UNITED NATIONS

CAT

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

Distr.
GENERAL

CAT/C/UZB/Q/3/Add.1
17 September 2007

ENGLISH
Original: RUSSIAN

COMMITTEE AGAINST TORTURE

Written replies by the Government of Uzbekistan* to the list of issues (CAT/C/UZB/Q/3) to be taken up in connection with the consideration of the third periodic report of UZBEKISTAN (CAT/C/UZB/3)

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

GE.07-44088 (E) 080208 210208

Working group of the Uzbekistan National Centre for Human Rights, established to prepare Uzbekistan's replies to the questions posed by the Committee against Torture

Professor A.K. Saidov, Director, Uzbekistan National Centre for Human Rights

L.F. Kashinskaya**,** candidate of legal sciences, head of the International Human Rights Department

G.K. Nazarova, Chief Consultant, Department of Human Rights Analysis and Research

S.O. Toshboev, Chief Consultant, Department of Human Rights Education

D.B. Turaev, Chief Consultant, International Human Rights Department

F.U. Khamdamov, Principal Specialist, Department of Human Rights Education

State organizations that provided material:

Legislative chamber of the Oliy Majlis;

Senate of the Oliy Majlis;

Human Rights Commissioner (Ombudsman) of the Oliy Majlis;

Supreme Court;

Office of the Procurator-General;

National Security Service;

Ministry of Internal Affairs:

- Central Investigation Department;
- Central Penal Correction Department;

Ministry of Health;

Ministry of Foreign Affairs;

Ministry of Justice;

Centre for the Further Training of Legal Specialists, Ministry of Justice;

Centre for the Further Training of Procuratorial and Investigative Personnel, Office of the Procurator-General;

Academy of the Ministry of Internal Affairs;

Tashkent State Institute of Law.

Non-governmental organizations that provided material:

Association of Judges of Uzbekistan;

Bar Association of Uzbekistan;

Ijtimoiy Fikr Public Opinion Research Centre;

Centre for the Study of Human Rights and Humanitarian Law;

Independent Human Rights Organization of Uzbekistan;

Women's Committee of Uzbekistan;

National Association of Non-State Non-Governmental Organizations of Uzbekistan.

Introduction

Since the submission of the third periodic report on the implementation of the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 15 June 2005, profound changes have taken place in Uzbekistan in the legislative, political, social and legal fields.

A parliamentary reform has been introduced. On 27 January 2002, a referendum was held on a change to a two-chamber parliament. Following the referendum, three constitutional laws were adopted - on the outcome of the referendum and the fundamental principles governing the organization of State power, on the Senate of the Oliy Majlis, and on the Legislative Chamber of the Oliy Majlis - and the Constitution was amended. These measures created the legal prerequisites for the transition to a two-chamber parliament.

Since 2005, a two-chamber parliament, which effectively performs legislative functions, has been in operation in Uzbekistan. During its period of activity, the two-chamber parliament has adopted 107 laws. Active steps are being taken to exercise parliamentary supervision of the application of laws and the provisions of international human rights instruments by government agencies.

In June 2007, the Criminal Code, the Code of Criminal Procedure and the Penal Enforcement Code were amended in connection with the transfer to the courts of the authority to order remand in custody, and also in connection with the abolition of the death penalty. The adoption of these legislative changes was the result of the President’s exercise of his right to initiate legislation which took the form of decrees issued in August 2005. These changes will enter into force on 1 January 2008.

Academics, specialists and representatives of law enforcement agencies, as well as foreign experts, took part in the drafting and evaluation of these laws. Over a period of two years, the draft legislation underwent extensive review by the public, and was discussed in all the media in Uzbekistan, and also at conferences and round tables attended by scholars and parliamentarians from abroad.

All these legislative innovations constituted a logical continuation of the ongoing judicial and legal reform and the liberalization of the penal system in Uzbekistan.

In the political field, a number of steps were taken to strengthen the role of the political parties in the life of society and the State, and to enhance parliamentary supervision of government activities. In March 2007, the Parliament adopted a law on strengthening the role of political parties in the renewal and further democratization of State governance and modernization of the country. Amendments were introduced in the Constitution, whereby chief executives are appointed following consultations with factions of political parties. Political parties enjoy more extensive opportunities to influence the executive and, at the same time, bear responsibility for the policies being implemented.

The institutions of civil society developed further in 2006 and 2007. In the past two years, the Activities of Non-Governmental Non-Profit Organizations (Safeguards) Act and the Voluntary Associations Act were adopted, substantially expanding the sphere in which non-governmental organizations operate and establishing safeguards for their activities.

The number of non-governmental non-profit organizations is growing. In 2005, the National Association of Non-Governmental Non-Profit Organizations of Uzbekistan was established, as well as the Non-Governmental Non-Profit Organizations Support Fund, which provides annual grants for non-governmental organizations on a competitive basis. In the past two years, three competitions have been held and 57 non-governmental organizations have received grants. The grants are paid from State funds allocated for social priorities and from private donations.

Non-governmental non-profit organizations actively cooperate with the law enforcement agencies in the conduct of human rights-related, voluntary and educational activities for inmates in prisons.

All three branches of government pursue a policy of condemning torture and other cruel or degrading treatment or punishment. This policy is reflected in arrangements for parliamentary supervision and in the system of handling citizens' complaints and petitions that has been established within the Ministry of Justice, the Ministry of Internal Affairs and the Procurator's Office.

