



FREEDOM NOW

Honorary Chair
The Most Reverend Desmond M. Tutu

**FREEDOM NOW – COMMUNICATION TO THE HUMAN RIGHTS COMMITTEE
FOR THE EXAMINATION OF UZBEKISTAN’S STATE PARTY REPORT
(114TH SESSION)**

JUNE 3, 2015

Introduction

1. Freedom Now individually submits this report to assist the Human Rights Committee (Committee) in its review of Uzbekistan’s record of compliance with the International Covenant on Civil and Political Rights (Covenant). Freedom Now is a non-governmental organization (NGO) based in Washington, D.C. that seeks to free prisoners of conscience through focused legal, political, and public relations advocacy efforts.¹ Since 2008, Freedom Now has worked on cases of arbitrary detention in Uzbekistan.

2. This report outlines Uzbekistan’s continued violations of its international obligations and failure to implement the Committee’s recommendations regarding the use of politically-motivated detentions and torture. As described below, the government uses arbitrary arrests to quell political dissent and limit freedoms of expression and association while frequently relying on mistreatment to force false confessions. Though the government often flatly rejects evidence of human rights violations in the country and points to domestic laws prohibiting such violations, its refusal to cooperate with international observers, widespread restrictions on local civil society actors, and pervasive practice of denying due process in criminal prosecutions shows the need for greater transparency and international attention.

3. Because Freedom Now focuses its advocacy on issues regarding prisoners of conscience, this report will not address numerous other serious violations of human rights perpetrated by the government of Uzbekistan but not directly covered by our mandate.

History of Arbitrary Detention and Torture in Uzbekistan

4. Uzbekistan has a well-documented history of infringing on freedoms of expression and association through the use of politically-motivated arrests and detentions. The Committee’s concluding observations during Uzbekistan’s 2001 review expressed concerns that domestic laws could easily be used to silence political opposition.² Indeed, since the Andijan Massacre in 2005, the government has continued to crack down on independent journalists, politicians, and human rights defenders. In a report following the massacre, the Secretary-General of the United Nations noted credible, wide-ranging reports of journalists being silenced and civil societies being forced to

¹ For more information about Freedom Now and its work, visit: <http://freedom-now.org/>.

² *Concluding Observations of the Human Rights Committee*, UN Human Rights Committee, CCPR/CO/71/UZB (Apr. 26, 2001) at ¶ 23.

close or leave the country.³ Well-respected human rights observers have reported on political repression in Uzbekistan for over two decades.⁴

5. Uzbekistan also has a long-standing history of subjecting prisoners to torture and other cruel, inhuman, or degrading treatment. In 2003, then-Special Rapporteur on Torture Theo van Boven visited the country and reported that torture in the country was widespread and systematic.⁵ Since then, the Committee has found on many occasions that Uzbekistan violated article 7 of the Covenant by torturing citizens in custody and failing to investigate allegations properly. Various international human rights NGOs all point to a pattern of human rights violations including torture and other mistreatment.⁶ Prison conditions have been continuously described as harsh and life threatening.⁷ This history of human rights violations has increased scrutiny of Uzbekistan's practices by the international community.

Response by the International Community

6. The responses to the use of arbitrary detention in Uzbekistan by the international community have been united. Numerous human rights bodies have expressed deep concern over the country's use of torture, procedural due process violations, arbitrary detention, and flagrant violations of freedom of expression, peaceful assembly, and association to suppress civil society and political opposition movements.

Human Rights Committee Individual Cases

7. The Committee has found that the Government of Uzbekistan violated various articles of the Covenant on numerous occasions. *Umarova v. Uzbekistan* provides a disturbingly common example of the persecution that political dissidents face. Mr. Umarov was arrested on trumped up charges as part of a government effort to dismantle his prominent opposition political party.⁸ Mr. Umarov was held naked for days, displayed signs of being subjected to psychotropic drugs, and was denied medical care despite repeated appeals by his attorney and family. The Committee found Uzbekistan in violation of Articles 7, 19, and 26 of the Convention.⁹

³ *Situation of Human Rights in Uzbekistan: Report of the Secretary-General*, U.N. Doc. A/61/526 (Oct. 18, 2006) at ¶¶ 60-68.

