



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

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**Committee against Torture**

**Consideration of reports submitted by States  
parties under article 19 of the Convention**

**Replies from the Republic of Uzbekistan\* to the conclusions  
and recommendations of the Committee against Torture  
(CAT/C/UZB/CO/3)**

[13 February 2008]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

## Comments on the concluding observations of the Committee against Torture

Uzbekistan highly values the positive aspects highlighted in the Committee's concluding observations.

It is important to underline that the most important legislative, administrative and educational measures adopted by the State as part of the efforts to eradicate torture in recent years have been highlighted. These measures are not isolated, but form a State policy framework and are an integral part of the judicial and legislative reforms which Uzbekistan has been conducting since its declaration of independence.

Nevertheless, the State disagrees with a number of aspects of the concluding observations highlighted as subjects of concern to the Committee (paras. 5, 6, 7, 14, 19 and 22).

Overall, the concluding observations will help Uzbekistan to draw up and put into effect further measures to implement the Convention against Torture, and to prepare its next report in 2011.

### Comments

**Paragraph 5.** Uzbekistan disagrees with this observation by the Committee against Torture, as aiding and abetting acts of torture is defined as torture under article 235 of its Criminal Code.

Article 235 (Torture) of the Criminal Code is found in the chapter entitled "Offences against justice", and the offence contained therein covers law enforcement officials and anyone involved in investigating an offence in an official capacity. For article 235 (Torture) to be extended to cover the actions of a broader category of persons, the article would have to be moved from the chapter entitled "Offences against justice" to another section of the Criminal Code, which would affect the extent and assessment of the risk to public safety and whether the article was consistent with the spirit of article 1 of the Convention against Torture. The wording of article 235 met all the country's legislative requirements and coincides with the purpose and spirit of article 1 of the Convention against Torture.

When an individual is prosecuted for a specific offence, the role he or she played in committing the offence (as an organizer, perpetrator, instigator or accomplice) does not alter how the criminal act is classified.

**Paragraph 6 (a).** All three branches of government have publicly condemned and continue to condemn the use of torture.

The Ministry of Internal Affairs and the Office of the Procurator-General regularly look into whether law enforcement officials adhere stringently to international obligations under the Convention against Torture.

Under Order No. 31 issued by the Procurator-General on 9 December 2004, every 10 days procuratorial bodies check whether persons held in police custody on internal affairs agency premises are being lawfully held. Under Order No. 40 issued by the Procurator-General on 17 February 2005 concerning the radical improvement of procuratorial oversight of observance of citizens' rights and freedoms during criminal proceedings, procuratorial and investigating officials are obliged to strictly abide by and comply with the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

All the above-mentioned orders issued by the Procurator-General are the result of consideration and discussion of these issues by the Coordinating Council of Law Enforcement Authorities, attached to the Office of the Procurator-General.

**Paragraph 6 (b).** Every three months the procuratorial authorities review reports and complaints of unlawful acts by law enforcement officials, including the use of torture. In 2006 and the first six months of 2007, following such reviews, targeted letters and guidance were sent to the offices concerned about applying strictly and scrupulously the Convention against Torture and the relevant provisions of domestic legislation.

**Paragraph 6 (c).** The Procurator-General has examined how many law enforcement officials who abused their position of authority and used torture were removed from their functions in accordance with articles 256 and 257 of the Code of Criminal Procedure during the period 2004–2005. According to data from 2004, 69 criminal proceedings were initiated, of which 63 cases involving 77 law enforcement officials were brought before the relevant courts with bills of indictment (compared with 38, 36 and 42, respectively, in the first nine months of 2005). Of those 77 law enforcement officials, 74 were prosecuted under article 205 of the Criminal Code for abuse of power and 3 were prosecuted under article 235 of the Criminal Code for torture (compared with 40 and 2, respectively, in the first nine months of 2005). Furthermore, by order of the investigator, 38 of the 77 law enforcement officials were dismissed from duty in 2004, pursuant to articles 255–257 of the Code of Criminal Procedure (13 of the 42 officials in 2005).

In the first six months of 2007, the procuratorial authorities received 1,144 complaints and reports of wrongful acts committed by law enforcement officials: of those, 102 concerned the use of threats, cruel treatment and other forms of coercion, 14 were about unlawful detention, 9 related to unlawful searches and confiscation, and 57 concerned biased initial inquiries and preliminary investigations. Of all the complaints and reports received, 874 concerned the unlawful actions of internal affairs officials, 95 were about tax officials, 43 were about customs board officials, 15 were about procuratorial officials, 23 were about officials from the Department for Combating Tax and Currency Crimes and 74 concerned the unlawful actions of justice and court officials.

