

UZBEKISTAN

Joint Report by the civil society intended for the Universal Periodic Review's examination

2nd CYCLE

October 2012

This report is the result of a joint effort from various human rights defenders to provide first-hand information from reliable sources on the ground. Below are a few of those organisations that took an active part in the compilation process:

Association des Droits de l'Homme en Asie Centrale

<http://nadejda-atayeva-en.blogspot.com/>

Email : asiecentrale@neuf.fr

Centre MBE 140, 16, rue du Docteur Leroy, 72000 LE MANS FRANCE

Phone : [+ 33 6 49 38 86 59](tel:+33649388659);

Uzbek-German Human Rights Forum- UGF

<http://uzbekgermanforum.org/>

Email : info@uzbekgermanforum.org

Phone : +49(0)176 875 326 84

Centre for Civil and Political Rights- CCPR Centre

<http://www.ccprcentre.org/>

Rue de Varembe 1, PO Box 183, 1202 Geneva (Switzerland)

Phone: +41(0)22/33 22 555

Email: info@ccprcentre.org



Word count (excluding footnotes): 5580 words

Introduction

The present report provides an analysis of the status of implementation of some of the recommendations made in December 2008 by the Human Rights Council during the review of Uzbekistan in the first cycle of the Universal Periodic Review (UPR). The report addresses the recommendations made during the first UPR cycle on six areas of concern, which were also raised by the Human Rights Committee, after reviewing Uzbekistan in March 2010.

The areas of concern are the following:

- I. The prohibition of torture, inhuman and degrading treatment and punishment;
- II. Force labour of children and adults;
- III. The independence of the judiciary, right to a fair trial and arbitrary detention;
- IV. Freedom of expression: the persecution of human rights defenders, NGOs and journalists;
- V. Freedom of religion: illegal religious groups and the “extremists”;
- VI. The situation of Andijan survivors and returnees.

I. The prohibition of torture, inhuman and degrading treatment and punishment

1. Uzbekistan has enshrined the prohibition of torture in its domestic legislation¹ and has also ratified the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). However, despite the State’s commitment under the first UPR cycle to examine the possibility of ratifying the Optional Protocol to the CAT², this ratification is still pending to date. Moreover, the existing laws and international obligations undertaken are far from being implemented in practice, contrary to the State’s assertion during the first UPR cycle³. This report provides recent examples of the deficient implementation of measures preventing and combating torture and ill-treatment in Uzbekistan.
2. The standard methods of torture currently used by Uzbek police, as documented by the civil society, include: severe beatings, burns, starvation and sleep deprivation, suffocation with a plastic bag or gas mask, tying up and hanging by the hands, administering electric shocks, rape or threat of rape, deprivation of access to lavatory and threats of use of violence against relatives.⁴ As an illustration, the case of Ravshan Kosimov, who was brutally tortured while in custody on charges of spying for the United States, crossing the border illegally and violations of military discipline⁵. Also, the case of Lieutenant Hayitali

¹ See articles 24, 25 and 26 of the Uzbekistan Constitution. Article 235 of the Penal Code also prohibits forced confession and torture “by an investigator, prosecutor or other officials of the law enforcement bodies or penal institutions”.

² Report of the Working Group on the Universal Periodic Review, Uzbekistan, A/HRC/10/83, December 2008, para. 105.1 and 2, and Addendum to the Report of the Working Group on the Universal Periodic Review, A/HRC/10/83/Add.1, para. 3.

³ A series of practical recommendations were disregarded by the State during the first UPR cycle on the grounds that they pertained to measures « already being implemented», *Ibid*, para. 106.

⁴ “Torture in Uzbekistan: still systematic and unpunished”, by Human Rights Alliance of Uzbekistan, Committee for the Liberation of Prisoners of Conscience, Uzbek-German Forum for Human Rights submitted to the 98th session of the UN Human Rights Committee: “Available through the OHCHR website
<http://www2.ohchr.org/english/bodies/hrc/docs/ngos/JointStatement_Uzbekistan98.pdf>

⁵ Mr. Kosimov was finally convicted to 15 years imprisonment in a trial that did not respect the due process. Information obtained by CCPR Centre from reliable sources in the country.

Iglamova, brought unconscious with an open head injury, concussion and broken ribs following his arrest on 10 February 2010⁶.