⁴ For a detailed history of political repression in Uzbekistan, see *"Until the Very End": Politically Motivated Imprisonment in Uzbekistan*, Human Rights Watch (Sept. 2014) at p. 14-21, available at <http://www.hrw.org/node/129144>

⁵ UN Commission on Human Rights, Report of the Special Rapporteur on the question of torture: Uzbekistan, Theo van Boven, E/CN.4/2003/68/Add.2 (Feb. 3, 2003), ¶¶ 58, 68.

⁶ See, e.g., *supra* note 2; *"Uzbekistan: Secrets and Lies: Forced Confessions Under Torture in Uzbekistan*, Amnesty International (Apr. 2015), available at <https://www.amnesty.org/en/documents/eur62/1086/2015/en/>; *USCIRF Annual Report 2015 - Countries of Particular Concern: Uzbekistan*, United States Commission on International Religious Freedom, available at <http://www.uscirf.gov/reports-briefs/annual-report/2015-annual-report>.

⁷ *Human Rights Report 2013: Uzbekistan*, The United States State Department, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.

⁸ *Umarova v. Uzbekistan*, UN Human Rights Committee, Communication No. 1449/2006 (Oct. 19, 2010) at ¶ 8.8.

⁹ *Ibid.* at ¶¶ 8.3, 8.8.

8. Mr. Umarov's case was not exceptional. Uzbekistan has repeatedly been found in violation of the Covenant¹⁰ and new cases continue to be brought before the Committee, including those of Mr. Farmonov and Mr. Abdurakhmanov, described in more detail below, whose cases are currently pending.

Concluding Observations of the Human Rights Committee 2010

9. The Committee outlined several concerns regarding arbitrary detention in Uzbekistan following its third periodic review of the country in 2010. The Committee expressed concern about Uzbekistan's compliance with Articles 7, 19, and 22 of the Covenant due to reports of widespread torture as well as the repression of civil society in the country.

10. The Committee had two main concerns regarding violations of Article 7 of the Covenant in Uzbekistan: the legal definition of torture and widespread reports of torture and ill-treatment. The Committee called on Uzbekistan to review its criminal code, particularly article 235, in order to

¹⁰ See *Kungurov v. Uzbekistan*, UN Human Rights Committee, Communication No. 1478/2006 (July 20, 2011) at ¶ 9 (finding violations of Articles 22 and 19); *Bondar v. Uzbekistan*, UN Human Rights Committee, Communication No. 1769/2008 (Mar. 25, 2011) at ¶ 8 (finding violations of Articles 9 and 14); *Umarova v. Uzbekistan*, UN Human Rights Committee, Communication No. 1449/2006 (Oct. 19, 2010) at ¶ 9 (finding violations of Articles 7, 9, 10, 19, and 26); *Eshonov v. Uzbekistan*, UN Human Rights Committee, Communication No. 1225/2003 (July 22, 2010) at ¶ 10 (finding violations of Articles 6 and 7); *Gapirjanov v. Uzbekistan*, UN Human Rights Committee, Communication No. 1589/2007 (Mar. 18, 2010) at ¶ 9 (finding violations of Articles 7 and 9); *Kodirov v. Uzbekistan*, UN Human Rights Committee, Communication No. 1284/2004 (Oct. 20, 2009) at ¶ 10 (finding a violation of Article 7); *Kasimov v. Uzbekistan*, UN Human Rights Committee, Communication No. 1378/2005 (July 30, 2009) at ¶ 10 (finding violations of Articles 7 and 14); *Isaeva v. Uzbekistan*, UN Human Rights Committee, Communication No. 1163/2003 (Mar. 20, 2009) at ¶ 10 (finding violations of Articles 7 and 14); *Iskiyaev v. Uzbekistan*, UN Human Rights Committee, Communication No. 1418/2005 (Mar. 20, 2009) at ¶ 10 (finding violations of Articles 7 and 10); *Mavlonov v. Uzbekistan*, UN Human Rights Committee, Communication No. 1334/2004 (Mar. 19, 2009) at ¶ 9 (finding violations of Articles 19 and 27); *Tolipkhuzhaev v. Uzbekistan*, UN Human Rights Committee, Communication No. 1280/2004 (July 22, 2009) at ¶ 9 (finding violations of Articles 6, 7, and 14); *Uteeva v. Uzbekistan*, UN Human Rights Committee, Communication No. 1150/2003 (Oct. 26, 2007) at ¶ 8 (finding violations of Articles 7 and 14); *Khudayberganova v. Uzbekistan*, UN Human Rights Committee, Communication No. 1140/2002 (July 24, 2007) at ¶ 9 (finding violations of Articles 6, 7, and 14); *Tulyaganova v. Uzbekistan*, UN Human Rights Committee, Communication No. 1041/2001 (July 20, 2007) at ¶ 9 (finding violations of Articles 7 and 14); *Chikunova v. Uzbekistan*, UN Human Rights Committee, Communication No. 1043/2002 (Mar. 16, 2007) at ¶ 8 (finding violations of Articles 6, 7, and 14); *Agabekova v. Uzbekistan*, UN Human Rights Committee, Communication No. 1071/2002 (Mar. 16, 2007) at ¶ 8 (finding a violation of Article 7); *Tarasova v. Uzbekistan*, UN Human Rights Committee, Communication No. 1057/2002 (Oct. 20, 2006) at ¶ 8 (finding violations of Articles 7 and 14); *Bazarov v. Uzbekistan*, UN Human Rights Committee, Communication No. 959/2000 (July 14, 2006) at ¶ 9 (finding violations of Articles 7, 9, and 14); *Sultanova v. Uzbekistan*, UN Human Rights Committee, Communication No. 915/2000 (Mar. 30, 2006) at ¶ 8 (finding violations of Articles 6, 7, 9, 14, and 17); *Sirageva v. Uzbekistan*, UN Human Rights Committee, Communication No. 907/2000 (Nov. 1, 2005) at ¶ 7 (finding violations of Articles 7 and 14); *Hudoyberganova v. Uzbekistan*, UN Human Rights Committee, Communication No. 931/2000 (Nov. 5, 2004) at ¶ 7 (finding a violation of Article 18); *Nazarov v. Uzbekistan*, UN Human Rights Committee, Communication No. 911/2000 (Jul. 6, 2004) at ¶ 7 (finding violations of Articles 9 and 14); *Arutyunyan v. Uzbekistan*, UN Human Rights Committee, Communication No. 917/2000 (Mar. 29, 2004) at ¶ 7 (finding violations of Articles 10 and 14).

