



Nowhere to Turn Torture and Ill-treatment in Uzbekistan

Summary	1
Methodology	4
Background.....	7
UN Engagement and Some Steps Forward	8
The Scope of Torture	11
Pre-trial Detention	15
Isolation and Violation of Detention Procedures	15
Restrictions on the Right to a Lawyer of One’s Choice	22
Failure of Pre-trial Safeguards and Complaints Mechanisms.....	25
Harassment of Lawyers	29
Torture in Pre-trial Detention Facilities.....	30
Prolonged beatings	30
Electric shock	35
Asphyxiation	36
Torture by inmates.....	38
Psychological pressure, threats and inhuman treatment.....	38
Physical conditions in custody.....	41
Trial	43
Judges’ Indifference to Torture Allegations and Coerced Testimony.....	44
Police Intimidation During Trial	49
Restrictions for Trial Monitors.....	50
Monitoring Post-conviction Detention.....	55

Breaking Newcomers in Post-conviction Prisons.....	57
Accountability for Torturers.....	60
Recommendations	66
To the Government of Uzbekistan.....	66
To the United Nations	69
To Other Stakeholders and Governments	70
Acknowledgements.....	72
Appendix I. A Note on the Case of Andrei Shelkovenko.....	73
Appendix II. Letter to Ombudswoman of Uzbekistan	75
Appendix III. Reply from the Ombudswoman’s Office	78
Appendix IV. Letter to Prosecutor General of Uzbekistan.....	83
Appendix V. Reply from Prosecutor General’s Office.....	85

Summary

For the past several years the government of Uzbekistan has sought numerous opportunities to convince its multilateral partners that it has undertaken serious reforms to end torture and that torture and other forms of ill-treatment are not a pervasive problem in the country. There have been some positive steps in criminal justice reform—for example, after more than three years of debate, the government has adopted important laws to introduce habeas corpus and to abolish the death penalty. However, there has been no significant change in the widespread use of torture, and fundamental reform to policies and practices is needed if torture is to be eradicated.

This report went to press on the eve of Uzbekistan's third periodic review by the United Nations Committee Against Torture (CAT), scheduled for November 9, 2007. November 2007 also marks the fifth anniversary of the fact-finding visit to Uzbekistan by the United Nations Special Rapporteur on torture and other cruel, inhuman degrading treatment or punishment, after which he concluded that torture in Uzbekistan was "systematic." Five years later, torture continues to be a practice endemic to the criminal justice system. It is not a marginal problem caused by a handful of errant police or security agents but is practiced by police and security agents on a regular basis. It is ignored and overlooked by investigators, prosecutors, judges, and sometimes lawyers, and generally hushed up by the media and the government.

Human Rights Watch's findings are based on research conducted between 2005 and 2007. This has documented how torture is part of a cycle of abuse that starts at the time of an individual's apprehension and continues through conviction or beyond. Police agents manipulate and prevent detainees from having access to counsel of their choice. They beat, kick and threaten detainees soon after they are first detained, when detainees are cut off from access to third parties or avenues where they might seek redress. They ill treat detainees for the specific purpose of compelling them to sign confessions or other testimony. Police and security agents continue to ill treat, torture, and harass detainees, and to threaten witnesses,

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detainees' families, and sometimes even lawyers to deter them from pursuing accountability for the abuse or from making torture allegations public.

In cases we have documented, judges did not investigate torture allegations that defendants made in court testimony. Instead judges and prosecutors treated with skepticism allegations of torture and alleged that the defendants or witnesses were lying. Meanwhile, there is a growing trend in which the authorities block or restrict public access to trials. In the absence of a free media in Uzbekistan, this means that there is potentially even less public access to information about torture allegations.

Common methods of torture and ill-treatment include beatings with truncheons and bottles filled with water, electric shock, asphyxiation with plastic bags and gas masks, sexual humiliation, and threats of physical harm to relatives. Those arrested and convicted on charges related to religious "extremism" remain particularly vulnerable to torture and ill-treatment.

Human Rights Watch calls on the government of Uzbekistan to take immediate and concrete steps to comply with its obligations under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and to implement in full the February 2003 recommendations issued by the UN Special Rapporteur on torture following his visit to Uzbekistan. It should publicly acknowledge the scale of torture in Uzbekistan and publicize its report to the CAT, as well as the Committee's views on Uzbekistan's record. It should conduct a robust nationwide investigation into the practice of ill-treatment and torture and declare what measures it will be taking ensure the prohibition on torture and other ill-treatment is fully enforced and respected in practice. This information should be made available and accessible to the local population, through the media and other appropriate fora. It should ensure that detainees are informed of their rights, that they have access to confidential meetings with a lawyer of choice, and can communicate unimpeded with their lawyer at trial.

The Uzbek government should end the culture of impunity for torture. It should hold perpetrators of torture and ill treatment accountable to the full extent to the law and ensure that detainees can make complaints about torture without fearing retribution.

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To prevent perpetrators evading identification, the government should immediately require all staff working in the criminal justice system and who may interact with detainees to have their name and/or identification number clearly identifiable on their person, and should put in place a mechanism to ensure that all staff contact with detainees is documented in a log book.

The Committee Against Torture has an important opportunity in its upcoming review of Uzbekistan to express concern about the continuing widespread use of torture, and to call on the authorities at the highest level to publicly condemn the use of torture. The Committee should also emphasize the crucial role played by civil society groups, independent media, and international organizations in efforts to combat torture and ill-treatment and call on the government to ensure that these actors are able to function freely and effectively in Uzbekistan.

Methodology

This report is based on Human Rights Watch research in Uzbekistan between autumn 2005 and summer 2007, carried out in the course of the day-to-day work of our representative office in Tashkent. It also reflects our experience in monitoring the worsening human rights situation in the country since the establishment of the office in 1996.

The report specifically draws on 32 interviews with torture victims, their relatives, and eye-witnesses. The majority of these people were from the provinces of Jizzakh, Samarkand, and Tashkent. Twelve interviews were conducted in Andijan in summer 2005 (and were part of the information set documented in a September 2005 Human Rights Watch report on the aftermath of the 2005 Andijan uprising and massacre).¹

At three of the ten trials Human Rights Watch observed during the period covered by this report, 15 defendants gave court testimony about ill-treatment and torture. These three trials took place in spring 2006, summer 2006, and summer 2007, in the provinces of Tashkent and Syrdaria.² A Human Rights Watch representative made attempts to monitor two additional trials involving five defendants but was denied access by Uzbek authorities. With regard to one of these trials, we learned from the defendant, nine months later, that he had been tortured, and with regard to the other, we learned through the defendant's lawyer that he had been tortured.

The report also draws on information from interviews and conversations with a dozen defense lawyers representing clients facing criminal charges and who had been abused in custody. Finally, local human rights defenders from Uzbekistan have

¹ Human Rights Watch, *Burying the Truth, Uzbekistan Rewrites the Story of the Andijan Massacre*, September 2005, Vol. 17, No. 6(D), pp. 14- 23, <http://hrw.org/reports/2005/uzbekistan0905/>.

² Two trials in Tashkent province were related to charges of religious "extremism" and one Syrdaria province to murder. At the spring 2006 trial of eight defendants, six testified about torture. At the summer 2006 trial of 14 men, in the times Human Rights Watch representatives were in court, they observed five defendants testifying about torture and another two about other unlawful methods of coercion. Human Rights Watch did not monitor every hearing of this trial and therefore we do not know whether others also testified about torture. At the summer 2007 trial both defendants—one male and one female—testified that they were tortured.

brought many cases of torture or other abuse to our attention, although in many of these cases we did not have the capacity to independently investigate them. Those human rights defenders generously shared their—sometimes firsthand—experiences or eyewitness accounts with us. Although each torture victim endures a specific ordeal, this report focuses not on what made them unique but rather on what they had in common. This is not to undervalue the individual cases but to focus on the recurring patterns that add up to a systemic problem.

The report has made use of Uzbek government documents and communication with government officials. The Office of the Prosecutor General and the Office of the Omdudsmen each responded in writing to Human Rights Watch letters requesting information.³ As of this writing Human Rights Watch had not received a reply to our July 26, 2007 letter requesting information from the Ministry of Internal Affairs.

Beginning in May 2005, several letters to the Ministry of Foreign Affairs requesting visas for Human Rights Watch headquarters staff remained without reply. In May 2007 Holly Cartner, Europe and Central Asia director at Human Rights Watch received a visa and met in Tashkent with Vladimir Norov, Foreign Minister, Akmal Saidov, Head of the National Centre for Human Rights and Sayora Rashidova, Omdudswoman. Officials from the Ministry of Internal Affairs or the Office of the Prosecutor General did not respond to our requests for meetings.

There are considerable risks and other barriers to victims reporting torture, which are documented in this report. This leads Human Rights Watch to believe that many more persons than those whose stories have been investigated by us have been subjected to torture and ill-treatment. In addition, Uzbek and foreign human rights defenders, including Human Rights Watch, have over the past two and a half years been operating in an increasingly oppressive environment that has restricted their ability to monitor the situation of human rights and their accessibility to the Uzbek public. For example, in the case of Human Rights Watch bureaucratic obstacles imposed by the government, between April 2006 and April 2007, limited the research staffing of our Tashkent office to one person and prevented that person from having essential administrative support. Meanwhile, government surveillance

³ Human Rights Watch's letters as well as both replies to them can be found in Appendices II-V.

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made it difficult for us travel widely, in one case causing us to terminate a research trip out of concern for the safety for interviewees.

The identities of most interviewees have been withheld in the interest of protecting them from possible harassment or other threats to their safety in retribution for having spoken to Human Rights Watch. They have been assigned a pseudonym consisting of a randomly chosen first name and a last initial that is the same as the first letter of the first name, e.g., "Alisher A." There is no continuity of pseudonyms with other Human Rights Watch reports on Uzbekistan; hence an "Alisher A." cited in the present report is not the same person as an "Alisher A." cited in any previous Human Rights Watch report. Testimony by defendants at trial has not been made anonymous.

Background

Torture and ill-treatment—and impunity for perpetrators—are part of a wide-ranging problem of human rights in Uzbekistan. The Uzbek government has a poor record across a spectrum of violations. It does not tolerate dissent, severely restricts media freedoms, has persecuted and imprisoned a number of human rights defenders, and does not in practice permit public demonstrations that express criticism of the authorities. Individuals whose Islamic beliefs, practices and affiliations are at odds with official Islam are branded “fundamentalists” or “extremists” and are sentenced to lengthy prison sentences. Great numbers of people in Uzbekistan face barriers to lifting themselves from staggering poverty due to corruption and human rights violations.⁴

Torture and ill-treatment is an enduring problem in Uzbekistan. In the past decade a number of reports by Uzbek and international human rights organizations have documented ill-treatment, including torture, in Uzbek police and security facilities, remand prisons, and post-conviction facilities.⁵ Three things, however, have distinguished the discussion of torture in the past few years from previous years. First, Uzbekistan’s engagement with the United Nations anti-torture machinery, which resulted in several legal reforms. Secondly, the government’s strenuous efforts to convince the international community that it is committed to torture reform, while acknowledging neither the scale of the problem or the impunity for it. Thirdly,

⁴ For more detail see International Crisis Group, Asia Briefing N°67, 22 August 2007, “Uzbekistan: Stagnation and Uncertainty,” <http://www.crisisgroup.org/home/index.cfm?id=5027&l=1>, accessed October 9, 2007.

⁵ For more details see Human Rights Watch, *Creating Enemies of the State: Religious Persecution in Uzbekistan*, New York: 2004, <http://hrw.org/reports/2004/uzbekistan0304/>; Human Rights Watch, *Uzbekistan - “And It Was Hell All Over Again . . . Torture in Uzbekistan,”* vol. 12, no. 12 (D), December 2000, <http://www.hrw.org/reports/2000/uzbek/>; International Federation of Human Rights, “The Death Penalty in Uzbekistan: Torture and Secrecy”, no. 426/2, October 2005, <http://www.fidh.org/IMG/pdf/uz426a.pdf>, accessed October 9, 2007; Memorial, “Соблюдение правительством Узбекистана конвенции против пыток и других жестоких, бесчеловечных или унижающих достоинство. Видов обращения и наказания в 1996-2002 г. Альтернативный доклад неправительственных организаций, представленный на 28 сессию Комитета против пыток ООН 29 апреля – 17 мая 2002 года.” [Compliance of the government of Uzbekistan with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Letters and complaints 1996-2002. Alternative report of non-governmental organizations presented at the 28th session of the UN Committee against Torture, 29 April – 17 May 2002.], May 29, 2002, <http://www.birlik.net/page-36.ru>, accessed October 9, 2007.

the government's fierce crackdown on civil society following the May 2005 Andijan uprising and massacre.

UN Engagement and Some Steps Forward

Uzbekistan became a party to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) on August 31, 1995.⁶ The United Nations Committee against Torture (CAT) reviewed Uzbekistan's first report on its compliance with the Convention against Torture in 1999, and its second report in May 2002.⁷ In its 2002 conclusions, CAT made 15 recommendations to the Uzbek government, including: to amend the Criminal Code to include the crime of torture defined in a manner fully consistent with article 1 of the Convention against Torture; to establish complaint mechanisms, outside the prosecutor's office (or procuracy) for persons who are held in official custody; to ensure prompt, impartial and full investigations into allegations of torture; to ensure in practice absolute respect for the principle that evidence obtained by torture is inadmissible; and to take measures to permit detainees access to a lawyer, a doctor and family members from the time they are taken into custody.⁸

Six months later, the government of Uzbekistan took the important step of issuing an invitation to the United Nations Special Rapporteur on torture and other cruel, inhuman degrading treatment or punishment, the first government of the Central Asian states to do so.⁹ The UN Special Rapporteur on torture's long-awaited fact-

⁶ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987.

⁷ Government of Uzbekistan, Initial reports of States parties due in 1996: Uzbekistan, CAT/C/32/Add.3, August 24, 1999, <http://daccessdds.un.org/doc/UNDOC/GEN/G99/439/12/PDF/G9943912.pdf?OpenElement>, accessed October 9, 2007; Government of Uzbekistan, Second periodic reports of States parties due in 2000: Uzbekistan, CAT/C/53/Add.1, November 16, 2001; <http://daccessdds.un.org/doc/UNDOC/GEN/Go1/461/18/PDF/Go146118.pdf?OpenElement>, accessed October 9, 2007.

⁸ United Nations Committee against Torture, "Consideration of Reports Submitted by States Parties under Article 19 of the Convention, Conclusions and Recommendations of the Committee against Torture, Republic of Uzbekistan," CAT/C/CR/28/7, June 6, 2002, <http://daccessdds.un.org/doc/UNDOC/GEN/Go2/424/49/PDF/Go242449.pdf?OpenElement>, accessed October 9, 2007.

⁹ At the time of the mission to Uzbekistan, the Special Rapporteur on torture was Theo van Boven; he was replaced by Manfred Nowak on December 1, 2004.

finding visit in November 2002 represented a major development in torture reform efforts and raised significant hopes that it would trigger fundamental changes toward eradicating the use of torture in Uzbekistan. His subsequent report, published in February 2003, detailed Uzbekistan's pervasive torture problem, which he characterized as "systematic," and made 22 recommendations for combating it. The report's recommendations were similar to those made by CAT and included calling on Uzbekistan to issue a public condemnation, by the highest-level authorities, of torture; to amend the Criminal Code to include the crime of torture; to include the right to habeas corpus; to ensure investigation of torture allegations by an independent body outside the prosecutor's office; to ensure access to defense attorneys; to introduce a moratorium on the execution of the death penalty; to give urgent and serious consideration to the abolition of capital punishment; and many others.¹⁰

In its third periodic report to CAT, submitted in December 2006, and in other public documents the government said that it had fully complied with 18 of the 22 recommendations made by the Special Rapporteur.¹¹ It is beyond the scope of this report to analyze this claim, yet it is important to note two measures the government has undertaken in the framework of its engagement with the UN.

First, in August 2003 the government of Uzbekistan amended the definition of torture in article 235 of the Criminal Code.¹² Significantly, however, the amended definition under article 235 still falls short of the authoritative interpretation contained in article 1 of the Convention against Torture. It provides an unduly narrow list of law

¹⁰ United Nation Economic and Social Council, Civil and Political Rights, Including the Questions of Torture and Detention, Torture and other cruel, inhuman or degrading treatment, Report of the Special Rapporteur on the question of torture, Theo van Boven, submitted in accordance with Human Rights Commission resolution 2002/38. Addendum. Mission to Uzbekistan. United Nations document E/CN.4/2003/68/Add.2. February 3, 2003, <http://www.unhchr.ch/Huridocda/Huridoca.nsf/o/29dof1eaf87cf3eac1256ce9005a0170?Opendocument>, accessed October 9, 2007.

¹¹ Government of Uzbekistan, Third periodic reports of States parties due in 2004: Uzbekistan, CAT/C/UZB/3, July 28, 2006, <http://daccessdds.un.org/doc/UNDOC/GEN/Go6/431/89/PDF/Go643189.pdf?OpenElement>, accessed on October 9, 2007, page 7, paragraph 21. The report does not mention which 18 recommendations the Uzbek government is referring to.

¹² The unamended article 235 specified that the use of "threats, blows, beatings, torture [*istiazanie*], the infliction of physical suffering [*prichineniie mucheniia*], or the infliction of light or medium injuries by the interrogator, investigator, procurator" is punishable by up to five years of imprisonment. Furthermore, if serious physical harm results from these actions, the penalty may be increased to eight years.

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enforcement authorities prohibited from engaging in torture, while the CAT definition makes clear that what is prohibited are acts of torture “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.”¹³ The narrow category provided for in Uzbek law reflects an erroneous view that only law enforcement authorities are capable of using torture in their official capacity, rather than anyone acting in an official capacity, or with the consent or acquiescence of any such person. In fact, torture and ill-treatment by third parties acting presumably at the behest of law enforcement or security officials are common in Uzbek prison and pre-trial detention facilities.¹⁴ Article 235 also unnecessarily narrows the circumstances in which the law deems torture can be perpetrated, e.g. against a party to criminal proceedings, on a prisoner.

Second, in a positive and long-awaited move, on June 29, 2007, the 10th plenary meeting of the upper house of the Uzbek parliament approved two new laws: one transferring the authority to issue arrest warrants from the prosecutor’s office to the courts and the other regarding the abolition of capital punishment.¹⁵ Almost two years earlier, President Islam Karimov had issued presidential decrees recommending that these laws be adopted. Both laws will come into force on January 1, 2008.

While the adoption of these laws is to be welcomed, it is too early to assess what effect in practice they will have on combating torture in Uzbekistan, as too often the gap between the existence of a law on the books and its implementation is wide. The Uzbekistan Rapid Response Group (RRG)—an association of local human rights defenders that documents a wide range of human rights abuses, including torture—published a commentary welcoming the adoption of the two laws but expressing concerns that other problems within the judicial system in Uzbekistan will

¹³ Convention against Torture, article 1.

¹⁴ For examples of this, see section “Torture by inmates” in this report.

¹⁵ Law on Making Changes and Amendments to Certain Legislative Acts of the Republic of Uzbekistan in Connection with the Transfer of the Right to Issue a Sanction for Detention to the Courts, adopted by the Legislative Chamber June 15, 2007 and approved by the Senate June 29, 2007, <http://www.egypt.mfa.uz/modules.php?op=modload&name=News&file=article&sid=1541&mode=thread&order=o&thold=0>, accessed October 9, 2007.

