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**Torture in Uzbekistan: still systematic and unpunished**

Submitted to the 98<sup>th</sup> session of the Committee on Civil and Political Rights

**Methodology**

This report was prepared from materials collected from the monitoring of the rights of persons under investigation and in detention. The monitoring was conducted during eight months in 2009 by the Human Rights Alliance of Uzbekistan and Committee for the Liberation of Prisoners of Conscience, both based in Tashkent, Uzbekistan. The Uzbek-German Forum for Human Rights, based in Berlin, provided assistance with the collation and analysis of the data. Monitoring was conducted through interviews with individuals released from prisons, victims of torture, relatives of the convicted, and persons serving prison sentences and includes observation of court hearings. In addition, official responses from government agencies to claims of torture from alleged victims, press releases, and statements from local human rights organizations were included in the review.

**Summary**

This report is for submission to the 98<sup>th</sup> session of the Committee on Civil and Political Rights and is presented as a commentary on the periodic national reports submitted by the Government of Uzbekistan, as well as the Government's response to questions posed by the Committee at the 96<sup>th</sup> session. The authors of this report believe that neither the national report nor the Government's responses reflect reality and cannot be considered satisfactory. This report, based on data collected from monitoring, describes the real situation surrounding the use of torture in Uzbekistan, and maintains that torture and abuse by police and investigating authorities remain systemic, unpunished, and are tacitly encouraged by senior government officials. Despite the fact that national legislation and international documents ratified by Uzbekistan prohibit the use of torture, all of these commitments exist solely on paper and are not implemented in practice. The issue of torture is not covered in the local mass media and has never been publicly condemned in the press by any senior officials in Uzbekistan. Law enforcement officials are unaccountable to the public, creating an atmosphere that gives law enforcement free reign and leaves citizens defenseless in protecting their personal rights and freedoms.

**Uzbek national legislation and international obligations in regard to torture**

The prohibition against torture is enshrined in the Constitution and laws of Uzbekistan. Articles 24 and 25 of the Constitution proclaim the right to life, liberty, and integrity. Article 26 of the Constitution says that no one may be subjected to torture, violence, or other cruel or degrading treatment. Article 235 of the Penal Code prohibits forced confessions and torture “by an investigator, prosecutor, or other official of the law enforcement bodies, or penal institutions,” and its infringement is punishable by up to three years of imprisonment.

Uzbekistan has ratified the International Covenant on Civil and Political Rights (ICCPR), as well

as the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. However, according to the monitoring of the practice of torture, it can be said that Uzbekistan systematically violates the rights and freedoms enshrined in the ICCPR's Articles.

Article 6 of the ICCPR speaks of every person's inherent right to life. "This right shall be protected by law. No one shall be arbitrarily deprived of his life."

Although Uzbekistan abolished the death penalty in January 2008, violent deaths from torture during interrogation and investigation, as well as deaths in custody continue. Since 2008, human rights activists have recorded at least nine deaths during investigations or in prisons. Here are their names:

- 1) Nozim Mamadaliev,
- 2) Ismat Khudaiberdiev,
- 3) Muzaffar Tuichiev,

Also in 2008-2009, the following persons were arrested and convicted in connection with the Andijan events of 2005. Most of them young people were in fine health prior to arrest, and died in prison:

- 4) Shokirjon Artykov,
- 5) Abdurahmon Kuchkarov,
- 6) Khoshimdjon Kadirov,
- 7) Bahodirhon Nodirov, and
- 8) Ozodbek Djurayev
- 9) Shuhrat Khasanov.

More details about the circumstances of the deaths of above listed are given below.

Uzbekistan systematically violates Article 7 of the ICCPR, which states that: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." The use of torture in Uzbekistan is comparable to that used during the Stalinist era, when confession was sufficient grounds for conviction. In order to obtain such results, investigating officers routinely use the most brutal methods of torture to exert pain, humiliation, and moral suffering.

The Government of Uzbekistan has refused to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, probably to avoid taking responsibility for the situation, though such a step would enhance the accountability of law enforcement officers and reduce the widespread use of torture in the country. Our monitoring demonstrates that laws prohibiting use of torture are not enforced, that numerous complaints of victims of torture remain unanswered, that state authorities pass on the responsibility of producing formal written explanations onto subordinate bodies, and that investigations into the use of torture by the police remain largely closed to the public.

