Human Rights Committee
114th session

Summary record of the 3179th meeting
Held at the Palais Wilson, Geneva, on Thursday, 9 July 2015, at 10 a.m.

Chairperson: Mr. Salvioli

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(continued)

Fourth periodic report of Uzbekistan (continued)
The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

Fourth periodic report of Uzbekistan (continued) (CCPR/C/UZB/4; CCPR/C/UZB/Q/4 and Add.1)

1. At the invitation of the Chairperson, the delegation of Uzbekistan took places at the Committee table.

2. The Chairperson invited the delegation to continue its replies to questions raised by the Committee at the previous meeting.

3. Mr. Jasimov (Uzbekistan) said that a number of United Nations treaty bodies had suggested that Uzbekistan should change the formulation of torture in article 235 of the Criminal Code. In 2014, a conference of legal experts and law professors had met in Uzbekistan to study the wording of article 235. The conclusion was that, since Uzbekistan’s legal system was based on Romano-Germanic law, the inclusion of the definition of torture given in article 1 of the Convention against Torture would undermine the entire system. Article 235 defined torture in certain specific cases, in relation to pretrial detention or places of deprivation of liberty, for example, but otherwise other articles applied. Uzbekistan had not entirely dismissed the recommendation to reformulate its definition of torture but did not wish to do so if it risked undermining national interests.

4. He disputed the suggestion that there were no provisions prohibiting torture under Uzbek legislation, in view of the fact that article 26 of the Constitution and article 17 of the Code of Criminal Procedure categorically prohibited it. In addition, statistics on the number of complaints lodged and the resulting charges of torture demonstrated that individuals who lodged complaints were not subject to reprisals. In 2014, for example, 61 complaints had been lodged and 3 convictions handed down as a result. As for whether reviews were conducted in situations where confessions had been extracted under torture, evidence extracted through torture in all cases brought under article 235 had not been admitted by the courts.

5. The Amnesty Act had been approved each year since Uzbekistan’s independence in 1991 and, since then, over 150,000 people had been pardoned under the Act. The Code of Criminal Procedure did not identify to whom amnesties could be granted, as the decision was the prerogative of the Senate, following recommendations by the President. Amnesty could not be granted twice to the same person nor could it be granted to persons detained for crimes against the State or murder. It was mandatory to resort to the Amnesty Act in cases involving minors, women, elderly persons and foreigners. The Act had served to make the prison population in Uzbekistan among the smallest in the world.

6. All victims of torture could apply to the courts for compensation and the mechanism worked well: in 2014, seven people had applied for compensation relating to charges under article 235, of whom five had been paid compensation.

7. While thanking Amnesty International for its submissions, he asked that two corrections be made to its report. Firstly, the procurator’s office would not pass allegations of torture on to the police but would handle all such cases itself. Secondly, the idea that torture was used against Muslims who preached at mosques outside State control was ludicrous, because, under the Uzbek system, in which church and State were separate, no mosques were under State supervision and also because it would run counter to the Freedom of Conscience and Religious Organizations Act. Most Uzbeks were traditional Sunni Muslims and were not persecuted or targeted for punishment. In
response to Mr. Pazartzis’ question on the lack of provisions governing discrimination, the grounds for discrimination set forth in article 26 of the Covenant were covered by article 156 of the Criminal Code.

8. In paragraph 52 of the State party’s replies, the term “contemporary challenges” referred to offences such as betrayal of the State, attacks on the President, espionage and sabotage. Threats to public and State security consisted of 25 types of offence that posed a threat to public safety and to peace and harmony in society. Offences included organized crime, mass disturbances, hostage-taking and the illegal possession of firearms.

9. He categorically rejected the suggestion that Uzbek special services abducted Uzbek nationals abroad rather than seeking extradition. There were international mechanisms governing extradition and Uzbekistan always used legal channels for that purpose. Extradition to Uzbekistan was regulated by an agreement of the Commonwealth of Independent States (CIS) on the extradition of criminals. Approval of extradition was granted by the Procurator-General and the other State was always contacted for any requests, in accordance with the relevant bilateral agreement.

