

Bureau for Human Rights
and the Rule of Law,
Uzbekistan



The Economic, Social and Cultural Root Causes of Torture in UZBEKISTAN



World Organisation Against Torture

**The Economic, Social and Cultural Root Causes of Torture
and Other Cruel, Inhuman or Degrading Treatment or Punishment
in Uzbekistan**

An alternative report to the United Nations Committee against Torture, together with the conclusions and recommendations of the Committee in relation to Uzbekistan adopted at its thirty-ninth session, November 2007

Prepared by the World Organisation Against Torture in collaboration with the Bureau for Human Rights and the Rule of Law, Uzbekistan

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Recommendations for addressing the
economic, social and cultural root causes of
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This report has been prepared as part of an OMCT project aimed at addressing the economic, social and cultural root causes of torture, in particular through the United Nations human rights system. It has received substantial support from the European Union, through the European Initiative for Democracy and Human Rights, and from the Swiss Agency for Development and Cooperation (DDC), the Karl Popper Foundation, the Interchurch Organisation for Development Cooperation (ICCO) and the Foundation for Human Rights at Work. The contents of this report are the responsibility of the authors and do not necessarily reflect the views of the supporting organisations.

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Part I

A report to the Committee against Torture on the economic, social and cultural root causes of torture and cruel, inhuman or degrading treatment or punishment in Uzbekistan

Foreword

The purpose of the present report, submitted to the Committee at its thirty-ninth session in connection with its consideration of the third periodic report of Uzbekistan, is to contribute to reducing and eliminating torture, cruel, inhuman or degrading treatment and other serious forms of violence, such as violence against women and children, in Uzbekistan by recommending action against their economic, social and cultural root causes.

The persistence of torture and other forms of violence in Uzbekistan is part of an overall situation marked by many other serious violations of human rights that makes torture and ill-treatment possible. The elimination of torture must be addressed within this wider context. The Committee against Torture has before it reports recommending action on the constitutional, legal and other measures needed to address torture and ill-treatment in Uzbekistan. The recommendations put forward in the present report are intended to be read in this context.

However, it is recognised today that successful action against torture must include targeted action against its economic, social and cultural root causes and this constitutes the specific focus of the present report.¹ The converse equally applies: acting to reduce levels of violence in a given society is a fundamental step towards ensuring access to economic, social and cultural rights.

In submitting this report to the Committee, OMCT seeks to respond to the call by Ms. Louise Arbour for “further efforts to promote integrated strategies for the promotion and protection of human rights, moving away from rigid categorizations of rights to a comprehensive understanding that can better achieve improvements in the enjoyment of all human rights by all.”²

¹ See also *Attacking the Root Causes of Torture: Poverty, Inequality and Violence - An Interdisciplinary Study*, OMCT, 2006. The study is available from OMCT in book form, on CD-ROM or on the OMCT website www.omct.org. It is a revised version of a study presented to the conference entitled “Poverty, inequality and violence: is there a human rights response?”, held in Geneva from 4 to 6 October 2005.

² Preface to the interdisciplinary study, *supra*.

The Economic, Social and Cultural Root Causes of Torture in UZBEKISTAN

This report, in particular chapter 3, was prepared on the basis of information provided by the Bureau for Human Rights and the Rule of Law, Uzbekistan. It also builds upon earlier reports submitted to the Committee against Torture in May 2002 by OMCT and the Uzbekistan Legal Aid Society, one of which was entitled “Uzbekistan: violence, repression and denial of economic, social and cultural rights”,³ and upon chapter 8, “Uzbekistan: country profile and case studies”, of a 2006 OMCT interdisciplinary study entitled *Attacking the Root Causes of Torture: Poverty, Inequality and Violence*.⁴

The report has been prepared as part of an OMCT project aimed at addressing the economic, social and cultural root causes of torture, in particular through the United Nations human rights system. It has received substantial support from the European Union, through the European Initiative for Democracy and Human Rights, and from the Swiss Agency for Development and Cooperation, the Karl Popper Foundation, the Interchurch Organisation for Development Cooperation and the Foundation for Human Rights at Work. The contents of the report are the responsibility of the authors and do not necessarily reflect the views of the supporting organisations.

OMCT wishes to thank Ms. Janna Iskakova for translating this report into Russian.

³ The second report, entitled “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 Punishment”, was wider in scope. Both are available on the OMCT website, www.omct.org.

⁴ See note 1 above.

Main thrusts of the report

The challenge

Human rights violations in Uzbekistan have been the subject of much concern and of many recommendations on the part of the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee against Torture.

The Special Rapporteur on torture reported on the serious situation with regard to torture in Uzbekistan after a visit to the country, and non-governmental organisations such as OMCT continually denounce serious violations of human rights there.

In its 2003 Common Country Assessment of Uzbekistan, the United Nations Development Group reported on serious violations of human rights and on violence in the country, identified a number of economic, social and cultural root causes and recommended corrective action. Furthermore, organisations such as the European Union and the European Parliament have also called for action to address human rights violations in Uzbekistan.

The clear warnings that various governmental and development agency policies would lead to increased violence went unheeded and the preventive recommendations were ignored. The violence, torture and ill-treatment subsequently increased dramatically. The information presented to the Committee shows that little or no improvement has been made and this lack of progress underlines the need to seek additional means of bringing about change.

Chapter 1 establishes that torture and cruel, inhuman or degrading treatment or punishment are among the most severe human rights problems facing Uzbekistan. At the root of much torture is the socio-economic situation in the country, where torture and other forms of abuse, including unlawful and arbitrary arrest and detention, are aimed at poor and impoverished groups. Today, these groups constitute the majority of the population of Uzbekistan. In addition, the reports of arrests and ill-treatment often concern human rights defenders fighting

for the economic, social and cultural rights of the population, or individuals defending their own economic, social and cultural rights. Violence is also associated with mass displacements of the population and forced evictions, as well as the presence in the cities of informal and illegal workers with no residence permit. The economic situation and the social and cultural conditions are also the reasons behind much violence against women, both at home and in their work environment, and for violence against children.

Chapter 2 reviews the United Nations Development Group's 2003 Common Country Assessment of Uzbekistan, which shows that the neglect of economic, social and cultural rights and the growth in poverty and inequality resulted in increased violence in the country. It also reviews the recommendations contained in the Common Country Assessment, which, if implemented, would go far towards redressing the situation with regard to torture and violence.

Chapter 3 examines the economic situation in Uzbekistan in detail and considers the extent to which a wide range of economic, social and cultural rights are respected. It analyses the Government's economic policies and shows that these policies produce poverty and violence in the country. Several case studies are provided as examples. The chapter concludes that there exists a close relationship between poverty, inequality and violence. The difficult economic situation is intensifying social disparities and thus creating a potential opportunity for extremist groups to act out of resentment at perceived social injustice. Additionally, the growing numbers of the unemployed present a threat to social stability and security. The Government is directly violating many of the human rights of the population, using as a pretext the need to protect national security and to combat terrorism. This does not constitute an acceptable justification. Disillusionment with the reform process, growing inequality, citizens' alienation from the State, and human rights violations may give rise to an unstable social, economic and political environment and in themselves create a threat to security.

Chapter 4 contains recommendations based on the report. Since the majority of victims of torture, ill-treatment and other forms of violence, in particular the victims of violence committed by state officials, can be identified in terms of their economic, social and cultural situations and, in particular, their place of residence, it is proposed that preventive measures be established to protect

persons at risk of violence based on the areas where they live. This would include establishing focused programmes of economic development and poverty reduction, implementing specific training and educational programmes for officials serving in those areas and establishing a permanent monitoring function there in order to ensure official compliance with legal standards and good practice. In addition, recommendations are made for initiatives in the field of economic, social and cultural rights that are necessary to guarantee the full implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Such initiatives include implementation of the recommendations of the Common Country Assessment and the establishment of a human rights assessment mechanism for all government policies. Further recommendations are made regarding specific measures to address a number of economic, social and cultural rights, the violation of which has a clear impact on torture and ill-treatment.

Chapter 1

Torture and cruel, inhuman or degrading treatment or punishment and other forms of violence in Uzbekistan

Torture and cruel, inhuman or degrading treatment or punishment are among the gravest human rights problems facing Uzbekistan and the international community today. The reports and individual cases submitted to the Committee against Torture in connection with its consideration of the periodic report of Uzbekistan confirm the magnitude and severity of the situation. The Special Rapporteur on torture confirmed earlier evaluations of the widespread practice of torture and ill-treatment in his presentation to the Human Rights Council in 2006.⁵ In addition, the individual urgent appeals circulated by OMCT and the cases of attacks on human rights defenders circulated by the Observatory for the Protection of Human Rights Defenders in 2007⁶ attest to the systematic and continuous nature of torture in Uzbekistan.

In 2005, OMCT and the Legal Aid Society in Uzbekistan, in a report entitled “Denial of justice in Uzbekistan”, stated the following about the situation of torture and ill-treatment in the country, a situation that remains virtually unchanged:

Violence is especially widespread during arrest and detention; it is customary to hear that beating occurred because the detainee showed resistance. Many detainees and prisoners try to document body injuries and some of them manage to do that, but even such measures do not lead to anything. Law enforcement officers automatically regard the fact of being arrested or detained as an evidence of a person’s guilt, the latter thus “deserving” being beaten – and it should be presumed to be lawful.

⁵ A/HRC/2/SR.6, para. 32.

⁶ See www.omct.org.

It is not a secret that the overwhelming majority of people confronting law enforcement officers have information on the use of torture and violence in their regard. It is characteristic that these unlawful methods, which are crimes in themselves, remain unpunished. There is enough evidence to suppose that leaders of local law enforcement organs do not clearly realise what is going on behind the barbed wire. Hence, they cannot adequately and with due speed react to the occurrence of unlawful acts in the institutions under their supervision. Even in cases where all signs of violence and torture are evident, as well as the fact that the confessions were obtained under torture, as a rule no one is held liable. ...

Law enforcement officers usually torture by applying physical abuse, which includes beating with fists, clubs and other objects, suffocation by means of a gas mask or plastic bags, torture with electric current, burning, causing cutting injuries with sharp objects, sexual abuse and denial of food and water. In addition, victims report having been beaten with cloth sacks or plastic bottles filled with sand, after which there are not as many bruises as when [they are] beaten in another manner. In addition, victims report that militia department officers, while beating, target the waist in the area of the kidneys, which helps avoid marks on the face and hands but may seriously damage internal organs. Thus, after reviewing the situation in Uzbekistan in the sphere of the use of torture by law enforcement officers, it is possible to conclude that these cruel and unlawful methods are used everywhere, systematically, on a large and massive scale.

The above-mentioned report also addressed the root causes of torture and ill-treatment, in the following terms:

In addition to numerous violations and related impunity on the part of the law enforcement organs in Uzbekistan, there are other root causes of the widespread practice of torture in Uzbekistan.

First, there is the problem of the population's ignorance of the law, especially in remote provinces and districts. The practice shows that the level of legal awareness among the Uzbek population is

unacceptably low, although “not knowing the law does not release one from liability”. The majority of citizens start studying the Penal Code and the Criminal Procedure Code while in custody. One therefore tends to accept violence as inevitable and not to complain or file a case because of a lack of trust in the national judicial system. Finally, the majority of those who are subjected to violations during the investigation and judicial process do not know how to make a complaint against certain unlawful actions, to whom and in which form to write such a complaint, and how to back it up with the necessary evidence. Therefore, after failing to receive an adequate reaction from the local procurator’s office, as a rule, they start writing to the Procurator General’s office, NGOs, mass media, the President and, rarely, to international organisations. The legal illiteracy of the population is one of the problems leading to numerous violations, including torture, by the law enforcement organs.

Another root cause of torture is related to the socio-economic situation in Uzbekistan. The majority of unlawful actions by the law enforcement organs in the form of torture or other abuse, unlawful and arbitrary arrests and detention are aimed at the poor and impoverished groups of the population, which constitute the majority of the population of Uzbekistan. First, most of the judicial cases are common law cases involving persons from the socio-economically disadvantaged groups of society. Moreover, the reason for using torture with regard to such groups is the fact that poor people hardly know their rights guaranteed by national as well as international law, because the level of legal ignorance among those groups is the highest. Second, the poor strata of the population do not have the means to pay for the services of qualified lawyers. Public defenders, appointed by the State free of charge, lead such cases with reluctance due to the lack of remuneration or financial incentive; the public defenders have to devote a lot of time to fill up all the necessary papers to receive the miserable sum of money paid by the State for such services. Last but not least, fear of falling into disgrace or even of retaliation will discourage them from taking up cases of human rights violations.

Today, reports of arrests and ill-treatment often reveal the victim to be a human rights defender working for the economic, social and cultural rights of the population, or an individual defending his own economic, social or cultural rights. Violence is also associated with mass population movements or forced evictions. In the cities, informal sector and illegal workers, who do not have the required residence permit, are a particular target for violence. The economic situation and social and cultural conditions also constitute root causes of violence against women, either at home or working outside the home in the informal sector, and of violence against children. The following chapters provide further information on torture, cruel, inhuman treatment and other forms of violence in Uzbekistan today.

Chapter 2

The economic, social and cultural root causes of torture, ill-treatment and violence in Uzbekistan

The OMCT study entitled *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*⁷ demonstrates the clear link between violations of economic, social and cultural rights and torture, ill-treatment and other forms of violence, and shows that action on these root causes can and is necessary to reduce violence. These conclusions were validated by the national non-governmental organisations (NGOs) participating in the international conference on “Poverty, inequality and violence: is there a human rights response?”⁸ The question is no longer “is there a link?” but “how do we address this link to prevent violence?”