### **General background**

Seven years ago, the UN Special Rapporteur Theo van Boven visited Uzbekistan and concluded that torture was used systematically in this country. International human rights organizations, the UN Committee against Torture, and others have repeatedly criticized Uzbekistan for the use of torture. Today, torture is one of the most important problems in Uzbek society, and law

enforcement agencies are the main offenders in this area.

The Government of Uzbekistan has not yet demonstrated its willingness to change the situation. Rather than acknowledge the existence of the problem, investigate specific complaints from victims of torture, punish its perpetrators, and ensure transparency in the investigation of such cases, the Government has for years preferred to conduct formal events such as seminars and conferences instead of taking action. It is notable that human rights defenders and independent journalists are never or very rarely allowed to participate even in such formal events.

In May – July 2009, with the assistance of the Organization for Security and Cooperation in Europe (OSCE), a series of workshops on human rights for police officers was held. Such events have demonstrated that holding such activities have not changed the situation, but more likely have been held simply to appease and even distract the international community.

From the data collected, the standard methods of torture by the Uzbek police include: severe beatings, burns on various parts of the body, food and sleep deprivation, suffocation with a plastic bag or gas mask; shackling in handcuffs in an uncomfortable position; tying up and hanging by the hands; applying electric currents to parts of the body; deprivation of access to toilets; threats of punishment to close relatives of defendants; rape or threats of rape.

### **Comments on the replies of the Government of Uzbekistan to the list of issues adopted by ICCPR in respect to Uzbekistan**

The Government of Uzbekistan contends that all three branches of government publically condemn and deplore the use of torture. This assertion is untrue. Human rights defenders are unable to recall a single incident when a senior official has publically, through the mass media, condemned the use of torture. Discussions on this matter at the boards of the Ministry of Internal Affairs and at the General Prosecutor's Offices take place behind closed doors and can in no way be considered or serve as a substitute for a public condemnation. In fact, the government imposes an unwritten ban on raising the issue of torture across the country's domestic mass media.

According to the Government of Uzbekistan, the prosecutor's offices have conducted periodic "assessments on the legality of the condition of individuals in detention and temporary holding cells." However, this process is handled as a formality and the staff of the Office of the Prosecutor is not interested in learning about the actual conditions of the prisoners and those under investigation or paying any attention to their statements of being tortured and inhumanly treated. Victims of torture with whom we spoke told us that they had written letters of complaint about the abuses they suffered while in detention centers, but they received no responses and are uncertain as to whether their messages actually reached the prosecutor's offices.

One of the biggest problems is the lack of a real feedback mechanism in state bodies to receive complaints and appeals from citizens. Officials, including prosecutors, are not held accountable to citizens, and as a rule. They sometimes respond with explanatory letters that say that the issue has been redirected to the relevant authorities for further investigation. The results of the investigations are never shared with the citizen, and reports from the prosecutor's office are closed to the public; therefore it is in no way possible to verify whether an investigation of a complaint has indeed taken place.

As a rule, the state does not conduct prompt, impartial, and public investigations into acts of torture, thereby *de facto* abetting the practice. Often the victim gives the names of the torturers, including officers or investigators. Only in exceptional cases are criminal proceedings brought against law enforcement officers. In most cases of torture and abuse by law enforcement officers

taken by the Prosecutor's Office for investigation, the softer Article for "exceeding official authorities" is used as a charge, and the punishment is limited to merely removing the torturer from office.

The Government refused to conduct an investigation into the disproportionate use of force during the suppression of the popular uprising in Andijan in May 2005. Since 2008, at least six of those detained in connection with the Andijan events, most of whom are young people, have lost their lives while in custody. Their names are given above. There is good reason to assert that their deaths were resulting from torture: they all began their sentences in good health.

The practices are such that in the first days after arrest, before formal charges are brought, the arrested individual will be held in total isolation. S/he is intentionally not allowed to see a lawyer, relatives, or a doctor. Often, it is during these first days following his/her arrest, the individual is isolated from any kind of contact with the outside world, and is subjected to torture and abuse.

