of their functions. The investigation file was duly passed on to the Office of the Procurator in the Republic of Karakalpakstan.

140. When the investigation concluded, the case was referred to the courts. At the conclusion of judicial proceedings, the Muynak district court sentenced A. Abdullaev to 3 years and 6 months' deprivation of liberty, and Y. Ruziev to 13 years' deprivation of liberty, under articles 105.2 and 60 of the Uzbek Criminal Code.

141. There have been substantial changes in the operations of the National Security Service. The situation began to alter very seriously in 2003, against the background of the State reforms in progress and in response to clear instructions and demands from the Service leadership.

142. During a meeting between the Service leadership and the independent expert of the United Nations Commission on Human Rights, Mr. Huseynov, in October 2004, it was observed that there were problems with torture and other cruel, inhuman or degrading treatment or punishment even within the Service. Those problems were, however, being remorselessly dealt with, not only by the Service itself but also by the procuratorial authorities as part of their supervisory role. Service personnel are sacked not only for torture but for lesser offences. Any complaint reaching the Service Inspectorate is thoroughly investigated: if the facts are confirmed, the Chairman of the Service is notified.

143. The Service's openness was confirmed during a visit to a remand centre where Mr. Huseynov held meetings with inmates (both detainees and accused persons). Mr. Huseynov had a complaint relating to Abdukodir Yusupov, whom he met at the centre and with whom he had a confidential interview.

Article 13. Right to complain about unlawful treatment

144. In Uzbekistan, this right is established in:

- Criminal procedural law. Under article 27 of the Code of Criminal Procedure, any party to proceedings or other person is entitled to appeal against any procedural action or decision by the person conducting a preliminary inquiry or pretrial investigation, or by a procurator, judge or court;
- The Decisions and Acts Violating Citizens' Rights and Freedoms (Judicial Appeals) Act of 1995, which states: "Any citizen is entitled to bring a complaint before a court of law if he considers that his rights and freedoms have been violated by the unlawful actions or decisions of State bodies.

"Foreigners have the right to appeal to the courts in accordance with the procedure established by this Act unless international treaties or agreements to which Uzbekistan is a party stipulate otherwise.

"Stateless persons are entitled to appeal to the courts under this Act."

- The Citizens' Complaints Act of 2003.

145. Any reported incident of torture or other illegal methods of inquiry or investigation must be thoroughly checked by forensic examination and other means, and depending on the findings, procedural and other legal steps must be taken, up to and including the initiation of criminal proceedings against officials.

146. An extremely important mechanism for handling citizens' complaints is the office of the Parliamentary Commissioner for Human Rights which, beginning in 2005, will operate on the basis of the new version of the Parliamentary Commissioner for Human Rights (Ombudsman) Act. The new Act provides full legal justification for independent investigations into incidents of torture and other ill-treatment by persons in authority. Under article 10, the Ombudsman can consider, and is entitled to conduct his own investigations into, complaints about unlawful action or inaction by organizations or officials which violates citizens' rights, liberties or legitimate interests.

147. The adoption of the new Ombudsman Act guaranteeing independent investigations is an indication that such investigations are becoming systematically incorporated into Uzbek criminal procedure. The Government, in the guise of its law-enforcement authorities, is ready to cooperate with independent investigations into complaints and other reports of torture that have had unfavourable social and/or international repercussions.

148. A bill on the detention of suspects and accused persons is also under preparation. Amendments to the Code of Criminal Procedure, establishing how complaints about actions and decisions by State bodies and officials conducting criminal proceedings should be submitted and handled, are ready to be proposed.

149. To forestall violations, the law-enforcement authorities are constantly studying the justification for detention in accordance with article 225 of the Code of Criminal Procedure (establishing an official record and checking the grounds for detention) and how the right to appeal against preventive measures is exercised pursuant to article 241 of the Code.

150. The Government is willing to cooperate with independent investigations into complaints and other reports of torture that have had unfavourable social and/or international repercussions.

151. Three independent investigations involving foreign experts were conducted in 2004-2005 into deaths that aroused public interest: the case of Mr. A. Shelkovenko (June 2004), the "Arnasai case" (August 2004) and the case of Mr. S. Umarov (January 2005).

