

# UZBEKISTAN

**NGO REPORT**

**On the implementation of the ICCPR  
(prior to the adoption of the List of  
issues)**

## **Bureau of Human Rights and Rule of Law Uzbekistan**

*Tashkent, April 2009*

Drafted jointly with :

---



## Right to life (article 6)

*The State party should supply data on the operation of its criminal justice system and provide information on the number of prisoners sentenced to death and executed since the beginning of the period covered by the second periodic report. The State party should in future publish such information periodically and make it accessible to the public.*

The Committee also expressed its concern at the failure of the authorities to inform relatives of the execution and to reveal the place of burial of the executed persons. This information is still regarded as a state secret and relatives suffer morally without having a chance to visit burial places.

On January 1, 2008 the death penalty was abolished in Uzbekistan. However, a number of problems remained unsolved. In 2008 the Supreme Court of Uzbekistan started to review judgments in capital cases after the entry into force of the Law "On changes and additions to some legislative acts of the Republic of Uzbekistan in connection with the abolition of the death penalty". However, this procedure allowed a number of violations as it was surrounded with secrecy. Relatives, lawyers, and even sentenced persons were not informed about the review of judgment. Condemned persons knew about review at the moment of transfer from death wards to the other prison. Consequently, persons sentenced to the death penalty were not provided with adequate legal defense during the legal process.

Moreover, relatives and lawyers of people whose verdict was changed from death penalty have not received ruling on verdict change. The fact that persons initially sentenced to death penalty or their legal representatives were not provided with information regarding retrial lead to an inability to appeal against the decision of the Supreme Court within 10 days as is provided by domestic legislation. Therefore, persons whose verdict was changed from the death penalty to life-term imprisonment have to wait 20-25 years to submit a petition for pardon and retrial.

## Implementation of the UN HRC recommendations on individual complaints

*The State party should adhere to its obligations under the Covenant and the Optional Protocol, in accordance with the principle of pacta sunt servanda, and take the necessary measures to avoid similar violations in future*

The UN Human Rights Committee reviewed the individual complaints of the following executed persons: brothers **Uygun and Oybek Ruzmetov, Dmitriy Chikunov, Maxim Strahov, Rifat Tulyaganov** and others. On each complaint Committee adopted a number of recommendations which have not been implemented. In particular, relatives were not informed about the places of burial, and no one received reparations. Relatives do not receive any social allowances for the loss of the bread-winner, though many of those executed have underage children and elderly parents.

In relation of the following persons: Annenkov A., Agabekov B., Kornetov A., Toropovskiy A., his wife Toropovskaya G., their children Shigaev A and Toropovskiy B, judgments were not reviewed and they did not received reparation for being subjected to torture or CID.

## Freedom from Torture (article 7)

*The State party should proceed with the necessary legislative amendments to ensure full compliance with the requirements of articles 7 and 14 of the Covenant.*

In its Concluding Observations CCPR/CO/83/UZB the Committee expressed concerns about the narrow definition of torture in the Criminal Code of Uzbekistan. Article 235 of the Criminal Code has still not been amended to fully comply with the definition of torture provided in article 1 of CAT.

Article 235 of the Criminal Code of Uzbekistan still has provisions that might lead to misinterpretations by the law enforcement and lacks other major clauses such as “*the use a third person*” and “*with the consent or acquiescence of a public official or other person acting in an official capacity*”.

*The State party should guarantee the full independence and impartiality of the judiciary by guaranteeing judges’ security of tenure.*

Since the previous examination of Uzbekistan, no reforms have taken place to provide the full independence and impartiality of the judiciary. The Executive branch of power still has strong mechanisms to influence judges through the appointment and dismissal of judges. Another serious problem of the Uzbek judicial system is the Procuracy which carries out preliminary investigations for a wide range of crimes as well as representing the State as prosecutor in judicial process. The third important function of the procuracy is supervising the observance of human rights and the rule of law. The concentration of many powers within one state agency gives it huge weight compared to the whole judicial system.

#### **Habeas Corpus (article 14)**

*The State party should ensure that a judge reviews all detentions to determine if they are legal and that all cases of detention are brought before a judge for that purpose, in conformity with the provisions of article 9 of the Covenant.*

On January 1, 2008 the law “On passing the right to issue arrest warrants to courts” came into force. While, noting the positive amendments in terms of the introduction of habeas corpus to Uzbek legislation it should be emphasized that the following problematic areas should be taken into consideration.