ensure that it was in full compliance with Article 1 of the Convention against Torture and Article 7 of the Covenant.¹¹ The Committee also called on Uzbekistan to, *inter alia*, conduct independent inquiries of alleged torture, prosecute all perpetrators of torture, compensate the victims, envisage recordings of interrogations in all police stations and areas of detention, and review all criminal cases based on forced confessions and ill-treatment.¹²

11. The Committee also found several issues with Uzbekistan's compliance under Articles 19 and 22 of the Covenant. The Committee concluded that Uzbekistan should "... take immediate action to provide effective protection to journalists and human rights defenders who were subjected to assaults, threats, and intimidations due to their professional activities."¹³ To do this, the Committee recommended that Uzbekistan conduct independent investigations of the threats and harassment of journalists and human rights defenders, prosecute those who perpetrated the threats and harassment, provide the Committee with information on cases relating to journalists and human rights defenders, and review articles 139 and 140 of the criminal code to ensure that the provisions on defamation and insult are not being used to harass or convict human rights defenders or journalists.¹⁴

United Nations Working Group on Arbitrary Detention

12. The UN Working Group on Arbitrary Detention (Working Group) has also found several activists and civil society leaders to be arbitrarily detained in Uzbekistan. The Working Group has previously found that Uzbekistan has violated the protections afforded under Article 9 of the Covenant, violating its citizens' right to procedural due process and freedom from arbitrary detention. The case of Akzam Turgunov is illustrative. Mr. Turgunov was an opposition leader who was detained in 2008. In 2011, the Working Group found that Mr. Turgunov's detention was arbitrary and violated Article 9, among other articles of the ICCPR, because it targeted him in response to his peaceful activism.¹⁵ The Working Group found that Uzbekistan had violated Mr. Turgunov's right to be free from arbitrary detention and procedural due process and therefore called for his immediate release and compensation.¹⁶

13. The Working Group has also found Uzbekistan in several instances in violation of Articles 19, 21, and 22 of the Covenant, thus violating its citizens' rights to freedom of expression, peaceful assembly, and association and rendering their detentions arbitrary. Uzbekistan has consistently prosecuted human rights activists and critics of the government and the Working Group has identified numerous cases within the last several years in which Uzbekistan has attempted to silence its critics by fashioning political charges to imprison activists.

