



LEGAL AID SOCIETY

10 Farhadskaya Street, Chilanzarskiy Region, Area 16, Tashkent UZ-700135
phone / fax: +998 712 768602, 768793, e-mail: nazima@freenet.uz



World Organisation Against Torture
Case postale 21- 8, rue du Vieux Billard
CH 1211 Genève 8, Suisse

Comments on the Report of the State of Uzbekistan Concerning the Implementation of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹

May 2002

The authors would like to thank the representatives of the Helsinki Human Rights Foundation, especially its chairman Mr Marek Noviczki and also Ms Danute Pshiwar, Ms Agneshka Klosowska, Ms Suzanne Fialova, Mr Jurek Swaton, Mr Henrick Katzpshack, who provided the monitoring training and report compilation as well as help with carrying out of the research.

We would like to express our gratitude to the OSCE Centre in Tashkent for their financial and general comprehensive support. Thank you very much to everyone that helped in conducting this research, shared information, filled in questionnaires and took part in the interviews. The list includes officials from, Human Rights Watch as well as the OSCE Centre with their representatives Ms Margaret Crook, Ms Lyaman Hashmatyi and Mr Sharof Azizov. Thanks to the members of the Tashkent City Bar Association for their contribution to this research.

Special thanks to the chairwoman of the Legal Aid Society, Mrs Nozima Kamalova, who managed and co-ordinating the project.

OMCT would like to extend its gratitude for its support of the Special Procedures Programme to the Government of the United Kingdom.

Written and researched by: Nozima Kamalova, Ravil Gayazov, Ildar Shafiev and Rustam Pulatov

Edited by: Isabel Ricupero

¹ Consideration of Reports Submitted by States Parties under Article 19 of the Convention, Second periodic reports of States parties due in 2000, Addendum: Uzbekistan, CAT/C/53/Add.1.

Introduction.....	1
1. Preliminary Observations	1
2. General Background	2
3. Legal and Institutional Structure.....	3
3.1 Legal provisions relevant to the practice of torture	3
3.2 Institutional organization of the criminal and justice system.....	3
4. The Practice of Torture	4
5. Definition of Torture (issues under articles 1 and 4).....	6
6. Structural Institutional Problems and Potential Legal Limitations to the Prohibition of Torture (issues under article 2).....	7
6.1 Legislative and Administrative Problems (issues under article 2.1).....	7
7. Prevention of Torture	7
7.1 Existing Norms and Rules concerning Detention (issues under article 11)	7
7.1.1 Control of the legality of detention/right to appeal	8
7.1.2 Access to a lawyer/Restriction on the right to being represented by a lawyer	8
7.1.3 Family members.....	10
7.1.4 Access to doctors	10
7.1.5 Conclusion regarding pre-trial detention practices	11
7.2 Prohibition of Statements made under Torture being used as Evidence (issues under art. 15).....	11
7.3 Education (issues under article 10)	12
8. Right to Complain, Obligation to Investigate, Initiate Legal Proceedings and Punish Torture (issues under articles 12 and 13)	12
8.1 The right to complain (issues under article 13).....	12
8.2 The obligation to investigate, prosecute and punish torture (issues under article 12).....	15
9. Redress (issues under article 14)	16
10. Detention conditions (issues under article 16).....	16
Conclusions.....	18
Recommendations	19

Introduction

Following are our comments on Uzbekistan's second periodic report to the UN Committee Against Torture, regarding its compliance with the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The information in this report is based on the report prepared by the Legal Aid Society titled "Report on the Results from the Monitoring that took place in the City of Tashkent During the Period of September-November 2001".

In conducting the research a work group was instituted by the Legal Aid Society which interviewed victims, relatives of victims, attorneys, and doctors.

It should be noted that, unfortunately, many of the persons approached refused to participate in the research. For various different reasons, certain torture victims as well as personnel of State institutions – judges, militia personnel, prosecutor, medical personnel and others refused to cooperate.

The majority of the victims interviewed agreed to speak regarding from who, where, and when they suffered violence but, when asked to recount their experiences in questionnaires, refused to answer. They explained that they feared being persecuted by State authorities. Only when assured that all information shared would remain anonymous did some victims consent to participate.

Several acting judges were also asked to relate cases of torture that they had encountered in their practices, but none showed any interest in providing information on this issue.

In total, 36 persons agreed to respond to the questionnaires of which 20 agreed to full publication of questionnaire information and 16 persons to the publication of the questionnaires on condition of anonymity. Of the 36 persons who answered the questionnaire 20 were torture victims (7 anonymous), 12 attorneys (5 anonymous) and 4 relatives of victims (2 anonymous). One victim who had initially demanded that his testimony remain anonymous has requested that his name figure in the report to CAT.

1. Preliminary Observations

Uzbekistan acceded to the Convention against Torture² on 28 September 1995.

At that time, Uzbekistan did not make declarations under either Article 21, recognising the CAT's competence to receive inter-state complaints, or Article 22, which would permit the CAT to receive individual complaints.

Uzbekistan did not make any reservations to the Convention against Torture.

Uzbekistan presented its initial report to the Committee against Torture in February of 1999.³

² Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Adopted by UN General Assembly resolution 39/46 of 10 December 1984, entry into force on 26 June.

³ See Initial reports of State parties due in 1996: Uzbekistan, 24/08/99, CAT/C/32/Add.3. See also Conclusions and recommendations of the Committee against Torture: Uzbekistan, 19/11/99, A/55/44, paras.76-81.

Uzbekistan is party to the following UN human treaties which have corresponding treaty bodies: the United Nations Covenant on Economic Social and Cultural Rights⁴, the United Nations Covenant on Civil and Political Rights, as well as its first Optional Protocol,⁵ the International Convention on the Elimination of all Forms of Racial Discrimination⁶, the Convention on the Elimination of All Forms of Discrimination against Women⁷ and the Convention on the Rights of the Child.⁸

2. General Background

Uzbekistan is a State with limited civil rights. The executive, represented by the President, concentrates most political power yielding influence in all spheres of government. Although the Constitution provides for the separation of powers and representative government, in reality, the judiciary lacks independence from the executive. The legislature (Oliy Majlis) also has little power and regional governors are dependent on the President.

According to Article 89 of the Constitution of the Republic of Uzbekistan, the President is the head of state and holds executive power. Article 93 of the Constitution lays down the powers of the President including that of nominating the General Prosecutor of the Republic of Uzbekistan, forming of the Cabinet of Ministers, and others. The President of the Republic of Uzbekistan also chairs the Cabinet of Ministers.

The President appoints and dismisses judges from the regional, district and city courts of law. The President also selects and dismisses the provincial governors. In practice, therefore, the same person appoints and dismisses persons representing both the executive and judicial powers as well as the General Prosecutor of the country.

Consequently, the executive and judicial powers constitute a single and indivisible system in Uzbekistan; moreover the executive power visibly dominates the judiciary. The result is a system employed to serve the interests of the State institutions rather than human rights and the legitimate interests of individual citizens.