3. Torture and other ill-treatment are used to extract confessions and to coerce witnesses into testimonies that were influential to establishing guilt. Despite national law forbidding the admission in court of evidence obtained through torture⁷ and the 2004 ruling of the Supreme Court on the inadmissibility of evidence obtained unlawfully⁸, there are still cases where evidence obtained through torture is admissible in Court. On 9 December 2011 ten people were sentenced for sabotage of rail tracks to 7-12 years imprisonment each. According to medical reports, the accused were sodomised with battons, intimidated and threatened. As a result of this treatment a confession was obtained⁹. Also on 22 January 2010, Muslimova Husan was convicted for the robbery of a house. During his detention, police obtained from him a confession after being beaten. At trial he raised the fact that he had given a confession under duress. However, the judge disregarded the claims¹⁰. Similarly a case was reported in June 2010, where 6 men were caught stealing candy, bottles of ketchup and an old refrigerator from a school kitchen. The accused showed obvious signs of severe physical mistreatment and reported to the court that they had been subjected to threats and physical abuses by the police. The judge proceeded with the case, regardless their testimonies.¹¹
4. Deaths in custody are still commonplace in Uzbekistan due the widespread practice of torture. In 2010 alone 39 people died allegedly from torture carried out in detention centres¹². As an illustration: on 20 November 2011, Ruzikulov Almaridon Muhammadievich died in the detention centre ATC Chirakchinskogo Kashkadarya region, as a result of inhuman treatment imposed on him to extract a confession by force.¹³ Some of these deaths are also caused by suicide resulting from continuous submission to torture.
5. There are various reports of cases of violence against women, including sexual violence, in places of detention, as acknowledge by the Committee on the Elimination of Discrimination against Women (CEDAW) in its latest Concluding Observations on Uzbekistan¹⁴. The female's prison # 64/7 located in the Zangiat, Tashkent district, holds more than 3,500 female prisoners. One of its sections is only populated with pregnant women and prisoners with small children. Most of these women got pregnant as a result of rape during their pre-trial investigation. As an illustration: Nasiba Zhumaniezova, born in 1980 and sentenced by Khoresm Oblast Court for drug addiction charges, got pregnant while staying at the Zangiat female prison. During the time up to her pregnancy, she did not receive any outside visits¹⁵. Similarly, Holiskhon (last name withheld at her request) was sentenced in 2009 to a lengthy term of imprisonment for unlawful possession of

⁶ Information obtained by CCPR Centre from reliable sources in the country.

⁷ Article 235 of the Penal Code

⁸ Concluding Observations of the Human Rights Committee: CCPR/C/UZB/CO/3 (HRC, 2010) para. 11.

⁹ Information obtained by CCPR Centre from reliable sources in the country.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² Analytic Report of the Human Rights Situation in the Republic of Uzbekistan for the Year 2010 by Human Right Society of Uzbekistan- Ezgulik, (Tashkent, 2011).

¹³ *Ibid.*

¹⁴ CEDAW, CEDAW/C/UZB/CO/4, February 2010, para 24.

¹⁵ Information obtained by CCPR Centre from reliable sources in the country.

narcotics. During the preliminary investigation, she was raped, became pregnant and gave birth in prison¹⁶.

6. The government's response to a reported claim of torture is usually to redirect it to the Prosecutor's office. The results of these investigations are never shared with the complainant and reports from the Prosecutor's office remain confidential. On the very rare occasions when a criminal case is brought against the perpetrator, the latter will hardly ever be charged with a more serious offence than "exceeding his official authority", which will only cause the person to getting dismissed from office.¹⁷
7. The Government has taken no substantial measures to prevent or eliminate the practice of torture and put an end to the existing impunity with regard to this practice¹⁸. The only measures taken by the Government consist of leading workshops and conferences, to which independent journalists and human right defenders are frequently not invited. These measures are clearly insufficient to prevent the practice of torture.

Recommendations:

8. Ensure, prompt, thorough and impartial investigations into all complaints of torture and ill-treatment by an independent body¹⁹ and prosecute, bring to justice and punish all perpetrators, according to the crime of torture foreseen in the Criminal Code;
9. Establish an independent medical service to conduct medical examinations of all detainees promptly after arrest and on a regular basis, in line with the Istanbul Protocol. Cases of death in custody should specifically require their attention. Results of such medical examination should be communicated to the counsel and relatives of the prisoner;
10. Ratify the Optional Protocol of the Convention against Torture before the next UPR cycle and honor its commitment to establish a national independent mechanism to monitor all places of detention, as accepted by the State during the first UPR cycle²⁰;
11. Comply with and assess the efficiency of the National Plan of Action for the implementation of the recommendations made by the Human Rights Committee, following consideration of the third periodic report (2010–2013), in particular with regard to the recommendation 11 dealing with torture.

¹⁶ See also the case of Normatova Dilfuza Mardon kizi of Surkhandarya region. Information obtained by CCPR Centre from reliable sources in the country.

¹⁷ "Torture in Uzbekistan: still systematic and unpunished" by the Human Rights Alliance of Uzbekistan, the Committee for the Liberation of Prisoners of Conscience and Uzbek-German Forum for Human Rights submitted to the 98th session of the UN Human Rights Committee. See also Concluding Observations of the Human Rights Committee: CCPR/C/UZB/CO/3 (HRC, 2010), para. 11.

¹⁸ As recommended by Germany, United Kingdom, France, The Netherlands, Denmark, Canada, France, Sweden and Ireland during the first UPR cycle, Report of the Working Group on the Universal Periodic Review, Uzbekistan, A/HRC/10/83, December 2008, para. 106.4.

¹⁹ Concluding Observations of the Human Rights Committee: CCPR/C/UZB/CO/3 (HRC, 2010) para. 11.

²⁰ Report of the Working Group on the Universal Periodic Review, Uzbekistan, A/HRC/10/83, December 2008, para. 104.11.