¹¹ *Concluding Observations of the Human Rights Committee*, UN Human Rights Committee, CCPR/C/UZB/CO/3 (Apr. 7, 2010) at ¶ 10.

¹² *Ibid.* at ¶ 11.

¹³ *Ibid.* at ¶ 24

¹⁴ *Ibid.*

¹⁵ *Turgunov v. Uzbekistan*, UN Working Group on Arbitrary Detention, Opinion No. 53/2011 (Nov. 17, 2011) at ¶¶ 51, 53.

¹⁶ *Ibid.*

14. The Working Group found that the detentions of Akzam Turgunov,¹⁷ Dilmurod Saidov,¹⁸ Gaybullo Jalilov,¹⁹ and Azam Farmonov and Alisher Karamatov²⁰ all violated the right to freedom of expression under Article 19 of the Covenant. Additionally, the Working Group found that Uzbekistan violated Akzam Turgunov's freedom of peaceful assembly and association under Articles 21 and 22 of the Covenant, respectively.²¹

Continued Use of Torture and Arbitrary Detention

15. Uzbekistan has continued to use arbitrary detention to silence its critics despite the overwhelming calls from the international community to uphold its obligations under international law and stop the widespread use of torture, political prosecutions, and suppression of civil society. In fact, the situation in Uzbekistan has become even more reprehensible since its last review. The government continues to torture human rights defenders and journalists. It has begun extending prison sentences for members of civil society and religious minorities. The prison conditions inside the country have substantially deteriorated and the government continues to systemically violate freedom of expression and assembly.

16. The Committee created a substantial list of issues for the fourth periodic review. The Committee again addressed Article 7 (torture)²² and Articles 19, 21, and 22 (freedom of expression, peaceful assembly, and association)²³ and also addressed concerns under Articles 9 (extending prison sentences)²⁴ and 10 (prison conditions).²⁵ The expanding list of issues reflects the fact that the suppression of civil society has only become worse since the last review.

17. The Committee called upon Uzbekistan to report on measures taken to implement the previous recommendations under Article 7 from the third periodic review.²⁶ The Committee also requested that Uzbekistan respond to reports that torture is routinely used and forced confessions are used in court.²⁷ The Committee again expressed concern over Uzbekistan's compliance with Articles 19, 21, and 22.²⁸ The Committee also called upon Uzbekistan to report on the previous recommendations from the third periodic review, including the harassment of civil society leaders

¹⁷ *Ibid.*

¹⁸ *Saidov v. Uzbekistan*, UN Working Group on Arbitrary Detention, Opinion No. 67/2012 (Nov. 23, 2011) at ¶ 59.

¹⁹ *Jalilov v. Uzbekistan*, UN Working Group on Arbitrary Detention, Opinion No. 4/2013 (Apr. 30, 2013) at ¶ 81.

²⁰ *Farmonov and Karatmatov v. Uzbekistan*, UN Working Group on Arbitrary Detention, Opinion No. 65/2012 (Nov. 22, 2012) at ¶ 42.

²¹ *Turgunov v. Uzbekistan*, *supra* note 15, at ¶ 51.

²² *List of issues in relation to the fourth periodic report of Uzbekistan*, UN Human Rights Committee, CCPR/C/UZB/Q/4 (Oct. 7-31, 2014) at ¶ 10, 11.

²³ *Ibid.* at ¶ 24, 25, 26.

²⁴ *Ibid.* at ¶ 17.

²⁵ *Ibid.* at ¶ 19, 20.

²⁶ See *supra* note 11.

²⁷ *List of issues in relation to the fourth periodic report of Uzbekistan*, *supra* note 22 at ¶ 11.

²⁸ *Ibid.* at ¶ 24, 25, 26.

and strict requirements for registering organizations.²⁹

18. The Committee expressed concern about reports that Uzbekistan is not in compliance with Article 9 by extending prison sentences.³⁰ Reports indicate that prisoners who have completed their sentences, especially prisoners who are convicted of religious extremism, are not released. Instead, their sentences are extended on grounds that they continue to pose a danger to society or for alleged violations of internal prison rules.³¹ The Committee also expressed concern over Uzbekistan's compliance with Article 10 due to deteriorating prison conditions. The Committee requested that Uzbekistan respond to reports that human rights defenders and journalists are subject to discriminatory treatment in prison.³²

19. As indicated by the Committee's list of issues for the fourth review, Uzbekistan continues to detain human rights defenders, political activists, and religious minorities. The increase in issues also indicates the conditions in Uzbekistan have greatly decreased since the last review.