Therefore, despite the existence of a number of legal guarantees to protect detainees, torture is still pervasive, in particular, during investigative proceedings in criminal cases.

⁴ International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, entry into force 3 January 1976, *op. cit.*, p. 8-19, accession on 28 September 1995.

⁵ International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, entry into force 23 March 1976, *op. cit.*, p. 20-45, accession on 28 September 1995; Optional Protocol to the International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly Resolution 2200 A (XXI) of 16 December 1966, entry into force 23 March 1976, , *op. cit.*, pp. 41-45, accession on 28 September 1995.

⁶ International Convention on the Elimination of All Forms of Racial Discrimination, adopted by General Assembly resolution 2106 A (XX) of 21 December 1965, entry into force 4 January 1969, *op. cit.*, pp. 66-79, accession on 28 September 1995.

⁷ International Convention on the Elimination of All Forms of Discrimination against Women, adopted by General Assembly resolution 34/180 of 18 December 1979, entry into force 3 September 1981, *op. cit.*, pp. 150-166, accession on 19 July 1995.

⁸ Convention on the Rights of the Child, adopted by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, *op. cit.*, pp. 174-200, accession on 29 June 1994.

3. Legal and Institutional Structure

3.1 Legal provisions relevant to the practice of torture

A number of Uzbek legal provisions are relevant to the practice of torture and ill-treatment.

Most notably:

Article 26 part 2 of the Constitution prohibits torture and or other cruel or humiliating treatment.

Article 235 of the Criminal Code (CC) of Uzbekistan establishes criminal sanctions for forcing a witness or accused to give testimony.

Article 17 of the Criminal Procedure Code establishes that no one can be subjected to torture, violence or other humiliating human's dignity treatments.

In addition, article 2 of Criminal Procedure Code of Uzbekistan (CPC) obliges judges, prosecutors, investigators, inquirers, attorneys and also all individuals participating in criminal procedures, to act in accordance with and fulfil all requirements of the Constitution of Uzbekistan.

The CPC and other legislative acts warn that any deviation from full compliance and fulfilment of laws for any reason constitutes a violation of the obligation of legality of criminal procedures and may lead to applicable responsibility (including criminal sanctions).

The preamble of the Constitution declares the primacy of generally recognized norms of international law.

Uzbekistan retains the death penalty. In August of 2001 after a legal reform the list of crimes which are punishable by death was reduced to the following: Aggression (article 151 of the CC), Genocide (article 153 of the CC); Terrorism (article 155 of the CC); and murder (article 97 of the CC)

3.2 Institutional organization of the criminal and justice system

The general courts function at three levels: district courts, regional courts and the Supreme Court. In addition, a Constitutional Court exists with competence to review compliance of laws, decrees and judicial decisions with the Constitution.

Prosecutors exert great power. They can order arrests, direct investigations, prepare cases and recommend sentences. If a judge's finding does not correspond to a prosecutor's recommendation the prosecutor can appeal to a higher court. Judges whose decisions have been overturned more than once have in numerous cases been removed from office. In consequence, the overwhelming majority of defendants are found guilty and receive the sentences recommended by the prosecutor.

Judges are generally biased in favour of the prosecution. When the evidence gathered is deemed insufficient, judges routinely order that additional investigations be carried out with a view to securing convictions.

The Ministry of the Interior (MVD) controls the police which, together with a number of other forces such as the Prosecutor's office, the National Security Service and the Customs Committee, perform most police functions. Of these, the National Security Service (NSB) is responsible for the repression of certain types of crimes such as organized crime and drug related crimes.

The MVD is also responsible for places of detention. Uzbek law determines that those persons arrested under the suspicion of having committed a criminal offence, who are usually held for an initial pre-trial detention period of 72 hours until the prosecutor decides on measures of restraint, should be kept in operational isolation wards (IVS)⁹. The IVSs are under the authority of the relevant district offices of the Ministry of Interior (MVD).

In cases where detention is selected as a measure of restraint, the person is then placed in investigatory isolation wards (SIZOs) which are, in effect, colonies for the execution of punishment.¹⁰ The National Security Service (SNB) has its own detention centers -SIZOs .

After a case has been examined by the courts persons are transferred to prisons. The MVD also controls the Main Directorate for Punishment Execution (GUIN) which is the agency in charge of the whole penitentiary system, including the investigatory isolation wards (SIZOs).

IVS are used to detain suspects in the initial phases of investigation and, in principle, persons can be held in an IVS for no more than 72 hours, normally incommunicado.¹¹ In extraordinary circumstances a person may be held in an IVS for up to 10 days.

SIZOs or investigatory isolators, are used to hold persons accused by the investigation before examination of their cases by the court, after which, they are transferred to prisons. Persons held there are usually not kept incommunicado.

4. The Practice of Torture

The practice of torture is pervasive in Uzbekistan. Research has demonstrated that the majority of cases of torture occur during the 72 hours pre-trial detention period, before charges are brought and preventive measures selected, during which prisoners are usually kept incommunicado. From the materials gathered it would appear that the use of torture during this period is the rule rather than the exception. In addition, in cases perceived as being political the length of incommunicado detention reported is sometimes much longer.

The most common methods reported were:

- Beatings; sometimes with rubber clubs or with metal and wooden objects
- Suffocation, with gas masks or plastic bags
- Burns
- Rape
- Deprivation of food
- Sleep deprivation
- Shackling and binding
- Denial of access to bathroom facilities

⁹ Article 228 of the Code of Criminal Procedures of the Republic of Uzbekistan

¹⁰ Article 244 of the Code of Criminal Procedures of the Republic of Uzbekistan

¹¹ Prisoners are routinely kept incommunicado in spite the fact that according to the law police should provide detainees with the means to communicate with family members and lawyers.

- Denial of medical attention
- Serious threats to the detainee or family members
- Threats that the detainees will be charged with serious additional crimes other than the one they are suspected of having committed and which provide for more severe sentences relying on fabricated evidence

The consequences of torture most frequently reported by medical personnel interviewed were the following: bruises and grazes, different blood extravasations, traumas of thorax, bruises on the abdomen, kidneys, head concussions and others. It was noted that law-enforcement officials usually try to inflict damage in such a manner so as to leave no trace.

Some examples of torture and ill-treatment are the following:

1) On 21 June 200 **17 years old Umarov Abduaziz**¹² was on his way home when he picked up a leaflet issued by an extremist religious organization. A precinct militiaman noticed Umarov Abduaziz picking up the leaflet and asked him to accompany him to his office. One hour later Umarov Abduaziz was taken to the Criminal Investigative Department of ROVD where he was held for 5 days – until the prosecutor decided on measures of restraint without notifying his family. During the detention period he was severely beaten with fists, rubber club, suffocated by gas mask and other and threatened with rape and the fabrication of a criminal case against his mother. He was deprived of food and water for 2 days and striped naked for 3 hours. Eventually he was forced to write a statement to the effect that the militiamen had not tortured him.