Between 2003 and 2006, efforts to strengthen and improve the judicial system, provide it with better resources and facilities and enhance its legal status and independence were reflected in the adoption of a number of decisions of plenums of the Supreme Court interpreting article 235 of the Criminal Code in the light of article 1 of the Convention against Torture and prohibition of the use of unlawful methods of investigation.

The application of the decisions of the plenums of the Supreme Court relating to the task of ensuring the rights of the accused is mandatory. These decisions have helped to enhance the skills of the personnel of law enforcement agencies, raise the level of protection of human rights in the system of criminal justice, overcome the bias in favour of the prosecution and ensure that both sides are heard during the judicial process.

Legislation to confirm the transfer to the courts of the authority to order remand in custody is the logical continuation of the judicial and legal reform and efforts to guarantee individual rights and freedoms.

A continuous system of human rights education has been established in Uzbekistan. A special course on human rights was introduced from 1997-1998 onwards in all schools and universities, in law schools, and also in the Ministry of Internal Affairs, the National Security Service, the Ministry of Defence, the Office of the Procurator-General and the Ministry of Justice.

Under the National Programme of Action to implement the Convention against Torture, adopted by the Government in 2004, a human rights education system is being introduced, the

purpose of which is to disseminate information on the provisions of the Convention against Torture to personnel of law enforcement agencies and all those working with them. The training and retraining programmes of educational establishments run by the law enforcement agencies include study of the Convention against Torture. Since 2003, series of conferences, seminars and round tables have been regularly held for personnel of law enforcement agencies and judicial bodies and members of Parliament on the application of the provisions of the Convention against Torture in domestic legislation, and on clarification of the legislative innovations involved in the institution of habeas corpus and the abolition of the death penalty, with participation by experts from the United Nations Development Programme (UNDP), the Organization for Security and Cooperation in Europe (OSCE), foreign foundations and non-governmental organizations. All these steps are backed up by the publication of information in legal journals and other media in Uzbekistan.

The Government is engaged in ongoing cooperation with such international organizations as the Human Rights Council, the Third Committee of the United Nations General Assembly, United Nations human rights treaty bodies, UNDP and OSCE, from which it receives technical and methodological assistance.

The replies to the Committee's questions which, are submitted for your consideration, confirm the extensive efforts that Uzbekistan has made to implement the provisions of the Convention against Torture.

Article 1

Question 1

It is stated in the State party report that article 235 of the Criminal Code as amended prohibits torture by "an individual conducting an initial inquiry, an investigator, a procurator or other employee of a law enforcement authority or penal institution" and that it "shall be punishable by punitive deduction of earnings for up to three years or up to three years of deprivation of liberty". Article 1 of the Convention states that the prohibited acts are those "inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity". The Committee understands that the Supreme Court decree of December 2003 is a secondary source of law reportedly not applied in practice:

Reply

1. The concept of a "secondary source of law" does not exist in the theory of law in Uzbekistan or in the implementation of legislation currently in force. However, this does not mean that the decisions of the plenum of the Supreme Court are not applied in practice.

2. The decisions handed down by the plenum of the Supreme Court are final and binding throughout Uzbekistan since, in accordance with article 110 of the Constitution and article 5 of the Courts Act, the Supreme Court is the highest judicial authority in the field of civil, criminal and administrative justice.

3. In its decisions, the plenum of the Supreme Court provides clarification on issues arising in the application of specific laws. These decisions are binding on lower courts when they dispense justice, in order to ensure that current legislation is applied uniformly by the courts. This demonstrates the importance that the highest judicial body attaches to respect for human rights and freedoms in Uzbekistan.

4. The decisions of the plenum of the Supreme Court are binding not only for judicial bodies, but also for the country's law enforcement agencies, and also for enterprises, institutions and organizations that apply the legislation on which the clarification has been provided.

5. After the Supreme Court had analysed the judicial practice with regard to law enforcement agencies, respect for the right of accused persons and defendants to a defence, and identified cases where unlawful methods of investigation had been used, the plenum of the Supreme Court stated, in its decision of 19 December 2003, entitled "Application by the courts of laws which guarantee the right of accused persons and defendants to a defence", that evidence obtained by methods that violate human rights, including the use of torture, cannot be accepted in criminal cases.

6. In its decisions, the Supreme Court cites the provisions of international human rights instruments. In particular, the following clarification is given in Decision No. 17 adopted by the plenum of the Supreme Court on 19 December 2003.

7. "In accordance with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984, 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."

8. The Supreme Court ordered that claims and complaints concerning the use of torture should be verified and, if they were confirmed, that criminal proceedings should be instituted against the persons responsible.

9. In its Decision No. 1 on the practice of criminal sentencing, adopted on 3 February 2006, the plenum of the Supreme Court recommended to the courts that, when imposing the punishment of "deprivation of a particular right" specified in article 45 of the Criminal Code, whenever a person had committed an offence involving the performance of official duties, bearing in mind the nature of the offence committed, they should consider whether or not to deprive the defendant of the right to occupy a specific post or engage in specific activities. In imposing such punishment, the post or type of activity should be specifically mentioned in the operative part of the court's decision.

