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## Advanced unedited version

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### Committee against Torture

#### Concluding observations on the fifth periodic report of Uzbekistan\*

1. The Committee against Torture considered the fifth periodic report of Uzbekistan (CAT/C/UZB/5) and the State party's replies to its list of issues (CAT/C/UZB/Q/5/Add.1) at its 1786<sup>th</sup> and 1789<sup>th</sup> meetings, held on 12 and 13 November 2019 (CAT/C/SR.1786 and CAT/C/SR.1789), and adopted the following concluding observations at its 1809<sup>th</sup> meeting (CAT/C/SR.1809) held on 28 November 2019.

#### A. Introduction

2. The Committee welcomes the dialogue with the State party's delegation and the oral and written replies provided to the concerns raised by the Committee.

#### B. Positive aspects

3. The Committee welcomes the State party's initiatives to revise its legislation in areas of relevance to the Convention, including the adoption of:

(a) Anti-Corruption Act on 3 January 2017;

(b) Act of 29 March 2017 adding article 415-1 to the Code of Criminal Procedure stipulating that courts shall remedy failures in investigations of significant breaches of criminal procedure law, in 2017;

(c) Joint Resolution by the Oliy Majlis (Parliament) endorsing the Action Plan on cooperation with the Office of the United Nations High Commissioner for Human Rights, on 16 June 2017;

(d) Amendments to the Oliy Majlis Human Rights Commissioner (Ombudsman) Act (by Act No. ZRU-441 of 29 August 2017 and 14 March 2019) that stipulate, inter alia, that persons deprived of liberty are entitled to make an unlimited number of written complaints to the Ombudsman, and that the Ombudsman can conduct preventive monitoring of all detention facilities, in 2017;

(e) Act No. ZRU-497 of 11 October 2018 to strengthen the independence and enhance the role of the legal profession and Bar Chamber, in 2018; and Presidential Decree No. UP-5441 of 12 May 2018;

(f) Act on the Protection of Women from Harassment and Violence, on 2 September 2019.

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\* Adopted by the Committee during its 68<sup>th</sup> session (11 November – 6 December 2019)

4. The Committee also welcomes initiatives of the State party to amend its policies, programmes and administrative measures to give effect to the Convention, including Presidential Decrees:

(a) On measures for the further reform of the legal and judicial system, strengthening safeguards for protection of human rights and freedoms and creation of the Supreme Judicial Council, in 2016;

(b) On measures to overhaul the processing of communications, including setting up public help desks for processing of citizens' claims and complaints, in 2016;

(c) On a strategy of action for 2017-2021 in five priority areas for development, which also serves as a road map towards attainment of the United Nations Sustainable Development Goals;

(d) On Approval of the Regulation on the Procedure for Granting Political Asylum in Uzbekistan, in 2017;

(e) On prohibiting the use of evidence obtained in breach of the provisions of the Code of Criminal Procedure, including through the use of torture or psychological and physical pressure, rendering coerced evidence inadmissible in criminal cases and establishing criminal liability for the falsification of evidence, in 2017;

(f) On boosting effectiveness of internal affairs bodies, of 10 April 2017; and related measures including Article 95-1 of the Criminal Procedure Code; amendments to the Procuratorial Service Act in 2016 and 2017; and a rule added to article 22 of the Criminal Procedure Code requiring courts to verify reports of torture, in 2016 and 2017.

5. The Committee also welcomes:

(a) Extension until 2020 of the Decent Work Programme, which includes measures to prohibit child labour and forced labour, as agreed with the International Labour Organization, in 2017;

(b) Closure of Jaslyk prison (UYA 64/OF1) as a federal prison and transfer of its inmates elsewhere, in August 2019;

(c) Visits to Uzbekistan by the United Nations Special Rapporteurs on freedom of religion or belief and on the Independence of Judges and lawyers, in 2017 and 2019, respectively, and assurances by the delegation that an invitation to visit is being extended to the Special Rapporteur on Torture.

## **C. Principal subjects of concern and recommendations**

### **Pending follow-up issues from the previous reporting cycle**

6. In its previous concluding observations (CAT/C/UZB/CO74, para. 31), the Committee requested the State party to provide follow-up information on measures taken to implement its recommendations concerning widespread torture and ill-treatment (para. 7); harassment, arbitrary imprisonment and alleged torture of human rights defenders (para. 8); and fundamental legal safeguards against torture and ill-treatment (para. 13). The Committee appreciates the information provided by the State party in its response to the follow-up procedure, submitted on 17 April 2014, (CAT/C/UZB/CO/4/Add.1) and in its reply to the Committee's list of issues in relation to its fifth periodic report, submitted on 16 September 2019 (CAT/C/UZB/Q/5/Add.1). However, having examined that information, the Committee considers that the recommendations in paragraphs 7, 8 and 13 have not been implemented (see paras. 9, 17 and 29, respectively).

### **Widespread, routine torture and ill-treatment**

7. The Committee remains deeply concerned at reports that torture and ill-treatment continue to be routinely committed by, at the instigation of, and with the consent of the State party's law enforcement, investigative, and prison officials, principally for the purpose of extracting confessions or information to be used in criminal proceedings.

8. The Committee notes the Presidential Decree and amendments to legislation that would reduce incentives to perpetrate torture and make it mandatory for procuratorial authorities and courts to verify reports of torture. The Committee regrets, however, that the State party is not presently collecting data on the implementation of these measures to determine whether they are having an impact in practice. It further regrets reports that prosecutors and judges tend to disregard and decline to investigate allegations that confessions and other material presented as evidence in court was obtained through torture, and that medical personnel and defence lawyers, and including state-appointed counsel, are reluctant to corroborate such allegations. It is also concerned that the State party has not provided data on the number of persons acquitted of all charges following confirmation of torture allegations that they raised in court.