Illustrative Individual Cases in Uzbekistan

20. The following descriptions of individual cases serve as illustrative examples of the types of offenses being perpetrated by the Government of Uzbekistan, but in no way serve as an exhaustive list of prisoners of conscience in the country. More information about these cases and Freedom Now's work can be found at www.freedom-now.org.

21. **Mr. Salijon Abdurakhmanov**, 63, is an outspoken independent journalist in the semi-autonomous region of Karakalpakstan who was sentenced to 10 years' imprisonment in 2008 on fabricated drug charges. Mr. Abdurakhmanov is known for his reporting on economic and social justice, human rights, and corruption. Shortly before his arrest, he wrote an article critical of the traffic police in Karakalpakstan.

22. Mr. Abdurakhmanov's trial, like the trials of many prisoners of conscience in Uzbekistan, was riddled with irregularities and due process violations. For instance, a drug dog expert who was involved in Mr. Abdurakhmanov's arrest testified that his dog had not reacted to Mr. Abdurakhmanov's car and could not explain why he had called for reinforcements for Mr. Abdurakhmanov's arrest. This testimony was corroborated by video evidence. Despite the lack of evidence, Mr. Abdurakhmanov was convicted and sentenced to ten years in prison.

23. **Mr. Azam Farmonov**, 35, was sentenced to nine years in prison on trumped up charges of extortion in 2006. Though he was due to be released at the end of April 2015, his sentence was extended an additional five years for alleged violations of prison rules. Mr. Farmonov is a prominent human rights defender, who served as the chairman of a regional branch of the Human Rights Society of Uzbekistan and advocated for farmers' rights.

²⁹ See *supra* note 14.

³⁰ *Ibid.* at ¶ 17.

³¹ *Ibid.*

³² *Ibid.* at ¶ 19.

24. Mr. Farmonov was held incommunicado for over one week following his arrest and held in solitary confinement without access to his family for approximately one month. During this time, authorities tortured him, including using a gas-mask to suffocate him, throwing him into the air to make him fall on his back on a concrete floor, and beating his feet and heels with truncheons. Mr. Farmonov was provided with inadequate legal counsel and not allowed to hire counsel of his choosing. Further, authorities refused to share important case documents with Mr. Farmonov throughout the trial proceedings.

25. Mr. **Gaybullo Jalilov**, 49, is a practicing Muslim and human rights defender, currently serving an 11 year prison sentence for security-charges. Mr. Jalilov, a member of the Human Rights Society of Uzbekistan since 2003, focused his advocacy on issues of religious freedom and the persecution of independent Muslims in Uzbekistan. At the time of his arrest in 2008, Mr. Jalilov had collected information on over 200 arrests of independent Muslims.

26. Mr. Jalilov was held incommunicado for two days following his arrest and his family was not given notice of the charges against him for over two weeks. Mr. Jalilov's first hearing was closed, his family was barred from attending, and his lawyer was absent because he was not informed of the hearing. Relying on a confession obtained through torture, the court found Mr. Jalilov guilty. In November 2010, prison guards beat him repeatedly with truncheons, leaving him deaf in both ears. Due to his ill-treatment, Mr. Jalilov attempted to commit suicide; his attempt failed. No one has been allowed to visit Mr. Jalilov since October 2011.

27. Mr. **Bobomurod Razzakov**, 60, is a human rights activist and farmer who was sentenced to four years in prison on the fabricated charge of human trafficking. He is the Chair of the Bukhara branch of Uzbekistan's only registered human rights group, *Ezgulik*. He also worked closely with Radio Free Europe/Radio Liberty and BBC Uzbek, reporting primarily on corruption, forced labor, and problems faced by local farmers. Before his imprisonment, Mr. Razzakov was a successful farming entrepreneur known for providing financial help to local needy families.