“significantly thwart” their implementation. In particular, the RRG pointed out that “many law enforcement agents rely mostly upon instructions and procedures defined and developed within their agency rather than by the [criminal procedure code].”¹⁶

Uzbek authorities also held a number of conferences, roundtables and trainings. For example, the Office of the Ombudsman organized several conferences involving approximately 600 participants in Tashkent and other provinces of Uzbekistan on the rights of prisoners and on cooperation between the Office of the Ombudsman, the authorities and NGOs to monitor human rights.¹⁷

These steps notwithstanding, the UN Special Rapporteur on torture’s March 2006 annual report described in detail the absence of improvements in combating torture.¹⁸ In June 2006 the UN Special Rapporteur on torture stated that “the mandate... continues to receive serious allegations of torture by Uzbek law enforcement officials, which are regularly transmitted to the Government for clarifications and urgent action.”¹⁹

The Scope of Torture

In the years since the Uzbek government began contemplating measures to address the UN Special Rapporteur on torture’s recommendations, torture remains a serious problem. The government has persistently denied that the problem is “systematic,” rejecting this key conclusion by the UN Special Rapporteur and concomitantly refusing to meet one of his main recommendations—to issue a clear public

¹⁶ “RRG Commentary on Two Recent Laws in Uzbekistan On Amendments to Legislative Acts Authorizing Courts to Issue Arrest Warrants and On Amendments to Legislative Acts Abolishing Capital Punishment,” The Uzbekistan Rapid Response Group, July 17, 2007.

¹⁷ Letter from the Office of the Ombudsman to Human Rights Watch, August 2, 2007. For more details see Appendix III. The government provided information on seminars and workshops in its third periodic report to CAT see CAT/C/UZB/3, 5 December 2006.

¹⁸ United Nation Economic and Social Council, Civil and Political Rights, Including the Questions of Torture and Detention, Torture and other cruel, inhuman or degrading treatment, Report of the Special Rapporteur Manfred Nowak, Addendum Follow-up to the recommendations made by the Special Rapporteur Visits to Azerbaijan, Brazil, Cameroon, Chile, Mexico, Romania, the Russian Federation, Spain, Turkey, Uzbekistan and Venezuela, E/CN.4/2006/6/Add.2, 21 March 2006, <http://daccessdds.un.org/doc/UNDOC/GEN/Go6/119/12/PDF/Go611912.pdf?OpenElement>, accessed on October 9, 2006. See also, Human Rights Watch, *Torture Reform Assessment: Uzbekistan’s Implementation of the Recommendations of the Special Rapporteur on Torture*, March 18, 2005, <http://hrw.org/backgrounder/eca/uzbeko305/>.

¹⁹ Letter from Manfred Nowak, UN special rapporteur on torture, to Human Rights Watch, June 14, 2006.

statement at the highest levels condemning torture and declaring an end to the culture of impunity.²⁰

Statistics provided by the Office of the Prosecutor General and the Office of the Ombudsman indicate a decline in torture complaints. The Office of the Prosecutor General received 523 complaints about “threats and other methods of pressure” in 2002 and 180 in 2006.²¹ The Office of the Ombudsman received 566 complaints about “disagreement with actions by law enforcement officers” in 2002 and 314 in 2006.²² Human Rights Watch cannot confirm or deny these figures. Yet they are unlikely to reflect the true scope of torture and ill-treatment since victims and their relatives might not report their abuse, either because they do not expect this to be effective or because they fear retribution.

Since the 2005 Andijan events it has become significantly more difficult to verify through independent sources government claims of progress in implementing reforms such as combating torture and improving prison conditions. Whereas before the uprising and massacre in Andijan the Uzbek government tolerated, with notable exceptions, human rights organizations, afterwards it unleashed a fierce crackdown on civil society, imprisoning dozens of human rights defenders and causing many others to flee the country altogether.²³ This has significantly hampered independent groups documenting and reporting torture and other human rights problems and enabled authorities to increasingly control and monopolize information. Because

²⁰ Letter dated 26 June 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General, UN General Assembly A/60/914, <http://www.uni-kassel.de/fb5/frieden/regionen/Usbekistan/un-60-914.pdf>, accessed October 9, 2007.

²¹ Undated letter from the Office of the Prosecutor General to Human Rights Watch, received September 4, 2007. For more detail see Appendix V.

²² Letter by the Office of the Ombudsman to Human Rights Watch, August 2, 2007. For more details see Appendix III.

²³ Human Rights Watch was one of many foreign nongovernmental organizations harassed by the Uzbek government. This made it difficult to travel to different regions of the country and in one case forced us to stop a research trip for fear of the safety of our interlocutors. Human Rights Watch’s office in Tashkent and thus its visitors are always under surveillance and staff is followed when traveling in Uzbekistan to monitor trials or meet with victims of human rights abuses. In addition, in April 2006, the Ministry of Justice denied work accreditation to Human Rights Watch’s office assistant, after harassing him and threatening him with criminal charges in 2005. For the remainder of 2006 and until April 2007, the government refused to issue a visa to his replacement, leaving the office with only one professional staff person. In April 2007 Uzbek authorities refused to extend the work accreditation of Human Rights Watch’s office director in Tashkent, but ultimately granted the accreditation for a probationary period of three months, while accusing Human Rights Watch of projecting a negative image of Uzbekistan. In July 2007 the Ministry of Justice denied the Human Rights Watch office assistant her work accreditation, after she was in the country for only two months.

there is no centralized independent data, it is difficult to quantify the true scope of torture and other ill-treatment in today's Uzbekistan.

However, there are numerous indications that torture and other ill-treatment is commonplace. One is the frequency with which the remaining independent human rights groups receive reports of torture. Surat Ikramov, head of the Initiative Group of Independent Human Rights Defenders, told Human Rights Watch about his daily work: "Everyone who comes in [to talk to me] says there is torture. In fact, I do not remember a single case where someone was held in detention and not tortured." Ikramov is convinced that "*operativniki*"²⁴ torture because they see it as part of their job, in a system where the goal is to extract a confession and to spread fear amongst people."²⁵

This view is supported by the incidents detailed in this report and others reported by Uzbek and international nongovernmental organizations which indicate that any detainee, whether held on suspicion of committing an "ordinary" crime such as murder or robbery, of committing treason, or of being affiliated with religious groups or movements that the government has branded "extremist,"²⁶ is at risk of torture.

This is a long-established pattern. In the past decade the Uzbek government has had to respond to several episodes of political violence—the 1999 bombings of government buildings in Tashkent, the 2000 incursions by the Islamic Movement of Uzbekistan, a militant group, into southern Uzbekistan, and a series of shootings and bombings in 2004 in Tashkent and Bukhara. Dozens of those detained on suspicion of involvement in some episodes of this violence, and their lawyers, made credible allegations of torture and ill-treatment.²⁷

²⁴ *Operativniki* is the colloquial labeling for *operativnye rabotniki*, or police operatives.

²⁵ Human Rights Watch interview with Surat Ikramov, head of the Initiative Group of Independent Human Rights Defenders, Tashkent, July 4, 2007.

²⁶ In most cases these are people are labeled as "Wahhabists" or members of Hizb ut-Tahrir. Wahhabism is a branch of Sunni Islam. The name derives from its eighteenth century founder, Muhammad ibn 'Abd al-Wahhab (1703-1792). Hizb ut-Tahrir is an Islamic party with branches in many parts of the world, including the Middle East and Europe, which advocates for the restoration of the Caliphate in traditionally Muslim lands. It is prohibited in Uzbekistan. For a detailed account of the persecution of independent these Muslims in Uzbekistan see Human Rights Watch, *Creating Enemies of the State: Religious Persecution in Uzbekistan*, New York: 2004, <http://hrw.org/reports/2004/uzbekistan0304/>.

²⁷ Some of these allegations are documented in a Human Rights Watch letter to Islam A. Karimov, President of the Republic of Uzbekistan, "Uzbekistan. Post-bombing crackdown," July 18, 2004,

Other credible allegations of torture were made by dozens of detainees held in the aftermath of the 2005 Andijan events, who have spoken to journalists, lawyers, human rights defenders and Human Rights Watch. In its efforts to investigate the uprising and as part of its massive cover-up of the massacre, the authorities rounded up hundreds—and perhaps thousands—of people with connection to the uprising, no matter how remote. Human Rights Watch interviewed twelve individuals who were beaten or threatened into signing false confessions and statements to support the government’s version of the Andijan events.²⁸ The series of trials related to the Andijan uprising that followed, raised serious concerns about the methods by which confessions and witness testimonies were obtained – all the trials except one were closed, several defendants in the open Supreme Court trial read prepared testimony, and all of them were represented by state-appointed defense lawyers.²⁹

<http://hrw.org/english/docs/2004/08/18/uzbeki10172.htm>. Others are documented in Human Rights Watch, *Creating Enemies of the State*.

²⁸ For a more detailed account see: Human Rights Watch, *Burying the Truth, Uzbekistan Rewrites the Story of the Andijan Massacre*, September 2005, Vol. 17, No. 6(D), pp. 14- 23, <http://hrw.org/reports/2005/uzbekistan0905/>.

²⁹ See also section “Restrictions on the right to a lawyer of one’s own choice” in this report.

Pre-trial Detention

When making arrests or taking people into pre-trial detention, police in Uzbekistan routinely violate international standards and Uzbek criminal procedure, making detainees more vulnerable to ill-treatment and torture, and making it difficult for torture victims to seek relief and ultimately to find justice for their abuse.³⁰ It is commonplace for the police to isolate detainees, to fail to inform them about their rights, not to register their detention (or to postpone the registration as long as possible), and not to allow detainees access to a lawyer of their choice from the time of their arrest.

Isolation and Violation of Detention Procedures

The Uzbek Code of Criminal Procedure allows “officers of the police or any other inquiry agency as well as any legally capable person”³¹ to apprehend a suspect: a) “before and after the initiation of a criminal case;”³² b) during or after committing a crime; c) if eyewitnesses point at the person; or, d) if “there exists other information providing cause to suspect a person of having committed an offense.”³³

The Criminal Procedure Code limits the period after which a detainee must be either charged and informed of the charges or released to 72 hours. It requires an official record (or *protokol*, in Russian) of the detention to be established. It stipulates that

³⁰ According to article 111 of the Uzbek Criminal Procedure Code, before a detainee is questioned, he or she should be informed about his or her rights and obligations, have access to defense counsel, and be informed about the charges brought against him or her. Article 9 of the International Covenant on Civil and Political Rights (ICCPR) states: “Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.” Article 14 of the ICCPR guarantees all persons subject to criminal proceedings the right to “adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing.” International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976.

³¹ Article 222 of the Uzbek Criminal Procedure Code. Article 35 of the Criminal Procedure Code states: “Pretrial criminal investigation shall be conducted by investigators from the prosecutor’s office, internal affairs agencies, and national security service.”

³² Article 220 of the Uzbek Criminal Procedure Code.

³³ Article 221 of the Uzbek Criminal Procedure Code.

there must be a review of the validity of the detention not later than 24 hours after the detention.³⁴ In practice, however, police ignore or avoid these legal regulations.

For example, in spring 2006, 24-year-old Mirzo M. was detained without any explanation by plainclothes police agents in the shop where he was working. He was kept for two days at the police department of a provincial capital in western Uzbekistan, and beaten until he was willing to say that another man detained together with him had been “teaching” him the religious ideas of Hizb ut-Tahrir. He told Human Rights Watch that before the police released him:

They took a statement from me that I would show up there immediately upon receiving an order. They didn’t explain my rights to me and didn’t tell me who I was – the accused, a witness, or someone else. The whole time they just said “confess and we’ll let you go. [...] I didn’t have a lawyer at any time, not during the investigation, nor after.”³⁵

Only six months later, when Mirzo M. was summoned to a trial against eight alleged Hizb ut-Tahrir members, he learned that he was a witness and not a suspect in this criminal case.

In summer 2006, a lawyer reported to Human Rights Watch that despite many requests she had sent to the authorities to clarify the legal status of her client, Rafshan R., only after two months did she receive a response confirming that he had been arrested and charged with membership in an extremist religious organization. When she was finally allowed to see him, Rafshan asked her “to explain his rights to him, what rights he has and what rights he does not have, what he is allowed to do and what not. They did not even explain this [his rights] to him.”³⁶

³⁴ Article 225 and 226 of the Uzbek Criminal Procedure Code. In exceptional cases the prosecutor may extend the apprehension period to ten days before charges are brought. After 2008 the review of the validity of the apprehension will be done by the judiciary, but for the period covered in this report “inquiry officers and investigators having jurisdiction over the criminal case” were responsible for the review of the validity of the detention.

³⁵ Human Rights Watch interview with Mirzo M., March 1, 2007.

³⁶ Human Rights Watch interview with the lawyer of Rafshan R., July 21, 2006.

Sometimes the police may “invite” people to the police station to be witnesses or to write an explanatory note, without issuing a summons, and then arrest them as suspects upon arrival. Since the official nature of such a visit is “voluntary” the police do not register it as a detention, but rather keep that person for several days in custody before “officially” arresting or releasing him or her. Interviewees told Human Rights Watch they did not know they had the right not to respond to the “invitation” by the police without an official summons³⁷ and that even if they knew they might go anyway, fearing that refusal to do so might cause even more problems for them or their relatives.

Sometimes the neighborhood police (*uchastkovy*) or a representative from the *mahalla* (or local neighborhood) committee take part in issuing “invitations” that result in arrest.³⁸ They send a representative to the house of the “suspect” and ask him to come to the mahalla committee or to the neighborhood police. When he shows up, police agents take him to the city or district police station. The mother of Dilobar D., a young woman ultimately charged with Hizb ut-Tahrir membership, told Human Rights Watch that “a woman from the mahalla committee and the neighborhood police officer came to her house and asked for Dilobar. When she stepped outside they took her forcibly to the local department of internal affairs, without a warrant, and she remained in custody until her trial.”³⁹ Two months later she was sentenced to three years in prison for alleged membership in Hizb ut-Tahrir.

³⁷ Article 97 of the Uzbek Criminal Procedure Code, “Summons for Questioning,” reads: “A witness, victim, suspect, accused, and the defendant at large shall be summoned to an inquiry officer, investigator, prosecutor, and the court by a subpoena. The subpoena shall be sent by post or special delivery. The summons may also be conducted by telephone, cable, radiogram, or fax. The summons shall indicate the person and the capacity in which he is summoned, as well as the address of the venue and the official he shall meet, the date and hour of appearance and expounded liability for non-appearance without valid excuse. A subpoena shall be served on the person summoned for questioning against a signed receipt. In the instance of temporary absence of the person being summoned for questioning, the subpoena shall be served on an adult member of his family residing with him, or shall be passed to the administration of the appropriate hostel, landlord or representative of the community body. The persons detained at investigative facilities, temporary detention facilities, or penitentiaries shall be summoned via the administration of the institution.”

³⁸ The mahalla (in Arabic: local or heap) is a centuries-old autonomous institution organized around Islamic rituals and social events. After independence in 1991, the Uzbek government made it the smallest state administrative unit, with the head of the mahalla committee paid by the state. Today, the mahalla committee administers and controls a range of activities within the mahalla territory. Although under the law the mahalla committees’ activities are controlled through general neighborhood meetings, in practice administrative government authorities control their work. They are now key government actors participating in repressing individuals and families whom the state deems suspect. They cooperate with law enforcement and other authorities to gather personal information on the population. In breach of the right to privacy, family, and home, they keep files on those considered suspicious by the government, including “scandalous families” with disobedient children, and pass this information onto the police and executive authorities. Individuals have to provide a letter of reference from their mahalla committee in several situations, such as when they apply for a job or when they are defendants in a criminal case.

³⁹ Human Rights Watch interview with the mother of Dilobar D., July 3, 2007.

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Police are also known to detain suspects under the Code of Administrative Offenses for such misdemeanors as swearing in public or “petty hooliganism” or accuse individuals they have “invited” to the police station of such acts, which amount to arbitrary detention. While the Uzbek Criminal Procedure Code guarantees criminal suspects in custody immediate access to a lawyer, the law is less clear on the right to meet with a lawyer for those held under the Code of Administrative Offenses.⁴⁰ For example, lawyers are not mandatory for administrative court hearings.⁴¹ Through our interviews and trial monitoring, Human Rights Watch learned of numerous individuals who, after a summary administrative hearing, were locked up in administrative detention. Police then exploited this time to coerce from the individual a confession or testimony against a third party, or to open a criminal case against the detained person.

For example, in winter 2007 the neighborhood police in a neighborhood of Tashkent province “invited” 20-year-old Jurabek J. as a witness in a murder case to the district police station. After two hours of questioning, the police took him to the district court, where he was sentenced to several days in administrative detention because he allegedly had insulted a person in the street. During the next two days he was ill-treated while in custody. He had no access to a lawyer prior to, during, and after the administrative court hearing.⁴²

Another young man, Dilshod Maripaliev was arrested on November 18, 2005 and sentenced to seven days of administrative detention because he had allegedly insulted a woman. Immediately after his initial detention the police agent told him: “If you do not cooperate your seven days will turn into seven years.” According to his trial testimony, Dilshod was severely beaten while in administrative detention. Two months later he learned that he had been charged under article 244/2 – 1 of the Uzbek Criminal Code (“setting up, leading and participating in religious extremist,

⁴⁰ International standards, however accord all persons in custody the right to access to counsel. United Nations, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), adopted December 9, 1988, G.A. Res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988). Principle 18 of this body reads: A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel.

⁴¹ The first paragraph of Article 297 “Lawyer” of the Code of Administrative Offenses reads: “During an investigation into an administrative case, a lawyer may participate [in the proceedings] from the moment a suspect is detained.” It also says that a lawyer may familiarize himself with the case materials, file petitions, and appeal rulings.

⁴² Human Rights Watch interview with Jurabek J., June 25, 2007.

separatist, fundamentalist or other banned organizations”).⁴³ On April 19, 2006 the Tashkent Province Court found him guilty of a slightly lesser charge and sentenced him to three years on parole.⁴⁴

In winter 2007, Tatyana T., a young ethnic Russian woman, was summoned as a witness in a murder case and ended up being sentenced to three days of administrative detention for insulting somebody in the street while drunk. Before the judge issued the administrative sentence several police officers coerced her to sign a document in Uzbek that she did not understand. During the next three days she was questioned, insulted, and did not receive any food; she was not otherwise physically abused. Before she was released she had to sign a statement saying that the police treated her well.⁴⁵

Information provided by victims and their relatives to Human Rights Watch clearly indicates that it is routine for both administrative detainees and criminal suspects to be held in unspecified or unregistered detention until they sign a statement that has essentially been dictated to them by the authorities. They are then transferred to a regular investigation facility and it is only at this point that the official, criminal investigation process starts.⁴⁶

Investigative facilities sometimes refuse to accept new detainees bearing torture marks or in poor health. To avoid this, police may keep the person longer in unregistered or misdemeanor detention until any bruises and other visible marks are less visible. For example, in May 2007 Nargiza N. learned that two police agents beat her son, Agzam A., him on his head, back, and heals after his detention in November 2006. Agzam told his mother that he was so covered in bruises and his heals were

⁴³ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 13, 2006.

⁴⁴ The court found Dilshod Maripaliev guilty of “participating in an illegal religious organization,” under article 216 of the Uzbek Criminal Code.

⁴⁵ Human Rights Watch interview with Tatyana T., June 25, 2007.

⁴⁶ Pre-conviction detention facilities include two categories: detention in remand prisons, or *Slzos* (*sledstvennye izoliatory*) and temporary holding centers *IVS* (*izolator vremenni sodержanie*) which are in various police stations as well as in buildings of the Ministry of Internal Affairs and National Security Service. Many detainees and their family members refer to the latter simply as “podval” (basement), as they are in the basements of these buildings. According to article 228 of the Criminal Procedure Code once there is a warrant for an arrest, but within 72 hours the suspects are required to be transferred from an *IVS* to a *Slzo*.

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so swollen that they kept him for a period of between six and 16 days (she could not remember) in the basement holding facility at the Ministry of Internal Affairs building until his wounds healed, after which they transferred him to the investigation prison No. 1 in Tashkent, known colloquially by the Russian abbreviation as TashTurma.⁴⁷

In August 2006, 39-year-old Kodirali Nishanboev, a defendant in a group trial against 14 alleged Hizb ut-Tahrir members, testified that on March 19, 2006 the reception guards at TashTurma refused to take him in because he was “looking too bad.” He also testified that he had previously been tortured in police custody in Kibrai, northeast of Tashkent, for eight days and coerced to sign a confession stating that he was a member of an illegal religious group. The police initially “invited” him to come with them for two hours to write an explanation (*obiasnitelnoe*). As soon as he arrived at the police station an officer started to beat him with a filled water bottle on his head and his chest, although Nishanboev said that he was ill with tuberculosis. After several days of beatings, when the prosecutor read his “confession” to him Nishanboev had no more energy and signed. For the next four days he was subjected to further beatings. When they finally decided to transfer him to TashTurma he was covered in bruises and had a bump on his head.⁴⁸

The example of Kodirali Nishanboev also shows that the beatings do not always stop after police have obtained a “confession.” Other interviewees and defendants said they had written or signed statements just to get relief from the ill-treatment and torture, only to endure further abuse.