10. Furthermore, on 2 May 1997 and 24 September 2004 respectively, the Supreme Court adopted decisions on judicial verdicts and on the application of criminal procedural law relating to the admissibility of evidence. Under these decisions, any evidence obtained by procedures not sanctioned by law does not have legal force and cannot serve as grounds for a decision.

11. The decision adopted by the plenum of the Supreme Court on 24 September 2004 on certain issues arising in the application of criminal procedural law relating to the admissibility of evidence provides that evidence obtained by a person conducting an initial inquiry, an investigator, a procurator or a judge who, for whatever reason, deviates from strict observance of and compliance with the rules of law, is to be considered inadmissible. Inadmissible evidence covers, in particular, testimony, including confessions, obtained by the use of torture, violence or other cruel, inhuman or degrading treatment or punishment, or by deception or other unlawful methods. The plenum drew courts' attention to the need to react to any violations of the procedural law governing the collection of evidence by adopting specific rulings on the matter and, where necessary, determining whether to bring criminal proceedings against the guilty parties.

12. During the period following the adoption of these decisions by the plenum of the Supreme Court, in 2003 and 2004, the courts referred a number of criminal cases back for further investigation after evidence had been found inadmissible because it had been obtained by means of torture, violence or deception.

13. Evidence obtained by unlawful psychological techniques or by force, including evidence obtained in violation of other legislative norms, is included in the category of evidence obtained by procedures not sanctioned by law.

Question 1 (a)

In light of this, please provide information on what the State party is doing to ensure the Criminal Code is applied in practice to acts carried out by quasi-official agencies other than those of the law enforcement authorities, such as trainees, or individuals or groups of persons acting with the consent or acquiescence of prison authorities. Please clarify how persons cited in complaints alleging such abuses are prosecuted, and provide examples;

Reply

14. The concept of "quasi-official agencies" does not exist in the theory of law in Uzbekistan or in the implementation of the legislation currently in force.

15. According to information supplied by the Central Penal Correction Department of the Ministry of Internal Affairs, no cases of the use of torture by the persons referred to in the Committee's question have been recorded.

16. Only persons carrying out an initial inquiry or pretrial investigation, procurators or other employees of law enforcement agencies or penal institutions may be classed as perpetrators of the offence referred to in article 235 of the Criminal Code.

17. If an offence of this nature is committed by another person (such as a teacher or private individual), the act will be categorized in accordance with the appropriate articles of the Criminal Code.

18. If the offence is committed by a person who is not an employee of a law enforcement agency, but by instigation, with the consent or acquiescence of a person carrying out an initial inquiry or pretrial investigation or other employee of a law enforcement agency, his or her action

will be categorized as aiding and abetting the use of torture or other cruel, inhuman or degrading treatment or punishment in the context of the provision of means for the commission of an offence under article 28, part 5, and article 235 of the Criminal Code.

19. In cases where a prisoner or person under investigation suffers bodily harm on the initiative of the prison administration or another official representative of an investigating body, depending on the circumstances, the persons responsible are liable to criminal prosecution for the use of torture or the infliction of bodily harm. If such unlawful violent acts were designed to obtain evidence of guilt, those responsible are liable to prosecution for the use of torture, whereas if the acts arose from other causes, they are classified as infliction of bodily harm.

Question 1 (b)

The new version of article 235 of the Criminal Code reportedly clarifies that acts of torture by officials would be punishable by up to three years' punitive deprivation of earnings or deprivation of liberty, with greater punishments for the same conduct carried out with violence such as to imperil life or health, or against a pregnant woman or minor. Does the State party consider that this punishment is in fact commensurate with the offence of torture? Please cite any cases of investigation and prosecution of persons found guilty of torture in accordance with this new definition.

Reply

20. Yes - the penalties laid down in article 235 of the Criminal Code are commensurate, since the infliction of bodily harm as a result of torture leads to the categorization of such acts under the corresponding articles of the Criminal Code, which stipulate more severe punishment.

21. On 30 August 2003, the Criminal Code was amended in accordance with the Act on amendments and additions to certain legislative acts, revising the wording of article 235 of the Code, under which the use of torture or other cruel, inhuman or degrading treatment or punishment is an offence. The amendments have brought the wording of article 235 into line with the requirements of article 7 of the International Covenant on Civil and Political Rights and article 1 of the Convention against Torture.

22. Officials who are prosecuted for torture are simultaneously charged with professional misconduct (Criminal Code, arts. 205 and 206, Exceeding authority or official powers), which is punishable by deprivation of liberty for up to eight years.

23. At the time of sentencing, article 33 (Multiple offences) of the Criminal Code and article 59 (Sentencing for multiple offences) are applied. This results in the imposition of more severe punishment.

24. For example, on 24 March 2006, M. Narbaev, F. Ibragimov and M. Kambarov, officers in the criminal investigation unit of the Surkhan-Darya province internal affairs administration, exceeded their authority by unlawfully arresting Mr. A. Tulaev, taking him to the internal affairs administration and charging him with possession of narcotics.

25. During the investigation, it was established that personnel of the internal affairs bodies used unlawful techniques; as a result, criminal proceedings were instituted against M. Narbaev, F. Ibragimov and M. Kambarov on 24 June 2006 under article 205 (Exceeding authority or official powers), article 235 (Use of torture or other cruel, inhuman or degrading treatment or punishment) and article 273 (Unlawful manufacture, acquisition or storage of, or other actions involving, narcotics or psychotropic substances with a view to sale, or the actual sale thereof) of the Criminal Code.