II. Forced labour of children and adults

12. The rights of children in Uzbekistan are recognised and protected in various legal instruments²¹. In addition, Uzbekistan has ratified the UN Convention on the Rights of the Child, the UN International Covenant on Civil and Political Rights, the International Labor Organization (ILO) Convention № 29 «On Forced Labour», №105 «On the Abolition of Forced Labour», № 138 «On the Minimum Age of Employment», and № 182 «On the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour». On 12 September 2008, the National Programme for the Implementation of the ILO Conventions and Compliance with their Standards and Working Conditions was adopted. In paragraph 11 of the National Programme the government established the rules prohibiting organisations and individuals forcing minors to work.
13. Forced child labour continues, however, to be a major problem in the country, as acknowledged recently by the Human Rights Committee.²² The ILO Committee on the Application of Standards also indicated in 2010 and 2011 that Uzbekistan violated these conventions, but the Uzbek government denied the existence of forced labour or responded by introducing new administrative documents that have actually had no real impact on the actual situation on the ground.
14. According to the monitoring results, school students from almost all cotton-growing areas of the country were brought to work in the cotton harvest, including in the regions of Bukhara, Samarkand, Kashkadarya, Surkhandarya, Syrdarya, Tashkent, Khorezm, Jizak, Fergana, Namangan, Andijan, and the Republic of Karakalpakstan. Although the State committed in the first UPR cycle to ensure regular inspections of harvesting practices to monitor and guarantee full compliance with international standards²³, it refused the visit of an ILO expert during this year's cotton harvest.²⁴
15. There is no firm stake on the government side to publicly condemn child labour or firmly prohibit any type of support to this practice, as undertaken during the first UPR cycle and stated on various reports submitted to the UN Committee on the Rights of the Child²⁵. As an illustration, the “National Programme for the Implementation of the ILO Conventions and Adherence to Standards and Conditions of Work” has been concealed from the

²¹ The Constitution of Uzbekistan provides for the protection of the child: Article 37 guarantees fair conditions of labour and prohibits any forced labour; article 65 protects motherhood and childhood. Furthermore, the January 2007 Laws for the protection of the rights of the child establish that all persons under the age of 18 should be considered children (Art.3) and that all children should be protected against exploitation (Art.10). Article 20 establishes that employment is allowed from age 16 but individuals who have reached 15 years of age may be employed with the written consent of one of their parents. Employment of students must be light, causing no harm to health and development and not interfering with their studies, Report by the Association of Human Rights in Central Asia on Forced Labour in Uzbekistan on Forced labour in Uzbekistan (February 2010, France).

²² Concluding Observations of the Human Rights Committee: CCPR/C/UZB/CO/3 (HRC, 2010) para. 23.

²³ Report of the Working Group on the Universal Periodic Review, Uzbekistan, A/HRC/10/83, December 2008, para. 104.31.

²⁴ “A Chronicle of Forced Labour: Report from the Uzbekistan Cotton Harvest 2012” by Uzbek-German Forum for Human Rights, Issue 3, September 18, 2012.

²⁵ Report of the Working Group on the Universal Periodic Review, Uzbekistan, A/HRC/10/83, December 2008, para. 104.30. In the third and fourth national reports of the Republic of Uzbekistan on the implementation of the Convention on the Rights of the Child. Section G. "Abuse and neglect" (art. 19), paragraphs 686, 687, 688, 689, 690, 691, 992, 1012, state that the State provides protection against coercive forms of labour, including child labour. Responsibility for the implementation of obligations under international agreements and national laws and relevant regulations of the President and the Cabinet of Ministers is vested in the General Prosecutor's Office of Uzbekistan and the Ministry of Labour and Social Protection of the Republic of Uzbekistan. Monitoring of implementation is the responsibility of the Prime Minister of Uzbekistan.

general public, because of the deterrent effect it has on families with children working in the cotton field.²⁶ Children are sent to pick cotton by the decisions made by the administration of schools, and these are acting on the orders of the district and regional administration heads. Various means of coercion are in use, but a special role is given to prosecutors' offices and the police²⁷.

16. Over the past three years the practice of forcing parents and students to write and present to the school written statements in which they request permission to participate in the cotton harvest has spread. The children and parents are threatened if they refuse to participate in the cotton harvest. A school teacher from Jizzakh region, Ziyodullo Razzakov²⁸ was dismissed for objecting to the school management for attracting children to harvest cotton. Razzakov appealed against his dismissal through the Jizzakh inter-district court, but his appeal was dismissed. He is currently out of work and received several threats.²⁹
17. In September 2011, the public was made aware of a document prepared by the Department of the Interior of the Khorezm region³⁰, which explicitly states the centralised mobilisation of students and children to pick cotton in the Khorezm region³¹. These kinds of press releases are distributed to the local media and at the staff meetings of the provincial authorities during the harvest season. The farmers, heads of local administration (khokimiyat), heads of schools and other educational institutions and law enforcement agencies take part in these meetings.
18. The productivity targets are based on age groups and no hourly pay rate are in effect. They are paid from 100 to 125 Uzbek soums (4 to 5 cents) per Kg, which is less than half as much than the cotton pickers in neighbouring South Kazakhstan. Furthermore, the children who are forced to live on the cotton fields, see the cost of their meals and transportation deducted from their salary. It was also reported that on some occasions part of their salary is injected in the school fund.³²
19. Cotton pickers, including children, university and college students and adults, work in harsh climatic conditions and are exposed, without the necessary safety equipment, to pesticides, herbicides and defoliants. Furthermore, no clean drinking water is provided and they are fed a meagre diet. The barracks accommodating the children do not meet basic health and safety standards. On 12 September 2011, a student from the Pediatrics Faculty of the Andijan Institute of Medicine sent an email to Radio Liberty describing the

²⁶ Information gathered by Association des Droits de l'Homme en Asie Centrale from reliable sources in the country.