9. The Committee also regrets that a number of criminal trials during which defendants allegedly raised torture allegations during the reporting period, such as those of retired diplomat Kadyr Yusupov, as well as several trials of persons charged with committing torture under article 235 of the Criminal Code, such as the 2018 trial of six National Security Service officers and others charged with torturing Ilhom and Rahim Ibodov, were closed to the public, and that court decisions in these cases are not publicly available (arts. 2, 4, 12, 13, 15 and 16).

**10. The State party should:**

**(a) Adopt further measures to ensure that prosecutors and judges ask all defendants in criminal cases whether they were tortured or ill-treated, that all allegations of torture and ill-treatment raised in judicial proceedings in the State party are promptly and effectively investigated and alleged perpetrators prosecuted and punished, and that no statement made as a result of torture or ill-treatment is invoked as evidence in any proceedings, except against the person accused of torture or ill-treatment as evidence that the statement was made under duress;**

**(b) As a matter of urgency, take effective measures to gather and publish data on cases in which defendants and witnesses in criminal trials have alleged that they were subjected to torture or ill-treatment and compel them to confess or provide information for use in criminal proceedings, whether judges subsequently excluded such evidence in those proceedings, whether the claims made in court were investigated and alleged perpetrators prosecuted, and whether defendants whose torture claims were substantiated were subsequently acquitted on all charges against them;**

**(c) Ensure that criminal trials, including but not limited to trials involving charges of torture, are open to the public; and that decisions in criminal cases involving torture allegations are made public, including those relating to cases in which defendants have been charged with violations of article 235 of the Criminal Code;**

**(d) Enhance efforts to promote the use by the State party's authorities of non-coercive criminal investigation techniques;**

**(e) Strengthen the independence of officials responsible for conducting forensic medical evaluations into allegations of torture and ill-treatment from authorities accused of committing these offenses and from prosecution authorities; ensure that all such officials are protected from retaliation in cases where they confirm evidence of torture or ill-treatment; and ensure that all such officials receive training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).**

**Investigations and prosecution of acts of torture**

11. The Committee is concerned that complaints of torture received by the Prosecutor's Office increased ten-fold from 2017 to 2018, while the number of cases in which officials were prosecuted for torture did not increase at a commensurate rate. The Committee also regrets the lack of information from the State party regarding the precise disciplinary and criminal punishments handed down against officials suspected or convicted of engaging in torture and ill-treatment. The Committee notes efforts by the State party which led to establishment of an investigations department in the Ministry of Internal Affairs with direct

chain of command to the Minister of the Interior. However, the Committee remains concerned that these measures have not ensured that effective investigations are conducted, as evidenced by the low number of prosecutions. The Committee is also concerned that serious conflicts of interest inherent to the procuratorial system persist, incentivizing procurators to unjustifiably discontinue preliminary investigations.

12. The Committee also regrets that the State party did not provide requested information on its investigations into allegations of torture and ill-treatment perpetrated during the period under review, including claims that Bobomurod Razzakov was subjected to ill-treatment and denied medical care in detention in October 2016; the alleged ill-treatment and death in custody of Nuraddin Dzhumaniyazov in December 2016; the alleged torture and ill-treatment of Kadyr Yusupov beginning in December 2018; and that Said-Abdulaziz Yusupov was arbitrarily detained and subjected to torture. The State party did not indicate whether authorities conducted a full investigation into allegations that Bobomurod Abdullaev was tortured in September 2017 or whether officials relied only on the results of a forensic medical evaluation in dismissing his allegations. The Committee regrets that the State party did not provide information requested concerning the court-ordered forensic medical examinations of allegations raised in court by Rashitjon Hamidovich Kadirov, the former Prosecutor-General of Uzbekistan, six co-defendants, and seven witnesses (arts. 2, 4, 12, 13, 15 and 16).

**13. The State party should:**

**(a) Take additional measures to ensure that all allegations of torture and ill-treatment are promptly, impartially, and effectively investigated by authorities independent of the alleged perpetrators; and consider establishing a special division of the Office of the Procurator tasked solely with carrying out thorough and independent investigations into official misconduct, including allegations of torture and ill-treatment;**

**(b) Ensure that all officials credibly accused of torture or ill-treatment are suspended from duty pending the investigation of the allegations against them, that all officials found to have engaged in torture or ill-treatment are immediately terminated from government service, and that all such individuals are subject to criminal prosecution in addition to any disciplinary penalties, and provide the Committee with information on the penalties applied to all officials found to have committed torture or ill-treatment;**

**(c) Investigate allegations that procurators routinely fail to investigate complaints of torture and ill-treatment, discipline officials found to have ignored or inadequately investigated such complaints, and take remedial measures; in particular, re-examine the allegations of torture and ill-treatment made by Bobomurod Razzakov, Nuraddin Dzhumaniyazov, Said-Abdulaziz Yusupov, Bobomurod Abdullaev, Kadyr Yusupov, and Rashitjon Hamidovich Kadirov, and ensure that victims and their relatives obtain redress, including compensation and rehabilitation.**

**Sexual violence against individuals deprived of their liberty**

14. The Committee is seriously concerned at the State party's assertion, in response to questions about specific cases raised by the Committee, that none its authorities have identified any cases of violence against persons in detention facilities, that no women in detention have been subjected to any misconduct during the reporting period, and that the Ombudsman has not received any complaints of sexual violence from persons deprived of their liberty. This is inconsistent with numerous reports the Committee has received of cases in which men and women were threatened by public officials that they or their family members would be subjected to sexual violence if they refused to confess to crimes or to provide evidence against others; and of other cases in which women were subjected to sexual humiliation and threats of sexual violence by public officials while in their custody (arts. 2, 11, 12, 13, 14, 15 and 16)

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<sup>1</sup> Mr. Modvig.

