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Your Excellency,

As Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture (CAT), I am writing to thank you for your letter of 7 January 2010, which replies to my letter dated 16 November 2009. Your response was requested in relation to paragraphs 6, 7, 9, 10, 11, and 14 of the Committee's Concluding Observations regarding the examination of the third periodic report of Uzbekistan (CAT/C/UZB/3) by the Committee at its 39th Session from 5 to 23 November 2007. We are grateful for the information provided in your most recent communication and have reviewed your comments regarding the items identified for follow-up with care.

In paragraph 6(a), the Committee's Concluding Observations called on the State party to publicly and unambiguously condemn practices of torture. Your letter of 7 January 2010, in paragraph 4, states that all three branches of government have publicly condemned torture of all kinds, which the Committee commends. We would be grateful if you would provide us with examples of such condemnation, as my letter of 16 November 2009 requested.

Paragraph 6(b) of the Committee's Concluding Observations called on the State party to adopt measures to ensure in practice prompt, impartial, and effective investigations into all allegations of torture and ill-treatment and the prosecution and punishment of those responsible. The Committee is pleased to learn of the legislative and other measures taken, mentioned in paragraphs 5 to 8 of your reply, aimed at implementing the State party's obligations under articles 2 and 4 of the Convention. Despite these efforts, the Committee remains seriously concerned by reports of ongoing and routine use of torture by law enforcement officials, including in prisons and police holding cells.

The Committee notes with interest the information provided in paragraph 15 of your reply regarding measures that have been put in place to ensure that persons in custody benefit from legal safeguards against torture. The Committee also welcomes the information in paragraphs 36 to 38 and 41 of your reply regarding the measures in place to ensure that all detainees are afforded their rights to access a lawyer and doctor of their choosing. However, the Committee has been made aware of reports that these fundamental legal safeguards are routinely denied in practice. For example, Rustam Koraboyev, the attorney of Alim Eshmuradov, chairman of the former Uluk farm cooperative in Kashkadarya, who was charged with libel and disseminating false information about the governor of his district in February 2007, has claimed that he was unable to contact or locate Eshmuradov following his arrest. Please comment on this case and indicate steps that have been taken to ensure that the laws and regulations in place are being enforced in practice.

.../...

H.E. Ms. Goulmara Karimova
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The Committee would appreciate additional information regarding how the regulations drafted jointly by the Ministry of Internal Affairs and the Uzbek Bar Association are enforced in practice. Please include information on any oversight mechanisms in place to ensure the rights of detainees are upheld, and on training provided to law enforcement personnel. Regarding the issue of access to legal counsel for detainees, please indicate whether state-funded legal aid is available for persons who cannot afford a lawyer. Additionally, the Committee has received information indicating that the formerly independent Bar Association was brought under the control of the Ministry of Justice in 2010, which would appear to deprive the bar association of its independence and compromise its members' ability to defend their clients. The Committee has also received information indicating that all attorneys were required to re-take the bar examination, with the results that a number of attorneys failed the exam and a number of attorneys who had handled sensitive cases of a political or religious nature were subsequently disbarred, with the cumulative effect that defense attorneys are now reluctant to represent individuals implicated in sensitive cases. For example, Sobir Kuchimov, the attorney of Voice of America reporter Abdumalik Boboyev, who was fined for \$8500 on charges of libel in November, unexpectedly withdrew from representation of Boboyev, delaying the proceedings. Please clarify whether any measures were taken to ensure the independence of the Bar Association in response to these developments.

My letter of 16 November 2009 requested information on bodies mandated to investigate, promptly and effectively, allegations of torture and ill-treatment. The Committee thanks the State party for explaining that the Ombudsman has the right to apply to relevant bodies to file suits against persons found to have violated human rights. Please clarify whether the Ombudsman has exercised this right, and provide information on the number of cases in which this occurred. Paragraph 17 of your response states that the Ombudsman received eight complaints about mistreatment by prison personnel in 2008. Please indicate whether these complaints were impartially investigated, whether any prison personnel were charged with a criminal offense as a result, and the outcome of any trials. The Committee also requests copies of the annual reports from the Ombudsman to both chambers of parliament, mentioned in paragraph 12 of your response.