Relatives of detainees Human Rights Watch interviewed spoke of the absolute chaos they faced trying to find their family member in custody after their detention. The authorities often do not inform families where their relative is being held in custody or the official charges against the individual, and are evasive or misleading with the relatives as long as possible.⁴⁹ Numerous visitors to the Human Rights Watch office

⁴⁷ Human Rights Watch interview with Nargiza N., June 21, 2007. Agzam A. was charged with and found guilty under article 244/2 – 1 of the criminal code (“Setting up, leading and participating in religious extremist, separatist, fundamentalist or other banned organizations”).

⁴⁸ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, July 27, 2006.

⁴⁹ Article 217 of the Uzbek Criminal Procedure Code states that the authorities are obliged to notify a family member of the suspect or defendant not later than in 24 hours and that this notification should be attached to the case material.

in Tashkent complained about the elaborate efforts and immense amount of time it took for them to track down the whereabouts of their family members in custody. For example, Nodira N. was an eyewitness when 30 men in plain clothes came to arrest her husband and search the house in Tashkent: “They took him away but did not say where. Three days later a lawyer [I did not know] called and told me that my husband is in the city police department.”⁵⁰ Khamida Abdukhalilova testified at the trial of her son, Bakhtior Abdukhalilov, who was charged with religious extremism, that “on January 5, 2006 Bakhtior was summoned [by the police] to sign some paper and then disappeared. Only 42 days later I was able to track down where he was being held.”⁵¹ Nobody had informed her that her son was arrested.

While they search for their relatives in custody, families have nowhere to turn for advice and assistance, are often turned away by police guards, do not have money to pay a lawyer and often do not trust the state-appointed defense lawyers. Furthermore, family members of detainees are often treated by the authorities as though they too were suspects, and are threatened “not to make the situation worse” for the detainee. For example, Sevara S., the wife of a detainee forcibly returned from Kazakhstan to Uzbekistan in November 2005 told Human Rights Watch that at the end of February 2006, the wives of several returnees were summoned to the Ministry of Internal Affairs and told to “shut up and stay at home.”⁵² The women had been seeking support from international organizations and the diplomatic community in Tashkent and gone to great lengths to locate their husbands in custody.

⁵⁰ Human Rights Watch interview with Nodira N., November 24, 2005.

⁵¹ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 24, 2006.

⁵² Human Rights Watch interview with Sevara S., July 15, 2006. In November 2005 at least nine Uzbek nationals seeking refuge from religious persecution were forcibly returned from Kazakhstan to Uzbekistan with any legal process. The governments of Uzbekistan and Kazakhstan have denied that the men were detained in Kazakhstan, though eyewitness testimony given to Human Rights Watch confirms that they were initially detained in Kazakhstan. For more details see: Letter from Human Rights Watch to Nursultan Nazarbaev, President of the Republic of Kazakhstan, “Letter Details Kazakh Involvement in Forced Return of Uzbeks”, March 28, 2006, <http://hrw.org/english/docs/2006/03/29/kazakh13092.htm> and “Kazakhstan: Investigate Forced Return of Uzbeks”, Human Rights Watch news release, March 29, 2006, <http://hrw.org/english/docs/2006/03/29/kazakh13093.htm>.

Restrictions on the Right to a Lawyer of One's Choice

As noted above, the Uzbek Criminal Procedure Code clearly grants individuals the right to a lawyer of their own choice from the moment they are apprehended or declared a suspect, and grants them the right to confidential meetings and other communication with their lawyers.⁵³ In practice, police and the investigation authorities violate detainees' right of access to a lawyer on a regular basis.

Nowadays the authorities often make sure to appoint a state defense lawyer within 24 hours after the detention is officially registered (but not necessarily the real detention date), although in many cases they create enormous obstacles to prevent defense lawyers hired by the detainees' families from gaining access to their clients. In addition to engaging in the practices described above to prevent the detainee from gaining initial access to a lawyer, the authorities may deny detainees confidential meetings with counsel, threaten the families to get rid of a certain lawyer because otherwise their son or husband "would be sentenced to more years in prison,"⁵⁴ or even in some case threaten the lawyers themselves.

While she was in custody, the client of an ethnic Russian lawyer was pressured by the authorities in her place of detention to tell her lawyer that she did "not understand Russian and refuse her services."⁵⁵ Ulugbek Khaidarov, the human rights defender, got to see his defense lawyer only after ten days in detention. After this meeting he was tortured until he wrote a statement rejecting the services of this lawyer. "I never saw this lawyer again," he told Human Rights Watch.⁵⁶

⁵³ Article 48-53 of the Uzbek Criminal Procedure Code. Article 49 states: "Defense counsel may participate in the case from the moment of the apprehension of the individual or the announcement of the recognition him as a suspect, or detention." Article 50 states that "at the request from a suspect, accused, or defendant, the participation of defense counsel shall be secured by the person conducting the inquiry or investigation. This person is also responsible to suggest an alternative lawyer in case the defense counsel does not appear within 24 hours." In some circumstances the participation of a defense counsel is mandatory including cases involving juveniles, mentally or physically handicapped, if they do not understand the language in which the investigation is conducted, or if they are suspected of a crime for which they may be punished with death penalty. Article 53 of the Criminal Procedure Code mandates that: "If an accused or defendant is kept in custody, the defense counsel has a right to meet him confidentially without limitation of number of meetings and duration thereof."

⁵⁴ Human Rights Watch interview with defense lawyer Olga O., June 27, 2006.

⁵⁵ Human Rights Watch interview with defense lawyer Svetlana S., July 18, 2007.

⁵⁶ Human Rights Watch interview with Ulugbek Khaidarov, Almaty, July 16, 2007.

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In order to avoid the interference of a defense lawyer during investigations, police in some cases mislead detainees or their relatives that they do not need an attorney, or that one will not be necessary until their case reaches trial, or will pressure them to accept a state-appointed attorney. For example, Shukhrat S., who went to the police department where his son was held the night after his arrest, was told by a police officer outside the building that “It is still too early” [to hire a lawyer].⁵⁷

Human Rights Watch learned from lawyers, defendants, and relatives across the board that defense lawyers are regularly denied access to their clients and that even if they are granted access the meetings are monitored by police or prison guards. In many cases the investigative authorities, whose approval is required in written form in order for lawyers to see their clients in custody, would not pick up the phone when lawyers would call to arrange approval, or would say they have no time to meet with lawyers to provide the approval.⁵⁸ Sometimes lawyers are told by the staff of the detention facility that their clients were moved from one place of detention to another, only to find at the new place of detention that their clients had been moved back. For example, in her final statement at a trial against 14 alleged Hizb ut-Tahrir members defense lawyer Normatova complained to the judge that she could not find her client for a long time:

First they told me he was being held in the basement of the GUVD [Russian acronym for the city police department].⁵⁹ At the GUVD they told me he was not there. Then I went to TashTurma, there I was told he was sent back to the GUVD. When I came to GUVD again they finally told me that he is in the prison hospital and not able to talk to anybody.⁶⁰

Many families simply do not know any lawyers or do not have the means to pay a lawyer. In such cases the state appoints a lawyer to defend the detainee free of

⁵⁷ Human Rights Watch interview with Shukhrat S., March 1, 2007.

⁵⁸ Human Rights Watch interview with defense lawyer Svetlana S., July 18, 2007.

⁵⁹ GUVD stands for Gorodskoi Upravlenie Vnutrennykh Del, or City Police Department.

⁶⁰ Human Rights Watch unofficial trial monitoring transcript, final statement of defense lawyer Normatova, Tashkent Province Court, July 31, 2006.

charge. Every police station or department of internal affairs has an arrangement with a law firm that is on obligatory stand-by (*zakrepleni*) and must provide legal representation whenever the respective interrogation agency is holding someone in need of it. The senior lawyer of the law firm would then be obligated to assign a lawyer for that person. This service is highly unpopular with lawyers because it means a lot of work for little money. Lawyer Svetlana S. told Human Rights Watch that “It can take up to two years to get paid for this work,” and that it was usually the young, inexperienced lawyers who are assigned to such detainees because they need the practice.⁶¹

Families and detainees tend not to trust state-appointed defense lawyers. They report that such lawyers are not interested in the case or do nothing to prevent procedural violations. Several defendants testified at trial that their state defense lawyers simply told them to “hang in there.” Kodirali Nishanboev met his state-appointed defense lawyer for five minutes, only after he was beaten and coerced to sign a “confession.” The only thing she recommended to him was “to ask for forgiveness.”⁶² At his trial in spring 2006 on charges of religious “extremism,” Alisher Karjavov testified that his state-appointed lawyer had told him during the investigation to confess even if he was not guilty, because this “would make things easier.”⁶³ At his July 2006 trial on charges of membership in Hizb ut-Tahrir, Latif Ayupov summarized his attorney’s lack of interest in his case: “I got a lawyer who did not even look at me.”⁶⁴

As noted above, state-appointed defense lawyers in particular do not or cannot provide an effective defense. In some cases trials do not start in time because the families were not able to hire a lawyer of their own choice and the state defense lawyers do not show up in time because they were informed by the court on too short notice.⁶⁵ It is not an exception that a state defense lawyer is not at all prepared and

⁶¹ Human Rights Watch interview with defense lawyer Svetlana S., July 18, 2007.

⁶² Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, July 27, 2006.

⁶³ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 15, 2006.

⁶⁴ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, July 27, 2006.

⁶⁵ In Uzbekistan, a lawyer has to be contracted anew for every step of the process—one contract for the investigation, one for the trial, one for the appeal etc. It is not unusual that the defense lawyer for the investigation is not the same as for the trial.

that a family would not know the name of the defense lawyer. In some cases the state defense lawyers have acted in a biased manner and not in the interest of their clients. Such lawyers are less likely to raise torture allegations or to seek justice for their clients. An extreme example were six defense lawyers in the first Andijan-related Supreme Court trial, who began their remarks by begging the citizens of Andijan for forgiveness for defending such “guilty persons.”⁶⁶

Failure of Pre-trial Safeguards and Complaints Mechanisms

The Uzbek Criminal Procedure Code provides mechanisms that detainees may access to complain about, and seek relief from, torture and ill-treatment while in custody. These include confidential meetings with lawyers, complaints to a representative from the prosecutor’s office or to the Office of the Ombudsman, but in practice these mechanisms do not function. For example, human rights defender Vasila Inoiatova of the Uzbek human rights organization Ezgulik reported to Human Rights Watch that in her organization’s experience, when people approach the Office of the Prosecutor General with their letters describing the torture they or their relatives endured, their letters are in some cases rejected and not dealt with.⁶⁷

Another barrier to relief is that most Uzbek citizens interviewed by Human Rights Watch had little understanding of their rights or of the domestic law governing criminal procedure, which the authorities exploit rather than correct. They learn about the legal details of an investigation at trial only – often a long time after they were subjected to police abuse. Many defendants do not know the difference between a police agent (*operativnik*) and an investigator, and their respective legal roles in the detention and investigation processes.⁶⁸ In general police agents do not tell their full name and position to a detainee, nor are there mechanisms in place to ensure that agents can subsequently be identified. At most they would identify themselves as “Sokhib Aka” or the like.⁶⁹ This practice makes it extremely difficult

⁶⁶ Human Rights Watch unofficial trial monitoring transcript, Supreme Court of the Republic of Uzbekistan, October 26, 2005.

⁶⁷ Human Rights Watch interview with Vasila Inoiatova, Tashkent, July 5, 2007.

⁶⁸ For more details see section “Judges’ Indifference to Torture Allegations and Coerced Testimony” in this report.

⁶⁹ “Aka” literally means elder brother and is used to respectfully approach a male person.

for detainees to provide the identity of their torturers later and thereby to substantiate their torture allegations.

In order to conceal their actions, police agents, or people acting on their behalf may also ill treat detainees outside of formal interrogation sessions. Even when legal counsel requests to be present during interrogation, abuse may occur before questioning has begun. For example, Dilshod Maripaliev testified at trial that during the official investigation police agents would take him to the toilet several times and beat him to make sure he said everything expected of him by the investigator.⁷⁰ Mansur Kholikov, one of Maripaliev's co-defendants, testified that "Everyday before the investigation *operatvniki* came to beat me and drummed it in to me what to say during the investigation." When he complained to the investigator, the latter answered, "If I release you now, I myself will be in trouble."⁷¹

While in theory detainees could report torture at a meeting with an investigator or prosecutor they may not be aware that they could do so, may not be given the time to do so, or may fear that doing so would only make their situation worse. When prosecutors meet with detainees in custody and can see physical evidence of ill-treatment, they are obligated to take action. However, as is illustrated in one of the cases Human Rights Watch investigated, this does not necessarily happen. Kodirali Nishanboev was arrested on March 11, 2006 and taken to a detention facility in Kibrai, where he was badly tortured. He testified at trial that the prosecutor saw him on March 14, 2006 for two minutes to issue an official arrest warrant. At trial, his lawyer asked him if the prosecutor could have seen that he was tortured and Kodirali said "Yes, I had a bump on my head."⁷² One of Nishanboev's co-defendants, Nodir Giozov, who was also held and tortured in Kibrai said at trial that "The prosecutor did not even come into the room. He only asked if I was Giozov. He did not ask anything else."⁷³

⁷⁰ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 13, 2006.

⁷¹ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 14, 2006.

⁷² Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, July 27, 2006.

⁷³ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, July 27, 2006.

Another barrier to redress for torture in pre-trial detention is the lack of confidential meetings for lawyers and their clients, during which a detainee could tell his or her lawyer about any torture without fear of retribution. A lawyer from Tashkent told Human Rights Watch that his request for a confidential meeting with a client is normally met with “Yes, what kind of secrets do you have?” Or officials would pressure the client by asking her “Oh, you have secrets?” and when the client gets scared and answers “No,” there is no hope for a confidential meeting. According to this lawyer, the Tashkent City Police Department, the Ministry of Internal Affairs, and the National Security Services never grant confidential meetings.⁷⁴ Other lawyers made similar statements (see the section Trial, below). Kodirali Nishanboev answered the judge’s question about confidential meetings in pre-trial detention, saying:

I never had a confidential meeting with a lawyer. I know that the pressure would have increased if I had complained. I am a human being. I am not made of iron. Even animals scream when you beat them. I was scared. That is why I did not complain.⁷⁵

In a trial of eight men accused of “Wahhabism” at the Tashkent Province Court in March and April 2006, several defendants testified about having been tortured in pre-trial detention and revoked statements made during the investigation, which they claimed were given under duress. Human Rights Watch monitored the trial. Judge Shermukhamedov questioned the defendants about why they had not reported the abuse to the investigator or their lawyer. Several of the defendants replied that they did not trust their lawyers; others said they were too scared of the police, who were always present when they met with their lawyers.

In addition to the lack of confidential meetings with lawyers there are no effective safeguards in place to protect detainees when they tell their lawyers about torture and ill-treatment in custody. Bakhtior Abdukhalilov, who actually told his lawyer and the investigator during the investigation how police agents beat him to coerce a

⁷⁴ Human Rights Watch interview, name/location/data withheld for security reasons.

⁷⁵ Human Rights Watch, unofficial trial monitoring transcript, Tashkent Province Court, July 27, 2006.

confession, was beaten even more afterwards. When on trial on charges of religious “extremism,” Abdukhalilov told the court:

The next day I told the investigator and my lawyer what had happened. In the evening a physician came and asked me where they beat me. The operativniki and one officer on duty were in the same room. [...] The next evening they brought me into a room. My lawyer and the investigator were not there. They told me to undress. I was standing there in my underwear. Then they started to beat me. This went on for a long time. First I was still able to stand, but then I could only sit on a chair. They showed me a piece of paper and told me to read it. I could not see anything and could not hear with my left ear. [...] Everything inside hurt [...] On Monday the investigator called me into his room and said, “Now you know what you have to answer.” I confessed everything. The investigator called two physicians. I told them that I was not able to eat and that my head hurt. I was scared to say anything more because the operativniki were standing there. I was given a headache tablet.⁷⁶

According to article 215 of the Criminal Procedure Code, detained persons have the right not only to confidential meetings with lawyers but also “to use legislative materials, to have paper and stationery for writing complaints, motions, and other procedural documents.”⁷⁷ In the case described immediately above, the judge asked Bakhtior Abdukhalilov why he had not complained to the prosecutor’s office about his treatment. Abdukhalilov answered that he had been denied pen and paper in police custody, but had submitted a complaint once he was transferred to the pre-trial prison.⁷⁸

Thirty-one-year-old Nodir Giosov, charged with article 244-2 part 1 of the Uzbek Criminal Code (“setting up, leading, and participating in religious extremist,

⁷⁶ Human Rights Watch, unofficial trial monitoring transcript, Tashkent Province Court, March 14, 2006.

⁷⁷ Uzbek Criminal Procedure Code, article 215.

⁷⁸ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 14, 2006.

separatist, fundamentalist or other banned organizations”), testified at trial that because of extensive beatings after his arrest on March 1, 2006 he lost consciousness, and the prison guards called an ambulance. He got an injection and pills and regained consciousness. When he asked for paper and a pen to write a complaint, prison guards told him that this was not possible. “Then I understood that it makes no sense to complain,” Giosov told the court.⁷⁹ Yadgar Turlibekov, a human rights defender arrested in 2006, remembers that he had asked numerous times for a paper and a pen in pre-trial detention. The only answer he got from the guards was “We do not have paper.”⁸⁰

Harassment of Lawyers

Despite the severe limitations on access to their clients, some lawyers make genuine efforts to protect their clients from abuse during the preliminary investigation, and to mount a robust defense at trial. When they do so, they are subjected to threats, intimidation, and even more serious pressure by police, prosecutors, and judges. Lawyers defending high-profile clients are especially vulnerable to such harassment. For example, on May 28, 2006 an Uzbek website believed to be affiliated with the government published an article about the closure of the American Bar Association/Central European and Eurasian Law Initiative (ABA/CEELI)⁸¹ and accusing “lawyers of the law firms Versari and Eviniso [of providing] legal assistance for the activists of non-registered politicized structures and religious extremist movements.”⁸² Both law firms were associated with ABA/CEELI and defending prominent clients in early 2006: Vitaly Krasilovskii of Versari was the defense lawyer of political activist Sanjar Umarov and human rights defender Elena Urlaeva, and Husan Makhbubov of Eviniso was the defense lawyer of human rights defender Mutabar Tojibaeva, who was arrested in October 2005. As a result of the threats, lawyer Krasilovski fled Uzbekistan in summer 2006.

⁷⁹ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, July 27, 2006.

⁸⁰ Human Rights Watch interview with Yadgar Turlibekov, Tashkent, February 19, 2007.

⁸¹ The Central European and Eurasian Law Initiative is a program of the American Bar Association to provide international technical legal assistance to countries in Europe and Eurasia.

⁸² See www.press-uz.info, May 28, 2006.

Salima Kadyrova, a lawyer for 40 years and deputy head of the Human Rights Initiative Center in Samarkand, has defended the rights of the exiled leader of Erk, an opposition political party that is banned in Uzbekistan, Muhammed Salih. In autumn 2006 the authorities threatened to revoke Kadyrova's license to practice law because a man accused her of seeking to overcharge him for her services.⁸³

Torture in Pre-trial Detention Facilities

Prolonged beatings

Prolonged beatings are one of the most common methods used by the police and security agents to frighten detainees, break their will, and compel them to provide a confession or testimony. They often start beating and kicking detainees with their hands, fists, and feet and then continue using truncheons, filled water bottles and various other tools. The story of Alisher A., a witness in a criminal case, is typical of this pattern described by several torture victims to Human Rights Watch. In spring 2006, three plainclothes men arrested Alisher at his bazaar workplace in a district capital in western Uzbekistan without telling him why, all they would say was that they would not beat him if he was innocent. At the police station Alisher was taken into a room with several police officers who immediately started to beat him:

They beat me for twenty minutes. First they beat me with their hands. Then one of them asked for a truncheon but was told that there weren't any. First I was standing. Two men held me and two men punched me. Later I fell over. Then they kicked me.⁸⁴

Alisher spent the night in custody and was kept in a room where he saw a classmate and another man. His classmate had bruises on his face, and blood was running out of his ear. Alisher was allowed to use the toilet but did not get any food. Throughout the night various police men came to the room, yelled at the men, and beat them.