Chapter 8 of the study contains an in-depth and extensive analysis of the situation in Uzbekistan and is relevant to the Committee’s consideration of the country’s report. That chapter also contains two case studies, one on migrant workers, the other on domestic violence. It emerges clearly that economic, social and cultural policies of the Government constitute important elements giving rise to violence, including torture and ill-treatment.

The neglect of economic, social and cultural rights, the increase in poverty and inequality and the resulting violence in Uzbekistan were underlined by the United Nations Development Group in the 2003 Common Country Assessment of Uzbekistan⁹ and the recommendations of this assessment, if implemented, would go far in addressing the situation of torture and violence.

⁷ The study is available from OMCT in book form, on CD-ROM or on the OMCT website www.omct.org. It is a revised version of a study presented to the conference on “Poverty, inequality and violence: is there a human rights response?” held in Geneva from 4 to 6 October 2005.

⁸ Organized in Geneva by OMCT from 4 to 6 October 2005. The conference report is available at www.omct.org.

⁹ Available at www.undg.org.

Concerning the overall approach taken by the Government and development agencies and experts, the Common Country Assessment stated:

The national authorities, international development practitioners and the economists have so far paid little attention to the social implications of the transition and have instead prioritised economic and institutional development, thus exacerbating existing political, institutional, and economic problems. Economic growth can reduce poverty only when accompanied by social development and governance reforms. Therefore policies which will be beneficial for Uzbekistan include those that promote labour-intensive growth and employment, especially in the agricultural and private sectors, paying particular attention to regional, gender-based and ethnic inequalities. Judicious investments in and protection of human capital can minimize the social costs of transition and increase access to quality health, education services and social protection, thereby making them more affordable.¹⁰

The Common Country Assessment also insisted on the need to address all human rights and not only civil and political rights, in the following terms:

In Uzbekistan, attention to human rights has been limited or focused largely to those rights enshrined in the International Covenant on Civil and Political Rights. This narrow attention has meant that other rights, primarily enshrined in the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women, have received inadequate attention by the Government, as well as by human rights and development organisations. Therefore, every effort must be made to consider all rights, define strategic choices and overcome a series of policy and

¹⁰ United Nations, *Uzbekistan: Common Country Assessment, 2003*, p.7.

¹¹ *Ibid.*, p.41.

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doctrinal issues to ensure that human rights are respected and protected by the Government of Uzbekistan.¹¹

The United Nations Development Group assessment clearly established the connection between poverty and violence:

When social disparities become more pronounced, opportunities potentially exist for extremist groups to capitalize on the perception of growing inequality, as resentment about perceived social injustice blinds some to the shortcomings of alternatives. For example, Namangan province is often cited for its high number of sympathisers for radical Islamic movements, but support in this region may be rather the result of disappointment over socio-economic disenfranchisement than true passion for radical Islam. Thus, there is a potential threat posed by growing numbers of young unemployed men to stability and security, which if not counteracted may directly impinge upon human development.¹²

In addition, the Common Country Assessment stated:

It has already been noted that sympathy for radical Islamic movements in Uzbekistan is often fuelled by discontent with the disappointments of the post-Soviet era rather than by deeply felt attachment to radical Islamic ideology. Sympathy for militants seems to be linked to the lack of possibilities to express discontent within the current institutional framework. The heavy-handed response of the Government has also served to radicalise some young men and women who otherwise might practise their religion in a politically neutral manner.¹³

The United Nations Development Group also recognised abuses connected with the forced removal of people and noted that the relocation caused undue insecurity and hardship. The displaced communities have very few possibilities

¹² *Ibid.*, pp.43-44.

¹³ *Ibid.*, p.45.

¹⁴ *Ibid.*, p.41.

of making a living. For example, they cannot move freely within the country as they are not able to afford a residence permit, which severely limits their opportunities for seeking employment.¹⁴

Furthermore, the failure of the justice system to function “influences the access of citizens to justice, diminishing their confidence in the institutions, and limits the provision of effective legal aid to the poor. Taking the issue of domestic violence, for example, there is a general lack of responsiveness regarding crimes against women and although laws exist, they are rarely implemented or invoked by the citizens for their own benefit.”¹⁵

¹⁵ *Ibid.*, p. 39.

Chapter 3

Analysis of the economic situation, respect for economic, social and cultural rights, and violence in Uzbekistan today

3.1 Introduction

Since the early 2000s, Uzbekistan has benefited from a favourable external environment and made significant macroeconomic adjustments. However, government controls have remained pervasive, halting the development of the private sector. In the first stages of transition, there was a substantial divergence between the incomes of the various social groups – the Gini coefficient increased from 0.31 in 1995 to 0.42 in 1997, and subsequently fell to 0.39 in 2003.¹⁶ Although per capita income has increased steadily since the middle of the first decade of the century, approximately one quarter of the population is still considered poor and income remains unevenly distributed.

There is an urgent need for the Government to ensure the human rights of the whole population, including the rights to education, health, work and social security, and the right to freedom, which is expressly stipulated in the Constitution of the Republic of Uzbekistan. Despite the fact that the Government has ratified several international human rights instruments, human rights violations continue and the situation remains difficult with regard to respect for the rule of law and human rights, including the human rights of members of NGOs and human rights defenders.¹⁷ Hence, it is vital that the state authorities and human rights and development organizations pay adequate attention to economic, social and cultural rights and continue to combat discrimination against women and children.

¹⁶ “Republic of Uzbekistan: Interim Poverty Reduction Strategy Paper”, IMF Country Report No. 05/160, May 2005.

¹⁷ See *Human Rights Violations in Uzbekistan; An Alternative Report to the United Nations Human Rights Committee*, OMCT, Tashkent Women’s Resource Centre, Legal Aid Society and Initiative Group “Orzu”, Geneva, January 2006, part I, sect.3.

3.2 Policies leading to poverty

Uzbekistan has chosen a transitional approach towards the market economy relying heavily on trade controls, directed credit and large-scale public investment. The result of this was perhaps a contraction of output in the early 1990s, but more certainly a disappointing economic outcome and a negative impact on social conditions. The agricultural sector plays an important role in the country's economy, accounting for 40 per cent of employment and 60 per cent of exports (still basically raw materials; there is very limited diversification). Irrigated agriculture generates 30.2 per cent of gross domestic product (GDP).¹⁸ The majority of the population live in rural areas and depend heavily for their well-being and livelihood on access to irrigated land (only 11 per cent of the total land area is irrigated arable land) and opportunities associated with agricultural activity. The Government still controls the purchase mechanisms for the main crops, especially cotton and cereals, by setting prices (at lower than market rates) and administers the distribution of agricultural equipment and fertilizers. Moreover, financial intervention in the sector by banks and specialized lending companies is not feasible, as credit is mostly under government control. Since farming is a labour-intensive activity involving a large informal workforce, there is need for a good cash distribution system; the current system is very restricted because of the banking laws in force. Privatization has stalled, the poor investment climate has resulted in low inflows of foreign direct investment and the banking system remains underdeveloped.¹⁹

The money supply has been expanding as a consequence of an increase in public-sector wages and pensions in the past two years. Government-controlled prices have also increased. These two factors have contributed to high inflationary pressure, which has aggravated the precarious situation of vulnerable groups of the population.

The Government is implementing a protective trade regime, maintaining barriers to trade in order to shelter domestic production. Import tariffs are among the highest in the region, a situation that implicitly encourages the development of

¹⁸ United Nations, *Uzbekistan: Common Country Assessment, 2003*.

¹⁹ IMF staff report for the 2006 Article IV Consultation on Uzbekistan, www.imf.org.

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an informal trade sector in which the majority of the population is engaged. Current trade policies hinder efficient resource allocation, reduce competition, contribute to the difficult business environment, create opportunities for corruption and encourage smuggling.

In summary, despite the many achievements of Uzbekistan since independence, numerous problems persist which, directly or indirectly, are impeding a rise in living standards and engendering increasingly unequal income distribution and geographical disparities. As a consequence, vulnerable groups are being pushed further below the poverty line.

a. Economic policies

In recent years, GDP growth rates in Uzbekistan have stabilized at between 4.0 and 4.4 per cent. In 2003, as a result of tight monetary policies, the inflation rate was significantly reduced. A rise in demand for basic export goods in the global market, as well as a significant currency devaluation and exchange rate unification, led to an increase in exports of goods and services, which was the main factor behind GDP growth.

Data for 2005 published by the World Bank show that nearly 26 per cent of the population of Uzbekistan live below the poverty line and the Household Budget Survey suggests that 70 per cent of the poor live in rural areas.²⁰ Thirty per cent of both men and women are employed in the agricultural sector and over 30 per cent of the rural population live below the poverty line (compared to 22.5 per cent of the urban population).²¹ It is argued that the poor pay the greatest price for the transition process, passing on the benefits of economic growth to the part of the population with higher incomes or those in top administrative positions.

The demographic features of the country are clearly mirrored in the levels of poverty. The category of the poor very often includes families with many children and with lower labour force participation rates. This points to the importance of addressing the issue of social protection for such families. Furthermore, there is

²⁰ "Uzbekistan at a glance, 9/8/06", www.worldbank.org.

²¹ *Uzbekistan: Country Gender Assessment*, East and Central Asia Regional Department and Regional and Sustainable Development Department, Asian Development Bank, December 2005.

a direct link between educational level, employment and poverty: the poverty risk is significantly greater for families supported by a person who has had no higher education. The poverty risk is also considerable for people living in small towns where there is limited access to land (a plot of land frequently provides a safety net) and no industrial base. The results of a survey conducted by the Ministry of Labour and Social Security show that other typical profiles for poor people are families who have a disabled member to support, elderly people who live alone and pensioners whose pension constitutes their only source of income. In addition, those who work in the unregulated informal sector are largely exposed to the risk of falling into poverty because of the unstable nature of their jobs, the low wages they earn and their lack of social protection and benefits.

There also exists a great danger that in the near future, as a result of the Government's economic and social policies, the middle-income population will also fall into the category of the poor. Although the private sector and small businesses could make an important contribution to increasing income, redistributing income efficiently and reducing poverty, numerous problems continue to hinder their development. There is a considerable risk for the country that the temporary poor of today may become the permanent poor of tomorrow, and it is much harder to pull the permanent poor out of poverty.²²

The Government should therefore focus on improving social protection policies directed towards the vulnerable part of the population, facilitating access to and improving the quality of vocational educational institutions and creating new workplaces in remote regions where there is no access to irrigated land.

b. Income inequality

The transition process in Uzbekistan was not only marked by a sharp, and to some extent unavoidable, increase in poverty, which then continued during the recovery phase, but was also accompanied by growing income inequality. Indeed, income inequality has escalated strikingly since 1995-96, mainly due to government policies biased in favour of urban-based, capital-intensive, medium

²² UNDP and Centre for Economic Research, "Linking macro-economic policy to poverty reduction in Uzbekistan", 2003.

and large-scale enterprises. Because the Government pursued an import-substitution policy that supported capital-intensive production, urban and rural labour markets were unable to absorb the rapidly growing working-age population, and agricultural labourers and workers in state-owned enterprises were laid off in large numbers. As a consequence, while official unemployment rates remain low, the number of the underemployed in low-productivity, low-wage or part-time jobs is high, contributing to an increase in poverty levels. Overall, the inter-industry wage gap has widened markedly.

The fact that farmers are forced to sell their goods (in particular cotton and wheat) at prices set by the Government constitutes another factor contributing to the low living standards of the population. In recent years, these prices have been set well below average world prices. According to the 2003 Common Country Assessment of Uzbekistan, 30.5 per cent of people living in rural areas are likely to be poor and 11.2 per cent extremely poor.²³ The rural poor are frequently landless women and cooperative farm workers whose wages are paid in arrears and whose work is seasonal in nature.

Poor groups of the population are exposed to the effects of negative environmental factors to a significantly greater extent than the well-off. This exposure is due to their lack of the necessary resources to compensate for those negative factors and to remain healthy while living in harmful environmental conditions (a particular example of which is to be found in the area around the Aral Sea in the Karakalpakstan region).

3.3 The right to health

Health outcomes at the individual, household and community levels are influenced by such factors as diet, behaviour and access to clean water, sanitation and health services. Income, education and employment are also key socio-economic determinants of health.

²³ United Nations, *Uzbekistan: Common Country Assessment, 2003*, table 17.

At present, the country's health-care system is facing a number of problems, including high mortality rates among women and children under 5, nutritional deficiency, the burden of communicable and non-communicable diseases, and gender and regional health disparities. Furthermore, there are indications, particularly among the younger generation, of increasing drug use and the related the spread of HIV/AIDS, which is to some extent reflected in the reduced life expectancy of the population.

According to World Health Organization calculations, a person born in Uzbekistan in 2003 can expect to live 66 years on average (68 years for females and 63 years for males). However, the World Bank statistics indicate that life expectancy for the low-income population is only 59 years.²⁴

The country's free health-care system lacks qualified medical personnel. A further problem is that medical staff very often unofficially charge fees for medicines and medical services, even in the case of urgent surgery, thus creating an obstacle to poor people receiving basic health-care services. Indeed, World Bank statistical data indicate that two out of three patients make unofficial payments in cash or in kind, mostly directly to health-care providers.²⁵

Malnutrition is one of the most dangerous manifestations of poverty. Among the consequences of poor nutrition are a high rate of anaemia among women, especially pregnant women, iodine deficiency (in 61 per cent of children under 3)²⁶ and insufficient weight among children under 5. Malnutrition in children is closely linked to family income and ability to access healthy food and clean water. One indication of the scope of the problem is the fact that the members of 18.9 per cent of households consume less per day than the minimum norm of 2,160 kcal approved by the Ministry of Health.²⁷ Poverty is also reflected in the high figures for infant mortality. The average figure for the country is 55 deaths

²⁴ "Uzbekistan at a glance", 09/28/07, www.worldbank.org.

