



**FOLLOW-UP REPORT TO THE CONCLUDING OBSERVATIONS OF THE  
COMMITTEE AGAINST TORTURE ON UZBEKISTAN FIFTH PERIODIC REPORT**

**Submitted by World Organization against Torture (OMCT)**

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## Introduction

The following report comments on the priority recommendations of the UN Committee against Torture presented to Uzbekistan within the Concluding Observations (CAT/C/UZB/CO/5) on the fifth periodic report of Uzbekistan on 14 January 2020.

The priority recommendations are stated in paragraph 65 of the Concluding Observations:

*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, except against the person accused of torture or ill-treatment as evidence that the statement was made under duress; 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; take measures to ensure the independent monitoring of all places of detention; and ensure that all persons deprived of their liberty enjoy fundamental legal safeguards from the very outset of their deprivation of liberty (see paras. 10 (a), 13 (c), 44 (c) and 30 (a)).*

Since the publication of the Concluding Observations in December 2019, the government of Uzbekistan has announced several important legislative initiatives to implement the Committee's recommendations. However, the cases of torture are still being widely reported, including ones resulted in the deaths of victims. The effective and immediate investigation of cases of torture is still lacking, as well as independent monitoring of places of detention.

## Legislative initiatives to address torture and inhuman treatment

The political commitments to address and prevent torture are still being declared at the highest political level. The President of Uzbekistan – Shavkat Mirziyoyev - has addressed the UN Human Rights Council at its 46<sup>th</sup> session in February 2021 and stated that Uzbekistan will ratify the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and has invited the UN Special Rapporteur on Torture to visit the country.<sup>1</sup>

Several important legislative initiatives have been announced to address effective investigation of torture allegations in 2020-2021.

On May 2020 the deputy General Prosecutor announced the creation of the state Committee on Prevention of Torture as law enforcement agency accountable to the President and the Parliament.<sup>2</sup> That initiative was reiterated in October 2020 by the General Prosecutor's office.<sup>3</sup> In March 2021 the project of the presidential decree "On additional measures on improvement

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<sup>1</sup> Gazeta.Uz, The President addressed the session of the UN Human Rights Council, 22 February 2021, <https://www.gazeta.uz/ru/2021/02/22/human-rights/>

<sup>2</sup> Gazeta.Uz, Committee on Prevention of Torture will be created in Uzbekistan, 29 May 2020, <https://www.gazeta.uz/ru/2020/05/29/tortures/>

<sup>3</sup> UPL 24, The Committee on Prevention of Torture could be established in Uzbekistan, 22 October 2021, <https://upl.uz/policy/18172-news.html>

of the system of identification of the facts of torture and prevention” was published.<sup>4</sup> It proposes to establish public groups for detection and prevention of torture under the Ombudsman that will be composed from state officials and civil society experts. The public groups are suggested to visit the penitentiary institutions, receive complaints about cases of torture, identify cases of torture and submit complaints and recommendations to the relevant bodies. The public groups are responsible to conduct prompt and impartial consideration of complaints about torture. The same document proposed to accede the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, none of these projects have been finally approved, and there is no further information when the announced projects will be realized.

Another important legislative initiative proposed by the government of Uzbekistan is a new Criminal Code, a draft of which was published at the end of February 2021.<sup>5</sup> The current draft law of the Criminal Code has article 169, criminalizing torture and article 170, criminalizing inhumane treatment. However, in its current version articles 169-170 are not fully in line with the Convention against Torture. Thus, the objective and subjective elements of the crime of torture do not correspond to the definition in the Convention; possible purposes for torture are limited to an exhaustive list and not all modes of liability, specifically acquiescence and consent, are included. Regarding the definition of inhumane treatment, in its current version, article 170 of the draft law of the Criminal Code of Uzbekistan does not clearly define the notion of ill-treatment that makes it easy to confuse inhumane treatment with torture, outlined in article 169.

