Report for the United Nations Human Rights Committee’s Task Force for the adoption of the list of issues on Uzbekistan

Introduction

“Fiery Hearts Club” was founded by Mrs. Mutabar Tadjibayeva – a prominent human rights activist and independent journalist - in Uzbekistan. Currently the organization is based in and registered as an international human rights association in France. Mrs. Tadjibayeva herself was a victim of torture and other ill-treatment during her imprisonment under a trumped-up criminal case in Uzbekistan, which was brought against her after she was arrested in October 2005. On May 15, 2008, when she was still in prison, Mutabar Tadjibayeva was awarded with the Martin Ennals Award. Shortly after this she was released. For the 60th anniversary of the Universal Declaration of Human Rights in 2008, the “Fiery Hearts Club” was awarded with the French Republic's “Liberty, Equality, Fraternity” Prize. Earlier this year Mrs. Tadjibayeva was included by Reporters Without Borders on a list of the 100 information heroes of the world. The International Human Rights Association “Fiery Hearts Club” works on the protection and promotion of core civil and political rights and freedoms through monitoring, documentation and reporting; provision of legal aid; and awareness-raising and advocacy. The organization focuses in particular on freedom from torture or other ill-treatment and the right to a fair trial and is recognized as one of the leading human rights NGOs addressing problems in these areas in Central Asia, particularly in Uzbekistan.

Summary of the report

In 2010 the Committee made twenty five substantive recommendations to the Uzbek Government on necessary steps to be taken in order to bring its national legislation and practice in line with the provisions of the Covenant. Regretfully, the State has not made any genuine efforts to follow these recommendations in full. None of the twenty one individual communications against Uzbekistan on which the Committee found violations of the Covenant have been fully implemented by the government since 2004. Instead, Uzbekistan continued suppressing the basic civil and political rights of its citizens, while diverting the attention of the civil and international community to various national programs and conferences, which were high-profile in media, yet superficial in their essence. Torture and ill-treatment in prisons and custody, unfair trials based on forced confessions, impunity of state officials for violations of human rights, non-registration of political parties and NGOs, persecution of any dissent in political and public life, restrictions on freedom of movement, assembly, religion, expression and other violations of basic freedoms have become the regular attributes of the governing regime.

This report outlines the most pressing areas of concern by human rights NGOs and indicates Uzbekistan’s failure to ensure effective implementation of rights and freedoms protected by the ICCPR under the Articles 7, 8, 9, 10, 22, 24.
Through the prism of human rights the last several years (2007-2014) have been a very specific period for Uzbekistan. In comparison with all previous years this period was marked by intense official rhetoric on human rights issues, but at the same time even though it may sound paradoxical the human rights situation has deteriorated.

During the latest period Uzbekistan has become a place for numerous roundtables, conferences and seminars on such issues as human rights, democracy, rule of law and civil society. However, no representative of the so called really independent civil society has attended even one of such events. Almost all participants of those events have highlighted in their speeches only what has been done so far; discussion of the existing problems was missing. The coverage of those events in the national mass media was arranged in the same manner. This indicates that all those events were meant for massive brainwashing.

Starting from January 2008 the Uzbek authorities have introduced a habeas corpus institute into the national criminal justice system. However, the issue of solving the fairness of the pre-trial arrest hasn’t become much fairer because of that. Results of independent monitoring of the implementation of habeas corpus law shows that the essence of habeas corpus has been turned in Uzbekistan just into a formality. We think that until the Uzbek authorities do not introduce a position of a special judge who will only hear cases on fairness of pre-trial arrest, institute of habeas corpus cannot fulfill what it meant to do. Quite similarly other problems along this issue, such as closed court proceedings on pre-trial arrest are still waiting for their solution.

In the recent years the Uzbek government adopted Law “On guarantees of the child’s rights”. The authorities have also ratified two international Conventions of the International Labour Organization, which prohibit the worst forms of child labour and set minimal age for employment. In the fall of this year before the beginning of the annual season of cotton picking the Government of Uzbekistan has also adopted its decision about not involving children in forced cotton picking. However, this hasn’t prevented the authorities to continue forcedly involve children in cotton picking this year. Moreover, this year not only children but also such non-traditional groups as religious communities belonging to local mosques, workers of the state owned enterprises and businesses, law enforcement officers and regular armed forces have also been forcedly involved in cotton picking.

In the considered period the Uzbek Government has also continued demonstrating highest level of intolerance to all forms of heterodoxy and criticism, coming both from the representatives of the civil society and non-traditional religious groups. Such groups have regularly been persecuted by the authorities; sometimes the persecutions resulted in arrests and further criminal charges under trumped-up cases. To date more than 20 civil society activists and up to six thousand of religious prisoners have continued to be held in prisons serving their prison terms. The authorities have blocked access to a legal counsel and relatives for the majority of them. Defense attorneys and relatives of such prisoners have often reported about the facts of torture and similar ill-treatment against their clients or family members. The authorities have continued using political prisoners in two main ways: first, for terrorizing independent representatives of the civil society; and second, for political negotiations with western countries.

During that period no independent and critical new NGO or human rights group has been registered by the government. Moreover, more than 50 existing NGOs were forced to close down under the authorities’ pressure. The public association of the lawyers of Uzbekistan which had been able to keep its independent and non-governmental status more or less has turned into a GONGO after creation of the new Chamber of lawyers in its place.

All places of detention, including pre-trial custodies have remained out of reach for independent observers from NGOs, human rights groups and international experts. Religious prisoners continued to be considered as one of the most underrepresented groups of prisoners in
Uzbekistan. The restricted number of defense attorneys and human rights activists who used to represent the interests of the religious prisoners while their criminal case was still under investigation or trial dropped their cases once the person was convicted and sent to prison. In most cases relatives and family members who do not have a special legal training and thus cannot protect their interests effectively were the only ones to represent the interest of the religious prisoners. Relatives of the religious prisoners have continued to report on torture and similar ill-treatment against their family members. According to relatives, the majority of religious prisoners continued being sentenced to additional prison terms namely just before their main prison term was expected to finish. Regular amnesty acts of the government haven’t covered this group of prisoners.

The approach of law enforcement agencies on fighting religious extremism have remained the same which means if the authorities find out “one extremist” in the family that means the other members of the family are also immediately perceived as potential extremists. On the other hand after arrest of one of the family members in a traditional Uzbek society the local community tends to avoid contacts or ties with families of religious prisoners thus isolating them from the rest of the local community. A religious prisoner among close relatives undermines a career in the state agency or organization. Relatives of religious prisoners are constantly monitored by the law enforcement agencies.

Because of the lack of access to prisons it is difficult to tell the real number of religious prisoners in prisons of Uzbekistan. It is also difficult to tell whether the number arrests and imprisonment based on religious issues are growing or falling. However, regular publications in the national mass media indicate that the authorities are not going to change their policies of persecution on religious motives – this is an issue of maintaining a power and a secular state for the Uzbek authorities. We think that in the long-term this brings to a fundamental problem for Uzbekistan. The authorities are maintaining inadequate policy against non-traditional religious groups. An unjustified and brutal state policy against Muslims backfires as a result: society doesn’t believe in the state policy of combating religious extremism and terrorism. This can result in the growth of radicalization in the nearest future.

Torture and similar ill-treatment in criminal justice system remained rampant in Uzbekistan during the reporting period. Consistent and numerous allegations concerning systematic use of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement and investigative personnel or with their instigation or consent, often to extract confessions or information to be used in criminal proceedings continued. Despite introduction of habeas corpus beginning 1 January 2008 credible reports that torture and similar ill-treatment commonly occur before formal charges are made, and during pre-trial detention, when the detainee is deprived of fundamental safeguards, in particular access to legal counsel, have been recorded. Evidence obtained under torture have been continuously accepted as a main type of proofs. Except the Resolutions of the Uzbek Supreme Court outlawing evidence obtained under torture no explicit legal ban on the use of such evidence has been introduced. In 2004 Uzbekistan amended article 235 of the Criminal Code in order to incorporate the definition of torture of the Convention against torture into domestic law. However, the definition in the amended article 235 of the Criminal Code restricts the prohibited practice of torture to the actions of law enforcement personnel and does not cover acts by “other persons acting in an official capacity” including those acts that result from instigation, consent or acquiesce of a public official and as such does not contain all of the elements of article 1 of the Convention.

The Uzbek authorities have continued to deny registration and investigation of allegations of torture in the criminal justice system arguing that alleged victims are thus trying to avoid punishment for crimes they have committed. Only on a limited number of cases when an appeal or complaint reporting on facts of torture or similar ill-treatment was officially registered the authorities tend to open criminal cases under articles 205-206 (Abuse of power and official
authority), but not under article 235 (Use of torture and other cruel, inhuman and degrading types of treatment and punishment) of the Criminal code. Allegations of torture and similar ill-treatment are not investigated by a fully independent body in Uzbekistan. Such allegations are still handled by the same bodies which have perpetrated torture and similar ill-treatment.

Despite increasing number of decisions in favor of the recognized human rights victims under the Covenant in individual communications to the Committee from the Uzbek citizens the government of Uzbekistan has failed to implement the Committee’s decisions on individual cases, and on the contrary increasing pressure and threats on the relatives of the authors of individual communications to the Committee, their relatives, human rights defenders and lawyers who are helping them. Just to mention some examples in which the Uzbek government started threatening and pressuring human rights victims, their relatives, human rights defenders and lawyers after the individual complaints of the victims were submitted to the Committee include the following: Sanjar Ismailov (CCPR/C/101/D/1769/2008), Azam Turgunov, Kayum Ortikov, Erkin Musayev and others.

In June 2012, the UN Committee against Torture considered the individual complaints of 29 Uzbek refugees against the government of Kazakhstan who have been extradited by the Kazakh government to Uzbekistan earlier. In response to individual complaints on November 8, 2012 the General Prosecutor's Office of Kazakhstan informed the Committee that in August the same year Kazakh diplomats in Tashkent visited 18 of the 29 extradited persons in the Uzbek prisons. According to the Prosecutor General of Kazakhstan, none of the visited extradited persons complained of torture or similar ill-treatment in Uzbekistan. The Kazakh diplomats have also presented the CAT copies of written testimonies of 16 extradited Uzbek refugees in which they confirmed they were not subjected to torture and were happy with their detention conditions. These written statements of persons extradited too alarming us and knowing the nature of the political regime in Uzbekistan, make us very skeptical about it. 9 of 16 written statements submitted in advance through the printer printed identical forms-forms that are repeated word for word, only the names of persons extradited there different. They all have almost the same handwriting and pen. More surprising is that most of the extradited persons wrote their statements without a single error, whereas they do not speak Russian at this level. Therefore, we have serious doubts that the extradited person with whom allegedly met Kazakh diplomats, voluntarily wrote their written representations to the United Nations.

**List of Issues**

**Article 7 - Prohibition of Torture**

**Definition of torture**

In its previous Concluding Observations on Uzbekistan report, the Committee recommended that the State amend the provision of criminal law relating to the crime of torture in line with the requirements of Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).

The definition of “torture” in Article 235 of the Uzbek Criminal Code remains narrower in its language and scope than the UNCAT Article 1 definition of “torture.”. Uzbek definition does not include cases when torture occurs “…at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”. Such limitation leaves out cases of torture and ill-treatment occurring at the hands of personnel
in other closed institutions, such as: military barracks, psychiatric wards, hospitals, orphanages, and centers for juvenile delinquents, state retirement facilities, etc.¹

Furthermore, the definition of torture in Article 235 of the Criminal Code of Uzbekistan suggests that torture or similar ill-treatment can be inflicted only on “…a suspect, accused person, witness, victim or other party to criminal proceedings, or on a convict serving sentence, or on close relatives of the above”. On another hand, articles 1 and 4 of the Convention state that torture or similar ill-treatment may be inflicted on any person, which refers not only to persons involved in the criminal justice procedure.