28. Mr. Razzakov was arrested in July 2013 on human trafficking charges. The next day, officials searched his house and seized printed materials related to his human rights work. The trial against Mr. Razzakov was biased and violated international fair trial standards. In September 2013, the Bukhara region criminal court found Mr. Razzakov guilty of human trafficking and sentenced him to four years in prison. During Mr. Razzakov's detention, officials threatened to retaliate against him and his family if his son did not stop communicating with international human rights organizations. In one instance, prison authorities placed Mr. Razzakov in a punishment cell for 15 days for alleged infractions of prison rules. Prison officials reportedly subjected Mr. Razzakov to this punishment in order to prevent him from being eligible for amnesty. He is in poor health and suffers from high blood pressure.

29. Mr. **Dilmurod Saidov**, 52, is a prominent journalist and human rights activist detained on fabricated extortion and forgery charges. Mr. Saidov was a member of the human rights group *Ezgulik* and defended farmers' rights against government corruption. As a journalist, Mr. Saidov wrote numerous articles critical of the government, claiming its corruption caused the impoverishment of local farmers.

30. Mr. Saidov was found guilty of attempting to extort money from the head of the Agricultural Equipment and Tractor Park in Samarkand, despite the fact that before and during his trial, several

witnesses rescinded their testimony and reported they had been pressured to testify against him. Mr. Saidov was sentenced to 12 and one-half years in prison. He suffers from acute tuberculosis and his family reports that his health is deteriorating quickly in prison.

31. Mr. **Akzam Turgunov**, 62, is a human rights activist and political opposition leader who was sentenced to 10 years in prison on fabricated extortion charges. Prior to his detention, Mr. Turgunov was a leading figure in the human rights and political opposition movements in Uzbekistan. Mr. Turgunov founded and served as the Chairman of Mazlum (“The Oppressed”), a human rights organization in Tashkent that advocates on behalf of prisoners of conscience and protests against the use of torture. He also served as the director of the Tashkent section of the Erk (“Freedom”) political opposition party.

32. Mr. Turgunov was arrested on extortion charges in 2008 by the very police department he was investigating for corruption and tax evasion. He was held incommunicado for 18 days, during which time an officer reportedly poured boiling water down his back, causing him to lose consciousness and suffer severe burns. Though Mr. Turgunov revealed his burn marks in open court, the judge accepted statements made by police that they had not tortured him. Mr. Turgunov and his attorney were denied an opportunity to examine the evidence against him or to cross-examine the government’s witness against him. Despite these procedural deficiencies, the court sentenced Mr. Turgunov to 10 years in prison. The Board of Appeals of the Karakalpakstan Supreme Court affirmed his sentence after a 15-minute hearing.

Violations of the Covenant

33. The pattern of politically-motivated arrests and detentions described above constitutes a blatant disregard for international human rights obligations. Uzbekistan’s practice of unfairly detaining and torturing its citizens is a clear violation of Article 9 of the Covenant and further implicates violations of Articles 7, 10, 19, 21, and 22.

34. The Committee has noted that “‘Unlawful’ detention includes both detention that violates domestic law and detention that is incompatible with the requirements of article 9, paragraph 1, or with any other relevant provision of the Covenant.”³³

35. Article 9 of the Covenant affords both substantive and procedural protections against arbitrary detention and ensures that everyone has the right to liberty and security of person. It reads, in part that, “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”³⁴

36. A detention may be rendered arbitrary under the Covenant for a number of reasons. If a person is detained without charge under a specific law or no recognizable legal basis, then the detention is deemed arbitrary. The motivation of authorities in detaining someone must be to punish

³³ General Comment No. 35, UN Human Rights Committee, CCPR/C/GC/35 (Dec. 16, 2014) at ¶ 44.

³⁴ International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, at art. 9(1) (*hereinafter* ICCPR).

that person for the commission of a specific violation of law. Both the Committee and the Working Group have instructed that a detention violates Article 9 if the authority's motivation of the arrest of an individual is to punish that person for their exercise of a fundamental human right protected under international law.³⁵ This means that a state may not criminalize the exercise of a fundamental human right (e.g. banning public speech under any circumstances and imprisoning someone for this offense). It also means that a state cannot fabricate charges on which to detain someone in order to mask a motivation to punish someone for their exercise of a fundamental right. Where there is sufficient basis in a case on which to conclude that charges are baseless, the trial neither fair nor impartial, and the individual had engaged in the exercise of a fundamental right, a finding of arbitrariness on the basis of a politically-motivated prosecution is appropriate.³⁶

37. A detention may also be rendered arbitrary and a violation of Article 9 if the government fails to adhere to minimum international standards of due process. In such a case, the individual's imprisonment is illegal.³⁷

38. Uzbekistan has consistently violated its obligations under Article 9 of the Covenant. As indicated by each of the Uzbek cases before the Working Group, Uzbekistan continues to punish critics for exercising their fundamental rights and deprive them of their liberty without the use of adequate procedures established by law.