152. In the latter case, for example, the death of Mr. Umarov was looked into by international observers from Freedom House, the United States Embassy to Tashkent, and international experts in forensic medicine from the United States and in investigations from Slovenia, as well as by domestic law-enforcement personnel. An open press conference on their findings was held on 17 January 2005; the international experts announced that Mr. Umarov had died from natural causes, not as a result of action by third parties. The possibility that he had been subjected to torture or other physical duress of any kind was ruled out entirely.

153. In all three cases there were human rights organizations, some of them international, which unwarrantedly accused the Uzbek authorities of killing individuals in detention. The independent investigations showed these claims to be unsubstantiated. It may be concluded that such organizations are not infrequently misled by unreliable and distorted reports and that, in most cases, the deliberate intention is to discredit the human rights policy of the Uzbek Government.

154. The Ministry of Internal Affairs has developed the outlines of a scheme whereby independent commissions will investigate incidents of torture.

Article 14. Right to compensation for torture victims

155. Victims of torture, like crime victims of any kind, are entitled to fair and appropriate compensation under criminal law. Article 18 of the Code of Criminal Procedure states: "Compensation for injury suffered shall be payable, on the grounds and according to the procedure laid down in this Code, to persons whose rights and liberties are violated during proceedings on a case."

156. The general provisions of the Civil Code state that a person whose rights are violated can demand full compensation for losses suffered.

157. Article 15 of the Code establishes the right to compensation for losses caused by State bodies and local authorities.

158. Article 991 declares that officials are liable for the damage caused to a citizen by unjust conviction, unlawful prosecution, unlawful preventive detention or extraction of a pledge of good conduct, or unlawful detention as an administrative penalty; the State will pay full compensation as prescribed by law irrespective of whether officials conducting the initial inquiry or pretrial investigation or employed by the office of the procurator or the courts were guilty.

159. Torture victims are fully entitled under article 1021 of the Code to compensation for moral injury. Section 2 of that article stipulates that compensation for moral injury is payable irrespective of contributory liability if a citizen suffers injury as a result of unjust conviction, unlawful prosecution, unlawful preventive detention or the extraction of a pledge of good conduct, unlawful imposition of an administrative penalty or illegal detention.

160. Under article 21 of the Citizens' Complaints Act, the State authority considering a citizen's complaint is required to arrange for compensation as prescribed by law for damage or moral injury caused to the citizen by the violation of his rights, liberties or legitimate interests.

161. This entitlement is also established in a resolution dated 28 April 2000 by the plenum of the Supreme Court on certain issues relating to the application of the law on compensation for moral injury.

162. Given its particularly topical nature, the matter is, furthermore, under consideration by the interdepartmental working group to monitor the observance of human rights by law-enforcement agencies with a view to a better compensation and rehabilitation system for torture victims and as part of the plan to follow up on the Committee against Torture's recommendations. According to National Security Service figures, over 490 million SUM were paid in compensation in 2002; in 2003, payments reached 850 million SUM and US\$ 450,000.

163. Article 1001, section 3, of the Civil Code gives the State the right, once it has paid compensation for damage caused by officials of the entities conducting preliminary inquiries or

pretrial investigations, the office of the procurator or the courts, to sue those officials in turn if their guilt has been established in an enforceable court judgement. This rule has had a sobering influence on law-enforcement personnel.

164. A seminar on “Torture victims’ right to compensation: national and international mechanisms”, in which foreign experts at the OSCE Office for Democratic Institutions and Human Rights in Tashkent participated, was held in June 2003 with backing from OSCE and the American Bar Association.

Article 15. Inadmissibility of evidence obtained under torture

165. Uzbek criminal law establishes that citizens’ rights and legitimate interests must be upheld during the collection, verification and evaluation of evidence.

166. Article 88 of the Code of Criminal Procedure states:

“In producing evidence, it is prohibited:

“(a) To perform acts which endanger life or health or are intended to humiliate or demean;

“(b) To extract testimony or explanations, to perform experiments, to prepare and circulate documents or objects using violence, threats, deception or other unlawful means ...”

167. Evidence is admissible if it is gathered in accordance with the established procedure and meets the requirements set out in the Code of Criminal Procedure.