My letter of 16 November 2009 also requested further information regarding the independence of the bodies mandated to investigate allegations of torture or ill-treatment and what measures are in place to ensure that independence of these bodies is maintained. The Committee notes the comments in paragraph 9 of your Government's reply of 7 January 2010 regarding measures adopted to ensure the independence of the prosecutor. We would be grateful to receive further information about these measures, specifically the number of instances in which an individual has been charged with influencing a prosecutor, infringing his or her integrity, or disclosing prosecutors' case data prior to the commencement of procedures. Please provide information about any investigations taken into such allegations and their outcomes, the number of instances in which individuals were charged with an offense, and any judicial proceedings that resulted and their outcomes. The Committee also requests information on any oversight mechanisms in place to ensure the independence of the prosecutor's office.

Paragraph 6(c) of the Committee's Concluding Observations called on the State party to bring all suspected perpetrators to justice in order to eliminate impunity for law enforcement officials and others responsible for breaches of the Convention. My letter of 16 November 2009 requested that the State party provide updated detailed, statistical data on the number of allegations of torture or ill-treatment that have been made, the number of investigations conducted into these allegations, and the outcomes of the investigations, including whether legal proceedings were brought against any of the perpetrators and the punishments meted out. The Committee thanks the Government of Uzbekistan for providing information on the number of complaints received by the prosecutor's office (paragraph 16 of your response), which states that in 2008, the Office of the Prosecutor received 2,222 complaints and communications regarding unlawful action by law enforcement personnel, and that of these complaints, 104 were related to the use of torture, threats and other unlawful forms of treatment, and of these complaints, nine proceeded to trial. Please provide the Committee with further detail regarding these cases, including whether investigations were carried out into each of the complaints received by the Prosecutor and the outcome of each of these investigations. Please also indicate the charges brought against the officials in question in each of the 45 prosecutions referenced in paragraph 32, as well as the sentences handed down in each of these cases. The Committee would further appreciate information regarding the length of the prison sentence handed down by the court against the five officers of the District Internal Affairs office convicted of beating Mr. B. Ergashev and Mr. R. Safarov, as described in paragraph 32 of your reply.

Paragraphs 33 and 34 of your reply note that the majority of individuals who have been charged with torture or cruel, inhuman, or degrading treatment are staff of the internal affairs agencies. Paragraph 33 acknowledges the need to respond to this finding, including by increasing monitoring of the internal affairs agencies by the ombudsman and National Centre for Human Rights. Please provide information to the Committee detailing the steps that have been taken in this regard.

Paragraph 6(d) of the Committee's Concluding Observations called on the State party to ensure in practice that complainants and witnesses are protected against any ill-treatment or intimidation as a consequence of making a complaint or providing evidence. My letter of 16 November 2009 noted your Government's acknowledgement of the need to create and adopt a witness protection program and requested that the Government provide additional information about the measures it had taken to establish such a program, as well as the number of witnesses that had benefited from it. Paragraph 21 of your reply letter of 7 January 2010 states that no criminal cases were initiated for intimidation or forced examination of witnesses or other participants in criminal proceedings during the period 2008–2009, and that as the legal profession has been strengthened, there is "no need to draft any proposals on this issue." Yet the Committee has received information suggesting that recently witnesses and defendants have in fact reported experiencing intimidation. Please provide additional information regarding steps that have been taken to establish a witness protection program, as recommended by the Committee.

Paragraphs 7 and 9 of the Committee's Concluding Observations expressed grave concern regarding the violence in Andijan on 13 May 2005 and called on the Government of Uzbekistan (a) to undertake a full and impartial investigation into the events, conducted by credible, independent experts, to allow individuals to lodge complaints and for prosecution of perpetrators of violations of the Convention, (b) to provide information to family members on the whereabouts and charges against all persons arrested or detained in connection with the events at Andijan, and (c) to ensure that military and security officials only use force when strictly necessary and that any violating the Convention are subject to review. My letter of 16 November 2009 requested information on whether and how allegations of excessive force were investigated, and the findings of these investigations and whether they led to legal proceedings.

In this regard, the Committee appreciates the information provided in paragraph 22 of your letter of reply, which references prosecution of persons involved in the 2005 events in Andijan. We note that a trial of some participants has taken place to which a number of international observers were admitted. However, it has come to the Committee's attention that while those suspected of involvement in the protests at Andijan have been prosecuted, no one has yet been held accountable for the numerous deaths resulting from the crackdown. The Committee wishes to stress how important it is for the Government to undertake an impartial international investigation of the events at Andijan and examine complaints submitted by persons who were injured and the testimony of relatives of persons who died and relevant eyewitnesses. It has come to the Committee's attention that since 2005, a number of independent reports have been published regarding the killing and injury of civilians by the authorities at Andijan. This newly-available testimony should be examined as part of any such independent inquiry. The Committee notes the information in paragraph 22 of your letter of reply noting that the European Union's sanctions against Uzbekistan adopted in connection with the Andijan have been lifted. The Committee wishes to stress that this fact does not affect the Committee's recommendation that the Government of Uzbekistan initiate a credible independent inquiry into the events at Andijan on 13 May 2005. The Committee continues to request that the Government provide additional information on measures taken to this effect, and stresses the need to provide information to family members on the whereabouts of and charges against all persons involved, arrested, or detained in connection with those events as soon as possible.