⁸³ At the end of August 2006, a man came to her house saying he wanted to hire her as a lawyer. Despite the fact that they never signed a contract, at the end of September 2006, Kadyrova was called to the local Department of Justice because this man had written a complaint against her. The man, who had tape recorded his conversation with Kadyrova, accused her of seeking to overcharge him for her services. Human Rights Watch interview with Salima Kadyrova, December 8, 2006.

⁸⁴ Human Rights Watch interview with Alisher A., March 1, 2007.

They forced the detainees to stand and keep a chair above their head. They forced them to do push-ups. Anyone who failed was beaten. The next morning a heavy-set police man took Alisher into another room. Alisher asked the man again what the police wanted from him. The man punched Alisher in the stomach, causing him to lose consciousness. When Alisher regained consciousness, the police man asked him if he would confess now but Alisher said no. The man left the room and returned with another police man. They told Alisher to strip and beat him with a truncheon on his legs. When Alisher fell over, one man beat the rest of his body with a truncheon. “I was lying with my belly on the ground. When the police man continued to beat me I started to bleed. My soles burst.”⁸⁵

Finally Alisher wrote a statement that the police dictated to him, and the beatings stopped. He was released late at night after he signed a document that he had no complaints about his treatment in custody. The police summoned him for the next four days but did not beat him anymore.⁸⁶ He revoked his statement at the trial in autumn 2006, where he testified as a witness, and said that it had been coerced under torture.⁸⁷

Human Rights Watch has similar statements on file from former detainees across the country. For example, 20-year-old Bahodir B. described how he and his colleague were beaten and forced to do push-ups in the presence of a man in uniform with an automatic weapon at a province police department in western Uzbekistan in spring 2006. Later Bahodir was separated from his colleague and further beaten with a truncheon and a thick belt. “In total the beating lasted about an hour. They didn’t ask anything.”⁸⁸ Bahodir was a witness, not a suspect, in this case, which involved accusations of religious “extremism.” Twenty-two-year-old Rashid R. was arrested at the same time as Bahodir, and also reports that he was beaten and forced to do push-ups after he was taken into an office at the province police department in order to compel testimony against alleged religious “extremists”:

⁸⁵ Human Rights Watch interview with Alisher A., March 1, 2007.

⁸⁶ Human Rights Watch interview with Alisher A., March 1, 2007.

⁸⁷ His testimony in the verdict reads: “The testimony I gave during the investigation is untrue, because I was put under pressure. These words I said after police men had beaten me.” Verdict on file with Human Rights Watch.

⁸⁸ Human Rights Watch interview with Bahodir B., March 1, 2007.

There were two or three police men who started to swear at us. They insulted our mothers. [...] They grabbed me by the hair and beat my face with their elbows and my chest with their fists. Then they began to undress me. One ordered me to do push-ups and lift the chair. They had one main goal – to get a confession against E. [...] One of them, a 35-year-old, thick-muscled man grabbed a plastic hanger and started to use it to hit my balls, my hands, and my elbows.⁸⁹

In a prison letter Human Rights Watch received in autumn 2006, Mansur M. describes several beating methods used by National Security Agents to torture him after his arrest in early 2006. The letter said that police had given names to these methods, an indication of the culture of violence.

“To break ply wood” — I was constantly hit in my chest three nights in a row. On the fourth day, even light touching on my chest induced a very painful feeling in the inner organs.

“Horse shoes” — They put me on the bed with my hands tied up and started to hit me in my heels. Five minutes later I started to feel it in my head, it seemed that I was beaten in my head. Afterwards, I could not walk.

“Northern aurora” — My hands were tied up and I was sitting on a chair. Then they started to slightly hit my head. First I felt a headache, then everything looked red, it seemed that the blood was filling my eyes. A few moments later (I lost control of the time) I started to see black and white stripes. It even seemed that I was losing consciousness for a second. After a few moments I could not feel my body (... I was no longer in control of my body). It seemed that my entire body was squeezed in my head which was suffering a severe headache. . . . My brain was working properly but I could not feel my

⁸⁹ Human Rights Watch interview with Rashid R., March 1, 2007.

body. The most awful, though, started the next day, when I woke up and could feel my body but not my head.⁹⁰

Other detainees described “slapping the hands simultaneously on both ears”⁹¹ causing lasting ringing in the ear, or “putting eight metal sticks between the fingers and then squeezing the hands with maximum strength.”⁹² Sometimes, several police agents lift a handcuffed detainee as high as possible and then throw him to the floor. Handcuffed, the detainee cannot soften the impact of the fall.⁹³

Two people told Human Rights Watch that they witnessed or heard their sons being beaten by law enforcement agents. In spring 2006 Ruqia R., a woman who lives in a small town in western Uzbekistan, witnessed the ill-treatment of two of her sons, one of them a minor. One day she was on her way back to the small shop she owns and saw how several police men had cornered her 14-year-old son inside the shop.

They beat him in the face. Then he had to stand with his face to the wall. I could see that he had peed himself. The police men did not allow me to go to him.

It turned out that her underage son was present by chance when the police detained alleged religious “extremists” in the neighborhood. They did not take him into custody. However, Ruqia’s elder son, Hurshid, was detained during the same police operation and taken to the province police department. She and her minor son followed the police car and were waiting inside the police building for Hurshid to be released. Then she thought she heard a woman screaming but realized this was Hurshid. She ran to the room where she had heard the screams and opened the door:

⁹⁰ Prison letter by Mansur M., on file with Human Rights Watch.

⁹¹ Human Rights Watch interview with Uchqun U., June 12, 2007.

⁹² Human Rights Watch interview with Ulugbek Khaidarov, Almaty, July 16, 2007.

⁹³ Human Rights Watch interview with Ulugbek Khaidarov, Almaty, July 16, 2007 and Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 24, 2006.

I saw my son on the floor. He was lying on his side. Two or three men were sitting on him so that he was unable to move. Several others were beating him with a truncheon on the soles of his feet. His legs were on a chair. . . . My younger son came after me. All three of us were screaming now. Then a higher-ranking police officer [*nachalnik*] came down the steps. He asked “Who is this woman, why is she here?” I explained the situation to him and begged him to help us. The *nachalnik* took out his belt and whipped his colleagues, yelling at them “Why are you beating the son in front of his mother?”

The *nachalnik* took Ruqia and her minor son to another floor, where she waited until 7 p.m. Hurshid was finally released after three days. “His legs were nearly black. His toenails were also black. After one week they all fell off.”⁹⁴ Later, the family learned that the son was a witness, not a suspect, in a criminal investigation against eight alleged Hizb ut-Tahrir members.

Shukhrat S. is the father of E., who was badly tortured and in autumn 2006 sentenced to eight years in prison for alleged Hizb ut-Tahrir membership. He recalled to Human Rights Watch how the parents of several young men and women detained in the same operation as E. were waiting outside of the police building on the night of the arrest in spring 2006:

All the parents were waiting at the gate. We could hear screams and thought these were screams of maniacs. Later we understood that these were screams of our children. We were waiting until 3 or 4 a.m.⁹⁵

It is not just men who are subjected to beatings. When several police agents transferred Bahodir B. from one room to another in the building of the province police department he saw how one of two detained females was beaten: “She was squatting in the corner without the hijab she normally wore. They beat her shoulders with a truncheon.”⁹⁶

⁹⁴ Human Rights Watch interview with Ruqia R., March 1, 2007.

⁹⁵ Human Rights Watch interview with Shukhrat S., March 1, 2007.

⁹⁶ Human Rights Watch interview with Bahodir B., March 1, 2007.

Munira M., a relative of Muqqadas M., a woman accused of Hizb ut-Tahrir membership, told Human Rights Watch that she waited outside the police station when 20-year-old Muqqadas was initially detained in spring 2007. She described Muqqadas as looking completely frightened, asking “Where am I?” when she finally left the building after twelve hours in detention. Later Muqqadas told her that the police removed her hijab and beat her on her head and kidneys. Finally, the police released Muqqadas but told her to come back within ten days “to tell the whole story.”⁹⁷ Two weeks later Muqqadas was officially arrested and after two months found guilty of anti-constitutional activities (article 159 of the Uzbek Criminal Code). She was sentenced to three years on parole.

A lawyer reported to Human Rights Watch that her female client, charged with Hizb ut-Tahrir membership, told her how in spring 2007 agents from the Tashkent City Police Department banged her head against a wall when she refused to give testimony against her sister and sister-in-law.⁹⁸ At her appeals hearing in Syrdaria province, 63-year-old Rimma Tirbakh, accused of hiring somebody to murder her neighbor, described similar mistreatment. She stated that a police man “grabbed me by the coat and hit my head against the wall and said “bitch, confess, come on bitch, confess.”⁹⁹

Electric shock

Several individuals reported that they were either tortured with electric shocks or forced by police to watch as others were tortured with it. Bahodir B. was first beaten for an hour and then saw how his, colleague D., was tortured with electric shocks:

They brought me into the room where D. was. He sat naked on the chair, and his hands were tied to the armrests with a belt. He lost consciousness, and then they poured water on him. When he regained consciousness, they started the electric shocks again. I didn't see

⁹⁷ Human rights Watch interview with Muqqadas's sister-in-law Munira M., July 11, 2007.

⁹⁸ Human Rights Watch interview with defense lawyer Olga O., July 9, 2007.

⁹⁹ Human Rights Watch, unofficial trial monitoring transcript, Syrdaria Province Court, July 16, 2007.

where the shocks came from, just that D. started shaking. After such psychological pressure I signed.¹⁰⁰

Alisher A., detained around the same time as Bahodir B., was tortured for two days before he signed a confession. The police had told him that his alleged religious “teacher” had already confessed everything. Then the police took him into another room:

E. was sitting on a chair. He was naked. He was connected to electronic wires. [...] The wire was connected to E.’s nipples and genitals. His chest was blue. He had bruises. He was hardly able to speak. He was sitting on a chair with armrests. His arms and his legs were fixed to the chair. ¹⁰¹

Rashid R., who was in the same group of detainees, was also led into the room where the police tortured E.: “They showed him to me to scare me when they tortured him with electric shocks.¹⁰² Ulugbek Khaidarov reported how he was tortured with electricity connected to his handcuffs: “They brought some box; put the clips to the handcuffs. The policeman put his hand to the box and turned something. My hair just went up. It is strong electrical current, but your heart can manage it.”¹⁰³

Asphyxiation

Police and security officers sometimes use gas masks or plastic bags to effect near asphyxiation of detainees. After forcing an old-fashioned gas mask over the head of the victim, who in some cases is handcuffed to a chair, the oxygen supply is cut. During the ordeal the police might further beat the victim, as was described by 19-year-old Uchqun U., from Tashkent Province. In spring 2007, Uchqun was detained twice on misdemeanor charges—the first time for five days and the second for 16

¹⁰⁰ Human Rights Watch interview with Bahodir B., March 1, 2007.

¹⁰¹ Human Rights Watch interview with Alisher A., March 1, 2007.

¹⁰² Human Rights Watch interview with Rashid R., March 1, 2007. Bahodir B., Alisher A., and Rashid R. were interviewed separately.

¹⁰³ Human Rights Watch interview with Ulugbek Khaidarov, July 16, 2007.

days—at the Tashkent City Police Department (GUVD).¹⁰⁴ While in custody the police tortured him in attempt to get him to confess involvement in a murder. Ultimately he had to spend a month in the hospital to recover from his injuries. He told Human Rights Watch:

They made me sit down on the floor, still handcuffed. They put a chair in between my handcuffed hands and my back and F. sat on it. In this way he was sitting on top of my head. S. sat on my legs. F. took dark, thick cellophane and twisted its ends near my neck, so I could hardly breathe... on top of it they put a gas mask... I could not breathe. F. was beating my head with his fists and kicking my chest, while S. held my legs, so I could not move. Because of lack of air I started losing consciousness and fainting... when they saw this they took off the mask, and instead of letting me alone to regain my senses, started kicking me on my head and stomach to force me regain consciousness. When I [did] they repeated the entire procedure a second time and again when I started fainting they brought me back to my senses by kicking me with their feet on my head and stomach.”¹⁰⁵

Agzam A. told his mother that in November 2006 police agents put a plastic bag over his head and choked him until he fainted.¹⁰⁶ Ulugbek Khaidarov told Human Rights Watch that he was tortured with a gas mask several times during his detention in September 2006. In addition to closing the oxygen supply the police agents put some burning cotton-wool under the open oxygen supply. “There was an awful smell and acrid smoke. I started coughing and couldn’t breathe. At some moment, I lost consciousness. They took my shirt off and poured water on me.”

Akhmat Tojibaev, a 60-year-old man accused of murder, testified at trial that while he was held in pre-trial detention police agents came in the room where he was being held and tortured him using a gas mask as well as a plastic bag. They also tied

¹⁰⁴ Uchqun was sentenced to administrative detention for alleged “hooliganism” in Tashkent and not carrying his identification documents.

¹⁰⁵ Human Rights Watch interview with Uchqun U., June 12, 2007.

¹⁰⁶ Human Rights Watch interview with the mother of Agzam A., June 21, 2007. Agzam A. conveyed this information to his mother when she visited him in prison in May 2007.

his hands behind his back and hit the soles of his feet with a nightstick. “For three days, every twenty minutes they did this to me.”¹⁰⁷

Torture by inmates

Police detectives may also use other criminal detainees whom they trust and accord special privileges in detention facilities to beat, rape, or otherwise force detainees into confessing or providing needed testimony. This practice is used to break the will of detainees, create an atmosphere of fear, and show the detainee that there is no escape.

In a letter Mansur M. wrote in prison about his torture in 2006, he explains how after he refused to confess the investigator told him that the National Security Service—the agency investigating the crime he was accused of committing—would give him “the full elaborated procedure” and transferred him into a cell with hardened inmates. “I was interrogated by the investigator during the entire day, whereas during the night I was beaten up by inmates implying that I should write a letter of confession. When I tried to resist, they broke my jaw.”¹⁰⁸

Uchqun U. witnessed how two cell mates raped a young man in his cell during the night:

There was this young Uzbek, who was stripped and raped by two other people in the cell for the whole night... they kept him naked and raped him several times... the next day they wrote a protocol that he fell down and transferred him to a different place...

Uchqun took this as a warning for him because the investigators threatened him that the same might happen to him if he does not tell the truth. “They told me, you are next to be raped... tell us the truth! I was so scared and terrified...”¹⁰⁹

Psychological pressure, threats and inhuman treatment

¹⁰⁷ Human Rights Watch unofficial trial monitoring transcript, Syrdaria Province Court, July 16, 2007.

¹⁰⁸ Prison letter by Mansur M., on file with Human Rights Watch.

¹⁰⁹ Human Rights Watch interview with Uchqun U., June 12, 2007.

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Law enforcement authorities use explicit or implicit threats of torture to intimidate detainees and coerce testimony. Detainees are told that “Your verdict is signed already,” “We will put you in prison,”¹¹⁰ “If you don’t sign I will rape you with the nightstick,”¹¹¹ or “We will bring your younger brother if you do not sign.”¹¹² One former detainee reported to Human Rights Watch that police agents told him, falsely, that his mother was in intensive care and was dying. “They would tell me that if I confessed to the crime they would let me see my mom before she dies or I would never see her again.”¹¹³ Threats against family members may be particularly effective because the detainee is isolated from the outside world and has no way of knowing what is happening to them.

Ulugbek Khaidarov reported to Human Rights Watch that in the morning of his third day in detention in September 2006 a police agent told him that his wife came to see him. The police agent mentioned the beauty and youth of Ulugbek’s wife and told him that she had been arrested:

“Now our guys will take care of her. You can watch it.” I asked “What do you want?” And I signed all the blank pages they gave me to sign. I wrote on empty sheets of paper: “All above is written from my words. No pressure was executed on me. I told all of this on my own will. Signature.”¹¹⁴

Other detainees also reported that the police told them their wives were arrested and their agents “will do everything they want” with them.¹¹⁵

As noted above, another method to scare detainees is to show them another detainee while or after he is tortured.¹¹⁶ This occurred in several cases Human Rights

¹¹⁰ Human Rights Watch interview with Alisher A., March 1, 2007.

¹¹¹ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 13, 2006.

¹¹² Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 13, 2006.

¹¹³ Human Rights Watch interview with Uchqun U., June 12, 2007.

¹¹⁴ Human Rights Watch interview with Ulugbek Khaidarov, July 16, 2007.

¹¹⁵ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, July 27, 2006.

¹¹⁶ See above section “Electric shock” in this report.

Watch researched, and was most prominent in two cases involving multiple defendants, whereby the badly tortured “leader” was shown to other alleged members of the group. In a trial of alleged “Wahhabis” monitored by Human Rights Watch, several young men testified how they were led into a room where their alleged group leader was. One of them, Bakhtior Abdukhalilov, told the court:

I was brought into a room with Z. He looked very bad and was crying. He couldn't really walk or sit. They told him to explain what could happen to me if I did not confess and then left us alone. He [Z.] told me how they tortured him. He told me that he was beaten up and beaten on the soles of his feet. He said that he did not want me to be beaten up like that. Therefore I should confess and be released on bail. Then they [the police agents] came back. First they promised to release me if I confessed, then they beat me on my face and neck. I wanted to say the truth but nobody was listening. I decided to confess to get out of there and find a lawyer.¹¹⁷

Regarding another group case of eight alleged Hizb ut-Tahrir members, one of the witnesses who was kept in police custody for 24 hours and was himself beaten was taken to a room where he saw his colleague, E.:

He was completely undressed but for his underwear. I saw how they had beaten him. His face and hands were covered in bruises and blood. The torture markings on E.'s body were so severe, that even at court, half a year later, they were visible. [...] ¹¹⁸

Twenty-four-year-old Mirzo M. describes a slightly different method of scaring detainees:

As a means of psychological pressure, the most senior of those questioning me showed me various pictures of people who had been beaten up: someone who was beheaded, and others. They said that if

¹¹⁷ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 14, 2006.

¹¹⁸ Human Rights Watch interview with Bahodir B., March 1, 2007.

you don't cooperate, then you will also be in the same situation, the same fate awaits you.¹¹⁹

Physical conditions in custody

In the course of describing their accounts of detention and ill-treatment, former detainees also told Human Rights Watch about the filthy and inhuman conditions in which they were detained. While it is beyond the scope of this report to provide a comprehensive description of conditions in pretrial custody in Uzbekistan, some accounts are indicative of the serious issues that exist.

According to article 229 of the Uzbek Criminal Procedure Code detained persons “may use their clothes, footwear and other necessary items,” shall be kept under conditions “complying with the sanitary and hygienic rules determined by the Ministry of Health and the Ministry of Internal Affairs” and “shall be provided with meals, sleeping accommodation, and other necessary subsistence facilities free of charge and in compliance with the set standards.”¹²⁰ In practice detainees often face a total lack of hygienic and sanitary standards, poor quality of food, lack of mattresses, no access to clean drinking water and no unrestricted access to a toilet.

Uchqun U. describes the condition in the cell where he was locked up for five days:

They fed us only once a day. It was only boiled macaroni, boiled in plain water, without any salt or spices. We were taken to the toilet, which was outside, only once a day, and every time strip searched on the way back. There were no beds in the room, just a cemented floor, with all kind of bugs around. The room had no ventilation. We had to sleep right on the floor, without even mattresses or anything else to cover. Everything around was dirty and complete lack of hygiene. We were not allowed to shower.¹²¹

¹¹⁹ Human Rights Watch interview with Mirzo M., March 1, 2007.

¹²⁰ Article 229 of the Uzbek Criminal Procedure Code.