168. Hence no statement made under torture will be used in evidence in any judicial proceedings; a statement corroborated by the observation made in the plenum of the Supreme Court on 19 December 2003 that no charges can be based on evidence obtained through torture, threats, deceit, other cruel or degrading treatment or other illegal means, or in violation of suspects’ and accused persons’ right to defence. Those conducting initial inquiries, investigators, procurators and judges must always ask individuals brought to them from places of detention how they have been treated during the inquiries or investigation, and in what conditions they have been held.

169. A decision on certain issues relating to the application of criminal procedural law on the admissibility of evidence adopted by the plenum of the Supreme Court on 24 September 2004 states that evidence obtained by an individual conducting an initial inquiry, an investigator, a procurator or a judge who, whatever the reason, deviates from strict observance of and compliance with the rules of law is to be considered inadmissible. The plenum drew courts’ attention to the need to react to any violations of the procedural law governing the collection of evidence by explaining individual rulings (decisions) and, where necessary, determining whether to bring criminal proceedings against the culprits.

170. The decisions of the plenum have been published in the mass media and circulated to all governmental departments concerned.

171. It should also be mentioned that decisions of the plenum are legally binding and constitute one of the most important sources of domestic law. The rules they lay down must be followed in judicial proceedings not only by the justices in all courts but also by the law-enforcement authorities.

Article 16. Prevention of other acts of cruel, inhuman or degrading treatment or punishment

172. Other acts of cruel, inhuman or degrading treatment or punishment are prohibited by the Special Section of the Criminal Code, i.e. chapter XVI (“Obstruction of justice”), articles 230-241. In order to limit the practice of prosecuting persons known to be innocent, articles 230 to 236 of the Code make it a punishable offence for judicial officers to prosecute a person known to be innocent for a socially dangerous act, to bring in an unjust sentence, to fail to enforce a judicial decision or unlawfully to detain or remand a person in custody.

173. Article 234 of the Code makes wittingly unlawful detention, i.e. temporary deprivation of liberty, a criminal offence, prescribing penalties ranging from a fine to eight years’ deprivation of liberty for the special category of law-enforcement officers (persons carrying out an initial inquiry or pretrial investigation and procurators).

174. The Code of Criminal Procedure also contains safeguards against other cruelty towards suspects. These are to be found in the rules and principles of the criminal justice system, specifically articles 11 to 27 of the Code.

175. Article 17 of the Code states: “Judges, procurators, and persons carrying out initial inquiries or pretrial investigations are under an obligation to respect the honour and dignity of persons involved in a case.” It goes on, “No one shall be subjected to torture, violence or other cruel, humiliating or degrading treatment.”

176. Judicial statistics indicate that 15 individuals (internal affairs personnel) were convicted under articles 234 and 235 of the Criminal Code (illegal detention or confinement in custody and coercion to testify) in 2003. Between January 2003 and March 2004, the ordinary courts handed down over 1,100 individual rulings under article 298 of the Code of Criminal Procedure on instances of unlawful conduct by law-enforcement personnel including employees of procurators’ offices, the internal affairs authorities and the National Security Service, ordering action to prevent any recurrence.

PART II

**COMPLIANCE WITH THE COMMITTEE’S CONCLUSIONS
AND RECOMMENDATIONS**

- (a) Proceed promptly with plans to review the proposals to amend domestic penal law to include the crime of torture defined in a manner fully consistent with article 1 of the Convention and supported by an adequate penalty;**

“Torture” has been added to the Uzbek Criminal Code.

177. Article 235 of the Code (“Use of torture and other cruel, inhuman or degrading treatment or punishment”), as reworded, now reads as follows:

“The use by an individual conducting an initial inquiry, an investigator, a procurator or other employee of a law-enforcement authority or penal institution of torture or other cruel, inhuman or degrading treatment or punishment, i.e. illegal mental or physical duress, on a suspect, accused person, witness, victim or other party to judicial proceedings, a convict serving sentence or the near relative of any of the above using threats, blows, beatings, cruel treatment, torment or other unlawful means in order to secure information of any kind or a confession, to punish them arbitrarily for their conduct or to force them to perform any kind of act, shall be punishable by punitive deduction of earnings for up to three years or up to three years’ deprivation of liberty.

“The same conduct, if:

“(a) Accompanied by violence threatening life or health, or by the threat of such violence;

“(b) Motivated by any consideration of ethnic, racial, religious or social discrimination;

“(c) Perpetrated by a group of individuals;

“(d) Perpetrated for a second or subsequent time;

“(e) Perpetrated against a minor or a woman known to the culprit to be pregnant, shall be punishable by three to five years’ deprivation of liberty.