10. Uzbekistan had been a victim of terrorism and was still under threat, not least because of its geopolitical situation and proximity to countries such as Afghanistan and Iraq. Uzbek law enforcement bodies were doing their utmost to prevent Uzbek nationals from joining terrorist groups through legislation such as the Terrorism Act and through international cooperation with CIS and the Shanghai Cooperation Organization. The latter, in particular, had established an antiterrorist structure. Terrorism was one of only two crimes for which a person could be sentenced to life imprisonment. The Government had been criticized for the thorough checks that it conducted on migrants returning to the country, such as ascertaining where they had stayed and worked, and yet the checks were necessary for antiterrorism purposes.

11. The use of firearms was regulated by a Ministry of Internal Affairs order from 1999, which outlined the specific cases in which firearms should be used and circumstances under which they might be used, should other measures prove ineffective.

12. The prosecutorial authorities were responsible for instituting proceedings under all Uzbek laws, including those relating to discrimination. Under article 156 of the Criminal Code on the incitement of ethnic, racial or religious hatred, 18 people had been convicted in 2013, 13 in 2014 and 4 in the first half of 2015. He therefore disagreed with comments that the Act was rarely invoked in practice.

13. Lastly, in reply to a question by Mr. Vardzelashvili, he said that the Ministry of Health performed periodic inspections of psychiatric hospitals. In 2014, the procurator’s office had performed a full inspection, checking the hospital conditions and compliance with the Psychiatric Care Act. Although he could not affirm that conditions were perfect and that absolutely no violations had occurred, appropriate measures had been taken to address all violations.

14. Mr. Nurmetov (Uzbekistan) said that his country had ratified the two Optional Protocols to the International Covenant on Civil and Political Rights. Uzbekistan worked closely with the corresponding departments of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and had responded in writing to all questions that it had been asked. It was party to the main instruments on human trafficking and was a sponsor of the Group of Friends United against Human Trafficking. At the Human Rights Council in 2015, Uzbekistan had spoken in support of the mandate of the Special Rapporteur on trafficking in persons and had urged members to fight actively against human trafficking. In July 2015, Uzbekistan would
be hosting information events to commemorate the World Day against Trafficking in Persons.

15. Uzbekistan was party to the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105) and was currently examining the possibility of ratifying the Protocol to Convention No. 29. In April 2014, Uzbekistan had collaborated with ILO to finalize a national plan on decent work, which would contain a section on forced labour. ILO experts were conducting surveys to identify current problems affecting the labour and agricultural sectors; in August, the results would be discussed in Tashkent with international organizations, employers’ organizations, trade union organizations, the World Bank and other stakeholders, with the aim of developing joint recommendations and measures to improve working conditions in the agricultural sector. The ILO Committee of Experts on the Application of Conventions and Recommendations had recognized the country’s progress in complying with ILO norms and had elected not to include Uzbekistan in the list of problematic cases to be submitted for in-depth analysis at the International Labour Conference.

16. Uzbekistan was implementing a large-scale plan, sponsored by the World Bank, to modernize agriculture, including improvements to the mechanization of cotton picking. One aspect of the plan involved third-party monitoring and a feedback mechanism. Cotton picking and other labour activities had been monitored regularly, including by a group of ILO experts in 2013. In 2014, national monitoring had been conducted on the basis of ILO methodology and had included checks for forced labour. ILO experts had been invited to train Uzbek labour inspection and Ministry of Labour staff, both in Uzbekistan and at the International Training Centre of the ILO in Turin.

17. Whether or not Uzbekistan had permitted access by the special procedures of the Human Rights Council since 2002 was a moot point. In recent years, regular replies had been sent by Uzbekistan and eight replies in 2015 alone. It was each State party’s prerogative to invite special procedures to a country, but the system should not be used as a means of pressurizing or coercing States. Uzbekistan was currently considering a number of special procedures invitations.