¹²¹ Human Rights Watch interview with Uchqun U., June 12, 2007.

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Yadgar Turlibekov, a human rights defender from Kashkadaria who was arrested on June 16, 2006 and charged with insult and slander, reported similar conditions in his cell. He was locked up for 53 days prior to trial, not allowed to shave, and described himself as soon looking “like a chimpanzee.” The eight men in his cell slept on metal bed frames without mattresses. Only one time per day they were allowed to leave the cell for 15 minutes to use the toilet. Otherwise they had to pee in a bottle. They did not get enough drinking water.¹²²

Tatyana T. remembers the cell where she was kept during her three-day administrative detention in early 2007 as a dirty, unhygienic, tiny place with a cemented floor and no light. The plates “seemed never be washed.” Despite several requests the guards refused to take her out to toilet and gave her a bucket instead. “I had my period then, and they would not allow me to change my clothes. My jeans were saturated with blood, but they would not allow me to change for three days. My mom would bring clothes, but they would not take the parcel from her...”¹²³

¹²² Human Rights Watch interview with Yadgar Turlibekov, Tashkent, February 19, 2007.

¹²³ Human Rights Watch interview with Tatyana T., June 25, 2007. For more details of her case see section on Isolation and Violation of Detention Procedures, above.

Trial

For some defendants, their trial might be the only opportunity they have to raise their complaints about torture and ill-treatment and hope that they may obtain some type of remedy. After several months of isolation, a public trial is also often the first time when the defendants get to see their family members and others beyond those who work within the criminal justice system.

Due to the lack of confidential meetings with their lawyers, their fear of reprisal, and their general isolation, some detainees do not raise allegations of torture and ill-treatment until trial, often many months too late for meaningful documentation of any injuries. According to the Office of the Prosecutor General, between 2002 and mid-2007 30 defendants during the trial phase of their cases filed complaints of torture and illegal treatment, although it is unclear whether this covers formal complaints only or whether it also includes instances in which defendants used the opportunity of a trial hearing to offer testimony that they had been ill-treated. On the basis of four of these complaints the authorities opened criminal cases. In three of the cases the accused police men were found guilty of exceeding their authority (article 206 of the Uzbek Criminal Code) and sentenced to pay a fine.¹²⁴

¹²⁴ Undated letter from the Office of the Prosecutor General to Human Rights Watch, received September 4, 2007 (see Appendix V). The letter says that five defendants filed complaints about torture and illegal treatment during the trial phase in 2002, four in 2003, one in 2004, four in 2005, nine in 2006 and seven in the first half of 2007. In 26 cases, torture allegations investigated by the judges could not be confirmed. Criminal investigations were opened on four of the complaints and sent to the prosecutor's office for further investigation. For example, on July 15, 2006 the prosecutor's office of the Nurabad district opened an investigation against B. Mustafaev, neighborhood inspector of the Nurabad district police department (ROVD), initially charging him with article 206, part 1 of the Uzbek Criminal Code. Mustafaev physically assaulted and beat D. Sh. Berdiev, a minor, on July 11, 2006 while intoxicated. In the course of the investigation by the district prosecutor's office, B. Mustafaev was officially charged with article 206, part 2v and article 235, part 2d of the Uzbek Criminal Code on August 9, 2006, and released on bail. A court found B. Mustafaev guilty of physically assaulting a minor and causing him bodily harm and sentenced him to pay a fine. On September 9, 2006, A Eshankulov, operative agent at the Paiaryk district police department of Samarkand province and on June 10, 2006, N. Pardaev, operative agent of the Chilanazar district ROVD of Tashkent city were brought to criminal justice for similar crimes. During the investigation, opened after a complaint by Z. Mamadaliev, who accused officers of the department of the internal affairs of the Balikchin district of ill-treating him, the prosecutor's office of the Balikchin district of the Andijan province found these allegations unfounded, and closed the criminal case on March 9, 2006 in accordance with article 83, point 2 of the Uzbek Criminal Procedure Code for the lack of proof of a crime.

In 2006 and 2007 Human Rights Watch observed three trials during which defendants made torture allegations. On the days Human Rights Watch was able to attend, 13 of 24 defendants gave testimony regarding ill-treatment that they claimed they had been subjected to. In no case did the defendants obtain a remedy from the court. Instead judges either ignored the allegations of torture or ill-treatment or refused requests to investigate them. Furthermore, in the same cases law enforcement officials threatened detainees or their relatives before, during and after trial with additional punishment for reporting torture and mistreatment during the trial. Finally, in the past two years the government has increasingly restricted access to trials for independent trial monitors and relatives, making it more difficult to learn about occasions on which defendants' raise allegations of torture or ill-treatment in their testimony.

Judges' Indifference to Torture Allegations and Coerced Testimony

International law and Uzbek domestic legislation requires that allegations of torture be investigated, that coerced testimony is not admitted as evidence, and that perpetrators are prosecuted.¹²⁵ In a positive move, in 2003, the Supreme Court of the Republic of Uzbekistan issued an instruction barring the use of evidence as the basis for conviction if it was obtained under torture or where the suspect was deprived access to a defense counsel. In September 2004, the Supreme Court passed a resolution declaring all evidence obtained by illegal means to be inadmissible. Furthermore, article 22 of the Criminal Procedure Code prohibits obtaining statements from a suspect, accused, defendant, victim, witness, and other

¹²⁵ Article 15 of the Convention against Torture reads: "Each party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." Article 321 of the Code of Criminal Procedure mandates that "An inquiry officer, investigator, prosecutor, or court shall be obliged to initiate a criminal case of an offense in all the instances when there exist causes and sufficient grounds thereto." To investigate such allegations, judges, under article 180 of the Code of Criminal Procedure, can order a forensic medical examination. Article 180 reads: "Expert examination shall be ordered by a resolution of an inquiry officer or investigator, or by a finding of a court, and indicate the following: grounds to order forensic expert examination; physical evidence and other objects that will be made available to the examination, with indication of where, when and under what circumstances discovered and seized; and during the expert examination on the case—data underlying the forensic examiner's opinion; questions posed to the forensic examiner; name of the forensic agency, and the last name of the examiner. An expert examination may be assigned, if required, before the initiation of criminal case. A resolution or finding ordering expert examination shall be binding for persons concerned." Furthermore, article 173 of the Code of Criminal Procedure mandates that "Appointment and conduction of an expert examination shall be mandatory to establish the following circumstances: 1. cause of death, or nature and heaviness of bodily injury; [...]"

participants in the proceedings by means of violence, threats, violation of their rights, and other illegal treatment.¹²⁶

In practice, though, judges flout their legal obligations by failing to call for such investigations and admitting as evidence testimony coerced under torture or other ill-treatment. In no trial monitored by Human Rights Watch did a judge refuse to admit as evidence a confession or statement that, according to the defendant's court testimony, was coerced under torture.

In addition, Uzbek government claims of judicial reform are belied by ongoing monitoring by Human Rights Watch that shows that the Uzbek judiciary lacks independence.¹²⁷ Imbalance between the prosecution and defense persists in criminal cases. Judges consistently and predictably hand down convictions in line with the prosecutors' demands.

In trials monitored by Human Rights Watch the atmosphere was not one conducive to an impartial hearing but rather openly hostile to the defense. Defendants in criminal hearings in Uzbekistan, as in other countries in the region, are always held in cages guarded by either police men in uniform or soldiers in camouflage, creating an environment not conducive to the presumption of innocence,¹²⁸ which further imbalances the prosecution and defense. In addition defendants are not allowed to

¹²⁶ Article 22 of the Uzbek Criminal Procedure Code.

¹²⁷ In its 2002 conclusions, CAT raised ten subjects of concern. One of them was the "the insufficient independence of the judiciary" and another "the de facto refusal of judges to take account of evidence of torture and ill-treatment provided by the accused, so that there are neither investigations nor prosecutions." See: United Nations Committee against Torture, "Consideration of Reports Submitted by States Parties under Article 19 of the Convention, Conclusions and Recommendations of the Committee against Torture, Republic of Uzbekistan," CAT/C/CR/28/7, June 6, 2002, <http://daccessdds.un.org/doc/UNDOC/GEN/Go2/424/49/PDF/Go242449.pdf?OpenElement>, accessed October 9, 2007.

The UN Special Rapporteur on torture called upon the Uzbek government to "take the necessary measures to establish and ensure the independence of the judiciary in the performance of their duties in conformity with international standards, notably the United Nations Basic Principles on the Independence of the Judiciary. United Nation Economic and Social Council, Civil and Political Rights, Including the Questions of Torture and Detention, Torture and other cruel, inhuman or degrading treatment, Report of the Special Rapporteur on the question of torture, Theo van Boven, submitted in accordance with Human Rights Commission resolution 2002/38. Addendum. Mission to Uzbekistan. United Nations document E/CN.4/2003/68/Add.2. February 3, 2003, <http://www.unhcr.ch/Huridocda/Huridoca.nsf/o/29dof1eaf87cf3eac1256ce9005a0170?Opendocument>, accessed October 9, 2007.

¹²⁸ The presumption of innocence is outlined in article 23 of the Criminal Procedure Code.

talk to their lawyers during the trial. A Human Rights Watch representative witnessed how law enforcement officials prevented lawyers (sometimes outright physically) from speaking to their clients during trial. In general, the courts are laid out in a way that lawyers sit with their back to the defendants making even eye contact impossible.

In order to pursue their allegations of torture, defendants not only have to overcome the hostile court atmosphere but also the fact that their loved ones and strangers are listening to their profoundly personal narratives of inhuman treatment and humiliation. Some defendants would not testify about torture or go into details to spare their parents or wives. As Kodirali Nishanboev finished his court testimony at his trial in July 2007, describing how several police men beat and hit him in pre-trial detention, he said: “They beat all of us. The others do not say anything because they do not want to worry their relatives.”¹²⁹ In trials Human Rights Watch has observed, often, the audience would mutter, comment and cry during torture testimonies from the defendants.

As noted above, in 2006, Human Rights Watch monitored two group trials of alleged religious extremists where the defendants testified that they had been subjected to torture.¹³⁰ In neither case did the judges start an investigation nor did they exclude the testimony alleged to have been obtained under torture. Instead, they lectured the defendants about the roles and powers of police agents, investigators and prosecutors

For example, Judge Shermukhamedov of the Tashkent Province Court asked defendant Mansur Kholikov about his torture allegations and showed him a report [in Russian, *protokol*] from the investigation period signed by Kholikov and his state defense lawyer. The following exchange ensued:

Kholikov: No, when I signed this protocol there was neither a lawyer nor an investigator there, only *operativniki*.

¹²⁹ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, July 27, 2006.

¹³⁰ The first was a trial at the Tashkent Province Court in March/April 2006 against eight alleged “Wahhabists.” The second one was a trial against 14 alleged Hizb ut-Tahrir members at the Tashkent Province Court in July/August 2006.

Judge: The *operativniki* do not have the right to conduct an interrogation.

Kholikov: But they forced me.

Judge: This was not an interrogation but an explanatory meeting (*obiasnitelnaia vstrecha*). [...] Did you tell your lawyer about the beatings?

Kholikov: I did not have confidential meetings [with my lawyer]. I tried to tell the lawyer everything at the first day but then the *operativniki* told me that here [in detention] even the walls have ears. The investigator dictated everything to me. Every day before the interrogation started the *operativniki* beat me and prepared me for what I should say. [...] There was no point in telling my lawyer about the beating. He was going to leave and I had to stay there.¹³¹

The judge did not act on Kholikov's testimony and instead showed him more investigation reports with his signature on them. Kholikov's own defense lawyer, Abdumalik Jalilov, later said in his final argument that he got access to Kholikov only on January 12—seven days after his arrest. "I saw the reports without the signature of [state-appointed defense] lawyer Boboev. The signatures appeared in the case material later. The lawyer [Boboev] signed this later. The investigation was conducted without a lawyer." He also complained that he did not have confidential meetings with his client despite having demanded them several times.¹³²

The judge presiding over this trial appeared to dismiss testimony made by the defendants and the barriers these defendants faced when seeking to complain about torture while their case was under investigation. He made no mention of the torture allegations in his rulings. All eight defendants were found guilty of having illegally organized a public or religious organization (article 216 of the Uzbek Criminal Code).

¹³¹ Kholikov was arrested on January 5, 2006 and held at the Yangiyul district police station until January 12 before he was transferred to an official pre-trial detention facility. Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 14, 2006.

¹³² Human Rights Watch unofficial trial monitoring transcript, final argument by defense lawyer Abdumalik Jalilov, Tashkent Province Court, April 18, 2006.

Nodir Giosov had a similar exchange with Judge Sharipov during another group trial of 14 alleged Hizb ut-Tahrir members observed by Human Rights Watch: “[In pre-trial detention] I did not understand who was an *operativnik* and who was an investigator. There were five or six men. How am I supposed to know who is who?” During this trial at the Tashkent Province Court in July/August 2006 at least five defendants testified about torture and another two about other methods of pressure.¹³³ The verdict notes that four of the defendants testified that police used physical pressure against them, but dismisses the allegation of abuse due to the defendants’ inability to identify the police agents.¹³⁴ In his closing speech the prosecutor said:

“Despite the fact that they allegedly confessed under physical pressure, the procuracy believes that the defendants came up with this torture story to shirk responsibility and to confuse the court. The defendants had the opportunity to complain to the prosecutor about illegal activities of the police agents. All defendants had meetings with the prosecutor but they did not do that. Furthermore the defendants were not able to describe the appearance and did not know the names of the police agents that allegedly beat them.¹³⁵

Presiding Judge Sharipov stated in his ruling that he had found no evidence of torture and concluded that the defendants had alleged ill-treatment only to avoid responsibility for their crimes, basically repeating the prosecutor’s arguments. It is not clear what steps, if any, the judge took to reach this conclusion. There is also reason for skepticism about his ability to take meaningful steps to investigate torture allegations given the judiciary’s lack of independence in Uzbekistan.

Another example of a judge’s indifference to torture allegations is the case of 63-year-old Rimma Tirbakh and 60-year-old Akhmat Tojibaev, a man Tirbakh was

¹³³ Human Rights Watch did not monitor every single hearing of the trial, and therefore cannot confirm whether the remaining seven defendants also made allegations of torture in their court testimony.

¹³⁴ Verdict of the Tashkent Province Court, Judge Sharipov, August 3, 2006. Verdict on file with Human Rights Watch.

¹³⁵ Human Rights Watch unofficial trial monitoring transcript, final statement of the prosecutor, Tashkent Province Court, July 31, 2006.

accused of hiring to murder her neighbor. Both individuals gave detailed testimony in court alleging that they had been tortured. Also, in their appeal hearing at the Syrdaria Province Court on July 16, 2007 they testified about beatings, threats, and harassment that they were subjected to, so that they would confess. The presiding appeals Judge Khabibullaev asked questions and listened to them. After listening carefully to the full defense testimonies about torture-extracted confessions, the judge sent all the observers out of the room. He opened the doors to the courtroom four minutes later, and without waiting for the audience to enter, announced his ruling upholding the 15-year prison sentence for Rimma Tirbakh and the 16-year sentence for Akhmat Tojibaev.¹³⁶

Mirzo M. was a witness in a trial against eight alleged Hizb ut-Tahrir members in a provincial capital in western Uzbekistan. He himself was tortured while in detention. At trial he retracted his testimony against some of the defendants, which he said was coerced following severe beatings. The judge asked him: “Why did you not say anything about the beatings for the last five months you were walking free?” He answered: “I was scared and couldn’t approach anyone [on this question].”¹³⁷ Although the judge listened carefully to this and other testimony about torture he did not order an investigation into the allegations. Ultimately, three defendants were sentenced to prison terms between five and eight years, the other five men to corrective labor or fines.¹³⁸

Police Intimidation During Trial

Perhaps in an attempt to dissuade defendants from recanting their testimony during trial, police are known to continue ill-treatment of the accused and witnesses regardless of whether they are in custody once the case goes to trial. For example, during a trial of eight alleged “Wahhabists” at the Tashkent Province Court in spring 2006, Zoir Juraev—the alleged leader of a religious cell who was subjected to the most intensive torture—said that several thugs came to his cell to make sure he

¹³⁶ Human Rights Watch unofficial trial monitoring transcript, Syrdaria Province Court, July 16, 2007.

¹³⁷ Human Rights Watch interview with Mirzo M., March 1, 2007

¹³⁸ Verdict on file with Human Rights Watch.

stood by his alleged confession coerced from him during the investigation and did not allege at trial that he had been tortured.¹³⁹

Human Rights Watch documented several cases in which witnesses who testified at trial about torture were subsequently summoned and harassed by the police. One such case was that of Bahodir B. Four months after he had testified about torture in a trial against eight alleged Hizb ut-Tahrir members he and other witnesses were summoned without a warrant to the National Security Service department in the province capital. The men waited a long time at the building and were then called in one by one. Bahodir remembers: “As soon as I entered I saw my tormentors, the *operativniki*. I told them “What was I supposed to say if I was beaten. At court I told the truth.” And they answered: “If you don’t retract your statement, we’ll put you in prison.” There and then, they burned several parts of his body with cigarettes as a warning and coerced him to sign another document without reading it.¹⁴⁰

Restrictions for Trial Monitors

According to article 19 of the Uzbek Criminal Procedure Code, hearings on criminal cases shall be public except when state secrets or sexual or juvenile crimes are concerned.¹⁴¹ Article 14 of the ICCPR states that “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.” The UN Human Rights Committee has held that this means that “both domestic legislation and judicial practice must provide for the possibility of the public attending, if members of the public so wish” and that “courts must make information on time and venue of the oral hearings available to the public and provide for adequate facilities for the attendance of interested members of the public, within reasonable limits, taking into account, e.g., the potential public interest in the case, the duration of the oral hearing and the time the formal request for publicity has been made.”¹⁴²

¹³⁹ Human Rights Watch unofficial trial monitoring transcript, Tashkent Province Court, March 13, 2006.

¹⁴⁰ Human Rights Watch interview with Bahodir B., March 1, 2007.

¹⁴¹ Article 19 of the Uzbek Criminal Procedure Code.

¹⁴² G. A. van Meurs v. The Netherlands, Communication No. 215/1986, U.N. Doc. CCPR/C/39/D/215/1986 (1990), paras. 6.1 – 6.2.

While a public hearing with the presence of independent observers does not guarantee that torture victims will feel secure enough to speak up at trial about their torture, when a trial is closed to the public, it is impossible for detainees' relatives and human rights groups to even know whether the defendant has made any allegations about torture at all.

Although for many years, access to trials in Uzbekistan was not always easy, for the most part trials were open to the public, thus allowing independent local and international monitors to document any fair trial violations. However, this changed following the 2005 Andijan uprising and massacre. Of 20 trials related to the Andijan events held between fall 2005 and summer 2006, only one was open. This is particularly disturbing in light of credible and consistent allegations of ill treatment, including torture, by those who had been interrogated in the immediate aftermath of the Andijan events.¹⁴³

In December 2005 the Supreme Court issued two press statements declaring a total of twelve Andijan related trials closed.¹⁴⁴ Local human rights defenders or lawyers informed Human Rights Watch and the diplomatic community in Tashkent about several of these trials, at times before they were declared closed. On November 28, 2005 a Human Rights Watch representative tried to monitor one of those trials but police outside the Orta Chirchik District Court demanded that Human Rights Watch obtain written permission from the Supreme Court to monitor the trial. When Human Rights Watch attempted to do so, a person in the secretariat of the chairman of the Supreme Court who did not identify himself on the telephone told Human Rights Watch that the Supreme Court was not responsible for trial monitoring and that we should write a letter to the head of the respective district court.¹⁴⁵ Two days later the Supreme Court issued a press release declaring the trial closed. The authorities did

¹⁴³ For a more detailed account see: Human Rights Watch, *Burying the Truth, Uzbekistan Rewrites the Story of the Andijan Massacre*, September 2005, Vol. 17, No. 6(D), pp. 14- 23, <http://hrw.org/reports/2005/uzbekistan0905/>.