**Practice of torture**

Torture and similar forms of inhuman, cruel and degrading treatment and punishment in Uzbekistan takes place mainly in the criminal justice system. The systemic character of torture and similar ill-treatment has been established by international experts many times. Despite that the Uzbek authorities keep denying the practice of torture and claim that torture is merely banned in Uzbekistan and each complaint involving torture is thoroughly investigated. Torture begins from the very first hours of arrest and continue throughout pre-trial investigation to coerce the arrested person provide self-incriminating testimonies. Sometimes the Uzbek law enforcement bodies arrest a person for allegedly committing an administrative offence and detain him for 15 days during which they trump a criminal case against that person and subject him to torture to extract necessary confessions from him.

In criminal charges involving murder, rape, robbery and membership in banned religious extremist groups the Uzbek law enforcements officers usually arrest the suspects first under trumped up administrative offence charges and lock them up for 15 days as an administrative punishment. In doing so the law enforcement officers often rely on the help of their agents or people who cooperate with law enforcement bodies, sometimes prostitutes. The persons arrested under trumped up administrative offence cases do not have access to lawyers and are isolated. They are subjected to torture in order to extract necessary confessions from them. The same method is widely applied to ex-convicts when they leave prisons and are considered by the law enforcement bodies as persons prone to commit a repeat crime. Similar method is also applied to political prisoners who include imprisoned representatives of the civil society and religious prisoners. Family members of those categories of torture victims are also often subjected to psychological pressure and threats by the law enforcement officers. Despite official statements Uzbekistan lacks effective national mechanisms of investigating torture and similar ill-treatment. Those law enforcement officers whose names appear in the complaints of

¹ Article 235 of the Criminal Code of the RU: The use of torture or other cruel, inhuman or degrading treatment or punishment, i.e. illegal exertion of mental or physical pressure on a suspect, accused person, witness, victim or other party to criminal proceedings, or on a convict serving sentence, or on close relatives of the above, by a person carrying out an initial inquiry or pre-trial investigation, a procurator or other employee of a law-enforcement agency by means of threats, blows, beatings, cruel treatment, victimization, infliction of suffering or other illegal acts in order to obtain from them information of any kind or a confession, or to punish them arbitrarily for actions they have taken, or to coerce them into action of any kind: - shall be punishable by up to three years’ punitive attachment of earnings or deprivation of liberty
The same conduct, perpetrated:
(a) With violence such as to imperil life or health, or with the threat of such violence;
(b) On any grounds stemming from ethnic, racial, religious or social discrimination;
(c) By a group of individuals;
(d) More than once;
(e) Against a minor or a woman who is known by the culprit to be pregnant;
shall be punishable by three to five years’ deprivation of liberty.
The conduct referred to in the first and second subparagraphs of this article shall, if it results in serious bodily harm or other grave consequences, be punishable by five to eight years’ deprivation of liberty and forfeiture of a specified right.”
torture victims are not dismissed from their offices but remain in charge and sometimes even get promoted. The country also lacks a national rehabilitation and compensation system for torture victims. Therefore most cases of torture and similar ill-treatment never reach true investigations and remain hidden from the public.

For some categories of convicts torture and similar ill-treatment continue not only during the pre-trial investigation period but also after the conviction and when the convict is transferred to prison. The penitentiary system of Uzbekistan remains absolutely closed for independent and international observers. Even though since 2004 the Uzbek government has been claiming that it had opened its penitentiary system for all independent and international observers according to the new rules of visiting prisons in reality no one has seen those new rules and such claims can’t be true. According to ex convicts and torture victims torture and similar ill-treatment in the penitentiary system of Uzbekistan is inflicted by either law enforcement officers, representatives of the prison administration or those inmates who cooperate with the administration and take orders from them (called “lokhmach” in the prison jargon). Very often the Uzbek authorities use implicit forms of torture and ill-treatment against such groups of inmates – for instance, placing them together with other inmates who have infectious diseases like AIDS, TB, depriving them of visits by the family members, and involving them in exploitative or degrading types of labour in the prison facility.

In most cases of political prisoners (for instance, imprisoned civil society activists and religious prisoners) the prison authorities place them into a solitary confinement and charged them with disobeying prison internal rules on purpose in order to prolong his imprisonment and keep him in prison a longer period. This is a common method the Uzbek authorities “neutralize” these categories of prisoners and keep them in prison for lengthy periods. Many well-known cases of other Uzbek human rights activists who are kept in prison for lengthy periods have been well studied and reported. By putting the inmate to a solitary confinement and charging with disobeying prison internal rules the Uzbek authorities are also blocking his eligibility for annual amnesty acts. Under the existing Uzbek legislation the inmates who have been put to a solitary confinement and charged with violating prison internal rules are not eligible for annual amnesty acts. The cases of prolongation of already existing prison sentences under trumped up new criminal cases based on the charges of disobeying prison internal rules is almost unstudied – because the pre-trial investigations and court hearings take place swiftly in several weeks, most of the times inside prison facilities, inmates and their family members don’t have often enough time to hire the lawyers of their own choice. The court hearings on such new criminal cases take place inside prison facilities which makes it almost impossible for the family members and independent observers to attend the trial. In most cases the inmates, their lawyers and family members do not have access to the documents of the new trumped up criminal cases, including the final sentences on prolongation of prison terms.

Charges of violation of the internal rules of enforcement agencies under Art. 221 of the Criminal Code apply in just a few days before the announcement of the annual act of amnesty, while the colony often relies on pre-existing custom, a secret list of prisoners often deflated them the central apparatus of the Ministry of the Interior and the National Security Service, the use to which the amnesty or exemption for which the end of a sentence is not desirable. Within a few days, and sometimes within one day against “undesirable prisoner” fabricate violations of internal regime in the colonies. In falsification violations of the content of the “undesirable prisoners” in the course they go by all means, including torture in the penal colony prison, making it impossible to see with friends and family, and the testimony of provocation “obedient” colony administration groups of prisoners and members of the prison administration. Fabrication of new criminal cases against "undesirable prisoner" in prison slang Uzbekistan originally called "terror". In this process the prisoner is provided a lawyer, his family does not know that in fact already is preparing for a new criminal case against a prisoner and prolong its life, the prisoner and his family denied the opportunity to get acquainted with the official documents and decisions of the prison administration, recognizing its offender
The detention regime in the colony. As a result, the prisoner will be a repeat infringer internal regime colony and also amnesty, also denied these opportunities to facilitate his sentence as “parole” and “replacement of punishment for corrective work”. Recognition violator prisoner detention regime subsequently gives rise to a new criminal case under Art. 221 of the Criminal Code and the extension of his sentence. The above process passes prosecutorial oversight - the prosecutor's office as an independent state authority responsible for the supervision of law only in such processes completely blind eye to gross violations of the rights of prisoners and rigging a new criminal case against him and appears only in the hearings on the new criminal case under Art. 221. Penal Code of the Republic of Uzbekistan, as the fundamental law governing the rights and obligations of a prisoner deprived of effective mechanisms to effectively prevent and check the above cases of gross violations of the rights of prisoners in the country.

It should be mentioned that cases of prolongation of prison terms under article 221 of the Uzbek Criminal Code is not well studied. There are several reasons to that. First, pre-trial investigation and court hearings on such cases take place in a record high speed which makes it difficult for convicts and their families to invite lawyers of their own choice to the case. Second, pre-trial investigation and court hearings on such cases take place inside prison facilities which creates substantial problems with a proper access for family members and lawyers. Family members of the convict, his / her lawyer of own choice do not have access a proper access to the case documents, sometimes including the court sentence on a criminal case under article 221.

We should also specifically mention the cases of torture and similar ill-treatment against those Uzbek asylum seekers who are detained abroad on the extradition requests of the Uzbekistani law enforcement agencies and sent back to Uzbekistan. Sometimes Uzbek law enforcement officers travel abroad to the countries of temporary residence of Uzbek asylum seekers to arrest them and bring back to Uzbekistan. The Uzbek secret services have been actively involved in either direct arrests and bringing back of Uzbek asylum seekers or initiating their arrests and extradition to Uzbekistan in such countries as Russia, Kazakhstan, Kyrgyzstan and Ukraine. Sometimes the Uzbek secret services act in the Uzbek asylum seekers or migrants’ communities abroad through their own informants and undercover agents. Most Uzbek asylum seekers forcedly brought back to Uzbekistan face trumped up criminal cases, illegal arrests, torture and lengthy imprisonment.

The study identified the following most common practices of torture and ill-treatment:

- Prolonged Beatings, using fists, rubber clubs, plastic bottles filled in with water or sand, metal or wooden sticks
- Suffocation with gas masks or plastic bags
- Burning the hair on the body or parts of the body
- Cutting or damaging parts of the body with a knife or similar objects
- Rape or sexual harassment
- Shackling and binding
- Deprivation of food or sleep
- Denial of access to bathroom facilities
- Denial of medical services
- Pressure by detaining family members and relatives on trumped-up administrative or criminal charges
- Threats to kill or to subject the victim or his/her family member to long-term imprisonment
- Denial of space and time for accomplishing prayers and observation of other religious practices
- Instigating physical harassment and attacks from other inmates.
The personal accounts of victims who were subjected to these and other methods of torture are well documented by different human rights NGOs, including our organization in our numerous reports and communications on individual cases to the Committee.

**Impunity and Lack of Redress for victims of torture**

The Committee in its General Comment 20 to Article 7 of Covenant expressly stated that the complaints on torture “must be investigated promptly and impartially by competent authorities so as to make the remedy effective. The reports of States parties should provide specific information on the remedies available to victims of maltreatment and the procedure that complainants must follow, and statistics on the number of complaints and how they have been dealt with.”

According to the law, complaints on torture can be brought directly to law enforcement agencies (police, National Security, prosecutor’s office), which after preliminary review of facts of the complaints have to make a decision whether to open the criminal case or to deny the request for criminal investigation. This decision can be appealed to all the higher instances of the law enforcement agency up to the General Prosecutor and further to the court of general jurisdiction from the first to the third instance (review of legality). These institutions do not provide for independent investigation. The state argues that it put in place various mechanisms to ensure that the complaints of torture are handled with due care. However the practice shows that impunity for the perpetrators of torture is as systematic as the torture itself. Even the official statistics below show how insignificant the rate of prosecution is in comparison to quoted numbers of allegations.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of registered complaints</th>
<th>Number of criminal cases opened</th>
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</thead>
<tbody>
<tr>
<td>2003</td>
<td>544</td>
<td>4</td>
</tr>
<tr>
<td>2004</td>
<td>457</td>
<td>3</td>
</tr>
<tr>
<td>2005</td>
<td>270</td>
<td>3</td>
</tr>
<tr>
<td>2006</td>
<td>180</td>
<td>6</td>
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<tr>
<td>2007</td>
<td>189</td>
<td>13</td>
</tr>
<tr>
<td>2008</td>
<td>104</td>
<td>9</td>
</tr>
<tr>
<td>TOTAL:</td>
<td>1744</td>
<td>38</td>
</tr>
</tbody>
</table>

In its replies to the Committee, the state party indicates that over the period of 2004-2008, in total 45 law enforcement officials were prosecuted for the crimes of torture and ill-treatment. The total of 1744 complaints over six years resulting in 38 criminal cases and 45 convictions give the rate of prosecution as being slightly over 2%. These numbers demonstrate nothing but the government’s blunt disregard for the victims’ rights to remedy and its positive obligations to investigate and punish torture.