15. **The State party should undertake an independent investigation into allegations that that officials routinely subject men and women deprived of their liberty to sexual violence or to threats that such violence will be committed against them or members of their families if they refuse to confess to crimes or to implicate others. The State party should take urgent measures to curb this practice and ensure that officials who engage in such conduct are prosecuted and punished under article 235 of the Criminal Code. The State party should ensure that effective complaints mechanisms are accessible to individuals alleging such violence, particularly to women deprived of their liberty. The State party should also ensure that victims of such violations obtain redress and compensation, including medical and psychosocial rehabilitation.**

**Torture, ill-treatment, arbitrary detention, intimidation and harassment of human rights defenders and journalists**

16. The Committee welcomes the State party's decision to release from detention a substantial number of human rights defenders and journalists since September 2016, including many individuals named in paragraph 8 of its 2013 Concluding Observations. However, the Committee regrets the State party's determination that all of the claims of arbitrary detention, torture, and ill-treatment raised by these individuals were "unsubstantiated," and that only one previously detained person named in the Committee's previous Concluding Observations has been exonerated of the charges brought against him.

17. The Committee is further concerned by allegations that human rights defenders and journalists in Uzbekistan continue to face arbitrary detention, surveillance, harassment, and other measures aimed at deterring them from carrying out their work. The Committee notes with concern allegations it has received of human rights defenders and journalists being involuntarily committed to psychiatric hospitals in order to prevent them from conducting their work, including Elena Urayeva in March 2017 and Nafosat Ollashukurova in September 2019. It is also concerned at reports that previously detained human rights defenders Agzam Turgunov, Azam Farmonov and Dilmurod Saidov have been denied permission to establish a non-governmental organization with the objective of petitioning the authorities to investigate past allegations of torture and ill-treatment and provide redress to victims, and at reports that they have faced intimidation and harassment for attempting to do so (arts. 4, 12, 13, 14, 15 and 16).

**18. The State party should:**

**(a) Ensure that prompt, impartial, effective, investigations are conducted into all allegations of arbitrary deprivation of liberty, harassment, and intimidation of human rights defenders, including those named in paragraph 8 of the Committee's previous concluding observations and journalists, and that officials found responsible for such conduct are prosecuted;**

**(b) Take measures to exonerate persons previously convicted of criminal charges on the basis of evidence coerced through torture or following trials that did not afford the defendants fundamental due process guarantees; and ensure victims obtain redress, including compensation and rehabilitation; and consider creating an independent commission tasked with looking into these matters;**

**(c) Ensure that human rights defenders, and journalists, including those sharing information with United Nations human rights mechanisms, are able to work safely and effectively in the State party; review and revise laws and procedures governing the registration and operation of non-governmental organizations in the State party, ensuring they do not face reprisals;**

**(d) Review the laws and procedures governing compulsory medical treatment including psychiatric confinement and introduce safeguards to prevent its misuse by the authorities.**

**Andijan events**

19. The Committee reiterates the serious concern expressed in paragraph 11 of its previous concluding observations that the events of May 2005 in Andijan, which resulted in

hundreds of deaths, have not been the subject of impartial, effective investigations, despite the State party's acceptance of a recommendation during the Universal Periodic Review in 2018 to "establish recognition mechanisms for truth and compensation for the victims of Andijan events" and despite the recommendation of former High Commissioner for Human Rights Zeid Ra'ad al-Hussein during his 2018 visit to the State party to "ensure that victims are not forgotten and their grievances are addressed" (arts. 1, 4, 12, 13, 14, 15 and 16).

**20. The Committee reiterates its recommendation (CAT/C/UZB/CO/4, para. 11) that the State party should take effective measures to institute an impartial, thorough and effective investigation into the events of May 2005 in Andijan and publish the conclusions, and to ensure that victims of excessive use of force, torture and ill-treatment, and others concerned receive a full, transparent, and credible account of the Andijan events. The investigation should be capable of leading to prosecutions for violations of the Convention and of ensuring that victims of such violations obtain redress, including compensation and as full rehabilitation as possible.**

#### **Definition of torture**

21. While appreciating the enactment of amendments to article 235 of the Criminal Code of 4 April 2018 to strengthen the guarantees of the rights of citizens during forensic examinations, including by ensuring access to lawyers, and reducing the period during which a person may be detained before being brought before a judge, the Committee is concerned that the definition of torture contained in article 235 does not contain all elements in article 1 of the Convention and that it applies only to law enforcement or other state agency employees not including others acting "with the consent or acquiescence of a public official or other persons acting in an official capacity"; that its reference to acts amounting to torture as "illegal psychological, psychic, physical or other pressure by means of threatening, striking, beating, tormenting, causing of suffering or other unlawful acts" may imply that "legal" forms of coercion may exist; and limits such acts only to persons involved in a criminal procedure, leaving out persons in other settings such as hospitals and other specialized institutions. Further, the definition limits forms of discrimination as aggravating circumstances solely to "Discrimination on grounds of nationality, race, religion or social status" which makes discrimination an aggravating circumstance, without additional grounds for discrimination, unlike for "any reason based on discrimination of any kind" as specified in article 1 of the Convention. The Committee takes note that to date no judgments of national courts have referred to the Convention and the definition of torture outlined in article 1 (arts. 1, 2 and 4).

