



Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment

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COMMITTEE AGAINST TORTURE

Twenty-eighth session

SUMMARY RECORD OF THE 506th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 1 May 2002, at 10 a.m.

Chairman: Mr. BURNS

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Second periodic report of Uzbekistan (CAT/C/53/Add.1)

1. At the invitation of the Chairman, the delegation of Uzbekistan took places at the Committee table.
2. Mr. SAIDOV (Uzbekistan) said that the young State of Uzbekistan had ratified the Convention against Torture in 1995 and was endeavouring to establish a State governed by the rule of law, in particular by effecting a number of transformations in the human rights sphere. Following consideration of the initial report of Uzbekistan (CAT/C/32/Add.3) by the Committee in 1999, the Uzbek delegation had transmitted the Committee's concluding observations and recommendations to the ministries and official bodies concerned, which had taken specific steps to put the recommendations into effect. The recommendations had also been made known to non-governmental organizations (NGOs) and the general public through an information campaign conducted in collaboration with the media.
3. Since the submission of its second periodic report in November 2000, Uzbekistan had experienced profound changes. Among other things, the Government had undertaken initiatives in the field of human rights education for the personnel of the relevant institutions. The United Nations Development Programme (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Committee of the Red Cross (ICRC), the Organization for Security and Cooperation in Europe (OSCE) and a number of bodies such as the Soros Foundation, the Konrad Adenauer Foundation and the Canadian Human Rights Foundation had participated in those initiatives.
4. In 2000 and 2001, with the cooperation of OSCE, the Uzbek Government had organized a series of seminars in various cities on international standards and practices regarding the administration of justice. The seminars were intended for investigators, procurators, judges and lawyers. During the seminars, the participants had studied the provisions of the International Covenant on Civil and Political Rights and the Convention against Torture, as well as the recommendations made by the Human Rights Committee and the Committee against Torture following their consideration of the periodic reports of Uzbekistan.
5. Action had also been taken to train trainers in the fields of human rights protection and the administration of justice. All information and education efforts came within the scope of the United Nations Decade for Human Rights Education.
6. In preparing the second periodic report, use had been made of information provided not only by the authorities but also by non-governmental organizations (NGOs) such as the public opinion sociological research centre, the bar association, the judges' association, the human rights and humanitarian law research centre, women's associations and other bodies. In addition, the report had been prepared in strict accordance with the guidelines laid down by the Committee.

7. Pursuant to the Committee's recommendations, Uzbekistan had taken a number of steps to outlaw torture. The Criminal Code now provided for very heavy penalties for torturers, and the Code of Criminal Procedure stated that confessions obtained by torture were inadmissible as evidence, a position confirmed by the Supreme Court in a number of decisions handed down in recent years.

8. The authorities were currently establishing an effective system for examining complaints lodged by persons alleging that they had been ill-treated or tortured by State agents. The Government thus intended to do its utmost to stop the perpetrators of such acts from going unpunished.

9. As the Committee had taken the view that the definition of torture in Uzbek law was incomplete, Parliament had adopted a new definition conforming to article 1 of the Convention.

10. In conformity with the Committee's recommendations, moreover, Parliament had passed a new law on the courts which drew inspiration from the principles concerning the administration of justice set forth by the United Nations, especially the Basic Principles on the Independence of the Judiciary.

11. The Government was currently establishing a mechanism to monitor compliance with legislative provisions in the field of human rights. Scrutiny would be exercised by parliamentary commissions, the Ombudsman, the official bodies concerned and NGOs.

12. In order to fulfil its international human rights commitments, Uzbekistan was endeavouring to incorporate the international instruments to which it was a party into its domestic law. It was also making sure that the relevant bodies applied international norms directly.

13. Special attention was being given to the campaign against human rights abuses. Once their causes had been determined, the means to eliminate them would be found in order to prevent further abuses. To that end, the Government had established, in cooperation with OSCE, a network of NGOs entrusted with ensuring respect for human rights.

14. Furthermore, convinced that NGOs played a very important role in implementing the Convention against Torture and other international human rights instruments, the Government had trained NGO representatives to prepare shadow reports for treaty monitoring bodies. Since the submission of the second periodic report in November 2000, the Criminal Code and the Code of Criminal Procedure had been reformed. The categorization of offences had been amended. For example, the number of offences for which a custodial sentence could be imposed had been considerably reduced when the offences did not pose a significant danger to society. The courts now had the discretion to impose non-custodial sentences, including financial penalties. As a result, the number of people in pre-trial detention had declined considerably. Moreover, persons deprived of their liberty for offences that did not pose a particular danger to society could serve their sentences in open prisons where they were not completely cut off from society and where their re-education was easier. The Government believed that, to the extent possible, offenders should be made aware of their responsibilities rather than being isolated from society.