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2 The numbers are taken the following documents: 1) Third Periodic Report of Uzbekistan to UNHRC on ICCPR, para.N453; 2) Replies to the List of Issues (CCPR/C/UZB/Q3) pp. 15, 17; 3) HRW“Nowhere to Turn. Torture and Ill-treatment in Uzbekistan”, footnote 11, p.60.
As for the quality of statistics, it is difficult to verify the numbers provided by the government as the procedure for registering and collecting data on torture is not transparent and remains closed for public access. In addition to this, the overwhelming environment of fear, oppression and despair surrounding the victims of torture prevent them from openly speaking out and reporting on their cases. The official statistics, therefore, grossly misrepresent the scope of torture, as the number of complaints on torture is far, far greater than the reported 1744 according to human rights monitors.

It should be noted that over the last years, it has become extremely challenging and at times dangerous to collect and monitor the facts about torture and ill-treatment, to criticize such practices and to identify the alleged perpetrators. Victims of torture, their families, human rights activists, journalists and lawyers have been subjected to various threats and persecutions.

The government in its replies to the Committee also indicated that out of 45 law enforcement officials who were prosecuted for the crime of torture and ill-treatment, 13 were amnestied according to the amnesty laws. The use of amnesties for the crime of torture is contrary to the requirements under Article 7 of the Covenant. The Committee has noted in its General Comment 20 that “[a]mnesties are generally incompatible with the duty of States to investigate such acts; to guarantee freedom from such acts within their jurisdiction; and to ensure that they do not occur in the future.” Uzbekistan should amend its legislation to prevent the use of amnesties and statute of limitations for the crime of torture. The insignificant level of prosecution of torture perpetrators and resulting impunity effectively undermines the rights of victims for reparation, rehabilitation and adequate compensation.

Civil law legislation provides for general provisions on obtaining compensation from the state when the harm sustained by individuals was caused by state agents. These provisions, however, do not apply to torture victims, as the civil courts will not hear the case without the results of the criminal trial. Thus, the national legislation does not provide for effective civil compensation separate from the criminal prosecution. The state also lacks any system of rehabilitation for the victims of torture. Rehabilitation centers in the administrative centers of each region and district provide assistance to former prisoners with employment, health and re-socialization issues, but do not address specifically the issue of post-torture rehabilitation.

**Non-admissibility of evidence obtained through torture**

In the previous sessions the Committee raised the concern about the high number of convictions based on confessions made in pre-trial detention that were allegedly obtained by methods incompatible with article 7 of the Covenant. The Committee noted that the positive resolution of the Supreme Court prohibiting the use evidence obtained in violation of criminal procedure be reflected in the criminal law governing the procedure of criminal investigation and prosecution. The Committee recommended that Uzbekistan should proceed with the necessary legislative amendments to ensure full compliance with the requirements of articles 7 and 14 of the Covenant.

Since 2010, the government of Uzbekistan has not made any noteworthy efforts to change the practice of courts basing the final decisions on criminal charges on tainted evidence. None of the government reports to the Committee, such as the Comments of Uzbek government to the Concluding Observations in 2011, The Fourth Periodic State Report, nor the replies to the list of issues contain any new information on the measures taken by the government to address the problem. These reports refer to the outdated information regarding the old Supreme Court
Resolutions of 2004 which had no impact on the practice whatsoever. The government failed to provide neither any statistics on the number of judicial decrees issued by courts on violations of criminal procedure and rights of defendants during pre-trial investigation by police, nor information on the number of cases where the defendants raised the issue of non-admissibility of evidence due to torture and resulting decisions of judges. The situation of torture and consequently the use of evidence obtained through torture had dramatically deteriorated. Our monitoring demonstrates that in most trials monitored in 2010-2014 a judge hasn’t refused to admit as evidence a confession or statement that, according to the defendant’s court testimony, was coerced under torture.

**Recommendations:**

The State should announce an official policy of zero tolerance approach to torture and ill-treatment in the country. To that effect the State should take the following concrete measures:

1. Bring the definition of torture in its Article 235 of the Criminal Code into full compliance with the definition provided in article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Amendments should be made to avoid the use of amnesty for the crime of torture.

2. End impunity for torture perpetrators by establishing an independent mechanism in accordance with the Istanbul Protocol with the special jurisdiction to investigate the cases of torture and ill-treatment across all areas not limiting to criminal justice, including any cases of death in closed institutions. The special mechanism should be entitled to receive and process all complaints of torture and ill-treatment by any agent of the State. The powers should include investigation of torture and ill-treatment crimes committed by all law-enforcement agencies including officers of the National Security Service, Ministry of the Interior, Department of Prisons, Prosecutors Office and other law-enforcement bodies. The functions should include conducting visits to all-closed institutions in par with the National Ombudsman to review complaints and launch investigation. This independent body should be directly accountable to the Parliament and make regular public reports on the status of fighting torture and ill-treatment in the country, including detailed statistics on number of allegations, number of investigations, prosecutions and compensations to the victims of torture.

3. Introduce in the legislation a specialized procedure for the examination of reports and complaints on torture with the following requirements:
   a. the period of preliminary examination of reports and complaints of torture must be limited to a maximum of 10 days;
   b. upon receiving/registering a report or a complaint of torture the specialized body in charge of examination must order an immediate forensic-medical examination to promptly record any physical injuries.

4. Provide in the legislation for the special rights of the victims of torture during preliminary examination, including, but not limited to the following:
   a. to be informed of the process of a preliminary examination;
   b. to raise questions and put forward requests to examine the additional facts and circumstances of alleged torture;

5. Amend its legislation governing rules of evidence to the following effect:
   a. To diminish the possibility of law-enforcement agencies to extract confessions during criminal investigation, introduce amendments to its legislation making it a rule, that only confessions made before a judge during trial are considered as admissible evidence; confessions under all other circumstances not confirmed in court should be deemed as inadmissible.
b. To diminish the possibility of law-enforcement agencies harassing witness and extracting their statements, introduce amendments to its legislation whereby only those witness statements made in court should be considered and admitted as evidence in criminal trial. Any witness statement obtained prior to trial and not confirmed before a judge in trial should be deemed as inadmissible.

c. Admit results of medical examination conducted other than by official agency on medical expertise, upon confirming standard medical qualifications.

6. Strengthen the safeguards against torture and ill-treatment by taking the following measures:

a. End practice of police interrogations in closed offices by introducing specially designated interrogation rooms with window walls and easy public access, equipped with digital surveillance cameras to monitor the process of interrogations. Special procedures should be set in place to store the information from digital cameras. No persons other than law-enforcements officials should be allowed in the administrative sections of the police stations.

b. At all time during investigation the lawyer should have an unhindered access to the defendant under any form of detention without prerequisite permission from the investigator.

c. Anyone should have access to independent medical examination, results of which are treated equally as the state agencies on medical expertise.

d. Anyone arrested or detained should be able to immediately exercise the right to inform his/her family about his whereabouts.

e. All persons admitted to police custody or pretrial detention should immediately upon admission be subject to a routine medical examination. Such service should be independent from police authority. The report should provide detailed description of a person’s health status, complains and information on origins of any injuries. Copy of such records should be kept with the medical service.

7. Provide in the legislation for the specific rights of the victims of torture to claim compensation from the state in civil courts independent from the criminal proceedings on the same case. Ensure that the process of payment of compensation from the state budget is adequate and timely.

8. Establish a mechanism of providing for the psychological and medical rehabilitation for torture victims.

9. Make available for public review and scrutiny all regulations, instructions or manuals pertaining to the rights and responsibilities of any type of detainees in closed institutions and conditions of such detention, including custody and pre-trial detention centers under the National Security Agency.

**Article 8 and Article 24 - Prohibition of slavery and child labor**

Every year from early September to late November the government of Uzbekistan forcibly mobilizes over a million children, teachers, public servants and private sector employees for the manual harvesting of cotton. The Uzbek government forces farmers to grow cotton and children and adults to harvest cotton under threat of punishment, including loss of the lease to farm the land, criminal charges, verbal and physical abuse, expulsion from school, and dismissal from work. Authorities harass and detain Uzbek activists seeking to monitor the situation.

The use of forced labor to prepare fields and harvest cotton violates the labor laws of Uzbekistan and international laws ratified by the Uzbek government, in particular International
Labor Organization Conventions No. 105 on the Abolition of Forced Labour and No. 182 on the Elimination of the Worst Forms of Child Labour. In addition to coercing over one million people into forced labor in the cotton fields, the Uzbek government system of cotton production impoverishes cotton farmers and profits exclusively the central government.

Last fall, the Uzbek government coercively mobilized more than a million citizens, including children, to cultivate and pick cotton. The government systematically mobilized children aged 15 to 17 and adults throughout the country, and authorities mobilized even younger children in some places. Forced child labor was organized through the state education system, under threat of expulsion from school. Public- and private-sector workers were forced to pick cotton under threat of losing their jobs. Authorities transported students from the schools to the fields in public buses, and students and adults who were deployed to pick cotton far from their homes were housed in schools and other public buildings, often at the expense of the people being forced to pick cotton. Those forcedly involved in cotton harvesting do not receive any payment for their labor.

Eleven citizens lost their lives as a result of the forced-labor system this year. The tragic losses included Tursunali Sadikov, a 63-year-old farmer who died of a heart attack after being beaten by an official of the Department of Internal Affairs, and Amirbek Rakhatov, a six-year-old schoolboy who accompanied his mother to the cotton fields, napped in a trailer, and suffocated when cotton was loaded on top of him.

The government took extensive measures to whitewash labor rights violations to create the impression of voluntary work in the cotton fields. Prior to the harvest, the government inserted a clause in contracts for public-sector workers making work in the cotton harvest a condition of employment. School administrators required students and parents to sign commitments at enrollment that students would pick cotton. Throughout the country, authorities instructed children at schools and adults in their workplaces and communities to report to foreigners that they picked cotton “voluntarily” and “for the love of the motherland.” As in previous years, the government silenced Uzbek human rights monitors through arrest, imprisonment and intimidation.

The Uzbek government also took extensive measures to mislead the international community and create the impression that improvements have been made in terms of child labor and forced labor. Thus, the government builds on its long-standing practice to deny its role orchestrating the forced labor system, claim that new policies are in place, and refuse to end the human rights violations.

The working and living conditions of people involved in cotton picking often amounts inhuman treatment. Each person is obliged to pick 50 kilos of cotton every day if it is the first harvest. For the second harvest, the daily obligation of cotton picking is 30 kilos. This is a very hard work to accomplish in a day not only for children but also adults involved in this type of forced labor. Many people fall ill as a result of harsh conditions of labor and the exposure to chemicals used in harvesting cotton. The medical aid available at labor sites is not of adequate quality. Parents may be informed of any sickness of their children only when their health deteriorates to such an extent that they are unable work. The people involved in this type of forced labor often suffer from work accidents because safety requirements are not observed.

During the harvesting period, the people involved in forced cotton harvesting, including children reside in class rooms of the schools in working villages. People are required to bring folded bed from home; otherwise they will sleep on the cold floor. The waking time for children in the cotton field is 5 or 6 o’clock in the morning, and time for going to bed is 9 or 10 o’clock in the evening. There is no heating in places where the people sleep. They use cold water for personal hygiene and to wash clothes. In many places they do not have access to clean drinking water. Sometimes they have to go to the houses of the local people to take a
hot shower for payment. The food given to people and children in the cotton fields three times a day is nutritionally poor. They are cut off from any entertainment means and have no access to TV-sets, radio, internet, books unless they bring those with themselves. The only way of exemption from the requirement to be involved in the cotton picking is the medical waiver based on health conditions obtained from the district or city hospital’s or doctors’ council. People who want to save their children from cotton fields often bribe the doctors to get such waivers.