²⁵ "Uzbekistan living standards assessment: aspects of institutional analysis", www.worldbank.org.

²⁶ UNICEF, *Multiple Indicator Cluster Survey: Republic Uzbekistan 2000*; and Institute of Endocrinology, Tashkent.

²⁷ *Republic of Uzbekistan: Interim Poverty Reduction Strategy Paper*, IMF Country Report No. 05/160, May 2005.

per 1,000 live births, but among the low-income population this figure is much higher. Infant and child health is strongly associated with women's health, particularly their reproductive health.

Given that economic prosperity and health are interdependent, there is a need to improve the health sector in order to encourage the economic and social development of Uzbekistan. Despite the prevailing social protection system in the country, public funding on health care declined from approximately 6 per cent of GDP in the 1980s to 3 per cent in the late 1990s.²⁸ This fall in financing was partly accompanied by a rise in the private financing of health care, as a consequence of a partial change from a "free" to a "paying" system. This, together with the increased incidence of the levying of informal payments, substantially restricted access by the poor to basic health care.²⁹

3.4 The right to education

In view of the fact that young people under the age of 25 make up 56 per cent of the total population of Uzbekistan, educational reform has become critical to the country's development. However, like other social sectors, education has been affected by the difficulties brought by the transition.

Universal, free and mandatory access to basic primary and secondary education (grades 1-9), guaranteed by the 1992 Constitution of Uzbekistan, is a principle which has been maintained, but there are signs of differences in the quality of school education across the country. Although, on average, Uzbekistan has a very high literacy rate among the population aged 15 and above (99 per cent), a much smaller proportion of the low-income population is in fact considered to be literate.

The Government of Uzbekistan ratified the Convention on the Rights of the Child in 1994 and the International Covenant on Economic, Social and Cultural Rights

²⁸ UNDP, *Uzbekistan: Human Development Report 1999*. The level of public expenditure on health is the subject of some debate as there are figures showing that during the period 1991-2002 state expenditure on health care increased from 2.6 to 9.7 per cent of GDP.

²⁹ World Bank, *Living Standards Assessment*, 2002.

in 1995, thus committing itself to take effective measures to ensure that the rights set out in those instruments are well respected and protected. The Government, together with the United Nations Children's Fund (UNICEF), has developed a National Action Plan to follow up on the recommendations of the respective treaty bodies and on the measures taken so far by the Government.³⁰

The enrolment of children aged 3-6 years in pre-school education declined after independence from 1,349,400 in 1991-92 to 681,200 in 1998 and despite government encouragement, the majority of children in this age range are cared for at home. This is partially explained by the fact that poor families have a large number of unemployed members of working age, especially women, and thus pre-school attendance is not considered critically important. Moreover, the quality of the food and the conditions in pre-school establishments, and the risk of contracting various diseases there discourage parents from sending their children to kindergarten.

In terms of the quality of education, the current educational system presents regional disparities and there are particularly notable differences between urban and rural areas. Although the rates of enrolment in primary education for boys and girls is practically the same (90.9 per cent for boys and 90.5 per cent for girls), quantitative and qualitative gender imbalances are to be noted with regard to vocational education. Recent educational reforms mean that general secondary schooling will end at grade 9 and students will then go on to either an academic lyceum or a vocational school/college. Girls, however, may be prevented from continuing their education beyond grade 9 owing to gender stereotyping, early marriage, the increasing cost of living and accommodation (if the school is distant from the place of residence) and resistance to sending girls away from their family. This will accentuate the existing gender gap in higher education and enforce gender segregation in the labour market.

Difficult economic conditions often force children to drop out of school or miss a large part of their schooling, especially in rural areas, for lack of financial resources (to buy books and clothing, to cover the cost of transportation and to

³⁰ Mid-Term Review 2002, UNICEF, Uzbekistan.

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pay informal fees) or because they must work in order to help support their families (this is particularly true in rural areas during the spring and autumn harvest seasons). Data published by UNICEF in 2000 suggest that the proportion of children in the 7-11 age group who actually attend school is only 73 per cent.³¹ This represents a serious erosion of the country's human capital, starting at the base of the educational pyramid, which further undermines Uzbekistan's successful transition to a market economy and can lead to income disparities among the population in the future. The Committee on the Rights of the Child, in its concluding observations on the initial report submitted by the Government, raised concerns that disaggregated data on children under the age of 18 were not systematically collected and were not used effectively to improve the situation and to design policies to implement the Convention on the Rights of the Child.

The problems in the educational system include a lack of modern curricula, old-fashioned teaching methods, the absence of teacher training, lack of textbooks and educational materials, and information deficiency due to limited access to online resources. Moreover, many educational institutions are short of qualified teaching personnel because of the low salaries paid. Low salaries also lead teachers to seek additional income in the form of bribes, which further discourages students from learning.

It should be noted, however, that education, even at a higher level, does not in itself constitute a guarantee against poverty. The current employment market is experiencing a mismatch between the skills required and those offered by graduates, consequently preventing young specialists from securing jobs. Also, independently of the quality and level of education, a good job and promotion can be achieved through connections or family ties.

³¹ UNICEF, Multiple Indicator Cluster Survey, 2002, in "Understanding children's work", an Interagency research cooperation project of the Innocenti Research Centre, ILO and UNICEF, www.ucw-project.org.

3.5 The situation of women

Article 46 of the Constitution guarantees equal rights to men and women, and article 18 ensures equality before the law to all citizens, without discrimination as to sex, race, nationality, language, religion, social origin, convictions or individual and social status. Yet, women's socio-economic status is diminished owing to existing attitudes and traditional practices and beliefs concerning the position of women and their role in society.

Historically, the role of women was centred on the family and consisted of looking after the home, bringing up children and caring for the elderly, whereas men were viewed as the main economic providers. Hence, vocational education is often considered unnecessary for women, as they will not be involved in any type of work activity, especially any activity requiring special skills.

Very few women hold important decision-making positions. They only occupy 3.6 per cent of posts at the ministerial level: there is only one woman minister out of a total of 28.³² The proportion of women in Parliament increased from 6 per cent in 1994 to 16 per cent in 2005³³ (21 seats out of 120³⁴). Considering that women make up more than half the population of Uzbekistan, they are highly underrepresented in the country's leadership. Lack of opportunities for women to participate in the decision-making process in the political, economic and social spheres greatly endangers the advancement of women and the full realization of their rights.

Even though the majority of youth has equal and free access to primary and secondary education, there is a declining trend in women's literacy, which is alarming. Women's participation in higher education has been decreasing, owing to a combination of such factors as the increased cost of education, the traditional early marriage of women and the old stereotype that women should stay at home. For rural families, the expense of board and lodging is added to

³² "Women in ministerial positions", as of 1 January 2005, www.un.org/womenwatch/daw/public/womeninpolitics2005_en.pdf.

³³ UNDP "Millennium Development Goals", Goal No.3, "Promoting Gender Equality and Empowering Women", www.undp.org.

³⁴ "Women in Parliament", as of December 2005, www.ipu.org.

the cost of tuition and books. Moreover, the economic hardships affecting the population left many families, especially families with numerous children, financially incapable of educating all of their children. Because of traditional values, girls are the first to suffer in these circumstances. The mahalla committees often uphold the traditional cultural practices that work against girls achieving higher education. As a consequence, especially in rural areas, women without qualifications or technical training are highly dependent on their husbands and families, and thus are more vulnerable to poverty and ill-treatment. Even more alarmingly, the ongoing unstable economic situation is forcing many women to seek additional income on the informal, low-paid labour market, where there is no social protection and they are highly prone to abuse. An example of such an informal labour market for women is the Yalangoch train station in Tashkent city, where many women from the surrounding region arrive by train and wait for employment (cleaning, sorting fruit and vegetables at the market or other types of very poorly paid work) and then go back to their families at night.

The unemployment rate for women is higher than that for men, with women accounting for 62 per cent of the unemployed.³⁵ The figure is particularly high for unskilled women from rural areas, who are trained for low-wage agricultural work. Other women, concentrated in the predominantly female public sectors, such as health care and education, face economic hardship because the economic value of their services has declined. Hence, teachers in urban areas frequently supplement their salaries by coaching students in their subjects. Some women, usually in large cities, combine jobs at schools or hospitals with working as hired workers (mardicors).

In many cases, illiteracy and their general lack of education represent a major obstacle to women obtaining work. Also, not only do women lack many of the skills required to develop small businesses, they also have little access to credit. In addition, there is a strong preference for employing men in private-sector enterprises, partly because of the “cost” of female employees, who are guaranteed a number of benefits, such as maternity leave, by the Labour Code.

³⁵ Terry McKinley, chapter 6, “Employment promotion and poverty reduction”, in *Linking Macroeconomic Policy to Poverty Reduction in Uzbekistan*, UNDP, Tashkent, 2005.

While women are overrepresented among the unemployed, those who have jobs have a higher level of education than men. For example, 42.2 per cent of female workers had tertiary or specialized secondary education in 2000, compared with 36.7 per cent of male workers. However, 55.6 per cent of women are unable to find a job upon leaving school, whereas only 44.4 per cent of men have that problem.³⁶

Uzbek legislation still implicitly restricts women's access to land, the main productive resource. This undermines their ability to carry out independent economic activity on the land. In fact, the 1990 Law on Land of the Republic of Uzbekistan (as amended) requires that land be allocated only to a household unit of which the head is listed in the official documents or registers. The head of household is usually a man, although the legislation allows other family members to serve in that position. Despite the fact that article 23 of the Family Code of the Republic of Uzbekistan stipulates women's right in the case of divorce to the sharing of jointly acquired assets, the fourth part of article 9 of the Law "On household units" of 30 April 1998 stipulates that "adjoining land plots allocated to the head of the household unit cannot be divided". This seriously discriminates against women, placing them in a position in which they are totally dependent on their families, and in the event of divorce or the death of their husband it is unlikely that they will gain ownership of the land.

a. Domestic violence

One of the most important international instruments in regard to domestic violence is the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly of the United Nations in 1979 and ratified by Uzbekistan in 1995. The Universal Declaration of Human Rights states that "all human beings are born free and equal in dignity and rights" (art.1) and that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (art.5). Furthermore, the Declaration on the Elimination of Violence against Women of 20 December 2003 affirms that "violence against women constitutes a violation of the rights and fundamental

³⁶ Ibid.

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freedoms of women” and calls on States to “exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”.

As stated in the Declaration on the Elimination of Violence against Women, violence against women “means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”. While not all violence against women can be qualified as torture as defined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, domestic violence in many instances does.

The problem of domestic violence against women is a longstanding one, tied to the history, culture and traditions past of the country, and it is not one that has only recently been identified. Nevertheless, the current poor socio-economic conditions and limited social security in the country, as well as other factors, have made the problem even more critical, and there are very few tools available to resolve it in the near future. Sensitizing women to their rights, and well-developed infrastructure and legal conditions to support those rights would contribute significantly to decreasing domestic violence in Uzbek society. Unfortunately, none of these exist at present in Uzbekistan.

It is quite common in Uzbekistan for a husband and his parents to prohibit a wife from working and to force her to beg for basic essentials (medicines, dairy produce, fruit and vegetables, etc.). Even wives who have higher education and who worked before their marriage are often prohibited from working for fear that they will become financially independent and acquire the related status in society. Yet most of the women experiencing physical, psychological and sexual violence are reluctant to go to the law-enforcement authorities. There are several reasons for this, including fear of revenge, lack of belief that the offender will be caught and punished, economic dependence and also women’s fear of damaging their reputation. Frequently, women feel guilty about what is happening to them and concern for their children, but finally it is social pressure which prevents them from speaking.

The initial report of Uzbekistan to the Committee on the Elimination of Discrimination against Women underlined the need for “a series of organizational and practical measures to prevent violence against women”.³⁷ The activities of the majority of regional crisis centres for women which were working in the field of domestic violence and the prevention of trafficking during 2002-03, supported by the Open Society Institute, were suspended in 2004 due to lack of support and the end of civil society funding.

According to data of the grassroots NGO “Mekhri”, which was closed down in 2005, the hotline it operated received 1,700 calls in 2003 alone. Seventy per cent of the calls were from women and girls who were victims of violence. The register book for the hotline showed that this violence took a variety of forms: beatings, kicks, threats, psychological pressure, isolation, humiliation and bans on communicating with relatives and friends. Some callers complained of financial shortages, the control that they were kept under, limited food for daughters-in-law and children, being overburdened by housekeeping and the care of cattle, the forced observation of expensive rituals, as well as poor dowries. There were also some calls regarding dual marriages and polygamy, physical abuse committed by the husband’s relatives and perverted forms of sexual abuse and rape.

According to research undertaken by the United Nations Development Fund for Women (UNIFEM), one out of every four women interviewed had experienced violence, in particular in the form of threats, isolation and control by her husband and relatives, one out of five had experienced physical abuse and one out of six had been prevented from studying or working. Almost all the women interviewed were facing psychological violence, humiliation and interference in their private lives from their relatives. One out of eight women interviewed had lost her financial independence by being obliged to give her salary to her mother-in-law, and faced humiliation when she requested money for her personal needs. In divorce situations, a woman and her children are often deprived of their home and left without any financial support and dependent on her parents, despite court rulings - which are most often unenforced.

³⁷ CEDAW/UZB/1, February 2000, p.28.

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The Legal Aid Society received 2,327 claims from women during the period 1998-2004 (1,525 came independently to seek help and 802 through the hotline; they included 75 girls and 35 elderly women). The Society was closed down in 2005.