15. In the context of the general relaxation of the criminal law, the Criminal Code provided for lighter sentences for juveniles, women and the elderly.
16. The number of capital crimes had been reduced from 36 to 4. Furthermore, minors and persons aged over 60 could not be sentenced to death.
17. Criminal procedure had been simplified and relaxed, for example by reducing the length of pre-trial detention. Generally speaking, the reform of the Criminal Code and the Code of Criminal Procedure was intended to strike a balance between the rights and liberties of the individual and the needs of society.
18. Despite all the Government's efforts, it had to be admitted that there was a wide gap between the laws prohibiting torture and actual practice. Acts of torture were still being committed by agents of the public authorities. Those found guilty of such acts were sentenced to long prison terms and the Government was firmly resolved to do everything in its power to end impunity in that sphere and apply the provisions of the Convention. It therefore wished to have a frank and constructive dialogue with the Committee.
19. Mr. YAKOVLEV, speaking as Country Rapporteur, welcomed the fact that Uzbekistan had submitted its second periodic report within the prescribed time limit. Noting the changes that had been made to the judicial system and the system for the administration of justice, as well as the legislative reforms and the new laws that had been adopted, he observed that Uzbekistan now had to address the arduous task of putting those laws into practice.
20. Paragraph 66 of the report stated that the President of Uzbekistan had repeatedly referred to the need to transform the courts from punitive bodies to bodies which protect citizens' rights and freedoms. It would be interesting to learn what specific steps the Government intended to take, for example at the legislative level, to achieve that goal. The delegation might, in particular, wish to clarify whether Uzbekistan intended to apply the principle of the irremovability of judges, since otherwise judges would be unable to perform their duties with complete independence.
21. Recalling that the fate of any law prohibiting torture depended on day-to-day practice in detainees' and offenders' cells, he noted with satisfaction that restrictions had been placed on the use of pre-trial detention as a preventive measure and that it was now a matter for the courts, sitting in open session, to order a person to be held in detention. Was it true that the maximum duration of police custody had been reduced to 72 hours? He would also like to know under what conditions detainees and offenders could obtain a medical certificate, whether they had access to counsel, a physician or their family, and whether persons under arrest were immediately informed of their rights.
22. The State party should provide more information about the inspection of places of detention (was there ongoing monitoring, who performed it, and what were the results?) and about provisions relating to the extradition of persons under threat of torture in their country of origin. Was the jurisdiction of military courts limited to offences committed by armed forces personnel? If not, were civilians being tried by such courts assured that their cases would be given a thorough hearing?

23. The initial report indicated that the Committee's recommendations had been transmitted to the relevant ministries and bodies for implementation. Had they also been published and disseminated to the wider public as part of efforts to change the perception of such issues by the public generally and by officials in particular?

24. The delegation should cite instances in which the Supreme Court or an appeal court, having considered a case, had determined that the confession of the accused had been obtained by unlawful means (including torture) and modified the sentence accordingly. If all competent bodies, from arrest through to sentencing by a trial court, were fully aware that any evidence allegedly obtained through torture would be rejected and the sentence quashed, the pointlessness of extracting confessions by such means would be understood.

25. Ms. GAER, speaking as Alternate Country Rapporteur, said that the report of Uzbekistan conveyed well the Government's willingness to become involved in the mechanism for monitoring the implementation of international instruments. Devoting considerable space to the implementation of article 10 of the Convention, it provided a wealth of detail about education and information concerning the prohibition of torture. However, there was scant reference to practical training for police and security officers and the personnel of other law-enforcement bodies, and that was a cause for concern since the Committee had received numerous reports of cases of torture. Details should therefore be provided not only about the theoretical but also (and more importantly) about the practical training of law-enforcement personnel. She would like to hear more about the treatment of detainees by such personnel, about their procedures, what qualified medical personnel were on hand to identify signs of ill-treatment or torture, and whether judges received training in that area and were free to report cases of torture. Clarification would also be welcome on measures taken by the Government to supervise observance of the interrogation rules and the regulations on the custody of detainees (article 11 of the Convention). Paragraph 206 of the report indicated that statements made by a witness or victim during a pre-trial investigation could be read out only if there were substantial discrepancies between them and statements made in court; what was the role of judges in such circumstances? She would also like the delegation to comment on reports received from Russian NGOs that the publication of administrative circulars on conditions of detention sometimes gave rise to reprisals; for example, some Muslim detainees had reportedly been subjected to ill-treatment and forbidden to pray, even silently.