No lawyer was admitted during interrogations. Later, however, Umarov Abduaziz saw among the documents of his criminal case certain papers signed by a lawyer he had never seen.¹³

2) Other cases involving the torture and ill-treatment of juveniles were that of: **X.T.**¹⁴ who, on May 1999 was beaten in detention; **D.A.**¹⁵ who, on 29 January 2001, was severely beaten and threatened with suffocation; **D.A.**¹⁶ who, on 16 March 2001 was beaten by three employees of the criminal search department; **Kan A.D.**¹⁷ who was beaten and threatened with rape in April of 2001; and **P.A.**¹⁸ who, on 17 August 2000, was forced him to confess to a theft he had not committed.

3) Similar cases are those of: **Samatov Holik Sharipovich**¹⁹, who on 1 August 2001, was tortured and told that if he did not testify militia personal would fabricate a criminal case of drug dealing against him; **Zaripov Rafael Sobirovich**²⁰ who on 1 August 2001, was severely beaten and threatened that if he did not confess, his brother would be accused of a

¹² Questioner of LAS – with the victim.
Examination of criminal case materials.

¹³ Questioner of lawyer (anonymous).

¹⁴ Questioner of LAS with victim and mother (anonymous) of 5.11.2001.

¹⁵ Questioner of LAS with victim (anonymous) of 6.11.2001. Examination of criminal case materials.

¹⁶ Questioner of LAS with victim (anonymous) of 6.11.2001. Examination of criminal case materials.

¹⁷ Questioner of LAS – Kan A.D. of 11.11. 2001.

¹⁸ Questioner of LAS with victim (anonymous) of 31.10.2001.

Examination of Criminal Case Materials .

¹⁹ Questioner of LAS – Samatov H.Sh..

²⁰ Questioner of LAS – Zaripova R.C.

crime; **Halitov Ramil Nurulaevich**²¹ who on 2 September 2001, was beaten with a rubber club and threatened with sexual violence by militiamen who demanded that he confess to a crime. In his case the beating only stopped when militia personnel were obliged to take him to the hospital; **Zvjagin Anatoliy Nickolaevich**²² who, on 5 September 2001, was severely beaten and threatened with rape; **Turabekov Timur Jahongirovich**²³ who on 11 February 1999, was beaten and threatened that he would be beaten to death; and **Galiev Dinar Gendulovich**²⁴ who, on 17 May 1999, was fettered by handcuffs and beaten.

As was shown above, torture is used not only against adults but also on minors and the fact that the persons were minors did not stop the personnel of criminal search department from using torture.

5. Definition of Torture (issues under articles 1 and 4)

As is evidenced in the government's report, although Uzbek legislation contains a number of provisions which can potentially be applied in protecting persons from torture, no specific criminal provision establishing criminal sanctions and corresponding to what is required by the Convention Against Torture has been adopted.

Of the numerous provisions mentioned in the government's report Article 235 of the Criminal Code of the Republic of Uzbekistan²⁵ deserves closer analysis.

Article 235 specifies that the act of forcing a witness or accused to make a statement against his/her will i.e. psychological or physical pressure on the suspect, the convict or the witness using threats, assault and battery, beating, subjecting to torture, light or medium bodily harm or other illegal means perpetrated by a public inquirer, an investigator or a prosecutor is punishable by way of arrest up to six months or by way of deprivation of freedom for up to five years. If such acts entail severe consequences, then this leads to punishment of by way of deprivation of freedom from five to eight years.

This provision is much narrower than the definition of Article 1 of the Convention, notably as:

- 1) The only purpose mentioned is that of forcing a statement whereas the Convention mentions a much longer and exemplary list. It should be noted that, in consequence, possible victims are limited to witnesses or suspects;
- 2) Only certain State agents appear to be covered by this provision whereas the definition in the Convention is much broader and includes persons acting with the support or acquiescence of public officials;

²¹ Questioner of LAS – Halitov R.N. of 12.11.2001Turabekov T.D. of 12.11.2001.

²² Questioner of LAS – Zvjagin A.N. of 24.10.

²³ Questioner of LAS 2001-Turabekov T.D. of 12.11.2001 .

²⁴ Questioner of LAS 2001-Galiev D.G. of 18.10.2001 .

²⁵ Criminal Code of the Republic of Uzbekistan implemented by a resolution of the Oliy Majlis from 1 April 1995

The Legal Aid Society and OMCT would like to urge the government of Uzbekistan to adopt without delay legislation typifying torture as a criminal offence as required by articles 1 and 4 of the Convention Against Torture.

6. Structural Institutional Problems and Potential Legal Limitations to the Prohibition of Torture (issues under article 2)

6.1 Legislative and Administrative Problems (issues under article 2.1)

One important structural feature which favours the practice of torture is the fact that the Ministry of the Interior is responsible for both law enforcement and detention and imprisonment. In accordance with current legislation, arrests and investigation of crime are conducted by law-enforcement agencies such as the public Prosecutor's Office, the Ministry of the Interior-MVD, National Security Service -SNB, and the Customs Committee.

The offices of the MVD are responsible for carrying out inquiries and preliminary investigations of a considerable part of cases. Therefore currently, the same agency detains, carries out certain investigatory actions and imprisons detainees. Consequently, in the great majority of cases, so as to keep their reputation intact, officials of the MVD will do everything possible to impede persons from obtaining factual proof of torture.

The Legal Aid Society and OMCT consider it essential that the Main Directorate for Punishment Execution (GUIN), be withdrawn from the Ministry of Interior and transferred to the Ministry of Justice.

7. Prevention of Torture

7.1 Existing Norms and Rules concerning Detention (issues under article 11)

Uzbek law and regulations contain a number of provisions for the protection of persons in pre-trial detention.

The Operational Instructions for isolation wards for temporary detention or IVSs which hold detainees in custody that are under the MVD's authority (hereinafter Instructions) provide, notably, that the persons detained on suspicion of having committed a criminal offence have the right to: 1) be informed of what crime they are suspected of; 2) request an inspection by the prosecutor on the legality of their detention, about which the IVS administration should immediately inform the prosecutor; 3) appeal against actions of persons carrying out the enquiry, e.g. the investigator or the prosecutor, the administration of the IVS, the guards, as well as security staff of the IVS; 4) receive visits from relatives or others of up to an hour if they receive authorization in writing from the investigator or the person carrying out the inquiry, who holds the case proceedings materials.

Other norms address the right to be represented by a lawyer and control of legality of detention. (see below)

In addition, article 225 of the CCP of the Republic of Uzbekistan determines that immediately after the arrival of a detained person in a militia station, or other law-enforcement agency, a **register** (called 'a protocol') should be established indicating who, by whom, when, under what circumstances and on what legal grounds the person has been detained; what type of crime the detained person is suspected of having committed; and at what time the person was taken to the militia station or other law-enforcement agency. The register or protocol should be signed by militia personnel, other law-enforcement agency

employee assigned to control the grounds of detention, the person empowered to or making the detention, the detainee and an attested witness. However, key issues are not included in the protocol such as information on notification of family members of a detention or a description of the state of health of the detainee at the time of detention.