### **Torture, the judiciary, and prosecutor's office**

Uzbekistan's judiciary is *de jure* independent from but *de facto* subordinate to the executive branch of government. Formally, the judges are elected by the Senate, the upper chamber of parliament. But in reality, the appointment of judges is under strict control of the the presidential administration and may be dismissed from their posts at the request of this administration. As a result, judges following orders from the executive branch of power cast a blind eye on complaints of torture. Monitors have observed dozens of trials in which the defendants have complained about the use of torture against them, and in some cases showed the traces of it on their bodies. However, human rights defenders are unaware of any trials in which the judge, having heard testimonies from the defendants about being tortured, either dismissed a criminal case, or filed a separate case on the incident of the torture. Judges practically do not consider defendants' complaints of torture as having any merit, and often indicate during sentencing that the defendant's claims about torture were "invented in order to evade responsibility."

Prosecutors, as a rule, also ignore complaints by defendants about the use of torture, and do not make any attempts to investigate these complaints. Confessions obtained under torture, as before, become the basis for prosecution and conviction with multi-year sentences.

One example: In June 2009, a trial for six young men between the ages of 18 to 24 took place, in which the young men were charged with theft and robbery. The names of the young men are: Khodjiakbar Zoirov (19 years old), Dauran Islamov (20), Akromdjon Isroilov (19), Nurlan Takhbanov (24), Alisher Kulibaev (18) and Otabek Abitov (20). According to the indictment, the defendants broke into the building of school No. 259 in Tashkent, with intention to rob, and stole from the school kitchen "an old refrigerator, an aluminum pot, utensils for mixing dough, several kilos of sweets, and four jars of ketchup." At their trial, the defendants related how they were subjected to torture by the officers of the Yunusabad Department of Internal Affairs with the encouragement of investigators Oybek Murodov and Aziz Mashrabov. One of the defendants, Khodjiakbar Zoirov was beaten to such an extent that his body was covered with scars and bruises. According to his lawyer, Alisher Djumaboev, the Tashkent prison wouldn't take Zoirov, nor would the detention facility of the Tashkent City Internal Affairs Department take him due to the critical state of his health when he was taken from police custody. His complaints of torture were ignored by both the prosecutor and the judge. Moreover, the prosecutor requested a maximum sentence of ten years imprisonment for Zoirov and the other defendants in the proceedings.

## **Absence of accountability mechanisms for the use of torture**

Over the last six months of monitoring, 20 incidents involving the use of torture during detention and preliminary investigations were identified. In all of the cases, statements were sent to the Prosecutor General, Ministry of Internal Affairs, the Ombudsman, and the National Center for Human Rights of Uzbekistan. The responses contain standard official language that gave no information on how the relevant authorities responded to the complaints. In all of these cases, torture was used to obtain confessions.

In the absence of any public monitoring, the lack of a free press, or any mechanism ensuring the accountability of law enforcement officials, victims of torture remain helpless in defending their rights. In our study of the formal responses from government agencies to complaints of torture, we see a general reluctance to investigate. The scheme for which responses are made is as follows: a complaint addressed, for example, to the General Prosecutor, is sent for examination to the District Prosecutor's office, where the torture victim, as a rule, has already filed a statement, and has not yet received any response.

In recent years, women have been increasingly subjected to abuse. For example, in May 2009, three sisters were charged with 'hooliganism:' Nargiza Soatova, Khosiyat Soatova, and Raykhon Soatova. On 26 November 2009, during a meeting with her mother and brother at the Zangiatain prison, Raykhon Soatova said that on 9 May 2009, she was raped on the premises of the Mirzo Ulugbek District Police Department by 12 police officers, three of whom she could identify.

As a consequence of the rape, Raykhon Soatova was pregnant and on 18 December 2009, in her eighth month (28<sup>th</sup> week) of pregnancy, she gave birth to a daughter. Raykhon Soatova recounted how police had beaten her and she carried the bruises and scratches on her body to show for it. Due to her suffering, she lost consciousness. Among her assailants, she said, she was raped by the investigator of the Chief of the Department of Internal Affairs of Tashkent City, Aziz Umarchanov. Following that, she tried to commit suicide by slitting her wrists. Following the birth of the child, she and her child were returned to the prison for her to continue serving her sentence.

The youngest of the sisters, a student at the National University of Uzbekistan, Khosiyat Soatova, also was raped on the premises of the Mirzo Ulugbek District Police Department, which resulted in her being sent for two months of treatment in a psychiatric hospital. Of the three sisters, only she was released given her profound mental state.