26. Similarly, in connection with the beating of prisoner R. Dedamirzaev by R. Abdukadyrov and B. Kurbanov, staff of facility UY-64/66, on 7 November 2005, criminal proceedings were instituted under article 206, part 1, of the Criminal Code.

27. The evidence gathered in the case confirmed that R. Abdukadyrov and B. Kurbanov, staff of the aforementioned facility, had carried out the beating, and accordingly criminal proceedings were instituted against them under articles 206 and 235 of the Criminal Code.

28. During judicial proceedings held in the period 2002-2006 and the first half of 2007, 30 (5, 4, 1, 4, 9, 7) defendants stated that they had been subjected to torture and other unlawful treatment. The claims made by 26 of the defendants were checked by the courts during the criminal proceedings and were not confirmed. The courts declared the claims to be groundless.

29. The courts instituted criminal proceedings on the basis of four such claims, and the procurators were ordered to conduct further investigations.

30. In connection with an incident on 11 July 2006 in which B. Mustafaev, neighbourhood inspector of the Nurabad district internal affairs office, in a state of intoxication, beat the minor D.S. Berdiev and inflicted bodily harm on him, the Nurabad district procurator instituted criminal proceedings on 15 July 2006 under article 206, part 1, of the Criminal Code.

31. On 9 August 2006, during the investigation carried out by the district procurator's office, B. Mustafaev was charged with the offences referred to in article 206, part 2, paragraph (c), and article 235, part 2, paragraph (e), of the Criminal Code and released on bail.

32. Following the results of the investigation of this criminal case, the court found B. Mustafaev guilty as charged and sentenced him to a fine.

33. For similar unlawful actions criminal proceedings were instituted against A. Eshankulov, an officer in the Payarik district internal affairs office in Samarkand Province (9 September 2006), and also against N. Pardaev, an officer in the Chilanzar district internal affairs office in Tashkent city (10 June 2002).

34. During the investigation carried out by the Balikchi district procurator's office in Andijan province of a criminal case filed by Mr. Z. Mamadaliev, who alleged that internal affairs officers had used illegal methods against him, the allegations were not confirmed; accordingly, on 9 March 2006, criminal proceedings were dropped on the grounds of lack of evidence that a crime had been committed, as provided in article 83, paragraph 2, of the Code of Criminal Procedure.

Question 2

Instruction No. 334 of 18 December 2003 of the Ministry of Internal Affairs makes the study of this newly-revised article mandatory and sets up a special procedure for recording and verifying complaints from citizens alleging violations of the law. Please describe the kinds of complaints that have been made and the responses that have ensued. Has any report been issued on the results of compliance with Instruction No. 334? A number of media articles are cited in annex 2 of the State party report about the existence of the new law and instructions. Please provide a summary of how it has in fact been carried out.

Reply

35. All internal affairs officers have been given an explanation of the amendments and additions to article 235 of the Criminal Code introduced by Ministry of Internal Affairs Instruction No. 334 of 18 December 2003. At the time the Instruction was announced, measures were taken to inform staff of the consequences of using torture. In May 2004, instructors of the Academy of the Ministry of Internal Affairs were sent to every province and district to explain to the staff of district internal affairs offices both the provisions of the Convention against Torture and the content of article 235 of the Criminal Code.

36. Internal affairs officers study the provisions of Instruction No. 334 during further training courses at the Academy of the Ministry of Internal Affairs. In 2004, the Instruction was discussed in *Shchit* (The Shield), the journal of the Ministry of Internal Affairs, the newspaper *Na postu* (On Duty) in both Russian and Uzbek, and *Vaqt*, (Time) a newspaper published by the Ministry's Central Penal Correction Department.

37. The above-mentioned publications contained theoretical and practical commentaries on article 235 of the Criminal Code and on the provisions of the Convention, and analysed cases of offences under article 235, as well as the causes and circumstances of instances of torture. Press releases were issued concerning all the conferences and seminars against torture that were held.

38. In order to provide a timely response to reports from citizens relating to the use of torture in the internal affairs system, the Instruction introduced a single procedure for registering complaints and petitions concerning the use of torture, and a separate record is kept on every complaint of the use of illegal methods of inquiry and investigation, which are subjected to a special verification procedure.

39. Verification of complaints of the use of torture is, in accordance with their mandate, one of the tasks of the special units for maintaining internal security (special staff inspection units), which are subordinate to the Minister of Internal Affairs.

40. These units are in fact independent, since combating, exposing and investigating crime are not part of their functions and they are not subordinate to anti-crime agencies and units.

41. When instances of torture - particularly when they involve the death of detainees or persons in custody - are investigated, or when they are a matter of public notoriety, representatives of the general public and civil society bodies and, occasionally, foreign experts may be involved.

42. According to information from the Ministry of Internal Affairs, 61, 96 and 17 complaints of torture against internal affairs officers were received by the Ministry in the years 2005, 2006 and 2007, respectively.

43. An analysis of the content of the complaints showed that four complaints received in 2005 and two received in 2006 involved unlawful actions by senior officials of internal affairs bodies (including a director of a temporary holding facility in 2005); the other complaints concerned internal affairs officers.