¹⁴⁴ The Supreme Court issued a press statement on December 1, 2005 announcing four Andijan-related trials and declaring them closed. On December 14, 2005 the Supreme Court issued a second press statement announcing eight Andijan-related trials (including one against employees of the Andijan department of internal affairs and one against five employees of the Andijan prison and 19 conscripts) and declaring them closed.

¹⁴⁵ Human Rights Watch telephone call to the secretariat of the Supreme Court of Uzbekistan, November 28, 2007. Human Rights issued a press release stating that the Uzbek government was blocking monitors' access to the trial.

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not issue any other official statement relating to the other seven Andijan-related trials between January and July 2006. Only with the help of relatives, lawyers and in one case, by chance, was Human Rights Watch able to learn that the trials were to take place. Later, Human Rights Watch received copies of the verdicts for two of the seven trials saying that they were closed.¹⁴⁶

Except for the Andijan-related trials, Human Rights Watch is not aware of any official, public written statement by a judge or a chair of a court formally declaring a trial closed. While trial observers do not require written permission to be present in the courtroom, yet Human Rights Watch has witnessed and experienced a number of cases in which police or plain clothes agents have used lack of written permission as an excuse to deny independent monitors access to courts.¹⁴⁷

Indeed, what often happens in practice is that policemen or plain clothes men deployed at the fence or barrier on the perimeter of court buildings physically prevent monitors or relatives from even coming close to the court building. For example, on January 30, 2006 two police cars had set up a checkpoint and were stopping every car entering Dustobod, where the trial of human rights defender Mutabar Tojibaeva was supposed to start. Six uniformed police officers asked travelers where they were going and examined their identification documents. After a Human Rights Watch representative told police that he was going to the trial they instructed him to wait and said that they were calling their superior. Five minutes later, they told the Human Rights Watch representative he could not enter the town. The policemen said Makhmud Sirojtdinov, a Ministry of Interior colonel, gave them the command and told them the trial was closed. Later, the Ministry of Interior press service told Human Rights Watch that Sirojtdinov's name did not exist in their records.¹⁴⁸ Several days later, relatives and observers—including Human Rights Watch—were allowed into the court room.

¹⁴⁶ Verdict of the Tashkent City Court, Judge A.A. Kadyrov, July 21, 2006 and verdict of the Tashkent City Court, Judge M.R. Musaev, January 27, 2006. Verdicts on file with Human Rights Watch.

¹⁴⁷ Because police began in 2005 demanding written permission for access to trials, Human Rights Watch began sending letters to judges requesting such permission. In the past two years Human Rights Watch has not received a single official response to its twenty nine written requests for confirmation in writing that we have permission to observe trials.

¹⁴⁸ See: "Uzbekistan: Police Seal Off Town for Activist's Trial, Human Rights Watch news release, January 31, 2006, <http://hrw.org/english/docs/2006/01/31/uzbeki12575.htm>.

In at least one case that Human Rights Watch documented, it would seem that the authorities used more subtle methods than physical denial of access to exclude independent monitors from public trial hearings. Ulugbek Khaidarov was due to be tried at the Jizzakh Province Court on October 5, 2006. On that date, when a Human Rights Watch representative was let into the courtroom, Khaidarov immediately indicated that she should leave. The day before, his sister told local human rights defenders waiting outside the court building that Khaidarov did not want to have independent monitors in the court room because “this would only worsen the situation for him.”¹⁴⁹ In a meeting with Human Rights Watch after his release, Khaidarov said that he had been given an injection several days before the trial “that made his head as heavy as metal.” He had difficulties remembering names and felt less pain in his feet, which had been hurting from severe beatings during pre-trial detention.

When the Human Rights Watch team came into the courtroom, I was standing and balancing a bit back and forth. I was saying something. Because of the injection, I could not even myself understand what I was saying. Bakhtior told me later that I said “Guys, please, no” [...] I was warned beforehand that my friends should not be present. [...] I did not say anything to the judge at the trial - nothing about the torture or about other treatment in detention. It would be useless to tell him.¹⁵⁰

Even when trials are open, Uzbek authorities in some cases, particularly group trials involving multiple defendants, restrict access in ways that create hardship for defendants’ relatives who must travel considerable distances, at considerable expense. In one such case, a large number of relatives, journalists and independent monitors from local and international groups came to the Tashkent Regional Court to be present at to the trial of 29 alleged Hizb ut-Tahrir members, which started on July 26, 2006. First, a young plainclothes man told them that the defendants would be split into a group of 14 and a group of 15. On that day the trial started only for 14 of the defendants. The other relatives were told to go home. After the hearing the

¹⁴⁹ Human Rights Watch interview with Bakhtior Khamroev, Jizzakh, October 5, 2006.

¹⁵⁰ Human Rights Watch interview with Ulugbek Khaidarov, Almaty, July 16, 2007.

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families and monitors were told that as of the next day the hearings for both groups would be held at two separate courts in districts at the opposite direction of Tashkent.

Despite the long distance and the high travel costs about 40 to 50 relatives of the group of 14 gathered in Toitepa the next morning, only to learn from another plain clothes man that the court room was too small, and that they would allow only one family member per relative inside. The relatives tried, unsuccessfully, for two relatives per defendant to be allowed inside the court. While the Human Rights Watch representative was allowed to enter the court room, two local human rights defenders were denied access. ¹⁵¹

Sometimes the authorities fill the benches in the court room with plain clothes men, which limits the number of seats available to relatives and observers. In trials monitored by Human Rights Watch these men take very detailed notes of the proceedings, even when the court secretary does not.

¹⁵¹ Human Rights Watch unofficial trial monitoring transcripts from Tashkent and Toitepa, July 26 and 27, 2006.

Monitoring Post-conviction Detention

Uzbekistan does not have an effective prison monitoring mechanism which would provide for unannounced, unaccompanied repeat visits and confidential meetings that are essential for detecting and preventing ill-treatment and torture. Uzbekistan has not ratified the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Protocol), which establishes monitoring mechanisms that ensure international experts a minimum level of access to places of detention.¹⁵²

The International Committee of the Red Cross (ICRC) suspended its monitoring of detention facilities in Uzbekistan in 2004. Although the European Union is said to be encouraged that the Uzbek government and ICRC will soon agree on resuming visits to places of detention, to the best of Human Rights Watch's knowledge, no such resumption of ICRC visits has commenced.¹⁵³

Prisoners therefore do not have access to a fully independent body to which they may complain about abuse. Prisoners may, and often do, relate abuses to their visiting relatives or lawyers, though prison authorities can and often do restrict access to prisoners by putting them into punishment cells when a visit is due.

The office of the Ombudsman conducts prison visits, and while these are welcome they do not meet standards essential for detecting and preventing ill-treatment. In its letter to Human Rights Watch, the Office of the Ombudsman states that in 2006 and 2007 the office and its regional representatives inspected 20 detention facilities, twelve of which were conducted together with foreign visitors.¹⁵⁴ Meetings with

¹⁵² Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on December 18, 2002, UN Doc. A/RES/57/199. Effective June 22, 2006.

¹⁵³ "Council Conclusions on Uzbekistan, General Affairs and External Relations Council, May 14, 2007, http://www.delkaz.cec.eu.int/joomla/index.php?option=com_content&task=view&id=145&Itemid=43 (accessed July 5, 2007). ICRC prison monitoring is confidential and shared only with the host government. So while ICRC monitoring is very important in bringing changes in prison conditions, it is not intended to be a substitute for public reporting on ill-treatment and torture aimed at providing greater government accountability.

¹⁵⁴ Letter from the Office of the Ombudsman to Human Rights Watch, August 2, 2007. For more details see Appendix.

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prisoners are not private and take place in the presence of the deputy head of the prison system, the head of the prison and a special prosecutor. Sayora Rashidova, the head of the Ombudsman's office, told Human Rights Watch that the prisoners are not "prepared" for these visits.

Although Sayora Rashidova told Human Rights Watch that the prison authorities cannot conceal abuse "because the visiting group is too big,"¹⁵⁵ currently the ombudsman's office does not appear to have any safeguards in place to ensure the safety of prisoners complaining to the representatives of the office during prison visits. When Human Rights asked Rashidova about this issue, she said "We have not had one complaint of bad treatment after a prison visit by the ombudsman. The relatives or our regional representatives could inform us if there were any problems." She also mentioned that prisoners have the right to write a letter to the ombudsman and the head of the prison is obligated to forward that letter.¹⁵⁶

Throughout the period covered in this report, numerous relatives of prisoners and visitors to Human Rights Watch's Tashkent office expressed their lack of confidence in the ombudsman's office and perceived it as unwilling or unable to launch effective investigations into their complaints.

Furthermore, relatives are often afraid to complain to the prison authorities or the office of the ombudsman about ill-treatment in prison because they do not want to worsen the situation for the prisoner. There are no safeguards or transparency in place that would allow a complainant outside the prison to ensure whether the situation for the detainee has improved. At best they get their next regular prison visit, usually after three months, to follow up with the prisoner.

For example, Nargiza N. had not heard back for more than a month after she informed the head of the N. prison that two prison officers had beaten her son, Agzam A. Nargiza N. asked the prison chief to transfer Agzam A. to the hospital section of the prison. The chief promised to do so and promised that Agzam would

¹⁵⁵ Human Rights Watch meeting with Sayora Rashidova, ombudswoman, Tashkent, May 27, 2007.

¹⁵⁶ Human Rights Watch meeting with Sayora Rashidova, ombudswoman, Tashkent, May 27, 2007.

call her later, but when she talked to Human Rights Watch she had not heard anything from him for over a month. She was very worried that “something could go really wrong” and as he suffered from high blood pressure he might have a stroke.¹⁵⁷

The head of the Ombudsman’s office has told Human Rights Watch that a discussion is underway about whether to establish the institution of a prison ombudsman in Uzbekistan.¹⁵⁸ For such an institution to be effective, it would have to follow procedures far more consistent with internationally accepted good practices¹⁵⁹ for prison visiting than are currently followed, including by having the power to ensure the safety of complainants by providing a confidential means to report reprisals, and having the ability to refer cases of abuse for prosecution or disciplinary action.

Breaking Newcomers in Post-conviction Prisons

Uzbek human rights groups have reported widely about conditions for those in prison serving sentences.¹⁶⁰ Human Rights Watch did not conduct comprehensive research into abuse in prisons, where convicted prisoners serve out their sentences. We did, however, document two cases during the intake process that appear to indicate patterns of serious abuse.

When a conviction is handed down, the convicted person is normally brought to TashTiorma and then transferred to a post-conviction prison or labor camp. Upon arrival new prisoners are put in a separate part of the prison for “quarantine.” Two former detainees told Human Rights Watch that the quarantine process is aimed at

¹⁵⁷ Human Rights Watch interview with mother of Agzam A., June 21, 2007.

¹⁵⁸ Human Rights Watch interview with mother of Agzam A., June 21, 2007.

¹⁵⁹ For instance the European Prison Rules set out basic principles about independent prison inspections. The Optional Protocol to the Convention against Torture requires the establishment of national systems of monitoring. In addition, there are the Paris Principles about national human rights institutions per se. Principles relating to the Status of National Institutions (The Paris Principles) Adopted by General Assembly resolution 48/134 of 20 December 1993. The Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment of 14 August 2006 sets out pre-requisites for an effective monitoring system.

¹⁶⁰ Local human rights groups such as Ezgulik, the Initiative Group of Independent Defenders of Uzbekistan (IGNPU) and the Rapid Response Group publish press releases about prison conditions on a regular basis. All press releases are online available at <http://www.ignpu.com> and <http://www.ezgulik.org>.

the complete breaking of the will of the prisoner. For this reason its nickname is “lomka,” the Russian word for “breaking.” “We were warned by former prisoners, that a ten-day “lomka” would be awaiting us in prison. But they never told us what it really would mean,” Ulugbek Khaidarov told a Human Rights Watch representative. He arrived at Navoi prison in the morning of November 1, 2006 with fourteen other men:

We were forced to run through a cordon of prison guards beating us with nightsticks. But this was not the worst. You could protect your head and not all the nightsticks hit you. Later we had to carry metal on our backs and make rounds around a square. Three of us [of the 15] we did not see again. They broke down and were taken away.

Yadgar Turlibekov spent 20 days in quarantine in November 2006 in an unheated building where everybody slept with jackets, caps and shoes because of the cold.

We were forced to march [in a yard] all the time. This is called *lomka*. During that they beat you with truncheons without any reason on your back, head, and lower legs.

Turlibekov also witnessed how prison guards beat another prisoner who was working as a “supervisor” for the newcomers. The prison guards forced the man to stand with his face to a fence and to keep his arms through the fence while they beat him on his back and his head. The guards accused him of having been too soft on the new prisoners.¹⁶¹

In an article Khaidarov published after his release he said that the prison authorities use more experienced prisoners to deal with the newcomers in exchange for privileges:

The *scums*, in prison slang, are the prisoners who work for the prison administration as a punitive detachment, who forced us to kneel down

¹⁶¹ Human Rights Watch interview with Yadgar Turlibekov, Tashkent, February 19, 2007.

with our hands behind our necks. After half an hour of sitting in this position our legs tired out, and the older prisoners started to fall down, one after another. “Sit still, don’t move!” the *scum* [...] shouted out. He was around 25 or 30, and he had been sentenced to 12 years. He was an active assistant to the guards, who always entrusted him with quarantine prisoners, because he generated the cruelest methods of crushing the newcomers.¹⁶²

Both Turlibekov and Khaidarov described other elements of the “lomka”:

- Prisoners being forced to act out “Duck steps” – a position where the prisoners must squat down and are forced to walk up and down a staircase. Those who fall down are beaten.
- Prisoners being forced to squat on their haunches with their hands behind the neck for an hour or more.
- Prisoners being forced to squatting, with their arms extended out in front of them, so that the prison guards could beat them with a truncheon on the fingers.

Khaidarov summarized his “lomka” experience:

You start to lose your human look and feelings. You start thinking that you are stuck forever in this place. Everybody says that you have to survive lomka, and then you will be okay.¹⁶³

¹⁶² Ulugbek Khaidarov, “History of One Photograph,” published on www.uznews.net, January 24, 2006.

¹⁶³ Human Rights Watch interview with Ulugbek Khaidarov, Almaty, July 16, 2007.

Accountability for Torturers

As a party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Republic of Uzbekistan is obliged to monitor and prevent ill-treatment of those held in custody, and also to promptly and impartially investigate reasonable allegations of torture. They must also ensure that any individual who alleges he or she has been tortured is not further harmed as a result of a complaint to the authorities.¹⁶⁴ The government of Uzbekistan has stated in several recent documents described below that it holds those who torture accountable. Yet there is an enormous gap between even the official number of complaints about abuse filed and the very small number of law enforcement or security agents held responsible. In none of the cases documented in this report was anyone held responsible for the abuse.

Moreover, the authorities' record of attempting to intimidate into silence torture victims and their advocates suggests that criminal justice institutions have no interest in investigating allegations against themselves and casts doubt on the credibility of statements by the government that it thoroughly and impartially investigates allegations of abuse. The utter lack of media freedoms in Uzbekistan means that there is no candid public debate on the widespread nature of torture, or on accountability for torture.

In theory, there are four potential domestic remedies available to those seeking redress for acts of torture. First, victims may appeal to the police themselves, who in principle are obliged to investigate any report of a criminal act. Secondly, victims

¹⁶⁴ Article 11 of the Convention against Torture states: "Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture." Article 12 states: "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction." Article 13 guarantees the right of any individual who alleges to have been tortured "to complain to, and to have his case promptly and impartially examined by . . . competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given." Article 14 states: "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation."

may appeal to the prosecutor's office, which is bound by the same obligation. Thirdly, victims facing criminal prosecution may appeal to the judge hearing their case. Fourthly, victims can apply in writing or in person to either of the two government human rights bodies established with financial support from the United Nations, the Office of the Ombudsman or the National Center for Human Rights.¹⁶⁵ The staff of these institutions may, after gathering more information about the case, issue recommendations to the courts or the prosecutor's office. In few cases, however, have these avenues been effective in investigating allegations, obtaining redress for the victim, ensuring the perpetrators are punished, or in preventing further acts of torture.

For example, Jurabek J., a witness in a murder case who was tortured by three police agents in early 2007, wanted to bring a complaint. When Jurabek was released after several days of interrogation, his neighborhood police officer visited him on a regular basis warning him not to complain anywhere. Jurabek J. told Human Rights Watch:

He would tell me that they will plant drugs and lock me up for good if I complained to anybody. When I told him that I was badly abused in custody and I was nearly handicapped, he would respond: "So what? You are a man. Can't you understand, it's a murder case that we need to solve?! If you complain we won't be able to solve it."¹⁶⁶

The family of Uchqun U., whose torture is also documented above, complained about Uchqun's illegal arrest and torture in custody to the Presidential Administration the Office of the Prosecutor General, the Office of the Ombudsman, the Tashkent City Prosecutor's Office, and other institutions. All responses resembled each other: A letter from the Presidential Administration dated June 15, 2007 says that the complaint was forwarded to the Office of the Prosecutor General. A letter from the Office of the Ombudsman dated June 13, 2007 says the complaint

¹⁶⁵ According to the website of the Consulate General of the Republic of Uzbekistan in New York, the National Center of the Republic of Uzbekistan for Human Rights is a coordinating state body, working out the strategy of implementation international and constitutional norms, regulating human rights. It is responsible for preparing national reports on realization by the Republic of Uzbekistan taken international commitments in human rights sphere. <http://www.uzbekconsulny.org/news/75/>, accessed October 9, 2007.

¹⁶⁶ Human Rights Watch interview with Juarbek J., June 25, 2007.

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was forwarded to the Tashkent Province Procuracy. And a letter from the Tashkent City Procuracy dated June 5, 2007 says they received the forwarded letter from the Office of the Ombudsman and that the complaint was not well-founded. The letter further stated that Uchqun was not arrested illegally, but was detained because he did not have identity documents with him and committed “hooliganism.” Since he was not detained illegally, the complaint was not grounded. The Tashkent City Prosecutor’s Office did not comment on the allegations of physical abuse.¹⁶⁷

Police agents forced several individuals whose abuse is documented above—such as Tatyana T., Mirzo M., Rashid R., Bahodir B. and Uchqun U.—to sign documents stating that they were treated well in custody and would not complain about the police.

Uzbekistan government reports and documents provide varying statistics on accountability for torture and other ill-treatment. A letter from the Office of the Prosecutor General replying to Human Rights Watch’s request for clarification about such disparities stated that it had received a total of 16,252 complaints about “illegal actions by law enforcement and administrative agencies” from 2002 to 2007. The table of statistics provided in the table gave the following year-by-year breakdown:

- 3,059 in 2002,
- 3,277 in 2003,
- 3,427 in 2004,
- 3,070 in 2005,
- 2,275 in 2006 and
- 1,144 in the first half of 2007.¹⁶⁸

¹⁶⁷ Letter on file with Human Rights Watch.

¹⁶⁸ The majority of complaints were about representatives of the Ministry of Internal Affairs (2363 in 2002, 2803 in 2003, 2541 in 2004, 2292 in 2005, 1737 in 2006 and 874 in the first half of 2007). One hundred and twenty one complaints in 2002, 0 in 2003, 115 in 2004, 107 in 2005, 51 in 2006 and 15 in the first half of 2007 were about representatives of the procuracy while 60 complaints in 2002, 97 in 2003, 26 in 2004, 15 in 2005, 10 in 2006 and none in the first half of 2007 were about representatives of the National Security Service. See Appendix IV, undated Letter from the Office of the Prosecutor General to Human Rights Watch, received September 4, 2007.

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Of these, 523 complaints in 2002, 544 in 2003, 457 in 2004, 270 in 2005, 180 in 2006 and 102 in the first half of 2007 were related to the “use of threats and other pressure methods.”¹⁶⁹ According to these numbers the complaints to the Office of the Prosecutor General have decreased by twenty five percent between 2002 and 2006. As is outline above, it is difficult to verify these numbers and the decline they indicate due to the lack of transparency and access to information.