In many respects this legislation falls short of international standards as will be seen below. In addition, many existing guarantees are simply not applied in practice.

7.1.1 Control of the legality of detention/right to appeal

A fact which contributes to the practice of torture is the lack of an adequate control of the legality of detentions by a legal authority within a short period after detention.

According to the requirements of article 243 of CPC of Uzbekistan, the prosecutor can authorize measures of preventive detention and others towards the detainee up to 72 hours after arrest. At that moment, the prosecutor decides on the measures of restraint to be adopted and presumably controls the legality of the detention. As the prosecutor in Uzbekistan is not a judicial institution this article of the CPC is in contradiction with paragraph 3 of article 9 of International Covenant on Civil and Political Rights which determines that those arrested or detained on criminal charges should be taken to court or brought before other persons authorized to exercise judicial power within a reasonable period or be released. Chapter 22 of the Constitution of Uzbekistan sets forth a list of judicial institutions and the procuracy is not listed as a judicial agency.

In addition, in practice and contrary to the law, at the moment of detention, persons are given no opportunity to appeal or complain of unlawful acts and/or decisions by public officials, including concerning the use of torture, committed during the detention and case procedure in that detention period. In most cases, persons are taken to court only at the conclusion of the preliminary investigation.

In addition, existing procedures for questioning the legality of a detention are extremely limited. Appeals against an investigator's decision to detain a suspect are submitted not to an independent court but to the head of the investigation division. No procedure similar to a writ of *habeas corpus* exists in Uzbekistan.

The Legal Aid Society and OMCT recommend that the government adopt measures without delay to:

- 1) modify existing legislation to ensure control of the legality of a detention by a judicial body;*
- 2) ensure the possibility of lodging complaints regarding acts of the investigation, including registration to an independent judicial body or authority;*
- 3) introduce legislation to establish the privilege of the writ of habeas corpus or its equivalent as a cause of action to challenge the legality of arrest and detention and to secure a detainee's immediate release. Original jurisdiction should be exercised by courts at all levels and decisions by lower courts should be subject to review by higher courts.*

7.1.2 Access to a lawyer/Restriction on the right to being represented by a lawyer

Articles 48-53 of the CPC of Uzbekistan provide for the right of suspects, accused persons or persons on trial to be assisted by a lawyer. According to these provisions, persons have a

right to be represented by a lawyer from the moment of suspicion or from the moment of detention.

In addition, in 1996, the Supreme Assembly of Uzbekistan introduced a law “On Advocacy” and a law “On guarantees of advocate activities and social protection of advocates”. Unfortunately however, in practice, these laws seem have only declarative character and their provisions are not respected in concrete cases.

The rights of defendants are frequently violated. Law enforcement personnel employ all means at their disposal to deny persons in detention access to a lawyer while trying to gather evidence for prosecution through various unlawful methods, including torture.

This has led to frequent violations of defendant’s rights and attacks on their independence, and also numerous violations of their client’s rights and liberties.

Some of the main reasons seem to be the following:

- 1) Dependence of the judiciary on the executive.
- 2) Intentional disregard of the law by officials at different levels and the absence of an effective legal mechanism for holding such officials accountable for violating said legislation.
- 3) Conflict between laws adopted at different times where it is not clear which norm should prevail.
- 4) Inadequate formulation of the norms resulting in difficulties in their application.
- 5) Current legislation regulating the activity of lawyers does not completely comply with international standards. In particular, a lawyer cannot carry out his/her own investigation into the facts alleged and present separate evidence to the court (Articles 86 and 95 of the CPC).

Examples of the procuracy-investigative and judicial bodies intentionally violating defendant’s rights as guaranteed by law are numerous.

The following are flagrant examples of violations of the rights of lawyers:

- Cases of demands that lawyer’s be sanctioned because of the legal position they have adopted in criminal cases they are acting in. A good example is the case of Aliev N.H.’s lawyer Ambartzumov R.G.. The law enforcement agency active in case became extremely dissatisfied with Ambartzumov, as he conducted the case effectively and complained of various unlawful actions taken by the agency. In consequence, the head of the law enforcement agency requested the Minister of Justice to punish the defendant’s lawyer based on false allegations.
- Refusal to allow lawyers to defend their clients. In the case of Chudovsky V.I. his attorney, Dehkanov J.H. was not admitted to the case over than 4 months. Instead of admitting the defence to the case the prosecutor demanded that the lawyer provide an explanation regarding the conditions under which he had agreed to defend his client.

- Presenting false evidence of a detainee's guilt by use of fabricated procedural documents with the participation of corrupt lawyers. Such a case is illustrated by the complaint of attorney Ambartzumova R.G. in the case of Sarkisiantz K.R. of A. Ikramov's District of Tashkent city.
- Hindering meetings of lawyers with their clients by the personnel of the different law protecting agencies.
- Denial of justice (violation of article 6 Law of Uzbekistan "On advocacy"). Petitions supported by overwhelming evidence are disregarded by both the procuracy-investigative and judicial bodies. Unmotivated, formal refusals, without any argumentation on the points of fact and law raised in petitions and appeals by lawyers, are issued.
- Lack of reaction by judges to complaints of violations carried out by investigative-procuracy personnel, including torture.

A common situation originates in the fact that the law provides for the right of attorney's to meet with his or her client only after obtaining written authorization from the officials in charge of admittance to the criminal case. However, no time period for issuing this authorization is indicated by law. This deficiency in the law results in lawyers being unable to meet with their clients for long periods of time, which also violates the right to a defence.

Another subterfuge which is frequently used to avoid granting persons in detention access to a lawyer is that of arresting a person as a witness rather than a suspect. In such cases it is only when the charges are brought that the witness, who then becomes the accused, (articles 238 and 240 of the CPC) has the right to a lawyer.

Persons are also frequently arrested and detained in administrative procedures for "identity checks". In such cases persons can be held in detention for considerable periods without being registered as a prisoner and therefore without being recognized any of the rights guaranteed to other prisoners.

The Legal Aid Society and OMCT recommend measures are adopted to modify the law so that the right to being assisted by a lawyer immediately upon detention is clearly recognized in the cases of all persons in detention, including witnesses.

7.1.3 Family members

Article 217 of CPC of Uzbekistan obliges the inquirer, investigator or court, when detaining someone, to inform family members of the detained within a period of not less than 24 hours. Nevertheless complaints that family members are not notified of detentions are frequent. Family members are also frequently not granted the right to visit for some time.

The Legal Aid Society and OMCT would like to urge the government of Uzbekistan to adopt concrete measures ensure that family members are notified of a detention without delay. To ensure the possibility of control, the prisoner's register or protocol should be modified to include registration of the time of notification of a person's detention of the family and his/her attorney.

7.1.4 Access to doctors

Uzbek legislation does not currently guarantee detainees access to a doctor of their choice from the moment of detention. In addition, examination and certification of injuries by a certified, independent doctors is not ensured.

Precise documentation of detainees state of health from the moment of detention until his/hers release is essential for the prevention of torture and to prevent impunity in cases where torture does occur.

