

**Comments of the Republic of Uzbekistan to the Compilation prepared by the  
Office of the High Commissioner for Human Rights, in accordance with  
paragraph 15 (b) of the Annex to Human Rights Council Resolution 5/1  
(Universal Periodic Review)**

**I. BACKGROUND AND FRAMEWORK**

**A. Scope of international obligations**

**1. Uzbekistan was encouraged to ratify ICRMW, OP-CRC-AC and OP-CRC-SC; OP-CEDAW; OP-CAT and the Rome Statute; the Convention relating to the Status of Refugees and its Protocol, the Convention relating to the Status of Stateless Persons, the Convention on Reduction of Statelessness, and ILO Convention 138. It was also encouraged to make the declarations under articles 21 and 22 of CAT.**

This year, the ILO conventions No 138 and No 182 concerning the minimum age for admission to employment and eliminating the worst forms of child labor were ratified. The Parliament ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of death penalty and two Optional Protocols to the UN Convention on the Rights of the Child, concerning the involvement of children in armed conflicts, on the sale of children, child prostitution and child pornography, as well as the Protocol against Trafficking in Humans, especially women and children, and punishment for it, which is included in the UN Convention against Transnational Organized Crime dated 2000.

**B. Constitutional and legislative framework**

**2. In 2005, the Human Rights Committee (HR Committee) was concerned that the provisions on states of emergency do not explicitly specify, or place limits, on derogations from rights that may be made in emergencies.**

In accordance with Article 93 of the Constitution of the Republic of Uzbekistan (p. 19), the President of the Republic of Uzbekistan in exceptional circumstances (real external threat, mass riots, major catastrophes, natural disasters, epidemics), in order to ensure the security of citizens, introduces a state of emergency throughout the whole territory or in selected areas of Uzbekistan and within three days submits adopted decision for approval by chambers of Oliy Majlis (Parliament). The conditions and procedure of the emergency should be regulated by a special law.

The Republic of Uzbekistan devotes attention to safeguarding human rights in a state of emergency. On 20 August 1999 the Law of the Republic of Uzbekistan «On Protection of Population and Territories from Natural and Man-made Emergencies», which establishes principles for protection of civilians in emergency situations: humanism, priority of human life and health, transparency, timeliness and accuracy of the information, preventive measures to protect against emergencies, were enacted. The Law defines the main functions of governmental bodies (central and local) to protect the population and territory at time of emergency, as well as the rights of citizens, foreign nationals and stateless persons to protect lives and health, appeal to state bodies, getting compensation for damage caused to their health during the emergency.

On 3 August 2007 the Government of Uzbekistan adopted the State Program on Forecasting and Prevention of Emergencies, which aims at ensuring the guaranteed level of protection of the population and territories from emergencies, reducing and mitigating risks and consequences of accidents, catastrophes, natural disasters in the Republic of Uzbekistan.

**C. Institutional and human rights infrastructure**

**3. The Committee on Economic, Social and Cultural Rights (CESCR) and the Committee on the Elimination of Racial Discrimination (CERD) recommended that**

## **Uzbekistan consider establishing a national institution for human rights in accordance with the Paris principles.**

In accordance with the Paris Principles, the Vienna Declaration and Program of Action, national human rights institutions have been established in Uzbekistan: the Authorized Person of Oliy Majlis for Human Rights (Ombudsman), the National Center for Human Rights.

Significant role in carrying out the control functions to ensure compliance with human rights legislation belongs to the **Authorized Person of Oliy Majlis for Human Rights (Ombudsman)**, who promotes by means provided to her/him not only the restoration of violated rights, but also improvement of the legislation of Uzbekistan.

Consideration of citizens' applications, assisting in the restoration of their violated rights and freedoms is one of the priority tasks of the Ombudsman in carrying out her/his activities to further develop the interaction of the Authorized Person for Human Rights with state authorities, courts and law enforcement bodies in order to ensure full and effective compliance and protection of human rights and freedoms in Uzbekistan.

On 31 October 1996 the Presidential Decree established **the National Center for Human Rights**. This body was created to coordinate activities of all governmental and non-governmental organizations, related to the protection of human rights.

The Center carries out research on various aspects of protecting and promoting human rights, both nationally and internationally: prepares national reports on implementation of international human rights obligations in treaty bodies of the UN; carries out training programs, seminars, lecture courses and study tours; assists in designing and implementing educational programs on human rights; compiles and disseminates information on human rights; develops technical cooperation and information links with international centers or human rights organizations; coordinates on-site activities of international agencies providing technical assistance on issues of democratization, governance and protection of human rights; receives and considers complaints from the public on human rights violation issues.

## **II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

### **A. Cooperation with human rights mechanisms**

#### **1. Cooperation with treaty bodies**

**4. Uzbekistan provided additional information in comments to the concluding observations of CESC and CERD, on a wide range of issues. In comments to CAT, Uzbekistan highlighted its partial disagreement with some recommendations of CAT, in particular relating to the definition of torture; the request to publicly condemn torture; and the qualification of the use of force during the May 2005 events in Andijan.**

Uzbekistan's comments on the Concluding Observations of the Committee Against Torture with regard to the Third Periodic National Report:

*(Regarding the definition of torture)* We do not agree with this observation of the Committee Against Torture, because complicity in using torture is defined as torture according to Article 235 of the Criminal Code of the Republic of Uzbekistan (CC).

The crime, envisaged by Article 235 «torture» of the CC, is at the Chapter «Crimes Against Justice» and subjects of this crime are the law-enforcement officers and all persons, involved in the investigation of crimes in an official capacity. Expanding the circle of individuals, whose actions are subject to Article 235 «torture», will require the transfer of this Article from Chapter «Crimes Against Justice» to elsewhere within the CC. This would affect the assessment and significance of the social danger of this act, and its compliance with the meaning and spirit of the Article 1 of the Convention Against Torture. The wording of Article 235 is performed in compliance with all rules of the legislative techniques of Uzbekistan and consistent with the purpose and meaning of Article 1 of the Convention Against Torture.

The role performed (organizer, executor, instigator, accomplice) in the commission of a crime does not alter the qualification of criminal act during instituting criminal proceeding against a person for committing a specific crime.

All three branches of state power publicly condemned and are condemning the use of torture.

Matters of strict adherence of the law-enforcement officials to international obligations under the Convention Against Torture are regularly examined on the collegial boards of the Ministry of Internal Affairs and the Prosecutor General's Office.

According to the Order #31 of the Prosecutor-General of the Republic of Uzbekistan dated 9 December 2004, prosecution bodies every 10 days carry out inspection of the legality of detention in temporary detention centers of the local internal affairs bodies. In accordance with the Order #40 of the Prosecutor-General dated 17 February 2005 «On the radical improvement of prosecutorial supervision to ensure the rights and liberties of persons in criminal proceedings», a duty of strict compliance with and enforcement of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, was imposed on the prosecution officers.

All the above-mentioned orders of the Prosecutor-General are the result of consideration and discussion of these issues at the Coordinating Council of law-enforcement agencies under the Prosecutor-General's Office.

Uzbekistan Government's assessment of Andijan events in May 2005 as the large-scale terrorist act was accepted by the international community at the meetings of the UN Third Committee in September 2006. The anti-terrorist operation, which involved military and special services carried out in accordance with the legislation of the Republic of Uzbekistan.

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*(Regarding use of force in Andijan)* Uzbekistan Government's assessment of Andijan events in May 2005 as the large-scale terrorist act was accepted by the international community at the meetings of the UN Third Committee in September 2006. The anti-terrorist operation, which involved military and special services carried out in accordance with the legislation of the Republic of Uzbekistan.

**5. CEDAW and CERD welcomed national plans of action established to implement their recommendations. CESCR noted that such plan would be adopted for the implementation of its conclusions. A 2007 report on Uzbekistan noted that a plan developed to implement CRC recommendations, the Millennium Declaration and the Declaration of the World Fit for Children, was also approved by the Government. CAT welcomed steps taken to implement the 2004 Action Plan on its recommendations, and the information that a similar plan will be adopted in relation to its 2007 conclusions.**

The National Action Plan to implement the Concluding Observations of the Committee Against Torture was adopted by the Interagency Working Group under the Ministry of Justice of the Republic of Uzbekistan on 23 September 2008.

## **2. Cooperation with special procedures**

**6. In 2006 the United Nations Secretary-General called upon Uzbekistan to extend invitations to thematic special procedures in accordance with their standard terms of reference.**

Uzbekistan provides answers to all questionnaires of the special thematic procedures. However, a slight delay in the timing is due to the fact that the special rapporteurs' questions require special research and collection of information from various governmental bodies, which requires a longer time than indicated in the questionnaires.

**7. In 2007, the Human Rights Council discontinued the consideration of the situation of human rights in Uzbekistan under the confidential complaints procedure.**

Under the confidential procedure 1503, Uzbekistan has actively cooperated with the Commission/Council on Human Rights by providing all necessary information and fulfilling all the recommendations of independent expert on this procedure.

## **3. Cooperation with the Office of the High Commissioner for Human Rights**

**8. In response to the 2005 events in Andijan, the High Commissioner for Human Rights called on Uzbekistan to permit the deployment of an independent investigation. Since no positive response was received, an OHCHR mission was sent to Kyrgyzstan in June 2005, to gather testimonies and as a preparatory step for the eventuality of agreement on an independent international investigation.**

The Republic of Uzbekistan having full authority on its territory comprehensively and deeply investigated the Andijan events and undertook measures for punishing persons who were found guilty in that tragedy.

The Andijan events were investigated by the investigative group consisting of highly skilled professionals from law-enforcement bodies of Uzbekistan. Moreover, a special independent parliamentary commission consisting of members of the Parliament of Uzbekistan was created to examine those events.

The representatives of diplomatic corps – from Embassies of India, China, Pakistan, Iran, Kazakhstan, Kyrgyzstan, Russia, Tajikistan – as the members of working group monitored the investigation of the Andijan events.

**9. In 2006, the Secretary-General called upon Uzbekistan to cooperate actively with the OHCHR Regional Representative, deployed in 2006. OHCHR is pursuing efforts to engage with the Government with the aim of strengthening human rights protection in the country. The OHCHR Regional Office established in 2008 in Kirghizstan will offer support to Central Asia governments in implementing their international human rights obligations. The High Commissioner visited Central Asia in 2007, but did not travel to Uzbekistan, which indicated that the proposed dates were not convenient. In 2008, Uzbekistan made a financial contribution to the work of OHCHR.**

Invitation of the UN officials to the country is the right of sovereign nation and impossibility of the High Commissioner's visit to Uzbekistan in 2007 does not mean that the Government refuses to cooperate with the OHCHR.

The OHCHR Regional Adviser Mr. R. Mullerson visited Uzbekistan in 2004. He met with representatives of governmental and non-governmental institutions, visited places of detention, including Jaslik, participated in informative events in Tashkent and other regions of the country.

In 2008 in response to message of the High Commissioner Mrs. Louise Arbour, by Decree of the President of Uzbekistan and from the budget of the state, there were allocated 100 thousand US

dollars for activities of the OHCHR to celebrate the 60th Anniversary of the Universal Declaration of Human Rights.

## **B. Implementation of international human rights obligations**

### **1. Equality and non discrimination**

**10. In 2005 and 2006 respectively, CESCR and CRC recommended that Uzbekistan adopt specific anti-discrimination legislation. In response to the call of CERD for the elaboration of specific legislation on racial discrimination, Uzbekistan indicated that this is not necessary as the Convention is already reflected in the legislation.**

The principle of non-discrimination and equality of rights is realized not only through specific articles that reinforce this principle, but guaranteed by ensuring all rights and liberties set forth in the Constitution, such as the right to life, liberty, security, freedom of thought. Article 18 of the Constitution does not create a separate right to equality, but underlines the protection of all human rights and freedoms.

The legal system of Uzbekistan includes significant responsibility for the violation of citizens' equality. Code of the Republic of Uzbekistan On Administrative Responsibility determines responsibility in the form of penalty for violating the rights of citizens to free choice of language in the education and training; creation of obstacles and restrictions on the use of language; disregard to the state language, as well as other languages of ethnic groups and nationalities living in the Republic Uzbekistan.

Article 141 of the Criminal Code of the Republic of Uzbekistan envisages criminal penalties for violation of equal rights of citizens. Moreover this is a crime under Chapter 7 of the Criminal Code, which includes crimes against the constitutional rights and liberties of citizens.

It should be noted that the concept of discrimination in Article 141 of the Criminal Code is practically in line with Article 1 of the Convention on the Elimination of All Forms of Racial Discrimination. The difference between these definitions is that the conventional definition gives an aim of the discrimination: «nullifying or derogation the recognition, enjoyment or exercise on equal bases of human rights and fundamental freedoms in the political, economic, social and cultural spheres of public life». Lack of aim of discrimination in disposition of Article 141 of the Criminal Code does not affect the qualification of the act itself.

**11. CESCR and CEDAW expressed concern about cultural stereotypes regarding the role of women in society. CESCR called for the adoption of a law on gender equality, while CEDAW urged Uzbekistan to step up the process of adopting the law on equal rights and equal opportunities.**

In order to eliminate discrimination against women in all spheres of life, as well as to implement the concluding observations of the Committee on the Elimination of Discrimination Against Women, governmental and public organizations of Uzbekistan prepared a Draft Law «On the Guarantees of Equal Rights and Equal Opportunities for Men and Women», which has passed through national and international expertise and sent for the consideration by the Legislative Chamber of Oliy Majlis (Parliament). The Law is very relevant today for addressing many gender issues, as it aimed to regulate the legal bases for barring in society of direct, non-direct and covert discrimination based on gender; violation of equal rights for women and men in the field of culture, education, reproductive and family relations.

The Draft Law provides for special Article 3 on preventing discrimination against women. This article stipulates the following:

*«Women and men have equal rights.*

*Any distinction, exclusion or restriction made on the basis of gender that is aimed at weakening or nullifying the recognition, enjoyment or exercise by women, irrespective of their*

*marital status, human rights and fundamental freedoms in the political, economic, social, cultural or any other field means discrimination against women.*

*Any forms of direct and indirect discrimination against women are prohibited and subject to the elimination in accordance with the law.*

*There are specific measures aimed at accelerating de facto equality between women and men that are not considered as discrimination against gender».*

The Law defines the main directions of state policy on equality between women and men, namely:

- formation, development and improvement of the legal framework to ensure gender equality;

- creation of organizational-legal mechanisms of implementation of universally recognized principles and norms of international law, as well as of international obligations of the Republic of Uzbekistan on the issue of gender equality;

- adoption and implementation of special-purpose state programs aimed at achieving equality between women and men, addressing the causes and conditions that promote discrimination on grounds of gender;

- inclusion measures to ensure gender equality into the nationwide programs aimed at the realization of constitutional rights and freedoms of citizens, as well as programs for the development of social sector;

- financing of measures to ensure equality between women and men from the state budget and other sources that not prohibited by law;

- caring out of gender expertise of legal acts and regulations adopted by state authorities;

- adoption of measures to develop a culture of equality between men and women;

- adoption of measures to protect society from the information, propaganda and agitation aimed at discrimination against citizens on grounds of gender, as well as measures excluding production of printed, audio and video products, which are imposing violence, cruelty, pornography, drug addiction, alcoholism, etc.;

- improvement of activity of the legislative, executive and judicial authorities in sphere of gender equality.

- adoption of measures for the elimination of prejudices and abolition of customary practices based on the idea of inferiority or superiority of either of the genders.

Adoption by the Republic of Uzbekistan of the Law «On equal rights and equal opportunities for women and men» will allow:

First, widen the possibilities to implement by all citizens in Uzbekistan, both men and women, all the set of their rights and freedoms that are envisaged by the Constitution of Uzbekistan and international law norms;

Secondly, to identify the main approaches to the formation of effective state policy in the field of equality between women and men;

Thirdly, to establish the duties of the State and employers to comply with the socio-economic rights of women and men;

Fourthly, to envisage the duties of all subjects of law for practical ensuring of clauses of the Constitution of the Republic of Uzbekistan in the implementation of the electoral law, in admission to employment and work in the public service, as well as in formation of composition of the governing structures of state and administration bodies;

Fifthly, to establish the responsibility of state authorities and officials for the implementation of the constitutional principle of equal rights and equal opportunities for women and men;

Sixthly, to define the special role of non-governmental organizations, including those created for the implementation of equal rights and equal opportunities for men and women in formulation and implementation of state policy in sphere of gender equality;

Seventhly, to establish procedures to appeal against discrimination on grounds of gender and responsibility of officials for violation of the legislation on issues of guaranteeing equal rights and equal opportunities for men and women.

**12. The HR Committee recommended that Uzbekistan ensure that the relevant provisions of its Criminal Code are fully implemented so as to put an end to the practice of polygamy.<sup>38</sup> Uzbekistan should also combat the practice of forced marriages of kidnapped women.<sup>39</sup> CESCR was also concerned about the reappearance of polygamy and forced marriages.<sup>40</sup>**

Article 136 of the Criminal Code envisages a responsibility for forcing women into marriage or obstruction to marriage, and Article 126 of the Criminal Code - for polygamy.

There are training and educational measures to combat polygamy, bride purchase, bride abduction and others are carried out in Uzbekistan. Customs of bride abduction and payment of dowry money remained only partially in the Republic of Karakalpakstan where reside indigenous Karakalpaks, in Tamdinsk and Kanimehsk areas of Navoi region and in Khorezm region. However, these customs are now lost their viability and relevance, especially for modern boys and girls. Even if they still occur, it is symbolic in nature and carried out by agreement between bride and groom on the eve of wedding. However, in all cases the bride and groom officially register their marriage in registrar's office, which was not the case before.

**13. CESCR and CEDAW welcomed the setting-up of a minimum quota of 30 per cent for women for Parliament elections. CEDAW noted that this resulted in an increased representation of women in Parliament from 8 to 17.5 per cent, but was concerned about their continuing underrepresentation in political and public life and in decision-making positions at all levels. A UNDP report noted that the positions of deputy hokim (governor) and the deputy prime minister for women's affairs have been reserved for women. This may represent progress, but could also serve to restrict women access to governor or minister positions.**

Article 22, clause 4 of the Law «On elections to the Oliy Majlis of the Republic of Uzbekistan» dated August 29, 2003 envisages that the women ratio must be at least 30% of the total number of candidates for Parliament nominated by each political party. There are currently 21 women (18%) - members of the Legislative Chamber and 15 women (15%) - members of the Senate of the Oliy Majlis, while in 1999 there were only 12 women MPs in the Oliy Majlis. In total, women make up 16% in the supreme bodies of state power in Uzbekistan, and 15.2% in the local legislative and representative authorities.

It should be emphasized that a post of the Authorized Person for Human Rights (Ombudsman) from 1995 to present has been held by woman. In 2007, for the first time in history of country, Chairwoman of Social Democratic Party «Adolat» was nominated for the post of the President of the Republic of Uzbekistan. In 2008, also for the first time, woman was elected as the Speaker of the Legislative Chamber of Oliy Majlis. The Vice-Chairperson of the Senate is also woman. Moreover, nowadays the Permanent Representatives of Uzbekistan at the UN and other international organizations in Geneva and at the UNESCO in Paris are also women. This is an evidence of changing stereotypes of thinking with regard to women and strengthening the position and status of women in society.

The women of Uzbekistan, constituting more than half of the population, actively involved not only in election campaigns as voters and candidates, but also in organizing the activities of the electoral commission. During the election of the President of the Republic of Uzbekistan in December 2007, among the members of constituency election commissions were 40.9% of women, and within the district election commissions - 20%.