While the Uzbek government has taken legislative measures to protect children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education or be harmful to child’s health or physical, mental, spiritual, moral or social development, it failed to take administrative, social and educational measures to ensure the implementation of the existing legal norms. As a result, many regional administrations routinely use children to help meet central government-imposed quotas for annual cotton production.

Recommendations:

The State should unconditionally prohibit the use of child labor by any state, municipal or private body in cotton or any other industry.

**Article 9 - Right to Liberty and Security of Person**

**Incompatibility of legislation**

The part 1 of the Article 9 on prohibition of arbitrariness is directed both towards the national legislature and the organs of enforcement. It is not enough for deprivation of liberty to be provided for by law. The law itself must not be arbitrary. The authors argue that the national legislation governing arrest and detention is not in compliance with the Article 9 as it is unpredictable, unjust, and disproportionate to the stated goals, ultimately leading to the practice of indiscriminate restrictions to individuals’ right to liberty.

**a) Arrest**

According to the Article 221 of the Criminal Procedure Code (“CPC”) a law enforcement officer can apprehend a person, on a suspicion of having committed a crime: 1) during or immediately after committing a crime; 2) if eyewitness or victim of crime directly identifies a person; 3) if evidence of crime is discovered on a person, or on his clothes, with him or in a place of his residence; 4) when an attempt to flee, or in absence of permanent place of residence or when the identity of a person is not established.

An arrested person can be held in police custody as a suspect without criminal charge for 72 hours and sometimes up to 10 days in exceptional circumstances upon the decision of the prosecutor. This period of time is *prima facie* unacceptable by any international standards, including Article 9 of the Covenant. Moreover, the legislature does not specify what those exceptional circumstances may be and fails to clarify the procedure for establishing them. It is also not provided in the law for a person to independently challenge the grounds of arrest and suspicion separate from the hearing on pre-trial detention. As discussed below, the pre-trial detention hearing deals only with the legality of detention and excludes the consideration of legality of arrest.

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3 Article 226 of the Criminal Procedure Code
Another alarming provision is the Article 228 of CPC, which provides for an arrested person to be held in the office of the law enforcement agency, although it is not recognized as a designated place of custody. The provision does not specify the circumstances under which an arrested person can be held in the office rooms. This provision is heavily abused in practice when the persons are held in the police office rooms for unlimited periods of time without any registration.

**b) Pre-trial detention**

Similar to many jurisdictions, Uzbek criminal procedure allows the use of preventive measures to reach the following objectives: to ensure that a person does not flee from investigation or trial; to prevent continuation of the criminal activity; to prevent a person’s interference in establishment of truth on a criminal case; and to ensure execution of verdict.\(^4\)

According to the CPC Article 236, detention as the most restrictive measure is used when there is a “…reasonable ground to believe that a defendant will escape from preliminary investigation or trial solely due to gravity of committed criminal offense.” The language of this provision contradicts the notion of presumption of innocence and implies that the mere fact of the criminal charge in a grave offense, punishable by imprisonment of more than 5 years, shall presume that the defendant will likely to escape. This language failure reflects a general prosecutorial nature of the criminal justice system and, most importantly, the presumption of detention merely due to nature of the criminal charge.

Article 242 of CPC specifies that the pre-trial detention (“PTD”) can be applied to a defendant or a suspect before or during trial for: 1) an intentional offense punishable by imprisonment of more than 3 years or a negligent offense punishable by imprisonment of more than 5 years. Part two, of this article indicates that in exceptional cases, the detention can be used for intentional or negligent offenses of less gravity, punishable by imprisonment of less than 3 years or less than 5 years correspondingly, if one of the circumstances below applies:
- Defendant has escaped from investigation
- Identity of a suspect is not established
- Defendant has violated a previous preventive measure
- Defendant’s or suspect’s place of permanent residency is outside of the country
- Offense is committed during the imprisonment for another crime.

Given legal framework sets a very low threshold for resorting to pre-trial detention as a preventive measure, because according to it, far too large number of offences become eligible for the use of detention. No provisions include proportionality, exceptional use and review of individual circumstances as governing principles in the determining the need for pre-trial detention.

In view of the above, the procedure for determining the applicability of detention merely comes to the establishment of the following facts:

*firstly:* eligibility for PTD, i.e. if the offense under which the charges are brought against a defendant falls within the group of offences, specified in part 1 of Article 242 of CPC;
*secondly:* if positive, then whether there is reasonable ground to believe that a defendant may escape, according to the Article 236 of CPC;
*thirdly:* if negative, then whether there are any of the circumstances, specified in part 2, of the Article 242, exists in relation to a defendant or a suspect.

The authors argue that this determination procedure in practice most certainly results in the outcome of detention. As previously indicated, it is due to a large number of crimes, which are

\(^4\) Article 236 of the Criminal Procedure Code
automatically eligible for PTD, and on most of them it is presumed that the defendant will likely escape due to grave nature of the charge. These concerns persisted even after the introduction of the judicial sanctioning of arrest.

c) Judicial sanctioning of detention

On January 1st, 2008 Uzbekistan introduced the judicial sanctioning of pre-trial detention. The procedure albeit formally resembles the institution of habeas corpus but fails to adhere to its principles and objectives and in effect is incompatible with the requirements of the Article 9.

The Committee noted that the judicial review of the lawfulness of detention under the Article 9 should not be limited only to compliance of a detention with domestic law but must include the possibility to order release if the detention is incompatible with the requirements of the Covenant. The court must have the power to review the individual circumstances of the detention and its proportionality. Thus, the reviews must be real, and not merely formal, in their effects. The Committee established that the pre-trial detention should be applied as an exception together with the authority to make release dependent on the necessary guarantees, including bail. Mandatory detention is incompatible with the right to habeas corpus. In Uzbekistan these and other requirements under Article 9 are not upheld in law and in practice.

The Article 243 of the CPC on judicial sanctioning of detention contains the following violations:

a) contrary to Article 9, in combination with Article 14, the decision of the judge on pre-trial detention is held in a closed hearing; there is no justification to deny the public access to this type of hearing; on the contrary to ensure accountability of the criminal justice system the government must amend its legislation to make these hearings to public;

b) the law indicates that a defense lawyer takes part in the hearing on detention “if he has been assigned to the case”, thus making the presence of the legal counsel for the defendant to be conditional rather than mandatory; a right to legal counsel is an indispensable part of the fair trial requirement including for the hearings on remand; it is absolutely essential that the presence of a defense lawyer be made mandatory for the pre-trial detention hearings in Uzbekistan, including provisions to accommodate the right to prepare the adequate defense;

c) the law fails to prescribe the guidelines on the decision-making procedure to determine the need for detention; no standards of reasonableness, proportionality, necessity and exceptional nature of detention are indicated as principles governing the judge’s decision;

d) the law fails to clearly define the scope of issues to be considered by the judge during the pr-trial hearing; for instance, the judge does not look into the legality of arrest or its duration; there is no mentioning on the actions of a judge in case the period of 72 hours of custody is violated;

e) contrary to Article 9 or any international standards, the judge has only the following powers:

(i) to order pre-trial detention; (ii) to refuse sanctioning of detention; or (iii) to postpone the custody for additional 48 hours “to allow parties to present additional information to support or to invalidate the grounds for detention”;
f) the judge is not empowered to immediately release the defendant; the decision goes to the prosecutor for immediate execution; the law does not specify how “immediate” the execution of release is, leaving too much discretion in the hands of the prosecutor;

g) the judge does not have any arsenal of alternatives to detention, including bail.

h) The law does not guarantee the procedural impartiality of the judge to prevent the same judge hearing the decision on detention and on the criminal charge.

One of the main deficiencies of the new law on judicial sanctioning of arrest is that the courts are not empowered to consider how well-founded the criminal charges are or reasonableness of suspicion in having committed a crime. The prosecution is not under obligation to present any evidence to justify the given criminal charges. As a result, the role of courts, without the power to look into the adequacy of given criminal charges to the evidence available at hand, is limited to mere establishment of matters of fact and observance of formal legal requirements.

Incompatibility of practice

The Uzbek NGOs report that the arbitrary arrests continue to be widespread despite the novelties in the criminal legislation. The most common problem is the violation of the duration of custody. The period of 72 hours is almost never observed in practice due to the absence of adequate and verifiable procedures of registering the time of arrest. The actual duration of restriction of a person’s liberty, therefore, is much longer in reality than the required 72 hours, because the police often abuse its powers to timely register the arrested persons.

Another alarming practice is holding persons in police stations as witnesses without registration while questioning them on matters relating to criminal cases. After getting initial statements from them, they become charged as suspects or defendants. During such periods of unacknowledged custody, persons are held without any access to legal or medical assistance, food, water, basic necessities and are usually subjected to torture and ill-treatment. It is not possible to record these kinds of violations in progress, as the police stations are closed for any outside monitoring. The allegations that the police may be holding individuals in their offices are bluntly denied as these people are not registered as ever entering the police stations.

The courts through PTD hearings do not serve as an additional safeguard to prevent these problems in practice, due to limited powers and the scope of the determination procedure. Thus, it does not remedy the problems of pro-longed or unacknowledged custody, unreasonableness of suspicion or criminal charges, etc.

The authors conclude that, regrettfully, there are no official statistics on the total number of arrests, pre-trial detention requests submitted by prosecution to courts, sanctioned pre-trial detention orders, number of unlawful detentions and amounts of compensation paid to the victims to objectively demonstrate the ineffectiveness of the existing measure of judicial sanctioning of arrest in Uzbekistan to further the protection of human rights in the country.

Recommendations:

The State should ensure that its legislation governing arrest and detention of individuals is in compliance with Article 9. Particularly the State should take the following measures:

1. Allow arrest or detention only in designated places with strict registration and control. To that effect the State should amend its Article 228 of Criminal Procedure Code and prohibit holding arrested person in office rooms of law-enforcement agencies
2. Bring the period of police custody to 48 hours from the time of arrest. Introduce strict measures of control over the procedures regulating arrest, specifically:
   a. registration of time of arrest from the moment of factual restriction of liberty
   b. reading the rights of arrested persons
   c. providing immediate access to lawyer
   d. conducting medical check-up before admitting a person to police custody
   e. immediately informing the family of a person.

3. Introduce regulation whereby any arrested person should be held only in designated place of police custody or in the designated interrogation rooms. Holding of arrested persons in any other premises at the police stations should be prohibited.

4. The State should amend its Article 236 of the Criminal Procedure Code and prohibit holding a person without charge beyond 48 hours.

5. Amend the legislation on judicial sanctioning of arrest in Article 243 of the Criminal Procedure Code to comply with the requirements of Article 9, specifically:
   a. Set the standards of reasonableness, proportionality, necessity and exceptional nature of detention as principles governing the judge’s decision on pre-trial detention;
   b. Empower the judge to immediately release the person if the period of 48 hours of custody has been violated;
   c. Specify the scope of issues to be considered by the judge, including the issue of reasonableness of criminal charges and legality of arrest;
   d. Give the power to the judge to release immediately the person in the courtroom if grounds for detention are not established
   e. Abandon the provision allowing the judge to extend custody for additional 48 hours. The total length of police custody should be limited to 48 hours without a possibility of extension.
   f. Include the possibility for a judge to release a person under various guarantees including bail as alternative to detention
   g. Amend the legislation making the trial of the criminal case by the same judge who previously decided on pre-trial detention as illegal.
   h. Include the provision whereby the judge should inquiry from the defendant if any substantial violations of procedural rights have taken place during the period of custody, such as torture or ill-treatment. In case the judge establishes a reasonable suspicion that the person has been tortured or ill-treatment, the judge should be able to release the person and issue decree on conducting inquiry and investigation into the allegations
   i. Designate special courts to hear the cases of pre-trial detention and to supervise the legality of arrest and detention.