“The conduct referred to in the two preceding paragraphs of this article shall, if resulting in serious bodily harm or other grave consequences, be punishable by five to eight years’ deprivation of liberty and loss of a specified right.”

178. On 19 December 2003 the plenum of the Supreme Court, considering that an expanded definition of “torture” in keeping with the Convention was indispensable, approved Decision No. 17, on the practical application by the courts of laws guaranteeing suspects and defendants the right to a defence, which introduced such a definition.

(b) Take urgent and effective steps:

(i) To establish a fully independent complaints mechanism, outside the procuracy, for persons who are held in official custody;

179. The Ministry of Internal Affairs has approved a programme of measures to improve compliance with the law by its subsidiary organs and uphold the human rights and freedoms proclaimed in the Constitution.

180. Work is now in progress under the Programme to develop a mechanism for registering, considering and responding to any complaint that an individual has been subjected to torture or other unlawful action. The intention is to set up a central register of such reports and complaints, to assess the situation periodically, and to take timely managerial decisions.

181. One extremely important mechanism for considering citizens' complaints is the Office of the Parliamentary Commissioner for Human Rights, which will be operating as of 2005 on the basis of the redrafted Human Rights Commissioner of the Oliy Majlis (Ombudsman) Act. The new Act provides full legal justification for independent investigations into torture and other wrongdoing on the part of figures in authority. Article 10 authorizes the Ombudsman to consider complaints about action or inaction on the part of organizations or officials which infringes citizens' rights, liberties and legitimate interests, and gives him the right to conduct his own investigations.

182. The passage of the new Ombudsman Act guaranteeing independent investigations is testimony to the fact that such investigations are steadily being incorporated into Uzbek criminal procedural practice. The Government, in the guise of its law-enforcement authorities, is ready to cooperate with independent investigations into complaints and other reports of torture that have had unfavourable social and/or international repercussions.

183. A procedure for the conduct of "independent investigations" into the deaths of suspects and accused persons has been drawn up. This requires authoritative public figures, human rights defenders and relatives of the deceased to be involved in the official investigations of such incidents: a further guarantee, in our view, of an objective and lawful outcome.

(ii) To ensure prompt, impartial and full investigations into allegations of torture reported to the authorities, and the prosecution and punishment, as appropriate, of perpetrators;

184. Uzbekistan is working seriously to combat wrongdoing in the structures of power, including the judicial and law-enforcement authorities.

	2002	2003	2004
Prosecutions of personnel from:			
– internal affairs authorities	103	286	295
– tax authorities	40	64	82
– customs authorities	35	32	42
– judicial authorities	8	7	21
– national Security Service	3	5	4
– currency and Tax Offences Department	9	9	5
– procurators' offices	4	6	4

185. Fourteen employees of the internal affairs authorities were prosecuted in 2004 for exceeding their authority, abuse of power, coercion to testify and other breaches of professional conduct. Cases involving a further three from the Surkhan-Darya district office are currently under consideration by the Termez municipal criminal court.

186. Over the past year and a half, the ordinary courts have handed down over 1,000 individual rulings concerning unlawful conduct on the part of law-enforcement personnel, and have ordered action to prevent any recurrence.

(c) Ensure that those who complain of torture and their witnesses are protected from retaliation;

187. Article 11 of the Penal Enforcement Code establishes the right of convicted persons to physical safety. It also describes the procedure by which convicts can apply to the prison administration if they fear for their personal safety, and prescribes the manner in which such applications must be responded to.

(d) Ensure in practice absolute respect for the principle that evidence obtained by torture is inadmissible;

188. Decision No. 17 dated 19 December 2003 by the plenum of the Supreme Court indicates that charges cannot be based on evidence obtained through the use of torture, violence, threats, other cruel or degrading treatment or other illegal means, or in breach of the right of a suspect or accused person to a defence. Persons conducting initial inquiries, investigators, procurators and judges must always ask individuals brought before them from places of detention [about this], and must also ask about the conditions in which they have been held. Any report of torture or other illegal methods of inquiry or investigation must be thoroughly checked by forensic examination and other means, and procedural and other legal action must be taken on the findings, up to and including the institution of criminal proceedings against officials (para. 19).