Uzbekistan is also committed to increase the number of women in the executive bodies. Thus, currently there are 15.3% of women in leadership positions within the executive bodies, in particular: the Cabinet of Ministers - 16.7%, the Council of Ministers of the Republic of Karakalpakstan - 12.5%; khokims, deputy khokims and Tashkent municipality - 11.9%.

In Uzbekistan, Chairwoman of the Women Committee simultaneously holds a post of the Deputy Prime Minister of the Republic of Uzbekistan. Chairpersons of the regional women

committees are holding the posts of deputy khokims of respective territories (14 provincial, 219 - district (city) deputy khokims).

In Uzbekistan, there is one woman - Minister of the Furniture Industry. Three First Deputy Ministers are also women (ministries of Foreign Affairs, Finance and Economics), one head of large public organization - the Council of the Federation of Trade Unions. Heads of three large public funds are also women.

In Uzbekistan, women are adequately represented in the judiciary. Thus, 20% of the Constitutional Court are women; in the Supreme Court of the Republic of Uzbekistan - 14.6%; in the Supreme Court of Karakalpakstan, regions and Tashkent City Court - 20.4%; in the district and municipal courts - 20.4%; in the Supreme Economic Court - 15.8% and the economic courts of Karakalpakstan and regions - 22.6%.

## **2. Right to life, liberty and security of the person**

**14. The General Assembly expressed its grave concern at the continuing and serious human rights violations occurring in Uzbekistan, in particular eyewitness reports of indiscriminate and disproportionate force used by government troops to quell demonstrations in Andijan in May 2005 resulting in the death of many civilians. CAT was concerned that these incidents resulted, according to the State, in 187 deaths and according to other sources, 700 or more, and in hundreds of others being detained thereafter. The major contradictions between Uzbekistan's account of the deaths and the many consistent allegations from other sources were a matter of concern for the Special Rapporteur on extrajudicial, summary or arbitrary executions. According to the High Commissioner for Human Rights, it is not excluded that the incidents amounted to a mass killing.**

Being an independent state, Uzbekistan has conducted own deep investigation of events in Andijan, has found reasons and conditions that abetted absolutely criminal encroachments on the state power structures, has taken measures on their suppression and punishment of the criminals.

The crimes, made in Andijan on May 12-13th 2005, took place in the territory of Uzbekistan and, in conformity with the articles 3 and 4 of the Criminal Procedural Code and the article 11 of the Criminal Code of the Republic, are under jurisdiction of the Republic of Uzbekistan. There is no international document which would obligate the sovereign state to conduct the international investigation of the cases, related exclusively to its internal competence.

However, it is necessary to notice that the objective information about investigation of the Andijan events was regularly brought to attention of the international organizations through corresponding data of the Office of Prosecutor General by sending to the Ministry of Foreign Affairs of Uzbekistan, as well as in meetings in the Office of Prosecutor General, particularly:

On June 10th, 2005 the Prosecutor General met Ambassador Miroslav Encha - the Head of the Center of OSCE in Tashkent and Peer Nurmark - the expert on human dimensions of the Center of OSCE. During the meeting with them there have been discussed issues related to the events which were taking place in the Andijan region on May 13-14th, 2005. In particular, they have been acquainted with preliminary results of investigation of the criminal case brought upon terrorist acts: with chronology of their realization and breaking consequences; quantity of lost and wounded, the persons taken in hostages by terrorists, and also moved to Kyrgyzstan; the size of the caused material damage; number of the persons involved in fulfillment of terrorist acts, determined and arrested persons during preliminary investigation.

On June 16th, 2005 the first deputy of the Prosecutor General met representatives of diplomatic missions in Tashkent and had conversation with them concerning the events which were taking place in the Andijan region on May 13-14th, 2005.

On August 25th, 2005 in the meeting with the British political analyst Mrs. Shirin Akiner there were discussed events in Andijan and their consequences. Thusfor Akiner has noticed that after the Andijan events Western Europe countries and the USA attempt to isolate Uzbekistan in



political and economic spheres as there is an opinion concerning the strict actions undertaken to participants of «peaceful meeting» occurring in Andijan on May 13th, 2005 which is generated, mainly, on foreign mass-media publications, where on the basis of doubtful sources of event in Andijan are presented as «execution of peaceful meeting». Therefore there are bases to draw a conclusion about improbability of their version. It is necessary to conclude it critically. Regarding to request of the political scientist, films and the slides were shown to her, which have been taken during the investigation as well as the film made by terrorists directly during events, where actions of the armed insurgents who have carried out terrorist acts in Andijan.

On September 7, 2005 the first deputy of General Attorney received the representatives of diplomatic missions in Tashkent: Bhargan Mitra (consul, India), Gulmira Sultanali (2 secretary, Kazakhstan), Sabit Umirbekov (Attaché, Kyrgyzstan), Chen Weywey(1 secretary, China), Bakit Tungatarov (1 secretary, Kyrgyzstan), Shahbaz Malik (3 secretary, Pakistan), Kirill Belikov (2 secretary, press attaché, Russia), Murodjon Buribaev (1 secretary, Tajikistan). They were presented with objective information about the criminal case, which were brought on Andijan incident and submitted to Supreme Court of Uzbekistan to conduct an investigation with respect to the fifteen accused, who were the most active participants and organizers of terrorist attack in Andijan.

On October 1, 2005 the first deputy of General Attorney received Miroslav Yencha, Head of OSCE center in Tashkent. They discussed the issues of monitoring by OSCE observers the legislative procedures with respect to the defendants, who were accused of involving in Andijan incident and access to information on the results of investigation.

On August 29, 2006, the first deputy of General Attorney received the EU Troika delegation, comprised by Antti Turunen, Head of East Europe and Central Asian Department, MFA of Finland, Rolph Shultz, Head of South Caucasus and Central Asia Department, MFA of Federal Republic of Germany, Hugues MIngrelli, Director for South Caucasus, Central Asia and East Europe, EU General Director for External Relations and Gintz Apals, administrator of General Secretary of EU Council, Director of General Directorate for External Relations of EU Commission. During the meeting the guests were informed about the incident in Andijan in May, 2005.

On December 13, 2006, a Plenary meeting with the participation of EU experts' delegation led by Pekka Oinonen, a specialist on combating terrorism, MFA of Finland took place. The Ambassador Extraordinary and Plenipotentiary of Federal Republic of Germany to Uzbekistan M.Mayer and some staff members of the German Embassy were included also in the delegation. The EU experts were familiarized on-site with the outcome of criminal investigation, conducted on Andijan incident.

On April 2-3, 2007 the second meeting with the participation of EU experts led by the Head of South Caucasus and Central Asia Department, MFA of Germany Shultz took place. The Ambassador of Germany to Uzbekistan M.Mayer was also included in the list of delegation. During the meeting the Uzbek representatives gave thorough answers to the experts' additional questions aroused after acquainting them in December 2006 with the outcome of criminal investigation on Andijan incident.

Moreover, the preliminary investigation found out that 28 representatives of foreign Mass-Media were in the place during the Andijan incident.

(Malyuba Azamatova, Sharifjon Akhmedov, Valeriy Pankrashin, Monika Whitlock, Jeanis Farel, Anna Luis Claridge, Joana Klear Lillies, Janny Kler Norton "BBC" Great Britain, Kutbiddinov Husniddin, Yuldashev Gofurjon radio "Ozodlik" ("Freedom") USA, Marcus Bensman, Natalya Bushueva "Nemetskaya volna" (German wave) Germany, Katerine Gannon "Associates Press" USA, Michael Kolet White, Sudjata Rao "Reuters" Great Britain, Yafasova Dina Agency "Medsestra" (Nurse), Denmark, Heze Enn Klark, Denis Albrighton «France Press» France, Ann Nivat "Liberacion" newspaper, France, Igor Rotar "Forum 18", Norway took an active part in widely reporting the legal process with respect to 23 members of religious extremist organization "Akromiys" in Andijan city.

Sharifkhon Akhmedov "BBC" Great Britain, Markus Bensman «Deutch Welle», Germany, Aleksey Volosevich «Fergana.Ru», Russia, Shamil Baygin «Reuters» Great Britain, Efrem

Lugatchkiy, Bagila Buharbaeva «Associated Press» USA, Galima Bukharbaeva «Institute for War and Peace Reporting» Great Britain were near to or inside the Administrative building of the Government of Andijan province, which was captured by terrorists. These journalists can give first-hand evidence about outrages and brutal humiliations against the hostages and other suffered people by the terrorists. The terrorists' direct presence is confirmed by the testimonies of many witnesses and protocol identifications of the terrorists themselves.

**15. In 2005, the High Commissioner for Human Rights and the High Commissioner for Refugees urged Uzbekistan to refrain from any action aimed at ensuring the forcible return of Uzbek asylum seekers to their country, including apparently coercing their relatives to plead for their return. Concern was expressed by the Special Rapporteur on the independence of judges and lawyers about the pressure on Kyrgyzstan and attempts by Uzbek agents on Kyrgyz territory to return Uzbek citizens who had fled the events in Andijan, and by the General Assembly about the pressure applied to prevent Uzbek refugees from travelling to a third country. The deportation of four Uzbek refugees and of an asylum seeker to Uzbekistan in August 2006 was a matter of grave concern for the High Commissioner for Human Rights. In 2007, CAT received credible reports that some persons who sought refuge abroad and were returned to the country have been kept in detention in unknown places and possibly subjected to treatment in breach of the Convention.**

Nowadays, according to the information of the Prosecutor General's Office of the Republic of Uzbekistan 63 citizens of the Republic of Uzbekistan, so called refugees voluntarily returned to Uzbekistan as well as 301 of those "refugees" appealed for return home from abroad.

It is worth to outline that majority of Uzbek citizens who crossed the border after leaving Andijan did so under deception and compulsion. They were under the constant psychological pressure from criminals, were frightened by their statements about repressions after returning home.

It is proved by the fact that many of accused persons who had a real opportunity to be among so called refugees and escape from Uzbekistan but they voluntarily came to the law-enforcement bodies. During interrogations they stated that terrorists by means of weapons made them to cross over to Kyrgyzstan, where were kept and frightened by statements about institution criminal proceedings against them in case of returning home.

The investigation possesses information that the other category of so called "refugees", who were by means of deception and compulsion lured into the square and forced to leave Uzbekistan, were under constant psychological pressure. Moreover, the pressure on them were posed by the representatives of various human right and international institutions, who isolated them from the whole world including their relatives who vainly tried to visit them.

All returned "refugees" were not accused for any kind of crimes or persecuted by the authorities. They live in their houses and access to them is not restricted. The statement that international organizations have no access to them is bias because to decide with whom to meet or talk is a purely personal right of those persons.

**16. Of the 19 cases transmitted by the Working Group on Enforced or Involuntary disappearances, 13 remain outstanding, including four persons who had reportedly fled to Kyrgyzstan after the Andijan events and were returned to Uzbekistan 53**

In 2007 Working Group discontinued the six cases because of violent or not voluntary disappearances of citizens of Uzbekistan: K.Dierov, N.Sharipov, Y.Ruzimuradov, M.Bekzhanov, R.Bekzhanov and M.Makhmudov.

As of November 1st 2008 the Working Group is considering the case of the following 7 citizens of Uzbekistan: F.Khajdarov, B.Khasanov, R.Matkarimov, A.Mirzoev, K.Nazarov, A.Utaev, O.Yunusov and A.Boimatov.

In connection with cases which are not yet discontinued, the Government of Uzbekistan has informed Working Group that measures to locate and find the above-stated persons are being continued.

The information on measures taken to find those who disappeared violently or involuntarily is sent regularly to Working group.

**17. CAT and the Special Rapporteur on torture recommended that Uzbekistan take measures to adopt a definition of torture in compliance with article 1 of the Convention.**

Uzbekistan's comments on the Concluding Observations of the Committee Against Torture with regard to the Third Periodic National Report:

We do not agree with this observation of the Committee Against Torture, because complicity in using torture is defined as torture according to Article 235 of the Criminal Code of the Republic of Uzbekistan (CC).

The crime, envisaged by Article 235 «torture» of the CC, is at the Chapter «Crimes Against Justice» and subjects of this crime are the law-enforcement officers and all persons, involved in the investigation of crimes in an official capacity. Expanding the circle of individuals, whose actions are subject to Article 235 «torture», will require the transfer of this Article from Chapter «Crimes Against Justice» to elsewhere within the CC. This would affect the assessment and significance of the social danger of this act, and its compliance with the meaning and spirit of the Article 1 of the Convention Against Torture. The wording of Article 235 is performed in compliance with all rules of the legislative techniques of Uzbekistan and consistent with the purpose and meaning of Article 1 of the Convention Against Torture.

The role performed (organizer, executor, instigator, accomplice) in the commission of a crime does not alter the qualification of criminal act during instituting criminal proceeding against a person for committing a specific crime.

All three branches of state power publicly condemned and are condemning the use of torture.

Matters of strict adherence of the law-enforcement officials to international obligations under the Convention Against Torture are regularly examined on the collegial boards of the Ministry of Internal Affairs and the Prosecutor General's Office.

According to the Order #31 of the Prosecutor-General of the Republic of Uzbekistan dated 9 December 2004, prosecution bodies every 10 days carry out inspection of the legality of detention in temporary detention centers of the local internal affairs bodies. In accordance with the Order #40 of the Prosecutor-General dated 17 February 2005 «On the radical improvement of prosecutorial supervision to ensure the rights and liberties of persons in criminal proceedings», a duty of strict compliance with and enforcement of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, was imposed on the prosecution officers.

All the above-mentioned orders of the Prosecutor-General are the result of consideration and discussion of these issues at the Coordinating Council of law-enforcement agencies under the Prosecutor-General's Office.

Uzbekistan Government's assessment of Andijan events in May 2005 as the large-scale terrorist act was accepted by the international community at the meetings of the UN Third Committee in September 2006. The anti-terrorist operation, which involved military and special services carried out in accordance with the legislation of the Republic of Uzbekistan.

**18. In 2007, CAT expressed concern about numerous, ongoing and consistent allegations concerning routine use of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement and investigative officials or with their instigation or consent, while the HR Committee was concerned about allegations relating to widespread use of torture and ill-treatment of detainees. In 2008, the Special Rapporteur on torture recalled that the practice of torture in Uzbekistan was found to be systematic by his predecessor in his 2002 mission report. The Special Rapporteur continued to receive serious allegations of torture by Uzbek law enforcement officials.**

The given statement of «International amnesty» are denied by arguments of Manfred Novak, Special Rapporteur on torture, who has presented to UNHCHR (on August 2, 2007) the information,

that nowadays there is no an international tool defining character of torture as extended and regular. In his opinion, only Nepal concerns to the state, where tortures have regular character. In Mongolia, China, Jordan and Nigeria, in his opinion, tortures are widely applied, but there are no proofs of their regular character.

The Republic of Uzbekistan, where torture do not carry regular character, has accepted a wide complex of measures on their extermination:

The UN Committee Against Tortures has given to the Republic of Uzbekistan 16 recommendations directed on further implementation of the positions of the Convention Against Tortures.

Carrying out these recommendations, Uzbekistan has included into the Criminal code of the Republic of Uzbekistan Article 235 about criminal responsibility for tortures, the definition of which corresponds to Article 1 of the UN Convention Against Tortures and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In Uzbekistan an independent mechanism of the appeal of actions of bodies and persons and operative investigation of statements about applications of tortures, and also prosecution and punishment of guilty persons is created

Protection of persons addressing with complaint about prosecution is provided, according to the Law of the Republic of Uzbekistan "About references of citizens" the prosecution of the persons referring the state bodies with complaints and statements concerning infringement of their rights is not allowed. The administrative legislation establishes legal responsibility for infringement of Law "About references of citizens", and Article 11 of the Criminal-executive code of the Republic of Uzbekistan establishes the right of condemned on personal safety which is provided by administration of penal establishment.

Observance of principle of inadmissibility of proofs received under torture is provided. On September 24, 2004 the Supreme court of the Republic of Uzbekistan adopted the Plenum Decision "About some questions of application of norms of the Criminal-executive law on admissibility of evidences", in which it is fixed, that the evidences received as a result of deviation by the investigator, inspector, public prosecutor and court from exact execution and observance of norms of the law, challenged by any motives, are admitted to be inadmissible.

To inadmissible evidences are related, in particular testimonies received by application of torture, violence and other kinds of severe, brutal or humiliating treatment, and also by deceit and other illegal methods.

There are taken the measures on maintenance of independence of judges: specialization of courts, improvement of material support of courts and judges. Appointment procedures of judges are improved, the status of the Higher Qualifying Commission on Selection and Recommendation on a Post of Judge is raised.

It is provided an access of prisoners to the lawyer, the doctor and members of family from the moment of taking into custody. The strict interdepartmental control (of the Ministry of Interior of the Republic Uzbekistan) and directorate of public prosecutions over implementation of the right to protection in regard to the persons detained in the course of article 225 of the Criminal-procedural Code (CPC) of the Republic Uzbekistan is established. Requirements on an explanation to them of their rights and the duties provided by article 48 of the CPC of the Republic Uzbekistan are strictly observed. The lawyers have been provided by an appointment alone with the client and an unimpeded access to them in places of the temporary detention.

The system of independent inspection of the institutions of imprisonment is created. In Uzbekistan the inspection examination of each institution of execution of punishment is carried out by complex group of experts of the Ministry of Interior. A Special inspection on staff of the Ministry of Interior regularly examines applications and complaints of the condemned persons, and also the treatment of the employees of the penitentiary institutions with the condemned persons.

Furthermore, in addition to such regular departmental control the independent non-departmental control of activity of the penitentiary institutions' employees is carried out by the

General Prosecutor Office, Ombudsman, the National centre of the Republic of Uzbekistan on human rights, and also of some the international organizations.

Terms of imprisonment before trial are reduced and since 2008 the judicial control over sanction delivery on arrest is entered. Terms of the maintenance of accused persons into custody are reduced from 1.5 years till 9 months. For last 4 years using of such preventive punishment as imprisonment, was reduced more than on 2 times.

Training of law enforcement staff, the medical personnel to the rules of the treatment with prisoners on purpose of non-admission of torture is provided.

Revision of the verdicts of guilty based on evidences received by tortures is provided. According to the decisions of Plenum of the Supreme Court of the Republic of Uzbekistan №17 dated December 19, 2003 "About practice of application by courts of the laws, providing to the suspect, accused the right to protection" and Plenum of the Supreme Court of the Republic of Uzbekistan №12 dated September 24, 2004 "About some questions of application of norms of the criminally-remedial law on an admissibility of evidences" revision of the verdicts of guilty based on evidences, received by tortures is entered into practice.

It is taken the legislative measures on non-admission of dispatches or extraditions to other countries of persons, in the presence of the bases to believe, that they are threatened a use of tortures etc.

**19. CAT noted that, according to credible reports, acts of torture and other cruel, inhuman or degrading treatment or punishment commonly occur before formal charges are made, and during pre-trial detention. The HR Committee expressed concern about the continuing 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.<sup>59</sup> The Special Rapporteur on torture and CAT, in 2007, called for the respect of the principle of inadmissibility of evidence obtained by torture.<sup>60</sup> Cases of convictions based solely on confessions should be reviewed.**

In 2004, the Government established the Interagency Working Group on monitoring of observation of human rights by law enforcement authorities. The Working Group carries out coordination of implementation of the National Program of Action for the realization of the Convention Against Torture, as well as conclusive remarks of the Committee Against Torture. The system measures, taken by the State to combat torture, allowed to strictly control the activities of law enforcement officials and punishing those who commit torture. Statistics of application of Article 235 of the Criminal Code allows making a conclusion that any unlawful methods of investigation are strictly punished by criminal or disciplinary measures. During 2002-2008, there were 20 criminal cases opened under Article 235 of the Criminal Code, and 26 individuals were convicted.