Article 10 - Right of Detainees to be Treated with Humanity and Dignity

The prison population in Uzbekistan was reported as approximately 60,000 inmates in 53 prison facilities. National and international organizations report that the conditions in prisons remained poor and even life threatening. Due to lack of access to independent monitors it is difficult to verify the official statistics.
The Committee in its General Comment 21 on Article 10, noted that “[t]reating all persons deprived of their liberty with humanity and with respect for their dignity is a fundamental and universally applicable rule. Consequently, the application of this rule, as a minimum, cannot be dependent on the material resources available in the State party. This rule must be applied without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. The Uzbek human rights group report that the prison authorities hold political prisoners and those convicted of membership in banned religious extremist organizations in specially demarcated sections of prisons and subject these prisoners to harsher conditions and treatment than other prisoners. Their rights, such as the right to correspondence, the right to receive food and other necessary hygiene items from home are widely restricted. For instance, letters and other written communications are widely censored and often do not reach the recipients. Food and hygiene items, addressed to the religious and political prisoners by their family, although admitted, are not received by them.

The religious and political prisoners are forced to write official letters of apologies addressed to the President and the people of Uzbekistan. To prove their contrition they must sign a pledge to cooperate with the secret service and police after being released by reporting on their colleagues and relatives. Such pledges become a condition for these prisoners to be released under amnesty laws. There were also reports that the authorities did not release such prisoners at the end of their terms by accusing them of additional crimes and claiming that they continue to be danger to society. There was no recourse to judicial review in such instances.

The Committee noted that “No penitentiary system should be only retributory; it should essentially seek the reformation and social rehabilitation of the prisoner.” This standard along with other guarantees under Article 10 refers to all persons deprived of liberty. The conditions of prisoners sentenced to long-term or life-time imprisonment must also be scrutinized on the subject their compatibility with Article 10. The authors are concerned that the recent changes in the legislation, when the death penalty was substituted by the life-time or long-term imprisonments set too harsh conditions for this type of prisoners contrary to Article 10.

For instance the prisoners for life-time and long-term imprisonments are eligible to apply for pardon only after 25 and 20 years respectively. Given the strict conditions under which these prisoners are detained, these long periods of imprisonment before any chance of early release is granted defeat the purpose of reformation and social rehabilitation and is contrary to the principles of humane treatment and respect for human dignity.

The possibility of pre-schedule submission for pardon may be granted by prison authorities, who have a right to determine “…whether the prisoner has risen firmly on a way of correction, whether he has broken the established prison internal order, whether the prisoner holds honest attitude to work and training, whether the prisoner takes part active participation in educational activities in the prison”. In conditions of total isolation of these prison facilities and absence of any independent oversight, these discretionary powers are subject to abuse.

The life-time or long-term prisoners who are detained under the strict regime, are allowed per year only 1 visit by the family, 1 parcel, 1 telephone call, 1 printed material. To increase these benefits to 2 times per year, except for the family visit, which remains once a year, the
prisoners need to wait for 10 years, if the prison administration confirms that they have no record of violations of prison regulations during the 10 year period.

The authors conclude that the conditions of life-time and long-term prisoners amount to inhuman and degrading treatment. Absence of public oversight and accountability, wide discretionary powers of prison administration make it difficult to assess the real scope of violations occurring behind the walls. The Committee following its concern at the lack of independent and transparent scrutiny of prison facilities established that the states “should institute a system for independent inspections of detention facilities, which should include elements independent of Government so as to ensure transparency and compliance with article 10.”

In general, however, the penitentiary system in Uzbekistan, including the pre-trial detention centers and custodies run by the Ministry of Interior and the National Security Service remain outside of any independent oversight. The periodic visits of representatives of the General Prosecutor’s or the office of the Ombudsman to prisons are not be expected to be impartial and thorough.

**Recommendations:**

To comply with the requirements under the Article 10, the State should take the following immediate measures:

1. Bring the legislation and practice of Uzbekistan in full compliance with the UN Standard Minimum Rules for the Treatment of Prisoners and the Basic Principles for the Treatment of Prisoners to in order to strengthen the safeguards against torture in places of detention and incarceration.

2. Establish independent commission consisting of the National Ombudsman, civil society and international organizations to investigate the allegations of torture, including rape, of the religious prisoners in the Uzbek prisons. The scope of the commission should include conducting confidential interviews with inmates and their relatives, conducting of medical examinations, visiting random cells and solitary confinements. The findings of the report should be made public.

3. Take immediate legislative and institutional measures to allow regular public oversight of police stations, places of police custody under the Ministry of Interior, National Security Agency and of other detention facilities, including closed medical institutions. Facilitate the process of joining to the Optional Protocol under the UN Convention against Torture.

4. Amend its legislation on the regulation of conditions of detention to long-term and life-time prisoners by lowering the threshold for application to state pardon and for changing the incarceration regimes. Eliminate unreasonably harsh limitations for the maintenance of family contacts via correspondence and regular meetings with family members for such prisoners.

**Article 16 - Non-refoulement**

We should also specifically mention the cases of torture and similar ill-treatment against those Uzbek asylum seekers who are detained abroad on the extradition requests of the Uzbekistani law enforcement agencies and sent back to Uzbekistan. Sometimes Uzbek law enforcement
officers travel abroad to the countries of temporary residence of Uzbek asylum seekers to arrest them and bring back to Uzbekistan. The Uzbek secret services have been actively involved in either direct arrests and bringing back of Uzbek asylum seekers or initiating their arrests and extradition to Uzbekistan in such countries as Russia, Kazakhstan, Kyrgyzstan and Ukraine. Sometimes the Uzbek secret services act in the Uzbek asylum seekers or migrants’ communities abroad through their own informants and undercover agents. Most Uzbek asylum seekers forcibly brought back to Uzbekistan face trumped up criminal cases, illegal arrests, torture and lengthy imprisonment.

We note with serious concern the increasing number of abductions of Uzbek refugees seeking asylum abroad by the Uzbek secret services. Most often kidnapping of Uzbek asylum seekers occur in the countries of the Commonwealth of Independent States such as Russia, Kazakhstan, Kyrgyzstan and Ukraine (the Commonwealth of Independent States brings together countries of the former Soviet Union). Uzbekistan has a visa-free regime with those countries which facilitates travel and unpunished action by the Uzbek security services in those countries. Monitoring of individual cases of kidnapping of the Uzbek refugees and asylum seekers in those countries by the Uzbek secret services brings us to the conclusion that while carrying out such operations the Uzbek security services do not act on their own, and often rely on the assistance of their counterparts in countries where the Uzbek refugees and asylum seekers are temporarily living. Kidnapping and following urgent removal to Uzbekistan of the kidnapped asylum seeker or refugee are often specifically timed to the days when the government run airline "Uzbekistan Airways" provides direct flights from those cities of the host countries where the Uzbek citizens were kidnapped.

The government of Uzbekistan is actively using bilateral intergovernmental agreements on legal assistance for illegal detention and abduction of Uzbek refugees in the above countries. For example, Uzbekistan, and the above mentioned countries are parties to the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of 22 January 1993. Despite the fact that almost all former Soviet countries have signed the UN Convention on the Status of Refugees (1951) and are obliged to refrain from extraditing or extraditing a refugee or asylum-seeker to a country where he could be tortured, it does not interfere with the Uzbek government to extradite or directly kidnap the Uzbek citizens from the member countries of the Minsk Convention. Uzbekistan is not a party to the UN Convention on the Status of Refugees.

In recent years, the Uzbek government also often relied on existing multilateral system of cooperation between the security services and law enforcement agencies of the regional intergovernmental organizations such as the Shanghai Cooperation Organization (SCO) to prepare for kidnapping and illegal extradition of the Uzbek refugees and asylum seekers with the help of the law enforcement agencies of those countries where the asylum seekers and refugees are living. The SCO maintains a Regional Anti-Terrorist Structure – a special unit for collection of information and collaborative intelligence among the law enforcement agencies and secret services of the SCO member-states to combat terrorism, separatism and religious extremism. Uzbekistan is also actively participating in the work of the Anti-Terrorism Center of the Commonwealth of Independent States (CIS). Both structures maintain their own lists of international terrorists, religious extremists and separatists which are formed on the basis of similar national lists of terrorists of the member-states. The practice of forming such international and national lists of terrorists, extremists and other types of suspects is completely arbitrary and biased, based just on the designation of the law enforcement agencies and secret services and not court decision. The Uzbek secret services very often include the Uzbek asylum seekers and refugees into such lists of suspects.

We would like to mention several examples of the latest cases of kidnapping and illegal extradition of the Uzbek asylum seekers and refugees by the Uzbek secret services:
• Mr. Karimov Bakhodir Ganijonovich – a citizen of the Republic of Uzbekistan, has been living in Samara city, Alma-atinskaya street, House # 3, Apartment # 111, Samara region of Russian Federation and seeking a political asylum in protection of persecution, torture, similar ill-treatment and lengthy imprisonment under trumped up politically motivated criminal case against him in Uzbekistan. Mr. Karimov was born and grew up in Poloson village Oltiarik district Fergana region of Uzbekistan. Mr. Bakhodir Karimov was arrested by Police Department # 6 of Samara city of Russia on June 10th, 2014. He was held in temporary detention cell of Samara city police on June 10th. The next day on June 11th he was taken to Samara district court (Samara region, Russia) where the judge sanctioned that he should be held in pre-trial detention in Samara city police custody until July 9th, 2014 during which the Uzbekistani authorities would make an extradition petition and the Russian side would extradite him to Uzbekistan.

We can be confident that Mr. Karimov will be extradited to the Uzbekistani authorities very soon as the protocol of his detention by Samara city police (Russia) and the subsequent Samara district court decision (Samara region of Russia) on June 10th and June 11th accordingly, indicated he has been detained following the Uzbekistani authorities’ decision to put him into the wanted list and based on article 61 of Minsk Convention on legal aid and legal relations on family, civil and criminal cases among the states-participants of the Commonwealth of Independent States, signed on January 22, 1993. Both Russia and Uzbekistan are parties to Minsk Convention. Russia is also a party to the UN Convention on the status of refugees, 1951. On June 10th – the day of Mr. Karimov’s arrest in Samara city, Russia the head of Fergana regional Department of Internal Affairs Mr. Sottiev sent an official letter via fax to the head of Samara city police thanking them for Mr. Karimov’s arrest and promising to arrange an official inter-governmental petition on Mr. Karimov’s extradition to Uzbekistan very shortly. All of that puts Mr. Karimov under imminent and urgent threat of unlawful extradition to Uzbekistan, torture, trumped up criminal case and lengthy terms of imprisonment in Uzbekistan.