In the current version of the draft Criminal Code of Uzbekistan, the crime of torture (article 169) is punished by imprisonment from three to five years, that classifies torture as a minor crime. Moreover, an act of amnesty is applicable to any crime, including torture, inhuman treatment and other international crimes. Other forms of exemption from criminal liability are also applicable to the crime of torture in accordance with the current version of the draft of the Criminal Code. Article 77 provides for exemption from criminal liability if an offender is remorseful in non-serious crimes (that includes torture and inhumane treatment under the current version) committed for the first time. Reconciliation, provided in Art. 78 is not applicable to the crime of torture, but is still provided for inhuman and degrading treatment (Art. 170). Article 75 of the current version of the draft Criminal Code of Uzbekistan provides statutes of limitations to crimes, including crimes of torture and inhumane treatment. None of them is exempted from application of the statute of limitations. The provisions of a new Criminal Code of Uzbekistan should be further amended to be fully in line with the Convention against Torture.

The government of Uzbekistan should also take more efforts to provide equal opportunities for the effective participation of civil society in the legislative process. While the discussion on legislative and institutional changes are ongoing between various state bodies, the representatives of civil society have not yet been widely involved in these processes.

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<sup>4</sup> Draft decree of the President of Uzbekistan “On additional measures on improvement of the system of identification of the facts of torture and prevention”, 15 March 2021, <https://regulation.gov.uz/ru/d/31036>

<sup>5</sup> Draft law of the Criminal Code of Uzbekistan, 22 February 2021, <https://regulation.gov.uz/ru/d/29646>

## **Investigation of complaints on torture, redress to victims and monitoring of the places of detention**

Despite the legislative initiatives by the government of Uzbekistan, torture aimed at getting confessions as well as routine torture and excessive violence in the penitentiary system is still widespread.<sup>6</sup> During the period from December 2019 to April 2021 dozen deaths, resulted from torture in police stations or in prisons were reported publicly in the media. The complaints of the prisoners, detainees or their relatives are often not taken seriously by the state authorities and are not addressed promptly. The investigation of torture cases often starts only after public resonance.

For example, one of the cases that got a public outcry is the death of Alijon Abdukarimov, resulting from torture in 2020. The 44-year-old businessman Alijon was summoned for interrogation on May 29, 2020 in the 4th Department of Internal Affairs in Andijon city. There he was brutally beaten and tortured by several officers during the interrogation. The next morning an ambulance brought him to the hospital, where he died two weeks later on 11 June from the injuries. The body was buried without medical examination and relatives were first persuaded by the representatives of state authorities not to communicate to journalists and bloggers, and to keep silent about his death.

A few days before his death, Alijon Abdukarimov's sister visited him in hospital. She managed to film her brother, showing the bruises all over his body and published this video online. Only on 13 June 2020 the criminal case was initiated, after the death was publicly reported in the media and caused public outcry.<sup>7</sup> On November 2020 six law enforcement officers of the police station in Andijon were found guilty of torture, unlawful arrest and inflicting injuries to Mr. Abdukarimov, and they were sentenced to different terms of imprisonment from 1 to 10 years.<sup>8</sup>

A similar case took place in January 2020 in the Kashkadar region. On January 23, law enforcement officials severely beat 32-year-old Yusuf Abdurakhmonov, who was suspected of stealing cattle. After several hours of torture, he died. The police department and the prosecutor's office of the Kashkadarya region attempted to conceal the fact of violence, the witnesses were forced to keep silent. The criminal case was first initiated under the qualification of abuse of power or ex-officio full power.<sup>9</sup> Only after the case was widely reported in media and social media, was it re-qualified and the deputy chief of the Internal Affairs Directorate of the Kashkadarya region, resigned. On September 2020 five law enforcement officers were found guilty of torture, unlawful arrest and inflicting injuries to Mr. Abdurakhmonov, and they were sentenced to different terms of imprisonment from 4 to 9 years.<sup>10</sup>

In addition, families of prisoners and local human rights defenders continue to report numerous cases of torture in which complaints are not investigated at all.<sup>11</sup>

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<sup>6</sup> Association "Human Rights in Central Asia", The torture continues in Uzbekistan, 30 September 2020, <https://ahrca.ru/uzbekistan/pytki/932-v-uzbekistane-prodolzhayutsya-pytki>

<sup>7</sup> Stop Torture in Central Asia: Not just on paper, but in practice, 26 June 2020, <https://www.iphronline.org/wp-content/uploads/2020/06/ENG-Statement-Taj-25.06.pdf>