44. For example, in 2006 the Zangiata district procurator's office instituted criminal proceedings against V.M. Kurbanov, director of facility No. 64/66 of the Central Penal Correction Department, and an official of the same institution, R.A. Abdukadyrov, for inflicting minor bodily harm with impairment of health under article 206, part 1, and article 235, part 2, of the Criminal Code.

45. Both were found guilty on 24 February 2006 by the Zangiata district criminal court in Tashkent province.

46. In 2005, there were 53 complaints of bodily harm committed by internal affairs officers, six complaints of unlawful actions by such officers that did not involve battery, bodily harm or detention, and two complaints of unlawful detention.

47. Verification of the complaints filed in 2005 shows that in eight cases the allegations were confirmed, while in 41 they were not confirmed, and in 31 cases, including some in which the allegations were not confirmed, the complaints were referred to the procuratorial authorities for verification.

48. In 2005, disciplinary penalties were imposed on 12 internal affairs officers who had committed unlawful actions against citizens.

49. In 2006, out of the total number of complaints filed, 53 involved bodily harm by internal affairs officers, three involved extortion, three involved unlawful criminal prosecution, one concerned illegal detention and 36 concerned unlawful actions by internal affairs officers that did not involve battery, bodily harm or detention.

50. Verification of the complaints filed in 2006 shows that in seven cases the allegations were confirmed, while in 78 others, including cases of unlawful prosecution, they were not confirmed, and in 21 cases, including some in which the allegations were not confirmed, the complaints were referred to the procuratorial authorities for verification.

51. In 2006, disciplinary penalties were imposed on 17 internal affairs officers for committing unlawful actions against citizens.

52. All the complaints filed this year have been referred to the procuratorial authorities for verification.

53. According to information from the special staff inspection unit of the Ministry of Internal Affairs, in the first half of 2007, in 13 cases of reported unlawful actions by internal affairs officers, the allegations were not confirmed.

54. The following developments illustrate how the Act is being implemented in practice: a special human rights structure has been established within the Ministry of Internal Affairs; increased efforts are being made to handle complaints and communications from citizens; special internal investigations are being carried out by internal security units of the Ministry of Internal Affairs, and the procuratorial authorities have prosecuted individual militia officers under article 235 of the Criminal Code. This is clearly borne out by the statistics on criminal prosecutions under article 235.

55. As a result of inquiries into complaints filed by citizens, criminal proceedings were brought in connection with threats and other methods of coercion (under article 235 of the Criminal Code) in the following cases:

(a) In 2002, one case was brought against one person; in 2003, four cases against four persons; in 2004, three cases against three persons; in 2005, three cases against five persons; in 2006, six cases against nine persons; and, in the first half of 2007, three cases against four persons;

(b) A total of 20 criminal cases have been brought against 26 persons.

56. Senior officials of the Ministry of Internal Affairs review all claims of unlawful action. Convicted persons are usually dismissed from office and subsequently prosecuted.

Article 2

Question 3

According to the State party's report and annexes, following the visit of the Special Rapporteur on the question of torture, the Government of Uzbekistan created a national programme of action to follow up on his recommendations, and the Cabinet of Ministers created an interdepartmental working group headed by the Ministry of Justice to monitor observance of human rights by law enforcement agencies. According to the State party, the Government intended to conduct a broad campaign against torture in 2003; it discussed compliance in various official meetings in 2004, and the possibility of closer procuratorial supervision during detention and prosecution. An extraordinary session of the Ministry of Internal Affairs took place; the Supreme Court adopted Decision No. 17 in December 2003, guaranteeing the right to defence of suspects and accused persons; and in December 2004 the Supreme Court acted to make evidence obtained during torture inadmissible. Please clarify what actions have been taken to move beyond discussion of the Government's plans and intentions for actual implementation of the new decisions interpreting the law. Have any cases been refused by judges for review, or overturned on appeal, due to the inadmissibility of evidence? What does closer procuratorial supervision mean*?***

Reply

57. In order to improve the observance of human rights and further strengthen judicial and legislative reform, Order No. 112 of 24 February 2004 of the Prime Minister approved the composition and mandate of an interdepartmental working group to monitor the observance of human rights by law enforcement agencies.

58. Pursuant to the Order, the tasks of the interdepartmental working group are to monitor and analyse information on the observance of human rights by law enforcement bodies, to consider proposals relating to human rights from ministries, departments and non-governmental non-profit organizations and international organizations, and to draft proposals for improving legislation.

59. The interdepartmental working group coordinates the execution of the National Programme of Action to implement the Convention against Torture, approved by Prime Minister S. Mirziyaev on 9 March 2004, and follows up on the concluding observations of the Committee against Torture.

60. To date, 99 per cent of the National Programme of Action has been carried out, i.e. 58 of its 60 points have been implemented. Discussions on the closure of Jaslik colony in the Republic of Karakalpakstan have been held by the interdepartmental working group, the Ministry of Internal Affairs, the Office of the Procurator-General, the Cabinet of Ministers, members of the legislative chamber of the Oliy Majlis and international experts.

61. As part of the implementation of the National Programme of Action to follow up on the recommendations of the Special Rapporteur on the question of torture, Mr. Theo van Boven, the President adopted the decree of 1 August 2005 abolishing capital punishment in Uzbekistan and the decree of 8 August 2005 transferring to courts the authority to order remand in custody.