The Legal Aid Society and OMCT recommend that current legislation be modified to ensure that all detainees have access to an independent doctor from the moment of detention and that information regarding a detainee's state of health at the time of arrest be included in the register or protocol. The examination should take place in the presence of the detainee's lawyer. In addition, the law should ensure that the register (protocol) include information on injuries, certified by an independent forensic doctor (see below recommendations on issues under article 12). The protocol should reveal and document all bodily injuries, in the event of such occurring, from the moment persons are taken into custody.

7.1.5 Conclusion regarding pre-trial detention practices

In conclusion, the Legal Aid Society and OMCT believe that the following measures should be adopted :

- 1) *The law should be modified to ensure: the control of the legality of detention by a judicial body within a short period after detention; the possibility of lodging complaints regarding acts of the investigation, including registration, to an independent judicial body or authority; and the possibility of questioning the legality of the detention to an independent court through a procedure such as that of Habeas Corpus.*
- 2) *Measures should be adopted to guarantee in practice the right, already provided for by law, for suspects or accused being assisted by a lawyer upon detention. In addition, legislation should be modified to ensure that all persons in detention, including witnesses, are assisted by lawyer from the moment of detention.*
- 3) *The obligation to notify family members of an arrest, which is already provided for by law, should also be guaranteed in practice. Moreover, family visits from the moment of detention should also be guaranteed in practice.*
- 4) *Legislation should be modified to guarantee that persons have access to a doctor immediately upon detention.*
- 5) *The register or protocol which by law must be established upon detention should be modified to include time of notification of family members and lawyers of the detention and notes of any bruises and other physical signs established by an independent forensic doctor.*

7.2 Prohibition of Statements made under Torture being used as Evidence (issues under art. 15)

Article 90 of the Criminal Code of Procedure stipulates that only legally obtained evidence can be considered admissible. Furthermore, a decree of the Plenum of the Supreme Court of

Uzbekistan aimed at providing guidance ²⁶ indicates that in the establishment of the facts, only information gathered, verified and appraised in the manner approved by law shall be accepted by courts and that any evidence obtained in violation of the law shall not have judicial power and cannot be used as a basis of convictions. The same decree of the Plenum makes direct reference to evidence obtained in violation of the law and evidence obtained through the use of unlawful investigation methods (psychic or physical violence and other).

It should be noted that according to Uzbek law, guiding decrees “On courts” of the Plenum of the Supreme Court are obligatory for courts and other agencies conducting criminal procedures (agencies of inquiry, preliminary investigation and agencies conducting supervision of compliance with legal order of criminal case conduction – procuracy). ²⁷ Consequently, by law whenever torture is used in obtaining evidence in a criminal procedure that evidence is subject to exclusion from the case.

Nevertheless, in practice, judges routinely ignore complaints of torture and continue to use evidence obtained under torture as a basis for convictions.

7.3 Education (issues under article 10)

The Uzbek government has, so far, failed to adequately ensure education and information regarding international norms and guarantees against torture to law enforcement personnel, military, medical personnel and the judiciary. Such a programme would be of crucial importance in ensuring that public officials involved in law enforcement and the justice system are aware of Uzbekistan’s commitments and obligations under international law.

The Legal Aid Society and OMCT would like to urge the government of Uzbekistan to promptly establish a program to adequately inform the various national actors concerned regarding relevant human rights norms and standards.

8. Right to Complain, Obligation to Investigate, Initiate Legal Proceedings and Punish Torture (issues under articles 12 and 13)

8.1 The right to complain (issues under article 13)

As was explained above, at present, the law guarantees to all persons involved in a criminal case as a suspect or defendant as well as the defence lawyer the right to enter a motion for a specific investigative action, including medical check-up or forensic medical examination. The investigator, however, by his ruling can turn down the entered motion, as more often than not is the case. The persons involved (defendant and his/her defence) have the right to appeal against the investigator's ruling to the head of the investigation division and to the prosecutor, who should oversee the enforcement of the law and the process of investigation in a case.

In reality, proving torture and ill-treatment of a detainee is extremely complicated as the process of consideration of motions and appeals can be delayed for quite some time. In the event that an examination is ordered by the time the decision is taken to do so all physical marks of torture have usually disappeared. As a result, it is usually nearly impossible to document the use of torture on a detainee.

²⁶ Decree “On Courts” of May 2 1997 # 2

²⁷ This law was introduced in 1999 in the Regular session of Supreme Assembly.

The introduction of specific measures in the current legislation of criminal procedures, would at least facilitate to a certain degree, the possibility of complaints of torture resulting in prosecutions.

- 1) *The introduction of a short delay for considering actions based on complaints of torture could render investigations much more effective.*
- 2) *Access to an independent doctor from the moment of detention and the introduction of a compulsory procedure of examination of a detained person in all situations where grazes, bruises, scratches and other marks of physical coercion have been discovered on the detainee's body should be established. The results from the medical examination should be included in the detention 'protocol'; moreover the check up should be carried out by a person of medical capacity and working in a medical institution (doctor on duty). (see above)*
- 3) *In a situation where marks of injuries are present on the body of a detainee and he/she him/herself or his/her defence lawyer files a complaint for physical abuse, it is necessary to establish a compulsory procedure for obtaining a certificate of forensic medical examination for clarifying the nature, the reasons, the extent of the bodily harm, the means used in the acts of torture, etc. The record of proceedings ('protocols') of the above specified procedural actions, should always be attached to the criminal case materials.*

Regarding the issue of the right to complain and resulting investigations several institutions were approached by the Legal Aid Society.

The National Center on Human Rights of Uzbekistan was approached and asked whether any person had contacted the agency with an appeal on the use of physical or moral violence towards them allegedly inflicted by law-enforcement agencies when in detention or confined as detained.

The Center replied:

Since 1999 till present the National Center received one application of one person with appeal on unlawful of law-protecting agencies. The application was scrutinized by the National Center and authorized agencies and the facts were not proven.²⁸

An analogical letter was sent to the Ombudsman on human rights, but there was no reply.

The chapter titled “Examination of applications to the Ombudsman on human rights” of the Report of the year 2000 of the Ombudsman on human rights, in reveals the following:

- one-sided and superficial consideration by the courts of civil or criminal cases, often with a bias in favour of the accusation on the basis of the preliminary investigation;
- use of unacceptable methods of conducting investigations, which are humiliating to a person's honour and dignity, in violation of the United Nations Convention Against Torture and the International Covenant on Civil and Political Rights both ratified by Uzbekistan and article 26 of Uzbekistan Constitution ;

²⁸ Answer is translated from Uzbek 9 (note of authors).

- the frequent occurrence of unlawful detention without charges being issued, in violation of article 9 of the International Covenant on Civil and Political rights.

A letter was also sent to the Minister of Internal Affairs with a request that the following information be provided:

- As of 1999 did any persons complain regarding the use of physical or moral violence by law-enforcement agencies towards themselves or their family members when detained or confined detained?
- If yes, how many investigations were conducted based on these complaints and how many law-enforcement personnel were brought to criminal responsibility?
- How many cases concluded with accusation sentences?