Before leaving Uzbekistan under the threats of trumped up criminal case, lengthy imprisonment, persecution, attempts of suicide and attacks on his personal security and life Mr. Bakhodir Karimov hasn’t been involved with any political, religious, social or community activities. He has been jobless. Mr. Karimov comes from a family in which his three brothers were arrested under trumped up criminal charges of religious extremism and terrorism in 1999 in the wake of February 1999 allegedly terrorist bombings in Tashkent – a capital city of Uzbekistan, tortured during pre-trial investigation by the Uzbek police and National Security Services and sentenced to lengthy imprisonment. His brothers Karimov Hasanboy and Karimov Husanboy, twins, born in 1968, were arrested by Fergana regional Department of National Security Service and local police in April 1999, convicted in July 1999 by the local court under articles 242 - Organization of Criminal Community, 216 - Illegal Establishment of Public Associations or Religious Organizations, 156 - Incitement of Ethnic, Racial or Religious Hatred, and 159 - Attempts to Constitutional Order of Republic of Uzbekistan of the Criminal Code of Uzbekistan to 17 years in prison. Mr. Karimov’s third brother Karimov Tohir, born in 1970, was arrested in March, 1999 and convicted under articles 242 - Organization of Criminal Community, 216 - Illegal Establishment of Public Associations or Religious Organizations, 156 - Incitement of Ethnic, Racial or Religious Hatred, and 159 - Attempts to Constitutional Order of Republic of Uzbekistan of the Criminal Code of Uzbekistan to 19 years in prison. One of his brothers Karimov Husanboy (one of the twins) was released in 2005 after serving 6 years in prison. Mr. Bakhodir Karimov who was then just 15 years old had also been arrested by the Uzbek security services, interrogated and tortured to coerce him provide incriminating testimonies against his brothers. Police surveillance, regular summons, beatings and
humiliations against Mr. Bakhodir Karimov continued even his brothers went to prison, so in 2005 out of fear of imprisonment he decided to leave Uzbekistan and relocated to Russia. Since 2005 Mr. Bakhodir Karimov has been living in Samara, Russia. He built a new life in Russia, learnt Russian, in May 2010 met his future wife here who is a Russian citizen to whom he married in October 2013 and the couple were expecting their first child soon.

In late December 2013 Mr. Karimov called his mother who lives in Fergana region, Uzbekistan. His mother told him that the local police and national security officers have visited her many times lately asking for Mr. Bakhodir Karimov and warned her that Mr. Karimov should immediately return to Uzbekistan otherwise he will be put into the wanted list. Mr. Karimov alarmed with this information visited the Russian NGO “Civic Assistance” (“Grazhdanskoe sodeystvie” in Russian) which provides legal aid for refugees and migrants where he was advised to make an official petition to the Russian Migration Service (FMS) asking for a refugee status and protection in Russia. In February 2014 Mr. Karimov submitted his official petition to the Russian FMS asking for a refugee status and protection in the Russian territory. In March 2014 the Russian FMS responded to him suggesting he addressed his petition to Samara regional Department of the FMS. Mr. Karimov hasn’t addressed his petition to Samara regional FMS department until June 11th, 2014 until after he was arrested. It is very likely that Mr. Bakhodir Karimov will soon be extradited and be in the hands of the Uzbek secret services where he will be subjected to torture and similar ill-treatment.

Description of the forms of torture and similar ill-treatment in the Uzbek prisons, custodies and other detention places is well documented, including the by the United Nations Special Rapporteur on the issue of torture. Former Uzbek inmates and detainees recall gruesome methods of torture being employed at detention places, custodies and prisons along Uzbekistan, including electric shocks, sexual assault, the pulling out of prisoners’ fingernails, and long stints of solitary confinement without food or drink. We believe Mr. Karimov is also under a serious risk of being subjected to similar forms of torture and ill-treatment after he will be soon extradited to Uzbekistan. The fact that Mr. Karimov is currently held in Russia is just a matter of time, he will soon be extradited to Uzbekistani authorities in the hands of whom he will face torture, politically motivated criminal charges and lengthy imprisonment. That shouldn’t stop the OSCE and participating-States from immediately making an official inquiry about Mr. Karimov’s situation both from the Russian and Uzbekistani authorities and request his urgent release and due protection in Russia;

**Mr. Mirsobir Hamidkoriev** – a citizen of the Republic of Uzbekistan, a well-known movie producer and businessman in Uzbekistan, has been living in Moscow, Russia and seeking for a political asylum in protection of persecution, torture, similar ill-treatment and lengthy imprisonment under trumped up politically motivated criminal case. In May 2014 Zamoskovoretski district court of Moscow city has granted his asylum application and recognized him as a temporary refugee in the territory of the Russian Federation. He expected to receive a copy of the official decision of the court on granting his asylum application on June 12th, 2014. His wife Mrs. Eleonora Isaeva and 8-month child lived together with him. Before leaving Uzbekistan under the threats of trumped up criminal case, lengthy imprisonment, persecution, attempts of suicide and attacks on his personal security and life Mr. Mirsobir Hamidkoriev has been a well-know movie producer and businessman in Uzbekistan. He owned and run a successful store of electric appliances in Tashkent – the capital city of Uzbekistan. He has also produced a film titled “Nafs” which was banned for several years in Uzbekistan by the government censorship for allegedly its religious content, and eventually allowed for public demonstration only in early 2014. Mr. Hamidkoriev has been living in Moscow, Russia and seeking for a political asylum in protection of persecution, torture, similar ill-
treatment and lengthy imprisonment under trumped up politically motivated criminal case.

Mr. Mirsobir Hamidkoriev was kidnapped by unknown men in the street in the evening of June 9th, 2014 in Moscow. Coming from our experience with numerous similar cases we have valid grounds to conclude that Mr. Hamidkoriev was kidnapped by the Uzbek secret services with the assistance and support of the Russian secret services. The Uzbek Prosecutor General’s Office opened a criminal case against Mr. Hamidkoriev on January 3, 2011 in his absentia accusing him, as usual in similar cases, of religious extremism and terrorism - at that point Mr. Hamidkoriev has already left Uzbekistan because of the fear of persecutions, attempts of suicide, threats on his personal security and life and trumped up criminal charges. According to the Uzbek Prosecutor General’s Office Mr. Hamidkoriev in conjunction with a group of young men in Tashkent, Uzbekistan established an Islamic terrorist group named “Islamic Jihad” the members of which included famous Uzbek sportsmen, businessmen and representatives of the show business. Both Uzbek and Russian human rights activists, including our organization have rejected such charges as absurd and trumped up. Before Mr. Hamidkoriev decided to leave Uzbekistan his electronics appliances store was raided by the Uzbek secret services in late 2010 as a result of which the secret services illegally seized electronic products from his store in the amount of USD$1.5million. On the night of December 24th, 2010 when Mr. Hamidkoriev was returning from a restaurant with his wife Eleanora Isaeva when unknown men fired on their car and disappeared. On the same night the Uzbek secret services have arrested Mr. Hamidkoriev’s brother Miraziz Hamidkoriev who was consequently convicted for an alleged participation in religious extremism and imprisoned to lengthy prison terms. He still remains in prison in Uzbekistan.

At the same night Mirsobir Hamidkoriev and his wife left Uzbekistan. Miraziz Hamidkoriev – Mr. Mirsobir Hamidkoriev’s brother had been convicted under similar trumped up criminal charges four ago and imprisoned, lost his weight from 120 kilos to 50 kilos lately because of torture, ill-treatment and malnutrition in prison. In July 2013 the Uzbek authorities have attempted to convince the Russian counterparts to extradite Mr. Hamidkoriev. Mr. Hamidkoriev spent several months in a detention center in Moscow awaiting a decision of the Russian authorities on the Uzbek extradition request but eventually on August 7th Golovinskaya inter-district Public Prosecutor’s Office of Moscow passed a decision that there were not valid grounds for Mr. Hamidkoriev’s extradition to Uzbekistan. A few days later after kidnapping we found out that Mr. Hamidkoriev has already been taken to Uzbekistan by the Uzbek secret services. Our practice shows that in similar cases the kidnapped asylum seekers from Uzbekistan have usually been kidnapped by the Uzbek secret services on the days of direct flights from the Russian cities to Uzbekistan so that they can be immediately taken back to Uzbekistan and put into custody.

We believe this is a case with Mr. Hamidkoriev as well. In any event Mr. Hamidkoriev is under a serious threat of torture and similar ill-treatment in the hands of the Uzbek law enforcement and secret services. We have got evidence which proves that Mr. Hamidkoriev was kidnapped by the Uzbek secret services with support of their Russian counterparts. On June 12th, 2014 his wife Eleonora Isaea, their 8-month old child and Eleonora’s mother decided to leave to Kazan city, Tatarstan Republic, Russian Federation where Mr. Hamidkoriev’s wife has relatives, bought tickets and came to the Moscow airport. Before they went through the passport control for the flight to Kazan, two young men in plainclothes approached them, presented their ID of the Uzbek police and asked them they will take a flight to Tashkent, Uzbekistan. The two Uzbek police officers didn’t leave Eleonora, her mother and child alone and forced them to wait for the flight time to Tashkent the next day morning. Having arrived to Tashkent they have
seized Eleonora’s passport under a trumped up administrative charge of illegally crossing the Uzbek state border. They let Eleonora’s child and mother to leave the airport but Eleonora was taken and held in an apartment under a house arrest until June 14th.

They haven’t interrogated or mistreated Eleonora but just told her to keep everything confidential if she doesn’t want to have problems. A few days later Mr. Hamidkoriev’s mother and wife Eleonora Isaeva called us from Tashkent, Uzbekistan and told us that after Mr. Hamidkoriev had been brought back from Moscow he was held in the custody of the Ministry of Internal Affairs in Tashkent and was possibly subjected to torture there. They have also reported to us that on June 24th, 2014 the Uzbek police conducted a search at Mr. Hamidkoriev’s parental house in Zangiota district, Nazarbek village, Mirzo Ulugbek street, House # 3, Tashkent region. During the search the police officers refused to talk to Hamidkoriev’s parents. They also refused to bring food and personal items for Mr. Hamidkoriev. On June 26th, 2014 Mr. Hamidkoriev was transferred to Tashkent prison (custody # 64/1) which also belongs to the Uzbek Ministry of Internal Affairs. The police officers told Hamidkoriev’s parents that they can bring food and personal items for their son in approximately 10 days. Mr. Mirsobir Hamidkoriev was kidnapped near “Stariy Lekar” drugstore in Chapligina street of Moscow city, the Russian Federation on June 9th in the evening.

Mr. Mirsobir Hamidkoriev, his wife Eleonora Isaeva and 8-month old child were hiding away for the last several months in different places of Moscow living in temporarily rented apartments because Mr. Hamidkoriev was afraid of being detained or kidnapped by the Uzbek secret services and taken back to Uzbekistan. Mr. Hamidkoriev was invited to Zamoskovoretskiy district court of Moscow city on June 12th for receiving an official decision of the court on granting his asylum application. On the day of kidnapping Mr. Hamidkoriev’s child were not feeling good and the couple called a taxi to visit the drug store and buy some medicines for the child. When they called a taxi Mr. Hamidkoriev’s Moscow friend named Ilya was at their apartment. The taxi arrived, the driver was a young man who introduced himself as “Nikolay” and his car was “Lada-Priora”. The couple and their child got into the taxi, when Mr. Hamidkoriev’s friend Ilya was also planning to join them, the taxi driver has refused to let him into the car saying he will provide taxi services only to the person who has called for a taxi service.

