



UZBEKISTAN

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 30TH SESSION OF THE UPR WORKING GROUP, MAY 2018

FOLLOW-UP TO THE PREVIOUS REVIEW

In its second Universal Periodic Review (UPR) in April 2013, Uzbekistan received a total of 203 recommendations. Of these it accepted 145 recommendations, 30 of which it considered had already been implemented or were in the process of being implemented. Uzbekistan also rejected 58 recommendations.¹

Human rights defenders

Amnesty International deeply regrets Uzbekistan's rejection of recommendations to release human rights defenders and those detained on politically motivated charges claiming that such information is "factually wrong".²

Since the last review, the authorities have released some human rights defenders, independent journalists and political opposition activists sentenced on politically motivated charges under the terms of presidential amnesties, on medical or other grounds or following international pressure. However, at the time of writing, at least four human rights defenders convicted in unfair trials are serving long prison terms in cruel, inhuman and degrading conditions.³ Some human rights defenders, including prisoners of conscience Azam Farmonov and Isroil Kholdorov, had their prison terms arbitrarily extended shortly before they were due for release for alleged minor infractions of prison rules following secret trials in 2015.

Torture and other ill-treatment

Uzbekistan maintained that some of the recommendations aimed at combating torture had been or were in the process of being implemented.⁴ However, despite some positive changes to national legislation, such as the October 2016 and February 2017 Presidential Decrees on legal and judicial reform and the September 2016 amendments to the Law on Internal Affairs Agencies, Amnesty International continues to receive reports of routine and pervasive torture and other ill-treatment of detainees and prisoners in Uzbekistan. In most cases the authorities fail to conduct effective investigations into these allegations, and impunity for the perpetrators prevails.

¹ Report of the Working Group on the Universal Periodic Review, Uzbekistan, A/HRC/24/7, 5 July 2013, paragraphs 133-136.

² A/HRC/24/7, recommendations 136.43 (Australia), 136.46 (Canada), 136.56 (Slovakia), 136.58 (France).

³ Isroil Kholdorov, Gaibullo Dzhaliyov, Akzam Turgunov and Dilmurod Saidov

⁴ A/HRC/24/7, recommendations 134.7 (Germany), 134.8 (Ireland), 134.9 (Austria), 134.10 (Slovakia), 134.11 (Canada), 134.12 (Namibia)

National preventive mechanism

Uzbekistan supported recommendations by several states to establish a national independent mechanism to monitor all places of detention and to consider complaints.⁵ Amnesty International welcomed Uzbekistan's support of these recommendations as such a mechanism could significantly contribute to protecting individuals deprived of their liberty from torture or other ill-treatment. However, to date, no such national independent mechanism has been established. This is a long-standing recommendation which has also been made repeatedly by the Human Rights Committee in 2001, 2005 and 2015.⁶ Uzbekistan also supported such recommendations during its 2008 UPR review, but without taking action on them.

Rejected recommendations: access to Uzbekistan, exit visas, ratification and same-sex relations

Amnesty International is deeply disappointed that Uzbekistan rejected recommendations to strengthen and deepen its interaction with the Special Procedures of the Human Rights Council,⁷ to abolish so-called exit visas for those wishing to travel abroad,⁸ to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁹ and to decriminalize consensual sexual relations between men¹⁰ purporting that these are "not part of its obligations under internationally agreed human rights standards".¹¹

However, in a welcome development, Uzbekistan agreed to a visit by UN High Commissioner for Human Rights in May 2016. During his visit, the High Commissioner announced that an invitation to visit Uzbekistan in October 2017 had been extended to the UN Special Rapporteur on freedom of religion or belief, the first such invitation to be issued since 2002. In August 2017, the President announced that the legal requirement for Uzbekistani nationals to obtain permission to leave the country would be abolished by 2019.

Regrettably no plans have been announced for decriminalizing consensual sexual relations between men.

⁵ A/HRC/24/7, recommendations 133.31-133.36 (Cameroon, Senegal, Sweden, Pakistan, Czech Republic, Germany).