²⁷ ETAT № 306 of the Cabinet of Ministers of the Republic of Uzbekistan, Tashkent. Accepted October 15, 2009, at 19 hours and 5 minutes.

²⁸ The article "Jizzakh teacher - opponent of child labour - fired" January 12, 2012 online free journalists "Uznews.net" http://www.uznews.net/news_single.php?lng=ru&cid=3&sub=top&nid=18750 ;

²⁹ The article "How many years we repeat the world..." November 3, 2011

<http://pressuzinfo.uz/index.php?title=sport&nid=7&my=112011&st=0>

³⁰The full text of a document of the Ministry of Interior and its translation attached:

http://ahrca.ru/images/stories/cotton_mia_press_release_ru.pdf

³¹ "In order to provide quality cotton harvest in 2011 in a short time period it is considered necessary to attract 202 641 people to pick cotton, of which 34 800 are students of the universities, colleges and schools. To accommodate them, 463 temporary hostels (302 field huts (shiyon)), 109 houses of private individuals and 52 tents, etc.) are provided."

³² "Forced Child Labour during the Cotton harvest in Uzbekistan: Monitoring results for the period from September to November 2011" by Uzbek-German Forum for Human Rights submitted to 63rd session of the Committee on the Rights of the Child, (March 2012).

harsh working conditions for children.³³ About 2 million children every year are interrupted from the educational process at different times, from 15 to 70 days a year to participate in the cotton campaign.

20. The forced labour has resulted in many children's deaths in 2010-2011. On 15 November 2010 Oysha Suvanova and Abdurasul Suvonov, were returning home from the cotton fields and were hit by a car along the motorway Jandar-Karakul of Bukhara region. Ahrorjon Abdumannonov, followed the same fate when he was coming home from the cotton fields near Olmazor-Papskiy district of Namangan region. Similarly, Erkin Eshboev was crushed by a tractor on 13 September 2010 on the "Usmana Yusupov", Farm, Nishan District of Kashkadarya region. On 17 October 2010, Lochin Norboev died of acute respiratory virus (ODS), since he had a cold and he did not receive medical care during the cotton harvest in the village of Shohusmon, Forij district of Jizzakh region.³⁴
21. Not only pupils of schools and students but the farmers themselves also are subjected to coercion. Those who do not grow cotton, but more profitable crops in their fields, or use their private fields for grazing livestock, are prosecuted.
22. The forced mobilisation of labour has significantly increased in the past two years due to the government's attempt to shift the burden of forced labour from children to adults. Until recently a large part of the work force came from social sector institutions in the provinces. It was reported that also workers of the Uzbek-American joint venture General Motors Uzbekistan were sent to work in the 2011 cotton season, apparently with the tacit consent of the company's management.³⁵ However, recently it has become a widespread practice in other sectors, under threats of employment dismissal. As of 1 April 2012 approximately two million adults are being forced to engage in cotton harvesting.³⁶
23. In 18 September 2011, many companies in the capital, including privately-owned ones, were given instructions "from above" to send their employees to the cotton fields³⁷. As an illustration, the employees of a large engineering factory in the capital received instructions from the administration of the factory that they were to harvest cotton. The company's management put together a list of 50 people. According to undisclosed sources, the Ministry of Health received orders to send from each district of Tashkent city 1000 medical personnel to the cotton fields³⁸. On 20 September 2011, under the order of the Ministry of Health, 10 family doctors from Polyclinic No. 13 in Tashkent city went to harvest cotton for a length of 10 days. At the end of September, approximately 50 teachers from Tashkent's Uspensky music school were sent to pick cotton in Jizak.

³³ *Ibid.*

³⁴ See also the case of Bakhodyr Pardaev, a pupil of school number 24, grade 6 of Chirakchi district of Kashkadarya region, hit by a car on 24 September 2011, and the case of Jahongir Ergashev, pupil of grade 9 of Guzar professional college, who died on 7 September 2010 in the village of Keroit, Guzar district of Kashkadarya region, as a result of a conflict with classmates during the cotton harvest on the field. Information gathered by Association des Droits de l'Homme en Asie Centrale from reliable sources in the country.

³⁵ <http://www.fergananews.com/article.php?id=7099> (retrieved on 11.09.2012).

³⁶ Report on the results of harvest survey in 2011, Uzbek-German Human Rights Forum.

³⁷ Information obtained by Uzbek-German human Rights Forum from reliable sources in the country.

³⁸ *Ibid.*

24. The World Bank has provided assistance to the Uzbek agricultural projects such as ‘the Rural Enterprise Support Project’ regardless of the involvement of child labour or force labour of adults.³⁹

Recommendations:

25. Accept a visit of an ILO mission to monitor the situation of forced labour during the next harvesting season;

26. Investigate and take administrative and penal actions towards those officials who incentivise or facilitate the labour of children in cotton fields, as committed to do during the first UPR cycle⁴⁰, and provide statistics of those actions during the next UPR cycle;

27. Ensure the conduct of an independent investigation of all child labour complaints;

28. Include members of independent human rights NGOs in a national supervisory body monitoring the practice of child labour.