The couple left Ilya and got into the taxi. They asked the taxi to stop at the closest drugstore on their way. The taxi driver stopped the car near “Stariy Lekar” drugstore in Chapligina street in Moscow. Mr. Hamidkoriev’s wife with an infant child in her hands went into the drugstore to buy medicines and Mr. Hamidkoriev remained in the car. Mr. Hamidkoriev’s wife came out of the drugstore in about 5 minutes and didn’t find the taxi car and her husband in the street. She started calling on his mobile phone number but it was turned off. She didn’t know what to do and started asking about her husband and the taxi car from the people in the street. One of the eyewitnesses, a middle-aged Russian woman who was walking with her dog in the street told her that two young men of athletic forms approached the car from two sides and entered into the car from the back seats taking Mr. Hamidkoriev in the middle, and the car immediately left the place to the direction of Chistoprudniy boulevard of Moscow city;

- In the evening of May 7, 2014 a citizen of Uzbekistan Mr. Akmal Zhonkulov who has hold a status of “a temporary refugee” in Russia was detained by the Russian police officers in Moscow when he was stopped for checking his ID. A few weeks before this incident Mr. Zhonkulov learned from relatives in Uzbekistan that local security forces were making inquiries about his whereabouts in Russia. As it turned out later Mr. Zhonkulov’s wife Mrs. Dilafruz Huseynova who was with her one-year old son Abdulla
was kidnapped from their apartment they rented in Moscow. Before they left Uzbekistan and relocated to Russia both Akmal Zhonkulov and Dilafruz Huseinova were accused of anti-constitutional activities, involvement in illegal religious groups and distribution of banned religious literature. Akmal Zhonkulov was also accused by the Uzbek security services of involvement in Jihadist movements. There is no doubt that Akmal and Zhonkulov and Dilafruz Huseynova were kidnapped by the Uzbek security services and returned to Uzbekistan. Currently, the whereabouts of Akmal Zhonkulov, his wife Dilafruz Huseinova and their son Abdulla remains unknown;

- On April 29, 2014 another Uzbek asylum seeker Mr. Umid Yakubov was kidnapped in Moscow. Mr. Yakubov, who hold a status of a temporary refugee in Moscow, was traveling to an interview at the local office of the UN High Commissioner for Refugees (UNHCR) to discuss his relocation from Russia to a third country. On his way to the UNHCR office the Russian traffic police stopped the car in which Mr. Yakubov was traveling. When the car stopped three young men (two of them in plainclothes) approached the car, pulled Mr. Yakubov out of the car and put him into a van which then drove off from to an unknown direction. Mr. Yakubov hasn’t made it to the interview with the UNCHR. His mobile phone is switched off. Umid Yakubov fled Uzbekistan because of charges in alleged involvement in "Hizb ut-Tahrir" banned religious extremist movement;

- We should also mention a recent case involving the Uzbek asylum seeker from Norway. Mr. Shavkatjon Hajihanov lived and worked legally in Norway for many years. Shavkatjon was a member of the Association of Human Rights in Central Asia. From the very beginning, he actively took part in public actions to abolish child and forced labor. He would provide financial assistance out of his own funds to those who suffered injuries during the cotton campaign. He took care of the relatives of people who were imprisoned on fabricated charges. In April 2014 Shavkatjon received news that his mother was near death. Late in the evening of 11 April 2014, Shavkatjon Hajihanov flew from Norway. He arrived in Kyrgyzstan on 13 April. Fearing political persecution, he decided to get into Uzbekistan unnoticed. Early on the morning of 14 April, Shavkatjon crossed the Kyrgyz-Uzbek border, avoiding the checkpoint, which is a violation of the rules for crossing state borders. He had a mobile phone and a change of clothing with him. He headed directly to the city of Margilan, where his mother, wife and children live. He reached home toward lunch-time, and of course, everyone was overjoyed with his appearance.

Then on the afternoon of 15 April, 15 armed men broke into the house, and another 15 people surrounded the whole house, involving all the neighbors and residents of the street in the operation. Shavkatjon Hajihanov was brought out of the house in handcuffs, shorts, and his slippers. He was not allowed even to get dressed or approach his mother. Before the eyes of his sick mother and frightened family and neighbors, the security service officers roughly push him out of the house with the butt of a rifle and shoved him into their car. At the same time, they detained his nephew, sister and brother. All of them were taken to the Ferghana Regional Directorate of the National Security Service of Uzbekistan. By evening, all were released from custody except Shavkatjon Hajihanov. But the next day there was a face-to-face meeting arranged between Shavkatjon and his nephew who had met him at the border of Uzbekistan.

According to his relatives, Shavkatjon stood in the office of the investigator in his shorts and slippers, shivering from the cold, and marks of beatings were visible on his body. Seeing Shavkatjon, his nephew fell to his knees before the guard and began to beg him to let him give his sneakers to his uncle. And when the guard gave his consent for this, he hugged Shavkatjon and hurriedly began to put on the shoes. Both of them were crying, and Shavkatjon kept asking him to report all this at the embassy, because it
was impossible for him to survive this hell... Hearing this, the guard began to beat Shavkatjon with all his strengthen on his head and back, not leaving him the strength to remain on his feet, and then dragged him out of the building where they were located. After that, blows could still be heard for some time. Hajihanov’s lawyer has reported that Shavkatjon has already been charged with several articles of the Criminal Code. His family remembers only Art. 223 (illegal border-crossing or illegal entry into the Republic of Uzbekistan).

Uzbekistan is subject to non-refoulement obligations under Article 16 of the International Convention for the Protection of All Persons from Enforced Disappearance:

1. No State Party shall expel, return ("refouler"), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law.

While the ICCPR does not contain an explicit clause of non-refoulement, the UN’s Human Rights Committee has interpreted Article 7 as including an obligation of non-refoulement. In its general comment on The Nature of the General Legal Obligation on State Parties to the Covenant in 2004, the Committee stated:

Moreover, the article 2 obligation requiring that States Parties respect and ensure the Covenant rights for all persons in their territory and all persons under their control entails an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any country to which the person may subsequently be removed.

**Recommendations:**

1. Inquire the Uzbekistani and Russian governments to provide official explanations on kidnapping and extradition of the Uzbek asylum seekers, refugees and labor migrants from Russia;
2. Make public the information about the whereabouts and fate of the kidnapped Uzbek refugees, asylum seekers and labor migrants from Russia, including where they are held and charges brought against them;
3. Investigate all facts of torture and similar ill-treatment against the kidnapped and extradited Uzbek asylum seekers, refugees and labor migrants;
4. Request the Russian authorities to provide proper compensation to the kidnapped and extradited Uzbek asylum seekers and refugees for violation of the international refugee protection laws and non-refoulement rules in their cases.

**Freedom of association (Article 22)**

In Uzbekistan the registration of civil society organizations is disproportionately more complicated than of any other civil entity such as business, banks or insurance companies. The legislative framework sets unjustifiably burdensome procedures for NGO registration, gives wide discretionary powers to the executive and is open to abuse by the authorities.

The following laws and bylaws regulate registration and activity of NGOs in Uzbekistan:
Law on Public Associations of February 02, 1991;
Law on Non-governmental organizations of April 14, 1999;
Decree # 132 of the Uzbek Cabinet of Ministers of March 12, 1993 “On Regulating of state registration of charters of NGOs”;
Rules the Ministry of Justice of March 12 1993 “On considering applications for state registration of charters of NGO in Uzbekistan”.

Ministry of Justice is responsible for registering national NGOs and political parties. Regional NGOs (those operating in regions), Karakalpakstan Autonomous Republic and Tashkent city NGOs are registered accordingly by regional, Karakalpakstan Republic and Tashkent city departments of the Ministry of Justice.

According to Section # 2 of the above mentioned Ministry of Justice Rules, the NGO must submit the following documents for the registration procedure:

- charter,
- protocol of the meeting and the decision of members to form an NGOs
- bank certificate about payment of the registration fee,
- list of the founding members (showing their names, dates of birth, address, passport data, place of work),
- list of person approved for executive positions of the NGO (a person can’t hold executive positions in two NGOs simultaneously)
- protocols of meeting of founding members about forming regional offices of the NGO (if the NGO is founded to function on the national level)
- income declaration of the founding members,
- clearance letter from the owner of the place where the NGO plans to be located.

According to Section # 3 of the Rules, the Ministry of Justice is allowed 2 months to consider the application documents. It is entitled to send the application documents for comments and expert opinion to the corresponding state agency regulating affairs in that particular field of NGO operations. In case of human rights NGOs the documents are sent to the National Center for Human Rights of the Uzbek Government. Such state agencies can recommend the Ministry to approve or refuse the registration based on their expert opinion. Such expert opinions are considered classified information and cannot be challenged by the NGOs. Because of the time required to collect such expert opinions, the Ministry is allowed to extend the period of consideration for another month. Very often this lengthy period of 3 months is violated by the Ministry of Justice.

Section # 3 of the Rules sets the following three types of decisions to be taken by the Ministry of Justice upon consideration of application documents:

- register documents;
- refuse to register documents;
- or leave the application without consideration due to failure to meet the application requirements.

In practice the Ministry often resorts to the third type of decisions, leaving the NGO in the legal limbo. It often brings the argument that the statue does not comply with the requirements of Article 10 on Public Associations. Another common practice employed by the authorities is to contact the list of members and pressure them to withdraw their consent to forming the NGO. As a result the Ministry announces that the list of founding members is forged since some of them when contacted did not confirm that they have consented to becoming members and signing the founding documents of the NGO. The official reply indicates the reasons for
holding the registration until the discovered irregularities are corrected by the organization. There is no limit to how many times the Ministry can resort to this type of decision regarding one NGO.

The latest cases of arrests and criminal cases against the local civil society activists in Uzbekistan demonstrate the readiness of the Uzbek government to fully shut down the remaining critical voices inside the country. This is done mainly in two forms: a) the targeted human rights, political opposition activists or independent journalists or lawyers are forced either to stop their activities after the law enforcement agencies trump up criminal charges against them and this is used to intimidate the activist; b) or the targeted activist is forced to leave the country under the threat of criminal charges and imprisonment. Interestingly in many latest cases even if the authorities have opened a criminal case against the activist he is allowed to leave the country if he / she decides to do so which means the authorities are forcing him to leave the country on purpose. They mainly act from the logic: if there is no person, then there is no problem as well. The perspective that the activist having emigrated abroad might continue his / her criticism about the situation in Uzbekistan doesn’t bother the Uzbek authorities much because that is not going on inside the country. Another tendency which is becoming obvious in the latest cases is the authorities attempt to involve the local citizens in the role of “victims” who have suffered from the activists in trumping up criminal charges against the latter. Certain types of citizens either voluntarily cooperating with the authorities, or forced by them to do so complain against the activists with different claims (as if the activist extorted money from them, insulted or defamed them, or even physically attacked them) take the roles of “victims” against the targeted activists which enables the authorities to trump up criminal cases.

The latest cases include the following:

Mr. Ganikhon Mamatkhonov is a well-known human rights activist, a regional representative of the International Society for Protection of Human Rights in Ferghana region of Uzbekistan. On March 10, 2014 Mr. Mamatkhonov’s 4,5 prison term has ended and he was expected to be released. But the prison administration has accused him under trumped up testimonies in violating the prison internal rules and put him to the solitary confinement. Soon the prison authorities opened a new criminal case against Mr. Mamatkhonov accusing him of disobeying legal orders of the prison administration (article 221 of the Criminal Code of Uzbekistan). At the end of April 2014 Mr. Mamatkhonov was sentenced to three more years in prison. The trial on his new case took place in prison # 64/25 in Karaulbazar settlement, Bukhara region. The pre-trial investigation and trial on Mr. Mamatkhonov’s new case also were administered with gross violations of the due process of law and fair trial principles. His family members were not informed of the pre-investigation and trial and thus couldn’t participate in those processes. Mr. Mamatkhonov was denied of his right to the legal counsel of his own choice. The appellate hearing on Mr. Mamatkhonov’s new case is scheduled for May 15. His family members were able to hire a legal counsel of their own choice only for the appellate hearing. Mr. Mamatkhonov was sentenced to 4,5 years imprisonment in October 2009 under trumped up criminal charges of fraud and giving bribes (Mr. Mamatkhonov was arrested on June 8, 2009). According to independent observers the criminal case against Mr. Mamatkhonov was trumped up.