There was no reply.

There are many cases where judges and law-enforcement agencies do not adequately respond to complaints of torture made by detainees.

- 1) On 12 May 1999, criminal investigation department procuracy employees detained a person, who was accused of having committed a crime. He was brought to a militia department where he was tortured and threatened with rape. When he was put on trial he complained about the torture in court but the judge disregarded his statement concerning the treatment he had been submitted to.
- 2) In winter of 2000, militia personnel detained X and took him to a militia department where he was tortured. The militia personnel did not notify his family members of his detention who only saw him 4 months later in court. The person complained about the torture he had suffered in court, but the judge did not take notice of his complaint.
- 3) **Jienaliev Bahtiyour**²⁹ was initially detained at his home on suspicion of homicide by Militia personnel who severely beat him and insulted both him and his wife during arrest. After his arrest he was put in the same cell with several persons convicted of serious offences and who knew him to be a former militia employee. This was in violation of the Instructions on temporary confinement which determines that former law enforcement employees should be isolated from other detainees³⁰. On the instructions of the investigator his cellmates³¹ beat Jienaliev severely forcing him to sign a confession of a homicide. He was kept in that cell for a week and his multiple applications for medical assistance were turned down³². Jienaliev accepted to write a confession. He was then allowed medical treatment in the medical department of investigative department³³. Nevertheless, the suspicion of murder was not proven, the real murderers were

²⁹ Questioner of LAS – Jienaliev B. of 25.10.2001

³⁰ in according to article 3.3 of part 3 of the Instruction.

³¹ These cellmates are persons that confinement personnel often uses for forcing the victims sign confessions and other needed documents. The cellmates would get different privileges from the personnel.

³² There is a copy of application to investigator on conduction of medical certification.

³³ We certainly doubt the accuracy of medical-judicial conclusion, because the damages inflicted to Jienliev are concluded to be minor. Copy of medical –judicial expertise of 19.06.2001 # 898.

apprehended and convicted and Jienaliev was soon released. After his release Jienaliev B lodged a complaint to the Procurator of Tashkent regarding the unlawful actions of militia personnel³⁴. However, the investigation of his allegations of torture was assigned to the same investigator Jienaliev had accused of perpetrating such acts. The investigator warned Jievaliev that he would find a way to put him back in prison. After a short period of time the investigator found persons who were willing to give false testimony and who accused Jienaliev of extortion. He was found guilty of extortion and sentenced to prison. Fortunately, as an invalid he was able to benefit from the President's amnesty and was released³⁵.

8.2 The obligation to investigate, prosecute and punish torture (issues under article 12)

For a number of reasons, both institutional and because of certain legal inadequacies, the government does not comply with its obligation to investigate, prosecute and punish torture in the overwhelming majority of cases. As was observed and illustrated above in a number of cases, public officials routinely refuse to investigate allegations of torture and judges often simply do not take evidence of torture into account.

Article 231 of CC of Uzbekistan provides for criminal responsibility for officials who illegitimately rule out a criminal investigation (decree). Therefore, in the event of a court's ungrounded refusal to examine a criminal case against persons responsible for torturing a detainee (judicial act, permitting petition enters in form of ruling) the judge could, theoretically, be held criminally responsible.

As was already noted, at first sight the national legislation of Uzbekistan contains numerous provisions establishing legal guarantees against torture. In practice, however, the courts decline the absolute majority of petitions for initiating a criminal case submitted by the defence against members of the power structures who apply such methods. Only in exceptional circumstances are criminal cases filed, and, as a rule, those responsible get very light, purely symbolical, punishment.

As was explained above, theoretically, all persons involved in criminal procedures as suspects or accused or their lawyers have the right to lodge a petition regarding certain investigative acts, including certification or judicial medical examination. However, it is the investigator who decides on the precedence of such petitions, most often rejecting all such complaints. The person arrested or his/her lawyer has the right to appeal the investigator's acts. However, this appeal is to be made to the head of the investigative subdivision or procurator implementing the supervision of law observance investigation. In practice, therefore, because of lack of action by the authorities it is nearly impossible to obtain a conviction for torture.

1) **Azam Sharipov**³⁶ aged 17 years, was arrested on 6 June 2000 at his place of work. He was taken to ROVD (district militia department or district police station) and accused of

³⁴ There is copy of Prosecutor's response to the appeal.

³⁵ in according to article 93 of Uzbekistan Constitution.

³⁶ Questioner of LAS – Sharipov A of 24.10.2001

Questioner of Sharipov's mother of 06.11.2001

Examination of criminal case materials

stealing a car and murdering the owner and narcotics use. Azam was beaten, suffocated by a gas mask and threatened with the fabrication of additional criminal charges. He was deprived of water, food and toilet use for whole duration of his detention at ROVD. No lawyer was admitted. In consequence, Azam attempted to commit suicide by throwing himself out of the window. He was taken to the hospital where one of his legs was amputated. Eventually, one of the men responsible was sentenced to three years imprisonment. He benefited from an amnesty and was released shortly afterwards. A new complaint has been lodged and the case has been re-opened.

2) In August 1999 the investigator of GUVV (City Department of Internal Affairs) asked N³⁷ who was involved in a criminal investigation to come to his office. N went to the office at the appointed time where he met a different investigator than the one officially assigned to this case. In an attempt to obtain a confession the investigator beat N with a rubber club and whenever the N began to lose consciousness he would pour cold water on him. N did not confess and so was taken to the Isolator of Temporary Confinement (IVS). However, the person on duty at the IVS refused to admit N. to the premises because of the bruises on his face, as he would need to note down the cause of the bodily injuries. Both investigators therefore took N to the hospital where they told the doctor that N had resisted arrest. N however declared to the doctor that it was the investigators who were cause of his wounds. On the way to back to the IVS the investigators once again severely beat N, as they could now use the newly issued medical certificate to justify the marks and bruises on his body. Once at the ITC he continued to be beaten on several occasions during interrogations.

N's lawyer was admitted to meet with his client only after the prosecutor had issued the measure of prevention – confinement under guard.

9. Redress (issues under article 14)

Torture victims seldom, if ever obtain redress. There are many reasons, why the courts of law do not rehabilitate the violated rights of torture victims. One reason is that in practice, civil procedures depend on the result of criminal procedures so that it is impossible to obtain compensation in the civil courts for torture if there has been no conviction of the person responsible.

However one of the most important reasons, which make it nearly impossible to obtain redress is the lack of independent court of law as an autonomous constituent of the state power in the Republic of Uzbekistan. That is, the judicial system exists and functions but in its present form cannot rehabilitate and protect the violated rights of citizens as it is completely dependent on the executive power.

10. Detention conditions (issues under article 16)

Chapter 27 Section 4 of the Code of Criminal Proceedings of the Republic of Uzbekistan contains the internal order or Code of Practice establishing the regulations regarding the requirements, the (legal) grounds, the rights and duties as well as the type of places where detainees can be held.