18. Ms. Seibert-Fohr, recalling the Committee’s long-standing concern about the length of time a person could be detained in Uzbekistan before being brought before a judge, asked when the State party would amend article 243 of the Code of Criminal Procedure to reduce the period from 72 hours to 48 and what steps it intended to take to prevent times of arrest being recorded incorrectly, thereby providing an opportunity for forced confessions to be extracted. Emphasizing the importance of procedural safeguards preventing torture, including the physical presence of the detainee during court hearings, she asked why certain hearings were held in camera and whether the presence of defence lawyers was mandatory. What steps was the State party taking in response to reports that access to lawyers was frequently denied in practice? She would appreciate information on what proportion of prosecutors’ requests were granted and on the effectiveness of habeas corpus proceedings for detainees.

19. She would welcome for statistics on cases in which prisoners served an additional sentence after completing their original sentences: determining who qualified for release should not be at the discretion of local prison authorities and the principle of proportionality should be observed. What judicial review mechanisms were in place to challenge post-conviction detention?

20. In view of the Committee’s concerns regarding the independence of the State party’s judiciary, she asked what efforts were being made to improve the situation and ensure that judges were not influenced by the executive authorities. Personal
independence could be ensured through security of tenure, so she asked whether judges were indeed appointed by the President for renewable five-year terms. She would also welcome data on the ratio of indictments to criminal convictions. Referring to information from the International Commission of Jurists that legal guarantees of lawyers’ independence from government influence were being undermined by State control of the institutions governing the legal profession, she asked how the State party would remedy that situation and sought information on the Act of 31 December 2008 on amendments and additions to certain legislative acts to improve the institution of the legal profession. Concerning the requirement for lawyers to constantly update their knowledge and undertake further training at least once every three years, she asked what happened if they failed to do so and how such training could be demonstrated. Lastly, she asked why the Ministry of Justice had the power to appoint and dismiss the chairperson of the Chamber of Lawyers.

21. Mr. Ben Achour said that legislation, however liberal, must be applied in practice in order to be effective. He therefore wondered how the activities of makhalla committees and the 2012 Police Operations Act were compatible with the Covenant, particularly article 17 thereof. In a country where telephone, Internet and mobile phone services were controlled by the State, it was straining credulity to suggest that there was no interference in people’s private lives. With regard to freedom of conscience and religion, he asked whether the State party had repealed its ban on proselytizing and other missionary activities and enquired about the persecution both of Muslims attending mosques not controlled by the Government and of Christians and other religious minorities. While it was important to tackle religious extremism that could lead to violence, as States were entitled to do in exercise of their right to self-defence, that should not be used as a pretext for restricting freedom of conscience and religion or harassing human rights defenders and obstructing their activities. He sought the State party’s views in that regard.

22. Mr. Bouzid requested figures for the number of prosecutions brought for use of force against detainees and asked the State party to respond to allegations that some detainees, particularly human rights defenders and members of Islamic movements, were held in tiny cells with no windows or ventilation, forced to carry out hard labour and not given enough to eat or drink. He also asked whether agreement had been reached with the International Committee of the Red Cross (ICRC) on enhancing cooperation and, if so, when it would be able to begin visiting prisons and other detention facilities. Lastly, he enquired about the preparation and content of the report on improving prison conditions planned by the Human Rights Commissioner (Ombudsman) of the Oliy Majlis.

23. Ms. Pazartzis said that the State party’s reply to question 21 of the list of issues failed to address the Committee’s concerns regarding compulsory address registration and asked what measures had been taken to bring the system into line with the Covenant. She requested data on applications for registration and on decisions taken in respect of those applications; she also observed that the State party’s replies to the list of issues did not seem to cover the question of exit visas for permanent residents. Given that the State party’s legislation made no provision for granting asylum or refugee status, she asked whether any procedure existed for determining the status of asylum seekers and refugees and whether any practical measures had been introduced in that regard. Concerning the right to appeal against extradition, she asked how such appeals were lodged and whether they had the effect of suspending removal decisions. She also wished to know what measures the Government had taken to protect the rights of minorities, how minorities were defined in the State party’s legislation, what steps had been taken to promote the use of minority languages and whether members of minority groups had been sufficiently well informed of their right to effective
remedies, given the relatively few cases in which article 156 of the Criminal Code had been applied.