III. The independence of the judiciary, right to a fair trial and arbitrary detention

29. During the first UPR cycle, the State of Uzbekistan considered as implemented the recommendation to ensure that the Judiciary has sufficient independence from the Executive branch⁴¹. The Human Right Committee has recently flagged, however, the lack of separation of powers between the Judiciary and the Executive, since the latter renews judges’ positions every five years⁴². If officially all judges are drawn from the Senate, in practice the power of appointment resides in the hands of the presidential administration.⁴³ More importantly, the judges do not benefit from judicial immunity. Additionally, the Executive approves the Court’s budget.

30. Furthermore, although Uzbekistan has passed legislation in 2008 guaranteeing the rights of every detained suspect or accused to contact a lawyer or relative immediately upon arrest,⁴⁴ it still remains unclear how these guarantees are enforced in practice. There are

39 The project report: ‘Project Appraisal Document on a Proposed Credit in the Amount of SDR 41.3 million (US\$ 67.96 million Equivalent) to the Republic of Uzbekistan for a Rural Enterprise Support Project, Phase II, World Bank: May 8, 2008 (report No: 43479-UZ, available online < http://www-wds.worldbank.org/external/default/main?pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64187510&searchMenuPK=64187283&siteName=WDS&entityID=000333037_20080522025832> vividly conveys a misperception of the magnitude of the issue of child labour.

⁴⁰ Report of the Working Group on the Universal Periodic Review, Uzbekistan, A/HRC/10/83, December 2008, para. 104.26.

⁴¹ *Ibid*, para 106.6.

⁴² Concluding Observations of the Human Rights Committee: CCPR/C/UZB/CO/3 (HRC, 2010) para. 16.

⁴³ ‘Torture in Uzbekistan: still systematic and unpunished’ by the Human Rights Alliance of Uzbekistan, the Committee for the Liberation of Prisoners of Conscience and Uzbek-German Forum for Human Rights submitted to the 98th session of the UN Human Rights Committee.

⁴⁴ Law of the Republic of Uzbekistan dated 11.07.2007, number ISG-100 "On amendments and additions to some legislative acts of the Republic of Uzbekistan in connection with the transfer to the courts the right to authorize the detention" adopted by the Legislative Chamber on 15 June 2007, approved by the Senate on 29 June 2007 and entered into force on 1 January 2008.

clear indications, however, that more than 99% of the prosecutor's motions for detention are met by the courts since the new law was passed, showing that alternative measures to detention are hardly ever considered.⁴⁵ In addition, a recent study showed that prosecutors do not present sufficient evidence to court to justify the need of detention measures, and pre-trial judges do not sufficiently cross-examine the claims against the evidence presented by the defence when imposing detention. Counsels appointed *ex officio* do not argue sufficiently in favour of the defendant, and almost 99% of the detention decisions appealed are dismissed.⁴⁶

31. There are also cases of arbitrary detention being reported. On 7 May 2010, S.Alimov was taken to the police department of Yakkasaray, Tashkent. He was neither informed that he was being arrested nor of his rights and he was interrogated without the presence of a lawyer. The record of his detention does not reflect the actual time of arrest, since almost 24 hours were left unreported.⁴⁷
32. The Human Rights Committee has also expressed its concern over the recent legal reform, giving the Ministry of Justice authority to examine and renew lawyers' licences every three years.⁴⁸
33. Trials are usually held in closed sessions without giving notice to the relatives of the defendants and without granting the defendant an opportunity to be provided with legal counsel. Convictions are often based on undisclosed evidence. As an illustration: the trial of Norboy Kholjigitov, head of the HRSU section⁴⁹ in the district of Ishtikhan, arrested on 4 June 2008, was held in closed session. The defendant and his lawyer repeatedly filed a request for disclosure of evidence, including the audio recording of the interrogation. The Court, however, refused to do so⁵⁰. According to Ezgulik's 2011 report, 75% of the criminal accusations were related to crimes against public safety and no defendant was acquitted in the whole of 2010.⁵¹ Appeals are usually dismissed.⁵²
34. Furthermore, many defendants are tried several times for the same offence violating the prohibition against double jeopardy.⁵³ Furthermore, there are intrinsic issues with regard to the use of hearsay in court and failure to uphold the obligation of cross-examination in court. For example, in the case of Muslimova Husan, cited above, the trial panel rejected exculpatory evidence and the defendant was convicted without the possibility of appealing the judgement.

⁴⁵ The Prosecutor General's Office announced that in 2008 "... in the past, prosecutors made 16,610 applications for detention on remand of which 16 338 of these applications were granted by the courts, and 248 were declined."

⁴⁶ Survey of an expert group of practicing lawyers based on evidence obtained monitoring criminal cases for about a year after the entry into force of the 2008 Law.

⁴⁷ Information obtained by CCPR Centre from reliable sources in the country.

⁴⁸ Concluding Observations of the Human Rights Committee: CCPR/C/UZB/CO/3 (HRC, 2010) para 17.

⁴⁹ Human Rights Society of Uzbekistan.

⁵⁰ Information obtained by CCPR Centre from reliable sources in the country.

⁵¹ Analytic Report of the Human Rights Situation in the Republic of Uzbekistan for the Year 2010 by Human Right Society of Uzbekistan- Ezgulik, (Tashkent, 2011).