**22. The Committee recommends that the State party adopt a definition of torture in its Criminal Code in line with all the elements contained in article 1 of the Convention and would appreciate receiving information on measures the State party envisages taking to that effect. The State party should:**

**(a) Ensure that the definition classifies as perpetrators of torture persons who act in an official capacity as well as officials who consent to or acquiesce in torture perpetrated by third parties;**

**(b) Ensure that article 235 covers all places where persons are deprived of their liberty;**

**(c) Ensure that acts of torture may include third persons and not solely those involved in criminal proceedings and their close relative;**

**(d) Broaden the reference to discrimination to include "discrimination of any kind."**

**(e) Ensure the full and direct applicability of the provisions of the Convention in national courts so that it can be invoked before them; and clarify the precedence of international human rights instruments to which the State is a party over national legislation in case of a conflict.**

#### **Penalties for acts of torture**

23. The Committee is concerned that the maximum penalty for acts of torture is 10 years imprisonment, which puts it in the category of minor and less serious offences, as opposed to serious and especially serious offences that carry sanctions of 25 or more years of imprisonment. It is also concerned that few convictions for torture are handed down under article 235 of the Criminal Code and that most officials are convicted under articles 301 (abuse of official authority) and 302 (negligence) that carry lighter sentences; as well as under articles 104, 105, 109, 206 and 234 of the Criminal Code, as confirmed by the State party's delegation (arts. 1, 2 and 4).

**24. The State party should ensure that both the crime of torture and the attempt to commit such a crime are punishable with appropriate penalties that take into account their grave nature, as set out in article 4 (2) of the Convention, regardless of whether there are aggravating circumstances. It should consider amending the Criminal Code with a view to increase the sentences for the crime of torture, which should be prosecuted under article 235 of the Criminal Code.**

#### **Amnesties and statute of limitations**

25. The Committee is concerned that the State party continues to award amnesties to individuals convicted of violating article 235, including under the Regulation on Pardon adopted in May 2018, and that the statute of limitations continues to apply to the crime of torture (arts 1, 2 and 4).

**26. The Committee reiterates (CAT/C/UZB/CO/4, para. 10) its view that amnesties for torture are incompatible with the obligations of States parties regarding the absolute and non-derogable nature of the prohibition of torture, as outlined in the Committee's General Comments Nos. 2 (2007) and 3 (2012). Therefore, the State party should refrain from granting amnesties to perpetrators of torture, abstain from issuing pardons to persons found guilty of committing acts of torture; and include article 235 of the Criminal Code in the list of articles for which there is no statute of limitations.**

#### **Pre-trial detention**

27. While taking note of the 2017 amendment to article 226 of the Code of Criminal Procedure that limits the period during which a person may be detained without appearing before a judge to 48 hours, the Committee is concerned that the 48-hour period only starts running from the moment that a person is brought to a police station or another law enforcement institution, which is not the very outset of deprivation of liberty. It is also concerned that the 48-hour periods may be extended if the investigators and prosecutors present justifications through a judicial decision; and that criminal cases continue to be referred for additional investigation (2, 11, 12, 13 and 16).

**28. The State party should:**

**(a) Ensure that the period of custody before being brought before a judge does not exceed 48 hours;**

**(b) Ensure that failures in the completion of the initial inquiry do not result in referrals for additional investigations;**

**(c) Ensure that time spent in pre-trial detention/arrest is included in the time to be served under the final sentence.**

**(d) Envisage using alternatives to pre-trial and remand detention, as laid out in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).**

#### **Fundamental legal safeguards**

29. The Committee remains seriously concerned that not all persons deprived of their liberty enjoy, in practice, all the fundamental legal safeguards from the very outset of their detention. It is concerned, in particular, that law enforcement officials prevent detained persons from meeting with their lawyers or create obstacles for such meetings, that lawyers

are sometimes threatened with physical violence from law enforcement officers and that there are no separate rooms to meet privately with clients. The case of Kadyr Yusupov illustrates how safeguards were absent leading to inadequate legal defense or lack of access to attorney and relatives. (arts. 2, 11, 12, 13, 15 and 16)

**30. The Committee reiterates its recommendation (CAT/C/UZB/CO/4, para. 13), that the State party should adopt measures to ensure in law and practice that every person deprived of his or her liberty, including pursuant to domestic administrative law, is afforded legal safeguards against torture from the outset of detention, in accordance with international standards. The State party should:**

**(a) Ensure that all persons deprived of their liberty are afforded, in law and in practice, all fundamental legal safeguards from the very outset of their deprivation of liberty, including unimpeded access to an independent lawyer of their choice or, if necessary, to free legal aid, including during the initial interrogation and inquiry in line with the Basic Principles on the Role of Lawyers and the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems; be informed about the charges against them and about their rights, both orally and in writing in a language that they understand; be brought promptly before a judge ; notify a family member or any other person of their choice of their detention immediately after apprehension; have immediate access to an independent medical examination, free of charge, including on request by a doctor of their choice; and to establish registers of injuries and violent incidents in all places of detention;**

**(b) Establish a central register of detention regarding all persons at all stages of their deprivation of liberty and inform the Committee on the type of information recorded and on specific measures taken to ensure accurate record-keeping as an important safeguard against incommunicado and arbitrary detention and enforced disappearance;**

**(c) Monitor the compliance by all public officials with fundamental legal safeguards, including through video monitoring of all places of deprivation of liberty and interrogation rooms;**

**(d) Ensure a normative framework for the effective oversight of the provision of safeguards and take disciplinary measures against officials who fail to afford fundamental legal safeguards to persons deprived of their liberty in practice;**

**(e) Provide information to the Committee on the number of complaints received regarding failure to respect fundamental legal safeguards and on the outcome of such complaints in the State party's next report to the Committee.**

#### **Application of habeas corpus provisions**

31. The Committee remains concerned (CAT/C/UZB/CO/4, para. 15) that domestic legislation has not been amended to permit judges to assess the legality of detention in habeas corpus hearings, and that such hearings are closed and participation of defence lawyers is not mandatory (arts. 2, 11, 12, 13, 15 and 16)