Grounds for procedural arrest are determined by Article 221 Criminal Procedural Code and are quite broad. Procedural arrest can take place prior to opening a criminal case and after it. In the latter instance the resolution of the inquiry officer, investigator, procurator or court ruling is sufficient. Arrest may last up to 72 hours from the moment of detention by the militia or other law enforcement organ and be prolonged by the decision of court for up to 48 hours (article 226 of CPC). These provisions of the Criminal Procedural Code may be in contradiction article 9 part 3 of the ICCPR.

According to this law there is no special judge for review of cases on detention in custody. Furthermore, the judge can only decide on the following (article 243 Criminal Procedural Code of Uzbekistan):

- Application of pre-trial detention;
- Rejection of pre-trial detention;
- Prolongation of the length of custody for not longer than 48 hours for presenting additional proofs on merit or demerit of the application of pre-trial detention.

The issue of other measures such as a written undertaking on appropriate behavior; personal guaranty; guaranty of public association or personnel; bail; supervision of juveniles; and supervision

of commanders over servicemen remain under the consideration of the investigator and prosecutor (articles 237 and 240 Criminal Procedural Code of Uzbekistan)

### **Domestic Violence (articles 3 and 7)**

*While noting with interest the information provided by the delegation that a system of compensation for women who are victims of domestic violence is already in place in parts of the State party, the Committee remains concerned about the prevalence of domestic violence in Uzbekistan.*

The issue of domestic violence can be linked to the definition of torture in terms of the provisions mentioned in the previous paragraph. There is still no law on Domestic Violence in Uzbekistan. The term Domestic Violence is not included in the Criminal Legislation. Furthermore, the direct translation on Domestic Violence is not used in Uzbek official language as the words “gender”, “discrimination”, “violence” etc. are not allowed to be used in official vocabulary, therefore the associated problems are not recognized: no vocabulary – no problem exists – no measure need to be taken – no institutions deal with these issues - no budgetary allocations to combat the problem. Instead of the term “domestic violence” the government uses “Family Conflicts” wording which is perceived differently by people as something normal and natural like the notion of family itself.

Every year NGOs record large numbers attempted or committed suicides by women as a result of domestic violence. However the exact number is unreported and the official sources are restricted and closed. NGOs assisting survivors of suicide attempts reported inconsistent cooperation from officials and neighborhood committees.<sup>1</sup>

### **Discrimination against women; polygamy, forced and early marriages (articles 3, 23 and 26)**

*The State party should ensure that the relevant provisions of its Criminal Code are fully implemented, so as to put an end to the practice of polygamy. It should combat the practice of forced marriages of kidnapped women.*

Despite numerous criticism of the provision for marriageable age it is still set at 18 for men and 17 for women (in exceptional circumstances it may be lowered, by decision of the hokimiyat, but by no more than one year<sup>2</sup>). All UN Committees included this in their recommendations, however, this relatively simple to change has not been made. Furthermore, the discriminative provision on marriageable age is closely linked to the problem of early marriages. In the perception of common people the government silently supports early marriages which in turn limit possibilities for young women in the following ways.

Early marriage is a factor in the unemployment of young women as regulations, requirements and obligations relating to education and economic activity of women become complicated with early marriage and birth of baby. This is especially true in rural areas. Furthermore, violence frequently occurs in early marriages, as young daughter-in-laws are not experienced enough in housekeeping and are not ready to resist and protect themselves from violence and humiliations.

Virginity control is an integral part of practically all first marriages though it is strongly taboo and never discussed openly. These humiliating practices violate the rights and dignity of women.

Polygamy or plural marriage is defined in article 126 of the Criminal Code of Uzbekistan as cohabitation with two or more wives in the same household. This provision is still in force. Thus if man lives with two wives in separate households the *corpus delicti* is absent.

<sup>1</sup> <http://www.state.gov/g/drl/rls/hrrpt/2007/100623.htm>

<sup>2</sup> article 15 of Family Code

## **Forced labour (articles 8 and 24)**

*The State party should stop the practice of sending schoolchildren to pick cotton and take effective measures to combat child labour.*

The practice of using child labour in cotton harvesting has not been fully abolished in Uzbekistan. The Government claims that growing cotton is in the private sector and that it has nothing to do with the involvement of schoolchildren and University students in cotton picking. A complication is that all orders in calling schoolchildren and students to the cotton harvest are made orally and no written document exists. From September to October local governments put strong pressure on school and universities directors to force children and students to help with the cotton harvest. They further pressure students and schoolchildren, threatening with expulsion if they do not cooperate.

## **Humane treatment of persons deprived of their liberty (Article 10)**

Detention conditions in Uzbekistan's prisons can be characterized as inhuman, cruel, and degrading. Medical assistance is very far from being adequate, the semiannual fluorography procedure provided for in legislation does not take place in most cases; therefore most of the prisoners suffer from tuberculosis. Medical personnel in prisons give injections to the patients with reusable syringes, which is a further cause of the spread of different kinds of infections, in particularly hepatitis B. There are many cases of prisoners infected with HIV or having serious oncological diseases being kept in prison. Poor nutrition and hard climatic conditions also worsen the health of convicts.