The administration of the Ministry of Internal Affairs (MIA) gives fundamental estimation to each fact of law infringement, as a rule, by firing the guilty personnel of law-enforcement bodies with their subsequent bringing to justice.

According to the Order of the Prosecutor General № 40 from the 17th of February, 2005 «On radical improvement of prosecutor's supervision of maintenance of the rights and freedom of persons in criminal process», the prosecutor-investigatory officers are strictly obliged to observe and execute the requirements of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Considering the specificity of the Prosecutor's Office bodies in the sphere of human rights maintenance by realization of prosecutor supervision, there have been adopted the corresponding departmental documents directed on strengthening the stated supervision.

There is a special chapter in the Law «On Prosecutor's Office», which regulates the mechanisms of human rights and freedom protection by bodies of the Prosecutor's Office. Department on Human Rights has been created within the structure of Prosecutor General's Office. As a result of prosecutor's supervision of criminal process, the facts of citizens' rights and freedom

infringement are being elicited. All investigations on the facts of offences by the employees of law enforcement bodies are carried out only by bodies of Prosecutor's Office.

Courts of the general jurisdiction of the Republic of Uzbekistan did certain work on performance of positions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as National Action Plan on performance of positions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The appropriate continuation of work on observance of human rights protection was the acceptance on the 24th of September, 2004 by Plenum of the Supreme Court of the Republic of Uzbekistan of the Resolution «On implementation of some norms of the Criminal Procedure Code on admissibility of evidences», where it is fixed that evidences obtained as a result of deviation by the investigator, inspector, prosecutor and court from exact execution and observance of law norms is inadmissible no matter what motives it is caused by. Unacceptable evidences comprise testimonies, including voluntary ones that are obtained by applying tortures, violence and other cruel, inhuman or degrading treatment, as well as by deceit and other illegal methods. Plenum has specified the necessity of reaction by courts to the facts of infringement of remedial law norms on order of evidence gathering by removal of private definitions (decisions), and in necessary cases the decision of the issue of criminal case commencement on guilty persons.

During the period after the acceptance of this Resolution of the Supreme Court Plenum in 2003 and 2004 by the courts of the Republic of Uzbekistan, about 50 criminal cases were returned for making additional investigation from 2004 to 2007 as evidences were found unacceptable and believed to be gathered by means of torture, violence, and deceit.

**20. Since 2004, the HR Committee adopted Views on thirteen individual communications, in which violations of the Covenant were found, in particular of the right not to be tortured, and the right not to be compelled to testify against oneself or to confess guilt. Uzbekistan provided follow-up information in relation to six Views, but not to seven others and the dialogue with the HR Committee remains open in eleven cases.**

It's not clear what particular persons are talked about. The Uzbek side expresses readiness to give the corresponding information to clarify this question.

**21. CAT remained concerned about numerous reports of abuses in custody and many deaths, some of which allegedly followed torture or ill-treatment. Uzbekistan should take measures to keep under systematic review all places of detention, and not impede routine unannounced visits by independent experts to all places of detention.**

The General-Directorate of Execution of Punishments (GDEP) of the Ministry of Internal Affairs of the Republic of Uzbekistan ensures an unimpeded access to penalty execution sites for representatives of diplomatic corps, international nongovernmental organizations, local nongovernmental and noncommercial organizations, and local and foreign mass media.

Moreover, in 2004 MIA approved (with the Order of MIA, 01.11.2004) and the Ministry of Justice registered (20.11.2004 #1425) the Instruction «On the Order of Visits of Diplomats, Representatives of International and Domestic NGOs, and Local and Foreign Journalists to the Penitentiaries».

The Government is developing the system of access to penitentiary institutions for representatives of civil society groups. In this regard, the GDEP elaborated a new standard agreement on access of NGOs to the places of detention.

On 17 of January 2001 an Agreement was signed between the Government of Uzbekistan and the International Committee of Red Cross «On humanitarian activity in places of detention». During the years of cooperation all kinds of assistance have been rendered to the representatives of the ICRC and provided all possibilities to visit places of execution of penalties. As the result, they visited practically all the penitentiary sites of GDEP (4- in 2001, 5 - in 2002, 30 - in 2003, 46 - in 2004, 1-2007).

In 2008 a group of representatives of the ICRC made 19 visits to colonies and investigative isolators (SIZOs) (in Tashkent city and Tashkent, Andijan, Bukhara, Navai regions) from which 10 are repeated. The main examined question during these visits – the treatment of prisoners. After each meeting representatives of ICRC meet with the heads of the General Directorate on Execution of Penalties of MIA to discuss the activities of penitentiaries, material security and medical treatment of special contingent, rights and duties of prisoners, norms of nutrition for prisoners, issues of penitentiary employees' treatment to special contingent, order of providing meetings with the relatives or lawyers, quantity and order of receiving food and material parcels, medicines in case of need, opportunities of prisoners to keep up contacts with their relatives.

In 2003, the OSCE experts visited 6 prisons and other penitentiary sites, the representative of «Prison Reform International» (PRI) (Baroness V.Stern - 2 prisons) and the Head of «Freedom House» Office in Tashkent (1 prison). The EU experts, diplomatic representatives of the United States, France, Germany, Great Britain, Italy, the Netherlands, Russia, Iran, and other countries, journalists of «Reuters», «France Press», «Associated Press», «BBC» and others frequently visited prisons and other penitentiary sites.

On June 2004, top authorities of the «Freedom House» Office in Tashkent Ms.M.Sever and adviser of the US Ambassador to Uzbekistan on socioeconomic and political issues Ms.S.Kurran visited prison located in Zhaslyk village, the Republic of Karakalpakstan.

In October 2004 the Independent Expert of the United Nations Human Rights Commission Mr. L.Huseynov visited a number of penitentiary institutions of sentence execution system.

International and local nongovernmental organizations conducted 9 visits to penitentiary sites of MIA of Uzbekistan during 2005, including 2 times of monitoring of punishment execution sites: on February 3, 2005 in the framework of Program on Fighting with Tuberculosis there was a visit of representatives of KFW-Bank in Central Asia to punishment execution sites 64/75 (Pskent city).

During the period from March 10 to June 10, Nongovernmental Organizations «The Regional Center of Social Adaptation and Reproductive Health of Women» (Chirchik), Information-Educational Center «Intilish» (Aspiration) and «Institute of Woman and Society» carried out monitoring on a theme: «Implementation of the norms of International Law into the National Legislation concerning the women, who are serving their sentences in the Republic of Uzbekistan».

On April 27, 2005 an expert of the International NGO "KFW/EPOS" A.Nejer visited the establishment UJA-64/18. On June, 22, 2005 the representatives of the International Rehabilitation Council for Torture Victims (Copenhagen, Denmark) visited the establishment UJA-64/1.

On September 20, 2005 the representative of the German Association of Public Universities visited the establishment UJA-64/3 with a purpose to assess the requirements for training convicts to professional skills in the field of education. On September 21 they visited the establishment UJA-64/3BK and on September 26 UJA- 64/T-1 (Andijan).

It is necessary to underline that the Ombudsman of Uzbekistan for the entire activity period visited all punishment execution sites, located throughout the country, including Zhaslyk colony. Information about these visits is published annually in the Ombudsman's reports in the Gazettes of Chambers of the Oliy Majlis of Uzbekistan.

At present, in the framework of adoption of the Law «On making amendments and additions to some legislative acts of Uzbekistan in connection with the improvement of activity of the Authorized Person for Human Rights of Oliy Majlis (Ombudsman)» the following addition to be made in the Article 18 of Criminal Code of the Republic of Uzbekistan, which was approved by the Law of the Republic of Uzbekistan on April 25, 1997: «Authorized Person for Human Rights of Oliy Majlis (Ombudsman) has the right to visit punishment execution sites without any special permission in conducting compliance inspection».

In August 2008, The Ombudsman held the next seminar-conference «The improvement of sentence execution system in the sphere of supervision and respect for prisoners' rights» in Ferghana, which was organized for penitentiary officers and working groups members of regional representative of the Ombudsman on the profile areas of interaction with partner organizations.

The Extraordinary and Plenipotentiary Ambassador of Germany M.Mayer and Deputy Head of International Red Cross Committee mission in Uzbekistan R.Muller took part in this conference, who also took part in the constant Ombudsman monitoring of the prisoners' rights providing at the investigation isolator in the Fergana.

At present the work is almost completed on the establishment of Ombudsman in 3 penitentiary sites of The General Directorate on Execution of Penalties (GDEP) of the Ministry of Internal Affairs of the Republic of Uzbekistan.

Along with accessibility, providing of publicity, openness and transparency of the Ombudsman activity is one of the important principles of his functioning. The Ombudsman annually submits its report for consideration and discussion of the Legislative Chamber and Senate of Oliy Majlis, which is published in the Gazettes of Chambers of the Oliy Majlis.

The reports of Ombudsman are annually published by individual publication and distributed among the Government bodies, NGOs and International Organizations. The activities of the Ombudsman is highlighted in the magazine «Democratization and Human Rights», one of the founders of which is it. In addition, the books published by the Ombudsman with the assistance of international organizations, which devoted to the different aspects of its and regional representatives activity: «Ombudsman in Uzbekistan»; «Monitoring of human rights and freedoms», «World Ombudsmen» and etc became customary.

**Information on number of visits  
to the establishments of GDEP of Ministry of Internal Affairs in 2008**

№	Organizations	The number of visits
1.	International Committee of the Red Cross	19
2.	Joint visits of various organizations	4
3.	Konrad Adenauer Foundation jointly with Ombudsman	10
4.	Ministry of Health	1
5.	World Health Organization	2
6.	Women Committee	1
Institutional checks by GDEP		
7.	Comprehensive inspectorial checks	9
8.	Control checks	10

**22. CAT was concerned that law enforcement personnel reportedly secure and follow detailed internal regulations and procedures that are not available to detainees or their lawyers. It recommended that Uzbekistan ensure that every detainee can exercise the right to access to a lawyer, independent doctor and family member and other legal guarantees to ensure protection from torture.<sup>68</sup> The Special Rapporteur on torture added that priority should be given to the training of law enforcement agents regarding the treatment of detainees.**

In accordance with the Joint Order 248/625 of the Ministry of Internal Affairs and the Ministry of Health of the Republic of Uzbekistan dated December 4, 2000 «On measures to improve the medical care of persons in custody and in institutions of punishment», there is ongoing work to improve the quality of health care. Persons in detention are provided with consultancy and treatment when necessary.

The Criminal Correctional Code of the Republic of Uzbekistan states that convicted persons are entitled to qualified free medical care, and if there are no physicians associated with the disease of convicted person in the correctional institution, then correctional institution itself provides with a doctor of necessary skills through the Service of Sanitary Aviation of the Ministry of Health.



In practice, the head of the establishment or supervising Prosecutor consider the application of convicted or arrested person regarding the engagement of the necessary medical specialists. In accordance with such appeal, convicted person is provided with consultation of necessary specialist.

Providing skilled medical care in the correction institutions is regulated by the Joint Order # 231/2002 of the Ministry of Internal Affairs and the Ministry of Health of the Republic of Uzbekistan, corresponding to Article 24 of the Law «On Protection of Citizens' Health».

In accordance with Article 217 of the Criminal Procedure Code, investigating lawyer, investigator, prosecutor or court using procedural measure of coercion in the form of arrest, detention or placement in a medical facility for production of expertise with regards to suspect, defendant or accused, have to notify any members of his/her family, in the absence of them - relatives or close persons, as well as to report it to the place of work or study not later than twenty-four hours.

Regarding establishment of contact of the arrested with members of his/her family, - according to Article 230 of the Criminal Procedural Code, visit to the detainee by relatives and other persons can be granted by the detention facility administration and only with the written permission of investigator, who considers materials about detention.

According to the norms of the criminal procedural legislation, individuals called to criminal responsibility have the right to receive qualified legal aid from lawyers. If the accused or defendant is in detention, the defender is entitled to visit him/her without limiting the number and length of visits (Article 53 of the Criminal Procedure Code).

According to articles 46 and 48 of the Criminal Procedure Code of the Republic of Uzbekistan, during the preliminary investigation, suspects and accused are entitled to the right to have defender since the announcement of recognizing him/her as a suspect or from the moment of his/her detention, as well as to visit him/her privately after the interrogation, exercise personally his/her right for protection.

**23. While noting steps taken by Uzbekistan, CEDAW and the HR Committee expressed concern about the prevalence of violence against women. CEDAW recommended the speedy adoption of a framework act on all forms of violence against women, including domestic violence and marital rape, to ensure that violence against women constitutes a criminal offence, that victims have access to immediate means of redress and protection and that perpetrators are prosecuted and punished. CESCRC and CRC also recommended Uzbekistan to adopt specific legislation on domestic violence and to consider domestic violence as a criminal offence.**

In order to eliminate all forms of violence against girls and women, work in the following directions is carried out:

1. The Constitution of the Republic of Uzbekistan states that “No one may be subject to torture, violence or any other cruel or humiliating treatment” (Article 26);

2. There is criminal liability in Uzbekistan for rape, trafficking, coercion of a woman to a sexual intercourse: Articles 118, 119, 121 “Sexual Crimes” of the Criminal Code, Articles 128, 129, 131 “Crime Against Family, The Youth, And Morality” of the Criminal Code; Family Code regulates rights and obligations between husband and wife, obligations of parents towards their children;

3. Special structures aimed at providing assistance to women – victims of violence are created: “Crisis Centers”, “Helplines”, “Women’s Centers”, Health Centers and many more other social and psychological centers are functioning in different regions of the country;

4. Introduction of the position of school psychologist in all general education institutions allows timely revelation and prevention of violence against women and girls in families;

5. In accordance with the Family Code of the Republic of Uzbekistan, annulment of parent’s rights is applied when girls become victims of violence from alcoholic parents and other;

**24. CRC recommended that Uzbekistan prohibit corporal punishment by law in institutions and the family and ensure that legislation is properly enforced.**

The Criminal Code of Republic of Uzbekistan provides responsibility for encroachment on a person's life and his health, including the child: 26 % of its norms provide responsibility for a trespass to the citizen's life, including: murder, including under aggravating circumstances (article 97 of the Criminal Code), premeditated murder in state of excitement (Article 98 of the Criminal Code), premeditated murder of a newborn child's mother (Article 99 of the Criminal Code), intentional infliction of death by exceeding the self-defense measures (Article 100 of the Criminal Code), intentional infliction of death by exceeding the necessary arrest measures of the perpetrator (Article 101 of the Criminal Code), intentionally causing death by negligence (Article 102 of the Criminal Code), incitement to suicide (Article 103 of the Criminal Code), and also for deliberate causing of the physical injury dangerous to a life (Article 1024 of the Criminal Code).

In accordance with the Family Code of Republic of Uzbekistan the protection of child rights for life and healthy development is carried out first of all by his parents or stepparents. They have an obligation to care for the health, physical, mental, spiritual and moral development of their children. In implementation of paternal rights, parents have no right to harm the physical and mental health of children. The methods of children upbringing must exclude neglectful, cruel, brutal, degrading treatment, humiliation or exploitation of children. Parents can be deprived paternal rights, if they cruelly treat with children, including committing physical and mental violence above them, accomplishing an intentional crime against their children's life or health.

It is necessary to note that under direct threat to a child's life or health, the guardianship authorities have the right immediately to take away the child from parents (one of them) or from other persons, who cares for him. The immediate take-away of the child is made based on appropriate act of citizens' self-governing institution.

**25. CRC recommended that Uzbekistan adopt a comprehensive strategy to reduce and prevent the abandonment of children and the deprivation of their family environment. Children should be placed in institutions only as a last resort, and receive appropriate protection, education and health care.**

The law on "Guaranties of the rights of the child" entered into force in Uzbekistan on 7 January 2008. The p. 4 of the Article 24 of the law states that "placing of a child in a specialized institution is an extreme measure in case of impossibility to assign the child to a family". This Article broadens the options for deciding the further status of children who remained without care of parents (patronage, children's centers, children's homes of family type). This approach reflects international standards in this sphere, in particular the Article 20 of the Convention on the Rights of the Child.

**26. CEDAW remained concerned about the persistence of trafficking and exploitation of women and girls, a concern echoed by CAT. CEDAW was concerned that victims of trafficking are treated as criminals for engaging in prostitution. Uzbekistan was urged by CESCR to criminalize trafficking in persons, and by CEDAW to speedily enact national legislation ensuring that offenders are punished and victims assisted. Uzbekistan should take measures for the rehabilitation and social integration of the victims, and provide them with medical, psychological and legal support.<sup>80</sup> Uzbekistan should, inter alia, develop preventive measures that target those soliciting and providing sexual services. Uzbekistan responded to CESCR that it is a criminal offence to recruit people for the purpose of exploitation.**

1. In 2008, Uzbekistan ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime (2002).

2. On 17 April 2008, the new law "On Countering the Trafficking in Persons" was adopted in the Republic of Uzbekistan. The law will significantly contribute to the fight against trafficking in

women. The norm (Article 135) of the Criminal Code has been amended. This has brought the definition “trafficking in persons” in compliance with the international treaties.

In order to assist and protect victims of trafficking, the law envisages creation of specialized institutions aimed at assistance and protection victims of trafficking. The main functions of the institutions are the following: provide victims with favorable conditions of living and personal hygiene, food, medicines and medical goods; provide them with first medical, psychological, social, legal and other assistance; ensure their security etc.

3. In July 2008, the National Plan of Action to Counter Trafficking in Persons for 2008-2010 was approved by the President’s Decree “On measures to strengthen the effectiveness of countering trafficking in persons”. The Plan of Action envisages sociological and criminological research as well as specific measures to protect witnesses and victims of trafficking. The National Interagency Commission on Combating Trafficking in Persons has been established.

4. The Uzbek parliament ratified the Optional Protocol to the Convention on the Rights of the Child, which concerns the sale of children, child prostitution and child pornography 2000.

### **3. Administration of justice, including impunity, and the rule of law**

**27. CAT noted with concern that Uzbekistan has limited and obstructed independent monitoring of human rights in the aftermath of the Andijan events, thereby further impairing the ability to obtain a reliable or credible assessment of the reported abuses. Uzbekistan has not agreed to requests made to set up an independent international commission of inquiry into these events, as requested by the High Commissioner for Human Rights, a recommendation endorsed by the Secretary-General and the General Assembly, and reiterated by CRC. For the Special Rapporteur on torture, the lack of internationally accepted account into the Andijan events is deeply worrying.**

Being an independent state, Uzbekistan has conducted own deep investigation of events in Andijan, has found reasons and conditions that abetted absolutely criminal encroachments on the state power structures, has taken measures on their suppression and punishment of the criminals.

The crimes, made in Andijan on May 12-13th 2005, took place in the territory of Uzbekistan and, in conformity with the articles 3 and 4 of the Criminal Procedural Code and the article 11 of the Criminal Code of the Republic, are under jurisdiction of the Republic of Uzbekistan. There is no international document which would obligate the sovereign state to conduct the international investigation of the cases, related exclusively to its internal competence.