**32. The Committee reiterates its recommendation (CAT/C/UZB/CO/4, para. 15) that the State party should**

**(a) Amend the Criminal Procedure Code to provide judges with the competence to assess the legality of detention during habeas corpus hearings; apply less restrictive alternatives to detention during such hearings; amend article 243 of the Criminal Procedure Code to ensure mandatory presence of defence counsel of the detainee's choice at the habeas hearing; and ensure that all such hearings are public and accessible to independent monitors;**

**(b) Revise its legislation to ensure that persons deprived of their liberty, whether detained on criminal or administrative grounds, must be brought to a habeas corpus hearing within 48 hours of deprivation of liberty.**

### **Independence of the judiciary**

33. While welcoming the creation by the Parliament on 28 March 2017 of the Supreme Judicial Council and of the Supreme School of Judges, the Committee is concerned at the continued weakness and inefficiency of the judiciary; the precariousness of the security of tenure for judges; the predominant role of the prosecution in criminal proceedings; the broad and vague grounds for initiating disciplinary proceedings against judges for “violation of the rules of ethical judicial conduct”; and the discretionary power of the President to appoint the Deputy, Secretary and seven members of the Supreme Judicial Council. The Committee appreciates information provided by the State party that its courts handed down acquittals of 191 persons in the first 10 months of 2017 as compared with only seven acquittals during the previous five years, although it regrets that the State party did not provide requested information indicating whether the individuals in these cases were released or whether they were convicted and imprisoned on other charges (arts. 2, 12 and 13).

#### **34. The State party should:**

- (a) Continue to take additional measures to ensure the full independence, impartiality and effectiveness of the judiciary;**
- (b) Reduce the broad supervisory functions and prominent role of prosecutorial authorities in criminal proceedings;**
- (c) Consider reducing current discretionary powers of the President regarding appointments to the Supreme Judiciary Council;**
- (d) Enhance the security of tenure for judges; review the regime of appointment, promotion and dismissal of judges in line with the relevant international standards, including the Basic Principles on the Independence of the Judiciary;**
- (e) Submit for judicial review the many reported cases of persons who are allegedly currently arbitrarily imprisoned in the State party following trials that did not adhere to fundamental standards of due process, including the cases of religious scholar Rukhiddin Fakhriddinov, author Akrom Malikov, political scientist Rustam Abdumanopov, and producer Mirsobir Khamidkoriyev.**

### **Independence of lawyers**

35. The Committee reiterates its concern (CAT/C/UZB/CO/4, para.14) about the lack of independence of the Chamber of Advocates from the Ministry of Justice; the low number of lawyers in the country and their unavailability in remote areas; the requirement for all attorneys to undergo recertification every three years; interference with lawyers’ access to accused individuals during pre-trial detention, as well as threats, harassment and reprisals against lawyers defending political figures or persons accused of terrorist activities (art. 2).

**36. The Committee recommends that the State party ensure the independence of lawyers and amend its legislation to ensure full independence of the Chamber of Advocates from the Ministry of Justice; consider amending the requirement that lawyers obtain recertification to practice every three years; provide full access of lawyers to accused persons in particular during pre-trial detention and enable them to meet in private with their clients; and ensure that lawyers are able to carry out their professional activities without any intimidation, harassment, improper interference or reprisals.**

### **Conditions of detention and deaths in custody**

37. The Committee is seriously alarmed at continued reports that torture and ill-treatment are frequently committed in prisons, by and with the consent and acquiescence of prison officials, leading in some cases to deaths. The Committee is concerned at reports that prisoners are subjected to forced labour in certain prison colonies, such as the brick factory in Prison colony 64/4 in Navoi. The Committee is also concerned that, as a punishment, prisoners in the State party are denied adequate health care and access to medicines. It is also concerned that the State party failed to provide requested data on violent incidents and deaths in custody and on any investigations undertaken.

38. While noting reports of a significant decrease in the number of instances in which authorities have arbitrarily extended the sentences of prisoners under article 221 of the Criminal Code, which prohibits repeated violation of prison rules; the Committee is also concerned at reports that authorities have refused to release prisoners who have completed their sentences on alleged health grounds.

39. While welcoming closure by Presidential Decree on 2 August 2019 of Jaslyk penitentiary colony as a high-security prison, the Committee is concerned at reports that the facility has been transferred to the control of Karakalpakstan authorities who may use it as a pre-trial detention facility. The Committee regrets that, although the State party provided the capacity and occupancy rates for Jaslyk colony to the Committee, it stated that capacity and occupancy rates of other places of detention in the State party are “confidential” (arts. 2, 11, 12, 13, 14 and 16).

**40. The State party should:**

**(a) Undertake comprehensive reform of the penitentiary system in the State party and transfer control over the penitentiary system from the jurisdiction of the Ministry of Internal Affairs to the Ministry of Justice; strengthen the independence of penitentiary medical staff; transfer the competence of penitentiary medical staff to the authority of the Ministry of Health; and provide prisoners with adequate health care and access to medicine; cease the practice of subjecting prisoners to forced labour; and bring conditions in all places of detention fully in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);**

**(b) Ensure that article 221 of the Criminal Code is not used to extend arbitrarily the sentences of prisoners who are nearing release;**

**(c) Ensure that prisoners who have completed their sentences are not denied the ability to exit the penitentiary system on spurious health grounds;**

**(d) Ensure that Jaslyk prison, which a former United Nations special rapporteur said “by its very location creates conditions of detention amounting to cruel, inhuman and degrading treatment or punishment for inmates and their relatives,” is permanently closed and no longer used as a place of detention, including for pre-trial detainees, by any authority in the State party;**