⁶ Human Rights Committee, Concluding observations on the initial report of Uzbekistan, CCPR/CO/71/UZB, 71st session (19 March – 6 April 2001), para 7:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fCO%2f71%2fUZB&Lang=en

Human Rights Committee, Concluding observations on the second periodic report of Uzbekistan, CCPR/CO/83/UZB, 83rd session (14 March – 1 April 2005), para 11:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fCO%2f83%2fUZB&Lang=en

Human Rights Committee, Concluding observations on the fourth periodic report of Uzbekistan, CCPR/C/UZB/CO/4, 114th session (29 June–24 July 2015), para 18:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fUZB%2fCO%2f4&Lang=en

⁷ A/HRC/24/7, recommendations 136.21-136.35 (Slovenia, Guatemala, Belgium, Portugal, Costa Rica, Tunisia, Montenegro, Spain, Japan, Brazil, Hungary, Spain, Latvia, Ireland, Netherlands, Paraguay).

⁸ A/HRC/24/7, recommendation 136.53 (Chile).

⁹ A/HRC/24/7, recommendations 136.2-136.6 (Estonia, Montenegro, Costa Rica, Belgium, Sweden), 136.38-136.41 (Czech Republic, Portugal, France, UK).

¹⁰ A/HRC/24/7, recommendations 136.49-136.51 (Argentina, Spain, Netherlands, Uruguay).

¹¹ A/HRC/24/7, p. 27.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Domestic legislation

Amnesty International welcomes steps taken by President Mirziyoyev to address some of the concerns raised by UN human rights mechanisms,¹² in particular the October 2016 Presidential Decree on legal and judicial reform with proposed amendments to existing legislation.¹³

One of the proposed legislative changes was to reduce the maximum time that a person may be detained before being brought before a judge from 72 to 48 hours, which is in line with international standards¹⁴ and long-standing recommendations by the UN Human Rights Committee¹⁵ and the Committee against Torture.¹⁶ Amended legislation entered into force in April 2017. Other steps include a wide-ranging prisoner amnesty and the opening a virtual reception desk on the President's official website to address complaints from citizens.

The effective implementation of these initiatives will be an important test as to the authorities' commitment to improve the human rights situation in the country.

An action strategy on judicial reform, approved by a Presidential Decree in February 2017,¹⁷ sets out several priorities for systemic reform, including ensuring genuine judicial independence, increasing the effectiveness and authority of the judiciary, and ensuring robust judicial protection of the rights and freedoms of citizens.

These priorities are welcome and important. However, Amnesty International is concerned that the Supreme Judicial Council,¹⁸ created as part of this judicial reform process to oversee the judiciary, will be comprised of representatives of

¹² Human Rights Committee, Concluding observations on the fourth periodic report of Uzbekistan, CCPR/C/UZB/CO/4, 114th session (29 June–24 July 2015), para 21
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fUZB%2fCO%2f4&Lang=en.

Committee against Torture, Concluding observations on the fourth periodic report of Uzbekistan, CAT/C/UZB/CO/4, 51st session (28 October–22 November 2013), paras 13, 14, 15,
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fUZB%2fCO%2f4&Lang=en.

¹³ Presidential Decree "on Measures on Further Reforming of Judiciary, and on Enhancing Guarantees for Solid Protection of Rights and Freedoms of Citizens", 21 October 2016, <http://www.nyulawglobal.org/globalex/Uzbekistan1.html>

¹⁴ International Covenant on Civil and Political Rights, Article 9.3: *Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release... and General Comment 35, point 33 CCPR/C/GC/35: While the exact meaning of "promptly" may vary depending on objective circumstances, delays should not exceed a few days from the time of arrest. In the view of the Committee, forty-eight hours is ordinarily sufficient to transport the individual and to prepare for the judicial hearing; any delay longer than forty-eight hours must remain absolutely exceptional and be justified under the circumstances. Longer detention in the custody of law enforcement officials without judicial control unnecessarily increases the risk of ill-treatment. The Special Rapporteur on human rights and counter-terrorism has stated that everyone held in detention must have access to a judicial hearing about the lawfulness of their detention within 48 hours (Special Rapporteur on human rights and counter-terrorism, UN Doc. A/63/223(2008) §45(a).)*

¹⁵ Human Rights Committee, Concluding observations on the fourth periodic report of Uzbekistan, CCPR/C/UZB/CO/4, 114th session (29 June–24 July 2015), para 15
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fUZB%2fCO%2f4&Lang=en.

¹⁶ Committee against Torture, Concluding observations on the fourth periodic report of Uzbekistan, CAT/C/UZB/CO/4, 51st session (28 October–22 November 2013), para 15,
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fUZB%2fCO%2f4&Lang=en.