The letter further states that based on these complaints 20 criminal cases were opened and 26 individuals charged under Article 235 of the Criminal Code.¹⁷⁰ The investigations lead to 18 different court cases against a total of 23 individuals. Twelve individuals were sentenced to prison, one was sentenced to pay a fine, one was sentenced to corrective labor, three individuals were given a suspended sentence, five individuals came under amnesty and one individual was declared insane. One case against one individual is currently pending. Another two individuals are on a wanted list.¹⁷¹

The prosecutor’s office letter provides some descriptive detail for one of these cases, which took place in April 2007, in which a police chief in Syrdaria province was held accountable for illegally detaining four people and for beating them in an attempt to extract a confession for theft. It is also says that a district police chief in Surkhandaria was held accountable for “analogous illegal actions.”

According to figures provided by the government of Uzbekistan in its third periodic report to the United Nations Committee against Torture: “Altogether 11 employees of the law enforcement authorities were convicted under article 235 of the Criminal Code¹⁷² in 2004.”¹⁷³ The report does not mention the rank and position of the law

¹⁶⁹ Undated letter from the Office of the Prosecutor General to Human Rights Watch, received September 4, 2007.

¹⁷⁰ There was one case in 2002, four cases in 2003, three cases in 2004, three cases against five individuals in 2005, six cases against nine individuals in 2006 and three cases against four individuals in the first half of 2007.

¹⁷¹ Undated letter from the Office of the Prosecutor General to Human Rights Watch, received September 4, 2007.

¹⁷² Article 235 of the Code “Use of torture and other cruel, inhuman or degrading treatment or punishment” 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

enforcement authorities, what exactly it was determined that they had done, or the sentences they received. It is unclear why the number of convictions is not consistent with the figure provided in the letter from the Office of the Prosecutor General (three cases against three individuals in 2004).

The report goes on to state that: “Figures from the Supreme Court of Uzbekistan 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).”¹⁷⁴ Again, the report does not give any information about the context and specifics of the cases. It also does not specify how many individuals were convicted under article 234 and how many under article 235. Finally the report mentions that: “Inquiries by procurators have revealed no incidents in which the penal correction authorities have used torture on detainees or convicts.”¹⁷⁵

The government’s third periodic report also contains a table with “Numbers of complaints and applications reaching the prosecutorial authorities, 2002-2004.” There appears to be considerable disparity among these numbers. For example, the figures provided for each sub-category of abuse do not add up to the aggregate figure of total complaints. Furthermore, the table provides figures for complaints that were “satisfactorily resolved” or “partly resolved,” without explaining what is meant

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.”

¹⁷³ Paragraph 32 of Uzbekistan’s third periodic report to the United Nations Committee against Torture.

¹⁷⁴ Ibid., paragraph 59. Article 234 of the Uzbek Criminal Code, Illegal Detention or Taking into Custody reads as follows: “Knowingly illegal detention, that is short-term restriction of liberty of a person by an inquiry officer, investigator, or prosecutor in the absence of legal grounds – shall be punished with a fine up to fifty minimum monthly wages or arrest up to six months. Knowingly illegal taking into custody or holding in custody – shall be punished with a fine from fifty to one hundred minimum monthly wages or imprisonment up to three years.”

¹⁷⁵ Ibid., paragraph 111.

by these terms. Nor does the report specify the nature of criminal or disciplinary proceedings brought in response to complaints.

In addition to the fact that only few perpetrators of torture or other ill treatment are ever held to account, torture victims have very little hope that they will be able to obtain adequate compensation for their ordeal or treatment for physical and emotional injury they endured.¹⁷⁶ Nor has the government taken steps to consider or implement a system of reparation or rehabilitation for the victims of torture. Responding to Human Rights Watch's request for information about how many individuals received compensation for torture or ill-treatment and the level of compensation, the Office of the Prosecutor General answered that between 2002 and 2007 it has not received a single request for compensation.¹⁷⁷ This statement corroborates our research. None of the torture victims Human Rights Watch has interviewed requested compensation from the authorities, fearing any further contact with the law enforcement authorities and harassment. Their only wish was to keep a low profile and in some cases to flee the country as soon as possible. They are all well aware of the fact that inside Uzbekistan they have nowhere to turn.

¹⁷⁶ Adequate compensation for torture victims is one of the recommendations of the UN Special Rapporteur on torture.

¹⁷⁷ Undated letter from by the Office of the Prosecutor General to Human Rights Watch, received September 4, 2007.

Recommendations

To the Government of Uzbekistan

Human Rights Watch calls on the government of Uzbekistan to take immediate steps to comply with its obligations under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and to implement in full the February 2003 recommendations issued by the UN Special Rapporteur on torture following his visit to Uzbekistan. Specifically, we urge the government to implement the following measures:

Legal and regulatory reform:

- As a matter of priority the parliament should amend article 235 of the Uzbek criminal code to ensure its full conformity with the CAT definition of torture.
- The government should ensure full implementation of the legislation on habeas corpus.

To prevent torture:

- The Ministry of Internal Affairs and the National Security Service (SNB) must ensure that all detainees are made aware of their rights in detention, including those rights guaranteed under Uzbekistan's international human rights obligations. The information could be produced in the form of a declaration or charter, a copy of which must be given to any person detained or called in for informal questioning. The same information on rights should further be publicly displayed in a visible place in any cell or investigation room, and a copy should be available to families and visitors.
- The government, in cooperation with the Office of the Ombudsman, should establish a public education campaign in schools and universities as well as on radio and television concretely explaining the rights of detainees and the respective powers of police agents, investigators and prosecutors.
- The Office of the Prosecutor General, the Ministry of Internal Affairs and the National Security Service should issue strict instructions to their employees that

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torture will not be tolerated and will lead to strict disciplinary action and criminal prosecution.

To ensure access to counsel and full due process rights:

- The Office of the Prosecutor General, the Ministry of Internal Affairs and the National Security Service must implement existing regulations from the Code of Criminal Procedure which provide that detainees have the right to full and unimpeded access to the lawyer of their choice during all phases of investigation and trial, and which guarantee meetings with their lawyer in privacy.
- The Ministry of Internal Affairs should issue instructions to all police officers to strictly observe due process when detaining persons. “Voluntary” visits to police stations for informal questioning should be truly voluntary and should take place only during working hours. Police should never use administrative detention as a means of detaining individuals when there are not sufficient grounds for holding them as criminal suspects.
- The Ministry of Internal Affairs should ensure that detainees accused of administrative offenses are guaranteed full and unimpeded access to the lawyer of their choice during all phases of the proceedings and hearing, and are guaranteed meetings with their lawyer in private.
- The Office of the Prosecutor General, the Ministry of Internal Affairs, and the National Security Service should remove the requirement that defense counsel must obtain written approval of the case investigator prior to each meeting with clients.
- The Ministry of Justice should introduce legal regulations that provide for a defendant to be able to sit in the court room at hearings together with his lawyer and not in a cage, and have unhindered access throughout the trial to private consultation with his lawyer.

To promote accountability:

- The Office of the Ombudsman should conduct a robust, nationwide investigative review of the practice of ill-treatment and torture, and issue a public report on all findings.
- The parliament should adopt a law requiring all interrogators, as well as medical and other staff coming into contact with detainees, in particular during

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interrogation, to have their name and/or identification number clearly displayed for the purposes of identifying them later.

- The Office of the Prosecutor General, the Ministry of Internal Affairs, and the Ministry of Justice must ensure that individuals have the right in practice to bring cases of alleged torture or ill-treatment to an independent authority for prompt and thorough investigation, and that such individuals are not subject to intimidation or retaliation as a result of their complaint.
- The Office of the Prosecutor General should make publicly available an annual report with statistics aggregated from all law enforcement, penitentiary, and security agencies about:
 - The number of torture and ill-treatment allegations;
 - The institution and position of the individual against whom the allegations were made;
 - The specific acts of torture and ill-treatment alleged;
 - The number of investigations into reports of torture initiated by the authorities and the number initiated in response to complaints made by victims, their lawyers, or their relatives;
 - The number of investigations that were opened and resulted in prosecutions for torture;
 - The number of prosecutions that led to convictions, and what sentences were imposed;
 - The number of cases in which other disciplinary measures were taken in addition to prosecutions, and what these measures were;
 - The number of torture victims who received compensation for torture, and the levels of compensation.
- The Office of the Prosecutor General should ensure that law enforcement officers alleged to have mistreated or tortured detainees are prosecuted and, if found guilty, subjected to appropriate penalties.
- The Ministry of Justice should ensure that confessions obtained under torture or ill-treatment are always and consistently excluded as evidence in Uzbekistan's courts.
- The Ministry of Justice should ensure that if torture allegations are raised at trial, they should be documented in detail in any judgment and transcript of the

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proceedings. In the event that the judge dismisses the allegations as unsubstantiated, the grounds for this should be detailed in the verdict.

- The Ministry of Justice should create and implement a system for gathering statistics on how many defendants alleged at trial that they had been tortured or ill-treated, how many investigations into the allegations were conducted, and the outcome of such investigations.
- The Office of the Prosecutor General should ensure that independent forensic investigations are conducted into allegations of abuse in custody, not limited to cases of death in custody.

To promote transparency and public awareness about torture:

- The government should publicize the state report to the United Nations Committee against Torture, as well as the results of the Committee's review, in the national media.
- The government should permit the registration of local human rights groups and the re-registration of foreign NGOs, including granting visas to their staff, and hold regular consultations with civil society groups to discuss effective implementation and enforcement of the UN Convention Against Torture.
- The Ministry of Justice should ensure unhindered access to trials and detention facilities for civil society groups and independent monitors and extend invitations to all UN special procedures who have requested access.

To the United Nations

- The Committee Against Torture should make full use of the important opportunity provided by its upcoming review of Uzbekistan to thoroughly examine the government's torture record, taking into account the conditions described in this report, and formulating specific recommendations for steps needed to effectively address them. Among such recommendations should be the following:
 - Express concern about the continuing widespread use of torture, and call on the authorities at the highest level to take immediate steps to end the use of torture and to make public their condemnation of torture and commitment to combating the problem effectively. This public condemnation and their commitments should be made available by the government and accessible to the local population so they can hold the government to account.

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- Emphasize the crucial role played by civil society groups, independent media, and international organizations in efforts to combat torture and ill-treatment and to call on the government to ensure that these actors are able to function freely.
- Raise serious concern about the ongoing government crackdown on civil society and its implications for information about and accountability for torture and other serious human rights abuses.
- The UN Special Rapporteur on torture should renew his request for an invitation to visit Uzbekistan in light of the recent legislative reforms pertaining to habeas corpus and the death penalty, in order to examine their implementation in practice, and overall to follow up on the recommendations formulated in his February 2003 report.

To Other Stakeholders and Governments

- Make the human rights situation in Uzbekistan, including the problem of torture, a high priority in the dialogue with Uzbek government officials, emphasizing the need for concrete steps to address these concerns and linking any progress in relations in security, economic, or political matters directly to the government's progress in implementing required steps.
- Expand assistance to human rights organizations and other civil society representatives working to combat torture in Uzbekistan.
- Expand efforts to provide human rights training to Uzbek law enforcement and judicial personnel, including specialized training of prosecutors and judges in the proper handling of allegations of torture and police abuse.
- Set up a program to provide human rights training to Uzbek lawyers.
- Utilize all available means to publicize in Uzbekistan the international norms relating to torture, as well as to make known stakeholders' and governments' condemnation of the practice of torture and their disappointment in the Uzbek government's lack of effective steps to address the problem.
- Monitor closely the Uzbek government's record on torture, including through regular monitoring of trials, keeping records of allegations of torture, raising concern about such allegations with the authorities, following up on the government's response to such concerns, and requesting periodic visits to places of detention.

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- Refrain from returning refugees, asylum seekers, or any other individuals to Uzbekistan if they have a well-founded fear of persecution or if there are substantial grounds for believing that they would be in danger of being subjected to torture or other ill-treatment upon return.
- Do not seek or accept any diplomatic assurances on torture and ill-treatment from the Uzbek government.

Acknowledgements

This report was researched and written by Andrea Berg, researcher in the Europe and Central Asia Division of Human Rights Watch, and director of Human Rights Watch's representative office in Tashkent in 2006 and 2007. Mihra Rittmann, associate in the Europe and Central Asia Division, conducted additional interviews and research. Sonya Kleshik, associate in the Europe and Central Asia Division, helped research the background.

The report was edited by Rachel Denber, deputy director of the Europe and Central Asia Division and by Andrew Mawson, deputy program director. Veronika Szente Goldston, Europe and Central Asia Division advocacy director, reviewed and provided comments on the summary and recommendations. Aisling Ready, senior legal advisor at Human Rights Watch, conducted the legal review. Production assistance was provided by Anna Lopriore, Andrea Holley, Grace Choi, and Fitzroy Hepkins.

Human Rights Watch will be forever grateful to the individuals who agreed to be interviewed for this report and shared their stories of ill-treatment and torture with us. We hope that this report contributes to strengthening their call for accountability, justice, and change. Our thoughts are with those who are still in custody.

Human Rights Watch deeply appreciates the cooperation provided by numerous human rights defenders in Uzbekistan who spoke with us for the report and provided us with information about arrests, upcoming trials and allegations of ill-treatment and torture. Human Rights Watch particularly appreciates the assistance of Umida Niazova, who worked as a translator for Human Rights Watch's Tashkent office from 2005 until her arrest in 2007. She translated during two of the trials documented in this report, and patiently spent numerous hours translating in and outside other trials too.

Human Rights Watch gratefully acknowledges the Open Society Institute for its generous support for our work.

Appendix I. A Note on the Case of Andrei Shelkovenko

Throughout the past three years the Uzbek government has repeatedly used Human Rights Watch's initially inaccurate reporting on the 2004 death in custody of Andrei Shelkovenko to support claims that our reporting is biased—intended to undermine Uzbekistan's international reputation and to sabotage its relationships with other governments—and to more generally to dismiss allegations of torture in Uzbekistan put forward by nongovernmental organizations.

On May 19, 2004 Shelkovenko, a murder suspect, died in police custody; officials who returned his body to the family said that he had hanged himself. Concerned by marks we saw on the corpse, law enforcement threats to the family that they bury Shelkovenko's body immediately—without obtaining an independent autopsy—by the threats the family faced when trying to find a morgue to preserve the body for an independent investigation, and by allegations by Shelkovenko's mother and sister that he had been abused in custody, Human Rights Watch issued a press release expressing concern that Shelkovenko had died as a result of torture and calling on the government to allow an independent investigation into his death.

Subsequently, in a positive move, the government allowed an independent forensic team, following an agreement with the US nongovernmental organization Freedom House, to observe a second autopsy of Shelkovenko's corpse. The forensic pathologist who observed the second autopsy “confirmed the results of the first autopsy and demonstrated findings compatible with hanging,” and stated that there were no significant injuries at the time of the second autopsy.¹⁷⁸ An independent criminal justice expert confirmed this and also stated that there were “no indications that Mr. Shelkovenko was hanged by another.”¹⁷⁹

¹⁷⁸ Report of Dr. Michael Sven Pollanen, Forensic Pathologist, Observing Forensic Pathologist's Report on the Second Autopsy of Andrey Shelkovenko, Tashkent, Uzbekistan, May 2004.

¹⁷⁹ Report of Mr. James M. Gannon, Deputy Chief of Investigations, Observing the Death Investigation of Andrey Shelkovenko, Tashkent, Uzbekistan, May 2004.

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As soon as the forensic team publicized its findings Human Rights Watch publicly acknowledged, through a press release that was posted permanently to our website, our error in attributing the cause of Shelkovenko's death to torture. We attributed the error to erroneous conclusions we made based on wounds observed on Shelkovenko's body, which in fact had been caused by postmortem drying, a natural process. We remained concerned, however, about the threats to his family and about the possibility that he had been ill-treated in custody in ways that may not have resulted in bodily injuries.

Following this incident, the government incorrectly alleged that the Human Rights Watch representative had been "moving bodies around Tashkent," when in fact she had accompanied Shelkovenko's family to several morgues in an attempt to find one that would properly store it so that eventually an independent autopsy could be performed.

The fact that the Uzbek government agreed to an independent investigation into the cause of Shelkovenko's death shows that when the political will is present such investigations can go forward. Such independent investigations have not become a regular practice in Uzbekistan.

Appendix II. Letter to Ombudswoman of Uzbekistan

July 19, 2007

Office of the Ombudsman

Dear Mrs. Rashidova,

I am writing to seek information about the response of the office of the ombudsman to allegations of ill-treatment, including torture, in police lock ups, pre-trial detention facilities and prisons in Uzbekistan. Human Rights Watch is currently gathering information about this issue for a report we plan for autumn 2007. In the interests of objectivity, we would like to ensure our report properly reflects the ombudsman office's views, information, policies and practices regarding ill-treatment, including torture. We would therefore be most grateful for replies to a number of questions outlined below. Because the report will be published in November 2007, we hope to receive an answer by September 1. If we receive your comments by then, we will certainly reflect them in our publication.

We are familiar with the Uzbek government's report "Information on implementation of recommendations of UN Special Rapporteur on Torture" delivered by the Permanent Mission of the Republic of Uzbekistan to the OSCE on October 16, 2006 and with the "Third Periodic Report" submitted by the Republic of Uzbekistan to the United Nations Committee Against Torture on July 1, 2005. And we are also familiar with the "Report of the Authorized Person of the Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsman) for 2005". Based on the information provided in these reports and the often contradictory information Human Rights Watch's representative office in Tashkent has gathered at trials and during numerous interviews with torture victims, their relatives, and with lawyers, we have the following questions:

- How many complaints specifically of torture and ill-treatment did your office receive in 2002 and in each of the following years?

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- Can you identify either individuals, and/or the agencies or units that employ them, that have been the subject of allegations of either torture or ill-treatment?
- What are the specifics of the allegations? Can you give representative illustrations?
- How many full investigations--as opposed to preliminary inquiries-- have the authorities commenced in response to the complaints and allegations?
- How many complaints submitted to your office later resulted in prosecutions for torture, ill-treatment and/or assault?
- How many prosecutions of such cases led to convictions and what were the sentences imposed?
- In how many instances were disciplinary measures taken as a result of such complaints? In how many of these cases were disciplinary measures taken instead of prosecution, and in how many were disciplinary measures taken in addition to prosecution? Please describe what sort of disciplinary measures have been taken in representative cases.
- How many victims received compensation for torture or ill-treatment and what was the range of compensation?
- Does the office of the ombudsman have a system for monitoring trials for allegations of torture and other ill-treatment that are made at trial? And whether any further action is taken by your office once such allegations are brought to its attention, and what such actions may be?
- How many defendants alleged at trial that they had been tortured or ill-treated in 2002 and in each of the following years?
- How many investigations into such allegations made at trial were conducted in 2002 and in each of the following years, and what were the outcomes of such investigations?
- What safeguards the office of the Ombudsman puts in place, if any, to ensure the unhindered access of lawyers to their clients in pre-trial detention and prison and to guarantee meetings in privacy?

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- How many complaints specifically of torture and ill-treatment in prisons did your office receive during prison visits in 2002 and in each of the following years?

A response can be sent to me, in Uzbek, Russian, or English, either by fax, at 212.736.1300 or by email at cartneh@hrw.org. I would also be happy to meet with the Uzbek ambassador to the United States to discuss these questions.

I thank you in advance for your cooperation.

Sincerely,

Holly Cartner
Europe and Central Asia Director
Human Rights Watch

Appendix III. Reply from the Ombudswoman's Office

The Oliy Majlis
Republic of Uzbekistan
Representative for Human Rights
(Ombudsman)

1, Xalklar Dustligi Av., 100035, Tashkent, Republic of Uzbekistan
Tel: (998 71) 139-81-36, fax (998 71) 139-80-71
Email: ombusmdan@parliament.gov.uz; Internet: www.parliament.gov.uz

No. 07-06/218
August 2, 2007

To the director of the Europe and Central Asia Division
of Human Rights Watch, Ms. H. Cartner

Dear Ms. Cartner,

To express our respect for your organization's work, and also to ensure the objective portrayal of the human rights situation in Uzbekistan, we offer the below information in response to your inquiry.