**(e) Conduct an independent inquiry into allegations of torture and ill-treatment at the Jaslyk facility, ensure that victims of torture and ill-treatment obtain redress, and allow public access to the prison archives;**

**(f) Ensure that all allegations of torture and ill-treatment in places of detention are promptly, effectively and impartially investigated and that perpetrators are prosecuted; for example, ensure that family members are permitted the possibility of carrying out independent forensic examinations in all cases of death in custody;**

**(g) Collect and publish data on the locations, capacity and occupancy rates, and the numbers of convicted and remand detainees in all places of detention in the State party; as well as on the number and causes of deaths in custody.**

**Complaints mechanism and independent monitoring of places of detention**

41. While noting information provided by the State party indicating that places of deprivation of liberty reportedly are visited by procurators and supervisory procurators, representatives of the Ministry of Internal Affairs, the Human Rights Commissioner (Ombudsman), civil society organizations, representatives of foreign diplomatic missions, the media, and foundations, the Committee is concerned that the official entities which are empowered to monitor and to receive complaints of torture and ill-treatment in places of deprivation of liberty reportedly continue to be ineffective and lack independence.

42. The Committee is alarmed at reports that the Ombudsman, who is accountable to the Parliament, reportedly refers all allegations of torture to the procuratorial authorities and the Ministry of Internal Affairs for investigation, and that after investigating he found no evidence of torture in any of the 101 complaints received in 2018 and reported receiving no complaints regarding misconduct of penitentiary staff.

43. The Committee is further concerned that representatives of non-governmental organizations are unable to conduct unannounced monitoring of places of deprivation of liberty; that the International Committee of the Red Cross has not yet agreed to resume visiting places of detention in the State party since it would be unable to follow its standard working procedures; and that diplomats and representatives of non-governmental organizations that are allowed to visit places of detention in the State party are accompanied by prison or law enforcement staff at all times (arts. 2, 11, 12, 13 and 16).

**44. The State party should:**

**(a) Ensure that effective, independent, accessible complaints mechanisms are available to all persons deprived of their liberty;**

**(b) Take measures to strengthen the independence and capacity of the Ombudsman to carry out his reactive function to respond to complaints of torture and ill-treatment in places of detention;**

**(c) Take measures to ensure that all places of detention are subject to independent, effective and regular monitoring and inspection without prior notice, that monitors identify conditions or conduct in places of deprivation of liberty amounting to torture or ill-treatment, and that monitors report publicly on their findings;**

**(d) Ensure that all persons monitoring places of detention hold confidential, private meetings with persons deprived of their liberty;**

**(e) Ensure that independent non-governmental organizations are able to carry out independent and unannounced monitoring of all places of deprivation of liberty in the State party;**

**(f) Permit the International Committee of the Red Cross to undertake visits to places of detention in the State party in accordance with its standard working procedures.**

**National preventive mechanism**

45. While noting that amendments to the Law on the Ombudsman on 14 March 2019 vested him with authority to conduct preventive visits to all places of deprivation of liberty in cooperation with representatives of civil society organizations, the Committee regrets that the State party did not provide requested information regarding the criteria that will guide the selection of the “Expert Group” of civil society members that will be included in the “national preventive mechanism” that will be established to allow the Ombudsman to carry out this function and what measures will be taken to ensure the mechanism’s independence and effectiveness (arts.2, 11, 12, 13, 14, 15 and 16).

**46. The State party should:**

**(a) Give further consideration to ratifying the Optional Protocol to the Convention;**

**(b) Consider seeking technical assistance from the United Nations, including advice from the Subcommittee on the Prevention of Torture on the establishment of the “national preventive mechanism,” in conformity with article 11 of the Optional Protocol;**

**(c) Take measures to strengthen the Ombudsman’s independence, including independence of the secretariat staff of the Ombudsman responsible for facilitating the work of the “national preventive mechanism” and its financial and operational autonomy;**

**(d) Take measures to ensure that human rights defenders who have received training on and are qualified to undertake monitoring and reporting on torture and ill-treatment in detention facilities are eligible for inclusion in the Expert Group of the “national preventive mechanism,” and do not condition eligibility for participation in the Expert Group on affiliation with a registered non-governmental organization;**

(e) Take measures to ensure that members of the Expert Group are protected from intimidation and reprisals and have security of tenure apart from the Ombudsman such that the appointment of a new Ombudsperson would not result in their automatic dismissal;

(f) Ensure that the “national preventive mechanism” is able to visit all places of deprivation of liberty, as set out in article 4 of the Optional Protocol, including all places where the State exercises effective control and other places that persons do not have the freedom to leave; and that State agencies are required to act on the recommendation of the envisaged monitoring mechanism and that any official who attempts to impede work of the monitoring mechanism is punished.

#### **National human rights institution**

47. The Committee is further concerned that the National Centre for Human Rights and the Human Rights Commissioner of the Oliy Majlis (Ombudsman), are not in compliance with the Principles relating to the Status of National Institutions (the Paris Principles) or accredited with the Global Alliance of National Human Rights institutions (GANHRI) and that the Office of the Ombudsman lacks the human and financial resources to effectively carry out its mandate as a national human rights institution in all parts of the country (art. 2).