It is an Uzbek tradition that a young married couple lives with the husband's family, sometimes forever. This often complicates relationships among family members, leading to violence and brutality. A survey revealed that 80 per cent of couples in violent marriage cases who were interviewed believed that living independently from their in-laws would reduce the grounds for conflict and decrease tensions in the family. The most widespread problem is the husband's mother's jealousy of the bride and his total and wordless obedience to his mother, to the detriment of the bride.

Case study

Nasirova Shaira, born in 1966, was evicted from her house with a 10-year-old child by her mother- and brothers-in-law after the death of her husband. Currently, she is forced to stay with her parents in a two-room apartment where besides her there are eight other people residing. Attorneys are assisting the victim to obtain a court ruling allowing her to move back into the house and an appeal has been presented to the local governing bodies (makallas) to protect her from being abused by the family of her former husband. Nevertheless, the makallas have ignored the abuse and harassment, and it was only after the third complaint by an attorney that the makalla officers came to file a report on jointly owned assets.

There are many stories of husbands, in conjunction with their families, committing violence against young and defenceless victims, in part through humiliating and harassing them. Frequently, men who commit violence justify their behaviour as being educational. Much of it is related to patriarchal traditions in which the man has a superior position, to economic hardship and lack of employment opportunities, and to a situation in which men transfer their failings to the other party, in the sincere belief that they are right.

Case study

E.Ovcharenko, a woman of 27, became the victim of domestic violence and constant abuse by her husband, who subsequently took her 7-year-old son away from her and forced her out of the house. Abandoned, Ovcharenko is currently staying with two friends, as her mother lives on the outskirts of Tashkent, at a considerable distance from the city centre. Her attorney succeeded in obtaining a court ruling allowing her to move back into the joint house and to regain parental authority over her son, and entitling her to receive child allowances. The attorney, at the request of the victim, had been present at the time of her eviction from the house and, without the attorney's intervention in the conflict, the victim could have been seriously beaten and abused by her husband and father-in-law. Subsequently, the husband and father-in-law of the victim were sentenced to three years' imprisonment for battering her. Despite the timely complaint from Ovcharenko, and later from attorneys, the local police made no efforts to intervene and question the abusive husband. Moreover, when a complaint was filed against a local police officer in that respect, the prosecutor presented it to the officer himself, without considering the facts.

According to data collected by journalists of the Institute for War and Peace Reporting, 70 per cent of prosperous men in Uzbekistan, especially those residing in cities, have second wives. The heads of marriage registration offices explain that the only way of discovering a case of polygamy is on the birth of a child, when a birth certificate is needed. Early marriages, polygamy and bride kidnapping are common forms of violence against women. The Family Code establishes a minimum age for marriage (which can sometimes be altered), but people get round this restriction by contracting a religious marriage (nikokh), thus contributing to the increase in the number of early marriages.

The tactics used in most of cases of violence against women are reminiscent of brainwashing. Victims are allowed no right of self-expression and in the end lose their self-respect. They accept the rules of the game and resign themselves to suffering. The consequences of the violence are hazardous to women's health and include psychological trauma, low self-esteem, depression, wounds and illnesses, murder and suicide.

The mass media and some local civil institutions tend to promote the ideal image of an “eastern woman” who conforms to the traditions, and focus mainly on her virtues of patience and obedience. The media do not use the word “violence”, fearing punishment or scrutiny on the grounds of being against the norms and traditions. For example, a journalist of the newspaper *Pravda Vostoka* was forced to resign in 2003 because she published an article about violence against women. The media address women and family issues in the light of approved policy. There is strong propaganda for a behavioural model for women that is consistent with the patriarchal norms. This approach helps to support state policy, which is directed towards the outward welfare of the family and fewer divorces, but not towards respect for human rights.

Health advocates reported what they said was a common practice which may increase a woman’s risk of violence. They told Minnesota Advocates that doctors sometimes insert intra-uterine devices (IUDs) in women, without their knowledge, after they have given birth or have had abortions, as a way to protect women’s health and prevent recurrent pregnancies. This practice is reportedly based on a government directive on reproductive health.³⁸

The police register a significant number of cases of domestic violence and often acknowledge that it is a problem, but in many instances they persist in ignoring the situation and fail to take action. An inspector in the Ferghana Valley estimated that 80 per cent of the calls he received were due to family quarrels, and that 50 to 60 per cent of those involved injuries. A former senior police officer in Samarkand recalled that 20 per cent of the crimes he had seen had involved domestic violence.³⁹

Case study

Bulatova Isaura, born in 1988, was a foster child at a children’s home in the Akkurgan district of the Tashkent region. She was moved out of the children’s home when she was 15 years old. Thereafter, she lived in various places, worked in the informal labour market for food and

³⁸ *Domestic Violence in Uzbekistan*, Minnesota Advocates for Human Rights, December 2000.

³⁹ *Ibid.*

became pregnant at the age of 18. Until she reached the age of 19, she could not obtain a citizen's passport due to the fact she was born in Tajikistan. The victim was therefore unable to register with state medical institutions during her pregnancy and was also unable to register with private medical institutions owing to lack of money. Attorneys involved in her case made an effort to help the girl by appealing to the Internal Affairs Department, to regional prosecutors and to the "Sen Yolg'iz Emassan" children's fund. As a consequence, Bulatova safely delivered her child in hospital No. 6 without being charged any fees and despite not having any documents. Her newborn child was issued with a birth certificate. A request has now been submitted to the relevant bodies to allocate housing to the young family.

There are numerous similar cases in the country. Many of them involve fostered children, 70 per cent of whom are foundlings, orphans or children from very poor families who do not have a permanent residence and cannot expect support of any kind from their relatives. The Government has so far ignored such issues and no action has been taken.

The authorities have failed to address the problem of family violence and are often reluctant to take action, claiming the violence is the consequence of the economic situation. Unfortunately, Uzbek legislation does not offer any solution other than criminal punishment. Criminal prosecution does not apply to every situation or solve any case. The legal system is focused on encouraging spouses to reconcile, often referring family cases to a mahalla for reconciliation as a first step, unless they involve serious injury or death.

b. Suicide

Violence, hopelessness and unbearable pain leave many women with no other solution than to commit suicide. Many of them see no value to a life which lacks economic benefits, social security and the basic necessities for survival, and where they are responsible not only for caring for but also for feeding their children and elderly family members, in a country where labour and entrepreneurial opportunities are almost non-existent.

The number of suicide cases as a result of domestic violence is increasing. Official information on the subject is restricted and inaccessible, but according to data collected by the NGO “Tumaris” 20 people committed suicide in the Samarkand region during a period of just four months in 2002, and 12 during a period of two months in 2003 in the Republic of Karakalpakstan. “Tumaris” was closed down in 2005. The Prosecutor’s Office of the Republic of Uzbekistan reported 1,150 suicide attempts by women in 2001–02, of which 610 resulted in death; 223 were cases of self-immolation. Among the victims were wives, sisters, daughters, daughters-in-law and stepdaughters. There were also 286 murders of women as a result of jealousy, family quarrels and other family conflicts. The number of unsuccessful suicide attempts is rising from year to year.

Case study

Surayo Holikova, a 21-year-old woman from the village of Hishrau in the Samarkand region, committed suicide by hanging. Before killing herself, she hanged her two daughters, 2-year-old Shahodat and one-year-old Shahzoda. Her father stated that the reasons for her death were financial hardship and the unbearable conditions in her husband’s family.

Many victims complain that low incomes and miserable lives make their husbands angry and nervous, hence the often brutal fights and beatings. For instance, Kholida, a 37-year-old woman who came to Tashkent as a mardicor tells her story thus: “My husband is a driver in the Kashkadariya oblast of Uzbekistan. His work situation means that he has random employers and an unstable income. Most often he stays without work and those days I become the victim of his constant anger and cruelty. Often he beats the children when they ask for food, sweets, toys etc. Often we do not have enough food at home, or only a piece of bread with tea. I was about to commit suicide, especially as my children were sick and I had nothing to buy them, no medicine, no fruit, nothing.” This is the story of a woman who was about to commit suicide, but there are hundreds of others who succeed.

Suicide or attempted suicide is the worst outcome of domestic violence. Women who commit suicide are somehow protesting against violence when there is no other way of doing so. We failed to find survivors of suicide attempts, as this mostly happens in distant rural areas where we have no offices or contacts. But

we have talked to people working as mardicors in Tashkent city informal labour markets who knew the suicide stories of their home villages. One such story happened in the same Kashkadariya oblast of Uzbekistan. In the words of a witness, the 24-year-old victim belonged to a poor family working in the cotton fields. Her husband did not have a permanent job. During the harvest season he would help farmers, at other times he would do other menial low-paid jobs. Their family was very typical, with no money, work or future. There are a hundred thousand such families in the region. According to the witness, the woman did not complain about domestic violence or of her husband's brutality. Nobody was her friend; nobody knew what she had on her mind. It was only revealed when the village discovered pictures of her suicide. She burned herself in a pit she had dug for herself. She organized it in such manner as to be certain that she did not survive.

c. Trafficking in women

The difficult economic situation and increasing corruption, the inaction of the law-enforcement bodies, the lack of vocational skills and decent employment opportunities for both men and women, the hypocrisy of the women's committees and local governing organs, and the requirements of shady businesses all lead to the development of supply networks for "live goods".

Uzbekistan is a country of origin, transit and destination for trafficking in human beings, especially women. Women are trafficked for labour, military and sexual exploitation to the United Arab Emirates, Israel, India, Malaysia, South Korea, Russia, Japan, Thailand and Turkey.⁴⁰ In many instances, women adapt to the changing economic environment by seeking income-generating opportunities to support their family, at whatever cost, especially when children are involved. Very often, they are guaranteed employment as waitresses, nurses, babysitters, dancers or governesses and they do not realize that they will become the victims of sexual abuse and be forced to enter into prostitution. Moreover, fearing

⁴⁰ <http://www.usembassy.uz/home/printable.aspx?mid=787&lid=1&printable=2035>.

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punishment and social stigma, these women are ashamed to seek assistance from embassies, consulates or law-enforcement bodies. Another category of victims consists of women who apply to marriage and recruiting agencies through websites and end up being sexually exploited.

Prostitution is becoming rife - in hotel complexes and huge trading and leisure facilities, as well as in brothels. Over the past few years, the increase in the number of cases of under-age prostitution has given rise to particular concern. It has been noticed that the law-enforcement bodies are frequently complicit in such cases.

According to an investigation carried out by a local journalist, Ilkhom Safayev, Bukhara city alone has about 40 underground brothels employing nearly 600 women. Many of these women have families and, frequently, their husbands or parents force them to carry out, or do not object to them carrying out, such “business” in order to generate income to support their families.

Uzbekistan’s current laws do not criminalize all forms of trafficking in persons. The Criminal Code does not address prostitution directly, but article 131 of section V (“Crimes against the family, youth and morality”) stipulates a punishment in the form of fines or correctional labour for up to three years, or imprisonment for up to three years with the confiscation of property. Furthermore, some articles of the Criminal Code are used to prosecute sex trafficking cases and some labour trafficking cases, although the current legislation does not adequately criminalize all forms of forced labour. Despite the existence of laws prohibiting trafficking, violators often manage to escape prosecution by bribing the prosecutors or other law-enforcement authorities. The Government has failed to offer any kind of support to victims of violence and has demonstrated few substantive efforts to address the issue of providing them with assistance and protection.

In summary, women are being exposed to economic and social deprivation as a result of unemployment, lack of skills, insufficient income-generating opportunities and limited access to productive land, in many cases with very sad consequences. Evidence available from legal professionals, the police,

forensic doctors and other sources indicates that domestic violence is a serious and widespread problem in Uzbekistan, but it is virtually ignored by public officials. The Government's failure to respond appropriately to this situation violates internationally recognized human rights standards.⁴¹

3.6 The right to work

a. General situation

The official statistics for unemployment in Uzbekistan are notably low. The unemployment figures derived by the State Statistics Department include only people registered with labour exchanges. However, these labour exchanges have proved to be inefficient. The majority of people do not believe they will receive any assistance from them and therefore seek jobs in the informal labour markets. Taking account of this, the Human Rights Society of Uzbekistan estimates that the unemployment rate is as high as 38 per cent.⁴²

The high birth rates of the 1980s and 1990s have placed considerable pressure on the labour market. The working-age population is increasing by more than 240,000 people per year. This trend, together with enterprise restructuring, has led to significant excess labour supply, with both underemployment and forms of hidden employment. There are structural imbalances in the labour market which are reflected in the substantial amount of unofficial employment generating irregular incomes for workers.

Much of the rural population heavily relies on working on dehqan (household) farms. Although these workers are classified as employed, their actual income-generating opportunities are very limited, because of poor access to markets,

⁴¹ For a detailed discussion of the concept of State responsibility to victims of domestic violence, see Kenneth Roth, "Domestic violence as an international human rights issue", *Human Rights of Women*, 326, 329-30 (Rebecca Cook, ed., 1994); Katherine Culliton, "Finding a mechanism to enforce women's right to state protection from domestic violence in the Americas", 34 *Harvard International Law Journal*, 507 (1993); and Dorothy Thomas and Michele Beasley, "Domestic violence as a human rights issue", 15 *Human Rights Quarterly*, 36 (1993).

⁴² "Uzbekistan: violence, repression and denial of economic, social and cultural rights", report prepared by OMCT and the Legal Aid Society for the United Nations Committee against Torture, May 2002, p.14.

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credit and equipment, and unreliable irrigation systems. Indeed, 40 per cent of the rural population now depend on subsistence plots of an average size of 0.2 hectares.⁴³ At the same time, the transformation of shirkats (agricultural cooperatives) into private farms is increasing labour productivity, which further reduces demand for labour. Moreover, the infrastructure in rural areas is very underdeveloped and this, combined with a high level of corruption, and government intervention by dictating crop prices, is pushing growing numbers of rural residents into small subsistence farming, onto mardicor markets or into internal migration.