39. Arbitrary imprisonment of peaceful civil society activists in Uzbekistan implicates a number of critical rights, including freedom from torture (Article 7), freedom of dignity and humane treatment while imprisoned (Article 10), freedom of expression (Article 19), freedom of peaceful assembly (Article 21) and freedom of association (Article 22).

40. Uzbekistan has repeatedly failed, and continues to fail, in conforming to its obligation under Article 7 of the Convention. Under this article, Uzbekistan has a duty to ensure that none of its citizens are subjected to torture or other mistreatment.³⁸ In addition to the numerous examples cited

³⁵ Joseph et al., *The International Covenant on Civil and Political Rights: Cases and Controversies*, 311 (Oxford 2004 2nd ed.); UN Working Group on Arbitrary Detention, Fact Sheet No. 26, Annex IV, at ¶ 8(b).

³⁶ In *Mukong v. Cameroon*, the Committee embraced this broad understanding of Article 9 noting that “[t]he drafting history of article 9, paragraph 1, confirms that ‘arbitrariness’ is not to be equated with ‘against the law,’ but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law.” In finding that the detention in that case constituted a violation of Article 9(1), the Committee referenced its analysis in the case pursuant to Article 19. Having determined that the detention was “neither reasonable nor necessary under the circumstances” — and thus a violation of the author’s freedom of expression under Article 19 — the Committee concluded that his detention also constituted a violation of Article 9(1). *Mukong v. Cameroon*, UN Human Rights Committee, Communication No. 458/91 (Aug. 10, 1994) at ¶ 9.8.

³⁷ The UN Working Group on Arbitrary Detention has recognized that a detention is “arbitrary” where “the total or partial nonobservance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.” UN Working Group on Arbitrary Detention, Fact Sheet No. 26, Annex IV, at ¶ 8(c). Therefore, insofar as the deficiencies in this case violate specific procedural protections contained in the Covenant, to which the Republic of Uzbekistan is a State party, they render the detention “arbitrary.” Because such a detention is “arbitrary” these procedural failures constitute a violation of the Article 9(1) prohibition on arbitrary detention.

³⁸ ICCPR at art. 7.

above and found in similar reports compiled by reputable civil society organizations, the Committee itself has found Uzbekistan in violation of Article 7 on multiple occasions.³⁹ The Committee has repeatedly noted that the burden rests on Uzbekistan to fully investigate and punish those who violate Article 7, and each failure to do so represents a new violation of the Convention.⁴⁰

41. Uzbekistan has consistently violated its obligations under Article 10 of the Covenant. Uzbekistan has an obligation to ensure that those who are deprived of their liberty are treated with humanity and respect.⁴¹ However, as indicated by Mr. Turgunov's treatment during pretrial detention, Uzbekistan continues to treat human rights defenders, journalists, and religious minorities as less than human by subjecting them to torture and discriminatory treatment inside the prison facilities. The Committee has also expressed concern about the treatment of prisoners. Uzbekistan consistently fails to treat its prisoners with humanity and respect through deteriorating prison conditions and therefore consistently violates Article 10 of the Covenant.

42. Uzbekistan regularly violates its obligation under Article 19 of the Covenant. Uzbekistan has a duty to ensure all of its citizens enjoy the freedom of expression without harassment which is subject only to very narrow limitations.⁴² The government regularly violates this provision by restricting political speech and persecuting politicians, journalists, and human rights defenders for their views and advocacy.⁴³ The Committee specifically found that Uzbekistan violated Article 19 in *Umarova v. Uzbekistan*.⁴⁴ The Committee noted that Mr. Umarov was arrested as part of a series of arrests and raids that dismantled the prominent opposition political group he led.⁴⁵ While Mr. Umarov was granted amnesty after significant public outcry in 2009,⁴⁶ his case is far from unusual. Unfortunately, almost all of those imprisoned under similar circumstances are not released early; many have even had their sentences extended.⁴⁷

43. Uzbekistan persistently violates Article 21 of the Covenant. Uzbekistan has an obligation to allow peaceful assembly.⁴⁸ However, Uzbekistan's abuses of narrow national security and public safety exceptions leaves a de facto ban on peaceful assembly in the country, as seen in the case of Mr. Turgunov and the massacre of Andijan. Uzbekistan violates Article 21 of the Covenant by consistently using these restrictions to inhibit peaceful assembly.