¹⁷ Presidential decree "On Measures for the Fundamental Improvement of the Structure and Improving the Performance of the Judicial System of the Republic of Uzbekistan", 21 February 2017, at <http://jahnnews.uz/ru/politika/138/31336/>

¹⁸ Law on the Supreme Judiciary Council (Collected Legislation of the Republic of Uzbekistan, 2017, No. 14, Article 214), adopted by the Legislative Chamber on 18 March 2017 and approved by the Senate on 28 March 2017, at http://www.lex.uz/Pages/GetPage.aspx?lact_id=3153671.

law enforcement agencies, in addition to judges and external experts. Thus, representatives of law enforcement agencies will be involved in the selection of judges and the instigation of disciplinary and criminal proceedings against judges, which undermines the independence of the judiciary. In this way, the new body would perpetuate the problem of the executive branch of government unduly influencing the judiciary, which in turn jeopardizes the right to a fair trial and contributes to entrenched problems of impunity for human rights violations in Uzbekistan.¹⁹

While the revised law on Internal Affairs Agencies signed by President Mirziyoyev in September 2016, explicitly prohibits the use of torture²⁰, the authorities have never publicly condemned the use of torture in all its forms, as recommended by the Special Rapporteur on torture following his 2002 visit. Nor have they fully and effectively implemented key recommendations from the Committee against Torture and the Human Rights Committee aimed at strengthening safeguards against torture.²¹

International human rights treaties

Uzbekistan has still not ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, nor the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. It has also yet to ratify the Rome Statute of the International Criminal Court.

Despite the invitation extended to the Special Rapporteur on freedom of religion or belief in May 2017, there are still 13 pending requests, not to mention repeated reminders, for country visits by the Special Procedures of the Human Rights Council. The oldest of these is outstanding since 1996.²² The government has not yet responded to numerous requests by the UN Special Rapporteur on torture to follow up on his 2002 visit to the country.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Torture and other ill-treatment

Since the last review, the authorities have continued to categorically deny reports of torture and other ill-treatment by law enforcement officials. In October 2016, the Director of the National Centre for Human Rights wrote to Amnesty International asserting that torture allegations contained in the organization's reports were based on fabricated evidence and "clearly designed as a means of disinformation... to put undue pressure" on Uzbekistan.

In stark contrast to these official assertions, human rights defenders, former prisoners and relatives of prisoners continue to provide credible information that police and National Security Service officers routinely use torture to coerce suspects, detainees and prisoners, including women and men charged with criminal offences such as theft, fraud or murder, into confessing to crimes or incriminating others. Individuals charged with or convicted of anti-state and terrorism-related

²⁰ Law of the Republic of Uzbekistan of 16 September 2016 N.ZRU-407 *On Law Enforcement Bodies* <http://cis-legislation.com/document.fwx?rgn=89064>

²¹ See footnotes 15 and 16.

²² Current requests for visits to Uzbekistan by the UN Special Procedures: Special Rapporteur on the situation of human rights defenders, Reminder, 2007; Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Reminder, 2010; Special Rapporteur in the field of cultural rights, Requested, 7 May 2012; Special Rapporteur on the human right to safe drinking water and sanitation, Requested, 2015; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Requested, 2016; Special Rapporteur on freedom of religion or belief, Requested, 2017, accepted May 2017, visit 2-12 October 2017; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Reminder; Special Rapporteur on the independence of judges and lawyers, Reminder; Special Rapporteur on extrajudicial, summary or arbitrary executions, Reminder; Working Group on Arbitrary Detention, Reminder; Working Group on Enforced or Involuntary Disappearances, Reminder; Special Rapporteur on the rights to freedom of peaceful assembly and of association, Reminder; Special Rapporteur on violence against women, its causes and consequences, Reminder; Special Rapporteur on extreme poverty and human rights, Reminder.

offences, including those forcibly returned to Uzbekistan, have been particularly vulnerable to torture both in pre-trial detention and in prison following conviction.

The courts continue to rely heavily on torture-tainted “confessions” to hand down convictions. In all of the cases reviewed by Amnesty International since the last review, the judges ignored or dismissed allegations of torture or other ill-treatment as unfounded, even when presented with credible evidence. Because allegations of torture or other ill-treatment are rarely effectively investigated, the climate of impunity persists.