In accordance with Uzbekistan's obligation to execute the International Convention Against Torture and other Cruel and Inhuman or Degrading Treatment or Punishment, the Parliamentary Ombudsman of Uzbekistan:

-in the classification of complaints addressed to the Oliy Majlis, Representative of Human Rights Issues in Uzbekistan, a separate category has been created for the "illegal actions of law-enforcement officers," an analysis and processing of which reveals unlawful methods of interrogation, operations, etc., and would also lead to suggestions on preventative measures that would stop them from occurring in the future;

In 2006, 314 complaints disputing the actions of law-enforcement officers were filed (in 2002-566, 2003-322, 2004-212, 2005-224) and out of those, 112 were taken into

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consideration. In addition, there were 13 complaints regarding penitentiary officers' conduct, and 8 of those were taken into consideration.

The parliamentary Ombudsman did not receive any appeals regarding torture. However, as we have stated previously there have been cases in which there has been wrongdoing on the part of law-enforcement officers. *The representative was contacted by a citizen N. in order to address his complaint about the unlawful actions of law-enforcement officers A. Kholikov and others in Gizhduvanskogo district of Bukhara province. This appeal was taken into consideration and sent to the province procuracy. The reply, which referred to the use of unlawful methods in conducting citizen N.'s nephew's investigation by A. Kholikov and other members of the Gizhduvan District Internal Affairs Department led to a criminal case to be opened under article 206 part 1(exceeding official authority and power), article 209 part 1(forgery of authority) and article 103 (provocation leading to suicide) of the Criminal Code of the Republic of Uzbekistan, and it was sent for examination to Bukhara Province Criminal Court;*

- Beginning in 2000, a process for monitoring and ensuring the rights of arrested and convicted prisoners in the penitentiary system, as well as of those on trial, was put into practice and set up in different regions of the country;
- Traveling conferences were held; such as the seminars: "Improving the System of Carrying Out Sentences in the Organizational Sphere for Observing and Protecting the Rights of the Imprisoned" and "Current Issues Concerning the Ombudsman's Cooperation with Governmental Institutions and Nongovernmental Organizations, in the Spheres of Monitoring and Observing Human Rights." It was held together with a representative from the Konrad Adenauer Fund, in Central Asia, Kazakhstan, and the South Caucasus region, in the city of Tashkent and other parts of the country, in which about 600 people participated. In addition to visitors from penitentiary institutions were diplomats such as M. Meyer, Extraordinary and Plenipotentiary Ambassador of the Federal Republic of Germany in Uzbekistan, and Second Secretary of the Embassy, U. Berndt; international experts and political figures, in particular the Chairman of the Landgata State of the Federal Republic of Germany, Thuringiya D. Shipanski; Ombudsman of the Canton of Basel (Switzerland) B. Inglin-Baumberger, the Chairman of Committee of Legal Affairs, Deputy Chairman of the Committee of Internal Affairs of the State of

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Federal Republic of Germany Brandenburg, S. Petke, Deputy Chairman of the Committee of Petitions from Bundestag FRG, Dz. Storjohan, the head of the representation and employees of abovementioned German political fund were present. In the period from 2006 to 2007, the Ombudsman and her colleagues inspected over 20 penitentiary sites, 12 colonies and investigation cells. These visits were conducted together with international visitors.

Also, in the first half of this year, the parliamentary Ombudsman conducted research in cooperation with the NNO-Association of Uzbek Doctors in observing rights to medical services for the inmates of penitentiary institutions, as well as for the employees of this system in the city of Tashkent and in Tashkent province.

- together with the accredited international and foreign organizations (OSCE, the K. Adenauer [sic] Fund, etc.), national partners of the Ombudsman (GUIN and Ministry of Interior Academy, General Office of Public Prosecutor, TGUI, advocates, etc.), and also foreign specialized structures (Prison Reform International), seminars and trainings were held with law-enforcement officials in raising the question of implementing a culture of rights and maintaining international standards for the rights of prisoners (representatives of nongovernmental organizations and the press were also invited, including from abroad):

- Before the end of this year, within the framework of the Agreement in Cooperation with Ministry of Internal Affairs of the Republic of Uzbekistan, it is planned that the penitentiary ombudsmen who are called on to d guarantee and protect the rights of imprisoned, of those under investigation and of those already convicted, be informed and educated (in the U.S and Great Britain in cooperation with the Project Coordinator of the OSCE in Uzbekistan) of children’s education and women’s colonies, particularly in investigative isolator of the city of Bukhara;
- The roundtable “Current Questions Regarding the Application of National Legislation in Compliance with the Statute of the Republic of Uzbekistan ” About the Oliy Majlis Ombudsman for Human Rights” was held, organized by the parliamentary Ombudsman in cooperation with the Ministry of Justice of the Republic of Uzbekistan and with the assistance of the OSCE project coordinator in Uzbekistan, which took place in three plenary sessions: “Strengthening the Ombudsman’s Legal Safeguards: International Experience,” “Issues in Improving the Ombudsman’s Legislation,” and “The Main Direction in Improving the Legal Status of the Ombudsman in Legislation of the Republic of Uzbekistan,” as well as sectional meetings,

- which introduced the implementation of specific proposals in normative and judicial acts of the Republic of Uzbekistan. Also a report was compiled about the Ombudsman's institutions and practical international experience, focusing on experience in Spain, Russia, and Azerbaijan; the first deputy of Spanish Ombudsman, Maria Luisa Cava de Llano Cario, officials from Ombudsman's offices of the Russian Federation, V. Tambovchev, and from the Republic of Azerbaijan, Z. Aliev, all participated. The people who took part in the round table meeting were deputies and parliament senators, representatives of ministries and departments from the National Center of the Republic of Uzbekistan, the Center for Strengthening the Law and Professional Development of the public prosecutor and investigative officials at General Prosecutor's Office, the Tashkent Public Law Institute, and other national partner organizations, representatives of the diplomatic community, and also international organizations, law-enforcement organs, the academic community, and nongovernmental organizations, and mass media;
- The Ombudswoman, her colleagues and regional representatives held a series of investigations into cases of citizens who had contacted them. Their interests were represented and those of international organizations, in following up on allegations of illegal actions of law-enforcement officials (the cases of Sharipov, Shelkovenko, groups of imprisoned colonies in the settlement of Jaslyk and so on). In regard to the case KIN YA-64/71 in the village of Jaslyk, over the course of the last few years, the Ombudsman personally visited the site many times; her colleagues also made visits, along with the regional commissioner. Furthermore, in cooperation with the Ombudsman in one of the visits in this particular institution, Heintz Bueller, the Special Commissioner of the Konrad Adenauer Fund for the Central Asian Region, Afghanistan, and Iraq was present;
 - During meetings with representatives of special delegations (U.S. Deputy Assistant Secretary of State L. Craner and U.S. Deputy Assistant Secretary of the Secretary of State, I. Feigenbaum, parliamentary groups of the European Union, Canada, Germany, Italy, the lower parliament of Poland, Senate of France, German Ministry of Justice, Ministry of Foreign Affairs of Sweden, Federal Republic of Germany, Chairmen of the Supreme Court of Georgia, and of the Constitutional Court of Korea, etc.), accredited in the Embassy of Uzbekistan and representatives, international (the Deputy Commissioner of UN for Human Rights, B. Ramcharan, UN Special Rapporteur, Theo Van Boven, General Secretary of OSCE M. de Brishambo) and human rights organizations (Chair of the Board of Directors of Human Rights Watch, Amnesty

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International, Freedom House, regional division of ICRC in Central Asia, VOZ, Hands Off Cain, the Danish and Canadian Centers of Human Rights, the British Fund Save the Children, Centre of Corporate Social Inspection (USA), National Democratic Institute of the US, German Institute in Middle East Issues, several foundations, including Friedrich Naumann, Konrad Adenauer, Friedrich Ebert, MacArthur and others), international media (BBC, Deutsche Welle, the information agency of Denmark, German television ZDF, Wall Street Magazine, Focus, etc.), the representatives of Commissionaire Institute (during and in the process of introducing the National Reports) presented a full and objective reports with specific facts to the concerned organizations.

Respectfully,

C. Rashidova

Appendix IV. Letter to Prosecutor General of Uzbekistan

July 20, 2007

Mr. Rashitjon Kodirov
Prosecutor General
Office of the Prosecutor General
66 Yakhyo Gulomova St.
Tashkent 700000
The Republic of Uzbekistan

Via facsimile: +998.71.133.20.66

Dear Mr. Kodirov,

I am writing to seek information about the government's response to allegations of ill-treatment, including torture in police lock ups, pre-trial detention facilities and prisons in Uzbekistan. Human Rights Watch is currently gathering information about this issue for a report we plan for autumn 2007. In the interests of objectivity, we would like to ensure our report properly reflects the government's views, information, policies and practices regarding ill-treatment, including torture. We would therefore be most grateful for replies to a number of questions outlined below. Because the report will be published in November 2007, we hope to receive an answer by September 1. If we receive your comments by then, we will certainly reflect them in our publication.

We are familiar with the Uzbek government's report "Information on implementation of recommendations of UN Special Rapporteur on Torture" delivered by the Permanent Mission of the Republic of Uzbekistan to the OSCE on October 16, 2006 and with the "Third Periodic Report" submitted by the Republic of Uzbekistan to the United Nations Committee Against Torture on July 1, 2005. Based on the information provided in these reports and the often contradictory information Human Rights Watch's representative office in Tashkent gathered at trials and during numerous interviews with torture victims and their relatives as well as with lawyers we have the following questions:

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- How many complaints specifically of torture and ill-treatment did all relevant authorities receive in 2002 and in each of the following years?
- Against whom were the allegations made?
- What are the specifics of the allegations?
- How many full investigations-as opposed to preliminary inquiries-- have the authorities commenced in response to the complaints and allegations?
- How many allegations resulted in prosecutions for torture, ill-treatment and/or assault?
- How many prosecutions led to convictions and what were the sentences imposed?
- What and how many other disciplinary measures were taken in addition to prosecutions?
- How many victims received compensation for torture or ill-treatment and what was the level of compensation?
- Does the prosecutor general have a system for tracking allegations of torture and other ill-treatment that are made at trial? If so, could you kindly describe that system?
- How many defendants alleged at trial that they had been tortured or ill-treated in 2002 and in each of the following years?
- How many investigations into such allegations made at trial were conducted in 2002 and in each of the following years, and what were the outcomes of such investigations?
- What safeguards are in place, if any, to ensure the unhindered access of lawyers to their clients in pre-trial detention and prison and to guarantee meetings in privacy?

A response can be sent to me, in Uzbek, Russian, or English, either by fax, at 212.736.1300 or by email at cartneh@hrw.org. I would also be happy to meet with the Uzbek ambassador to the United States to discuss these questions.

I thank you in advance for your cooperation.

Sincerely,

Holly Cartner
Europe and Central Asia Director
Human Rights Watch

Appendix V. Reply from Prosecutor General's Office

Answers provided by the Office of the General Prosecutor of the Republic of Uzbekistan to questions raised on July 20, 2007 by Holly Cartner, Director of the Europe and Central Asia division of Human Rights Watch.

In answer to questions 1, 2, 3, 4, 5, 7

In accordance with the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the Republic of Uzbekistan has acceded, Article 235 of the Criminal Code of the Republic of Uzbekistan, in which torture and other cruel, inhuman or degrading treatment is understood according to the definition of these terms as they appear in the aforementioned convention, was adopted into the Law of the Republic of Uzbekistan on 30.08.2003 and responsibility for these types of criminal acts was established, in particular:

“The use of torture and other cruel, inhuman or degrading treatment and punishment, namely unlawful psychological or physical coercion of suspects, the accused, witnesses, victims or any other participant in the investigation process, or any person serving his/her sentence or their close relatives, by threats, beatings, torture or other unlawful acts committed by the investigator, investigation officers, prosecutor or other law-enforcement agents, or any correctional institutions in order to extract information or a confession, to carry out extrajudicial punishments for a committed crime or to force suspects to commit certain actions, will be punished with corrective labor or imprisonment for up to three years.

Those acts, committed:

- a) with violence, harmful to one's life or health, or threat of such violence;
 - b) fueled by national, racial, religious or social discrimination;
 - c) by groups of individuals
 - d) repeatedly
 - e) directed at minors or women, whose pregnancy is known to the suspect
- will be punished by imprisonment for three to five years.

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Acts which result in severe physical harm or any other serious consequence, that fall under either the first or second part of this article, are to be punished by imprisonment for five to eight years with deprivation of certain rights.

Moreover, by Order 112-F of the Cabinet of Ministers of the Republic of Uzbekistan, issued on 24.02.2004, an interdepartmental working group headed by the Minister of Justice of the Republic of Uzbekistan was founded to investigate whether and to what extent law-enforcement agents uphold human rights standards.

The group developed a plan to implement the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was approved by the Prime Minister of the Republic of Uzbekistan on March 9, 2004. Official documents, designed to strengthen the prosecutor's authority in this field, were approved.

In particular, the Prosecutor General's Order 40 of February 17, 2005 "On the core improvement of the prosecutor's authority to ensure the rights and freedom of persons involved in a criminal procedure" states that prosecuting/investigating officers must strictly follow and implement the principles of the aforementioned UN Convention.

Complaints/statements on the unlawful acts/behavior of law-enforcement and administrative agents submitted by citizens to the prosecutor are reflected in the data below:

	In 2002	In 2003	In 2004	In 2005	In 2006	In the first half of
Total complaints/statements about unlawful acts	3059	3277	3427	3070	2275	1144
- threats and other methods of pressure	523	544	457	270	180	102
- ill-treatment by officers of internal affairs agencies	2363	2803	2541	2292	1737	874

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- by employees of the prosecutor's office	121	0	115	107	51	15
- by officers of the National Security Service	60	97	26	15	10	0

The remaining submitted complaints/statements of unlawful acts concerned officers of other security and administrative agencies.

As a result of investigating the aforementioned complaints/statements, criminal charges were brought upon those who used threats and other methods of pressure (according to Article 235 of the Criminal Code of the Republic of Uzbekistan):

In 2002 – 1 case against 1 person; in 2003, four cases against four persons; in 2004, three cases against three persons, in 2005, three cases against five persons, in 2006, six cases against 9 persons, and in the first half of 2007, three cases against 4 persons. In total there were 20 criminal cases against 26 persons.

As a result of unverifiable complaints/statements, no criminal charges were pressed: in 2002 - 1022 complaints, 2003 - 1143, in 2004 - 1878, in 2005 - 1203, in 2006 - 1313, in the first half of 2007 – 713. The remaining complaints/statements are currently being considered or have been transferred to other governmental departments.

As a result of investigations into citizens' statements and complaints, disciplinary action was taken against 543 law-enforcement officers in 2002, 653 in 2003, 343 in 2004, 301 in 2005, 134 in 2006, and 90 in the first half of 2007.

It should also be noted that disciplinary action was not taken against law-enforcement officers for threats and other methods of pressure. As pointed out above, criminal cases were opened in response to all confirmed instances of torture and threats.

The prosecutor's office, in collaboration with other law-enforcement agencies, systematically studies the conditions and reasons for arbitrary arrest and detention and takes appropriate measures to prevent and stop this from happening.

This work is carried out in collaboration with the Human Rights Representative of the Oliy Majlis of the Republic of Uzbekistan (Ombudsman).

In answer to Question 6

In 18 criminal cases, judges of the Republic of Uzbekistan convicted 23 persons who received various sentences, including:

12 persons were sentenced to prison terms, one was fined, one was ordered to carry out corrective labor, 3 persons were – under Article 72 – given suspended sentences, 5 persons were released under amnesty, one person was released under the provision in Article 65 (Release from criminal liability due to loss of socially dangerous nature by the act or by the person who committed thereof) of the Criminal Code of the Republic of Uzbekistan.

One criminal case of this type involving one person is currently under consideration of the court.

Moreover, in one case investigative agencies accused two people in absentia of violating Article 235 of the Criminal Code of the Republic of Uzbekistan, and have put them on a wanted list. Currently, work on this case has been halted according to p. 2 part 1 of Article 364 of the Criminal Procedural Code of the Republic of Uzbekistan (the location of the accused is unknown).

Following are some examples of law-enforcement officers who were held accountable for committing such crimes:

E. Normuradov, acting director of a local police station of the Department for Prevention of Violations of the Law for the Khavast district of the Syrdaria province Internal Affairs Department, abused his power, when on April 18, 2007 he unlawfully detained citizens D. Lyumanov, Z. Bozheiv, Zh. Tuichiev and A. Isroilov in the department of internal affairs, and by threatening and beating them, compelled them to confess to burglary.

E. Normuradov was brought to trial under Articles 206 (abuse of power or work privileges) and 235 (use of torture and other cruel, inhuman or degrading treatment or punishment) of the Criminal Code of the Republic of Uzbekistan.

For a similar crime, Kh. Malikov, Head of the Angor ROVD of Surkhandarina province, was held accountable.

All officials, brought to court for such crimes, were relieved of their work duties during the investigation.

In answer to Question 8

For the period indicated, citizens did not address the prosecutor's office with requests for compensation.

In answer to Question 9

The activities of the Prosecutor General's office are carried out under the laws of the Republic of Uzbekistan "On the office of the Prosecutor General," additional orders, the Prosecutor General's instructions, and other documents.

Involvement of the prosecutor in investigations of criminal or civil court cases is one of the essential tasks of the prosecutor's office (article 4 of the Law on the Prosecutor's Office).

Additionally, by order 21 of the Prosecutor General of May 11, 2004 "on raising the effectiveness of the Prosecutor General's involvement in court proceedings," a procedure was established for supporting the state's charges in court and for verifying that all court decisions are made according to the law.

The main task before trial prosecutors is enabling courts to make decisions in full accordance with the law in every case, as well as to ensure adequate protection of the rights and legal interests of citizens, businesses, institutions, and organizations during trial.

In cases where the accused party's statement on being tortured or enduring other illegal ill-treatment during the initial investigation is made during a case hearing, the statement is verified by the judge and an appropriate decision is made.

A trial prosecutor has the right to call for an investigation into the facts during the trial process.

In answer to Questions 10 and 11

From 2002 to 2006 and the first half of 2007, 30 suspects (5, 4, 1, 4, 9, 7) filed in complaints about torture and other unlawful behavior during their trials. The statements of 26 defendants were examined by the courts during criminal investigations, but no proof was found, rendering the allegations groundless.

Criminal investigations were opened on four of the complaints and sent to the prosecutor's office for further investigation.

For example, the prosecutor's office of the Nurbad region pressed criminal charges according to part 1 of Article 206 of the Uzbek Criminal Code on July 15, 2006

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against neighborhood inspector of the Nurabad ROVD B. Mustafaev, who physically assaulted and beat D. Sh. Berdiev, a minor, on July 11, 2006 while he was intoxicated.

An investigation was led by the regional prosecutor's office and B. Mustafaev was charged with Articles 2b.206 and 2d.235 of the Uzbek Criminal Code on August 9, 2006 and released on bail. As a result of this investigation, Mr. B. Mustafaev was found guilty of physically assaulting a minor and causing him bodily harm and ordered to pay a fine.

Officers of the ROVD A Eshankulov (09.09.2006) of the Maiari district of the Samarkand region and N. Pardaev (10.06.2002) of the Chilanzar district of Tashkent were brought to criminal justice for similar crimes.

During the investigation, opened on behalf of Mr. Z. Mamadaliev, who accused officers of the department of internal affairs of the Balikshinskii district of ill-treating him, the prosecutor's office of the Balikchin district of the Andijan province found these allegations unfounded, and closed the criminal case on March 9, 2006 in accordance with point 2 of article 83 of the Criminal Code of the Republic of Uzbekistan for lack of proof of a crime.

In answer to Question 12

In accordance with the norms of the national criminal procedural laws, any person suspected of a crime has the right to qualified legal council. If the guilty party or suspect is in detention, the lawyer has the right to unrestricted access to him or her (Article 53 of the Uzbek Criminal Code).

According to Article 10 ("guaranteeing the right to have legal representation") of the Criminal Procedural Code of the Republic of Uzbekistan, the accused has the right to receive qualified legal council from a lawyer, with whom the accused may meet by request without restriction. In addition, the detention facility administration, according to the general rules, may not refuse to grant such meetings with his/her lawyer, who in turn has the right to provide legal aid to the detained.