Juvenile women in both pre-trial detention and custody are kept with adult women. There is no separate prison or detention center for juvenile women. Being in constant contact with adult criminal offenders has proven negative effect on juveniles as it is stated in Beijing Rules. Monitoring conducted by the Bureau for Human Rights and Rule of Law, Uzbekistan concluded that conditions in the women's colony in Tashkent (the only women prison in the country) are far from being adequate, with a shortage of space; and lack of hygiene and proper nutrition.

The international law provisions on terms of transportations are not always observed. In many case juveniles offenders are transported with adults

Cruel, inhuman and degrading forms of punishment are still used in colonies and prisons. Convicts can be placed in a dark, solitary cell. Beatings and other physical mistreatment are also widely in use in Uzbek prisons. For light infringements they are forced to clean the toilet or do general cleaning or other dirty works: sometimes convicts are deprived of meetings with their family. Any admonition of prisoners will influence the decision on an amnesty.

Most frequently reported ill-treatment in detention was:

- Placement in punishment cell with unbearable conditions
- Food deprivation
- Striping the detainee naked
- Denial of access to bathroom facilities
- Unavailability of sleeping places and linen
- Unsanitary wards of confinement
- Severe overcrowding and unacceptable shortage of space per person in wards of confinement
- Not notifying family members of the detention
- Insults

- Humiliation

### **Freedom of Movement (article 12)**

*The State party should abolish the requirement of an exit visa for its nationals.*

The system of special control of the exit of citizens from the Republic, motivated by the improvement of the passport system and orderliness of entry and stay on the territory of the Republic of Uzbekistan of foreign citizens and persons without citizenship is still in force. So called “exit visa” can be easily used to stop human rights defenders from leaving the country and bringing out information “damaging” the image of the country.

Another mechanism restricting the freedom of movement in Uzbekistan is the system of permanent or temporary residence registrations called “propiska”.

Propiska is notionally registration of the person according to the place of individual’s birth and location of immediate family, and historically, propiska was used to prevent internal migration of people born in rural areas to the cities and to the capitals of the former soviet republics. Technically propiska is the seal in the passport of a citizen identifying his/her permanent place of residence. Problems arise when the person decides to move to another part of the country. The person will then encounter many difficulties in accessing public medical treatment, education, social welfare system, services of kindergartens, and importantly the person will be unable to find formal work. Basically, an Uzbek citizen turns into illegal alien without having propiska in a new settled place, and to get one takes a lot of time, effort and financial resources, as relevant authorities are highly corrupt.

Exit visas and propiska violate not only international law such as the ICCPR, but also the Constitution of the Republic of Uzbekistan which is meant to be the highest source of law in Uzbekistan. Pursuant to Article 28 of the Constitution, “The citizens of the Republic of Uzbekistan shall be eligible to free movement on the territory of Uzbekistan, entry to and exit from the Republic of Uzbekistan with the exception of restrictions determined by law”.

### **Freedom of Assembly and Associations (articles 21 and 22)**

Since the last review of the State party the situation has worsened with regard to freedom of assembly and association. After well-known Andijan events in May 2005 the government started a wave of “voluntary” closures of NGOs. According to unofficial data more than 200 NGOs were closed after being pressured by Ministry of Justice officials or through court rulings. Many closed NGOs continued their work without registration which led to criminal or administrative prosecutions<sup>3</sup>.

In December 2005 Parliament adopted the law “On introducing amendments to the Criminal Code of Uzbekistan and the Code of the Republic of Uzbekistan on Administrative Responsibility” which provides the following: according to the article 239 an NGO is obliged to receive permission from the registering body to **conduct any event**, and to **present reports on their activity**, including documents confirming use of property and money resources. Failure to do so shall be penalized by enormous fines imposed on the managers and directors of the NGO.

Denouncing human rights violations and criticism of the authoritarian regime leads to psychological harassment and physical violence from the Interior organs and National Security Services. A number

---

<sup>3</sup> Article 216 of the Criminal Code of the Republic of Uzbekistan and article 239 of Code of the Republic of Uzbekistan on Administrative Responsibility

of HRDs were forced to flee the country, or were arrested. Only in the last two years three women – activists were jailed: Ms *Umida Niyazova*, Ms. *Gulbahor Turaeva* and Ms. *Mutabar Tajibaeva*. They all faced frequent harassment, and Ms Mutabar Tajibaeva faced the cruelest forms of treatment and punishment while she was in prison

On October 10, 2008, an independent journalist and human rights defender *Solijon Abdurahmanov* was sentenced to 10 years imprisonment on charges of possession of narcotics with intent to distribute, while the medical examination found no narcotic in his blood. This proves the allegations of Solijon Abdurahmanov that security services officers planted narcotics in his car.