Paragraph 10 of the Committee's Concluding Observations recommended that the State party adopt measures to ensure that punishments for torture are at a level commensurate with the severity of the crime and that suspected perpetrators be subject to suspension or reassignment during the investigation process, and that those subjected to disciplinary penalties be removed from their posts. The Committee appreciates the information in paragraph 32 of your response, which notes that of 45 individuals prosecuted for torture or ill-treatment for the period 2004-2008, 25 were sentenced to long periods of deprivation of liberty, five were sentenced to punitive work, and that 13 were released under an amnesty.

Please clarify this report to explain: (a) the number of officials prosecuted on allegations of torture or cruel, inhuman, and degrading treatment from 2004 to the present; (b) whether each of these persons was suspended from his or her post or reassigned during the investigation process, and for what length of time; (c) the number prosecuted, the number convicted, the precise sentences handed down against those convicted,

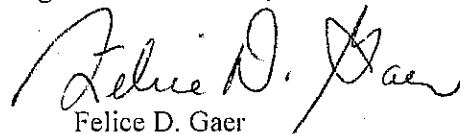
whether all those convicted were dismissed, and whether any of these individuals remains employed in an official capacity. Please also provide further information on the cases of the 13 individuals who were awarded amnesty despite having been convicted of torture or cruel, inhuman, or degrading treatment. Please indicate the sentences these individuals received and the crimes of which they were convicted. In this regard, the Committee emphasizes that amnesties for torture are incompatible with the obligations of States party to the Convention.

Paragraph 11 of the Committee's Concluding Observations recommended that the Government take effective measures to keep under systematic review all places of detention and to avoid impeding routine unannounced visits by independent experts to all places of detention, including Jaslyk prison. My letter of 16 November 2009 requested detailed information on improvements made to conditions of detention and the systematic monitoring of all places of detention, as well as information on bodies permitted to conduct routine unannounced visits to all places of detention. The Committee welcomes the information regarding the plans to introduce an Ombudsman for convicted persons in penal institutions and requests updated information on the status of the proposals and legislation aimed at establishing this post, mentioned in paragraph 14 of your reply. The Committee also appreciates the information provided by the State party concerning independent monitoring of prisons by representatives of the International Committee of the Red Cross (ICRC), diplomats, international non-governmental organizations, local non-governmental organizations, and the media. However, the Committee remains concerned that the ICRC still faces obstacles in accessing all places of detention. According to one report, in a 2010 visit, the ICRC delegation was unable to gain access to a female prisoner, Rayhon Soatova, complained that she had been raped by a police officer in pre-trial detention, and later gave birth prematurely in prison. Soatova was reportedly being held in an isolation cell at the time of the ICRC visit. Please comment on this case. The Committee would also appreciate information about actions undertaken, if any, to improve conditions in the 11 places of detention visited by the Ombudsman in 2008 and information on the number of visits to penal institutions that the Ombudsman has carried out since 2008 and to which institutions, as well as the number of interviews held with persons in custody during each visit.

In paragraph 14 of its Concluding Observations, the Committee requested the Government of Uzbekistan to provide it with information on the results of *investigations* into allegations of torture, as opposed to providing only information regarding the allegations initially made. The Committee reminded the State party that no exceptional circumstances may be invoked as a justification for torture. The Committee reiterates its request for information on the outcomes of investigations into allegations of torture and ill-treatment, including the number that went to trial and with what outcomes. My letter of 16 November 2009 requested further information on measures taken to establish a centralized database on the results of investigations and judicial proceedings on incidents of torture. Please provide the Committee with information regarding progress on this issue.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Uzbekistan on the implementation of the Convention, and in this context, to receiving clarification to our follow-up questions.

Accept, Your Excellency, the assurances of my highest consideration,



Felice D. Gaer

Rapporteur for Follow-up on Concluding Observations
Committee against Torture