However, it is necessary to notice that the objective information about investigation of the Andijan events was regularly brought to attention of the international organizations through corresponding data of the Office of Prosecutor General by sending to the Ministry of Foreign Affairs of Uzbekistan, as well as in meetings in the Office of Prosecutor General, particularly:

On June 10th, 2005 the Prosecutor General met Ambassador Miroslav Encha - the Head of the Center of OSCE in Tashkent and Peer Nurmark - the expert on human dimensions of the Center of OSCE. During the meeting with them there have been discussed issues related to the events which were taking place in the Andijan region on May 13-14th, 2005. In particular, they have been acquainted with preliminary results of investigation of the criminal case brought upon terrorist acts: with chronology of their realization and breaking consequences; quantity of lost and wounded, the persons taken in hostages by terrorists, and also moved to Kyrgyzstan; the size of the caused material damage; number of the persons involved in fulfillment of terrorist acts, determined and arrested persons during preliminary investigation.

On June 16th, 2005 the first deputy of the Prosecutor General met representatives of diplomatic missions in Tashkent and had conversation with them concerning the events which were taking place in the Andijan region on May 13-14th, 2005.

On August 25th, 2005 in the meeting with the British political analyst Mrs. Shirin Akiner there were discussed events in Andijan and their consequences. Thusfor Akiner has noticed that

after the Andijan events Western Europe countries and the USA attempt to isolate Uzbekistan in political and economic spheres as there is an opinion concerning the strict actions undertaken to participants of «peaceful meeting» occurring in Andijan on May 13th, 2005 which is generated, mainly, on foreign mass-media publications, where on the basis of doubtful sources of event in Andijan are presented as «execution of peaceful meeting». Therefore there are bases to draw a conclusion about improbability of their version. It is necessary to conclude it critically. Regarding to request of the political scientist, films and the slides were shown to her, which have been taken during the investigation as well as the film made by terrorists directly during events, where actions of the armed insurgents who have carried out terrorist acts in Andijan.

On September 7, 2005 the first deputy of General Attorney received the representatives of diplomatic missions in Tashkent: Bhargan Mitra (consul, India), Gulmira Sultanali (2 secretary, Kazakhstan), Sabit Umirbekov (Attaché, Kyrgyzstan), Chen Weywey(1 secretary, China), Bakit Tungatarov (1 secretary, Kyrgyzstan), Shahbaz Malik (3 secretary, Pakistan), Kirill Belikov (2 secretary, press attaché, Russia), Murodjon Buribaev (1 secretary, Tajikistan). They were presented with objective information about the criminal case, which were brought on Andijan incident and submitted to Supreme Court of Uzbekistan to conduct an investigation with respect to the fifteen accused, who were the most active participants and organizers of terrorist attack in Andijan.

On October 1, 2005 the first deputy of General Attorney received Miroslav Yench, Head of OSCE center in Tashkent. They discussed the issues of monitoring by OSCE observers the legislative procedures with respect to the defendants, who were accused of involving in Andijan incident and access to information on the results of investigation.

On August 29, 2006, the first deputy of General Attorney received the EU Troika delegation, comprised by Antti Turunen, Head of East Europe and Central Asian Department, MFA of Finland, Rolph Shultz, Head of South Caucasus and Central Asia Department, MFA of Federal Republic of Germany, Hugues Mingrelli, Director for South Caucasus, Central Asia and East Europe, EU General Director for External Relations and Gintz Apals, administrator of General Secretary of EU Council, Director of General Directorate for External Relations of EU Commission. During the meeting the guests were informed about the incident in Andijan in May, 2005.

On December 13, 2006, a Plenary meeting with the participation of EU experts' delegation led by Pekka Oinonen, a specialist on combating terrorism, MFA of Finland took place. The Ambassador Extraordinary and Plenipotentiary of Federal Republic of Germany to Uzbekistan M.Mayer and some staff members of the German Embassy were included also in the delegation. The EU experts were familiarized on-site with the outcome of criminal investigation, conducted on Andijan incident.

On April 2-3, 2007 the second meeting with the participation of EU experts led by the Head of South Caucasus and Central Asia Department, MFA of Germany Shultz took place. The Ambassador of Germany to Uzbekistan M.Mayer was also included in the list of delegation. During the meeting the Uzbek representatives gave thorough answers to the experts' additional questions aroused after acquainting them in December 2006 with the outcome of criminal investigation on Andijan incident.

Moreover, the preliminary investigation found out that 28 representatives of foreign Mass-Media were in the place during the Andijan incident.

(Malyuba Azamatova, Sharifjon Akhmedov, Valeriy Pankrashin, Monika Whitlock, Jeanis Farel, Anna Luis Claridge, Joana Klear Lillies, Janny Kler Norton "BBC" Great Britain, Kutbiddinov Husniddin, Yuldashev Gofurjon radio "Ozodlik" ("Freedom") USA, Marcus Bensman, Natalya Bushueva "Nemetskaya volna" (German wave) Germany, Katerine Gannon "Associates Press" USA, Michael Kolet White, Sudjata Rao "Reuters" Great Britain, Yafasova Dina Agency "Medsestra" (Nurse), Denmark, Heze Enn Klark, Denis Albrighton «France Press» France, Ann Nivat "Liberacion" newspaper, France, Igor Rotar "Forum 18", Norway took an active part in widely reporting the legal process with respect to 23 members of religious extremist organization "Akromiys" in Andijan city.

Sharifkhon Akhmedov “BBC” Great Britain, Markus Bensman «Deutch Welle», Germany, Aleksey Volosevich «Fergana.Ru», Russia, Shamil Baygin «Reuters» Great Britain, Efrem Lugatchkiy, Bagila Buharbaeva «Associated Press» USA, Galima Bukharbaeva «Institute for War and Peace Reporting» Great Britain were near to or inside the Administrative building of the Government of Andijan province, which was captured by terrorists. These journalists can give first-hand evidence about outrages and brutal humiliations against the hostages and other suffered people by the terrorists. The terrorists’ direct presence is confirmed by the testimonies of many witnesses and protocol identifications of the terrorists themselves.

**28. In 2006, the High Commissioner noted that Uzbekistan was unwilling to accede to her request to allow OHCHR to monitor trials subsequent to the Andijan events on acceptable terms. In the context of closed-door trials held in November and December 2005, she expressed concern about alleged irregularities, an inadequate defense and indications that little evidence was presented during the proceedings apart from confessions that mirrored the accusations of the prosecution and were greatly at odds with information from various independent sources. She urged the Government to abide scrupulously by the international fair trial standards. CAT also recommended that Uzbekistan provide information to family members on the whereabouts and charges against all persons arrested or detained in connection with the events.**

The Supreme Court of the Republic of Uzbekistan underlines that all defendants accused of Andijan incidents during the preliminary investigation and court proceedings were provided with qualified advocates. These advocates took part in judicial investigation and sittings on the basis of relevant warrants and fulfilled their functions in accordance with norms of the Laws of the Republic of Uzbekistan “On advocacy”, “On warranties of advocacy and social protection of advocates” and procedural criminal law, according to which an advocate is independent and has equal rights besides all participants of the process in all stages of legal proceedings.

The by-defendants-elected advocates participated during the preliminary investigation and court proceedings. They took an active part in proceedings, completely protected the interests of defendants from the moment of their detention during the preliminary investigation, as well as were really provided with rights to unlimitedly meet with their clients in the court.

**29. Despite his requests, the Special Rapporteur has not received evidence that the Government is combating impunity for torture. The HR Committee was concerned at the low number of officials who have been charged, prosecuted and convicted for such acts. CAT recommended that Uzbekistan apply a zero-tolerance approach to the continuing problem of torture and to the practice of impunity, and publicly and unambiguously condemn torture in all its forms, accompanied by a clear warning that any person committing such acts, or otherwise complicit or participating in torture be held personally responsible before the law for such acts and subject to criminal penalties. According to the Special Rapporteur on torture, who made similar recommendations, the highest authorities should declare that those in command at the time of abuses will be held personally responsible.**

Annually the panels of the Ministry of Interior and the General Public Prosecutor’s Office study and address the issue of fight against torture. Every case of unlawful treatment of detained and convicted persons is analyzed and studied. On November 14, 2000 a plenary meeting of the board of the Ministry of Internal Affairs took place, where the issues of protection of human rights in activities of the bodies of internal affairs were discussed. During the meeting a Decision on strengthening the work with appeals and claims of citizens in every region was adopted.

In order to respond in timely manner to possible signals from citizens on use of torture in the system of interior affairs, the Ministry of Interior’s order №43 dated 7 February 2003 “On the procedure of consideration of citizen’s complaints and appeals received by the internal affairs structures” established the unified procedure of registration of the complaints and appeals on use of

torture. A separate registration of every appeal on use of unlawful methods of inquiry and investigation has been introduced. Examination of such methods is under particular control.

While addressing the facts of use of torture, especially those related to death of detained and arrested persons or that caused a wide public resonance, involvement of representatives of public and civil society and, on individual cases, of foreign experts to the cause of investigation is practiced.

In accordance with the Order #31 of the Prosecutor-General of the Republic of Uzbekistan dated 9 December 2004, every 10 days prosecution agencies conduct the check-up of lawfulness of keeping detainees in temporary detention centers. Moreover, on a monthly basis supervising public prosecutor checks up the conditions of keeping prisoners in solitary confinement. Complaints and appeals received from detained, convicted and imprisoned persons are examined during the check-ups. In case if violations of the law are found relevant acts of supervision by the public prosecutor are introduced.

The order №40 of the Prosecutor-General dated 17 February 2005 “On fundamental improvement of supervision by the public prosecutor of promoting human rights and freedoms in the criminal process” obliges public prosecution and investigation officers to strictly observe and implement the provisions of the above-mentioned Convention.

The order №21 of the Prosecutor-General dated 11 May 2004 “On strengthening effectiveness and efficiency of public prosecutor’s participation in examination of criminal cases by courts” established the procedure to support the state prosecutor in the courts and to check-up lawfulness of court decisions.

Should defendants state at the court hearings the use of torture and other unlawful treatment against them during the preliminary investigation, such statement are examined by courts that take relevant decisions.

**30. CAT added that investigations into allegations of torture and ill-treatment should be undertaken by a fully independent body. CAT and the HR Committee also recommended that punishment for acts of torture should be at a level commensurate with the severity of the crime. Suspected perpetrators should be subject to suspension or reassignment during the process of investigation and persons subjected to disciplinary penalties should not be permitted to remain at their posts. Complainants and witnesses should be protected against any ill-treatment or intimidation as a consequence of their complaint or evidence given. Adequate reparation should be provided to victims, as also recommended by the Special Rapporteur on torture and CAT.**

In case an official is brought to account for torture, he is incriminated at once by malfeasance in office (Articles 205, 206 of the Criminal Code, Excess of Power or Office), which envisages up to 8 years of imprisonment.

While the term of punishment is being determined, the Article 33 “Cumulative Crime” of the Criminal Code and the Article 59 “Inflicting Penalty in Instance of Multiple Crime” are applied. In accordance with these Articles, in the instance of combining of penalties by a cumulative crime, a final conviction shall be of a severer type.

Examination of use of torture complaints, in accordance with functional duties, is under the competence of special units of the Minister of Internal Affairs responsible for internal security (personnel’s special inspections), with vertical subordination to the Minister of Internal Affairs. In a case when the facts are confirmed, verified materials are presented to prosecution bodies.

Investigation of complaints against the personnel of MIA with respect to the facts of tortures and cruel treatment are carried out by the prosecution (i.e. another body) which is not under MIA.

These units are practically independent as fight against criminality, revelation and investigation of crimes are not their functional responsibilities, and they are not subordinated to the organs and units conducting fight against criminality. When information on use of torture by interior affairs officers is received, evidences are immediately forwarded to the prosecution bodies.

Civil and procedural criminal legislation envisages compensation for moral and material damage to the victim of torture. However, based on the data of the Supreme Court, victims have not claimed compensation through the court.

**31. In 2005, the HR Committee considered the length of custody for which a suspect may be held without being brought before a judge - 72 hours – to be excessive. A judge should review all detentions to determine if they are legal and all cases of detention should be brought before a judge for that purpose. Uzbekistan should amend its legislation and practice to allow persons to have access to a lawyer from the time of arrest. The Special Rapporteur also made recommendations relating to the rights of arrested persons.**

The Law of the Republic of Uzbekistan “On amendments and additions in some legislative acts of the Republic of Uzbekistan in connection with the transfer of the right to custodial placement to courts” dated 11 July 2007, which was adopted in accordance with the observations of the UN Human Rights Committee, reflects the following provisions: introduced a new edition of the part 2 of the Article 18 of the Criminal Procedure Code according to which “no one can be subjected to placing or holding in custody unless under a court’s decision”; this norm is reflected in amendments introduced to the Article 10 of the Law of the Republic of Uzbekistan “On courts”; rights to consider appeals and objections on application of preventive measures in the form of placement in custody or extension of the imprisonment term has been transferred to courts, this was ascertained in the Article 29 of the Criminal Procedure Code.

In case if there are reasonable grounds for placing a suspect or defendant in custody as a preventive measure during the preliminary investigation, according to a newly established order, a public prosecutor or investigator, with consent of public prosecutor, can submit a relevant petition. In accordance to this order, “in case of existence of conditions envisaged by the law for applying the preventive measure in the form of placement in custody during preliminary investigation, public prosecutor, investigator, with public prosecutor’s consent, decides to present petition on using the placement in custody as the preventive measure”. Public prosecutor examines relevance of the petition to apply the preventive measure in the form of placement in custody and, in case of consent, sends the decision and necessary materials to court. If the petition is presented in respect to detained, suspected or defendant person then the petition and the materials shall be presented to the court not later than 12 hours prior to expiration of the detention term. From its part, the court examines the presented documents for 12 hours behind closed doors with participation of public prosecutor, attorney, if the latter participates in the case, detained, suspected or defendant person. A lawful representative of the suspected or defendant person and investigator can participate in these hearings. The law foresees that investigator, in case of need, can also be called to the court.

This regulation creates preconditions for court to take a lawful decision on the issue of applying the preventive measure in the form of placing in custody after examination of the evidences presented by parties, based on the principle of competitiveness.

According to the part 3 of the Article 49 of the Criminal Procedure Code, a lawyer may participate in the case from the moment of charging an individual, or announcement of the recognition him as a suspect, or detention.

Close intra-agency control (of the Ministry of Internal Affairs) and supervision by the public prosecutor for observance of the right for a lawyer with respect to persons detained in accordance with the Article 225 of the Criminal Procedure Code of the Republic of Uzbekistan have been established. Requirements to explain to them their rights and obligations provided by the Article 48 of the Criminal Procedure Code of the Republic of Uzbekistan are closely observed. Lawyers are provided with meetings in person with their clients and free access to them in the temporary confinement centers.

**32. In 2005, the HR Committee remained concerned that the administration of pre-trial detention centres, prison camps and prisons failed to conform to the provisions of the Covenant, and recommended that priority be given to the reform of the administration of the**

**penal system. CAT added that the reportedly poor conditions of places of detention should be corrected. CESCR called upon Uzbekistan to take measures to improve the hygienic conditions in prisons.**

The Article 229 of the Procedural Criminal Code of the Republic of Uzbekistan states that detained persons are kept in such conditions that meet the hygiene and sanitary rules, treatment and preventive activities in confinements are organized and conducted in accordance with the law.

According to the joint Order of the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Public Health No 248/625 dated December 4, 2000 “On measures to increase the medical care for the persons in custody and penitentiary punishment” continuous work is being carried out to improve the quality of medical care. If necessary, medical consultation and treatment are offered for the convicted persons.

The Criminal Code of the Republic of Uzbekistan envisages that the convicted persons shall have the right for qualified free medical aid. In case of the absence of doctors specialized in the disease of the convicted, then the penitentiary provides with the doctor of necessary qualification through the Sanitary aviation service of health care.

Since 2003 systematic and consistent measures on liberalization and improvement of the punishment execution system has been implemented.

Every convicted person, despite the type of his punishment is provided with dietary norms. Convicted persons, in accordance with the Article 85 of the Criminal Execution Code of the Republic of Uzbekistan, receive food providing their vital functions.

Dietary norms for convicted persons as well as for those kept in detention centers or prisons have been established by the Government and adopted by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №529 dated 13 November 1992 subject to the state of health of convicted persons or those who are under investigation, their age, character and heaviness of work they perform. Calorie content of food, by its basic norms, is 2550 kilocalories per day. Detained persons can receive special nutrition based on a relevant medical conclusion.

In accordance with amendments introduced to the legislation, conditions of keeping in custody of detained persons have also been significantly softened. The number of short-term and long-term meetings provided to different categories of convicted persons, telephone conversations, parcels and packets increased.

Since the end of 2001, the punishment execution system has been working without over-limit of detained persons that in fact is one of major achievements of the penitentiary system.

This allowed attaching main attention to establishing necessary detention conditions, to the issues of communal-general service, medical care, food, involvement of detained personnel to a socially useful work.

Since 2001 the penitentiary system operates without repletion of prisoners. The ratio of prisoners per 100 thousand population in Uzbekistan accounts for 134 persons.

By November, 1, 2008 the number of prisoners makes up 70% percent of the penitentiary personnel limit.

**33. CAT and the HR Committee noted with concern that the appointment of judges has to be reviewed by the executive branch every five years. CAT also noted with concern that the designation of Supreme Court judges rests entirely with the Presidency. Uzbekistan should guarantee judges’ security of tenure. CESCR strongly urged Uzbekistan to ensure the independence and integrity of the judiciary.**

In July 2007, to improve the work of courts, some amendments and additions were introduced to the Law “On courts”. In accordance with the measures, organizational support to the activity of courts of general jurisdiction and economic courts is provided in strict correspondence with the principles of judges’ independence and their subordination only to the High Board of Experts on Selection of Judges and Recommendation for Judge Positions under the President of the Republic of Uzbekistan.



Judges of the courts in the Republic of Karakalpakstan are selected or appointed by Jokargy Kenes of the Republic of Karakalpakstan upon recommendation of the Chairman of the Jokargy Kenes of the Republic of Karakalpakstan and in coordination with the President of the Republic of Uzbekistan. The issue is presented for approval by the President of the Republic of Uzbekistan on the basis of the observation by the High Board of Experts on Selection of Judges and Recommendation for Judge Positions under the President of the Republic of Uzbekistan.

Judges of regional, Tashkent city courts, inter-district, district (city) courts, military courts, economic courts of the regions and Tashkent city are appointed by the President of the Republic of Uzbekistan at the recommendation of the High Board of Experts on Selection of Judges and Recommendation for Judge Positions under the President of the Republic of Uzbekistan.

By the degree of the President of the Republic of Uzbekistan of July 30, 1999 a Commission for dealing with issues related to appointment and dismissal of judges was set up at the President of the Republic of Uzbekistan to ensure a real independence of judicial authority, the further democratization of principles of selection and designation of the judicial staff as well as to submit relevant proposals on persons nominated for the post of the judge. The creation of this Commission has become a significant step towards resolving one of the important problems –staffing of the judge corps with qualified and competent judges who are independent from bodies and persons participating in their nomination. By the degree of the President of the Republic of Uzbekistan of May 4, 2000, this Commission was transformed into the High Qualification Commission on selecting and recommending for the post of the judge at the President of the Republic of Uzbekistan to further enhance work for selecting candidates and appointing judges and observe legislative requirements in nominating qualified and high moral specialists for the post of judge. The staff of Commission is formed of judges, deputies of Oliy Majlis of the Republic of Uzbekistan, representatives of Judges Qualification Commissions, public unions and high qualified specialists in the sphere of law.