As a result of the investigations that were conducted into the complaints and reports, 713 cases were dismissed, disciplinary measures were taken against 90 law enforcement officials and 129 criminal cases were brought, including 3 for use of threats, cruel treatment and other forms of coercion.

**Paragraph 6 (d).** The need to draft and adopt a special programme to protect witnesses from unlawful treatment and intimidation has indeed become apparent.

**Paragraph 7.** At the United Nations Third Committee in September 2006, the international community upheld the Uzbek Government's position that the events in Andijan in May 2005 were a large-scale terrorist act. The anti-terrorist operation, involving members of the armed forces and special services, was conducted in accordance with Uzbek legislation.

**Paragraph 8.** In the Criminal Code, article 235 (Torture) is contained in chapter 16, entitled "Offences against justice", which are classified as serious crimes and are punishable by five to eight years' imprisonment. The penalty for torture has not been eased as part of the liberalization of criminal penalties.

Persons suspected of having committed torture are suspended from their duties while procuratorial officials investigate. Dismissal from military service for having committed a crime is regarded as a disciplinary measure.

**Paragraph 9.** In accordance with the Committee's recommendations and the strategic framework for reform of the prison system, detention conditions for prisoners in

penal correction facilities have been considerably improved. Since 2003, coherent and consistent measures have been adopted to liberalize and improve the penal correction system.

Over the last two years, conditions in the Jaslyk colony have improved considerably.

The Central Penal Correction Department of the Ministry of Internal Affairs carries out inspections every five years, following a schedule, of each facility in the penal correction system. In accordance with the schedule for the elimination of any deficiencies identified during the earlier inspection, checks are carried out one year on.

In accordance with a schedule approved by the Ministry of Internal Affairs, ministry officials carry out comprehensive inspections involving obligatory site visits to penal correction facilities.

Procuratorial officials verify that the establishments of the Central Penal Correction Department of the Ministry of Internal Affairs comply with the law relating to custodial facilities.

A procedure has been developed and is used, where necessary, to conduct independent investigations of the circumstances surrounding deaths in custody. Conditions in custodial facilities are continuously inspected by the senior internal affairs officials.

**Paragraph 10.** In the replies to the Committee's list of issues (document CAT/C/UZB/Q/3/Add.1) detailed information was given on how the right of detainees to access a lawyer and doctor and contact family members was ensured. Unfortunately, the replies were not heeded or considered, and the issue was raised once again in the Committee's concluding observations.

The right of remand prisoners to contact a doctor of their choice is contained in article 24 of the Health Protection Act.

Article 24 of the Health Protection Act establishes that, when requesting and receiving medical treatment, a patient is entitled to choose a doctor and a medical institution.

Detainees and persons remanded in custody have the right to receive professional medical treatment and, where necessary, to be treated in medical institutions.

Article 229 of the Code of Criminal Procedure states that detainees shall be held in conditions that comply with health and hygiene regulations and that the medical services for detainees and health care in premises where they are held shall be organized and dispensed in accordance with the law.

As required by the joint Ministry of Internal Affairs and Ministry of Health Order No. 248/625 of 4 December 2000 on measures to enhance medical services for persons remanded in custody and those held in penal institutions, continuous efforts are being made to improve the quality of medical services. Persons remanded in custody receive consultations and treatment as necessary.

In practice, a request from a convicted person or remand prisoner for a relevant medical specialist is considered by the director of the institution or by the supervising procurator. In accordance with the application, the convicted person is given the opportunity to consult the relevant specialist.

The provision of professional medical treatment in penal institutions is governed by joint Ministry of Internal Affairs and Ministry of Health Order No. 231 of 2002, which corresponds to article 24 of the Health Protection Act.

In accordance with article 217 of the Code of Criminal Procedure, a person conducting an initial inquiry, an investigator, a procurator or a judge who has applied a preventive measure against a suspect, accused person or defendant in the form of detention, remand in custody or confinement in a medical institution for expert examination must inform a family member of the measure within 24 hours or, in the absence of a family member, relatives or close acquaintances and also inform the individual's place of work or study.

With regard to establishing contact between detainees and their families, article 230 of the Code of Criminal Procedure stipulates that visits to detainees by relatives and other persons shall be granted by the detention centre administration only with the written authorization of the person conducting the initial inquiry or the investigator who is in possession of the case-file relating to the detention.

In accordance with the law of criminal procedure, persons facing criminal prosecution are entitled to professional legal assistance. If an accused person or defendant is held in custody, the defence counsel has the right to hold private meetings with him or her; such meetings are not subject to any restrictions in number or duration (Code of Criminal Procedure, article 53).