³⁷ Examination of the case materials.

However, certain themes directly relevant to humane detention conditions of detainees are only covered in general terms by the order, such as the requirements and norms of detention, sanitary and hygiene requirements, and access to medical treatment. Regarding these issues the Code makes reference to other legislative acts, where these conditions are laid out and regulated in detail³⁸.

Of these, the Instructions for the operation of the IVSs determines that persons detained on suspicion of having committed a criminal offence have got the right to, among others: use their own clothing and shoes as well as other necessary items and belongings the list of which is set forth in the Rules of the IVS; be given food free of charge according to the designated dietary norms and provision of other household or domestic items, and when needed clothing and shoes for the particular season; request from the administration of the IVS or the management of the MVD offices the provision of free-of-charge travel to the place of residence (in the event of a detainee being released) and obtain a letter of reference for the time spent in the IVS.

The provision of household and domestic items and the question of medical treatment of persons kept in the IVS are regulated by section 9 of the mentioned Instructions. According to that law the detainees should be kept in cells of the IVS with access to natural light and allocation of not less than 2.5 m² available space per person. Pregnant women, and women with children are allocated not less than 4 m² per person. During the cold season the temperature in the IVS premises should be maintained at no less than 18C°. In every IVS there should be a room equipped with electric stove for heating the food, water heater, cupboard,

Unfortunately everything is very different in practice.

Most frequently reported ill-treatment in detention was:

- 1) Food deprivation
- 2) Striping the detainee naked
- 3) Denial of access to bathroom facilities
- 4) Unavailability of sleeping places and linen
- 5) Unsanitary wards of confinement
- 6) Severe overcrowding and unacceptable shortage of space in wards of confinement per person in square meters
- 7) Not notifying family members of the detention

³⁸ Some such laws are; the Rules and Regulations Chart of the Militia Service on the guarding and conveying of detainees and persons held in custody (hereinafter Rules and Regulations Chart or RRC); Operational Instructions for IVSs for temporary keeping of detainees and persons held in custody that are under the MVD's authority (hereinafter Instructions); Rules for Internal Practices in the IVSs for temporary keeping of detainees and persons held in custody that are under the MVD authority (hereinafter Rules); Instructions for Medical, Sanitary and Epidemiological Provision Practices in the IVSs for temporary keeping of detainees and persons held in custody that are under the MVD authority (hereinafter Instruction for Medical Provision or IMP). All mentioned regulatory by-laws (the above-mentioned acts) have been confirmed by Order of the Minister of Interior No.477 from the 29 December 1992.

8) Insults

Persons interviewed who had been held in a department of the District Militia (district police station), indicated that detainees were held in official premises of inquest and investigation, without proper fulfillment of procedural documentation. Holding person in these facilities is contrary to the law which stipulates that persons detained under suspicion of having committed a crime shall be held not in district department of Militia but in the IVS of the City Administration of Internal Affairs of Tashkent city, where the conditions of confinement are more or less suitable.³⁹ These premises (the District militia) are intended for only for detainees held for administrative crimes and, by law persons, cannot be held there more than 3 hours.⁴⁰

Frequently, during the whole of a confinement period, detainees were held in the duty department of the militia under conditions that can be hardly called normal. Often up to 12 people are held in the ward size of 10 square meters at one time. There is no toilet in these premises and sometimes no illumination or ventilation. No linen is provided there, the detainees have to sleep on the metal surfaces of the beds.

No food had been delivered to the detainees and as a result the detainees were often deprived of food for several days. On the whole, conditions in these premises are not acceptable for holding people.

Conclusions

The use of torture and other ill-treatment is commonplace in Uzbekistan.

Some main areas of concern which contribute to the practice of torture and other ill treatment are:

1. The fact that despite the Constitution of Uzbekistan's provision guaranteeing that all branches of power should be divided and independent of each other the judicial system remains nevertheless completely dependant on the executive power.
2. The high level of corruption of law enforcement agencies employees and low professional level of numerous employees and the absence of transparency of the system.
3. Inconsistencies in legislation resulting from the government's failure to modify existing laws when implementing reforms in the criminal justice system. The resulting inconsistencies allows dishonest law enforcement officials to interpret the norms at their own discretion. This frequently leads to violations of human rights and contributes to the use torture of detained persons with impunity.
4. Lack of government sponsored programs and educational courses on human rights for law enforcement personnel and persons in working in the justice system.

³⁹ Articles 88, 107 and 228 of the CPC.

⁴⁰ Article 228 of the Administrative Code.

5. The administration of execution of penalties is still is part of the Ministry of Internal Affairs. It's would be imperative to transfer the administration to the Ministry of Justice.
6. It is unfortunate that there is no independent mass media, which could provide information on violations of basic human rights, particularly on the right to be free from torture.

Recommendations

- The Criminal Code of Procedure should be reviewed to bring it into line with international norms and standards. In particular, current legislation should be modified to ensure: 1) the possibility of lodging complaints regarding acts of the investigation, including registration to an independent judicial body or authority; 2) the control of the legality of detention by a judicial body within a short period after detention
- A law should be introduced providing for the possibility of questioning the legality of the detention to an independent court immediately upon arrest through a procedure such as that of *habeas corpus*.
- Improve legislative techniques of law formulation so that the text of laws are clear and free from ambiguity.
- Allow for effective public monitoring and control of places of detention.
- Reform norms relative to defendant's rights and guarantees so that these are in compliance with international standards.
- Introduce in Uzbekistan legislation providing that all persons in detention, including witnesses have the right to a lawyer.
- Transfer the power to issue or confirm measures which result in restrictions of rights and liberties from the Prosecutors to the Courts.
- Legislatively secure the right of detainees to be examined by a doctor of their choice and to demand certification by a qualified forensic practitioner on their own preference of eventual injuries suffered.
- Introduce a detailed register of detainees confined under guard, where following acts shall be noted: time of declaration of detainee's rights; detected signs of bodily injuries; psychiatric illnesses; time of notification to family and attorney of detention of the person; time of visits of the detainee's family and attorney; time of food provisions; time of interrogation; time of transfer to another place of confinement; right of detainee's attorney to have this document available at any time.

ANNEX

OMCT APPEALS

Case UZB 310102.CC
CHILD CONCERN
Torture/arbitrary detention

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Uzbekistan**.

Brief description of the situation

The International Secretariat of OMCT has been informed by the Kyrgyz Committee for Human Rights (KCHR), a member of the OMCT network, of the arbitrary arrest and torture of **Dildosh**, a 15 year old boy in Djizak, Uzbekistan.

According to the information received, Dildosh, son of Mavliuda Eshanhanova, was arrested by two police officials during the night of January 14, 2002, allegedly for committing a robbery. While in custody, Dildosh was subjected to torture until the next morning. He was beaten in the kidney region and forced to put on a gas mask. The boy was most severely tortured by an official named *Olim*. He allegedly bound the boy to a table and started pricking him with a needle. When Dildosh lost consciousness, the official poured cold water on him. They also forced a large nail into his rectum.