<sup>8</sup> The Supreme court of the Republic of Uzbekistan, Supreme court press service information, <https://bit.ly/3x0QcdE>

<sup>9</sup> Gazeta.Uz, Officers of the police station are arrested after the death of a suspected, 27 January 2020, <https://www.gazeta.uz/ru/2020/01/27/qashqadaryo/>

<sup>10</sup> The Supreme court of the Republic of Uzbekistan, Supreme court press service information, <https://sud.uz/oliy-sud-matbuot-xizmati-ahboroti/>

<sup>11</sup> Analytical center Habarho, Uzbekistan: cruel torture and violence in the prisons, 11 November 2020, <https://habarho.com/habarho/uzbekistan-snova-zhestokie-pytki-i-nasilie-v-koloniyah/>, Analytical Center for

There are also no systematic changes on compensation and rehabilitation of victims of torture and their families. On October 2020, a court in the Kashkadar region took a decision to provide compensation (in the sum equivalent to 5800 US dollars) to a former political prisoner and a human rights defender, Chuyan Mamatkulov, for unlawful imprisonment for 6 years.<sup>12</sup> The decision concerns only unlawful imprisonment and not torture that he also experienced. The same decision on compensation for unlawful imprisonment was taken in 2020 in relation to another former political prisoner, Andrey Kubatin, who died due to Covid-19 complications in 2020. The decision was taken after his death, and the sum of the compensation decided by the court is equivalent only to the symbolic sum of 45 US dollars.<sup>13</sup> Both of them planned to appeal the decisions.

No significant changes also took place with independent monitoring of detention facilities, except the legislative initiatives mentioned above. Visits are possible only by the Ombudsperson. However, prisoners and their families report that even when the Ombudsperson visits the places of detention, complaints are not considered or taken seriously.<sup>14</sup> For example, a blogger, Nafosat Ollashukurova, who was detained in autumn 2019 and placed in a psychiatric institution, confirmed that in detention she was visited by Ombudsperson and Women's Committee, but they did not react on her complaints regarding ill-treatment.<sup>15</sup>

## Conclusion

Based on the information mentioned above, the government of Uzbekistan has announced or has started to adopt legislative measures to ensure effective investigation of torture complaints and independent monitoring. However, systematic changes have not yet taken place in Uzbekistan.

Uzbekistan could be considered to have taken initial steps towards implementation, but further actions are still needed, and should therefore be assessed with B2.

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Central Asia (ACCA), Uzbekistan: a mother is afraid of a life of her son in detention, 31 March 2021, <https://acca.media/uzbekistan-mat-boitsya-za-zhizn-syna-v-zaklyuchenii/>, Analytical Center for Central Asia (ACCA), Harassment and torture continue in the prisons of Uzbekistan, 21 February 2020, <https://acca.media/v-kolonyah-uzbekistana-prodolzhayutsya-izdevatelstva-i-pytki/>, Analytical Center for Central Asia (ACCA), Uzbekistan: systematic harassment force prisoners to suicide, 14 January 2020, <https://acca.media/uzbekistan-sistematicheskie-izdevatelstva-vynuzhdayut-zaklyuchennyh-pokonchit-s-zhiznyu/>

<sup>12</sup> Radio Azattyq, Uzbek human rights defender and former political prisoner won a case against the state, 12 October 2020, <https://rus.azattyq.org/a/30889381.html>

<sup>13</sup> Gazeta.Uz, "I won't stop": A sister of Andrey Kubatin about torture, compensations and appeals, 14 December 2020, <https://www.gazeta.uz/ru/2020/12/14/kubatin/>

<sup>14</sup> Analytical Center for Central Asia (ACCA), Uzbekistan: the relatives of the prisoners complaint about torture, 1 October 2020, <https://acca.media/uzbekistan-rodstvenniki-zaklyuchennyh-zhaluyutsya-na-pytki/>

<sup>15</sup> Current Time, "We will teach you to give testimonies". A blogger released from the psychiatric hospital left Uzbekistan and told about torture, 21 January 2020, <https://www.currenttime.tv/a/nafosat-shabnam-interview/30389481.html>