189. On 24 September 2004, the plenum of the Supreme Court adopted Decision No. 12 on certain aspects of the application of criminal procedural law relating to the admissibility of evidence.

190. The Decision states that the underlying principle of the law of criminal procedure, as laid down in the Constitution, is the presumption of innocence, whereby a person is considered innocent until he or she is proved guilty in accordance with the law and the court's judgement has entered into force. Sentences may be based only on evidence collected in accordance with the procedure prescribed by law.

(e) Take measures to establish the independence of the judiciary in the performance of their duties in conformity with international standards, notably the Basic Principles on the Independence of the Judiciary;

191. Pursuant to the plan of action to implement the Convention against Torture, the outcome of meetings of the Coordinating Council of Law-Enforcement Authorities under the Office of the Procurator-General and of senior management at the Office of the Procurator-General, held on 29 May and 20 May 2004 respectively, has been discussed. Those meetings devised measures and took decisions aimed at ensuring strict compliance by law-enforcement officers with international human rights obligations.

192. It was noted that independent courts were one of the principal requirements for effective machinery to protect human rights, and that the extent to which the courts' needs for facilities and equipment were met was of great importance. Consequently, when the matter was discussed, note was taken both of the continuing difficulties and of the progress that had been made. For example, all courts of general jurisdiction have now been fully supplied with office

equipment (computers) and vehicles. Moreover, new court buildings are being opened and court buildings are under construction or being renovated in the Republic of Karakalpakstan, in Tashkent and in Fergana, Samarkand, Syr-Darya and other regions.

193. A radically new master plan for the legal/judicial system, making it a key element in the imposition of the rule of law, has been put into effect in recent years. Courts have begun to specialize in criminal, civil or economic cases. Laws have been passed instituting judicial appeals and cassation proceedings; the time allowed for investigations and detention in custody has been significantly shortened; strict time limits for court consideration of cases have been introduced.

194. There is now an effective, democratic mechanism for selecting and confirming judicial staff; a judicial enforcement department with adequate powers is in operation; and judges themselves have been relieved of inappropriate functions.

195. Necessary changes have been made to legislative rules seriously restricting procuratorial interference in judicial proceedings. Nowadays equality of arms, i.e. equal rights for the procurator and for counsel, is a practical reality in the trial process.

(f) Take measures to permit detainees access to a lawyer, a doctor and family members from the time they are taken into custody and ensure that doctors will be provided at detainees' request, not by leave of prison officials; maintain a register with the names of all detainees, the times at which the notification of lawyers, doctors and family members have taken place and the results of [medical] examinations; this register should be accessible to lawyers and others as appropriate;

196. The plenum of the Supreme Court has drawn attention to the obligations incumbent on all State bodies and officials responsible for the conduct of criminal proceedings to give suspects and accused persons an explanation of their rights and genuine opportunities to exercise their right to a defence; also to notify detainees' near relatives or, at the detainees' request, other persons - in the case of minors, their legal representatives as well - where they are being detained or held in custody (paras. 3 and 9 of the Decision).

197. The Central Investigation Department of the Ministry of Internal Affairs and the Uzbek Bar Association have drawn up and introduced rules to govern the retention of lawyers and lawyers' attendance during preliminary inquiries and pretrial investigations, in particular the initial stages of an investigation, so as to uphold suspects' and accused persons' rights and interests.

198. Accordingly, at every investigation bureau there is a legal advice unit with lawyers on call day and night to make themselves available to defend detainees' rights and interests.

199. The rules make provision for a simplified procedure for allowing lawyers to meet those they are representing and permit appeals directly to the heads of investigation bureaux against violations of suspects' and accused persons' rights to a defence. All such appeals must be subjected to special scrutiny and verification.

- (g) Improve conditions in prisons and pretrial detention centres and establish a system allowing for unannounced inspections of those places by credible impartial investigators, whose findings should be made public. The State party should also take steps to shorten the current pretrial detention period and provide independent judicial oversight of the period and conditions of pretrial detention. Furthermore, the order for an arrest should be made only by a court;**

200. Conditions in detention, at remand centres and in prisons are on the whole consistent with the United Nations Standard Minimum Rules for the Treatment of Prisoners. Cells are not overcrowded: custodial-type institutions are operating at 60-70 per cent of their capacity. There have been no complaints to the Central Penal Correction Department from detainees or their relatives about the quality of food and medical care in Uzbek remand centres and prisons.