24. **Mr. Vardzelashvili**, referring to the member of the human rights organization Ezgulik who had been convicted of trafficking, said that there were concerns that other members of the organization were subjected to harassment or persecution and even sentenced to imprisonment for various offences. The Committee was concerned about the treatment of a number of imprisoned human rights defenders and journalists whose whereabouts were uncertain, whose health was at risk, whose time spent behind bars far exceeded the original sentence or whose age made them eligible for amnesty and yet they remained incarcerated. It was also concerned that making the processing of complaints the exclusive domain of the procurator’s office entailed the disclosure of sensitive information to the very institutions accused of violations. He would be grateful if the delegation could explain how the Supreme Court decision of 2011 to close the Human Rights Watch office in Tashkent could be justified and describe the steps being taken to enable human rights defence organizations to operate in the country.

25. Regarding freedom of expression, he asked whether it was the case that insulting the President, the Government or other State entities was an offence that incurred up to 5 years in prison, whether journalists could be liable for reporting subjective or unverified information and whether, given the prospect of prosecution, it was possible to engage in a real critical analysis of political candidates and elected officials. He wished to know whether it was true that the websites of some organizations, such as Human Rights Watch, the New York Times, the British Broadcasting Corporation (BBC) and Voice of America, were blocked. He would be grateful for further information about the case of the journalist who had been fined 9.5 million sum for publishing an article on the inadequate compensation paid to persons whose homes had been destroyed to erect a mosque.

26. In the light of the restrictions on freedom of assembly, he asked how often rallies and demonstrations were held and whether the cost of security measures deterred organizers. He invited the delegation to comment on the finding of the Organization for Security and Cooperation in Europe (OSCE) that the requirements for establishing a new political party and putting forward presidential candidates were too restrictive.

27. **Sir Nigel Rodley** said that he was perplexed by the delegation’s explanation of the continued refusal to authorize an independent international investigation into the events that occurred in Andijan in 2005 and by how a handful of visits by European Union experts could be said to constitute such an investigation. If there had truly been such an investigation, the Committee would welcome a copy of the report. He asked whether the installation of audiovisual recording devices in all places of detention was still under study and, if not, whether the initiative had been accepted and what the timeframe was for its implementation.

28. **Mr. Shany**, referring to paragraphs 68 to 75 of the replies to the list of issues, asked whether any proceedings had been initiated against the prison guards in relation to the alleged suicides; whether suicide had been proven as the cause of death and, if so, what had led the prisoners to take their own lives; whether any statistics were collected regarding suicide in prison; and whether any harm-reduction measures were in place in detention centres.

29. **Ms. Cleveland** said that, while the Committee commended the State party on its efforts to eliminate child labour in the cotton industry, there was evidence to suggest that the reduction of child labour had resulted in an increase in adult forced labour. Given that forced labour was an element of the widespread corruption and extortion in that industry, which was highly lucrative for the Government, she asked what steps
were being taken to enforce national laws on forced labour, address corruption and ensure financial transparency. Referring to the case of Elena Urlaeva, a human rights activist who had been arrested and subjected to egregious ill-treatment for attempting to document forced labour in the cotton industry, she invited the delegation to comment on the case and the steps taken to investigate the allegations and punish the perpetrators.

30. She asked how the State party intended to implement OSCE recommendations regarding the ability to participate in public life, particularly in relation to limits on freedom of association, assembly and expression, eligibility criteria for potential candidates and compliance with the two-term limit on the presidency.

31. Mr. Politi, referring to paragraph 154 of the replies to the list of issues, asked whether the procurator’s office was considered to be part of the courts and, if it was, how the power to initiate criminal proceedings could be said to have been removed from the executive branch. He also asked whether the new appeals procedure applied to previously unappealable cases and how it affected the right to appeal in civil and criminal proceedings or to use the amended cassation procedure.