⁵² *Ibid.*

⁵³ Analytic Report of the Human Rights Situation in the Republic of Uzbekistan for the Year 2010 by Human Right Society of Uzbekistan- Ezgulik, (Tashkent, 2011)

Recommendations:

35. Ensure mandatory access to legal counsel upon arrest to all suspects and the efficient functioning of a system of legal aid;
36. Ensure the principle of equality of arms and automatic access for the defence to exculpatory materials and evidence presented by the prosecution in court;
37. Establish procedures and objective criteria in the law for the appointment, sufficient long tenure, promotion, suspension and dismissal only on serious grounds of misconduct or incompetence of the members of the judiciary, ensuring total independence from the executive branch, including financial independence;
38. Ensure that all trials are held publicly as a general rule and that, even when the public is excluded under justified reasons, the judgment is made public in all circumstances, except where the interest of children otherwise requires or the proceedings concern matrimonial disputes⁵⁴.

IV. Freedom of expression: the persecution of Human Rights Defenders, NGOs and journalists

39. One of the foundations of democracy is the existence of accountability mechanisms, of which the independent media constitutes a cornerstone. In Uzbekistan, the National Information Agency is under the tight control of the government. The 2006 legislation is still in force, limiting the right to disseminate information only to journalists and NGOs registered or accredited by the Ministry of Foreign Affairs. Similarly, the Council of Ministers runs the three most influential newspapers (i.e. Pravda Vostoka, Halk Suzi, Narodnoye Slovo) as well as the four national channels. The July 2011 hunger strike organized by two journalists of TV and radio channel “Yoshlar” in protest of media censorship is a salient illustration.⁵⁵
40. The Human Rights Committee has recently expressed concern about the continued harassment, assault, intimidation and imprisonment of human rights defenders, journalists and NGOs members.⁵⁶ The Committee also noted that international NGOs are being denied entry to the State. It also perceived a failure to investigate claims of assault, harassment, threats of journalists and human rights defenders⁵⁷.
41. Human rights defenders and journalists are indeed often subjected to inhuman treatment and torture upon detention. As an illustration: the journalist Dilmurod Sayid, despite his critical health condition, was not released on amnesty.⁵⁸

⁵⁴ Human Rights Committee, General Comment 32, CCPR/C/GC/32, July 2007, para. 29.

⁵⁵ Analytic Report of the Human Rights Situation in the Republic of Uzbekistan for the Year 2010 by Human Right Society of Uzbekistan- Ezgulik, (Tashkent, 2011)

⁵⁶ Concluding Observations of the Human Rights Committee: CCPR/C/UZB/CO/3 (HRC, 2010), para. 24.

⁵⁷ *Ibid.*

⁵⁸ Analytic Report of the Human Rights Situation in the Republic of Uzbekistan for the Year 2010 by Human Right Society of Uzbekistan- Ezgulik, (Tashkent, 2011)

42. Although during the first UPR cycle the State considered as implemented the recommendation to adopt effective measures to prevent any harassment or intimidation of journalists and activists, there is no open policy in this regard within the government. There are no cases either of persecution of journalists or human right defenders reported to the police because the State is the actual perpetrator of those threats and the victims do not trust the judicial system. The Monitoring Centre of the Communications and Information Agency produces « an expert assessment » of journalistic publications which is then used as ground for prosecution. As an illustration: Criminal charges of "slander" and "defamation" were brought against journalists Abdumalik Boboyev, Elena Bondar, Vladimir Berezovsky and photographer Umida Akhmedova based on "an expert assessment" of the Agency.
43. Despite the fact that the State considered during the first UPR cycle that the registration procedures are applied fairly and without discrimination⁵⁹, Ezgulik is the only surviving independent local NGO in Uzbekistan, registered in 2003 thanks to the international pressure. Vasilya Inoyatova reports that Ezgulik is regularly the object of government retaliation. Two of Ezgulik activists are currently serving long prison sentences. Recently, the hard disk of Ezgulik's head office computer containing confidential information was stolen. Ezgulik's 13 branches located all across the country are regularly denied their registered status. Furthermore, Ezgulik's investigation into the mysterious death of the famous artist Dilnura Kodirjonova lead them to face a charge of defamation for which they were fined three million 500 thousand som by the Municipal Civil Court and their equipment was confiscated.
44. The foreign press and international organizations are also increasingly being subjected to reprisals from the government. In 2011, the authorities closed Human Rights Watch's office in Tashkent. Uzbek journalists who are denied the right to legally work with non-accredited foreign media are forced to work under a pseudonym. Although the State mentioned during the first UPR cycle that the order of accreditation of foreign journalists established by the national legislation corresponded with the international standards⁶⁰, Voice of America (VOA), RFE/RL and the BBC were denied official accreditation after the 2005 Andijan massacre. On 13 September 2010, Abdumalik Boboev, a journalist working with VOA, was charged by Tashkent city prosecutor's office with libel, illegally crossing the border and the publication of material containing threats to national security⁶¹.
45. The Human Rights Committee has also noted the existence of criminal provisions (art. 139-140 Criminal Code) to convict journalists and human rights defenders who criticise the government authorities for defamation and insult⁶². The government has not indicated any intention to amend or repeal these provisions, which are still widely used as legal grounds for conviction. In 2010 more than 10 journalists were serving jail time for political charges. As an illustration: in early 2010, Umida Ahmedova was charged with libel of the entire nation under Article 139 and 140 for a photo of the rural life.