Underemployment and low wages remain a major problem. Underemployment also takes into account part-time work and full-time work at low intensity and productivity because of lack of skills, inputs or investments.⁴⁴ Publications of the European Bank for Reconstruction and Development (EBRD) highlight the fact that salaries in Uzbekistan are the lowest in the Commonwealth of Independent States, at approximately US\$ 40 per month in 2001 compared to US\$ 120 in Kazakhstan or US\$ 55 in the Kyrgyz Republic.⁴⁵

Shuttle trading has become very popular among the population owing to the existence of a market for products bought in neighbouring countries, or in Turkey, Russia or China, and resold at a profit in Uzbekistan (mainly in Tashkent). Many women engage in shuttle trading, regardless of the toughness of the job (involving carrying heavy bags of goods) and despite the inhuman and abusive attitudes of customs officials. In 2002, the Government introduced new rates for custom duties, motivated by the will to protect domestic industries. These rates particularly affect shuttle traders.⁴⁶ Goods imported by shuttle traders are subject to 90 per cent customs duty.

Owing to the high level of unemployment throughout the country, a significant share of the population is engaged in the informal sector. That share rose from

⁴³ *Uzbekistan: Common Country Assessment*, United Nations, 2003.

⁴⁴ Giovanni Andrea Cornia, chap. 4, "An overall strategy for pro-poor growth" in *Growth and Poverty Reduction in the Next Decade: A Report to the Government of Uzbekistan*, UNDP 2004.

⁴⁵ EBRD strategy for Uzbekistan, as approved by the Board of Directors on 4 March 2003.

⁴⁶ Resolution of Cabinet Ministers No. 154 of 6 May 2002 "On regulation of the import of goods by individuals to the Republic of Uzbekistan".

21.9 per cent in 1994 to 38.1 per cent in 1999.⁴⁷ The majority of young people, even those with professional qualifications, work in the informal sector, generally in the most precarious conditions, with no access to social security, no health insurance and earning wages that are barely sufficient to satisfy their basic needs. For anybody who has the opportunity, external migration, for whatever work, even in the most difficult conditions, becomes the optimal solution.

b. The problem of migration and the propiska system

A trend towards migration is normal in any society. It may, however, lead to numerous difficulties if it is not structured. The phenomenon of migration has now become a problem in Uzbekistan because of the large numbers of people concerned and because it involves vulnerable population groups, such as women and children. This problem is the direct consequence of the growing poverty and unemployment in Uzbekistan.

The Government practises “legalized” violations of the human right to freedom of movement. Article 28 of the Constitution provides that “any citizen of the Republic of Uzbekistan shall have the right to freedom of movement on the territory of the Republic, as well as free entry to and exit from it, except in the events specified by law”. However, this right is openly violated by the Government through the propiska, a practice inherited from the Soviet Union, which obliges people who want to leave Uzbekistan (for business or leisure, etc.) to obtain “exit visas” delivered by government authorities and also presents obstacles to internal migration.

The propiska is the notional registration of a person according to his or her place of birth and the location of the immediate family. Historically, the propiska was used to prevent the internal migration of people born in rural areas to the cities and capitals of the former Soviet republics. Technically, a propiska is a stamp in the passport of a citizen identifying his or her permanent place of residence. A problem arises when people decide to move to another part of the country. As their identity will then be “different” from that in their papers, they will encounter

⁴⁷ “Uzbekistan: violence, repression and denial of economic, social and cultural rights”, report prepared by OMCT and the Legal Aid Society for the Committee against Torture, May 2002, p.15.

many difficulties in accessing public medical treatment, education, the social welfare system and kindergarten services and, most importantly, they will be unable to obtain work in the formal sector. Without a valid propiska in the new place of settlement, an Uzbek citizen turns into an illegal alien. To obtain one takes a lot of time and effort, and also financial resources as the relevant authorities are highly corrupt.

Case study

“My name is Hamza. I am from Bukhara. I am 21. After the army I couldn’t find a job for a long time. I have lived in Tashkent since 2002. When I came here I went to the bazaar to carry goods on the trolleys and earned two to three thousand sums every day. I worked for half a year then I went to the mardicor bazaar. We were hired to make a fence at a businessman’s house. We slept seven people in one room. We ate two times every day; dinner and supper. We didn’t have a proper bath. We worked every day even when it was raining. Two times I got badly ill and I received some injections. We were paid 70,000 sums and were driven out. I am not married. My parents, three brothers and sister are in Bukhara. When I was left without a job I went to the mardicor market again. Every day I stay there from 6 o’clock in the morning. I am not hired every day and I do not have a place to stay overnight. I sleep at the bus station or go to the Hippodrome market. I’d like to work as a guard for somebody because there will be a place to sleep. I don’t want to return home because there is no work there. The militia took my passport and I don’t know where they are now. They asked for money. I said that I hadn’t got any money so they took my passport. They asked for 20,000 sums. How can they do this to us? What can I do if there is no work in Bukhara? I am a citizen of Uzbekistan and how come I have to have permission to be in its capital? I feel like an alien in my home country.”

The propiska system and the illegal situation of many internal migrants lead to the violation of basic human rights. These illegal migrants are often threatened and blackmailed by local officials or police officers and are consequently forced to bribe them not to disclose their illegal status. Furthermore, employers who hire such illegal workers take advantage of their situation by underpaying them, knowing that they cannot complain. Finally, in situations where neither legal

residence nor employment opportunities are obtainable (usually a job cannot be found without a propiska, so it is a vicious circle) illegal migrants turn to the informal labour markets. They accept low, unstable (often seasonal) wages and precarious working conditions that often lead to the deterioration of their health or to their becoming the victims of violence (both physical and psychological). Thus, the propiska system is one of the main factors contributing to the growth of informal labour markets in the large cities, especially Tashkent.

Case study

Undisclosed person: "I have applied for temporary registration in Tashkent city four times. In comparison to other people coming from the villages, I am really qualified and my illegal employer was really eager to employ me legally. That was good for me, since I could expect pension fund contributions, medical treatment and a future for my family and me. I could freely walk on the streets without being scared of arbitrary questioning and passport control raids by the police. Proper documents could save much money spent to bribe the sheriff of my district. All of that could be possible if I were able to pay US\$ 2,000 as a bribe to the people in the commission under the mayor of Tashkent."

As a result of economic hardship and the absence of adequate sources of income, many people from rural areas find that their only option in order to survive is to migrate to other countries, or at least to large cities in Uzbekistan, where there is still a service industry and some possibilities of finding unskilled, low-paid work. Unfortunately, highly qualified teachers, engineers and medical personnel also are becoming hired labourers, taxi drivers or traders in the market, finding what they can earn in such work of more financial interest than low state wages.

Case study

Natalya Smirnova, from the Khorezm region, 20 years old: "My aunt works in the hospital in Urgench. She is an experienced physician. Their salaries are so low that they can hardly survive. Usually they hope people will leave them something in gratitude for their services. During the summer they went to Russia, I think to Orenburg, to pick tomatoes in the fields. She and her colleagues earned about US\$ 300 each. Now they

look forward to summer so they can once again go and pick tomatoes in Russia.

Today, the neighbouring Central Asian States allow more freedom to businesses and the average wage there is much higher. Their markets therefore attract Uzbek nationals and a certain percentage of the population prefers to emigrate from Uzbekistan. Their desire to do so is accentuated by the fact that, as explained above, the propiska makes internal migration almost impossible. In such a situation, no bans or prohibitions will stop people emigrating in large numbers in search of a better life.

The level of external migration is growing. The negative balance was 99,300 in 2003, similar to the 1991 level, compared with 83,300 in 2002. According to local media reports, official remittances of earnings by migrants amounted to nearly US\$1 billion in 2006. Other sources indicate that remittances are increasing at an annual rate of 52 per cent.⁴⁸ International migration for work favours the neighbouring countries of the former Soviet Union, which remain the best and easiest option for many people. We interviewed Farid, aged 46, who worked for a year on the construction of a house belonging to the chief police officer working in the passport department of Kazakhstan. Farid said that, according to his employer, the police officer, 49,000 Uzbek citizens were registered in Astana as working migrants.⁴⁹ The same working migrant told us that that figure did not represent the real number as it only comprised officially registered working migrants, and that many Uzbek immigrants are afraid to have dealings with the authorities.

Although cross-border migration is an important livelihood strategy in the face of economic disaster, it affects national or regional security and often leads to conflicts on ethnic grounds. For instance, there have been a number of cases where working immigrants from Central Asia, including Uzbekistan, were physically and psychologically abused or tortured in Russia, sometimes even by that country's security forces, and then had to go back home after having had

⁴⁸ BVV Business Report, September 2007.

⁴⁹ Legal Aid Society interview, 2004.

all their income confiscated. In some situations the abuse or torture resulted in death.

c. Mardicors

Analysis of the real situation of human rights in the sphere of labour in Uzbekistan is difficult on account of the growing role played by the shadow economy. Illegal labour relations exist both in officially registered firms, where wages are distributed “in envelopes”, and in non-registered dealings relating to housekeeping or running a business. Illegal labour relations are particularly common in the informal labour market, which started developing during Soviet times. Shadow market “mardicor bazaars” are becoming more and more numerous, because of the poor conditions offered by the official labour market, low-paid official job offers and lack of or continuous delays in the payment of salaries. People involved in the shadow labour market are among the most vulnerable risk groups: they can easily become the victims of exploitation, slavery and trafficking in human beings.

Rapid and unregulated internal migration, particularly from rural to urban areas, can have adverse consequences for the population by straining urban infrastructure and services, and by resulting in higher rates of urban poverty and lack of access to adequate housing, health care, education and other services, as well as environmental degradation. Additionally, the heavy inflow of people into urban areas not only increases socio-economic problems in the cities, but eventually also creates labour shortages in rural areas.⁵⁰

Mardicor markets are haphazardly organised and usually located near big roads, so that potential employers will “drive through” and hire people for various jobs. People coming from the same point of origin look after one another and help newcomers to obtain better situations. Because of the overwhelming supply of labour, obtaining a job is very competitive and those who rush to present

⁵⁰ N. Ndiaye and P. Boncour, chap.2, sect.1, *World Migration 2005*, International Organization for Migration.

themselves to potential employers are sometimes hit by cars or even get into fights. Thus, harmless gatherings of informal workers turn into criminal environments where no laws regulate the relationships.

Case study

“My name is Farruh Nasreddinov and I am from Surhandarya. I work at Chorsu mardicor market and it is situated by a very big and busy street. Competition for work is very high and we almost have to fight for each client. For us it is difficult to maintain some kind of order. Honestly the only thing you think about there is to get money and not to waste a day, especially weekdays, as on weekends more people come to hire mardicors. So it happened on Tuesday. A man came in a beautiful Nexia car. He stopped his car on the opposite side of the road, got out and started calling mardicors. As far as I remember, about 10 people ran across the road but, as I told you, the road is busy and in Tashkent a lot of people drive very fast. A car hit one person. It caused chaos and other cars hit two or three more people. I was among them. I had brain concussion and the man hit by the first car died on the way to hospital.”

Case study

Undisclosed person: “I have been at Chilanzar prosecution office more than a week. There was a prosecutor’s order for my arrest. I was accused of murder. I did not want to kill, of course. I am from Andijan. I am 19 years old. I was working at the Hippodrome. I was pushing trolleys for people. I lived with my mother. I grew up without a father. I have seven years of basic education. I could not study further as my mother could not support me and I had to work. My mother worked as a cleaner at a school. I worked in the kolkhoz. When I was 16, I went to Tashkent with a couple of my friends. I took any job. For half a year I worked as a gardener for wealthy people. I had a room. Of course they did not pay me but they fed me well. Also, they bought me clothes. My duties were to look after the garden, go to the bazaar and clean the territory of the house. Their garden was big and beautiful. Then they found another gardener and asked me to leave. I went to work at the mardicor market. I worked for around eight or nine months. Then a good man gave me a

trolley and I started working carrying people's things. I do not have many rights in Tashkent as I do not have a propiska and the militia can arrest me anytime. So I had to pay them a bribe. In the mardicor market, there is competition between us. So once we argued about who would take the client and a fight started, I do not know how, but I hit that man with a stone and he died."

Official statistics do not provide any information about the real situation with regard to unemployment among women. It is much harder for women to find well-paid jobs in the official labour market and that is why the number of women offering their services in the shadow labour market is increasing. They accounted for 62 per cent of the total informal labour market in 2004 in the outlying areas of the Tashkent region. There are now two mardicor bazaars on the border with Kazakhstan in the Tashkent region, one in the Andijan region and one in the area bordering Turkmenistan. In those markets women mainly offer sexual services to long-distance truck drivers and entrepreneurs. Mardicor markets exist in almost all the big cities. In Tashkent city, it is mainly internal migrants who offer their services, whereas in other cities, migrants from Tajikistan are also present.

Case study

Rakhimakhon, 20 years old, lives in the Bagdad district of the Fergana region, where she has worked as a casual worker for five years in the Altiarik labour market. Her recent employer, a 50-year-old farmer, Akhmed, who employed her for weeding cotton, suddenly offered her intimate relations while she was working in his cotton field. When he was rejected, he proceeded to blackmail her and said that if she was going to resist he would spread a rumour that Rakhima was selling herself for money. The violator got what he wanted.