The main tasks of the Commission are:

- elaborating and undertaking measures to develop democratic foundations of selecting and designating of judges;
- ensuring lawfulness in selecting and submitting to approval by the President of Republic of Uzbekistan;
- undertaking measures aimed strengthening judges independence and their social protection;
- elaborating proposals to enhance the work on selecting and designating personnel for the post of the judge and education of judicial personnel;
- elaborating proposals to enhance the legal basis of selecting candidates for judges, improving their professional training.
- providing transparency and publicity in selecting and placing of judicial personnel, accountability of this work on the vertical as well as preventing the facts of abuses by the service position in this sphere;
- controlling activities of qualifying judge boards on forming reserve, selection and presenting suitable candidates for the post of judges;
- organizational and analytical provision of judges;
- studying and implementing the activities of the Commission of the advanced foreign experience on selecting and appointing judges.

Power of courts of general jurisdiction and economic courts can be suspended upon recommendation of the High Board of Experts on Selection of Judges and Recommendation for Judge Positions under the President of the Republic of Uzbekistan by the decision of the relevant qualification board of judges.

Power of a judge from the Supreme Court, the Supreme Economic Court of the Republic of Uzbekistan are discontinued before the appointed time by the Senate of the Olij Majlis of the Republic of Uzbekistan upon recommendation from the President of the Republic of Uzbekistan; judges of regional, Tashkent city courts, inter-district, district (city) courts, military courts, economic courts of the regions and Tashkent city – by the President of the Republic of Uzbekistan

upon recommendation of the High Board of Experts on Selection of Judges and Recommendation for Judge Positions under the President of the Republic of Uzbekistan; judges of courts in the Republic of Karakalpakstan – by Jokargy Kenes of the Republic of Karakalpakstan upon recommendation of the Chairman of the Jokargy Kenes of the Republic of Karakalpakstan made on the basis of observation of the High Board of Experts on Selection of Judges and Recommendation for Judge Positions under the President of the Republic of Uzbekistan.

**34. CRC recommended that Uzbekistan establish juvenile courts, staffed with appropriately trained personnel, a recommendation supported in the report on Uzbekistan. Uzbekistan should, inter alia, ensure that detention is used only as a last resort; ensure that persons under the age of 18 are separated from adults; improve their conditions of detention; and introduce training programmes on relevant international standards.**

In Uzbekistan, the issue of creation of juvenile justice is studied. The current legislation adequately protects rights of a minor in case of his/her conflict with law. In accordance with the current law, minors are provided with all appropriate conditions of retaining in custody. In cooperation with UNICEF a Draft Decree “On juvenile justice” was prepared and at the moment undergoes a legal examination.

Currently, there are about 150 convicted minors in the correctional facility. Minors can not be kept in custody together with adults. They are kept in a separate section of pre-trial detention center or in specialized correctional colony. In correctional colonies, the following convicted persons are kept separately: convicted minors at the age up to 16 years old – separate from older detained persons; first time detained persons – separate from those who have been detained before.

In the correctional colonies detained persons have right to receive in the course of year: six short-term and six long-term meetings; twelve telephone conversations; six parcels; six packets.

They can be encouraged by: visiting cultural and sport events beyond the territory of the institution; leave for up to eight hours (escorted by parents, guardians or close relatives) that is granted instead of short-term meetings; reduction of detention term and prescheduled discharge.

There is the only one punishment execution institution in Uzbekistan for minors – Zangiata correctional colony (Tashkent region).

In accordance with legislative norms, minors (both under investigation and convicted) are kept separately from adult convicted persons.

The Zangiata correctional colony provides all with opportunity to receive secondary education and profession. Minors can receive a certificate of education.

#### **4. Freedom of movement**

**35. Uzbekistan should ensure that the compulsory residence registration system (propiska) does not infringe enjoyment of rights, as recommended by CRC, CESCR and CERD. In response, Uzbekistan emphasized that propiska does not limit freedom of movement of citizens.**

The existence of an institute for becoming a residence of Tashkent city is connected with need to account citizens of the republic, arriving in Tashkent, studying the process of migration of population and other reasons.

To order the procedures of permanent residency in the city of Tashkent the Government of the Republic of Uzbekistan adopted a decision on ordering the permanent residency in the city of Tashkent for the persons coming from other regions of the republic. In accordance with the Decree of the President of the Republic of Uzbekistan “On improving the passport system of the Republic of Uzbekistan” special commissions are established under the Council of the Cabinet of Ministers of the Republic of Karakalpakstan, regional governments and Tashkent city that considers the matters related to issuing the place of residence for foreign citizens, including the citizens of CIS and stateless persons, as well as permanent residence in the territory of the Republic of Uzbekistan.

The Mayor of Tashkent issued Decree “On introducing of the system of registration for arriving to Tashkent citizens who constantly live outside of the Republic of Uzbekistan on the territory of the former Soviet Union or have no constant place of residence” on 5 April 1993. According to the document, arriving to Tashkent citizens who constantly live outside of the Republic of Uzbekistan on the territory of the former Soviet Union or have no constant place of residence must register their stay in the city in the authorized organizations.

Those who stay in the city more than 3 days shall register. The registration is made at the place of stay (hotel, motel, hall of residence, private house).

The authorities responsible for registration are the following:

- head of neighborhood committee (makhallya), administration of hall of residence and others;
- director of hotel or motel;
- management of private real estate companies dealing with renting of accommodation;
- owners of houses or apartments.

For the registration it is necessary to have the passport or another ID and documents demonstrating the aim of arrive (business trip, tourism and others).

Citizens without any documents and IDs shall not be registered.

### **36. The HR Committee and CERD recommended the abolishment of the requirement of “exit visa” for nationals traveling abroad.**

Those statements has a shallow nature. They are not proved by specific facts. Uzbekistan as any independent country undertakes measures for ensuring national security and social order. In the frameworks of those activities a state sets its own rules of arrival and departure of both its own citizens and foreigners as well as persons without citizenship.

According to the Article 28 of the Constitution of the Republic of Uzbekistan “the citizen of the Republic of Uzbekistan has a right to freely move on the territory of the Republic, to depart from and arrive at the country apart from constrains envisaged by the legislation”.

In accordance with the Decree of the Cabinet of Ministers of the Republic of Uzbekistan №8 dated 6 January 1995 “On adoption of the Order of departure of the Uzbek citizens abroad” the citizens of the Republic of Uzbekistan have right to travel abroad for business and tourist trips, study, work, constant place of residence.

This order is spread to departure to foreign countries except CIS states.

The citizens of Uzbekistan willing to go abroad should submit application form and passport to the local department of the Ministry of Interior. The authorities must consider the application form not longer than 15 days. As a result, a special sticker with permission to go abroad is attached to a passport. The sticker is valid for two years. During this period of time a citizen may leave the countries numerously. In case of absence of passport, it should be made along with the attached sticker in 15 days.

In accordance with the Decree of the Cabinet of Ministers of the Republic of Uzbekistan a 2-year-valid-licensing note sticker is legalized for citizens leaving abroad except for CIS member-states. During this period citizens have the right to leave abroad more than once without addressing the bodies of internal affairs. The licensing note sticker gives a right for citizens of the Republic of Uzbekistan to leave abroad until expiration. It is not obligatory for citizens of the Republic of Uzbekistan to return after the termination of validness.

If the citizen of the Republic of Uzbekistan is in the country of residence on legal basis, it is not necessarily to extend the period of validity of the licensing note sticker.

The normative regulations make no provision for the period of stay in abroad after termination of validity of the licensing note sticker.

For those persons who leaves Uzbekistan for a permanent place of residence abroad the sticker with permission is to be done in 30 days and it will has no expiry date.

For getting the entry visas the citizens apply to the Embassies or Consulates of relevant countries.

In case of departure abroad for working by private contracts, the documents are to be prepared along with the Ministry of Labor and Social Protection of Uzbekistan.

Those persons whose an access to the states secrets should submit the conclusion of the administration from the place of work about the level of his/her access along with the application form for getting sticker with permission.

In 2005-2007 the Ministry of Interior of Uzbekistan issued 395204 stickers with permission to go abroad including 4763 for permanent residence abroad and 390441 for temporary departure consisting of business (33503), tourist (347053) and private (9885) trips.

198 citizens were refused in getting permission to go abroad on the basis of the following reasons:

1. access to state secrets or due to obligation from some kind of contract or agreement between him/her and other side which impede his/her departure abroad;
2. open criminal case against him/her;
3. verdict of the court that person is recognized as dangerous recidivist or admitted to bail;
4. avoiding from fulfillment of the obligations imposed by the court;
5. forgery in application form;
6. compulsory military service.

The refusal or delay in issuing sticker with permission may be appealed by a citizen in the higher organs which must answer not later than in 30 days. After it may be appealed to the court. Therefore, all above-mentioned reasons for refusal may be appealed expect for (1) and (6).

Abolition of the special permits for citizens going abroad is not acceptable for Uzbekistan due to necessity to counter international criminality and trafficking in persons, international standards of which require strengthening of control of entry into and exit from the country.

## **5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

**37. The HR Committee, as stressed by the Special Rapporteur on the right to freedom of opinion and expression, noted that the Freedom of Conscience and Religious Organizations Act requires religious organizations and associations to be registered. It was concerned about the use of criminal law to penalize the apparently peaceful exercise of religious freedom, and the fact that a large number of individuals have been charged, detained and sentenced. While a majority of them were subsequently released, several hundred remain in prison. It recommended that Uzbekistan fully respect freedom of religion or belief, a recommendation also made by the General Assembly. The Special Rapporteur on freedom of religion emphasized that the right to freedom of religion is not limited to members of registered religious communities.**

Religious organizations have to observe requirements of the current legislation of the Republic of Uzbekistan. It is unacceptable to use religion for anti-state, anti-constitutional propaganda, for creating animosity, hatred, ethnic discord, violation of moral principles and civil consent dissemination of defamatory, destabilizing deceptions, creation of panic among population and committing other actions aimed against the state, society and individual. Activity of religious organizations, movements, sects promoting terrorism, drug-trafficking and organized crime as well as pursuing other selfish objectives is prohibited.

Freedom of religion and freedom of activity of religious organizations are the two different types of rights related to different types of human rights. Freedom of activity of religious organizations, representing a variety of right of associations, is regulated in any country by norms of public law. That is why, in every case it is necessary to understand what type of right is observed, and not to mix up these concepts.

**38. The General Assembly, in 2005, expressed its grave concern at increasing restrictions on freedom of expression, particularly harassment, beatings, arrests and threats**

**made against journalists and civil society activists attempting to document and publicize information on the events in Andijan. The Special Rapporteur on the right to freedom of opinion and expression reiterated the concerns of the High Commissioner for Human Rights regarding the imposition of restrictions on local and foreign media. The Secretary General noted that since mid-May 2005, OHCHR and Special procedures have received a significant amount of credible information on harassment and detention of eyewitnesses, journalists, media officers and human rights defenders who reported on the Andijan events. He urged the Government to grant international organizations and bodies unhindered access to all detainees. Uzbekistan was also called upon by the General Assembly to put an end to the harassment and detention of eyewitnesses to these events.**

As it was already mentioned, in Uzbekistan organizational-legal conditions are created for the activity of mass-media. Journalists receive all necessary information about the activity of state and non-state organs; have an opportunity to participate in events of informational-educational character, to interview the authorities and specialists, to publish this information in appropriate publications. There is a problem that not every journalist has analytical skills, high qualification and knowledge of the subject, has no enough practice of communication with appropriate organs that cause to superficiality and dilettantism in their work, self-censorship, to fear of to present with serious problem in media. Exactly, with elimination of these problems is busy a state, society and community of journalists. Just one example, in October 2008 the international seminar «Liberalization of media as an important condition of democratization of the country» was held in Tashkent, where these problems were discussed with participation of representatives of EU Commission.

Besides this, it was established during the investigation of events in Andijan, that 28 representatives of foreign media were in city during the Andijan events.

(Matluba Azamatova, Sharifjon Ahmedov, Valeriy Pankrashin, Monica Witlok, Janis Farel, Ann Lewis Claridge, Joanne Clear Lillis, Jenny Clair Norton from BBC (Great Britain), Qutbiddinov Husniddin, Yuldashev Gafurjan from radio Freedom (USA), Marcus Bensman, Natalya Bushueva from Deutch Wella(The Voice of Germany), Catrine Hannon «AP» (USA) Michelle Kollette White, Sujata Rao «Reuters» (GB), Yafasova Dina «Medical Siter» Agency (Denmark), Heze Ann Clark, Denis Allbrighton «France Press», Ann Niwat from «Liberasion» (France), Igor Rotar «Formu 18» from Norway directly participated in interpretation of trial on 23 members of «akromias» in Andijan).

Sharifjon Ahmedov from BBC (Great Britain), Markus Bensman from Deutch Wella (The Voice of Germany), Aleksei Volosevich «Ferghana RU» (Russia), Shamil Baigin from «Reuters» (GB), Efrem Lugatskiy, Bagila Buharbaeva «Associated Press» (USA) Galima Buharbaeva from Institute of War and Pece Reporting (IWPR) were inside and outside of building of Andijan hokimiyat, captured by terrorists, were witness of outrages and brutal derisions on hostages and victims. Their presence was confirmed by evidences of many witnesses and protocols of identifications of terrorists themselves.

Measures aimed at ensuring freedom of mass media are taken both at the legislative level and in practice. In recent years the number of various registered mass media has been increasing: state and private, printed and electronic. Associations and media support funds have been developed. Creative Union of Journalists, Uzbekistan Writers Union, National Association of Electronic Mass Media, Public Fund for Support and Development of Independent Print Media and News Agencies are working in Uzbekistan. In total, there are 1069 mass media in Uzbekistan. Among them, 931 print media, 4 information agencies, 78 electronic mass media, 56 web-sites. As of 1 August 2008, 42 non-governmental electronic mass media are functioning.

**39. The General Assembly urged Uzbekistan to lift restrictions on the activities of civil society. The Secretary-General noted that amendments to the Criminal Code and the Code on Administrative Liability in 2006 increased the power of authorities to penalize NGOs. There was no new registration of human rights NGOs in 2005 and 2006. CAT, in 2007, expressed**

**concern at the closing down of numerous national and international organizations, particularly since May 2005. It urged Uzbekistan to release human rights defenders imprisoned and/or sentenced because of their peaceful professional activities and to facilitate the reopening and full functioning of human rights organizations.**

Legislation of the Republic of Uzbekistan does not provide human rights activists, including NGOs on human rights, with a special legal status. In fact, every NGO realizes human rights activity in a definite sphere: protection of children, women, disabled peoples, socially vulnerable groups of population and etc. All these NGOs work according to Law and their Chartes.

Since 1990<sup>th</sup> of the 20<sup>th</sup> century, tendency of stable increase in the number of NGOs has been registered. In the beginning of 1990<sup>th</sup> there were about 200 NGOs, in 2000 – more than 2 thousand. As of 1 August 2008, institutions of justice have registered more than 5 thousand NGOs. Activity of 4 political parties, public associations, non-governmental non-profit organizations, local self-governance organizations confirm vitality and efficiency of legal regulation of the civil society structures.

In 2005, in order to coordinate NGO activities in Uzbekistan, National Association of Non-governmental Non-profit Organizations of Uzbekistan (NANNOOU) was established. NGO Support Fund was created under the Association.

The Joint Resolution of the Council of the Legislative Chamber of Oliy Majlis and the Council of the Senate of Oliy Majlis of the Republic of Uzbekistan “On measures to strengthen support of non-state non-profit organizations, other institutions of civil society” adopted in July 2008 was the further step of the state towards development of cooperation and support to civil society institutes.

**40. The General Assembly expressed its grave concern at the continuing refusal to permit the registration of opposition political parties, and their consequent inability to participate in the electoral process. The HR Committee requested Uzbekistan to bring its law, regulations and practice governing the registration of political parties into line with the Covenant.**

Registration of political parties is carried out by the Ministry of Justice in accordance with the Law of the Republic of Uzbekistan “On political parties”, “On financing of political parties” and other legislative acts pertaining to activity of non-governmental, non-profit organizations.

Registration is denied to a political party if its charter, aims, tasks and methods of operation contradict to the Constitution of the Republic of Uzbekistan, current legislation and other legal acts or in the event that another political party or public movement with the similar name has been already registered.

In case of denial to register the political party, the Ministry of Justice of the Republic of Uzbekistan informs in writing the governing body of the party of its decision with reference to specific regulations of legislature which the submitted documents are not conformed with. The authorized members of the governing body of the political party have right within one month from the date of denial for registration to resubmit to the Ministry of Justice of the Republic of Uzbekistan an application for registration of the party provided that the documents are in full compliance with the Constitution of the Republic of Uzbekistan and current legislation.

The denial in registration of the political party can be appealed in the Supreme Court of the Republic of Uzbekistan in the established order.

Currently five political parties function in Uzbekistan.

## **6. Right to work and to just and favourable conditions of work**

**41. CRC and CESCR were concerned at the reported involvement of many school-age children in the harvesting of cotton. CRC recommended that this practice be in full compliance with the international child labour standards, in terms of their age, working**

**hours, working conditions, education and health. In 2005, the HR Committee urged Uzbekistan to stop such practice and combat child labour.**

In 2008 Uzbekistan ratified ILO Conventions № 138 and № 182 pertaining to minimal age for employment and ban on the worst forms of child labor. In pursuance of these Conventions on September 12, 2008 the Cabinet of Ministers of the Republic of Uzbekistan adopted a Resolution № 207 along with the National Actions Plan, which stipulate for monitoring and control over the inadmissibility of the use of compulsory labor of students of secondary schools, professional colleges and academic lycees as well as the use of compulsory labor of secondary schools' students in cotton-picking.

**42. In 2005, CESCR recommended that Uzbekistan adopt a National Employment Plan and strengthen programmes to reduce unemployment, targeting the most affected groups.**

In 2007 a Resolution of the President № 616 "On measures to increase the employment and perfection of the activity of agencies on labor and social protection of population" was adopted. This resolution stipulates a complex of measures on issues of employment, creation of new jobs, decreasing of unemployment. Over 2007 more than 630,000 new jobs were created.

The National Plan on employment includes a legal basis (Law on Employment), pact of specific and purposeful programs aimed at developing small business, service sector, effective forms of employment (out-work), implementation of which is connected with the creation of new jobs in official sector of economy. It facilitates to decrease of employment in non-official sector.

**43. The persistence of a sex-segregated labour market with lower wages for women was a matter of concern to CEDAW. An ILO Committee of Experts noted in 2008 that women are concentrated in certain sectors and occupations, are more often affected by dismissals due to redundancy, and more often face difficulties finding employment after periods of unemployment.**

In Uzbekistan special attention is paid to the employment of women. Annually in Uzbekistan more than thousands jobs are created, out of which more than 40% are occupied by women. Only in 2006 over 147,000 new jobs for women were created. For these purposes over 40 billion soms were allocated.

In recent years the government has intensified efforts on increasing employment of population, including women, by improving conditions for further development of out-work, small enterprises and microfirms.

In order to improve the situation with employment, the Government of Uzbekistan has adopted territorial programs of employment for women for years 2005-2007. The programs stipulated the creation in each region the needed number of new jobs, mainly, by developing small business, service sector and out-work. To small enterprises which use mostly women labor and are led by women lax credits are extended. Banks have provided women-entrepreneurs with 90,087 billion soms. This amount is 214% more than the one allocated in 2006. In particular, the joint-stock commercial bank "Microcreditbank" has extended to women, who want to be entrepreneurs, over 11 billion soms. That is 2,7 times more then the figure for 2006.