⁵⁹ Report of the Working Group on the Universal Periodic Review, Uzbekistan, A/HRC/10/83, December 2008, para. 106.21.

⁶⁰ Addendum to the Report of the Working Group on the Universal Periodic Review, A/HRC/10/83/Add.1, para 45.

⁶¹ Information obtained by Uzbek-German Human Rights Forum from reliable sources in the country.

⁶² Concluding Observations of the Human Rights Committee: CCPR/C/UZB/CO/3 (HRC, 2010), para. 24.

Recommendations:

46. Amend articles 139 and 140 of the Criminal Code on defamation, in order to avoid any type of imprisonment with regard to these offences;
47. Provide accreditation to all foreign news agencies and international NGOs which have been divested since 2005;
48. Release from detention journalists and human rights defenders convicted on questionable charges and put an end to criminal prosecution of journalists for their professional activities;
49. Abolish the practice of resorting to “expert assessments” issued by the Monitoring Centre of Communications and Information Agency as a basis for prosecution.

V. Freedom of religion: illegal religious groups and the “extremists”

50. The Human Rights Committee has recently highlighted the failure of the government to uphold the freedom of religion, particularly in regard to its non-registered religious groups⁶³.
51. Approximately 89% of the population in Uzbekistan is Muslim. Of these, 94% belongs to Sunni Islam and only 6% to Shia Islam. Of the remaining population, 9% are Russian Orthodox and 2 % follow other religions. All religious groups must be registered, but the government regularly denies registration to some groups. Although the State disregarded the recommendation made during the first UPR cycle to simplify the registration procedure, since it considered it as already implemented⁶⁴, the burdensome registration’s requirements persist and lead to some religious groups being refused registration on a technicality. Unregistered religious groups are deprived of their right to worship. They experience raids, harassment, detention and criminal charges. The registration of religious communities solely enables the State to reinforce its control over these religious groups. This process results in systematic and thorough religious censorship. As an illustration: The “Jehovah’s Witnesses” have been denied registration 23 times in Tashkent and 13 times in other regions.⁶⁵
52. Article 19 of the Law on Freedom of Conscience and Religious Organisations, providing for the right to distribute religious objects and religious literature, is subordinated to the Regulations of the Cabinet of Ministers on Religious Affairs, obliging all dissemination of religious material to be licensed by the Committee on Religious Affairs, under the Cabinet of Ministers. Without permission and examination by the Committee, distribution or personal use of religious material is strictly forbidden.

⁶³ Concluding Observations of the Human Rights Committee: CCPR/C/UZB/CO/3 (HRC, 2010), para. 19.

⁶⁴ Report of the Working Group on the Universal Periodic Review, Uzbekistan, A/HRC/10/83, December 2008, para. 106.7.

⁶⁵ Information obtained by CCPR Centre from reliable sources in the country.

53. The Human Rights Committee also held that article 216(2) of the Criminal Code, (Violation of Legislation on Religious Organizations) unlawfully criminalises proselytism and other missionary activities⁶⁶. There are indeed many provisions in the Criminal Code restraining freedom of religion and discriminating against religious groups: article 159, referring to anti-constitutional activity, article 216 against the illegal public association and religious organisations, article 244 (1) for disseminating material constituting a threat to public security and public order and article 244(2) for involvement in religious extremist, separatist, fundamentalist or other banned organisations. Article 201 of the Administrative Code (Violation of the procedure for organisation of meetings, rallies, marches and demonstrations) allows for repeat religious offenders to see their fines increased from 200 to 300 times the minimum monthly wage under the Criminal Code and from 50 to 100 times the minimum wage under the administrative code.
54. Despite being the majority of the population, Muslims also face strict controls on their religious activities. A Special Commission under the Cabinet of Ministers annually establishes restriction on the number of people who are allowed to perform the Hajj. For instance, in the mosque of “NovzRa” Chilanzar, district of Tashkent, the participation to the Hajj is limited to 4,500 worshipers a year. According to the Imam of the mosque “NovzRa”, organizing the trips for the “Hajj” and “Umrah”, the participation quotas have been reached until 2014. The government also prohibits the training of imams for Shiites in the country and does not recognise any training received abroad. Individuals are being persecuted for wearing the hijab⁶⁷. Public places of worships are strictly controlled and supervised by law enforcement agencies and special security services. As an illustration: in Autumn 2010, while mass worship was taking place in the mosque of, Mid Chirchik and Upper Chirchik districts, the police were posted at the door of the mosque and started detaining students simply for attending the Friday’s worship.⁶⁸ In an attempt to obstruct the work of foreign NGOs, the State has a times resorted to false accusations of missionary activities.
55. The Committee also acknowledged that some citizens are being arbitrarily detained for their religious beliefs⁶⁹. Members of religious groups that are deemed extremist are banned and criminalised by the State. These banned organisations are vaguely called “Wahhabi” and also include: izb ut-Tahrir (HT), Akromiya, Tabligh Jamoat. A great number of followers of the Turkish Muslim theologian Said Nursi, accused of “extremism”, were convicted between 2009 and 2010 with sentences ranging from 6 years to 12 years⁷⁰. It appears that they were convicted for religious extremism because they practiced Islam outside the State controlled traditional stream.⁷¹
56. Many cases of extremist suspects being subjected to torture, inhuman and degrading treatment have been reported. As an illustration: On 7 June 2011, Mirzaev Abdulaziz who had been convicted for extremism on 15 May 1999, died while serving his sentence in the prison of Kashkadarya colony 64/51. Upon examination, his body showed signs of torture and the law enforcement officers pressured the victim’s relatives to hurry the burial. There

⁶⁶ Concluding Observations of the Human Rights Committee: CCPR/C/UZB/CO/3 (HRC, 2010), para. 19.