The authorities have accused him of taking money from a local farmer and promising the farmer to solve his problems with the local government authorities by further passing the farmer’s money to the authorities as a bribe. The independent observers who monitored the trials on Mr. Mamatkhonov’s case reported that the court failed to establish proof of Mamatkonov’s engagement in the alleged crimes. The court refused to summon Mamatkonov’s witnesses for interrogations. The farmer who allegedly was tricked by Mr. Mamatkhonov to give money to him for bribing the local government officials failed to confirm his testimony against Mr. Mamatkhonov during the trials. During the pre-trial investigation and court hearings in 2009 Mr. Mamatkhonov has experienced three heart attacks. The Uzbek
authorities have denied providing a qualified medical treatment to him while he was kept in prison. There is no doubt that the prison authorities have put Mr. Mamatkhonov to a solitary confinement and charged him with disobeying prison internal rules on purpose in order to prolong his imprisonment and keep him in prison a longer period. This is a common method the Uzbek authorities “neutralize” the local activists.

Many well-known cases of other Uzbek human rights activists who are kept in prison for lengthy periods have been well studied and reported. By putting the inmate to a solitary confinement and charging with disobeying prison internal rules the Uzbek authorities are also blocking his eligibility for annual amnesty acts. Under the existing Uzbek legislation the inmates who have been put to a solitary confinement and charged with violating prison internal rules are not eligible for annual amnesty acts. The Uzbek government’s persecution against Mr. Mamatkhonov has been continuous and mounted up over the years. For instance, on May 25, 2005 Mr. Mamatkhonov picketed in front of the building of Ferghana regional governor’s office protesting against the violations of the local farmers’ rights. The local police arrested him and took to the police station where he was interrogated and pressured for staging a picket. After warnings and threats by the police officers Mr. Mamatkhonov was released on the evening of that day.

On October 19, 2005 Mr. Mamatkhonov stepped in as a public defender to protect the rights of one of his arrested colleagues Mutabar Tadjibayeva – a leader of the local human rights NGO “Fiery Hearts Club” who has been detained earlier on October 7, 2005 under a trumped up criminal charges for her human rights activity. As a public defender Mr. Mamatkhonov engaged in a range of advocacy efforts for protection of Mrs. Tadjibayeva’s rights. Mr. Mamatkhonov reported on how Mrs. Tadjibayeva’s driver and colleague Mamirjon Misiraliev was also arrested and tortured by the local police officers in connection with a criminal case against Mrs. Tadjibayeva. Mr. Mamatkhonov has submitted official complaints on those facts of violations to the Uzbek authorities. However, the Uzbek authorities started persecuting and threatening him for such activities. On October 21, 2005 Mr. Mamatkhonov noticed a surveillance after himself by allegedly a group of policemen in plainclothes who were following him everywhere on their car of “Nexia” model, white color, the state plate numbers 15 M 38-86. He submitted official complaints on these facts of illegal surveillance to the head of Ferghana regional department of National Security Service. But nobody reacted to his complaint, and the surveillance continued.

In June 2009 A. Umurzakov – a head of Ferghana regional department of the Ministry of Internal Affairs in the presence of the regional governor and regional Public Prosecutor at the regional marketplace of Ferghana city threatened Mr. Mamatkhonov with kidnapping. Umurzakov threatened Mr. Mamatkhonov by shooting him on his head as well. On June 6, 2009 Mr. Mamatkhonov wrote a public letter describing those threats. His letter was addressed to the head of Ferghana regional department of the National Security Service Kurbonov, ambassadors of the western countries in Tashkent and the head of the UN office in Uzbekistan. Two days later on June 8, 2009 Mr. Mamatkhonov was detained by the local police officers who opened a criminal case against him which subsequently resulted in his 4,5 years imprisonment;

Mr. Abdurasul Khudoynazarov’s case - On the morning of 26 June 2014, the International Day in Support of Victims of Torture, human rights defender Mr Abdurasul Khudoynazarov passed away one month after being released from prison on medical grounds. The human rights defender was tortured repeatedly and denied adequate medical attention during his nine years in detention. Abdurasul Khudoynazarov was the Chairperson of the Angren city branch of Ezgulik (the Human Rights Society of Uzbekistan), working to combat corruption within the Uzbek law enforcement bodies. As a result of his work, several prosecutors and police officers were forced to retire. He was arrested on 26 June 2005, charged with Article 165 (extortion) and Article 168 (fraud), and Article 227 (document forgery) of the Criminal Code of
Uzbekistan, and condemned to nine years imprisonment by the regional criminal court of Tashkent in January 2006. On 30 May 2014, a court ordered the release of the human rights defender on medical grounds.

Abdurasul Khudonazarov was subsequently transferred to the Tashkent region oncological hospital, where he was diagnosed with stage-four liver cancer, lymphoma, severe tuberculosis, the last phase of adenoma, prostatitis, and acute hemorrhoids. The human rights defender's wife reported that the authorities had ignored his complaints regarding his health and denied frequent requests that he be provided medical attention during his last year in prison. The human rights defender had originally reported being subjected to beatings and ill-treatment during the initial pre-trial detention in 2005, but his claims were ignored during his trial. On 1 September 2008, the human rights defender attempted to commit suicide as a result of the conditions of his detention, including the torture he reported being subjected to. The suicide attempt followed Abdurasul Khudonazarov's hunger strike from 12 to 24 June 2008 in protest against the poor detention conditions, but this resulted in his being sentenced to a further 15 days in solitary confinement. In November 2013 the United Nations Committee Against Torture found that the imprisonment of Abdurasul Khudonazarov along with other human rights defenders and peaceful activists was arbitrary and in retaliation for their human rights activities. The Committee further expressed concern that many had been subjected to torture or other forms of ill-treatment.

A case of Mr. Fakhriddin Tillaev and Nuraddin Djumaniyazov - On 6 March 2014 two members of “Mazlum” Human Rights Society of Uzbekistan Fakhriddin Tillaev and Nuriddin Jumaniyazov were charged under Art. 135 of the Criminal Code ("trafficking in persons") and found guilty under what many independent observers attending the trial believed a trumped up criminal case. The court sentenced both human rights activist to 10 years and 8 months of imprisonment and applied the recent amnesty act. The final term of punishment was thus 8 years and 3 months of imprisonment. On 21 January 2014, during a meeting with his attorney Polina Braunerg, Tillaev said that he could not hear out of his right ear and that it was bleeding periodically. Then he reported that he had been forced to stand for hours under a faucet from which water dripped on his head. This caused a severe headache. The perpetrators also stuck needles between his fingers and toes.

All these latest cases once again indicate a serious determination of the Uzbek authorities to completely neutralize critical voices from among the local civil society groups.

Attacks against International Human Rights Association “Fiery Hearts Club” - As a result of international pressure, the leader of International Human Rights Association “Fiery Hearts Club” Ms. Mutabar Tadjibayeva was released on parole in 2008, and then fled the country because of continued government harassment and serious health problems. In exile Tadjibayeva continued her work in the field of human rights, and its organization "Fiery Hearts Club" is now registered as an international human rights NGO in France. In early 2013, she filed a complaint against Uzbekistan to the UN Committee against Torture complaining about torture she endured while in prison, including her forced sterilization. Even in exile, Ms. Tadjibayeva faced persecution because of her efforts to attract attention to the problems of human rights in Uzbekistan, including on the issue of corruption within the ruling elite around President Islam Karimov. Following her March 2012 trip Switzerland and her visit to the mansion owned by eldest daughter of Uzbek President Gulnara Karimova she published a number of articles on corruption schemes of the presidential daughter.

There were also a number of other incidents that, according Tadjibayeva are attempts to intimidate her and hinder the work of her organization. Organization's website (jarayon.com) which covers the human rights situation in Uzbekistan in Uzbek, Russian and English and its
server have been repeatedly subjected to DDoS and virus attacks. On the night of 25 April, 2013 the unknown attackers hacked the organizations account page at www.odnoklassniki.ru Russian language popular social network. The unknown hackers changed the name of the owner of the website from Jarayonchi Jarayoni to “Alyona dast” (“Alyona – Russian female name provides sex to everybody, in Russian) and changed the avatar picture to a picture of a young female with a defiant look who offers sexual services. The hackers have also signed the odnoklassniki social network account of the organization to more than 200 groups of sexual character.

Similar hacker attacks on the organization’s computers, website and e-mails of the website editor-in-chief and leader of the organization Ms. Tadjibayeva were carried out on September 4, 2013 which created a huge technical problems for the organization’s day-to-day operations. In addition, on August 29, 2013 Rasuljon Tadjibaev - a younger brother of the organization’s leader Ms. Tadjibayeva who lives in Uzbekistan and is also a human rights activist, was arrested in Tashkent. Policemen came to his house, and when he went out to them, they tied up his hands and was taken to a local police station. He was told that his arrest was related to checking his ID documents but he was not allowed to collect his passport.

However he managed to call his sister, and with the help of the media attention in about 4 hours of detention, he was released. A group of pseudo-activists and journalists most of whom on the order of the Uzbek secret services write and public slanderous articles and defamations on the prominent Uzbek human rights activists and democratic opposition leaders, mostly anonymously, have mounted up their attacks on the organization and its leader Ms. Tadjibayeva too. Very often such slanderous articles and publications of anonymous authors also involve blackmailing and threats against Ms. Tadjibayeva.

Recommendations:

1. The State should amend its national legislation in the field of freedom of association in order to comply with the Article 22, by taking the following measures:

   a. Review the list of required documents for registration with the aim of simplifying the procedure;

   b. Abolish the practice of confidential expert opinions by relevant government agencies to inform the decision on registration;

   c. Abolish the excessive period of 2 months allowed under current procedure for making a decision on registration;

   d. Abolish the practice of indefinite postponement of registration permissible under current legislation;

   e. The refusal of registration must contain specific reasons and must be in accordance with the national legislation and Article 22 of the Covenant;

   f. The legislation must indicate the procedure of judicial review to guarantee effective remedy in cases of violations of the right to association.
2. The State should review the cases of numerous postponements of the registration of the following groups, which effectively violate their right to association:
   - Political party “Birlik”
   - Political party “Erk”
   - NGO “Najot”
   - NGO “Mothers against death penalty and torture”
   - NGO “Human Rights Society of Uzbekistan”

3. Release all imprisoned representatives of the local civil society activists the lists and detailed accounts of cases of whom have been extensively published by many international and local human rights NGOs.

General recommendations:

- Publicly condemn practice of torture in criminal justice system by the high-profile government officials and leaders of the country so that it sends a signal and warning that torture is not tolerated and perpetrators would inevitably be punished;

- Ratify the Optional Protocol to the United Nations Convention Against Torture and create an independent national body responsible for investigation of complaints involving torture and similar ill-treatment;

- Recognizing the competence of the United Nations Committee Against Torture (CAT) under articles 21 and 22 of the UN Convention Against Torture (the CAT’s competence to accept and consider individual communications and communications from participating states);

- Establishing effective national mechanism of recognition, rehabilitation and compensation for torture victims in Uzbekistan;

- Inviting the United Nations Special Rapporteur on the Issue of Torture to do a take a follow-up visit to Uzbekistan;

- Reconsideration of criminal cases and court decisions on the cases of all political prisoners – imprisoned representatives of the Uzbek civil society and religious prisoners (persons convicted of articles 156, 159, 216, 244, 244-1, 244-2 and others of the Uzbek Criminal Code) with a special attention to allegations of torture and similar ill-treatment during pre-trial investigation and court hearings;

- Liberalization of existing rules and creation of transparent, open and accessible penitentiary system in Uzbekistan for providing open visits and monitoring of the prison situation by the representatives of the human rights NGOs, international organizations and journalists.

MutabarTadjibayeva

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