As Raykhon Soatova became pregnant after her arrest, the Soatov family sent 28 written complaints to various public authorities requesting apprehension of the rapists, which were ferried back and forth from one state authority to another. As a result, a spokesperson for the General Prosecutor, Svetlana Artikova, in an interview on 18 December 2009 with the Uzbek service of Radio Ozodlik (the Uzbek branch of Radio Free Europe/Radio Liberty) about the case, said that, "during the investigation period, no violations of law or of human rights norms occurred. No violence was used." Yet, after the publication of this case in international mass media, at the beginning of 2010 the Prosecutor's Office was forced to bring charges of rape against the police officers (Article 118 of the Criminal Code). However, this has not affected the fate of the victims. Raykhon Soatova continues to serve her prison sentence at the women's penal colony in Zangiata city with her newborn daughter. The authors of this report are following this case and will report on any developments. In any case, one can say that the entire situation occurred because of a lack of accountability of law enforcement, which enjoys free rein in how it deals with ordinary citizens under investigation and in custody.

### **Torture to extract confessions**

Uzbekistan has not yet adopted a law on the police and security services. The rights and responsibilities of law enforcement officials are described in the internal instructions and regulations of the Ministry of Internal Affairs and are not made widely available to the general public. Law enforcement officials consider torture as the most effective method of investigating and solving crimes. Several active police officers admitted to the monitors that they are forced to comply with the instructions of investigators which require them to extract confessions at any cost.

In February 2009, a former security guard of the British Embassy, Kayyum Ortikov was sentenced to six years imprisonment on charges of “trafficking in persons.” Following his arrest, for nine months, he was held in complete isolation from his relatives. In May 2009, his wife, Mohira Ortikova appealed to the administration of the Tashkent prison, demanding to meet with her husband. However, she was given a letter in which her husband allegedly refused to meet with her. As it became known later, Ortikov wrote the letter against his will, and was compelled to do so by the investigators. Ortikov himself was in critical condition, as he had been subjected to torture.

In November 2009, his wife, Mohira Ortikova met with him at Penal Colony 64/48 in Navoi city, where she had heard from her husband that during his investigation, they beat him into confessing that he was spying for the United Kingdom. Kayyum Ortikov recounted what he had suffered in the Tashkent prison. In order to obtain the confession they needed, they hosed him down with cold water, then turned on a fan directed at him; they drove needles under his fingernails; they hung him naked from the ceiling. They drove needles into his body, burned his private parts, and raped him. He was beaten at one time by eight or nine people who broke two of his ribs on his right side. Unable to withstand the torment, Kayyum Ortikov tried to slit his veins with his teeth, but even after that, the torture did not end. The second time he cut himself with a blade in the head and neck. According to him, the torture was conducted at the instructions of the representative of the National Security Service in Tashkent prison, who went by the name of Farkhod.

### **Torture in custody**

The prison system is managed by the Ministry of Internal Affairs. The government has ignored numerous calls to transfer management of prisons and colonies from Internal Affairs to the control of the judiciary. There are no independent commissions which would be able to freely visit detention centers and observe the way prison authorities deal with prisoners.

Torture and abuse are widespread in prisons, in particular, in the cases of those prisoners who are imprisoned on political or religious grounds.

The poet and dissident Yusuf Djumaev was subjected to severe torture and abuse by the staff of Jaslyk prison. He was arrested while holding a picket demanding the resignation of the president in December 2007, and was sentenced to five years imprisonment. During visits from his daughter Feruza Djumaeva, he talked about how from his very arrival in Jaslyk in July 2008, he was subjected to systematic beatings and abuse. He received kicks to the head, was placed in an isolation cell without explanation, where for days at a time he would go without food or water. During his imprisonment, he lost nearly 40 pounds. In November 2009, he told his daughter that he was once again placed in an isolation cell where he was not even allowed to sit down. If he collapsed from exhaustion, he was hung by handcuffs from the ceiling. He also told his daughter that during a visit of a delegation of the Red Cross to Jaslyk prison, in the beginning of

November 2009, he was temporarily transferred to the prison in Nukus city, and was transferred back after the departure of the representatives from the Red Cross.

Human rights activist Alisher Karamatov told his wife in January 2009 that the administration of the penal colony tried to force him to sign a statement that he had broken the prison rules. After refusing, they forced him to remove his outer clothing and put him out on the street in prison garb made of thin material. After three hours of standing out in the frost, Karamatov agreed to sign the statement.