201. The Central Penal Correction Department has drafted an instruction governing the organization of visits to penal institutions by representatives of the diplomatic corps, international non-governmental organizations, local not-for-profit organizations and the mass media, which has been registered with the Ministry of Justice.

202. Uzbekistan is introducing a system to allow representatives of civil society institutions access to penitentiary establishments. The Central Penal Correction Department has drafted a model agreement on the procedure for allowing non-governmental not-for-profit organizations access to places of detention.

203. In his report to the joint session of the Legislative Chamber of the Oliy Majlis and the Senate on 28 January 2005, President Karimov suggested that, as in any democratic State, the right to issue detention and arrest warrants and order other procedural preventive measures should be transferred to the courts.

204. In response to the President's initiative, work on the incorporation of habeas corpus into Uzbek law has begun.

- (h) Consider further steps to transfer the prison system from the Ministry of Internal Affairs to the Ministry of Justice, thereby advancing the conditions of the penitentiary system in accordance with the Convention;**

205. In response to a decision by the Ministry of Internal Affairs on 22 May 2003, an outline plan for the further development and improvement of the penal correction system, 2005-2010, has been drawn up; this calls for a review of issues relating to the removal of the penal correction system from under the authority of the Ministry.

206. An interdepartmental working group focused in particular on efforts by the Ministry's Central Penal Correction Department to protect human rights. It noted that, through the implementation of government policy aimed at liberalizing penal enforcement legislation and the penal correction system, there have been significant decreases in the number of custodial sentences and an improvement in conditions in detention. Representatives of international organizations, the European Union, the diplomatic corps and foreign news media have been able to see this for themselves during unimpeded visits to penal institutions.

- (j) Review cases of convictions based solely on confessions in the period since Uzbekistan became a party to the Convention, recognizing that many of these may have been based upon evidence obtained through torture or ill-treatment and, as appropriate, provide prompt and impartial investigations and take appropriate remedial measures;**

207. As a rule, when people are prosecuted under article 235 of the Criminal Code the conduct of the proceedings is handed over to another investigator who recommences the investigation. This was the practice followed in the case of 15 internal affairs employees who were convicted under article 235 of the Code.

- (k) Ensure in legislation and in practice that no one will be expelled, returned or extradited to a State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture;**

208. The Ministry of Foreign Affairs is considering whether to incorporate in bilateral treaties language prohibiting extradition to States where the individual concerned might be tortured.

- (l) Consider making the declarations under articles 21 and 22 of the Convention;**

209. A programme of action to comply with the Convention against Torture, approved by the Prime Minister of Uzbekistan, was passed in March 2004. It covers the period 2004-2005.

210. Item 22.1 reads: "Discussion of acceptance of the declaration called for in article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and acknowledgement of the competence of the Committee against Torture to receive and consider communications from individuals who claim to be victims of a violation of the Convention" and is scheduled for 2005 (see annex 1).

- (m) Provide data in the next periodic report, disaggregated, inter alia, by age, gender, ethnicity and geography, on civil and military places of detention, juvenile detention centres and other institutions where individuals may be vulnerable to torture or ill-treatment under the Convention;**

- (n) Widely disseminate the Committee's conclusions and recommendations and the summary records of the review of the State party's reports, including to law-enforcement officials, in the public media and through popularization efforts by non-governmental organizations;**

211. Everything that has been done under the programme of action to comply with the Convention has been reported on in the mass media.

212. *ADVOKAT*, the journal of the Uzbek Bar Association (No. 1, March 2003), published the conclusions and recommendations of the Committee against Torture and other international agreements on the protection of human rights.

213. The journal *Hukuk- Pravo- Law* has published an article by B.I. Ismailov, “The implementation of international human rights standards on protection against torture and other cruel, inhuman or degrading treatment and punishment in domestic Uzbek law”, which contains “Material from the Committee against Torture. Progress in the consideration of Uzbekistan’s country report (CAT/C/53/Add.1).”

(o) Consider consulting independent non-governmental human rights organizations directly over the preparation of the next periodic report;

214. Material produced by the Uzbek Association of Judges, the Uzbek Bar Association and the Ijtimoiy Fikr Centre for the Study of Public Opinion was used in preparing this report.
