



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

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**List of issues to be considered during the examination of the
third periodic report of UZBEKISTAN (CAT/C/UZB/3)**

Article 1

1. It is stated in the State party report that Article 235 of the Criminal Code as amended prohibits torture by “an individual conducting an initial inquiry, an investigator, a procurator or other employee of a law enforcement authority or penal institution of torture” and that it “shall be punishable by punitive deduction of earnings for up to three years or up to three years of deprivation of liberty”. Article 1 of the Convention states that the prohibited acts are those “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.” The Committee understands that the Supreme Court Decree from December 2003 is a secondary source of law reportedly not applied in practice.

a) In light of this, please provide information on what the State party is doing to ensure the Criminal Code is applied in practice to acts carried out by quasi official agencies other than those of the law enforcement authorities, such as trainees, or individuals or groups of persons acting with the consent or acquiescence of prison authorities. Please clarify how persons cited in complaints alleging such abuses are prosecuted and provide examples.

b) The new version of Art. 235 of the Criminal Code reportedly clarifies that acts of torture by officials would be punishable by up to three years’ punitive deprivation of earnings or deprivation of liberty, with greater punishments for the same conduct with violence or imperiling of life or health, or against a pregnant woman or minor. How does the State party consider that this punishment in fact commensurate with the offense of torture? Please cite any cases of investigation and prosecution of persons found guilty of torture in accordance with this new definition.

2. Instruction No. 334 of 18 December 2003 of the Internal Affairs Ministry makes the study of this newly-revised article mandatory and sets up a special procedure for recording and verifying

complaints from citizens alleging violation of the law. What kinds of complaints have been made and what responses have ensued? Has any report been issued on the results of compliance with Instruction No. 334? A number of media articles are cited in Annex II of the State party report about the existence of the new law and instructions. Please provide a summary of how it has in fact been carried out.

Article 2

3. According to the State party report and annexes, following the visit of the Special Rapporteur on torture, the Government of Uzbekistan created a national programme of action to follow up on his recommendations, and the Cabinet of Ministers created an Interdepartmental working group headed by the Ministry of Justice to “monitor observance of human rights” by law-enforcement agencies. According to the State party, the Government “intended” to conduct a “broad campaign” against torture in 2003; it discussed compliance in various official meetings in 2004, and “discussed” the possibility of closer procuratorial supervision during detention and prosecution. An extraordinary session of the Ministry of Internal Affairs took place; the Supreme Court adopted Decision No. 17 in December 2003, guaranteeing suspects’ and accused persons’ right to defense, and in December 2004 the Supreme Court acted to make evidence obtained during torture “inadmissible”. Please clarify what actions have been taken to move beyond discussion of the government plans and intentions to actual implementation of the new decisions interpreting the law. Have any cases been refused by judges for review, or overturned on appeal, due to the inadmissibility of evidence? What does have been created to provide the “closer procuratorial supervision” mean?

4. Please also inform the Committee on steps taken to implement the introduction of the right to *habeas corpus* as of 1 January 2008.

5. Please indicate what preventive legislative measures have been adopted in law and implemented in practice to guarantee:

- a) The right of an arrested person to contact at his/her request a doctor of his/her choice.
- b) The right of an arrested person to contact members of his/her family and inform them of his/her situation and whereabouts. Please indicate instances where this has been found not to take place and what has been done to remedy it.
- c) The right for all arrested persons to be informed of their rights from the moment they are being taken into custody.
- d) Access to lawyers. According to information made available to the Committee, six months had passed since the lawyer of imprisoned human rights defender Mutabar Tojibaeva was able to secure access to her client, while the lawyer of Sanjar Umarov was allegedly denied access to his client since he was transferred from a pre-trial detention facility to prison in spring 2006. Please specify what, in practice, are the rights of an arrested person to contact a lawyer of his/her choice at all stages of an investigation, including pre-trial detention. Please provide information on complaints alleging interference with this right.

6. According to the State party, the Central Investigation Department and Uzbek Bar

Association drafted rules to bring lawyers into the preliminary inquiries process at an earlier stage. What is the status of these recommendations now? What is the implementation, and how is provision of counsel not more than 24 hours after detention being implemented? What about the period before 24 hours have elapsed? Have the training, professional improvement, refresher courses, etc. outlined in the State party report led to an increase in improvement of rights of detainees? Doctors have also been trained to recognize torture, but have any doctors been able to submit such reports to the authorities in charge of investigating such incidents?