A sociological poll conducted among women by the Center of "Public Opinion" showed that women's satisfaction with their daily work has raised: from 68,4% in 2005 and 69,6% in 2007 to 83,3% in 2008. In addition, there is more satisfaction among women with their wages on their main jobs: from 36,4% in 2005 to 76,5% in 2008. Also there are significant improvement in attracting women into entrepreneurship: from 49, 8% to 67,7% in 2008.

**44. CESCR recommended that Uzbekistan provide labour inspections with adequate human and financial resources, and take measures to enable the development of independent trade unions.**

Labor Inspectorates are in the Ministry of Labor and Social Welfare and operate in all territorial units of the Ministry.

Governmental policies for the labor protection based on the following principles:

- The priority of life and health of worker in relation to the results of activities of factory;
- Coordination in the labor protection with other economic and social policies;
- Establish unified requirements in the field of labor protection for all the businesses regardless of their form of ownerships and managements;
- Ensuring safe working conditions and systematic monitoring of the environment in the workplace;
- Realization of supervision and control on the general implementation of the requirements of labor protection in factories;
- State participation in financing labor protection;
- Training specialists for labor protection in higher and secondary special institutions;
- Stimulating of the development and introduction of safe engineering, technology and means in order to protect workers;
- Wide utilization of achievements in science, technology and leading domestic and foreign experience on labor protection;
- Provide with free clothes and footwear of the workers, means of personal protection, treatment-preventive nutrition;
- Holding tax policy that promotes healthy and safe working conditions in the factories;
- Mandatory investigation and consideration of each industrial accident and every occupational disease and on that basis to inform the population about the levels of occupational accidents and occupational diseases;
- Social protection of workers interests, who was affected by work-related accidents or occupational diseases;
- Full assistance for the activities of trade unions and other associations, enterprises and individuals, who are going to support labor protection;
- Cooperation on solving labor protection problems.

## **5. Right to social security and to an adequate standard of living**

**45. CESCR, in 2005, was deeply concerned that 28 per cent of the population are living below the poverty line, especially in rural areas, and that social assistance is insufficiently targeted in Uzbekistan.**

Since 1994, Uzbekistan has abandoned the «general coverage of social assistance» and begun to use targeted mechanisms of payment benefits to needy families, known in international sources as «social assistance provided to families through makhallas». The transition to new mechanisms by providing addressness, enabled nearly 5-times increase in the amount of benefits paid to low-income families while maintaining provided at that time of financing.

Along with governmental support in the form of payment support and benefits exist practice of cooperation for low-income and large families in order to organize their own business, small business and improvement expenses of their position.

19 March, 2007 was adopted Presidential Decree «On measures to further improve and strengthen the social welfare system of the population».

The main features of the social support of population are: the targeting of priorities and focus on low-income families; priority among rural population, the growth rate significantly and consistently outpaced those of the city, coordinated efforts and actions of all participants of program-targeted measures.

Governmental support is aimed primarily at the families with many children, families living in remote rural areas and families with children who need special attention.

The legal principles concerning the family, totally given in conformity with the principles and provisions of the Convention on the Rights of the Child. Social benefits to needy families through procedures carried out by local authorities. This procedure includes treatment of citizens for the benefits, verification and study the material status of the family and sources of revenue by self-



government apparatus and the decision to grant or refuse material support. Material support for poor families and families with children from 2 to 18 years offered by governmental funds. Monitoring for their use is the responsibility of public authorities on the ground.

Priority directions for family support derive from the Government's paper on Strategy of Improvement Welfare of population of Uzbekistan, in which determined the main directions and measures of improving of living standards and reduce low-incomers among the population of the republic in 2005-2010. According to the adopted strategy in the medium term perspective, determined the following measures for social protection of low-income families:

- streamlining the current system of advantages provided to individual professional groups and non-targeted, the replacement of advantages provided in natural type, with adequate cash payments;

- drawing up of methodology for identifying the neediest families by clarifying the standards of proceeds from reference agriculture farms and the income from business activities and in the informal sector;

- unification of certain types of social assistance, appointing under bases (need for income);

- expansion of the self-dependence of organs of government on the places in deciding to provide additional assistance to the needy, as well as transfers between individual items of expenditure on social protection.

It is entered into practice taking measures to steadily increase the incomes and living standards of the population, strengthen social support for families through periodic adoption of decrees of the President of the Republic of Uzbekistan to raise salary, pensions, scholarships and social aids.

**46. CESCR urged Uzbekistan to ensure access to essential food for all, in particular in the Karakalpakstan. A 2007 FAO report noted that in 2002, 26 per cent of the population was undernourished. In comments to CESCR, Uzbekistan indicated that the level of poverty was of 26.2 percent in 2003, that progress was made in this respect, and that the reported malnutrition in Uzbekistan has not been corroborated.**

All social reforms and reforms in agriculture sphere directed on improving the welfare of the population and support access to basic foodstuff in Uzbekistan. Every year, the allocation of lands of cultivation are increasing and production of cereals and food crops. Realizing the traditional annual program 2009 declared the Year of the development and improvement of countryside.

It is entered into practice taking measures to steadily increase the incomes and living standards of the population, strengthen social support for families through periodic adoption decrees of the President of the Republic of Uzbekistan to raise salary, pensions, scholarships and social aids.

In purpose of further strengthening the financial and moral support of young families, providing them with necessary assistance in the early labor activity and entering into independent living, creating efficient incentives and mechanisms of formation stable sources of incomes and improve their housing and living conditions it was adopted by Decree of President of Republic of Uzbekistan from 18 May 2007 «On additional measures for financial and moral support for young families».

19 March, 2007 was adopted the Decree by President «About measures of further improving and strengthening the social welfare system of the population».

**47. A 2007 UNDP report, while noting improvements in the health status of the population, noted that the share of gross domestic product currently allocated to health is low (2.48 per cent in 2005), and that public expenditure on health will have to increase. In 2006, CRC recommended that Uzbekistan strengthen the primary care centres and the preventive health services. CESCR added that Uzbekistan should address the significant rural and urban disparities in health-care provision. Uzbekistan should take also measures to prevent and combat the spread of HIV/AIDS.**

Since 2000, there is a steady tendency of increasing budget allocations for the development of social sectors is planned: education, health care, help for disabled people and population with low income. In recent years, more than 50% of the budget allocated to social development. An important indication of improving welfare is to increase the duration of life of the population: in 1990 it was 69.3, but in 2006 - 72.5 years.

In 1998, by the Decree of President of the Republic of Uzbekistan adopted the State program of reforming the system health care for the period 1998-2005. According to the State program was carried out reform of primary step of health care, directed on creating an effective system of guaranteed state emergency medical care, improved health care system, creating a sustainable and competitive nonstate sector health care, changing the current system of preparing of medical personnel, ensuring a stable sanitary-epidemiologic prosperity in all regions and further improving health care for mothers and children.

With a view to implementing the National Program the Ministry of Healthcare has restructured the network of healthcare facilities. Instead of previous five-step system two-step system of primary medical sanitary aid has been elaborated. The system comprises of Rural Medical Station (RMS) and the Central District Hospital. This has been accomplished by replacement of first-aid and obstetrician stations, rural outpatient medical rooms and inefficient rural district hospitals by the modern form of medical aid - RMS, where general practice doctors work.

As the gained experience has shown, this gave an opportunity to simplify the system of healthcare administration in the rural area, more effectively use the budget funds and raise the effectiveness of medical aid.

One of the main objectives of reforms carried out in this sphere has become to establish in the country the unified system of rendering all kinds of emergency medical aid to the people.

One of the main principles of reforms in healthcare system has been a formation of non-state sector capable of equally competing with the state sector.

Currently the state medical facilities render services on a free basis. There is a particular list of diseases (tuberculosis, AIDS, diabetes) for which the medicines are supplied also out of charge.

In 2007 compared to 2006 the number of typhoid fever has decreased to 1,6 times, brucellosis to 23,5%, tuberculosis to 3,4%, syphilis to 9,5%, bacillary dysentery to 8,9%, meningococcosis to 33,3%, virus B hepatitis to 29,9% and acute intestinal infection to 6,7%.

Since 2005 the Ministry of Healthcare jointly with the UNICEF has been implementing the Program for further decrease of child mortality. Within the framework of the Program seminars on resuscitation and basic of newborn child nursing have been held for 3000 neonatologists, obstetrician-gynecologists and midwives in six pilot regions of Republic of Karakalpakstan, Khorezm, Bukhara, Ferghana, Tashkent provinces and Tashkent city. 102 maternity hospitals and 74 polyclinics, as well as RMS have been awarded with the UNICEF certificates of «Facility with friendly attitude towards a child».

In recent years efforts on combating with HIV/AIDS have been intensified. In 2007, the Cabinet of Ministers of the Republic of Uzbekistan approved a “Strategic program on preventing the spread of epidemic of HIV/AIDS in the Republic of Uzbekistan for the period of 2007-2011”.

The Ministry of Health of the Republic of Uzbekistan issued an order №425 on September 5, 2005 “On introduction of modern technologies to increase effectiveness of rendering assistance in the medical clinics of the Republic of Uzbekistan”. In particular, in such clinics twice check-ups of pregnant women on HIV are provided for. Currently the testing is conducted only for those pregnant women from risk group.

In all regional centers of AIDS there are hotlines that render consultative services on issues of HIV/AIDS and sexually transmitted infections.

In order to render medical-sanitary services to the most vulnerable groups of population on issues of HIV-infection and sexually transmitted infections (STI) 31 Friendly rooms are opened in the republic. In 2007 the number of visitors of such rooms reached 9354. Out of this number 6549 with symptoms of STI. For those patients who visited Friendly rooms prior testing and after testing

consultations on issues of HIV/AIDS as well as syndrome curing by specialists are offered. In the Friendly rooms one can receive full information on qualified diagnosis and medical treatment in specialized medical facilities (dermatovenerologic and narcological dispensary, infectious hospitals and others).

**48. CRC expressed deep concern at the negative consequences of the ecological disaster that continues to affect the Aral Sea and its environment for the health and development of children living in Karakalpakstan. Uzbekistan should take measures to stop the deterioration of this region.**

In Uzbekistan the Concept on resolving problems of the Aral Sea and the Program on concrete actions on improving ecological situation in the area of the Aral Sea have been developed. These documents were adopted by the heads of Central Asian states in 1994. These decisions have become a basic topic of the International Conference on sustainable development of the area of the Aral Sea organized by the United Nations in Nukus City in September 1995. During that conference the participants adopted a Nukus Declaration, which confirmed their commitments to the international conventions on the fulfilling main principles of Rio and worked out a strategy and main measures on sustainable development among the Central Asian states. In March 2008 another International Conference “Problems of the Aral Sea and their influence on gene pool of population, plants and fauna and measures of international cooperation on easing their consequences” took place. During that event Uzbekistan signed a treaty on implementation of the “Program of assessing world water resources”.

Trade unions and economic entities of Tashkent Province, as well as of Tashkent city, «Uzbekistan Railways» State railway company, Ministry of Internal Affairs have been carrying out a significant work aimed at improving health conditions of children from the Aral Sea region of Uzbekistan, which is an area of ecologic disaster.

The state policy of Uzbekistan in the sphere of healthcare is based upon decreasing the mortality rate, rendering the quality and timely medical services to the people, enhancing the system of healthcare.

**49. According to CESC Uzbekistan should take measures to provide all evicted persons with adequate compensation for lost housing or with alternative accommodation.**

Observance of the right to housing and regulation of housing relations is carried out by the Housing Code and the Law of the Republic of Uzbekistan «On the basics of state housing policy».

The Decree of President of the Republic of Uzbekistan «On measures for stimulating of housing construction in the republic» of 4 March, 1993 defines the principles of housing construction in the conditions of market economy and measures on state support of this process.

On 15 April, 1999 the Law of the Republic of Uzbekistan «On condominium associations» was adopted. With a view to enhancing of this system on 10 February, 2005 the Resolution of President of the Republic of Uzbekistan «On additional measures to enhancing the activity of condominium associations» was issued. In line with the Resolution the Condominium Associations due to be set up in provincial centers, districts of Tashkent city and the cities with many-storied houses with the number of population of more than 60,000 people. Besides, on 11 February, 2005 the Resolution of President of the Republic of Uzbekistan «On measures to denying unjustified tariff rises and heightening the consumers' responsibility for timely and full payments for public utilities».

With a view of comprehensive fulfillment of people's needs in decent housing, accelerated development of housing construction, particularly, in small towns and rural area, broad introduction of privileged early mortgage lending system on 16 February, 2005 the Resolution of President of the Republic of Uzbekistan «On further development of housing construction and housing market» was issued. The Resolution proposes to apply the system of privileged long-term mortgage lending of individual housing construction.

Besides, the Central Bank, the Ministry of Economy, the Ministry of Finance along with Gosarxitektstroy (the State Committee for Architecture and Construction), the State Tax Committee, the Ministry of Justice of the Republic of Uzbekistan and the commercial bank are elaborating:

- draft of Law of the Republic of Uzbekistan «On mortgage and mortgage lending of housing construction»;
- Regulations on mortgage lending for housing construction, reconstruction and purchase of housing.

The Resolution approves the measures aimed at developing the housing construction up until 2010.

## **8. Right to education and to participate in the cultural life of the community**

**50. CEDAW commended Uzbekistan for reaching gender parity in primary, basic secondary and vocational education, as also noted in the report on Uzbekistan. The ILO Committee of Experts noted with concern that the participation of women in higher education has been declining in recent years.**

Nondiscriminatory approaches for girls' education are used in the system of education and professional training.

A new type of secondary-specialized and professional education has been in place since the 1997/98 academic year. Currently in Uzbekistan there are 846 secondary-specialized and professional educational institutions with 527,800 students seats where 570,300 students study. 50% of the students are girls.

In addition there is an extensive network of organizations and agencies on retraining specialists that facilitate to continuous women's education throughout their lifetime.

Over 6,5 million people, out of which 48,4% are women, are studying in the all educational structures of Uzbekistan. Some of them are sent overseas for internship and training.

Uzbekistan has been conducting a task-oriented activity on supporting and developing the abilities of talented youth, young men and girls. Suffice it to say that, Uzbekistan has accomplished the Millennium development goals indicator for elementary and secondary education among boys and girls.

Women's telecommunications and IT training center has been opened at the Tashkent University of Information Technologies. The objective of the Center is to train women in the area of telecommunications, IT, e-government, e-commerce and corresponding areas, which will allow them to get a good job and improve their living conditions. The separate target audience includes women, who are about to graduate from colleges and look for specialized training. More than 500 women study at the Center annually and the number of students will gradually increase.

It is intended to open the branches of the Center in provinces and thus the women not only from Uzbekistan, but also from other countries of Central Asia will have an opportunity to study at the Center.

**51. CRC, while noting efforts made, recommended that Uzbekistan improve the quality of education, provide quality training for teachers, and ensure that refugee children have access to free primary education and facilitate access to secondary education.**

Training of teachers are conducted at pedagogical institutes that are available in all the regions of the republic as well as at universities. In order to assist in raising the level of teachers' skill under the Ministry of Education a system of arrangements on these issues have been developed. The Ministry of Higher and Secondary Special Education also has such arrangements

for teaching staff of the higher educational institute. Some teachers have opportunities to raise the level of their professional skill overseas with financial aid of “Ustoz” Fund.

In Uzbekistan refugees’ children have free access to elementary, secondary and higher education.

## **9. Minorities and indigenous peoples**

**52. According to CERD, which appreciated efforts to provide minority children with education in their native language, consultations should be undertaken with minority groups to address their concern over education in minority languages. Sufficient time should be devoted to programmes in minority languages in the public media and steps taken to facilitate the publication of newspapers in minority languages, particularly Tajik.**

In Uzbekistan education is taught in 7 languages. Besides Uzbek schools, there are 697 schools with Russian language, 521 – Kazakh, 372 – Karakalpak, 316 – Tajik, 68 – Kyrgyz, 51 – Turkmen. In addition, in these schools the following foreign languages are taught: English, French, German, Spanish, Arabic, Persian, Hindu, Korean, Chinese, Urdu and Hebrew. For national minorities there are Sunday’s schools and classes to study their native language.

The National TV-Radio Company of Uzbekistan airs over 20 TV and Radio programs in the languages of the peoples residing in our country: Tajik, Kazakh, Karakalpak, Russian, Turkmen, Tatar, Uyghur, Kyrgyz.

## **10. Migrants, refugees and asylum-seekers**

**53. The fallout from the Andijan events continued to affect the overall situation in Central Asia, as noted in a 2006 UNHCR report. Uzbekistan decided to close down the UNHCR Office in April 2006. Access to asylum was further constrained, and the granting of refugee status subject to more restrictions.**

From the moment of opening in 1993 the Representation of UNHCR, its primary goals were repatriation of Tadjik refugees from Afghanistan and Turkmenistan to home and rendering humanitarian help to refugees in Afghanistan.

In spite of the fact that Uzbekistan did not join the Convention on the status of refugees (1951) and to the attached protocol (1967), the republic rendered the UNHCR representative office in Tashkent all-round assistance and help in solving its problems.

In 1993-1997гг. UNHCR repatriated through the Uzbek territory to Tajikistan more than 17 thousand Tadjik refugees from Afghanistan, and from January, 1998 till May, 1999 from Turkmenistan to Tajikistan - more than 4,5 thousand Tadjik refugees.

Headquarters UNHCR rendered humanitarian help to Afghanistan during 2001 -2004 when cargoes worth of over 4 million US dollar were sent through the bridge “Airaton”. Since 2005 UNHCR did not use territory of Uzbekistan for rendering humanitarian aid to Afghanistan.

Stabilization of situation in Tajikistan and the termination of operations in Afghanistan promoted the end of an active phase of activity of UNHCR in the republic.

Questions connected with repatriation of the Afghani refugees were completely solved.

UNHCR representative office in Tashkent completely fulfilled all its tasks assigned to it and there was no more obvious reason for its further presence in Uzbekistan.

In this connection UNHCR activity in Uzbekistan has been stopped in April 2006.

**54. Although Uzbekistan stated that there was no longer a need for a UNHCR presence in the country, CAT was concerned that at least 700 recognized refugees are in need of protection and resettlement. CRC also was concerned about the possible consequences of the closure of the Office. Uzbekistan should adopt a refugee law that complies with human rights standards. It should invite UNHCR to return and assist in providing protection and resettlement for the refugee population.**

Nowadays, according to the information of the Prosecutor General's Office of the Republic of Uzbekistan 63 citizens of the Republic of Uzbekistan, so called refugees voluntarily returned to Uzbekistan as well as 301 of those "refugees" appealed for return home from abroad.

It is worth to outline that majority of Uzbek citizens who crossed the border after leaving Andijan did so under deception and compulsion. They were under the constant psychological pressure from criminals, were frightened by their statements about repressions after returning home.

It is proved by the fact that many of accused persons who had a real opportunity to be among so called refugees and escape from Uzbekistan but they voluntarily came to the law-enforcement bodies. During interrogations they stated that terrorists by means of weapons made them to cross over to Kyrgyzstan, where were kept and frightened by statements about institution criminal proceedings against them in case of returning home.

The investigation possesses information that the other category of so called "refugees", who were by means of deception and compulsion lured into the square and forced to leave Uzbekistan, were under constant psychological pressure. Moreover, the pressure on them were posed by the representatives of various human right and international institutions, who isolated them from the whole world including their relatives who vainly tried to visit them.

All returned "refugees" were not accused for any kind of crimes or persecuted by the authorities. They live in their houses and access to them is not restricted. The statement that international organizations have no access to them is bias because to decide with whom to meet or talk is a purely personal right of those persons.