*Agzam Turgunov*, a human rights activist, head of the unregistered human rights centre “Mazlum” was arrested on July 11 2008 and was sentenced to 10 years imprisonment on October, 23 2008 on charges of extortion. Agzam Turgunov alleged that he had boiling water poured down his neck and back on July 14, while writing a statement in the investigator's office, causing severe burns and causing Turgunov to lose consciousness.

On December 22 2007, human rights defender and writer *Yusuf Juma* was arrested with his son Bobur. Reportedly both were subjected to torture in the form of physical and verbal abuse, and denial of access to food. Yusuf Juma was also restricted in meeting his lawyer. On April 15 2008 Yusuf Juma was sentenced to 5 years imprisonment on charges of insulting and resisting representatives of the government. He is currently serving his sentence in Jaslyk prison – the worst in terms of conditions of detention and faces continual ill-treatment.

On October 18 2005, human rights defender *Norboy Kholjigitov* (Human Rights Society Uzbekistan) was sentenced to 10 years imprisonment on charges of extortion, slander, fraud, attacks on the life of the President, and attacks on the constitutional regime of the State on the same day as his colleagues *Abdusattor Irzaev* and *Habibulla Okpulatov* who were sentenced to 6 years imprisonment. Currently 60 years' old Kholjigitov health is deteriorating.

*Azam Farmonov* and *Alisher Karamatov* (Human Rights Society Uzbekistan) were arrested on April 29 2006 and on June 15 2006 were sentenced to 9 years imprisonment, charged with attempting to blackmail a local businessman. Azam Famonov is serving his sentence in the “severe” regime Jaslyk prison<sup>4</sup> although the verdict specified a “general” regime prison. According to his wife Ozoda Yakubova Mr. Farmonov is facing torture and ill-treatment.

Alisher Karamatov's health deteriorated in October 2008 and he was diagnosed with a severe form of tuberculosis. He was made ineligible for amnesty or early release as prison authorities accused him of violating the internal rules of the prison.

### **Definition of Terrorism**

*The State party should define what constitutes “terrorist acts” and ensure that its legislation in this matter complies with all the guarantees provided in the Covenant, in particular articles 2, 6, 7, 9 and 14.*

Since the events of September 11, and the subsequent active geo-political role of Uzbekistan in anti terrorism campaign in Afghanistan, the government of Uzbekistan has used the global campaign against terror to justify its own domestic agenda. Furthermore when Uzbekistan joined the anti-terror coalition in the war in Afghanistan criticism coming from USA officials decreased. The war

<sup>4</sup>

against terrorism was indeed a great chance for the government of Uzbekistan to divert international attention from such significant problems as poverty, unemployment and human rights abuses and to present itself as an active supporter of developed countries' policies. The government of Uzbekistan has already destroyed all secular opposition and, being obsessed with the remaining islands of resistance, has launched a second phase of arrests and prosecution of those practicing Islam outside government controlled mosques.

The tendency to limit human rights for the sake of the war against terrorism can be observed in all developed countries of the world. Unfortunately, this has pernicious influence on respect for human rights in Uzbekistan.

The Criminal Code of Uzbekistan provides for an offence of terrorism in its article 155. This article defines terrorism *as violence, use of force, or other acts, which pose a threat to an individual or property, or the threat to undertake such acts in order to force a state body, international organization, or officials thereof, or individual or legal entity, to commit or to restrain from some activity in order to complicate international relations, infringe upon sovereignty and territorial integrity, undermine security of a state, provoke war, armed conflict, destabilize sociopolitical situation, intimidate population, as well as any activity carried out in order to support the operation of and to finance a terrorist organization, preparation and commission of terrorist acts, direct or indirect provision or collection of any resources and other services to terrorist organizations, or to persons assisting to or participating in terrorist activities – shall be punished with imprisonment from eight to ten years.*<sup>5</sup> This provision implies life-term imprisonment.

The Uzbek definition of terrorism is very broad and gives law enforcement officials great latitude to intimidate and threaten people for just speaking out in opposition to government policies. For example, “acts which can destabilize the sociopolitical situation” has already been successfully used by the Uzbek government against human rights defenders and journalists who gave interviews to the foreign media regarding the events in Andijan last year.

---

<sup>5</sup>

Criminal Code of the Republic of Uzbekistan article 155