### **Methods of combating “terrorism”**

Torture and abuse is widely used against those prisoners who are suspected of involvement in "illegal religious organizations" (Article 244 of the Criminal Code) and "endangering the constitutional order of Uzbekistan (Article 159 CC). In its "war against terrorism" the government does not distinguish between those who are involved in terrorist activities and peaceful Muslims who preach non-traditional or non-state sanctioned forms of Islam.

Since the beginning of 2009, at least 30 people have been arrested and convicted on suspicion of membership in the Nurcu network, an Islamic movement that has Turkish roots. At their trial, the defendants spoke of the abuse they suffered at the hands of the investigators who were trying to force them to confess to "anti-constitutional activities." According to the indictment, their actual "illegal" activity was the study of the literature of Turkish theologian Said Nursi, whose works, in fact, do not represent the radical and extremist branches of Islam. Nevertheless, all those arrested were sentenced to terms ranging from seven to 12 years imprisonment.

A trial took place in November 2009 in which four men were accused of religious extremism and undermining the existing state order. One of the defendants, Gaibullo Jalilov, was a member of the Human Rights Society of Uzbekistan. At the trial, the defendants spoke of such cruel torture that one of them, Faizullo Ochilov, tried to cut his veins and commit suicide. After the first court session, the judge forbade the participation of human rights defenders at the trial as observers.

### **Death in custody as a result of torture**

Despite the official abolition of the death penalty in 2008, the Uzbek authorities have not changed the practices which promote torture and cruelty that often lead to death. These practices can be described *de facto* as unofficial death sentences. That none of the perpetrators have ever been punished or even lost their job for torture or abuse, demonstrates that the authorities encourage these practices.

On 24 March 2008, Angren city police arrested Muzaffar Tuychiyev who was born in 1978. The following day, 25 March, his corpse was returned to his relatives. According to the forensic examination, the following had been found: trauma to the abdominal organs, rupture of the mesentery of the small intestine with hemorrhaging into the abdomen, anemia of the internal organs, and multiple abrasions and bruises on various parts of the body. After numerous demands from the mother of the deceased and protests of human rights defenders to investigate the cause of Tuychiyev's death, in October 2008 the Tashkent Regional Court convicted four members of the Angren police force with sentences ranging from eight to 17 years.

According to lawyer Rukhiddin Komilov who took part in the court proceedings, there were many more policemen involved in the murder of Muzaffar Tuychiyev. The Article on murder was not applied in the case of the police officers, and the case was banned from being covered in the local media. Information on the case was published on Internet sites blocked by Uzbekistan's

Internet service providers. It was the only instance known to human rights defenders in 2008 of a case of torture being brought to trial.

On 13 April 2009, a citizen of Kyrgyzstan, Nozim Mamadaliev, born in 1973, was detained at the border for entry into Kyrgyzstan on charges of illegally leaving the country. During the next 16 days he was kept in detention at the Fergana City Police Department. On 29 April, an investigator from the Fergana City Office of the Prosecutor had been ordered to transport the prisoner to the TB dispensary due to the "sudden discovery of cirrhosis of the liver and acute case of tuberculosis." Nozim Mamadaliev died on 29 April. According to information from his relatives, he had no serious illnesses at the time of his initial detention.

In May 2009, in Zarafshan City Penal Colony 64/48, prisoner Ismat Khudaiberdiev died; he had been serving a sentence since 2002 on charges of membership of the party Hizb-ut-Tahrir. His wife, Musharraf Usmanov, shortly before his death, appealed to the General Prosecutor and the chief of the GUIN (ГУИИ, or State Authorities for Capital Punishment), as well as to human rights organizations, with a statement that her husband had been subjected to systematic torture.

During 2008-2009, six more men from the city of Andijan, arrested in the case of the Andijan uprising in 2005, died in custody due to torture. The relatives of the victims recounted seeing the marks of torture found on their bodies. None of the deceased had any kind of serious illness before their arrest. Here are their names and the circumstances of their deaths:

- 1) Shokirjon Artykov, born in 1973. During his investigation he was ordered to give false testimony against Akram Yuldashev, the spiritual leader of the community of businessmen in Andijan, who were arrested and convicted before the Andijan uprising. When Shokirjon refused, he was brutally beaten, and as a result died in Correctional Facility (УИИ) No. 18 "Sangorod."<sup>1</sup>
- 2) Abdurahmon Kuchkarov, born in 1971, was in one of the Karshi city penal colonies where he picked up an infection and was transferred in critical condition, to the same "Sangorod" Correctional Facility. There he died apparently due to lack of medical attention.<sup>2</sup>
- 3) Khoshimdjon Kadirov, born in 1975. In 2009 he was arrested without charges and over the course of twenty days was tortured. He died during the investigation period. When his corpse was handed over to his relatives, his body was covered with marks from beatings and torture.
- 4) Bahodirhon Nodirov, born in 1950. In June 2008, he completed his sentence, but was not released. When he filed a claim for his release, he was severely beaten by prison guards, which resulted in death.
- 5) Ozodbek Djurayev had been beaten in the Andijan prison to such an extent, that all of his bones were smashed. When his corpse was turned over to his relatives, they were unable to identify him.

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<sup>1</sup> Correctional Facility (УИИ) «Sangorod» is located in Tashkent and prison inmates with poor health are usually transferred there for treatment and care. Shokirjon was sent there after being beaten to treat his injuries, but his injuries were so severe that he died there. Apparently, he was not provided adequate medical care.

<sup>2</sup> The practice of deliberately infecting prisoners with infectious diseases is widespread in prisons and colonies of Uzbekistan as a sophisticated method of torture. A healthy inmate is placed in a cell with people suffering from tuberculosis or other infectious diseases. As a result of contact with them, the prisoner is exposed to infection and quickly becomes seriously ill.

- 6) Shuhrat Khasanov, as a result of torture in prison, became blind and was in critical condition upon his release. He died several days after his release.

In all of these cases, the men were not suffering from any serious illness prior to their arrest. Therefore, there is sufficient reason to believe that their deaths were the result of torture and inhumane detention, as well as denial of proper medical care. It is not accidental that the police demanded that their relatives immediately bury their dead bodies, and that the funerals were conducted under the surveillance of reinforced security services.

### **The practice of extending prison terms**

Another form of psychological and physical suffering endured by prisoners and their families is the extension of prison terms. The standard reason given for extension is “disobeying the rules established by administration of penal institutions,” according to Article 221 of the Criminal Code of Uzbekistan.

Trials are usually held behind closed doors on the premises of the colonies, without advance notice to the relatives, and without the opportunity for the accused to select counsel. According to our studies of verdicts, testimony in such cases is given by colony staffers as well as prisoners, all of whom are completely dependent upon the administration of the penal institution.

For example, the sentence of former Member of Parliament Murod Jurayev, who in 1994 was sentenced to 12 years imprisonment, was extended three times. In April 2009, four months before his scheduled release, the sentence was extended for another three years.

In October 2009, the Navoi City Court extended the terms of the imprisonment of human rights defender Habibullah Akpulatov by an additional three years. Habibullah Akpulatov was sentenced to six years imprisonment in October 2005. According to his relatives, the trial to extend his term was held behind closed doors, and the lawyer his relatives had hired was not informed of the trial date.

Twelve young men serving their sentences in Penal Colony 64/29 in Navoi city were re-sentenced in August 2008 by the Navoi Regional Court with extensions of 16-17 years. At the time of their re-trial, the prisoners had been serving sentences since 2000 on charges of anti-constitutional activities and participation in "banned religious organizations." The names of the re-convicted are: Akbar Ikramov (born in 1981), Miraziz Mirzakhmedov (1970), Ravshan Karimov (1973), Jamshidbek Atabekov (1973), Habibullah Madmarov (1974), Shamsitdin Giyazov (1983), Rustam Nasirov (1967), Turnazar Boimatov (1973), Zabihullah Muminov (1968), Mashrap Rabiev (1981), Jahangir Rakhmatullaev (1978), and Murod Muminov (1971).

### **Limited access to prisoners by lawyers and human rights defenders**

Authorities try to limit to the maximum extent possible the participation of human rights defenders and lawyers during the investigation period, as well as observation by human rights defenders of court proceedings. In 2008 some amendments were introduced into The Criminal Procedure Code which provided for unhindered access of lawyers to detainees. In practice, this new provision is often violated, in particular, in politically motivated cases.