On 13 December, 2006 the first Plenary session with the participation of EU experts' delegation led by Pekka Oynonen - counterterrorism specialist of the MFA of Finland was held. The session was attended by the Ambassador of Germany to Uzbekistan M.Mayer and certain staff-members of German Embassy.

The EU experts learnt on-site about the outcomes of investigations of criminal cases instituted on Andijan events.

On 2-3 April, 2007 the second session took place with the participation of delegation of EU experts led by the Head of Department for South Caucasus and Central Asia of the Ministry of Foreign Affairs of Germany Mr. Schulze. Extraordinary and Plenipotentiary Ambassador of the Germany to Uzbekistan M.Mayer took part at the event as a member of EU delegation. During the session the representatives of the Uzbek side gave comprehensive answers to the additional questions of experts which arose following experts' studying the outcomes of investigations of criminal cases instituted on Andijan event in December, 2006.

**55. CERD recommended Uzbekistan to ensure that no person will be forcibly returned to a country where there are substantial grounds for believing that his/her life or physical integrity may be put at risk and to establish a mechanism to permit appeals against decisions to remove aliens, with a suspensive effect on removals, pending examination of appeals.**

The Prosecutor General's Office in the framework of its competency undertakes extraditions of foreign citizens for bringing them to criminal account on the crime site in their Homeland and those who absconded from the criminal investigations abroad; as well as deliver the convicted persons for further completion of sentence in their Homeland in full accordance with the regulations of CIS Convention "On legal aid and legal relations on civil, family and criminal cases" of January 22, 1993 and bilateral agreements achieved by Uzbekistan with Tajikistan, Pakistan, China, India and other countries on extradition; agreements with Georgia, Azerbaijan, the Ukraine, Turkey and other states on transferring convicted persons to serve sentence in the country which they are citizen of.

At this, in line with article 3 of the UN Convention against torture and other brutal, inhuman or humiliating types of attitude or sentence, the persons will not be dispatched, returned and extradited to other country if there is a reason to believe that using torture and other cruel attitude may threaten them.

## 11. Human rights and counter-terrorism

**56. In 2005, the HR Committee was concerned about the lack of information on acts that may be qualified in national legislation as "terrorist acts". The Special Rapporteur on freedom of religion requested that Uzbekistan indicate the legal basis for designating an individual or an entity as "terrorist" as well as the consequences of such qualification under the law.**

The Criminal Code of the Republic of Uzbekistan clearly stated the deeds related to terrorism. Terrorism: 1) violence, using power; 2) other deeds that bring danger to personality or property, or; 3) threat of their accomplishment for compelling state body, international organization, their officials, physical and juridical person to commit or abstain from committing any measures with an aim to complicate international relations, infringe sovereignty and territorial integrity, injury safety of state, provocation of war, armed conflict, destabilization of public and political situation, frightening of the population; 4) equal to the activity directed to provide for existence, functioning, financing of terrorist organization, prepare and accomplish terrorist attacks, directly or indirectly render and collect any means, resources, other services to terrorist organizations or persons who are assisting or participating in terrorist activity – will be sentenced prison from 8 to 10 years. Attempt to life, causation of physical injury to state or public figure or representative of authority, committed in line with their state or public activity with an aim to destabilize situation or influence to adopt decisions by state bodies or prevent from political or other public activity, - will be sentenced with 10 to 15 years of imprisonment.

Actions envisaged by part one or two of this article that bring about:

human death;

other grave consequences, - will be sentences with 15 to 20 years in prison or life imprisonment.

A person who participates at preparing terrorism will be freed from criminal account if person's timely warning of law enforcement bodies will actively assist to prevent coming grave consequences and realization of goals of terrorists, if in actions of this person will not be observed other types of crime.

### III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

**57. CAT welcomed a number of developments including the scheduled introduction of habeas corpus and the abolition of death penalty; transfer of the authority to issue arrest warrants from the prosecutor's office to the courts; and reduction in crowding of prisoners.**

Abolishment of death penalty. From the early years of Independence the Republic of Uzbekistan in line with Remark of Committee on human rights of common order No.6 gradually reduced the number Criminal Code articles which envisaged the death penalty.

Until August 29, 1998 the death penalty as a highest measure of penalty in term of committing crime was envisaged for 13 articles of Criminal Code. As a result of active activity of bodies of extrajudicial protection (National Center of the Republic of Uzbekistan for human rights, Ombudsman and other non-governmental organizations) Oliy Majlis of Uzbekistan with the Law "On introducing amendments and addenda to some legislative acts of the Republic of Uzbekistan" of August 29, 1998 excluded the death punishment as a penalty for the following five types of crimes: article 119 part 4 (forced satisfaction of sexual need in unnatural form); article 152 (infringing the laws and war usage); article 158 part 1 (encroachment on life of President of the Republic of Uzbekistan); article 242 part 1 (organization of criminal community); article 246 part 2 (smuggling) of the Criminal Code of the Republic of Uzbekistan.

Further reduction of the number of crimes which envisaged the death penalty was carried out in 2001. In accordance with the Law N 254-II of August 29, 2001 the death penalty was instituted

only for four crimes: premeditated murder in aggravating circumstances (article 97, part second), aggression (article 151, part second), genocide (article 153) and terrorism (article 155, part third).

On 13 December, 2003 at the XIII session of Oliy Majlis the death penalty was excluded from two more articles of the Criminal Code – article 151 – aggression, article 153 – genocide. Thus, the Criminal Code of the Republic of Uzbekistan had only two articles: article 97, part 2 (premeditated murder in aggravating circumstances) and article 155, part 3 (terrorism that bring about human death or other grave consequence), which envisaged the capital punishment.

Full abolishment of the death penalty was the important result of reforms underway in Uzbekistan with an aim to liberalize and humanize judicial and legal system. On August 1, 2005 the Decree of President of the Republic of Uzbekistan No.UP-3641 “On abolishing the death penalty in the Republic of Uzbekistan” was adopted and envisaged from the 1 January, 2008 the abolishment of the death penalty as a type of criminal punishment and replacement of punishment with life-imprisonment or long-term prison.

From the date of adoption of the Decree of President of Republic of Uzbekistan “On abolishing the death penalty in the Republic of Uzbekistan” of August 1, 2005 not a single sentence regarding to persons sentenced to death was executed, i.e. de-facto moratorium was imposed upon the execution of court decisions on death penalty.

In such countries as Germany and Poland the life-imprisonment can be assigned for five crimes, in Belgium and Russian Federation – for six, in Denmark – 9, in Georgia – 11, Sweden – 13, Belorussia – 14, Japan and Azerbaijan – 16, Kazakhstan and Korea – 17, France – 18, Netherlands – 19, Moldova – 24, and ets., and in Uzbekistan – 2.

On 11 July, 2007 Oliy Majlis of the Republic of Uzbekistan adopted a Law “On introducing amendments and addenda to some legislative acts of the Republic of Uzbekistan in connection with abolishment of the death penalty”.

The following amendments (articles 15, 43, 50, 51, 58, 59, 60, 64, 69, 73, 76, 97, and 155 of the Criminal Code) were introduced to the Criminal Code of the Republic of Uzbekistan by the Law No. ZRU-99 of July 11, 2007.

According to the amendments introduced to the Criminal Code of the Republic of Uzbekistan, punishment in the type of death penalty was replaced with life-imprisonment for two crimes: premeditated murder in aggravating circumstances (article 97, part 2 of Criminal Code) and terrorism that brought about human death or other grave consequences (article 155, part 2 of Criminal Code). The definition of notion “life-imprisonment” was given in the Criminal Code. The term of completion of long-term imprisonment for premeditated murder in aggravating circumstances and terrorism was instituted. Life-imprisonment and long-term imprisonment can not be appointed to woman, juvenile and men over 60-years-of-age. The Criminal Code also envisages an opportunity to pardon person condemned to life-imprisonment after factual completion of 25 years of appointed punishment.

*Habeas corpus.* Introduction of the institute of “habeas corpus” was gradually implemented in Uzbekistan: broad discussions at the level of all branches of government and civil society of the idea of introducing this institute, adoption of the Decree of the President of Uzbekistan on “On delegating the right to issue the arrest warrants to the courts”; development of proposals on introduction to the concerning laws the provisions on delegating the right to issue the arrest warrants to courts.

The subject of implementation of the procedure of “habeas corpus” had been studied and discussed in Uzbekistan since 2003.

In particular, the National Center of Uzbekistan on Human Rights in cooperation with the American Bar Association, OSCE Office for Democratic Institutions and Human Rights (ODIHR) and UNDP organized a round-table “The reform of criminal procedural code: judicial review and protecting the rights of defendants at the stage of preliminary investigation” on October 20-21, 2003. The round table with participation of the representatives of the Main investigation department of Ministry of internal affairs of Uzbekistan and Tashkent Bar Association discussed the



expediency of implementation of the “habeas corpus” procedure and worked out respective proposals.

On October 31 in 2006 there was organized a scientific-practical seminar “Delegating the right to issue the arrest warrants to courts and the issues of ensuring the human rights during the criminal process” dedicated to the 10-th anniversary of the National Center of Uzbekistan on Human Rights.

In this seminar, which was held jointly by the UNDP Project “Development of Capacities of the National Human Rights Institutions” participated Deputies of Legislative Chamber and Senate of Oliy Majlis (parliament) of the republic of Uzbekistan, representatives of the courts, office of the Prosecutor general, Ministry of internal affairs, Ministry of Justice, National security service, Association of lawyers, national institutes for human rights, scientists and experts.

Tashkent state institute of law in cooperation with the Project of the German society of technical cooperation hosted the international round table «Abolishment of capital punishment and delegation of the right to issues arrest warrants to courts – the main stage of the judiciary and legal reforms on July 4, 2007.

On July 24, 2007 at the Institute of civil society studies there was held a round table «Conceptual issues of liberalization and humanization of criminal procedural legislation - contemporary state and future deepening of judiciary legal reforms», organized in cooperation with K.Adenauer foundation and the Institute of monitoring of current legislation under the President of the Republic of Uzbekistan.

The Academy of the Ministry of Internal Affairs organized the scientific-practical conference «The main directions of liberalization of judiciary legal system of the Republic of Uzbekistan» on December 3, 2007.

The decree of the President of the Republic of Uzbekistan №UP-3644 “About the delegation to courts of the right on giving sanction to take into custody” was issued on the 8-th of August 2005 in order to provide the right of defense from unjustified criminal prosecution and interference in one’s private life, personal inviolability, the right on fair court examination.

In the Law of the Republic of Uzbekistan “About amendments to several legislative acts of the Republic of Uzbekistan as the result of the delegation to courts of the right on giving sanction to take into custody” which was adopted on the 11-th of July 2007 in accordance with the recommendations of UN Committee on human’s rights reflected the following provisions: there was introduced new edition of the part two of the Article 18 of the criminal procedural code, according to which «no one can be put under arrest or hold in custody in a way other than the court’s decision»; the given norm is enclosed in the amendment to article 10 of the Law of the Republic of Uzbekistan «About courts»; according to the article 29 of the Criminal procedural code, the right to consider the complaints and protests concerning the application of the punishment in the form of imprisonment or prolongation of the term of the custody are delegated to courts.

In case of presence of sufficient basis for enforcing towards the suspect or accused the measure of punishment in the form of custody or imprisonment, there is an order of petition by prosecutor or investigator with the consent of prosecutor to file concerning petition.

According to this procedure «in case of presence of circumstances, provided by the law for selection of the measure of punishment in the form of imprisonment during the preliminary investigation, prosecutor, investigator with the consent of the prosecutor submits an enactment on filing the petition on imprisonment as a measure of the punishment».

The prosecutor, having checked the validity of the petition for the application of a preventive punishment in the form of imprisonment, in case of concurrence submits the decision on filing the petition and other necessary materials to court.

If the petition is filed towards detained suspect or accused, then the decision and the specified materials should be presented to court no later than twelve hours before the expiration of the detention term.

Court on its part will consider the presented documents within 12 hours in a closed judicial session with participation of the prosecutor, the defender in case of the participation of the later in trial, the arrested, suspected or accused. The legal representative of the suspected or accused and the investigator have the right to participate in this process. It is provided that court in case of the necessity can summon the investigator as well.

The given norm creates the necessary prerequisites for the court to adopt legal decision in the matters of application of a punishment in the form of imprisonment after examination of the evidences presented by the parties on the basis of a competitiveness principle.

According to new edition of article 243 of the Criminal procedural code, the judge, having considered the petition on application the punishment in the form of imprisonment towards the suspect or accused adopts one of the following decisions:

- 1) About application of a punishment in the form of imprisonment;
- 2) About refusal in application of a punishment in the form of imprisonment;
- 3) About prolongation of the term of custody for the period of no more than forty eight hours to enable parties to present additional evidences of validity or invalidity of application of a punishment in the form of custody.

The given law strengthens epy procedural guarantees of protection of citizens' constitutional laws and freedom in criminal trial. It is reflected in the following:

First, the law strictly regulates the conditions and the order of application of a punishment in the form of imprisonment.

Thus, as it is established, the punishment in the form of imprisonment can be applied only concerning the detained suspect or the person put on trial as a defendant on the cases of concerning the deliberate crimes, for which the criminal code provides punishment in the form of imprisonment for term of over three years, and the crimes made on imprudence for which the criminal code provides punishment in the form of imprisonment for the term of more than five years.

It is provided, that the punishment in the form of imprisonment can be applied under the petition of the prosecutor or the investigator, upon the agreement with prosecutor, on those cases, when it is impossible to apply other, less strict, punishment.

Thereby, introduction of these norms provides for the correlation of two forms of the control, i.e. the prosecutor's and judicial control over the observance of human rights on preliminary investigation. Taking into account the limiting character of the punishment in the form of imprisonment through the prosecutor's supervision, the possibility of the investigator failing an unfounded petition on application of the same punishment is prevented.

It will allow enhancing the responsibility of inspectors for validity and legality of the detention of the citizen. In case of agreement with the petition the prosecutor should prove in judicial session the necessity of the imprisonment of the person, in this manner, his procedural actions will be subject to judicial examination.

Second, the law establishes the list of persons, with participation of whom the petition for application of a punishment in the form of imprisonment will be considered, in particular, the prosecutor, advocate, if the later is participating in case, detained suspected or accused. At the same time, one of the important procedural guarantees provided by the law, is the maintenance of a principle of competitiveness and the right to protection through introduction of the rule on obligatory participation of the detained suspected or accused in judicial consideration on application of a punishment in the form of imprisonment.

Third, the Law strictly regulates term of detention and an order of its prolongation. So, detention term is 72 hours and can be prolonged for another 48 hours under the petition of the parties - the prosecutor, detained suspected or accused and their defenders. The specified term is necessary for presenting by the parties of additional proofs, necessary for establishing the validity or

groundlessness of the application of a punishment in the form of imprisonment. The further prolongation of the term of detention is not allowed.

Fourth, the criminal procedural legislation valid until the adoption of this law, though envisaged the possibility in an exceptional cases the application of punishment in the form of imprisonment for the crimes not representing great danger to public safety, it did not specify such cases.

This in turn, could result in various interpretation of the term «exceptional case» and allow for the subjectivity on the part of the officials, who are authorized to apply such punishment.

For the purpose of strengthening the procedural guarantees of protection of constitutional laws and freedom of the person, to whom the punishment in the form of imprisonment can be applied, and excluding the broad interpretation of the above-stated norm of the Law the list of these «exceptional cases» is established.

Such cases include the absence of permanent residence of the accused (suspect) in the territory of Uzbekistan, uncertain identity of the accused (suspect), violation of the previously imposed less strict penalty, evasion from investigation and court, and the crime committed during the period of serving the penalty in the form of arrest or imprisonment.

Fifth, the law establishes the order of appeal of the court decision on implementation of the sentence in the form of imprisonment or the refusal in a petition form. In particular, the decision of the judge can be appealed on the court within 72 hours from the date of its adoption through the very court, which has adopted it.

Six, the law establishes the maximum term of custody and the order of its extension.

So, term of holding in custody at the period of investigation of the crime doesn't exceed more than three months.

Possibility of prolongation of legally established three-month custody term is subject to court's consideration on the basis of petition: till 5 months - the prosecutor of the Republic of Karakalpakstan or the prosecutor of Tashkent region and equal to them prosecutors; till 7 months – the Deputy of the prosecutor general of the Republic of Uzbekistan; till 9 months - the prosecutor general of the Republic of Uzbekistan; till one year - the prosecutor general of the Republic of Uzbekistan in investigation of the extremely complex cases concerning the persons accused of commitment of heavy and especially grave crimes. The further prolongation of term is not allowed.

It should be noted, that before an investigator brought the petition for prolongation of term of custody. Now the law has transferred this right to the prosecutor, enhancing responsibility of the prosecutor in supervising the process of preliminary investigation and observing the imprisonment term in custody.

So, according to the law, if there is a need in prolongation of the term of custody, the prosecutor should instigate concerning petition.

Adoption of this law will provide for the protection of constitutional rights and freedoms of citizens, and will contribute for observance of the principle, reflected in international legal norms stating «Nobody can be subjected to arrest or custody in a way other than the ruling of the court».

#### Liberalization of the system of punishments and decreasing the congestion of prisons.

Process of liberalization of the system of criminal punishments, carried out according to the adopted Laws of the Republic of Uzbekistan, allowed to change substantially the investigation and judiciary practice on selection of a preventive punishment and appointment of punishments for the committed crimes, towards their softening.

Possibilities of releasing the accused from the responsibilities and punishment in case of their first time offence that represent less public danger have really extended for the first time.

As a result of changes and the additions introduced to Criminal, Procedural Criminal and Criminally-executive codes of the Republic of Uzbekistan, the number of convicted and imprisoned people reduced from 76 to 40 thousand persons or more than 1,9 times in the past three years.

Introduction of the practice of amnesty on an annual basis to those, sentenced to imprisonment has played an essential role in providing the rights for freedom and personal immunity during the years of independence.

According to the Senate Enactment on amnesty, more than 3 thousand people, who represent the least public danger to society, were released from the prisons in 2005 alone. Among them 354 women, 8 minors, 42 older than 60 years, 254 citizens of the foreign countries, 77 with physical disabilities of I and II degree, 558 consumptives, 129 with crimes committed on imprudence, 417 first time offenders with crimes representing least public danger, and 1796 with remaining term of imprisonment that doesn't exceed two years.

In 2006 on the basis of Senate enactment more than 3500 thousand prisoners who represent the least public danger to a society were released. Among them 43 women, 26 minors, 4 older than 60 years, 19 citizens of the foreign countries, 25 with physical disabilities of I and II degree, 183 consumptives, 113 with crimes committed on imprudence, 461 - first time offenders with crimes representing least public danger, 2544 with remaining term of imprisonment that doesn't exceed two years, and those imprisoned for participation in the activity of the forbidden organizations and have firmly renounced the violence in favor of correction.

The Senate enactment on amnesty dated November 13, 2007 allowed releasing another group of more than 3500 prisoners with crimes representing least public danger. Among them are 18 women, 21 minors, 6 men older than 60 years, 130 foreigners, 63 with physical disabilities of I and II degree, 378 consumptives, 167 with crimes committed on imprudence, 354 first time offenders with crimes representing least public danger, 2194 with remaining term of imprisonment that doesn't exceed two years as well as those imprisoned for participation in the activity of the forbidden organizations and have firmly renounced the violence in favor of correction.