32. Mr. Jasimov (Uzbekistan) said that bringing charges was now the prerogative of the procurator, which constituted an important step in the reform of the justice system. Both criminal and civil decisions could be referred to the new appellate court. The period of appeal against decisions of the civil court was up to one year. Regarding the events in Andijan, he said that OSCE experts had had unfettered access to the evidence and that a considerable volume of documents had been translated from Uzbek into Russian so that they could acquaint themselves with the relevant files. The matter of holding an independent investigation had been closed and the State party was not open to discussing the matter any further.

33. Applications for a petition of writ of habeas corpus were dealt with by the courts in accordance with objective and impartial procedures. Hearings to consider applications were generally held in the final 12 hours of the 72-hour period of detention of persons suspected of having committed an offence. A total of 7 detention requests by prosecutors had been denied in 2013 and a further 11 in 2014. Detainees were represented by a lawyer of their choice in almost two thirds of hearings and by State-appointed lawyers in the remainder; indigent detainees were assigned a lawyer by the State. No provision was made for the presence of legal counsel in closed hearings held in connection with offences under article 151 of the Criminal Code. Closed hearings were used to ensure confidentiality at the initial stages of investigations with a view to achieving successful outcomes. Increasing use was being made of alternatives to custody, including bail for pretrial detainees and parole for convicted prisoners.

34. Ms. Yakubjanova (Uzbekistan) said that the judiciary was independent of the legislative and executive branches. Judges hearing cases involving judicial personnel were selected by a special commission on the basis of the President’s recommendations; the Senate was involved in the selection of judges to the Higher Economic Court, while the President only approved the appointment of the judges selected. The Chamber of Lawyers, with the assistance of the Ministry of Justice, provided refresher training for lawyers every three years in order to ensure the quality of the services provided by their members. Lawyers who failed to perform their duties properly were disbarred, in accordance with the relevant legal provisions.

35. The status of foreign nationals and stateless persons was regulated by a government decision. The State party worked closely with OHCHR, in particular when dealing with refugees from Afghanistan and Tajikistan. Before taking any decision on accession to the Convention relating to the Status of Refugees, the Government would
need to review the extent to which national legislation was in conformity with the provisions of the Convention and to take account of the experience of States that were parties thereto. No complaints had been lodged in relation to statelessness.

36. Regarding the Internet, the Government was of the view that a reasonable balance needed to be struck between allowing citizens access to information that enabled them to develop intellectually and spiritually and protecting them from materials of an extremist nature that incited violence. Accordingly, the Government monitored the content of websites, but it did not censor material.

37. The right of peaceful assembly was enshrined in article 33 of the Constitution. The authorities were empowered to impose restrictions or prohibit public gatherings only on specific grounds that were set out in a presidential decree regulating those matters. The Government considered that the provisions of the decree were in conformity with article 21 of the Covenant. The delegation would submit to the Committee in writing statistics on requests to hold public gatherings.

38. The Government actively promoted the expansion of non-governmental organizations (NGOs), whose number had risen from 100 in 1991 to over 8,000 in 2015. As part of efforts in that regard and pursuant to Presidential Decision No. 2085 of 12 December 2013, additional measures had been put in place to support the development of civil society institutions, including a fivefold reduction in the State tax on the registration of certain associations and the introduction of simplified registration procedures. The constitutional right of citizens to form and join political parties had been given effect through legislation that set forth the specific requirements applicable in that connection. All four political parties currently registered in the State party had taken part in the recent elections.

39. With regard to freedom of conscience and religious belief, the Government’s policy aimed at promoting tolerance and ensuring that citizens were able to make choices independently, without coercion and free from external influence. The principles underlying that policy were reflected in the Freedom of Conscience and Religious Organizations Act, which governed proselytism, other missionary activities and religious organizations that were not State-registered. More than 2,000 religious organizations representing 16 different faiths were present in Uzbekistan.

40. The Human Rights Watch office in Uzbekistan had been closed in 2011 because of the organization’s repeated failure to comply with regulations. It had, for example, failed to provide transparency regarding its financial situation and organized events without the agreement and approval of the relevant authorities. Despite several warnings by the Ministry of Justice, the organization had continued to breach the host country’s legislation. The Government had therefore instituted legal proceedings seeking the closure of the office; after duly considering the case, the court concerned had ruled that the office should be closed. Any future application by Human Rights Watch to operate within the country in accordance with the law would be given due consideration.