³⁹ See, e.g., *Umarova v. Uzbekistan*, UN Human Rights Committee, Communication No. 1449/2006 (Oct. 19, 2010); *Eshonov v. Uzbekistan*, UN Human Rights Committee, Communication No. 1225/2003 (July 22, 2010); *Gapirjanov v. Uzbekistan*, UN Human Rights Committee, Communication No. 1589/2007 (Mar. 18, 2010); *Kodirov v. Uzbekistan*, UN Human Rights Committee, Communication No. 1284/2004 (Oct. 20, 2009).

⁴⁰ For a discussion of this issue representative of many similar cases against Uzbekistan, see *supra* note 41, *Gapirjanov* at ¶ 8.3.

⁴¹ *Ibid.* at art. 10(1).

⁴² *Ibid.* at art. 19.

⁴³ "Until the Very End": Politically Motivated Imprisonment in Uzbekistan, Human Rights Watch (Sept. 2014)

⁴⁴ *Umarova v. Uzbekistan*, UN Human Rights Committee, Communication No. 1449/2006 (Oct. 19, 2010)

⁴⁵ *Ibid.* at ¶ 8.8.

⁴⁶ C. J. Chivers, *An Uzbek Survivor of Torture Seeks to Fight It Tacitly*, New York Times (Sept. 24, 2010), available at <http://www.nytimes.com/2010/09/25/world/europe/25umarov.html? r=1>.

⁴⁷ See, e.g., the case of Mr. Azam Farmonov, *supra* note 20.

⁴⁸ ICCPR at art. 21.

44. Uzbekistan routinely violates Article 22 of the Covenant. The country has an obligation to ensure freedom of association with others.⁴⁹ However, the government persistently violates this article of the Covenant by not allowing public space for political parties and creating burdensome and restrictive requirements for NGOs and other civil society groups, as noted by the concerns of this Committee and the Working Group in the case of Mr. Turgunov. These burdensome measures restrict Uzbek citizens' rights because they create too many barriers to form associations in the country, suppressing human rights organizations and opposition parties. Uzbekistan persistently violates Article 22 of the Covenant by using these restrictive measures to constrain civil society and freedom of association in the country.

Conclusion and Recommendations

45. The continued, widespread use of arbitrary detention to imprison human rights defenders, journalists, and other activists in Azerbaijan is a flagrant violation of the government's obligations under the Covenant. By targeting individuals in response to the peaceful exercise of fundamental human rights – including the rights to freedom of expression, association, assembly, and political participation – the government violates the prohibition on arbitrary detention in addition to those substantive rights. Further, procedural violations and the systematic use of torture in politically-motivated cases further violates the Covenant. As such, Freedom Now provides the following recommendations:

- The Government of Uzbekistan must immediately and unconditionally release all individuals who are detained in violation of the Covenant, including Salijon Abdurakhmanov, Azam Farmonov, Gaybullo Jalilov, Bobomurod Razzakov, Dilmurod Saidov, and Akzam Turgunov;
- The Government of Uzbekistan must take all necessary measures to impartially and transparently investigate the torture and mistreatment of political and non-political detainees;
- The Government of Uzbekistan must provide full and adequate compensation to individuals who have been wrongfully imprisoned or mistreated and ensure that the authorities responsible for such rights abuses are held accountable as required by international law;
- The Government of Uzbekistan must allow human rights defenders and lawyers to investigate rights abuses and bring such cases to the attention of the government and the international community; and
- The Government of Uzbekistan must fully cooperate with international mechanisms – including the Human Rights Committee, the UN Special Rapporteur on Torture, and the UN Working Group on Arbitrary Detention – by actively participating in proceedings before those bodies, complying with their decisions and recommendations, and facilitating country visits where they are sought.

⁴⁹ *Ibid.* at art. 22.