Under the Code of Criminal Procedure, persons detained, held in custody or placed in a medical institution must be given the opportunity to meet privately with their counsel. Pursuant to article 49, part 3, of the Code of Criminal Procedure, the defence counsel can become involved in a case as soon as a citizen has been indicted or has been informed that he or she is a suspect, or as soon as he or she has been taken into custody.

The right of convicted persons to receive professional legal assistance from lawyers is contained in article 10 of the Penal Enforcement Code. In order to receive legal assistance, convicted persons are granted meetings with lawyers upon request. Meetings between convicted persons and their lawyers are not counted against the entitlement to routine visits provided for in the Code. They are not subject to any restrictions in number and duration.

Strict intradepartmental scrutiny (by the Ministry of Internal Affairs) and procuratorial supervision has been established with a view to ensuring the observance of the right to a defence of persons who have been detained under article 225 of the Code of Criminal Procedure. The provisions of article 48 of that Code, concerning the explanation to detainees of their rights and obligations, are strictly observed. Lawyers are allowed to meet privately with their clients and have unhindered access to them in holding facilities. Uzbekistan believes that it would be worthwhile to conduct a review of the law enforcement agencies' regulations and directives to bring them into line with the Convention. Moreover, it is essential that the number of visits to places of detention by national NGOs and international organizations be increased with a view to monitoring the treatment of suspects and accused persons and ensuring the transparency of the penal correction system.

**Paragraph 11.** The Government is making every effort to ensure that penitentiary institutions run normally. As the information submitted in the report itself and the additional replies confirms, inspection and monitoring visits to and checks on places of deprivation of liberty are carried out with regularity. Visits by non-governmental organizations to penitentiary institutions are conducted in accordance with a directive drafted in 2004. International organizations and local non-governmental organizations conduct about 20 visits a year in accordance with the procedures set out in this directive.

The 2001 agreement between the Government of Uzbekistan and the International Committee of the Red Cross (ICRC) on cooperation in humanitarian activities for detained

and imprisoned persons is still in force. There is a need to step up activities under this agreement.

**Paragraph 12.** Investigations into cases of torture are usually conducted by the procurator's office. There is a need to create a single, centralized database and compile statistics on investigative and judicial proceedings in cases of torture. Such an approach would make it possible to bring to light the causes of and circumstances leading to the offence and tackle the problem, and to collect the information on the results of investigations that the Committee requires. Such statistics could be collected by both the Office of the Procurator-General and the Supreme Court. The data would have to be analysed and summarized by an interdepartmental working group.

**Paragraph 13.** Citizens have many avenues indeed for filing complaints and reports of abuse with different government bodies in accordance with the Citizens' Appeals Act. This reflects a positive, rather than negative, state of affairs. Statistics on the communications filed with the Ombudsman show that the highest number of reports of human rights violations involved the actions of law enforcement officials. It would therefore be useful to conduct a quarterly analysis and summary of citizens' communications to the Ombudsman concerning human rights violations by law enforcement officials. Such analytical surveys would have to be discussed at the meetings of the interdepartmental working group.

**Paragraph 14.** The State pursues policies that support and promote the development of civil society groups. The adoption of a range of laws on support for non-commercial non-governmental organizations, the establishment of new kinds of organizations and the creation of non-commercial NGO associations and support funds all attest to this fact. Moreover, the number of non-commercial NGOs in some fields of activity is increasing. As in any country, civil-society groups carry out their activities in accordance with the law in force. No country in the world permits NGOs to visit places of detention and prisons without observing certain procedures and formalities.

**Paragraph 15.** Human rights training of law enforcement officials and penitentiary staff is a focus of the country's human rights education strategy. Furthermore, this strategy is being carried out in the context of a specific system. Because significant changes have been introduced into criminal procedure and criminal enforcement law (including the abolition of the death penalty and the introduction of habeas corpus), training has had to include more detailed information and the forms and methods of imparting that information have had to be expanded.

In the light of the Committee's comments, it is worth mentioning the criteria used to measure the effectiveness of the training being conducted. Effectiveness may be gauged through public opinion polls, and the quality and professionalism of law enforcement officers ascertained by a qualification process or through press reports. Human rights education is extended to all categories of officers working in the special investigative units of the bodies of the Ministry of Internal Affairs, the procurator's office, the national security service and penitentiary institutions and the medical staff of penitentiary institutions.

**Paragraph 16.** The Supreme Court, indeed, has had no information about civil cases under articles 985 to 991 of the Civil Code concerning compensation for moral and material harm incurred by persons subjected to torture and other cruel treatment.