26. The treatment and protection of remand prisoners also seemed to be a problem. It was unclear from the report whether detainees had access to counsel before being charged, and exactly when they could request a medical examination or ask to see their relatives. Did witnesses or suspects have at least one of those rights?

27. The Human Rights Committee, when it had considered the report of Uzbekistan, had recommended the establishment of an independent monitoring mechanism in all places of detention. Had such a mechanism been set up? More specifically, was there a register of detainees, did they undergo a medical examination, what procedures applied in that area, and were family members notified of the detention? Notwithstanding the fact that article 225 of the Code of Criminal Procedure made provision for certain protective measures, it appeared that the rights to which she had just referred were not guaranteed in practice. The same Code further specified that the maximum duration of police custody was 72 hours, with no possibility of

appeal against the decision (which was taken by a procurator, not a court). It also appeared that there was no procedure analogous to habeas corpus and that the right to be represented by counsel was frequently flouted. Lawyers who filed complaints were intimidated and unable to confer with their clients until they had obtained written permission from the official handling the case. All those questions needed to be clarified by the delegation.

28. Additional information would also be welcome on the outcome of the parliamentary debates concerning inspection visits to various places of detention by procuratorial bodies, the National Centre for Human Rights, national and international NGOs and other international bodies, and also by members of the public, as mentioned in paragraphs 215 to 219 of the report. Moreover, noting that investigations were rarely undertaken at the request of individuals, she would like to hear more about factors impeding the implementation of article 13 of the Convention (perhaps the factors were of a technical nature: ought the Supreme Court to give fuller instructions or should the Government demonstrate more forcefully its will to make progress in that area?). The delegation should also comment on reports that ICRC representatives had apparently been prevented from making prison visits under an agreement concluded with the Uzbek Government.

29. In its initial report, Uzbekistan had stated that the responsibility for undertaking prompt and impartial investigations of acts of torture devolved upon procuratorial bodies. How many such complaints had been lodged and what resources did procuratorial bodies have to investigate cases which they themselves brought before the courts? She noted that, in 1999, the Procurator's Office had received six complaints from citizens concerning the use of unlawful investigative measures by officials and its services and 24 complaints against officials of the Ministry of Internal Affairs (paragraph 118 of the report); it would be interesting to hear the delegation's comments on those statistics and to receive an explanation of the role of the National Centre for Human Rights in that area.

30. The State party should also elaborate on paragraph 60 of the report, which indicated that judges did not always show the necessary severity in assessing violations of the right of access to counsel and did not always take a critical attitude to confessions made by suspects in the absence of a lawyer, despite the Supreme Court's insistence that evidence acquired unlawfully had no legal value and must consequently be rejected by the court. The delegation should provide statistics on cases in which confessions obtained under duress had been declared inadmissible, and those in which a medical examination had been carried out to determine whether the defendant had been tortured. Likewise, she would be grateful for an explanation of statements made by prisoners who, having confessed under torture, had been forced to sign a waiver of their right to be assisted by counsel.

31. The report stated that some law-enforcement bodies in practice ignored appeals by citizens or treated them in a purely formal manner, and that such instances might also occur in the work of middle-ranking and higher judicial bodies (para. 231). More details would be welcome about the Supreme Court's decision of December 1998 designed to remedy that situation.

32. Further information was required about the role played by the Human Rights Commissioner (Ombudsman) in implementing the Convention, and particularly about the proposal that he had made, in the context of the planned implementation of the Convention by his Office, to apply the provisions of the Code of Criminal Procedure in three regions of Uzbekistan. It would also be useful to hear more about the functions of the Commission on the Observance of Constitutional Human Rights and Freedoms (paragraphs 232 and 233 of the report).