At the same time, in January 2009, changes were made to the Law on Advocacy, which placed lawyers under greater administrative dependence on the Ministry of Justice. The new provision of the Ministry of Justice requires that every three years attorneys undergo recertification and take an exam to extend their license to practice. In practice, this measure is used to stymie the most

courageous lawyers, who will raise the issue of the use of torture. For example in 2009, the lawyers Rukhiddin Kamilov, Rustam Tulyaganov, and Bakhrom Abdurakhmonov, all known for their criticism of the work of the investigative authorities, could not pass the re-certification process and lost their licenses to practice law.

According to this new provision, a new Chamber of Advocates was created in 2009 to replace the previous Bar Association. If the Bar Association had, to some extent, enjoyed independent status, the new Chamber is under the complete control of the Ministry of Justice. Today, membership in this Chamber is compulsory for all lawyers. This new re-structuring indirectly affects the interests of detainees, as it makes lawyers dependent on and more vulnerable to the executive branch of government.

### **Torture and human rights defenders**

Human rights activists advocating for the rights of victims of torture, operate in an atmosphere of fear and risk to their own personal health and freedoms. On 11 November 2009, a member of the Human Rights Society of Uzbekistan, Mamir Azimov, was arrested by the police and brought to the Jizak Department of the Interior. Within hours, a member of the Jizak City Police Department, Islom Jahangir, head of the criminal investigation division of Jizak City Police Department Nurillo Usanov, and an officer of the Jizak Regional Department of Internal Affairs named Oybek beat the human rights activist and said "write to whomever you want, to the UN or wherever."

After an hour of beatings, Nurillo Usanov made Mamir Asimov spread his legs, raise his chair high, and had him stand in this position. If the human rights activist let go, the police would begin to beat him again. He was released in the evening with threats that if he were to complain or go to the hospital for treatment, they would make matters worse for him.

The next day Mamir Asimov wrote a complaint to the Jizak Region General Prosecutor, but to date, there has been no response from the General Prosecutor.

### **Conclusions:**

Despite its international obligations and the introduction of criminal legislation penalizing torture, torture continues to be systematic and routine at all stages of detention, including questioning, investigation, and during prison terms. This practice is still carried out with the tacit acquiescence and encouragement of the authorities. At least, two following facts indicate that the authorities encourage the practice of torture: 1) that judges and prosecutors ignore and do not conduct investigations into allegations of the use of torture by police and investigators; and 2) the evasion of the country's leadership, of the president and the heads of law enforcement agencies, from publicly condemning the practice of torture. The sporadic cases in which the perpetrators of torture are punished are more the exception than the rule. Those accused and convicted on political and religious grounds are subject to particular abuse. But against ordinary citizens, the practice is also widespread.

The root-causes of the continuing practice of torture in Uzbekistan are as follows:

- 1) Against the law, the courts in Uzbekistan remain *de facto* subordinate to the executive branch and the conviction of an individual is predetermined by the Prosecutor's Office or the security authorities; therefore they ignore the statements of suspected and accused individuals on their subjection to torture.
- 2) At this time, the principle of the presumption of innocence has not yet been in practice adopted in the country. The basis for conviction remains, to this day, confession of guilt, a practice inherited from the Stalinist era. Therefore, law enforcement efforts are aimed at

extracting confessions and not gathering irrefutable evidence and proof. The consequences are that not genuine professionals, but people willing to violate the norms of morality and law to extract confessions, are in demand in the police and investigation agencies. This is one of the main reasons for the low levels of professionalism and the corrupt nature of these authorities.

- 3) The country has not yet adopted laws or formal checks and balances on police and security agencies that would define the limits of their authority and create a system of accountability.
- 4) There exists important limitations on the role and status of independent counsel that would safeguard the interests and rights of individuals detained and accused of an offense. The Government has deliberately enacted policies limiting the role of lawyers, withdrawing the licenses of lawyers unafraid to take on cases of those accused on political and religious grounds and cases of torture.
- 5) The country has no freedom of the press or independent mass media with which to raise public awareness on the issue of abuses by law enforcement agencies.
- 6) Finally, in the country, there is no freely elected parliament that is truly independent from the executive branch and the president, and which could effectively monitor the activities of law enforcement and would be able to provide a legal framework for such activities.

The abovementioned reasons are institutional in nature. Until the appropriate institutional reforms are taken, the circumstances under which torture proliferates will continue, and torture will persist to be a routine and integral element to Uzbekistan's authoritarian powers-that-be.