**58. CERD welcomed the information that human rights are included as a subject of instruction in educational curricula. CESCRC welcomed the adoption of the National Personnel Training Programme to improve the quality of education.**

On the basis of the Enactment of the Oliy Majlis (parliament) of Uzbekistan on «The national program of promotion of legal awareness and culture of a society», «National program on training the cadres», «Education law», in the Republic Uzbekistan there has been established a continuous system of legal education and training which consists of following stages:

**1 stage:** legal education in a family;

**2 stage:** primary education and training in nurseries of the preschool educational institutions;

**3 stage:** legal training in secondary educational institutions;

**4 stage:** legal training and education in the academic lyceums and professional colleges;

**5 stage:** legal training and education in higher educational institutions.

**The first stage** of legal formation and education begins with a family. As the family is a society cell it is considered the base in formation of the child as a person and its transformation into comprehensively developed spiritual person. Proceeding from the purposes and problems, the family takes the special place in formation and development of legal education and formation at each stage of continuous legal formation and education.

**In children' preschool educational institutions** an initial legal formation and education takes root during daily games and studies. These studies are spent for children of average, senior and preparatory groups. On studies on "Constitution lessons" in the averages and the senior groups on 16 studies per year in the form of games, and also 7 morning performances and 2 leisure, for preparatory groups also 16 hours per year, but 8 morning performances and 2 leisure.

**In 1-4 classes** of average comprehensive schools, based on age features of pupils, such concepts as a law, a duty, a responsibility are entered. It is given 40 hours per year for studying “Alphabet of Constitution”.

**In 5-7 classes** of average comprehensive schools this maintenance becomes complicated on vital examples of the mutual relation of the state and the person, themes about personal independence, equality, freedom of speech, freedom of reception of the information, the criminal liability of minor citizens are entered. It is given 51 hour per year in each class for studying of the course on “Travel to the World of Constitution”.

**In 8-9 classes** of average comprehensive schools the primary goal of legal education and formation of citizens consists of:

- In formation at pupils a system of knowledge on social and economic, political-legal, scientifically-cultural development of the State;

- In education creatively conceiving, able to express the relation to vital problems of persons.

It is given for 34 hours per a year for studying of the “Basics of the Constitutional Law” in these classes.

**At 10-11 classes** of comprehensive schools the knowledge on the branches of law at the lessons on “Jurisprudence” in volume of 68 hours within two years of education is given.

It is spent the week of studying of “Convention on the Rights of the Child” by the Ministry of Education together with the regional branches of the Children's Fund of Uzbekistan annually in November at all schools, out-of-school anticipations, “Mehribonlik” (“Care”) houses. During this week such contents as “Whether you know your rights?”, “What is Law?” are held.

Since 2005 the program “School of the friendly relation to the child” is applied by the Ministry of Education of the Republic of Uzbekistan with assistance of UNICEF. The aim of program is training teachers and pupils to ability to solve arising problems on the basis of friendliness and tolerance applies, avoiding conflict situations, increase of awareness of teachers on non-admission of cruel treatment with pupils and etc.

According to the state educational standard in curricula in the higher and average special educational institutions studying of human rights within the limits of following disciplines also is provided:

- For students of 4<sup>th</sup> course of a bachelor degree: “Human rights” in volume of 81 hours, “Jurisprudence”, “Constitution of the Republic of Uzbekistan” per volume of 108 hours, “Constitutional Law” in volume of 120 hours.

- For students of 2<sup>nd</sup> course of magistracy: “Human rights” in volume of 40 hours, “Constitution of the Republic of Uzbekistan” in volume of 27 hours.

- For pupils of the academic lyceums and professional colleges there are 2 courses are taught: “Jurisprudence”, “Constitution of the Republic of Uzbekistan” in volume of 80 hours.

#### **59. According to CESCR, the effects of the Aral Sea ecological catastrophe posed obstacles to the enjoyment of economic, social and cultural rights by the population.**

Ecocatastrophe of Aral Sea is the regional and international problem which demands enormous resources of all Central Asian States and the international community as a whole.

### **IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS**

#### **Specific recommendations for follow-up**

**60. The General Assembly, in 2005, strongly called upon Uzbekistan to implement fully recommendations: (a) contained in the report of the mission of OHCHR to Kyrgyzstan in 2005 on the Andijan events; (b) of the independent expert on the situation of human rights in**

**Uzbekistan appointed under the 1503 procedure at the sixtieth session of the Commission on Human Rights; and (c) of the Special Rapporteur on torture following his visit in 2002.**

a) The Andizhan events were investigated by the investigatory group created from highly skilled personnel of law enforcement agencies of Uzbekistan. Besides, the independent parliamentary commission has been created among deputies of Oliy Majlis of the Republic of Uzbekistan for examination of these events.

Representatives of diplomatic corps – ranking employees of the embassies of India, China, Pakistan, Islamic Republic Iran, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan as a part of working group carried out a monitoring of investigation of tragically events in the Andizhan region.

b, c) Mr. Theo Van Boven, Special rapporteur on tortures of the UN Commission on Human Rights visited Uzbekistan in November 2002. He received interesting information as from official state structures, and such human rights organizations as «Mothers against a death penalty and tortures», OPCHU (Human Rights Society of Uzbekistan), NOPCHU (Independent Human Rights Society of Uzbekistan), “Freedom House”, “Mazlum”, “Ezgulik”, and also the international organizations functioning in Uzbekistan (UNDP, OSCE, etc.). On the basis of recommendations of Theo Van Boven it has been accepted the National Action Plan in March, 2004 in Uzbekistan which was confirmed by the Cabinet of Ministries of the Republic of Uzbekistan. By 2008 this Plan is almost completely implemented.

In October, 2004 L.Gusejnov, the independent expert of the UN Commission on Human Rights visited Uzbekistan. He had possibility to familiarize with a number of agencies of system of execution of punishment, including with settlement Dzhaslyk, and to prepare the recommendations about the questions related to improvement of position of prisoners, detained and arrested persons. With a view of realizations of its recommendations it has been also accepted the National Action Plan which by present time is completely executed.

**61. In 2006, the Secretary General stated that the lack of response from Uzbekistan to the call for the establishment of an international commission of inquiry to examine the facts and circumstances of the Andijan events coupled with the persistence of allegations of serious human rights violations, demonstrate that there has been no improvement since the adoption of General Assembly resolution 60/174.**

Being an independent state, Uzbekistan has conducted own deep investigation of events in Andijan, has found reasons and conditions that abetted absolutely criminal encroachments on the state power structures, has taken measures on their suppression and punishment of the criminals.

The crimes, made in Andijan on May 12-13th 2005, took place in the territory of Uzbekistan and, in conformity with the articles 3 and 4 of the Criminal Procedural Code and the article 11 of the Criminal Code of the Republic, are under jurisdiction of the Republic of Uzbekistan. There is no international document which would obligate the sovereign state to conduct the international investigation of the cases, related exclusively to its internal competence.

However, it is necessary to notice that the objective information about investigation of the Andijan events was regularly brought to attention of the international organizations through corresponding data of the Office of Prosecutor General by sending to the Ministry of Foreign Affairs of Uzbekistan, as well as in meetings in the Office of Prosecutor General, particularly:

On June 10th, 2005 the Prosecutor General met Ambassador Miroslav Encha - the Head of the Center of OSCE in Tashkent and Peer Nurmark - the expert on human dimensions of the Center of OSCE. During the meeting with them there have been discussed issues related to the events which were taking place in the Andijan region on May 13-14th, 2005. In particular, they have been acquainted with preliminary results of investigation of the criminal case brought upon terrorist acts: with chronology of their realization and breaking consequences; quantity of lost and wounded, the persons taken in hostages by terrorists, and also moved to Kyrgyzstan; the size

of the caused material damage; number of the persons involved in fulfillment of terrorist acts, determined and arrested persons during preliminary investigation.

On June 16th, 2005 the first deputy of the Prosecutor General met representatives of diplomatic missions in Tashkent and had conversation with them concerning the events which were taking place in the Andijan region on May 13-14th, 2005.

On August 25th, 2005 in the meeting with the British political analyst Mrs. Shirin Akiner there were discussed events in Andijan and their consequences. Thusfor Akiner has noticed that after the Andijan events Western Europe countries and the USA attempt to isolate Uzbekistan in political and economic spheres as there is an opinion concerning the strict actions undertaken to participants of «peaceful meeting» occurring in Andijan on May 13th, 2005 which is generated, mainly, on foreign mass-media publications, where on the basis of doubtful sources of event in Andijan are presented as «execution of peaceful meeting». Therefore there are bases to draw a conclusion about improbability of their version. It is necessary to conclude it critically. Regarding to request of the political scientist, films and the slides were shown to her, which have been taken during the investigation as well as the film made by terrorists directly during events, where actions of the armed insurgents who have carried out terrorist acts in Andijan.

On September 7, 2005 the first deputy of General Attorney received the representatives of diplomatic missions in Tashkent: Bhargan Mitra (consul, India), Gulmira Sultanali (2 secretary, Kazakhstan), Sabit Umirbekov (Attaché, Kyrgyzstan), Chen Weywey(1 secretary, China), Bakit Tungatarov (1 secretary, Kyrgyzstan), Shahbaz Malik (3 secretary, Pakistan), Kirill Belikov (2 secretary, press attaché, Russia), Murodjon Buribaev (1 secretary, Tajikistan). They were presented with objective information about the criminal case, which were brought on Andijan incident and submitted to Supreme Court of Uzbekistan to conduct an investigation with respect to the fifteen accused, who were the most active participants and organizers of terrorist attack in Andijan.

On October 1, 2005 the first deputy of General Attorney received Miroslav Yench, Head of OSCE center in Tashkent. They discussed the issues of monitoring by OSCE observers the legislative procedures with respect to the defendants, who were accused of involving in Andijan incident and access to information on the results of investigation.

On August 29, 2006, the first deputy of General Attorney received the EU Troika delegation, comprised by Antti Turunen, Head of East Europe and Central Asian Department, MFA of Finland, Rolph Shultz, Head of South Caucasus and Central Asia Department, MFA of Federal Republic of Germany, Hugues MIngrelli, Director for South Caucasus, Central Asia and East Europe, EU General Director for External Relations and Gintz Apals, administrator of General Secretary of EU Council, Director of General Directorate for External Relations of EU Commission. During the meeting the guests were informed about the incident in Andijan in May, 2005.

On December 13, 2006, a Plenary meeting with the participation of EU experts' delegation led by Pekka Oinonen, a specialist on combating terrorism, MFA of Finland took place. The Ambassador Extraordinary and Plenipotentiary of Federal Republic of Germany to Uzbekistan M.Mayer and some staff members of the German Embassy were included also in the delegation. The EU experts were familiarized on-site with the outcome of criminal investigation, conducted on Andijan incident.

On April 2-3, 2007 the second meeting with the participation of EU experts led by the Head of South Caucasus and Central Asia Department, MFA of Germany Shultz took place. The Ambassador of Germany to Uzbekistan M.Mayer was also included in the list of delegation. During the meeting the Uzbek representatives gave thorough answers to the experts' additional questions aroused after acquainting them in December 2006 with the outcome of criminal investigation on Andijan incident.

Moreover, the preliminary investigation found out that 28 representatives of foreign Mass-Media were in the place during the Andijan incident.

(Malyuba Azamatova, Sharifjon Akhmedov, Valeriy Pankrashin, Monika Whitlock, Jeanis Farel, Anna Luis Claridge, Joana Klear Lillies, Janny Kler Norton "BBC" Great Britain, Kutbiddinov Husniddin, Yuldashev Gofurjon radio "Ozodlik" ("Freedom") USA, Marcus

Bensman, Natalya Bushueva “Nemetskaya volna” (German wave) Germany, Katerine Gannon “Associates Press” USA, Michael Kolet White, Sudjata Rao “Reuters” Great Britain, Yafasova Dina Agency “Medsestra” (Nurse), Denmark, Heze Enn Klark, Denis Albrighton «France Press» France, Ann Nivat “Liberacion” newspaper, France, Igor Rotar “Forum 18”, Norway took an active part in widely reporting the legal process with respect to 23 members of religious extremist organization “Akromiys” in Andijan city.

Sharifkhon Akhmedov “BBC” Great Britain, Markus Bensman «Deutch Welle», Germany, Aleksey Volosevich «Fergana.Ru», Russia, Shamil Baygin «Reuters» Great Britain, Efrem Lugatkiy, Bagila Buharbaeva «Associated Press» USA, Galima Bukharbaeva «Institute for War and Peace Reporting» Great Britain were near to or inside the Administrative building of the Government of Andijan province, which was captured by terrorists. These journalists can give first-hand evidence about outrages and brutal humiliations against the hostages and other suffered people by the terrorists. The terrorists’ direct presence is confirmed by the testimonies of many witnesses and protocol identifications of the terrorists themselves.

**62. Since his 2002 visit, the Special Rapporteur on torture reiterated a number of recommendations. He noted the regular and detailed responses by Uzbekistan concerning follow-up measures taken in this respect but stressed that he continued to receive serious allegations of torture.**

The UN Committee Against Torture has given to the Republic of Uzbekistan 16 recommendations directed on further implementation of the positions of the Convention Against Tortures.

Carrying out these recommendations, Uzbekistan has included into the Criminal code of the Republic of Uzbekistan Article 235 about criminal responsibility for tortures, the definition of which corresponds to Article 1 of the UN Convention Against Tortures and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In Uzbekistan an independent mechanism of the appeal of actions of bodies and persons and operative investigation of statements about applications of tortures, and also prosecution and punishment of guilty persons is created

Protection of persons addressing with complaint about prosecution is provided, according to the Law of the Republic of Uzbekistan “About references of citizens” the prosecution of the persons referring the state bodies with complaints and statements concerning infringement of their rights is not allowed. The administrative legislation establishes legal responsibility for infringement of Law “About references of citizens”, and Article 11 of the Criminal-executive code of the Republic of Uzbekistan establishes the right of condemned on personal safety which is provided by administration of penal establishment.

Observance of principle of inadmissibility of proofs received under torture is provided. On September 24, 2004 the Supreme court of the Republic of Uzbekistan adopted the Plenum Decision “About some questions of application of norms of the Criminal-executive law on admissibility of evidences”, in which it is fixed, that the evidences received as a result of deviation by the investigator, inspector, public prosecutor and court from exact execution and observance of norms of the law, challenged by any motives, are admitted to be inadmissible.

To inadmissible evidences are related, in particular testimonies received by application of torture, violence and other kinds of severe, brutal or humiliating treatment, and also by deceit and other illegal methods.

There are taken the measures on maintenance of independence of judges: specialization of courts, improvement of material support of courts and judges. Appointment procedures of judges are improved, the status of the Higher Qualifying Commission on Selection and Recommendation on a Post of Judge is raised.

It is provided an access of prisoners to the lawyer, the doctor and members of family from the moment of taking into custody. The strict interdepartmental control (of the Ministry of Interior of the Republic Uzbekistan) and directorate of public prosecutions over implementation of the right to



protection in regard to the persons detained in the course of article 225 of the Criminal-procedural Code (CPC) of the Republic Uzbekistan is established. Requirements on an explanation to them of their rights and the duties provided by article 48 of the CPC of the Republic Uzbekistan are strictly observed. The lawyers have been provided by an appointment alone with the client and an unimpeded access to them in places of the temporary detention.

The system of independent inspection of the institutions of imprisonment is created. In Uzbekistan the inspection examination of each institution of execution of punishment is carried out by complex group of experts of the Ministry of Interior. A Special inspection on staff of the Ministry of Interior regularly examines applications and complaints of the condemned persons, and also the treatment of the employees of the penitentiary institutions with the condemned persons.

Furthermore, in addition to such regular departmental control the independent non-departmental control of activity of the penitentiary institutions' employees is carried out by the General Prosecutor Office, Ombudsman, the National centre of the Republic of Uzbekistan on human rights, and also of some the international organizations.

Terms of imprisonment before trial are reduced and since 2008 the judicial control over sanction delivery on arrest is entered. Terms of the maintenance of accused persons into custody are reduced from 1.5 years till 9 months. For last 4 years using of such preventive punishment as imprisonment, was reduced more than on 2 times.

Training of law enforcement staff, the medical personnel to the rules of the treatment with prisoners on purpose of non-admission of torture is provided.

Revision of the verdicts of guilty based on evidences received by tortures is provided. According to the decisions of Plenum of the Supreme Court of the Republic of Uzbekistan №17 dated December 19, 2003 "About practice of application by courts of the laws, providing to the suspect, accused the right to protection" and Plenum of the Supreme Court of the Republic of Uzbekistan №12 dated September 24, 2004 "About some questions of application of norms of the criminally-remedial law on an admissibility of evidences" revision of the verdicts of guilty based on evidences, received by tortures is entered into practice.

It is taken the legislative measures on non-admission of dispatches or extraditions to other countries of persons, in the presence of the bases to believe, that they are threatened a use of tortures etc.

**63. In 2005, the HR Committee requested Uzbekistan to provide, within one year, information on measures taken in response to its recommendations related to: lack of information on the number of persons sentenced to death and executed; narrow definition of torture; high number of convictions based on confessions made in pre-trial detentions; widespread use of torture and ill-treatment of detainees; and low number of convictions for such acts. In 2006, Uzbekistan submitted information, which the Committee considered as a partial reply to its requests. Uzbekistan was advised to include additional follow-up information in its third report in 2008.**

The Third National Report on the implementation of the International Covenant on Civil and Political Rights contains this information and it was submitted to the Human Right Committee in April, 2008.

**64. In 2007, CAT requested Uzbekistan to provide, within one year, information on measures taken in response to its recommendations related to: widespread use of torture and ill-treatment; allegations of excessive use of force and ill-treatment by military and security forces in 2005 at Andijan; persons who sought refuge abroad and were returned to Uzbekistan following these events; Uzbekistan's failure to set up an independent commission of inquiry into these events; punishment commensurate with the severity of the crime of torture; abuses and deaths in custody; and the principle that no circumstance may be invoked as a justification for torture. The response is due in November 2008.**

Recommendations are included to the National Action Plan on the implementation of the Final recommendations of the Committee against torture.

**65. In 2008, CERD, while welcoming information provided by Uzbekistan, requested further information on steps taken to secure the independence and impartiality of judges, the number of trials at which free interpretation has been made available, and the level of participation of minorities in State institutions.**

Uzbekistan has submitted this information in 6-7 National Reports to the Committee on elimination of racial discrimination that are to be considered.

## **V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE**

**66. CRC recommended Uzbekistan to seek technical assistance, inter alia, in the area of data collection<sup>166</sup> and on child labour.**

In November 2008 it has been adopted the Order of the Government on perfection of activity of the State committee of the Republic of Uzbekistan on statistics and reforming system of data gathering by methodic of the United Nations.

The governmental order and National plan of actions on implementing conventions of the International labor organization №138 and 182 provide realization of monitoring and data gathering on child labour.

**67. The 2005-2009 United Nations Development Assistance Framework agreed upon by Uzbekistan and the United Nations Country Team focuses on the improvement of living standards, access to and quality of basic services (health and education), harmonization of national laws with international conventions and good governance.**

Together with UNDP and UNICEF are successfully realized by Uzbekistan cooperation in mentioned direction and prepare the Frame program of the United Nations on rendering assistance with purpose of development (UNDAF) for the period 2010-2015.

**68. UNODC provides technical assistance to Uzbekistan in the field of drug law enforcement and organized crime, including trafficking in human beings.**

The UNPDC realizes a number of projects on implementation of the international standards in sphere of fighting against criminality in the national legislation of Uzbekistan (trade of people, fight against drugs trade, fight against corruption, fight against terrorism, organized crime).