Human rights violations in the context of national security and the fight against terrorism

The Uzbekistani authorities have continued to secure the return – including through extradition proceedings – of numerous Uzbekistani citizens whom they have identified as threats to the “constitutional order” or threats to national security.

In October 2016, the authorities informed Amnesty International that they had secured the return of 542 individuals between January 2015 and July 2016.²³ Often the Uzbekistani government has offered “diplomatic assurances” to sending states to secure the returns, pledging free access to detention centres for independent monitors and diplomats. In practice, however, they have not honoured these guarantees.

Officers of the National Security Service continue secret renditions of individuals from abroad. Many of those abducted or otherwise forcibly returned to Uzbekistan have been subjected to incommunicado detention, often in undisclosed locations, and tortured or otherwise ill-treated to force them to confess or incriminate others.

The authorities have also increased pressure on the relatives of those suspected or convicted of crimes against the state, including individuals working or seeking protection abroad.

The authorities have also used the threat of bringing charges of membership of a banned Islamist group against a detained relative to prevent their families from exposing human rights violations or seeking help from human rights organizations at home or abroad.

Arbitrary extension of prison terms

The practice of arbitrarily extending prison terms, including for alleged minor infractions of prison rules under Article 221 of the Criminal Code, continues despite concerns expressed by the UN Human Rights Committee in July 2015 that Article 221 appeared to be applied arbitrarily and that prisoners were sentenced following unfair trials.²⁴ The practice has led to many prisoners serving de facto indefinite sentences, especially those convicted of anti-state offences.

Azam Farmonov, a prisoner of conscience and human rights defender who was convicted in 2006 largely on the basis of coerced witness testimony, was due to be released at the end of April 2015 after serving a nine-year sentence at Jaslyk Prison. However, in May 2015, following a blatantly unfair closed trial without legal representation, the court extended his sentence for another five years for allegedly breaking prison rules, including for verbally mocking other prisoners and not wearing appropriate identification tags. He was finally released in September 2017.

Human rights defender and prisoner of conscience Isroil Kholdorov, who was due to be released in spring 2016, had his sentence extended for another three years in November 2015. His family were not informed of the new charges brought against him under Article 221 nor of the date of the trial. The trial took less than five minutes and Isroil Kholdorov had no legal representation.

²³ Letter to Amnesty International by Akmal Saidov, Director of the National Human Rights Centre, Uzbekistan, October 2016.

²⁴ Human Rights Committee, Concluding observations on the fourth periodic report of Uzbekistan, CCPR/C/UZB/CO/4, 114th session (29 June–24 July 2015), para 17
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fUZB%2fCO%2f4&Lang=en.

Lack of independent detention monitoring

Uzbekistan has no independent monitoring mechanisms to inspect places of detention, and independent non-governmental organizations, domestic or international, are not permitted to carry out any form of regular, unannounced and unsupervised prison monitoring.²⁵ Since the last review, the International Committee of the Red Cross has not been able to successfully renegotiate the terms for its prison visits and no independent monitoring mechanism has been set up. Diplomats and NGO representatives, while sometimes granted access to some detention facilities, are as a rule accompanied by prison or law enforcement officials during their visits to such facilities.

Restrictions on freedom of expression and peaceful assembly

Amnesty International welcomes President Mirziyoyev's recent invitation to the UN High Commissioner for Human Rights, international NGOs, including Human Rights Watch, and international media, to visit Uzbekistan.

Nevertheless, since the last UPR, the rights to freedom of expression and assembly have remained severely restricted. Prominent human rights defenders, government critics and independent journalists have been subjected to sustained harassment and intimidation, routine monitoring, arrests, beatings and smear campaigns. Many have been forced into exile while others are prevented from leaving the country. Human rights defenders and independent journalists, both those abroad and those in Uzbekistan, continue to find themselves and their families the target of extensive and repeated media campaigns on websites owned or controlled by the government, on national television and in the official printed media.²⁶

Surveillance by the Uzbekistani authorities at home and abroad helps reinforce the already repressive environment for human rights defenders, journalists, political activists and others. Unlawful surveillance is facilitated by technical and legal systems that fail to provide checks against abuse, contrary to international law and standards.²⁷

Restrictions on freedom of movement

Despite the proposed abolition of the so-called "exit visa regime" by 2019, the authorities continue to impose travel restrictions on newly released prisoners who had been convicted on politically motivated charges, including independent journalists and human rights defenders. Amnesty International is particularly concerned that former prisoners have been prevented from travelling abroad for urgent medical treatment. Such travel restrictions had tragic consequences for human rights lawyer Polina Braunerg who died from a stroke on 19 May 2017 after being repeatedly refused permission to travel abroad for medical treatment.