Case study

Nigora, a 15-year-old casual labourer from Tashlak district in the Fergana region, did not come back home after going out to look for work. After one week she returned home and her parents were shocked to find out that Khayrullo had raped their daughter. Khayrullo was from the Arsiv

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kishlak, which is near Kuvasay town in the Fergana region. He employed Nigora and her friend Salima at the women's market in Tashlak district to work in his apple orchard. Khayrullo brought them to a house. Salima felt that her employer was ill-intentioned and escaped, but Nigora could not escape and was raped by Khayrullo. She came back home only after one week, crying bitterly. She told her parents about what had happened. Her parents' anger only calmed when Khayrolla married Nigora and made her his second wife in order to maintain family honour.

According to research undertaken by V. Chupik of the NGO Jahon Tongi, illegal labour migrants in Uzbekistan increased from 510,000 in 1998 to 1,054,000 in 2003, and the number of women among them is growing. Women are the most vulnerable in this group. In most cases they become the victims of violations and discrimination, and are forced to prostitute themselves.

According to our survey of the informal labour markets where the cheapest labour force is to be found seeking temporary work, "good" women mardicors have a better chance than men mardicors of finding a permanent job. Usually, rich or middle-class households hire them for decent money to help with housework and child care. As one woman aged 30 told us: "I am a lucky woman, because after a few days at the labour exchange I found a good job with good people and live in one of the rooms of their big house. I am well paid and have no other worry than to work and be friendly to their family. I am sure that everybody in my situation would dream about such a chance."

The absence of contracts leads to cases where mardicors are underpaid or not paid at all. Corrupt law-enforcement officers exploit mardicors, not paying them and providing low-quality food, in some cases only tea and bread. Often people who hire mardicors treat them as an inferior people and harass them, even though a large percentage of mardicors have at least basic secondary education and some have higher education (those previously employed in the low-paid government sector in schools, hospitals, kindergartens, etc). Such attitudes place a psychological strain on workers and cause further moral degradation in a society where a person's value and status are currently associated with money. One of the persons interviewed, who preferred to remain anonymous, said: "For me the most difficult part of this work is psychological stress. I have a scientific

degree, I worked three years on a doctoral dissertation and now I feel humiliated that I am forced to be a mardicor, even on weekends.”

Case study

Undisclosed person: “Once a rich person hired us. He was building a house and he needed us to raise a wall around it. When we finished the work he paid us three times less than what we had agreed and said that he had deducted the cost of the food he was providing us with and the cost of accommodation. During the work, the food he provided us with was poor and we slept in the garden. Our position is indeed vulnerable to the unfairness of such people. They want free labour, but in this case it is slavery, not labour.”

Mardicors who receive measurable payment for their hard labour are often forced to pay money to law-enforcement officials for not complying with the propiska regime. The lack of a residence permit gives corrupt police officers the opportunity to humiliate and harass mardicors, either by demanding regular payments or by exploiting their labour. More than 90 per cent of respondents in our research pointed out the problems with registration. Thirty-eight persons were making some form of unofficial payment to law-enforcement officials in order to ensure the possibility of working for a certain period.

When mardicors have health problems, the only hospital they can go to, except in an emergency, will be that of the place of their propiska. This constitutes a violation of the human right to adequate health services which is prescribed by the Constitution of Uzbekistan. Moreover, it should be emphasized that mardicors tend to have serious health problems because of their way of life. Interviews revealed that the majority of mardicors have illnesses such as gastro-intestinal problems, diabetes, anaemia or tuberculosis, due to poor nutrition and bad, often humid, living and working conditions.

3.7 The right to an adequate standard of living

a. The right to adequate housing

Poverty in Uzbekistan is closely linked with the lack of access to housing. As a result of the “small privatization” in the initial years of reform, almost all families (96 per cent) obtained the right to own housing which previously had been municipal property. However, there is a shortage of housing and apartments are overcrowded, with several families living together in close proximity, but the State has always ignored the problem. Families have the option of either buying a house or, if they cannot afford to do so, applying to the local authorities for new subsidized housing and ending up becoming stuck on waiting lists. Those who can afford to bribe the local officials responsible for the distribution of housing, on the other hand, sometimes receive more than one house.

As a consequence of economic transformation and of the increasing urbanization resulting from the growing number of rural migrants who are moving to the large cities, housing in those cities, especially the capital, Tashkent, has increased in price significantly and nowadays even middle-income families can hardly afford to buy. The situation became worse when the Government allowed foreign residents (often citizens of Kazakhstan, Tajikistan or Russia) to acquire real estate in Uzbekistan, without any limitation.

In order to assist people from low-income families to purchase housing, the Ipoteka Bank, which is heavily regulated and controlled by the State, was assigned to distribute a certain number of subsidized mortgages to poor families as a part of a social programme and in accordance with Presidential Resolution No. 69 of 6 May 2005 “On measures to organize the performance of the Fund for Mortgage Credit Support”. However, only a very small number of mortgages have been disbursed so far⁵¹ and, according to unofficial information, only very “poor” families who can afford to bribe government and bank officials are able to receive a state-subsidized mortgage.

⁵¹ Unofficial source of information, through friends in the bank, as such information is not disclosed to the public.

Recently, many commercial banks have started to provide mortgages to facilitate the purchase of housing (this is a new banking product and still unpopular), especially since the adoption of the Presidential Resolution “On additional measures for the financial and moral support of young families” to highlight efforts in the “Year of Social Protection”. However, the mortgage interest rates are very close to market rates (the borrowing rates to run a business and buy a house are similar), which discourages many families from taking out such loans, especially the young married couples the resolution was targeting.

Many people who cannot afford to purchase a house, particularly mardicors from rural areas of the country, live in cellars, garages, deserted houses, slums or ruins, or on the streets. The lack of official data on homeless people or people living in slums and the absence of any shelter centres point to the Government’s unwillingness to address this problem.

b. Mahalla self-governance organs

The local self-governance organs in Uzbekistan are the mahalla committees, established in each mahalla (community) on a territorial basis. Pursuant to article 1 of the Law “On self-governance organs of citizens” and the amendment thereto of 14 April 1999, a mahalla is an independent activity of citizens to resolve issues at the local level based on their interests, the historical specificities of their development, national and spiritual values, and local customs and traditions.

Mahallas govern communities ranging in size from a few hundred to several thousand people. They may be located in neighbourhoods of private houses or apartment blocks, and the socio-economic status and educational level of their members vary greatly. They are staffed mainly by volunteers. The mahalla chairman (occasionally chairwoman) and secretary, however, are paid from the state budget. The chairman, although elected, is subject to government (local municipality) approval. A council of elders (aksakal) informally advises the mahalla chairman and takes part in mediating conflicts. Each mahalla has a number of committees, the most important for the issue of domestic violence being the women’s committee (with an elected leader) and the reconciliation committee. The mahalla women’s committee reports to and coordinates its work with the deputy mayor, who heads the district-level women’s committee.

Since independence, the Government has increased the mahallas' power with regard to both their social welfare and public order functions.⁵² The mahalla serves as a community-level governing council, currently possessing a "dual nature as a vehicle for reviving national traditions and as the lowest administrative rung in the government structure".⁵³ Because one task of the mahalla is the promotion of social control, it plays a major role in the treatment of domestic violence. This role has been sanctioned and expanded by the Government. Family problems are therefore often resolved through the mahalla's less formal mediation bodies, rather than through the judicial system. Yet, the role of the mahalla in this domain is frequently criticized: family issues are often resolved by denying battered wives permission to file for a divorce and by forcing them to return to violent families where they continue to be the victims of violence. The mahalla stereotypically does not believe in the concept of defending oppressed female family members. This leads to violations of the law and of the right to defence. For instance, according to Gulchekhra, a 30-year-old woman, she was repeatedly beaten by her father-in-law, but when she requested help from the Turk Kurgon mahalla in the Yunus-Obod district of Tashkent city, the committee members only berated her for "letting the dirt out of the house" and told her to be more "tolerant and compassionate towards the old sick person".

The mahalla may fill a useful informal function in mediating conflicts, but there are significant problems attached to its being granted primary responsibility for resolving violent family situations. The fact that the mahalla consists of members of the community may discourage women from discussing family problems there. In fact, some people reported that women attempt to keep incidents of domestic violence hidden from the women's committee, which is sometimes seen as lacking in confidentiality. Because the mahalla has no authority to punish perpetrators for their actions and thus little power of deterrence, effective legal solutions remain indispensable for addressing domestic violence.

⁵² See generally, David Abramson, "Civil society and the politics of foreign aid in Uzbekistan" in *Central Asia Monitor*, No. 6, pp. 1-11 (1999); Aline Coudoul, Sheila Marnie and John Micklewright, "Targeting social assistance in a transition economy: The Mahallas in Uzbekistan", *Innocenti Occasional Papers* (1998), pp. 4-5.

⁵³ Abramson, *op.cit.*, note 52.

Social functions of the mahalla include participating in community events, such as weddings and funerals, and activities, for example tree-planting and sanitation projects. The mahalla is employed increasingly by the Government as an organ of social welfare and is now responsible for determining the existence of “needy” families and distributing government benefits to them.⁵⁴ However, the role of the mahalla in distributing social welfare benefits and child allowances is often questioned. There is no standard approach in determining which families are considered extremely poor and the decisions taken are very subjective. There is also a problem of trust, especially with respect to the individual interests of members of the mahalla committees.

As a result, expenditure on social transfers declined from 4 to 2 per cent of GDP between 1996 and 2002. Child allowances suffered the biggest decline as they were under-indexed for inflation and were targeted at poor families. Meanwhile the funds assigned to social assistance dropped by half (relative to GDP)⁵⁵ to a level that was insufficient to lift people out of poverty.

The mahalla also serves a public order function, which has become more pronounced, partly because of the Government’s increased concern about Islamic fundamentalism. The mahallas are expected to know each family and be aware of problems and tensions within them.

Despite the mahalla’s important role in Uzbek society, it is not an official part of the legal system, nor is it accountable to that system. Owing to the tremendous variation in the size and nature of mahallas, their practices, decision-making processes and approaches to issues such as domestic violence and welfare distribution are neither uniform nor consistent. There appear to be no clear internal guidelines or procedures governing mahalla activities. Additionally, there are no official means of appeal in cases where the mahalla fails to act or functions inadequately, particularly in domestic violence situations.

⁵⁴ Coudoul, Marnie and Micklewright, *op.cit.*, note 52.

⁵⁵ Comia, *op.cit.*, note 44 above.

3.8 Corruption

It is vital to identify obstacles to developing and implementing effective systems of accountability. Corruption occurs where accountability is weak, in other words where there is a weak civil society, centralized government, limited freedom for the media and a ban on opposition parties. Tackling corruption requires the engagement of those outside the Government – parliamentarians, civil society, households, the private sector and the media.⁵⁶

Corruption among officials in the Uzbek civil service is quite extensive. Routine acts such as entering university, being admitted to hospital, obtaining a business licence and applying for a passport or other official document are all usually subject to bribery. Ordinary people, poor people mostly, suffer because they cannot afford to pay bribes.

The judicial system is riddled with corruption. Paying a bribe to a judge can influence the sentence handed down. A bribe can also speed up or slow down a case, it can re-engineer or reduce the charges if paid to a prosecutor, or even get a police officer to disclose or omit evidence.

In the past few years, corruption has worsened, harming not only ordinary people but also the whole economy. Although it is impossible to eliminate corruption totally, each country should strive to decrease the level of corruption and this should be done by strengthening the legal system. As the Chairman of Transparency International, Peter Eigen, has said, “corruption is a major cause of poverty as well as a barrier to overcoming it. The two scourges feed off each other, locking their populations in a cycle of misery. Corruption must be vigorously addressed if aid is to make a real difference in freeing people from poverty.”⁵⁷

⁵⁶ World Bank, *Helping Countries Combat Corruption: the Role of World Bank*, 1997, chap. 2, “Corruption and economic development”.

⁵⁷ Transparency International, Corruption Perceptions Index 2005, <http://www.hra.am/file/ti-2005.pdf>.

In 2005, Transparency International ranked Uzbekistan in joint 137th position out of 158 countries, with a score of 2.2 (out of 10), on its Corruption Perceptions Index,⁵⁸ while in 2006, the situation was worse and Uzbekistan scored 2.1, coming in joint 151st position out of 163 countries⁵⁹ included in the Index.

Corruption is still the main obstacle to the development of the economy in most countries. Uzbekistan is one of the countries where corruption is the most widespread, as it touches almost all government authorities. Ties between business and government regulators are seldom controlled by the legal system. Close public-private connections based on family, clan and regional patronage networks also evade monitoring and investigation by the legal system. Corruption and weak legal systems have always lead to economic crises, wherever they occur, and this is what is now happening and lies ahead for Uzbekistan.

3.9 Street children and orphans

In a country with such widespread corruption it is generally the case that those who can pay have rights, while the poor face systematic violation of their human rights. This is especially true for children, who are more vulnerable than adults and need more protection and care.

Street children and those deprived of family care and placed in state orphanages are extremely vulnerable to human rights violations. The system of orphanages in Uzbekistan tends to be corrupt. According to unofficial information, the State allocates considerable funds from its budget to orphanages, but the children still live in extremely difficult conditions. They rarely eat well-cooked food, and wear clothes obtained mainly thanks to the charity of ordinary people.

Family-type homes, which could replace large state institutions, are not encouraged. The concept of sponsor/foster families was included in the Family Code of the Soviet Union from 1968 and was transferred to the Family Code of Uzbekistan. However, this mechanism is not encouraged in practice and has not been developed properly.

⁵⁸ Ibid.

⁵⁹ http://www.transparency.org/policy_research/surveys_indices/cpi.

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Despite the fact that Uzbek legislation, in conformity with article 1 of the Convention on the Rights of the Child, defines the child as a person under the age of 18, children in orphanages are forced to leave the institution at the age of 16. These children are not adapted to living in the outside world. Many of them fall into criminal activities, such as prostitution and theft, and often become drug addicts. No one monitors what happens to them once they leave the orphanages and they are the easiest victims of trafficking and other violations.