#### **48. The State party should:**

(a) Strengthen the Office of the Ombudsman so that it can effectively carry out its mandate in all parts of the country; and provide it with adequate human, financial and institutional resources, in line with the Paris Principles, so that it can fully reflect the recommendations for accreditation by the Global Alliance of National Human Rights Institutions;

(b) Ensure the implementation of the Ombudsman’s recommendations, including with respect to awards of redress to victims, the prosecution of perpetrators and improvement of treatment and material conditions in places of deprivation of liberty; and publish his reports;

(c) Ensure that the National Centre for Human Rights functions effectively, reinforces protections under the international instruments to which Uzbekistan is a party and is in compliance with the Paris Principles

#### **Redress**

49. The Committee is concerned that while article 15 of the Civil Code allows courts to order “compensation for the losses that are caused by state officials”, this provision has so far not been applied to cases of torture. The Committee is concerned that the State party did not indicate whether victims of torture have received medical or psychosocial rehabilitation. The Committee is also concerned that the State party has not established a fund to assist victims of torture and ill-treatment (arts. 2 and 14).

**50. The Committee reiterates its recommendation (CAT/C/UZB/CO/4, para. 20) that the State party should ensure that victims of torture and ill treatment obtain redress, including the means for as full a rehabilitation as possible as set out in its General Comment No. 3 (2012). In particular, the State party should take measures to ensure that persons who have been released from detention following the change in Government are able to seek and obtain redress for torture and ill-treatment.**

#### **Forced labour**

51. Notwithstanding the measures resulting in the memorandum of understanding between Uzbekistan and the International Labour Organization in 2017, and while welcoming the President’s public affirmation of the need to end forced labour in the cotton sector, the Committee remains concerned at reports that an estimated 170,000 adults were forced to work during the 2018 cotton harvest and at reports that many individuals faced hazardous working conditions and substandard living conditions. In this regard, the Committee notes reports that prisoners of Colony 42 in the Zangiatskiy rayon of Jizak region

were forced to work during the cotton harvest, including some prisoners who had recently undergone surgery (arts. 2, 12, 13, 14 and 16).

**52. The Committee reiterates its recommendation (CAT/C/UZB/CO/4 para. 22) that the State party should end all forced labour in the cotton sector, including by prisoners. In light of its ratification of the ILO “Forced Labour Convention” (C029 of 19030) in 1992 and of the “Abolition of Forced Labour Convention” (C015 of 1957) in 1997, the State party should also investigate allegations of official complicity in forced labour, criminally prosecute those found responsible, and ensure that all victims obtain redress.**

#### **Juvenile justice**

53. While taking note of the reform of the juvenile justice system and the amendments to national legislation; the joint visits by UNICEF and the Prosecutor-General’s Office to the prison for juvenile offenders and four correctional-educational facilities; and the opening of 32 child-friendly interrogation rooms, the Committee is concerned about the situation of children in detention, including those held in pre-trial detention; about the imposition of solitary confinement as a disciplinary punishment; their access to regular family visits as well as the situation of 167 girls in two closed specialized educational correctional facilities (arts. 2, 11 and 16).

**54. The State party should:**

**(a) Ensure the implementation of the Presidential Resolution of May 2019 for Restructuring the Specialized Educational Facilities, begin reforms of the juvenile justice system, monitor the situation of children in conflict with the law and ensure that the regime of detention in general for children in conflict with the law and relevant national legislation conforms to international standards;**

**(b) Refrain from placing children in solitary confinement; ensure that they receive regular family visits; and ensure that the Ombudsman for Child Rights carries out visits to places where children are deprived of their liberty;**

**(c) Enable national and international organizations to visit closed specialized educational institutions; resolve the issue regarding the placement of the girls in educational correctional facilities cited above and re-structure the remaining two closed institutions.**

#### **Violence against women, domestic violence and prevention of divorce**

55. While welcoming the adoption on 2 September 2019 of a law on protecting women from harassment and violence, and the establishment of mechanisms including a hotline for women to report complaints of domestic violence, the Committee remains concerned at reports of actions or omissions by State agencies or other entities that engage the responsibility of the State party under the Convention. This includes reports that the new law does not criminalize marital rape, although it is unclear whether anyone has been prosecuted for this offense under general criminal law, at reports that women seeking to use the domestic violence hotline have experienced difficulty reaching the authorities and that victims of domestic abuse continue to lack access to adequate measures of support, including to specialized shelters. The Committee takes note of reports that married persons cannot petition the courts for divorce without first undergoing hearings before their neighborhood Mahalla Reconciliation Committee and is concerned that, as a result, in numerous cases these Committees pressure women to return to a continuing, significant and real risk of violence from their husbands (arts. 2, 12, 13, 14 and 16).

**56. The State party should take measures to ensure that its authorities or other entities refrain from actions or omissions that engage the international responsibility of the State party under the Convention, and particularly:**

**(a) Ensure that women who are victims of domestic violence face no legal impediments to immediately petition the authorities for protection measures, including restraining orders and legal separation or divorce, when sought;**

**(b) Ensure that all victims of gender-based violence including domestic violence have access to medical and legal services, including counselling, redress and rehabilitation, as well as to shelters throughout the country;**

**(c) Amend its legislation to include marital rape, a form of domestic violence, as a specific crime in the Criminal Code entailing ex officio prosecutions;**

**(d) Ensure that all cases of gender-based violence against women and girls, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, are punished appropriately, and that the victims receive redress, including adequate compensation;**

**(e) Monitor the effectiveness of complaints mechanisms including the domestic violence hotline;**

**(f) Provide mandatory training for police and other law enforcement officials, prosecutors, judges, social and medical workers on how to identify and effectively protect victims of gender-based violence, including domestic violence;**

**(g) Compile statistical data, disaggregated by age and ethnicity of the victims and their relationship to the perpetrator, on domestic, sexual and other forms of violence against women, including marital rape, and on the number of complaints, investigations, prosecutions and convictions of perpetrators and sentences handed down.**

#### **Forced renditions and extraditions**

57. The Committee is concerned at reports that national security officers have continued to engage in secret renditions from abroad and that many of the persons abducted or forcibly returned have been subjected to incommunicado detention, including in undisclosed locations, and have allegedly been tortured and ill-treated in order to obtain confessions to crimes or to incriminate others. In this regard, the Committee is concerned that the State party has secured the return of 542 individuals labelled as opponents between January 2015 and July 2016, through extradition proceedings or otherwise, including the reported use of diplomatic assurances (arts. 2, 3, 5, 6, 7 and 16).