33. Statistics were required on complaints about unlawful acts committed by law-enforcement officials and bodies, and some details should be given about the punishments imposed on the perpetrators of such acts. She would also like to hear the delegation's comments on the report by one Uzbek NGO that the National Centre for Human Rights had estimated at 30 the number of complaints taken up the Procurator-General's Office in 1999. What exactly was the role of the National Centre for Human Rights, which, according to a report by the World Organization Against Torture (OMCT), had received just one complaint of physical violence since 1999. Was it authorized to receive complaints of that nature? Moreover, according to the Legal Aid Society, the Mediator's report for the year 2000 had cited many examples of unacceptable practices in the conduct of investigations and cases of unlawful detention. It would be interesting to hear the delegation's comments on the matter. Some NGOs had reported that between 50 and 100 people were ill-treated every day, whereas the figure supplied by the Uzbek delegation was 1,000 complaints a year. Also of concern was the information supplied by NGOs that a complainant's family members were potential victims of threatened ill-treatment or even reprisals. It would be useful to have more details about prosecutions of officials and the punishments imposed on them.

34. Regarding article 14 (right of victims of torture to obtain fair and adequate compensation), she assumed that no compensation was awarded because criminal prosecutions never resulted in convictions for acts of torture. It would be helpful to know what measures were envisaged to compensate victims and ensure the independence of the judiciary. According to some sources, the police paid the victim or the victim's family members to withdraw their complaint, and that led her to suppose that there was a serious problem of corruption. What actually was the situation in Uzbekistan?

35. Following its consideration of the initial report of Uzbekistan, the Committee had recommended, in connection with article 15, that the State party should strictly observe in practice the principle of the inadmissibility of evidence obtained by torture. Apparently that principle was not always applied in Uzbekistan and the new Code of Criminal Procedure did not expressly forbid the use of information obtained by such means. Specific examples taken from the report of the NGO Pamyat (such as the case of Nasim Djabakov) could be cited. What measures did the Uzbek Government intend to take to give effect to that principle?

36. As to article 16, the Committee had received reports of many deaths in police custody (approximately 20, according to an NGO report). One such case involved the human rights defender Shovrik Ruzimuradov, who had died in June 2001; how independent had the inquiry into his death been? Comments would also be welcome on the case of Raushan Haitou. Fuller information of a general nature was required on ill-treatment of prisoners, which in some

respects could be likened to the practice of hazing (dedovshchina). More precise information was needed on the number of prisoners in Uzbekistan and the reasons for their detention. It would be interesting to know what measures had been taken to improve conditions of juvenile detention. She would also appreciate information about women who had disappeared following a public demonstration to protest against the detention of a family member - as, for example, in the case of Musharaf Usmanova, who had disappeared on 18 April. Many instances of people who had been tortured or ill-treated could be cited. One example concerned a 16-year-old girl imprisoned with adults who had apparently been refused access to a lawyer and had been beaten and refused medical treatment. What was the Uzbek Government's reaction to those allegations and did it plan to investigate all those cases?

37. Mr. RASMUSSEN said that education and training concerning human rights and the prohibition of torture, as stipulated by article 10, were of crucial importance. The delegation should indicate whether the Uzbek Government planned to take steps to improve the implementation of that article. Physicians had a vital role to play, and they should be well trained in order to be able to contribute to the prevention of torture. It would be helpful to know whether medical examinations were conducted at the beginning of detention; medical screening was important to prevent the spread of disease, and currently of tuberculosis. Prescribed medical examinations should also be carried out in remand centres. In his view, it was essential to establish a mechanism for regular and independent inspections of places of detention, and to ensure proper medical supervision of detainees. The Uzbek Government should also involve the National Centre for Human Rights and various NGOs in the inspection procedures, as the report seemed to advocate. Prison overcrowding, especially in police lockups where detainees sometimes had to sleep in shifts, was another matter of concern. Did the Uzbek Government have any plans to tackle the problem of prison overcrowding by means other than amnesties or release on bail? The reporting State should indicate the total prison population (remand centres, police lockups, penitentiaries, etc.), a statistic which the Committee had already requested when considering the initial report of Uzbekistan.

38. Mr. EL MASRY said that he would appreciate more details about the admissibility of evidence obtained by torture, as for example at the trial of the so-called religious detainees in July 2000, when the Tashkent trial court judge had rejected the allegations by the accused that they had been tortured.

39. Mr. MAVROMMATIS said that the Uzbek report contained fairly comprehensive information on the legal instruments ensuring juridical protection, but not enough details about their practical implementation. According to information supplied by NGOs, the situation regarding torture had deteriorated in the last few years, with the authorities stifling complaints and obstructing inquiries. Some NGOs had gone so far as to claim that torture and ill-treatment had become more or less routine, especially in cases with a political dimension. If those allegations were true, the Uzbek Government certainly needed to remedy the situation.