Case studies

Tatyana Morozova, 30, was suspected of the murder of her husband. In February 2003, she was taken to the Department of the Interior in Tashkent city despite her having an alibi. The interrogation lasted for several days. When she refused to sign a confession and plead guilty, a procurator started beating her on the face. The suspect continued to resist, because she had nothing to do with the murder. Only the fact that the real murderers were discovered saved her from inevitable punishment. Before her release from the investigation cell, T. Morozova was forced to sign a statement that she had been given good treatment. When she argued that she had been tortured, the investigator told her that even if she disappeared in the detention centre no one would look for her because she was an orphan and no one would notice her disappearance.⁶⁰

Kolya M. stole a pair of jeans to sell them and play computer games. It took 40 minutes for the Legal Aid Society lawyer to get to the detention centre and during this time law enforcement officers had already attempted to pin accusations on Kolya M. for 18 other thefts, which he had not committed.⁶¹

Uzbekistan, like the majority of countries with economies in transition, is experiencing an increase in the number of homeless children. Since the majority

⁶⁰ LAS interview, January 2004; also published in “Denial of justice in Uzbekistan” joint OMCT and LAS report, 2005.

⁶¹ LAS case, November 2003 (name changed for security reasons).

of street children are not skilled or educated, they, as a rule, have to accept the most unskilled labour and underpaid work. Begging, larceny and washing cars are their main sources of income and can be witnessed in large cities such as Tashkent. Cases of child prostitution and the participation of children in selling drugs are the cases relating to children which are the most often registered.

Children in orphanages have no opportunity to find legal paid work, since life in such institutions is strictly regulated. However, some children manage to escape from orphanages without permission. Alone on the streets, they engage in begging and petty larceny in markets and other crowded places, and sometimes become the victims of violence or abuse.

3.10 Child labour

According to research conducted by the Tahlil Centre for Social Research in Tashkent, there is widespread use of child labour in the agricultural sector in Uzbekistan (both as hired workers and to help their families, usually in the fields) as well as in the service and trade sectors (fewer children work in the construction and transportation industries). This goes against the principles set out in the conventions of the International Labour Organization regulating child labour. An analysis of the local legislation shows that it provides favourable conditions for adolescents to combine education and work. However, these legal benefits have a negative impact on the employment possibilities of minors, leading to violence against children. Situations such as the absence of any labour contract, the employment of under-age children (under the age of 14), bad and sometimes harmful working conditions, lack of social security and medical care, and unlimited working hours that restrict the opportunity to receive free education are not uncommon.

Young people under the age of 18 comprise 44 per cent of the country's population. Two thirds of them live in rural areas. Employment prospects for minors are quite problematic owing to reduced demand for unskilled labour and the unwillingness of employers to invest in training their workers. The vocational training system is going through a crisis and the majority of families cannot afford to pay for their children's education. These difficulties affect teenagers in

rural areas more than in urban areas, but the most vulnerable group on the labour market consists of rural girls.

The number of permanent jobs in the countryside is limited, even in the informal sector, and children therefore turn to mardicor markets and become hired workers. They accept any type of job, usually of a temporary or seasonal nature, which generates a little income, such as repair and construction work, the manufacture of building materials, selling from stands or handling goods in the markets.

A more specific and rather widespread form of hiring children is for apprenticeships. Children become apprentices to learn a trade. At the same time, they do work involving simple skills, for which they are frequently paid in cash or with food.

Practically all small family businesses use child labour. It is a way for children not only to pay back the expense of their upkeep and education, but also to bring in cash to help meet their family's needs. Families residing in rural areas employ their children after they come home from school or work. This is primarily explained by the fact that family-sized farms are very important for the self-sufficiency of the majority of rural families.

The state authorities tend to ignore the fact that so many children are forced to work. Officials mainly deny the existence of any problem with regard to child labour in the country and there is therefore no reason for the situation to change in the near future.

3.11 Conclusions

The information contained in this chapter clearly indicates a close relationship between poverty, inequality and violence. A difficult economic situation makes social disparities more pronounced, and this creates a potential for the violent expression of resentment at perceived social injustice. Additionally, there exists a threat to social stability and security posed by the growing number of young unemployed men. If this threat continues to be ignored, it may impinge upon

human development.⁶² The Government directly violates many of the human rights of the population, using the pretext of the need to protect national security and to combat terrorism. This cannot be used as a justification. Disillusionment with the reform process, rising inequalities, citizens' alienation from the State, and human rights violations can give rise to an unstable social, economic and political environment and create a threat to security.⁶³

⁶² United Nations, *Uzbekistan: Common Country Assessment 2003*, pp. 42-42.

⁶³ *Ibid.*, p.45.

Chapter 4

Conclusions and recommendations⁶⁴

Torture and cruel, inhuman or degrading treatment or punishment are among the most acute and painful human rights problems facing Uzbekistan and the international community today. There is a clear causal relationship between government policies and practices which result in inequality, poverty, discrimination, torture, ill-treatment and other forms of violence. It is also clear that the poor and marginalised run the highest risk of torture and ill-treatment, directly because of their poverty.

The number of cases of torture, extrajudicial killing and other forms of cruel, inhuman or degrading treatment or punishment can be significantly diminished through the adoption of adequate legal, judicial and administrative measures, and better control over the repressive apparatus.

However, the current situation in Uzbekistan requires a broader response and more encompassing solutions. Abuses suffered by workers in the informal sector, internal migrant workers, street children and children involved in work activities find their origin in the effects of the ongoing economic crisis. They are due to inadequate health-care and educational systems, increased unemployment and involvement of the labour force in informal-sector activities, lack of adequate and affordable housing and an increase in the number of people who cannot access basic and essential services such as health care and education, all of which are direct consequences of the economic situation.

The authorities' failure to cope with these socio-economic problems and the population's distress have left the door wide open to various types of abuse, including torture and other cruel, inhuman or degrading treatment or punishment. In a situation of social and economic despair, exploitation and abuse by state agents or private individuals with the acquiescence of the State are common.

⁶⁴ These conclusions and recommendations reflect those made in the earlier report to the Committee (see note 47 above).

In this context, protection against torture and other forms of cruel, inhuman or degrading treatment or punishment is unsustainable in the absence of living conditions that guarantee the enjoyment of economic, social and cultural rights. Similarly, reducing poverty and inequality, and the recognition of economic, social and cultural rights have to form part of any attempt to break the vicious circle of brutalisation and repression in Uzbekistan. The eradication of violence against women and the exploitation of children is unattainable without equal access to productive resources and to basic services such as health care and education.

Thus, sustainable protection against torture and other cruel, inhuman or degrading treatment or punishment in Uzbekistan requires the adoption of socio-economic and legislative measures aimed at guaranteeing the enjoyment of economic, social and cultural rights throughout the country. Furthermore, certain violations that have taken place and that are closely related to the issues presented in this report also need to be addressed by the Government in terms of reparation and compensation for the victims.

Recommendations

Since the majority of victims of torture, ill-treatment and other forms of violence, in particular victims of violence committed by state officials, can be identified in terms of their economic, social and cultural situations and, in particular, their place of residence, the Committee may wish to recommend to the State party that it take preventive measures to protect those groups, identifying the areas where persons at risk of violence are living, and establish focused programmes of economic development and poverty reduction, implement specific training and educational programmes for officials serving in those areas and establish a permanent monitoring function in those areas to ensure official compliance with legal standards and good practice. These preventive measures should be developed in cooperation with the populations concerned and NGOs in which they have confidence.⁶⁵

⁶⁵ See the case study “The village” in chapter 4, “Argentina: country profile and case study” in the interdisciplinary study, note 1 above.

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In addition, the Committee may wish to recommend that the State party, in accordance with article 2 of the Convention against Torture, take initiatives in the area of economic, social and cultural rights necessary to guarantee the full implementation of the Convention. This would include implementing the recommendations of the Common Country Assessment and establishing a human rights assessment mechanism for all government policies. It would also include taking effective measures in order to guarantee the transparency of the national budget and government spending, as well as citizens' participation in the elaboration, decision-making process and implementation of socio-economic policies.

The authorities, as provided for under article 2 of the Convention, should take the following specific measures in the socio-economic realm:

- Guarantee, through legal, judicial and administrative measures, the justiciability of economic, social and cultural rights;
- Give particular attention to the situation of the population in rural areas and develop special strategies, policies and programmes aimed at guaranteeing their full enjoyment of economic, social and cultural rights, including the right to work, the right to education and the right to health;
- Give particular attention to the specific situation of women and develop special strategies, policies and programmes aimed at ensuring their access to capital and other productive resources, including land, as well as to educational, employment and social opportunities;
- Give particular attention to persons working in the informal sector and develop special strategies, policies and programmes aimed at preventing abuses and at extending labour and social protection to this sector;
- Give particular attention to the problem of street children and develop special strategies, policies and programmes aimed at preventing abuses and ensuring that they are provided with adequate food, clothing, housing, health care and educational opportunities;

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- Prohibit child labour, in particular in the cotton fields and in the agricultural sector;
 - Stop immediately any further action to forcibly displace people from their homes and villages, compensate the individuals already affected by forcible displacement for the loss of their property and the ill-treatment involved and take steps in order to guarantee their return to their place of origin;
 - Stop the practice of forcible and mass population displacement;
 - Pay particular attention to the lack of access to justice for indigent persons, and develop special strategies, policies and programmes aimed at ensuring their equal access to justice;
 - Abolish the propiska system.

Part II

Conclusions and recommendations of the Committee against Torture upon consideration of the third periodic report of Uzbekistan

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION**

Conclusions and recommendations of the Committee against Torture

UZBEKISTAN

1. The Committee considered the third periodic report of Uzbekistan (CAT/C/UZB/3) at its 789th and 792nd meetings (CAT/C/SR.789 and CAT/C/SR.792), held on 9 and 12 October 2007, and adopted, at its 807th and 808th meetings, held on 22 November 2007 (CAT/C/SR.807 and CAT/C/SR.808), the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Uzbekistan and the extensive responses to the list of issues (CAT/C/UZB/Q/3/Add.1) by the State party and the representatives who participated in the oral review.

B. Positive aspects

3. The Committee welcomes the following developments, including the following administrative, legislative and other measures taken:
 - (a) Scheduled introduction of habeas corpus provisions beginning 1 January 2008;
 - (b) Adoption of the law to abolish the death penalty beginning 1 January 2008;

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- (c) Amendment to article 235 of the Criminal Code, addressing some of the elements in the definition of torture;
- (d) Transfer of the authority to issue arrests warrants from the prosecutor's office to the courts (8 August 2005);
- (e) Order No. 40, which instructs prosecutors to apply the provisions under the Convention and applicable national laws directly;
- (f) The Supreme Court's directives to prohibit the introduction of evidence, including testimonies, obtained under torture, resulting in courts referring "numerous criminal cases back for further investigation after evidence had been found inadmissible."
- (g) Steps to implement the Plan of Action of 9 March 2004 on the adoption of the recommendations of the Committee against Torture (CAT/C/CR/28/7) following consideration of the second periodic report, and the information provided by the delegation of the State party that a similar plan will be adopted to continue efforts to realize the present concluding observations;
- (h) Increase in the number of registered complaints of torture to the Ministry of Internal Affairs by 57 per cent, which according to the State party "is a sign of increased confidence in the internal affairs authorities";
- (i) Preparation and distribution to all detainees of a pamphlet prepared jointly with the American Bar Association to inform detainees of their rights;
- (j) Reduction in crowding of prisoners in places of detention.

4. The Committee also notes the following:

- (a) Ratification of the United Nations Convention against Transnational Organized Crime; and
- (b) Ratification of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

C. Main subjects of concerns and recommendations

Prosecution of torture as an offence

5. While the Committee acknowledges the efforts made to amend legislation to incorporate the definition of torture of the Convention into domestic law, it remains concerned that in particular the definition in the amended article 235 of the Criminal Code restricts the prohibited practice of torture to the actions of law enforcement officials and does not cover acts by “other persons acting in an official capacity”, including those acts that result from instigation, consent or acquiescence of a public official and as such does not contain all the elements of article 1 of the Convention.

The Committee reiterates its previous recommendation that the State party take measures to adopt a definition of torture so that all the elements contained in article 1 of the Convention are included. The State party should ensure that persons who are not law enforcement officials but who act in an official capacity or with the consent or acquiescence of a public official can be prosecuted for torture and not merely, as stated, charged with “aiding and abetting” such practices.

Widespread torture and ill-treatment

6. The Committee is concerned about:
 - (a) Numerous, ongoing and consistent allegations concerning routine use of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement and investigative officials or with their instigation or consent, often to extract confessions or information to be used in criminal proceedings;
 - (b) Credible reports that such acts commonly occur before formal charges are made, and during pre-trial detention, when the detainee is deprived of fundamental safeguards, in particular access to legal counsel. This situation is exacerbated by the reported use of internal regulations which in practice permit procedures contrary to published laws;

(c) The failure to conduct prompt and impartial investigations into such allegations of breaches of the Convention; and

(d) Allegations that persons held as witnesses are also subjected to intimidation and coercive interrogation and in some cases reprisals.

The State party should apply a zero-tolerance approach to the continuing problem of torture, and to the practice of impunity. The State party should:

(a) Publicly and unambiguously condemn practices of torture in all its forms, directing this in particular to police and prison staff, accompanied by a clear warning that any person committing such acts, or otherwise complicit or participating in torture be held personally responsible before the law for such acts and subject to criminal penalties;

(b) Immediately adopt measures to ensure in practice prompt, impartial and effective investigations into all allegations of torture and ill-treatment and the prosecution and punishment of those responsible, including law enforcement officials and others. Such investigations should be undertaken by a fully independent body;

(c) Bring all suspected perpetrators to justice in order to eliminate impunity for law enforcement officials and others responsible for breaches of the Convention; and

(d) Ensure in practice that complainants and witnesses are protected against any ill-treatment or intimidation as a consequence of his/her complaint or any evidence given.