7. The State party report indicates (paragraph 35 and 37 respectively) the role and functions of the new department for the protection of human rights established in the Ministry of Justice and that of the Central Commission on Respect for Human Rights under the Ministry of Internal Affairs.

a) Please confirm how the Interdepartmental Working Group of the Government of the Republic of Uzbekistan that was created pursuant to a decree of the Cabinet of Ministers on 24 February 2004 participated in the preparation of the State party report and explain what measures, if any, it takes to monitor law enforcement agencies regularly, including information on any reports it has issued, and the status of any recommendations it has made.

b) Are the abovementioned bodies authorised to accept and investigate individual communications on torture from alleged victims of torture, their lawyers, relatives and concerned non-governmental organizations?

8. According to the State party report and annex, the Internal Affairs Ministry constantly monitors how the right to appeal under Art. 241 Code of Criminal Procedures is implemented and how prosecutors have met to discuss the findings of the monitoring. Please provide a summary of these findings and what decisions were made by the Office of the Prosecutor General and the Coordinating Council of Law-Enforcement Authorities which, according to Annex II, “passed decisions” based on these issues?

9. The State party’s report and annex note the Special Rapporteur on torture’s recommendation to transfer the right to issue detention and arrest warrants to the courts, as well as President Karimov’s suggestion at the parliament meeting on 28 January 2005 that this should be legislated. Has a bill been drafted or law passed in this regard?

10. Does the State party’s legislation specifically provide that no exceptional circumstances whatsoever may be invoked as a justification for torture? Is there an explicit legal provision which clearly stipulates that an order from a superior officer or a public authority may not be invoked as a justification for torture? Please provide examples of its application by Uzbeki courts.

Article 3

11. The Committee has received allegations that at least four refugees and one asylum seeker who were initially *refouled* following abductions in August 2006 from Osh, Kyrgyzstan have been investigated and some of them been sent to court. Fear for the safety of these individuals was

expressed publically after which two were believed to have been held in police custody in Andijan, Uzbekistan. Can the State party please inform the Committee of the outcome of such investigations? In particular has there been access to them as per requests by the Secretary-General of the United Nations?

12. Please provide information to the Committee on what mechanisms exist to ensure compliance with article 3. Who is the responsible authority to coordinate compliance? Are individuals able to challenge being returned if they believe they face a risk of torture? Please provide examples, if any. Please also comment on the current status of the State party's relationship to and cooperation with UNHCR.

13. Please provide the Committee with information on the whereabouts and treatment of the individuals believed to have been returned to Uzbekistan from neighboring countries following extradition requests (see also Questions under articles 7, 8 and 9). Please clarify what measures, if any, exist to monitor the status of such persons, and for them to lodge complaints, as appropriate; and the offenses for which the returned persons have been sent back to Uzbekistan.

Article 4

14. The Committee has received information about claims that as recently as summer 2006 psychiatric methods (including the forcible administration of psychotropic drugs) were used to silence and punish human rights activist Mutabar Tojibaeva and other human rights defenders. Please specify whether the amended article 235 prohibits such forced administration of drugs as a possible form of torture, inhuman or degrading treatment or punishment. Have such allegations been investigated and if so, with what result? Please clarify the consent procedure for persons sent for psychiatric care, and the right to challenge such commitment. Please provide information on the number of such commitments and how many have been challenged and with what result.

15. The State party report provides different statistics on convictions under Articles 235 and 234 of the Criminal Code. Please provide updated statistics regarding complaints of torture in Uzbekistan and provide full details of the convictions, specifically what the ranks of the convicted persons were, what positions they had, what actions they were convicted for including the duration of sentences passed or disciplinary measures imposed and what article they were convicted under. Please also indicate how many public officials were suspended from duty or removed from their posts pending trial. Please also provide information on steps taken to address the causes of such conduct.

16. Please provide information on the existing internal disciplinary processes within the law enforcement agencies including how these are enforced. Are officers under investigation suspended from duty, including being barred from promotion or removed from their posts? Please describe how inquiries are conducted and their average length and information on the final dissemination of the outcome. Are these made public?