Dildosh was discharged the next day, as the person having actually committed the robbery had been found. The boy was subsequently brought home, where he fainted after entering the house. The boy had to stay in bed for 6 days. According to his mother, the boy's body was covered with bruises. She wanted to bring her son to the court for forensic-medical examination, but the policemen had asked the boy to be silent.

The International Secretariat of OMCT condemns the arbitrary arrest and torture of Dildosh and is gravely concerned by his psychological integrity, taking into account his young age and the traumatic secondary effects that such a treatment might leave on him.

OMCT recalls that, as a State party to the Convention on the Rights of the Child, Uzbekistan has to abide by the articles of the Convention. More specifically, article 37 states that "no child shall be subjected to torture or other cruel, inhuman or degrading treatment," and that "every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person...".

Case UZB 190301

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Uzbekistan**.

Brief description of the situation

The International Secretariat of OMCT has been informed by the Kyrgyz Committee for Human Rights, a member of the OMCT network, of the death in detention of the writer **Mr. Emin Usman** in Uzbekistan.

According to information received, on February 28, 2001, the well-known 56 year-old writer Emin Usman died in detention in the premises of the Ministry of Internal Affairs (MVD) of Uzbekistan. On February 11, 2001 in the afternoon Mr. Usman was arrested by militia officials near his house in the Navoi kolkhoz in the region of Tashkent. Upon his arrest Usman was taken to the basement of the Ministry of Internal Affairs of Uzbekistan. It is reported that his lawyer Ahmadjon Cautov was only able to have a meeting with his client on the fifth day after his arrest.

The MVD Prosecutor Abdumutal Zakrullaev informed Mr. Usman's lawyer that Mr. Usman was accused under article 244-1 of the Criminal Code of the Uzbek Republic (distribution of materials constituting a danger to public security). However, he stated that "he will also be charged under other articles including article 159" (infringement of the constitutional system).

On February 28 relatives of the writer were informed that he had committed suicide. On March 1 at about 4:30 a.m. law-enforcement officials brought Usman's body to his home. Meanwhile about 50-60 militiamen surrounded the block of buildings, blocked traffic, barred the entrance to Usman's home and refused the family permission to wash the body and hold a vigil. According to one of the relatives who was able to see the deceased "there was deep bloody wound on the back of his head". According to another source of information, the whole body "was covered with bruises".

On the orders of militia officials a hasty burial was conducted at about 6 o'clock in the morning under strict security. As one of the witnesses stated, "In fact, Usman was buried by militia officials. During the ceremony the cemetery was surrounded by a thick circle of militia officials and plain-clothes officials. Friends and relatives were not allowed anywhere near the grave."

According to the medical certificate delivered to his relatives after the burial ceremony, the cause of Usman's death was stated as "brain tumour".

Remarks

Emin Usman is the author of more than 20 books in the Russian, Uzbek and Uygur languages. He is widely known in Uzbekistan for his novels and stories. He was a member of the Writers Union of USSR and Uzbekistan.

Mr. Emin Usman was allegedly on a "black list" of the Uzbek special services for many years because of his religious beliefs and his public activity among ethnic Uygurs.

On February 22, 1999 he was arrested for the first time during mass arrests in Tashkent, charged with acts of terrorism and taken to the basement of MVD. At that time it was thanks to the protection of well-known Uzbek writers, including the oldest, Shukurillo, that he was spared brutal treatment. In August 1999 the Shaihantohur regional court of Tashkent reviewed the case of Usman and in February 2000 he was convicted and sentenced to three years' imprisonment under article 177 of the

Criminal Code of the Uzbek Republic (illegal currency operations). He was granted amnesty and released from custody.

Case UZB 241100

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Uzbekistan**.

Brief description of the situation

The International Secretariat of OMCT is gravely concerned for the physical and psychological integrity of **Sultan Sharmatov** and **Sadybakas Madimarov**.

According to the information received from the Kyrgyz Committee for Human Rights (KCHR), a member of the OMCT network, Sultan Sharmatov and Sadybakas Madimarov were arrested by Uzbek special service officers on the territory of Kyrgyzstan. The two of them were arrested by officers of the Vadil District Department for Struggle against Corruption and Smuggling of Uzbekistan. When arrested, they were beaten with machine guns and were allegedly falsely accused of stealing. Subsequently, Madimarov and Sharmatov were detained in a regional investigation and isolation facility where they were beaten severely for several hours every day. Sadybakas Madimarov is now in a hospital of the isolation facility as a result of torture and he is said to be close to death.

Case UZB 060600

Uzbekistan: 31 year-old man dies from torture in detention

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in Uzbekistan.

Brief description of the situation

The International Secretariat of OMCT has been informed by the Kyrgyz Committee for Human Rights of the death in detention, allegedly under torture, of Parpiev Shuhratbek in Uzbekistan.

According to the information received, Parpiev Shuhratbek (born 1969 in Andijan) died in detention in Jaslik prison on 5 May, 2000, allegedly due to severe torture. Mr. Shuhratbek was arrested in 1998, accused of being involved in " Vahhabizm, " in accordance with the 241st Article of the Criminal Code of the Republic of Uzbekistan (concealment of a crime). The Morgue of the Sergeli region in Tashkent informed his family that Mr. Shuhratbek died of lung deficiency and pneumonia. However, according to the people who carried out the Muslim rituals on his body before his burial, there were numerous signs indicating torture on his body. This ritual showed that the cervical part of his head was smashed by a heavy object, his collar bone was broken, 4 or 5 ribs on both sides of the thorax were broken, signs of grazing were present, a huge abrasion covered with bruises between the scapulas was noted, the skin of the buttocks was flayed, and his wrists and feet were swollen and bruised.

The International Secretariat is gravely concerned by these allegations and recalls that Uzbekistan is a state party to the Convention against Torture which prohibits the use of torture and notes in Article 12 that "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."

Case UZB 030400

Uzbekistan: death in detention and alleged torture

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Uzbekistan**.

Brief description of the situation

The International Secretariat of OMCT has been informed by a reliable source of the death in detention and alleged torture of Rustam Norbaev in Uzbekistan.

According to the information received, on March 18 2000, Norbaev Rustam (born 1977 in Yakkabaga city) died in detention allegedly following torture in SIZO (pre-trial isolator) of ROVD (district militia department) of Yakkabaga city of Kashkadarya province. His three brothers, Bahrom, Parda and Ergash were also delivered to ROVD and subjected to torture in order to force them to testify against Rustam.

According to the information received, he was arrested on March 13th, suspected of belonging to a religious party "Hizb-ut-Tahrir". An investigation into his death by Begimkulov Berdimurad, ROVD detective, concluded that he had hanged himself. However, according to the people who carried out the Muslim rituals on his body before his burial, there were numerous signs of torture over his body.

The International Secretariat is gravely concerned by these allegations and recalls that Uzbekistan is a state party to the Convention against Torture which prohibits the use of torture and notes in Article 12 that "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."