Former parliamentarian Murad Dzhuraev was convicted in an unfair trial for calling for a "violent overthrow of the constitutional system of Uzbekistan" and sentenced to 12 years in prison in 1995. His sentence has been arbitrarily extended four times for allegedly violating prison rules (including peeling carrots "the wrong way" and wearing the "wrong slippers"). He was released in November 2015 after completing his extended sentence. He has been denied permission to travel to Germany for urgent surgery and treatment for complications from a spinal hernia.

Journalist Muhammad Bekzhanov who was released on 22 February 2017 after 17 years in prison on politically motivated charges, has not been granted permission to apply for an exit visa to join his family in the USA where they are residents. Because his release was conditional, he has not even been able to travel to the capital Tashkent for urgent medical treatment for a number of medical conditions he suffers from as a result of being tortured or otherwise ill-treated in detention.

²⁵ In April 2013, the ICRC made a public statement that it had taken the very difficult decision to terminate all visits to detainees in Uzbekistan because it had been unable to conduct such visits according to its standard working procedures and as a result, those visits were "pointless". International Committee of the Red Cross, *Uzbekistan: ICRC decides to terminate visits to detainees*, News Release 13/64, 12 April 2013, <http://www.icrc.org/eng/resources/documents/news-release/2013/04-12-uzbekistan-detainees.htm>.

²⁶ Amnesty International Submission to the UN Human Rights Committee, http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/UZB/INT_CCPR_ICO_UZB_17734_E.doc.

²⁷ Amnesty International briefing *We will find you, anywhere*, <https://www.amnesty.org/en/documents/eur62/5974/2017/en/>

Rights of lesbian, gay, bisexual, transgender and intersex people

Under Article 120 of the Criminal Code consensual sexual relations between men is a crime punishable by a fine or a prison term of up to three years. The authorities have repeatedly stated that they have no intention of decriminalizing consensual sexual relations between men.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Uzbekistan to:

Ratification of human rights standards and cooperation with the UN

- Ratify all outstanding human rights treaties, in particular the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol;
- Ratify the Rome Statute of the International Criminal Court and enact implementing legislation;
- Issue a standing invitation to the Special Procedures of the UN Human Rights Council.

Restrictions on the rights to freedom of expression and assembly

- Investigate all reports of assaults on and harassment of human rights defenders, independent journalists and civil society activists and bring those responsible to justice in fair trial proceedings;
- Release all prisoners of conscience immediately and unconditionally.

Restrictions on the right to freedom of movement

- Immediately lift all arbitrary travel restrictions, including those imposed on human rights defenders, independent journalists and former prisoners sentenced on politically-motivated charges.

Rights of Lesbian, Gay, Bisexual, Transgender and Intersex People

- Enact legislation to abolish Article 120 of the Criminal Code.

Torture or other ill-treatment

- Urge the President and other highly placed government officials, including the Prosecutor General, the Ministers of Internal Affairs and Justice, and the Chairman of the National Security Service, to publicly condemn the use of torture and other ill-treatment in all its forms;
- Promulgate a set of rules to ensure that all judges are appropriately trained on procedures to determine whether confessions or other evidence submitted in court proceedings have been extracted through torture;
- Set a timeframe for the facilitation of the visit requested by the Special Rapporteur on torture;
- Establish an effective system of independent, unannounced inspection and supervision of all places of detention by competent, independent and impartial bodies with a view to preventing torture or other ill-treatment.

Human rights violations in the context of national security and the fight against terrorism

- Ensure that all detainees and prisoners, including those that have been extradited or otherwise returned from other countries, are able to exercise their rights to contact their family or another third party, and to consult in private and in confidence with a lawyer of their choice and with an independent medical practitioner.

Arbitrary extension of length of imprisonment

- Take meaningful steps to end the practice of closed trials, including inside prisons or prison camps, of convicted prisoners charged with allegedly breaking prison rules and conduct an independent review of all sentences of those convicted and sentenced to additional years in prison under Article 221 of the Criminal Code.