7. The Committee is also concerned at the numerous allegations of excessive use of force and ill-treatment by Uzbek military and security forces in the May 2005 events at Andijan which resulted, according to the State party, in 187 deaths and according to other sources, 700 or more, and in hundreds of others being detained thereafter. Notwithstanding the State party's persistent response to all allegations that the measures taken were in fact appropriate,

the Committee notes with concern the State party's failure to conduct full and effective investigations into all claims of excessive force by officials.

8. The Committee is further concerned that the State party has limited and obstructed independent monitoring of human rights in the aftermath of these events, thereby further impairing the ability to obtain a reliable or credible assessment of the reported abuses, including ascertaining information on the whereabouts and reported torture or ill-treatment of persons detained and/or missing.
9. The Committee has also received credible reports that some persons who sought refuge abroad and were returned to the country have been kept in detention in unknown places and possibly subjected to breaches of the Convention. The Committee notes that the State party has not agreed to requests made to set up an independent international commission of inquiry into these events, as requested by the High Commissioner for Human Rights, endorsed by the Secretary-General and reiterated by the Committee on the Rights of the Child.

The State party should take effective measures:

(a) to institute a full, effective, impartial inquiry into the May 2005 events at Andijan in order to ensure that individuals can lodge complaints and all persons responsible for violations of the Convention are investigated and brought to justice. In accordance with the recommendation of the High Commissioner for Human Rights and others, the Committee recommends that credible, independent experts conduct this inquiry in order to examine all information thoroughly and reach conclusions as to the facts and measures taken;

(b) To provide information to family members on the whereabouts and charges against all persons arrested or detained in connection with the Andijan events; and

(c) To ensure that military and security officials only use force when strictly necessary and that any acting in violation of the Convention are subject to review.

10. The Committee is disappointed that most of the small number of persons whose cases were pursued by the State party received mainly disciplinary penalties. The Committee is also concerned that sentences of those convicted under article 235 of the Criminal Code are not commensurate with the gravity of the offence of torture as required by the Convention.

The State party should immediately adopt measures to ensure that punishment for acts of torture are at a level commensurate with the severity of the crime, in accordance with the requirements of the Convention. Suspected perpetrators should as a rule be subject to suspension or reassignment during the process of investigation. These subjected to disciplinary penalties should not be permitted to remain at their posts.

Conditions of detention

11. While the Committee appreciates the information from the State party regarding surveys of detainees' opinions regarding detention facilities, the Committee remains concerned that despite the reported improvements, there are numerous reports of abuses in custody and many deaths, some of which are alleged to have followed torture or ill-treatment. Furthermore, only some of these have been followed by independent autopsies, and such investigations have not become a regular practice. The Committee is also aware of the concerns raised by the Special Rapporteur on torture regarding the Jaslyk detention facility, the isolated location of which creates conditions of detention reportedly amounting to cruel, inhuman and degrading treatment or punishment for both its inmates and their relatives.

The State party should take effective measures to keep under systematic review all places of detention, and not to impede routine unannounced visits by independent experts, including independent national and international bodies, to all places of detention, including Jaslyk prison.

The State party should take prompt measures to ensure that in all instances of death in custody, it independently investigates and prosecutes those believed responsible for any deaths resulting from

torture, ill-treatment or wilful negligence leading to any of these deaths. The Committee would appreciate a report on the outcome of the investigations, where completed, and where cases of torture were indeed found, as well as information about what penalties and remedies were provided. The State party should correct the reportedly poor conditions of places of detention, including through the application of alternative measures to imprisonment and the establishment of additional prison facilities, as needed.

Safeguards for prisoners

12. Notwithstanding the many fundamental legislative changes made by the State party regarding detention conditions, safeguards of detainees and related matters, the Committee is concerned at credible reports that law enforcement personnel secure and follow detailed internal regulations and procedures that are restricted for official use only and not made public or available to detainees or their lawyers. These rules leave many issues to the discretion of the officials. This results in claims that, in practice, detainees are not afforded the rights of access to a lawyer, independent doctors or family members. The Committee is concerned that these rules create conditions where abusive practices are sanctioned.

The State party should ensure in practice that every detainee can exercise the right to access to a lawyer, independent doctor and family member and other legal guarantees to ensure protection from torture.

Independent monitoring of places of detention

13. While noting the State party's affirmation that all places of detention are monitored by independent national and international organizations without any restrictions and that they would welcome further inspections including by the International Committee of the Red Cross (ICRC), the Committee remains concerned at information received, indicating that acceptable terms of access to detainees were absent, causing, inter alia, the ICRC to cease prison visits in 2004.

The State party should ensure that fully independent monitoring of detention and other custodial facilities is permitted, including by independent and impartial national and international experts and non-governmental organizations, in accordance with their standard methodologies.

Results of investigations

14. While appreciating the responses by the State party regarding cases raised by the Committee in which violations of the Convention are alleged, the Committee notes with concern that the State party often presents extensive detail on the alleged crimes committed by individuals rather than providing information on the results of investigations into the allegations of torture.

The State party is reminded that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture.

Fully independent complaints mechanism

15. Notwithstanding the bodies established by the State parties to investigate complaints, such as through instruction 334 of the Ministry of Internal Affairs and special staff inspection units and the Parliamentary Ombudsperson, the Committee is concerned that these bodies have not been effective in combating torture and lack full independence. The Committee expresses concern that despite the State party's report of thousands of cases registered annually about alleged abuses by law enforcement personnel, and the Ombudsperson's visits to places of detention, it was stated that no appeals regarding torture were received and no reason provided. The Committee also notes that the State party should consider making the declarations under articles 21 and 22 of the Convention.

The State party should ensure in law and in practice that every person has the right to complain to a fully independent mechanism that will investigate and respond promptly, in compliance with the

principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The State party is urged to ensure that all procedures for dealing with these complaints are effective and independent and should take the necessary measures to ensure that the Parliamentary Ombudsperson is fully independent, in accordance with the Paris Principles. In addition, the State party should make the necessary declarations under articles 21 and 22 of the Convention.

Closure of human rights and other independent organizations

16. The Committee is concerned at the information received about the intimidation, restrictions and imprisonment of members of human rights monitoring organizations, human rights defenders and other civil society groups, and the closing down of numerous national and international organizations, particularly since May 2005. The Committee appreciates the information that Mutabar Tojibayava is eligible for amnesty, but remains concerned at the reports of ill-treatment and denial of fundamental safeguards regarding her trial and those of other civil society advocates and detainees.

The State party should take all necessary measures to ensure that independent human rights monitors are protected from unjust imprisonment, intimidation or violence as a result of their peaceful human rights activities.

The Committee urges the State party to release human rights defenders imprisoned and/or sentenced because of their peaceful professional activities and to facilitate the reopening and full functioning of independent national and international human rights organizations, including the possibility of conducting unannounced independent visits to places of detention and confinement.

Training of personnel

17. The Committee takes note of the extensive information provided on training of law enforcement officials and penitentiary staff regarding human rights. The State party's information does not clarify whether this training has been effective. The Committee also notes a lack of information provided on gender specific training.

The State party should provide specific training to its medical personnel dealing with detainees on how to identify signs of torture and ill-treatment and ensure that the Istanbul Protocol of 1999 (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) becomes an integral part of the training provided to physicians and others involved in health care of detainees.

In addition, the State party should develop and implement a methodology to assess the effectiveness and impact of its training/educational programmes on cases of torture and ill-treatment and provide information about gender specific trainings.

Compensation and rehabilitation

18. Noting the State party's information about victims' rights to material and moral rehabilitation envisaged in the Criminal Procedure Code and the Civil Code, the Committee is concerned at the lack of examples of cases in which the individual received such compensation, including medical or psychosocial rehabilitation.

The State party should provide compensation, redress and rehabilitation to victims, including the means for as full rehabilitation as possible and provide such assistance in practice.

Independence of the judiciary

19. The Committee remains concerned that there is a lack of security of tenure of judges, that the designation of Supreme Court judges rests entirely with

the Presidency, and that lower level appointments are made by the executive which re-appoints judges every five years.

The State party should guarantee the full independence and impartiality of the judiciary, inter alia, by guaranteeing judges' security of tenure.

Evidence obtained through torture

20. While appreciating the frank acknowledgement by the representatives of the State party that confessions under torture have been used as a form of evidence in some proceedings, and notwithstanding the Supreme Court's actions to prohibit the admissibility of such evidence, the Committee remains concerned that the principle of non-admissibility of such evidence is not being respected in every instance.

The State party should take immediate steps to ensure that in practice evidence obtained by torture may not be invoked as evidence in any proceedings. The Committee reiterates its previous recommendation that the State party should review cases of convictions based solely on confessions, recognizing that many of these may have been based upon evidence obtained through torture or ill-treatment, and, as appropriate, provide prompt and impartial investigations and take appropriate remedial measures.

Violence against women

21. The Committee is concerned by reports of cases of violence against women, including in places of detention and elsewhere, and notes the lack of information about prosecutions of persons in connection with cases of violence against women.

The State party should ensure the protection of women in places of detention and elsewhere, and the establishment of clear procedures for complaints as well as mechanisms for monitoring and oversight. The State party should ensure protection of women by adopting specific legislative and other measures to prevent in practice domestic violence

in accordance with the Declaration on the Elimination of Violence against Women (General Assembly resolution 48/104) and provide for protection of victims, access to medical, social and legal services and temporary accommodation. Perpetrators should also be held accountable.

22. The Committee remains concerned at trafficking in women for purposes of sexual exploitation.

The State party should adopt and strengthen effective measures to prevent and combat trafficking in women.

23. The Committee is concerned about reports about inter-prisoner violence, including sexual violence, in places of detention.

The State party should take prompt measures to protect detainees in practice from such inter-prisoner violence. Further, the State party should collect information on such incidents and provide the Committee with its findings and measures taken to prevent, investigate, and prosecute or punish persons found responsible.

Non-refoulement

24. The Committee is concerned at the allegations received that individuals have not been afforded the full protection provided for by article 3 of the Convention in relation to expulsion, return or deportation from another country. The Committee is particularly concerned at reports of forcible return of recognized refugees and/or asylum-seekers from neighbouring countries and the unknown conditions, treatment and whereabouts since their arrival in the State party, some of whom were extradited from neighbouring countries. Although the State party's representatives stated that there is no longer a need for the United Nations High Commissioner for Refugees to be present in the country, the Committee is concerned that at least 700 recognized refugees are resident in the State party and are in need of protection and resettlement.

The State party should adopt a refugee law that complies with the terms of the Convention. The State party should invite the United Nations High Commissioner for Refugees to return and to assist in providing protection and resettlement for the refugee population. It is encouraged to consider becoming party to the 1951 Refugee Convention and its 1967 Optional Protocol.

Other ill-treatment

25. The Committee reiterates its concern with the delay in transferring the prison system from the Ministry of Internal Affairs to the Ministry of Justice and notes that insufficient explanation was provided.

The State party should consider the transfer of the prison system from the Ministry of Internal Affairs to the Ministry of Justice without delay, with the aim of institutionalizing oversight and accountability for executive decisions in the judicial branch of Government.

26. While the Committee welcomes the entry into force of the law eliminating the death penalty, it remains concerned about the past practice of the State party resulting in failure to inform families of persons sentenced to death about the time and place of executions and the location of the bodies, which causes them distress.

The State party should ensure that relatives of persons sentenced to death are treated in a humane manner to avoid further suffering due to the secrecy surrounding executions and that remedial measures are taken.

27. The Committee recommends that the State party consider becoming a party to the
- a) Optional Protocol to the Convention;
 - b) Rome Statute of the International Criminal Court; and the
 - c) core United Nations human rights treaties to which it is not yet a party.

Data Collection

28. The Committee notes that much information was provided in the State party's report on a number of situations, but that this information was not disaggregated in the way requested by the Committee, thereby hampering the identification of possible patterns of abuse or measures requiring attention.

The State party should provide detailed statistical data in its next periodic report, disaggregated by gender, ethnicity or nationality, age, geographical region and type and location of place of deprivation of liberty, on complaints related to cases of torture and other ill-treatment, including those rejected by the courts, as well as related investigations, prosecutions and disciplinary and penal sanctions, and on the compensation and rehabilitation provided to the victims.

29. The Committee invites the State party to submit its core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, as approved by the international human rights treaty bodies and contained in document HRI/GEN/2/Rev.4.
30. The State party is encouraged to disseminate widely the reports it submitted to the Committee, its replies to the list of issues, the summary records of meetings and the conclusions and recommendations of the Committee, in appropriate languages, through official websites, the media and non-governmental organizations.
31. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 6, 7, 9, 10, 11 and 14 above.
32. The State party is invited to submit its next periodic report, which will be the fourth report, by 30 December 2011.

Uzbekistan: The Economic, Social and Cultural Root Causes of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The World Organisation Against Torture (OMCT) submitted this alternative report on the human rights situation in Uzbekistan to the United Nations Committee against Torture during the Committee's 39th session in November 2007. It was prepared in cooperation with the Bureau for Human Rights and the Rule of Law, Uzbekistan. The purpose of this report is to identify the violations of economic, social and cultural rights that are the root causes of torture and other forms of violence in Uzbekistan and recommend action to eliminate torture and other forms of violence by addressing those root causes.

This Publication also includes the concluding observations adopted by the Committee against Torture.



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Swiss Agency for Development and Cooperation (DDC)
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