⁶⁷ Information obtained by CCPR Centre from reliable sources in the country.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ Analytic Report of the Human Rights Situation in the Republic of Uzbekistan for the Year 2010 by Human Right Society of Uzbekistan- Ezgulik, (Tashkent, 2011).

⁷¹ Information obtained by CCPR Centre from reliable sources in the country

is strong evidence indicating that there is a widespread use of torture in facility 64/6 located in the city of Chirchick, Tashkent region. The facility, run by Colonel Ulugbek Khamidov, detains more than 350 religious prisoners convicted for “anti-constitutional activity” (Art.159 Criminal Code).⁷²

Recommendations:

57. The requirements for the registration of religious groups must be simplified and applied without discrimination *de iure* or *de facto* against religious minorities;
58. All cases of religious extremism allegations must be promptly, thorough and independently investigated by an independent body.
59. The Jaslyk prison and the detention center 64/51 in Chirchick, Tashkent region, should be subjected to a visit of a Special Rapporteur on freedom of religion.
60. All the legal provisions restricting freedom of religion in a disproportionate and unjustified manner, such as the criminalisation of proselytism, restrictions on the freedom to prepare and distribute religious texts or publications, or the persecution of followers of alternative beliefs on the grounds of “extremism” or “fundamentalism”, should be immediately abrogated.

The situation of Andijan survivors and returnees

61. The Human Rights Committee raised the issue of the failure by the State to conduct an independent and comprehensive investigation to establish accurately the circumstances of the events in May 2005, during which 700 civilians were killed by the military and the security services.⁷³
62. After the Andijan massacre, the authorities continued to carry out “sweep” operations, a prolongation of the May 2005 events⁷⁴. These security agents were assigned to identify and neutralise all individuals who either participated in the protest or witnessed the events⁷⁵. The methods used to advance this identification process included: blocking the escape route of refugees into neighbouring Kyrgyzstan, arresting as many people as possible from the village Bogi Shamol, arresting all individuals injured who are considered *as de facto* active participants and use of torture during interrogations to extract any relevant information⁷⁶.
63. Many of the people arrested died from torture. To our knowledge at least 9 bodies were returned to their relatives. The bodies had various signs of torture including: open and close fractures of the limb and ribs, bruises around the nose, ears and mouth, stab wounds,

⁷² Information obtained by CCPR Centre from reliable sources in the country

⁷³ Concluding Observations of the Human Rights Committee: CCPR/C/UZB/CO/3 (HRC, 2010), para.8.

⁷⁴ “Andijan refugees speak out” by Andijan: Justice and revival.

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

nails hammered on fingers, sexual organs chopped off, bullet wounds. As an illustration: Giyosiddin Umarov was tortured to death, his body was returned on 29 December 2010 from the central prison in Tashkent.

64. According to data collected by Human Rights Watch, as many as 245 individuals were prosecuted and convicted between September 2005 and January 2006. From these 245 cases only 15 trials were held in open courts. To date, we have been able to retrieve data for only 241 accused. Most of them seem to be serving an open-ended prison sentence. Additionally, there are a number of persons who have gone missing after their arrest. We have been informed of 15 missing people to date and more are expected to have gone missing but have been intimidated by the State into keeping silent.
65. The relatives of refugees who still live in Uzbekistan are being persecuted by the authorities. They are regularly called in for questioning, threatened, humiliated and abused. Neighbourhood committees called *makhalla* hold meetings in which they publicly condemn the families of refugees or victims of the Andijan events. Teachers also publicly shame the children of the Andijan victims. The government refused to issue exit visas for family members of refugees. Consequently, many refugees had to risk returning to Uzbekistan in order to be reunited with their family.
66. In the best cases, the refugees who decided to return to Uzbekistan are forced to make a public apology for crimes they did not commit. They are also called in for questioning every 15 days during which time they are asked to give a detailed description of their daily activities and are subjected to insults. Their stigmatisation makes it nearly impossible for them to find a job. Employers who hire a returnee would be called in for questioning by the SNB.
67. More often, returnees are arrested upon their arrival and convicted for anti-constitutional behaviour. As an illustration: in March 2010, Dilorom Abdukadirova, who had been granted refugee status in Australia, returned to Uzbekistan. Upon her arrival, she was arrested and sentenced to 10 years of prison time for “illegal border crossing” and “attempting to overthrow the constitutional order”.⁷⁷

Recommendations:

68. There should be a thorough and independent investigation of the cases of torture of Andijan prisoners;
69. Information relating to the arrested missing people should be released.
70. An independent complaint mechanism should be created to enable the family of refugees and survivors of Andijan to entrust it with legal complaints without the risk of further victimization.
71. The State should not interfere with visa application of refugee’s relatives.

⁷⁷ “Andijan refugees speak out” by Andijan: Justice and revival.