The reason for this is the victims' lack of awareness about their rights and the poor performance of lawyers on these matters. Courts must, for their part, focus on campaigns to raise awareness among victims in torture cases. The Plenum of the Supreme Court should probably review practice in the application of article 235 of the Criminal Code and make

recommendations to the courts on the implementation of all the provisions of the Convention concerning rehabilitation and compensation for victims of torture.

**Paragraph 17.** The Government constantly focuses on strengthening the independence of the judiciary. This is reflected in the financial and technical support provided to the courts and judges and in their professional development. Progress has been made on the judicial selection process and guarantees of judges' independence. With the introduction of habeas corpus, the volume of work of judges in criminal cases could increase sharply, which would require management and staffing measures to improve judicial performance.

**Paragraph 18.** The Plenum of the Supreme Court and legislation on criminal procedure have confirmed that evidence obtained through torture is inadmissible. This is the Government's position, which is enshrined in the law and in the decisions of the highest courts. The Supreme Court recommended reviewing practice in the application of article 235 of the Criminal Code, conducting a survey of cases tried under this article and adopting a decision of the Plenum of the Supreme Court with recommendations for the courts.

**Paragraph 19.** There is a need for in-depth scientific and sociological studies and statistical data collection on cases of violence against women, including in places of detention. The results of serious, comprehensive studies could lay the basis for adopting appropriate legislative, administrative and social measures.

**Paragraph 20.** There are plans to conduct in-depth scientific and sociological studies and collect statistical data on cases of trafficking in women for the purposes of sexual exploitation. The results of these serious, comprehensive studies will lay the basis for adopting appropriate legislative, administrative and social measures.

**Paragraph 21.** In accordance with the Committee's recommendations the Government is collecting information and investigating reports about violence among prisoners and prosecuting and punishing those responsible.

**Paragraph 22.** The State plans to review the Committee's information concerning 700 recognized refugees living in Uzbekistan who are in need of protection and resettlement.

The Government is considering the proposal by the Committee that Uzbekistan should become a party to the Convention relating to the Status of Refugees of 1951 and its Protocol of 1967.

**Paragraph 23.** The State is considering the issue of whether it should transfer the prison system from the Ministry of Internal Affairs to the Ministry of Justice.

**Paragraph 24.** We see no grounds for the Committee's observation concerning the death penalty, as capital punishment was abolished on 1 January 2008 and has not been practised since 1 August 2005.

**Paragraph 25.** The Government and Parliament of Uzbekistan are considering accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990 and the Optional Protocol to the Convention against Torture.

Before ratifying the Rome Statute of the International Criminal Court, which was adopted by the Rome Diplomatic Conference on 17 July 1998, entered into force on 1 July 2002 and was signed by Uzbekistan on 29 December 2000, Uzbekistan must bring its current criminal law and criminal procedure into line with the instrument.

The Rome Statute contains several provisions that are incompatible with the Constitution of Uzbekistan, including issues involving the extradition of citizens,

diplomatic immunity and the jurisdiction of national courts; however, these inconsistencies could undoubtedly be resolved by means of national mechanisms, including decisions (or findings) of the Constitutional Court on cases submitted to it.

Uzbekistan will have to work to harmonize its domestic legislation with the provisions of the Statute to make ratification possible, as has been demonstrated by experience in many other States, close and distant ones alike (France, Germany, the Russian Federation and Azerbaijan).

Considering the supplementary role played by the International Criminal Court, criminal law and the law of criminal procedure concerning cooperation with the Court need to be strengthened.

Under article 87, paragraph 5, of the Rome Statute, any State not a party to the Statute may cooperate on the basis of an ad hoc arrangement or agreement. This is the most viable option pending a decision on ratification.

Uzbekistan is conducting studies on ways and means of bringing its legislation into line with the Statute. As only a short time has passed since the Statute entered into force and the Court began its work, Uzbekistan would like to see all the stages of proceedings carried out in practice and make sure that political obstacles to the work of the Court are removed.

**Paragraph 26.** The next periodic report will include statistical data, disaggregated by gender, ethnic or national origin, age, geographical region and type and location of the place of deprivation of liberty, on complaints related to cases of torture.

**Paragraph 27.** Uzbekistan will submit a core document at the time of its next national report, in accordance with the requirements relating to common core documents in the harmonized guidelines on reporting approved by the international human rights treaty bodies and contained in document HRI/GEN/2/Rev.4.

**Paragraph 28.** The Government will soon disseminate the reports submitted to the Committee by Uzbekistan, its replies to the list of issues, the summary records of meetings and the conclusions and recommendations of the Committee in appropriate languages through official websites and the media.

**Paragraph 29.** Uzbekistan will provide information on its response to the Committee's recommendations contained in paragraphs 6, 7, 9, 10, 11 and 14 in October 2008.

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