41. Ms. Lankevitch (Uzbekistan) said that statements made in an alternative report concerning the prison system were inaccurate. Thanks to a series of major reforms and initiatives, extensive improvements had been made to various aspects of the system, in particular with regard to health care. Existing infrastructure had been upgraded and new facilities had been built to provide such services as dental and optical care and treatment for tuberculosis. The Government had taken into account relevant international standards and best practice when developing those measures and the conditions of detention in Uzbekistan were at least on a par with those in other countries. Diplomatic representatives from, among others, the European Union and the United Kingdom had visited detention centres on 29 occasions in 2013. There were no
restrictions on prison visits to detained human rights defenders. ICRC had never been denied access to the system; its prison visits had ceased following a unilateral decision by ICRC itself. The Government had met ICRC representatives on 24 June 2015 but had received no request to visit a prison. The Ministry of Justice had begun cooperating with ICRC in a number of areas, including training for law enforcement officials in the provision of medical assistance in emergency situations. There had been no cases of torture within the prison system. Strict oversight procedures were in place within the system itself and, in addition, members of the legislative branch carried out monitoring activities. Further information on the prison system would be submitted to the Committee in writing.

42. **Ms. Muratova** (Uzbekistan) said that, although Uzbekistan was not party to the Optional Protocol to the Convention against Torture, the Ombudsman had begun work on establishing a national preventive mechanism with a view to ensuring the effectiveness of oversight and monitoring of prisoners’ rights. The Ombudsman had held consultations with representatives of the national preventive mechanisms of Austria, France, Poland and Slovenia and would take into account the views of international experts in the field when developing the project. The composition of the future mechanism would include representatives of NGOs, including the National Centre for Human Rights.

43. **Mr. Jasimov** (Uzbekistan) said that military service was obligatory, but the right to conscientious objection was fully respected. Accordingly, members of different religious organizations who objected to handling weapons, such as Jehovah’s Witnesses, were exempt from military service. Furthermore, in recent years no members of such faiths had been required to perform the alternative form of service provided for by law. There was no discrimination of any kind on religious grounds and no harassment whatsoever of Christians or members of other religious faiths. The Government had no plans to make any changes to provisions concerning criminal liability for proselytism; it was of the view that individuals should be free to choose their own faith and that no one should be coerced into converting to a different religion.

44. The purpose of prison establishments was to re-educate inmates with a view to reforming their behaviour before their return to society. Article 221 of the Criminal Code had been enacted to that end, inasmuch as it served as an incentive to inmates to have a positive relationship with the prison regime. The Government was taking steps to deal with any problems in the practical application of the legislation and was willing to engage in an open dialogue with interested parties in that connection.

45. As cotton was a very important source of foreign currency revenue, it was vital that it should be harvested in a timely manner to avoid damage by the first rains. The Government was taking steps to mechanize the process and thereby reduce reliance on manual labour; it was hoped that 90 per cent of cotton would be machine-harvested by 2017.

46. **Ms. Yakubjanova** (Uzbekistan) said that the import and dissemination of foreign religious literature was subject to scrutiny under the Freedom of Conscience and Religious Organizations Act. Regarding the surveillance of detention facilities, all pretrial detention, custody and police cells were equipped with video cameras. Reports concerning the harassment and persecution of journalists were unfounded; the mass media played an important role in shaping society, and journalists were welcome to express their opinions openly, including criticism of the authorities. The residence registration system of individuals, known as propiska, which was operated in accordance with the law, was intended to monitor migration within the country and abroad.
47. **Ms. Lankevitch** (Uzbekistan) said that the rights of persons with disabilities within the prison system were duly taken into account in the Code of Criminal Procedure.

48. **Sir Nigel Rodley** asked whether video and audio recording facilities were also available and routinely used in all places where interrogations were conducted.

49. **Mr. Jasimov** (Uzbekistan) said that the delegation would reply to that question in writing.

_The meeting rose at 1 p.m._