#### **Recommendations to the Government of Uzbekistan:**

- 1. Conduct far-reaching institutional changes that ensure the independence of the judiciary, the independent status of the legal profession, free parliamentary elections, and a free press.**
- 2. Adopt a law on police and security agencies, transfer responsibility for prison administration from the Ministry of Internal Affairs to the Ministry of Justice.**
- 3. Immediately invite the UN Special Rapporteur on Torture.**
- 4. Ratify the Optional Protocol to the Convention Against Torture.**
- 5. Investigate specific complaints on the use of torture, punish the perpetrators, and inform human rights defenders and journalists.**
- 6. Ensure unhindered access to counsel for the arrested from the moment of detention.**
- 7. Publically condemn the use of torture by the police, investigation authorities, and prison administrations. Condemnation should come from the highest officials.**
- 8. Allow visitations to detention centers and prisons by an independent commission that would include civil society representatives.**
- 9. Amend the penal law to include medical examinations by a private physician as evidence of torture of suspects, defendants, or prisoners.**

## ANNEX

### *Additional examples of cases of torture collected during the monitoring:*

On 8 October 2009, Damira Gareeva (age 25), suspected of murder, was arrested with her children Luisa and Ildar, and placed in the temporary detention facility at the Mirzo Ulugbek Police Department in Tashkent.

Ildar Gareev was tortured in Office No. 17, where they placed a gas mask over his face and suffocated him, attached electrical wires to his genitals through which they applied an electric current. During interrogation, they handcuffed him behind his back, tied his legs with ropes and left him in a position lying on the floor for four hours. They deprived him of food for two days. He did not confess.

His mother, Sarvar Gareeva, was questioned for two days and deprived of food. Sarvar and Ildar were released after two days.

Luisa Gareeva was also tortured and confessed to murdering her brother.

On 15 October, at the call of the precinct policeman Tahir Turaev, a brigade from the psychiatric clinic came to the Gareyev's home. Sarvar Gareyeva was taken by force to the 16<sup>th</sup> branch of the Tashkent City Psychiatric Clinic, where she was forced to take various medications and was released on 22 October 2009.

Saidmurod Artykov (born in 1988) was arrested on 30 April 2009 in his home by 10 officers of the Yunusabad District Police Department. According to his parents, for several days they did not know the whereabouts of their son. When the lawyer his parents hired was able to meet with Saidmurod Artikov, it became known that since his arrest he had been severely tortured. The police who beat him were Erkin Djuraev, Gairad Madaminov, Farhad Kasymov, and in collusion with the investigator Davron Karabayev, suffocated him with a gas mask, and threatened to sodomize him with a bottle.

Angelina Mirdzhalilova (born in 1977), was arrested 31 January 2009 by officers of the Mirzo Ulugbek District Police Station on suspicion of murdering a Mr. A. Osipenko. In the detention facility of the Main Department of Internal Affairs of Tashkent, she was subjected to torture to obtain a confession. According to the case files, before Mirdzhalilova was taken to the Tashkent prison on 3 February 2009, prison health workers testified that she had an injury to her left eye, and bruises on her ribs and body. When Mirdzhalilova's mother met with her daughter during the investigation, she could see that her daughter suffered trauma and lameness.

On 13 May 2009, officers of the Chilanzar Police Department arrested Irina Simonova (born in 1974) on charges of murdering a Mr. Sosonko. During the investigation Simonova confessed to the crime. However, at the trial in Tashkent City Court, which was attended by human rights defenders, Irina Simonova refused to testify against herself and said that she was forced to confess because she could not withstand the torture.

For the same case on 13 May, brother and sister Lola Shakirova and Alisher Shakirov were arrested. Lola Shakirova, on 16 May was subjected to torture by officers of the Tashkent City Police Department and compelled to confess her guilt. She was released on 23 May 2009 after she wrote a note saying that she had no complaints against the actions taken by the officers of the Tashkent City Police Department.

Irina Satonina (born in 1973), was arrested on 7 August 2009 at the crossing of the Kazakh-Uzbek border checkpoint "May." She was accused of "robbery" and placed in a detention facility at the Tashkent City Internal Affairs Department. According to her brother, Alexander Kuzmin, who met with her on 11 August 2009, Irina Satonina recounted how at the police department building in Tashkent, she was tortured with electric shocks in order to force a confession. At the time of the meeting, she did not have access to her chosen lawyer.