17. The State party report indicates (paragraph 57) the existence of a discussion regarding compliance with the plan of action against Torture in the first half of 2004. Please provide details of the outcome of the discussion. Has there been an assessment of the outcome of the implementation of the Plan?

Article 5

18. Please elaborate on whether acts of torture are considered universal crimes under national law.

Article 6

19. Please provide information on existing legal provisions prohibiting confessions being extracted under duress. If these exist, how are they guaranteed in practice?

Articles 7, 8 and 9

20. Please elaborate on whether the Ministry of Foreign Affairs has added torture to the list of extraditable offences in model extradition treaties.

21. The State party report (paragraph 49) confirms that 697 individuals were extradited to Uzbekistan between 2000-2004 and “brought to justice” from countries including Russian Federation, Kazakhstan, Kyrgyzstan, Ukraine, Tajikistan, Belarus, Turkmenistan, Azerbaijan, Armenia and Lithuania. Please provide information about how many of these persons were refugees or asylum seekers and how many were prosecuted and convicted and for what offences.

Article 10

22. With respect to human rights training activities organized in 2002 and 2003, please provide information on the number of staff that participated in each training, disaggregated by level, function and Ministry. How are the trainees from the trainings provided to the staff of penitentiary institutions, members of the penal correction system and employees of the Ministry of Internal Affairs who were trained in 2002 and 2003 being monitored? Please provide information on the training of forensic doctors, medical personnel and others dealing with persons in detentions. To what extent do training courses include information on identification of the sequelae of torture and the requirement to report and investigate such evidence? Please outline any gender sensitive training particularly with regard to forms of gender-related violence?

23. Please provide information regarding the outcome of the discussion at the Central Investigation Department of the option of including an examination on international human rights standards for its staff wishing to be recertified, be appointed to new positions or be promoted in grades.

24. In Annex II, in response to point 5.2, the State party cites a public opinion study conducted among convicts and ex-prisoners by the Ijtimoi Fikr Centre about the use of torture and similar cruel treatment. Please provide the findings of this survey.

Article 11

25. Please provide information on any measures taken to improve conditions in prisons, in accordance with CAT recommendation 6 (g) of 2002. Regarding general conditions of detention, please update the Committee on what the State party has done to implement key recommendations by the Special Rapporteur on torture, in particular the recommendation consider closing Jaslyk penal colony.

26. According to the State party report (paragraphs 106 and 112 and Annex II, regarding 8.1, 8.3), the Central Penal Correction Department staff have been tasked with regular on-site prison inspections of Ministry facilities and several other institutions have inspected several prisons in 2003 and 2004, including the office of the Parliamentary Commissioner for Human Rights (Ombudsman), ICRC, OSCE and the NGO Freedom House. The Ministry of Justice has issued instructions about visits by international representatives of NGOs and diplomats. Please provide details of the current process for detention inspections in particular for the periods 2005-2007, including:

- a) What kind of detentions facilities are open for inspection by which government body or organisation;
- b) Whether such inspections require the agreement of any other state body or prior notification of any kind;
- c) Whether the inspecting authority has the possibility of conducting private interviews with detainees;
- d) Whether the findings of the visits are made public and if so when and where;
- e) What specific measures have been taken as follow up to the findings of each respective visit;
- f) Please also indicate whether any NGO or external body to the government has access to all detention facilities with a view to monitoring conditions of detentions.
- g) Were the ICRC and OSCE and others able to continue their visits after April 2005?

27. What is the State party doing to ensure that the detention conditions for juveniles are appropriate? What are the complaints mechanisms for children in institutions? Please specify the number and conditions of children in the juvenile justice system and how the State party responds to allegations of ill-treatment of children who are nor separated from adults in pretrial detention and in police custody.

28. Please elaborate on the measures taken, if any, to prevent possible torture or ill-treatment of women in places of detention. Does the State party monitor sexual violence in places of deprivation of liberty and if so with what result? Please provide statistical data on the number of complaints received and investigated and the measures taken to discipline and/or prosecute and convict offenders. Also please inform the Committee of measures to protect complainants from reprisal.