62. Today, a determined effort is being made in Uzbekistan in the form of legislative, information and organizational initiatives to abolish capital punishment.

63. First, amendments and additions to three codes - the Criminal Code, the Code of Criminal Procedure and the Penal Correction Code - have been drafted and adopted by Parliament in connection with the abolition of capital punishment and the introduction of life imprisonment or long-term deprivation of liberty. On 29 June 2006, the President issued a decree on additional measures to prepare legislative and normative acts for the abolition of capital punishment in Uzbekistan.

64. Secondly, the abolition of capital punishment will require raising awareness among the general public, mainly to make it clear why capital punishment needs to be abolished. As indicated by annual sociological surveys by the non-governmental Ijtimoiy Fikr Public Opinion Research Centre, more than 56.7 per cent of respondents recently (in 2006) opposed the abolition of capital punishment.

65. Thirdly, organizational measures are being carried out, including the construction of facilities and the creation of the necessary conditions for the detention of people whose death sentences will be commuted to life imprisonment or long-term deprivation of liberty, as well as for training personnel to work in these penal institutions.

66. A sustained and widespread campaign against torture is being carried out, and the subject of observance of human rights is regularly discussed at meetings held by the law enforcement authorities.

67. As part of the implementation of the National Programme of Action to follow up on the recommendations of the Special Rapporteur on the question of torture, the Ministry of Internal Affairs has strengthened the requirements for internal affairs officers to comply strictly with the law and guarantee citizens' rights, both at the initial inquiry and investigation stages and in places of detention, and to prohibit any coercion of citizens.

68. The procedure for handing individuals into the custody of the law enforcement authorities, detaining suspects and strictly observing the right to defence counsel has been reformed.

69. A key element in the implementation of the above measures was the development in 2004 by the Ministry of Internal Affairs of a strategy to strengthen the rule of law and ensure the observance of human rights by the internal affairs authorities, through the following measures:

(a) Reforming the process of detention and preventing instances of arbitrary detention and handing over of suspects to the law enforcement authorities;

(b) Observing due process (including compliance with all Miranda rights) for detained persons (explaining their rights, providing effective defence counsel, notifying family members or close relatives of the detention, etc.);

(c) Conducting thorough, independent investigations, with the involvement of representatives of the general public, of communications reporting the use of torture against persons who have been detained or arrested;

(d) Ensuring transparency in the activities of the law enforcement authorities;

(e) Improving legal knowledge and culture among internal affairs officers.

70. In line with these measures, staff of the Ministry of Internal Affairs conducted 161 on-site seminars for internal affairs personnel at the local level (in every district of every province); the seminars covered the practical application of the legal requirements regarding the observance of human rights, not only during the initial inquiry and pretrial investigation stages, but in all activities of internal affairs authorities.

71. Similar lectures were delivered at meetings with the public in institutions, organizations, enterprises and educational establishments.

72. Meetings with the public provided an opportunity to build trust in the internal affairs authorities. One example of such trust is the fact that it is becoming more common for people to address communications on various issues to the Ministry of Internal Affairs. In 2006, the

number of communications and complaints rose by 57.4 per cent as compared with 2005, thus confirming the public's increased confidence in the internal affairs authorities. All the communications and complaints received a timely response.

73. In reply to the question whether any cases have been refused by judges for review, or overturned on appeal, owing to the inadmissibility of evidence, according to the Supreme Court no instances have been registered in recent years of decisions being overturned on appeal on grounds of the use of torture.

74. The ordinary courts have been making a sustained effort to apply the provisions of the Convention against Torture and the National Programme of Action to implement them.

75. The logical next step in ensuring observance of human rights was the adoption by the plenum of the Supreme Court on 24 September 2004 of a decision on certain issues arising in the application of criminal procedural law relating to the admissibility of evidence, which provides that evidence obtained by a person conducting an initial inquiry, an investigator, a procurator or a judge who, for whatever reason, deviates from strict observance of and compliance with the rules of law, shall be deemed inadmissible. Inadmissible evidence covers, in particular, testimony, including confessions, obtained by the use of torture, violence or other cruel, inhuman or degrading treatment, or by deception or other unlawful methods. The plenum drew courts' attention to the need to react to any violations of the procedural law governing the collection of evidence by adopting specific rulings (decisions) on the matter and, where necessary, determining whether or not to institute criminal proceedings against the guilty parties.

76. During the period following the adoption in 2003 and 2004 of these decisions by the plenum of the Supreme Court, the courts referred a number of criminal cases back for further investigation after evidence had been found inadmissible because it had been obtained by means of torture, violence or deception.

77. In particular, following a ruling by the Chirakchi district criminal court in Kashka-Darya province on 12 July 2005, criminal proceedings against the brothers Akbar and Anvar Pardaev were referred back for further investigation on the grounds that, during the pretrial investigation, they had been charged with stealing two head of cattle solely on the basis of their confessions; however, at the end of the pretrial investigation and throughout the hearing of the evidence, the defendants retracted their initial confessions, which they said had been obtained under physical and psychological coercion by militia officers. As a result, the evidence obtained during the pretrial investigation was declared inadmissible by the court.