**58. The State party should ensure that independent monitors can conduct confidential visits with all persons who have been the subject of an international transfer to Uzbekistan and that such persons have access to effective complaints mechanisms. It should also ensure that the trials of all persons who have been forcibly returned to Uzbekistan respect international human rights standards and that such persons are able to enjoy, from the very outset of their deprivation of liberty, all fundamental legal safeguards as set out in paragraphs 28 and 29.**

#### **Safeguards on non-refoulement**

59. While taking note of the May 2017 Presidential Decree on the Approval of the Regulation on the Procedure for Granting Political Asylum, which provides a legal avenue to seek asylum in the State party, the Committee is concerned that there are no other national mechanisms governing the treatment of asylum-seekers and refugees in the State party and that limited information is available concerning the implementation of the Presidential Decree (arts. 2, 3, 12, 13 and 16).

**60. The State party should collect and publish data on the implementation of the Presidential Decree concerning the procedure for granting political asylum and take measures to establish a comprehensive national asylum system that is in conformity with international standards and which provides all individuals under the State party's jurisdiction with an in-country right to appeal an expulsion order in order to determine whether there are substantial grounds for believing that they would be at risk of being subjected to torture and should establish an early detection system for victims of torture and ill-treatment. It should seek the assistance of the United Nations High Commissioner for Refugees in taking these measures and should consider ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.**

## **Training**

61. The Committee is concerned that police, law enforcement and national security officers, border guards, prison staff, judges, prosecutors and lawyers do not receive sufficient specific training on the provisions of the Convention and that training on the Istanbul Protocol is not provided to all medical professionals and public officials working with persons deprived of liberty. There is also a lack of information provided by the State party demonstrating that its training programs reduce the commission of torture (art. 10).

### **62. The State party should:**

**(a) Ensure that training on the provisions of the Convention and the absolute prohibition of torture is mandatory for police, law enforcement and national security officers, border guards, prison staff, judges, prosecutors and lawyers and that the Istanbul Protocol is made an essential part of the training for all medical professionals and other relevant public officials;**

**(b) Provide training for law enforcement officials on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and on non-coercive investigation methods;**

**(c) Develop and implement measures to assess the effectiveness and impact of training programmes provided to law enforcement and other public officials on the Convention;**

**(d) Issue rules and instructions regarding the prohibition against torture in the training to all personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment, as outlined in paragraph 2 of article 10 of the Convention.**

## **Violence against LGBT persons**

63. The Committee is concerned at reports that lesbian, gay, bisexual and transgender (LGBT) persons are subjected to violence and torture while in detention and to persecution by the police, including through entrapment schemes carried out using websites, threatening videos and extortion, as well as to violence by private persons. The Committee is concerned that the State party indicated that it has no cases open of cases involving violence against lesbian, gay, bisexual or transgender persons, and at reports that the criminalization of same-sex sexual relations in article 120 of the Code of Criminal Procedure renders lesbian, gay, bisexual and transgender people particularly vulnerable to violence by both law enforcement officials and private persons, as they are reluctant to seek protection from violence from the authorities for fear of being arrested (arts. 2, 12, 13, 14 and 16).

**64. The State party should undertake prompt, effective, impartial investigations of all allegations of torture and ill-treatment perpetrated against lesbian, gay, bisexual or transgender persons by or with the consent or acquiescence of public officials. The State party also should take measures to prevent violence and discrimination against lesbian, gay, bisexual or transgender persons on the basis of their sexual orientation and gender identity, including repealing article 120 of the Criminal Code and ensuring that its complaints mechanisms are accessible to and capable of facilitating effective protection for lesbian, gay, bisexual or transgender persons who are victims of or at risk of violence.**

## **Follow-up procedure**

**65. The Committee requests the State party to provide, by 6 December 2020, information on follow-up to the Committee's recommendations on ensuring that all allegations of torture and ill-treatment raised in judicial proceedings are investigated and the alleged perpetrators prosecuted and punished and that statements made as a result of torture and ill-treatment cannot be invoked as evidence in any proceedings; investigate allegations of torture and ill-treatment regarding the persons cited in paragraph 13 (c) and ensure that victims and their relatives obtain redress, including compensation and rehabilitation and discipline the officials who failed to investigate them; taking measures to ensure the independent monitoring of all places of detention;**

and ensuring that all persons deprived of their liberty enjoy fundamental legal safeguards from the very outset of their deprivation of liberty (see paragraphs 10 (a), 13 (c), 44 (c) and 30 (a)). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

#### Other issues

66. The Committee invites the State party to consider making the declarations envisaged under articles 21 and 22 of the Convention and to ratify any core United Nations human rights treaties to which it is not yet party.

67. The Committee recommends that the State party grant access to UN special procedures mandate holders who have requested visits and encourages it to invite the United Nations Special Rapporteur on torture as affirmed in the constructive dialogue.

68. The Committee recommends that the State party take appropriate measures to fulfil Sustainable Development Goal No. 16.10.1 by collecting and publishing data on the number of verified cases, inter alia, of torture of journalists, trade unionists, human rights advocates and others.

69. The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about these activities.

70. The Committee invites the State party to submit its next periodic report, which will be its sixth periodic report, by 6 December 2023. To that end, it invites the State party to agree, by 6 December 2020, to avail itself of the simplified reporting procedure in preparing that report. Under that procedure, the Committee will transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its sixth periodic report under article 19 of the Convention.

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