40. Paragraph 4 of the report stated that Uzbekistan had signed about 50 international human rights treaties. It would be interesting to know which treaties were meant - some were probably regional instruments.

41. Paragraph 6 stated that reports to the Committee against Torture must be updated and submitted annually. In fact, under article 19 of the Convention, each State party was obliged to present its initial report within one year of the Convention's entry into force for that State, and thereafter it should submit supplementary reports every four years.
42. The meaning of paragraph 110 of the report needed to be made clear.
43. According to some reports, judges were always appointed and removed by the President. If that was true, he did not see how it was possible to ensure the independence of the judiciary. Confessions or evidence obtained by torture should under no circumstances be mentioned in the judgement or recorded in the case-file to avoid influencing action by the judge.
44. Did Uzbekistan plan to make the declaration provided for in article 22 of the Convention? In that connection, it was rather surprising that the National Centre for Human Rights had received practically no complaints.
45. With a view to contributing to the improvement of respect for human rights, it might be wise to transfer responsibility for matters relating to detention from the Ministry of Internal Affairs to the Ministry of Justice.
46. Mr. MARIÑO MENENDEZ said that he wished to emphasize the importance of ensuring that detainees received regular medical care. What was the jurisdiction of military courts and was there any overlap between their jurisdiction and that of the civilian courts?
47. According to paragraph 26 of the report, terrorism and aggression were two of the crimes punishable by death. Was there a definition of those crimes in Uzbek law and, if so, could the delegation cite it? He would also welcome statistics on the death penalty.
48. The report stated in paragraphs 219 and 220 that an inspection of penal establishments had been conducted. What had been the outcome?
49. Paragraph 3 of the report referred to non-governmental human rights organizations. Were those independent or semi-official organizations? What activities were performed by the approximately 2,500 non-profit NGOs that existed in Uzbekistan?
50. It seemed from the report that Uzbek law contained no explicit rules prohibiting the expulsion, refoulement or extradition of a person to another State where there were substantial grounds for believing that he or she would be in danger of being subjected to torture. That was a serious shortcoming.
51. On the more general issue of the treatment of foreigners, paragraph 224 of the report stated that aliens could bring a complaint before a court of law under the statutory procedure, unless the international treaties and agreements to which Uzbekistan was a party stipulated otherwise. Could foreigners be prevented from applying to a court in Uzbekistan, or did they enjoy that right without any discrimination, as article 16 of the Code of Criminal Procedure seemed to indicate?

52. Some sources alleged that hundreds of people belonging to minority groups in Uzbekistan had been forcibly displaced and their homes destroyed. If those allegations were true, were such acts not tantamount to cruel, inhuman or degrading treatment, even to genocide? Had the allegations been exaggerated? What measures had been taken to avoid such situations?

53. Did Uzbekistan intend to sign or ratify the Rome Statute of the International Criminal Court?

54. Mr. YU Mengjia said that he wished to know how Uzbekistan dealt with the issue of legal aid and the training of legal specialists, and what steps it had taken to address the problem of violence among detainees or violence committed by law-enforcement personnel?

55. The CHAIRMAN said that he wished to ask or repeat some questions. First, what was the definition of the crime of torture in the draft Criminal Code? Second, how many executions had there been during the past three years and what method had been used? Third, were official registers of detainees kept in places of detention, and were they accessible, for example, to members of the detainees' families and their lawyers?

56. Mr. SAIDOV (Uzbekistan) thanked the Committee for its careful reading of his country's report. Some of the criticisms which had been made were justified. He has noted the wishes that had been expressed and the suggestions made. The Committee's recommendations would be transmitted to the competent authorities. Uzbekistan was in favour of maintaining a constructive dialogue in order to translate the recommendations into reality. Conditions differed from one country to another, but a certain number of norms should be applied universally and Uzbekistan was deeply committed to that principle. It sincerely wished to attain the standard reached by the most advanced countries in the human rights sphere. Population displacements should in no way be related to genocide. The Committee received information from a multitude of sources, which should enable it to analyse the situation objectively. That said, his delegation agreed with the Committee that there was still a gap between the legislation on paper concerning human rights and actual respect for those rights. Uzbekistan was resolved to close that gap.

The meeting rose at 12.40 p.m.