78. In another decision by the same court on 4 March 2005, criminal proceedings against C. Berdiev, Z. Khujamshukurov and N. Mengliev, charged with stealing five head of cattle, were also referred back for further investigation. During the pretrial investigation, Berdiev had denied the charges against him. At the hearing, Khujamshukurov and Mengliev, who had admitted their guilt, retracted their initial testimony on the grounds that they had confessed under physical and psychological coercion by militia officers, and had been forced to implicate Berdiev in the offence. At the same time, witnesses questioned in the case refuted the allegations made by the prosecution, and the evidence obtained in the investigation was declared inadmissible. Special rulings were handed down against the militia officers, and the criminal proceedings against the above-mentioned individuals were subsequently dropped.

79. Under Order No. 40 issued by the Procurator-General on 17 February 2005, concerning the radical improvement of procuratorial oversight of observance of citizens' rights and freedoms during criminal proceedings, procuratorial and investigative officials are obliged to abide strictly by and comply with the provisions of the Convention against Torture.

80. In view of the specific role of the procuratorial authorities in guaranteeing human rights through the exercise of procuratorial oversight, the relevant departmental regulations have also been adopted with the aim of strengthening their supervision.

81. Closer procuratorial supervision means improvement of the observance and protection of human rights and freedoms by the procuratorial authorities.

82. The Procurator's Office Act contains a special chapter regulating the mechanisms through which the procuratorial authorities protect human rights and freedoms. A human rights department has been set up within the Office of the Procurator-General. Violations of citizens' rights and freedoms are being identified as a result of procuratorial supervision of criminal proceedings. All investigations into violations by law enforcement personnel are conducted exclusively by the procuratorial authorities. Procuratorial supervision of the activities of law enforcement agencies can thus be said to constitute external oversight. This has enabled the Office of the Procurator-General to keep centralized statistics of violations by law enforcement personnel, to identify the causes of the violations and the circumstances in which they were committed and to require that the situation be remedied.

83. For example, on 24 March 2006, M. Narbaev, F. Ibragimov and M. Kambarov, officers in the criminal investigation unit of the Surkhan-Darya province internal affairs administration, exceeded their authority by unlawfully arresting Mr. A. Tulaev, taking him to the internal affairs administration and charging him with possession of narcotics.

84. During the investigation, it was established that personnel of the internal affairs bodies used unlawful techniques; as a result, criminal proceedings were instituted against M. Narbaev, F. Ibragimov and M. Kambarov on 24 June 2006 under article 205 (Exceeding authority or official powers) article 235 (Use of torture or other cruel, inhuman or degrading treatment or punishment) and article 273 (Unlawful manufacture, acquisition or storage of, or other actions involving, narcotics or psychotropic substances with a view to sale, or the actual sale thereof) of the Criminal Code.

85. On 12 October 2006, the court sentenced F. Ibragimov to two years' and M. Kambarov to two years' and six months' deprivation of liberty, while M. Narbaev was given a two-year suspended sentence.

86. Similarly, in connection with the beating of prisoner R. Dedamirzaev by R. Abdukadyrov and B. Kurbanov, staff of facility UY-64/66, on 7 November 2005, criminal proceedings were instituted under article 206, part 1, of the Criminal Code.

87. The evidence gathered in the case confirmed that R. Abdukadyrov and B. Kurbanov, staff of the above-mentioned institution, had carried out the beating, and accordingly criminal proceedings were instituted against them under articles 206 and 235 of the Criminal Code.

88. Together with other law enforcement agencies, the procuratorial authorities are also studying the circumstances and reasons contributing to unlawful criminal prosecutions and are taking the necessary steps to prevent and prohibit such occurrences.

89. They also cooperate closely to that end with the Human Rights Commissioner (Ombusdsman) of the Oliy Majlis.

Question 4

Please also inform the Committee on steps taken to implement the introduction of the right to habeas corpus as of 1 January 2008.

Reply

90. In order to introduce the right to habeas corpus, on 8 August 2005 the President of Uzbekistan, Mr. Islam Karimov, adopted a decree transferring to the courts the authority to order remand in custody.

91. The decree confirms the further liberalization of the judicial system by extending the powers of the courts in the administration of justice.

92. After promulgating the decree, the President set up a working group in the Ministry of Justice to draft a bill on the incorporation of the right to habeas corpus into national legislation. The working group included representatives of the law enforcement authorities and legal experts.

93. The decree sets the exact date for the transfer to the courts of the authority to order remand in custody (1 January 2008) and requires the consistent implementation of a number of organizational measures, including:

(a) Studying international experience on the procedure for the courts to follow when ordering remand in custody;

(b) Drafting proposals for and additions to related legislation governing the procedure for courts to follow when ordering remand in custody; subsidiary legislation and departmental regulations should also be reviewed;

(c) Taking specific steps to set up an effective mechanism that enables courts to order remand in custody;

(d) As soon as possible, developing proposals for improving the current organization and staffing of the ordinary courts;

(e) Developing skills of judges and staff of the pretrial investigation authorities in response to the introduction of the new procedure for courts to order remand in custody.

94. In June 2007, both chambers of Parliament adopted the Act on amendments and additions to certain legislative acts relating to the transfer to the courts of the authority to order remand in custody. Under the Act, as of 1 January 2008, the use of remand in custody as a preventive measure and orders for the application of this measure will be made at the request of the

procurator of the district (city) criminal courts after consideration of the requests in camera with the participation of the parties. During this procedure, consideration will be given only to the issue of whether or not the detained suspect or accused person should be remanded in custody, and not to the question of whether or not that person is guilty.