29. EU representatives twice visited penal colony UY-64/71 (Jaslyk) in 2003; reporters also visited. In July 2004, a national commission of justice, interior, and human rights officials carried out a study of the conditions in this facility. The U.S. Embassy and Freedom House also visited in 2004. What findings were made, and what measures were taken to improve the conditions?

Article 12

30. Please clarify the results in practice of the redrafted Ombudsman Act (paragraph 181). Noting that the revised Ombudsman Act of 2005 was to undertake independent investigations into incidents or torture and other abuses, it appears that this post is in fact required to consider citizen complaints. What has the Ombudsman found, has he conducted inspections, and has he reported or further advocated with other law enforcement agencies on his findings based on citizen complaints and his inspections? Has any other body outside of the procuracy been set up to investigate allegations of torture and ill-treatment promptly, independently and capable of prosecuting perpetrators as recommended by CAT?

31. Please elaborate on the use, to date, of the procedure for independent investigations into deaths in custody, as outlined in paragraph 183, and please provide specific examples.

(See also questions under article 1)

Article 13

32. According to the State party report, the Central Investigations Department and the Uzbek Bar Association drew up regulations to implement a procedure to uphold right of the detainees rights and the rights of the accused. Please provide information on how these regulations have been implemented. What have prosecutors been mandated to ask suspects and convicts about their treatment and under Art. 253 of the Code of Criminal Procedures how are they reporting on this work? Please clarify if the prosecutor's office itself monitors their work, without external oversight, and if so, please explain how effective this approach is.

33. Clarify the status of the plans for a mechanism described in paragraph 180 to create a central register to respond to complaints of torture or other unlawful action, and the plan noted in the annex to assess it periodically. Has this been carried out? Please clarify what cases have been initiated as a result of this and with what outcome?

34. In light of the allegations received by the Committee that witnesses have been beaten into agreeing with the official Government account of events of the Andijan events and concerns of torture in relation to the trials, how is the State party ensuring that all such claims are promptly and effectively investigated?

Article 14

35. Please provide information on the number of torture victims who have received compensation for torture and the levels of compensation provided. Also provide information about those persons convicted for torture, the sentences received, the articles of the criminal code under

which they are charged, and whether such persons once they have completed their sentences have returned to law enforcement posts. Please provide information on any measures taken to provide rehabilitation to physical or psychiatric victims of torture.

36. According to the State party, in 2003, in an effort to improve compensation for torture victims, 850 million SUM and US \$450,000 were paid in compensation. What kinds of cases were involved? Please provide figures for the period between 2003-2006.

Article 15

37. What specific measures have been taken to ensure in practice the absolute respect for the principle of inadmissibility of evidence obtained by torture and the review of cases of convictions solely on confessions. Please provide examples of any cases that have been dismissed due to the introduction of such evidence or testimony, or as a result of such review. In which cases, if any, have the Supreme Court's 24 September 2004 decisions been specifically implemented (paragraph 168) and where have criminal proceedings been brought against those responsible? (paragraph 169) Please provide details.

(See also questions under article 6)

Article 16

38. Please provide information about reports that the State party routinely refuses to inform relatives of the details of the execution of persons, to promptly issue a death certificate and/or to reveal the place of burial of the executed persons when prisoners under sentence of death are executed. What is the latest development on proposals to declassify the secrecy of the date of execution and place of burial of those executed under the death penalty? Please provide precise numbers of those executed since the State party report and annex merely indicate that the number "has fallen" by nearly 90 percent from 2000-2004. What is the current number and percentage compared to 2002-2004? For what crimes has this penalty been imposed?

Other

39. Does the State party plan to ratify the Optional Protocol to the Convention against Torture?

40. Please indicate why the State party's Working Group does not appear to include independent non-governmental human rights organisations in the preparation of the third periodic report. In view of reports that numerous international nongovernmental organizations were closed down by the authorities in 2006, and that at least a dozen human rights defenders have been convicted allegedly on politically-motivated charges, please clarify why the State party decided not to involve them in the Working Group.

41. Please inform the Committee of any legislative, administrative and other measures the Government has taken to respond to the threat of terrorism, and please indicate if, and how, these measures have affected human rights safeguards in law and practice.