95. A number of legislative, information and organizational measures have been implemented over the past two years to introduce the new legal institution of the right to habeas corpus in Uzbekistan. These have focused on three main aspects.

96. First, amendments and additions to the Code of Criminal Procedure, the Penal Correction Code, the Courts Act and the Procurator's Office Act have been drafted and adopted as a result of the transfer from the procuratorial system to the courts of the authority to issue arrest warrants.

97. Secondly, the introduction of the right to habeas corpus has been accompanied by a wide range of measures to raise awareness and spread information among law enforcement personnel, legal experts, lawyers and students of law institutes. For two years, the experience of other countries was studied with the assistance of foreign experts and parliamentarians from European countries.

98. Thirdly, organizational measures are under way to create the necessary conditions for introducing the right to habeas corpus. These include training and skills development for judges, procurators, investigators and staff of correctional labour institutions.

99. On 29 June 2007, interdepartmental working groups composed of law enforcement personnel and legal experts were set up by a decision of the Senate and sent to the local authorities to explain the new Act and the procedure for applying it while ensuring strict observance of citizens' rights.

100. The aim was to ensure more effective judicial protection of citizens' rights, as contained in articles 19, 25 and 44 of the Constitution.

101. The transfer to the courts of the authority to order remand in custody is consistent with the provisions of article 19 of the Constitution and is intended to enable effective protection of the rights and legitimate interests of persons involved in criminal proceedings as suspects or accused persons.

102. The transfer of the authority to order remand in custody means transferring to the courts the right to decide, at the pretrial stage, whether to apply the preventive measure of remand in custody rather than other procedural preventive measures provided for in section 4 of the Code of Criminal Procedure.

103. The following constitute grounds for remand in custody as a preventive measure:

(a) Wilfully committing an offence punishable under the Criminal Code by more than three years' deprivation of liberty;

(b) Criminal negligence, which is punishable under the Criminal Code by deprivation of liberty for a period of more than five years;

(c) The Court may, as a preventive measure, order a person to be held in custody for an offence that is punishable under the Criminal Code by deprivation of liberty for a period less than that specified in article 242, part 1, of the Criminal Code, in any of the following cases:

(d) The accused person or defendant has evaded investigation or trial;

(e) The identity of the detained suspect has not been established;

(f) The accused person or defendant has previously violated the conditions of another form of preventive measure;

(g) The person held as a suspect, accused person or defendant in the case has no fixed place of residence in Uzbekistan;

(h) The offence was committed when the person was serving a sentence of short-term rigorous imprisonment or deprivation of liberty.

104. The law stipulates that an application for a preventive measure in the form of remand in custody or for the extension of the period of remand in custody shall be considered solely by a judge of a district (city) criminal court or an area or territorial military court in the place where the offence was committed or where the pretrial investigation was conducted.

105. In the absence of the judge or under circumstances that prevent the judge from participating in the examination of the case-file, the application shall be considered by the judge of an equivalent court.

106. An application for a preventive measure in the form of remand in custody shall be considered within 12 hours following receipt of the case-file, but no later than the end of the period of detention specified in article 226, part 1, of the Code of Criminal Procedure.

107. An application to extend the period of remand in custody shall be considered within 72 hours following receipt of the case-file.

108. When considering an application for a preventive measure in the form of remand in custody or for the extension of the period of remand in custody, the courts are under an obligation to verify whether the detention is lawful. They are also under an obligation to investigate whether the application of a preventive measure in the form of remand in custody or the extension of the period of remand in custody is justified, without considering the question of whether or not the suspect or accused person is guilty.

Question 5

Please indicate what preventive legislative measures have been adopted in law and implemented in practice to guarantee:

(a) The right of an arrested person to contact at his/her request a doctor of his/her choice;

Reply

109. Articles 46, 48, 50, 51 and 217 of the Code of Criminal Procedure set forth the rights and obligations of accused persons and suspects.

110. The right of remand prisoners to contact, at their request, a doctor of their choice is contained in article 24 of the Health Protection Act.

111. Article 24 of the Health Protection Act establishes that, when requesting and receiving medical treatment, a patient is entitled to choose a doctor and a medical institution.

112. Detainees and persons remanded in custody have the right to receive professional medical treatment and, where necessary, to be treated in medical institutions.

113. Article 229 of the Code of Criminal Procedure states that detained persons shall be held in conditions that comply with health and hygiene regulations and that the medical treatment of detainees and health care in premises where they are held shall be organized and dispensed in accordance with the law.

114. As required by the joint Ministry of Internal Affairs and Ministry of Health Order No. 248/625 of 4 December 2000 on measures to enhance medical services for persons remanded in custody and held in penal institutions, continuous efforts are being made to improve the quality of medical services. Persons remanded in custody receive consultations and treatment as necessary.

115. The Penal Enforcement Code states that convicted persons are entitled to free professional medical treatment. In cases where there is no specialist capable of treating the illness of a convicted person in the penal institution, the penal institution provides an appropriately qualified doctor through the health authorities' air ambulance service.

116. In practice, a request from a convicted person or remand prisoner for the relevant medical specialist is considered by the director of the institution or by the supervising procurator. In accordance with the application, the convicted person is given the opportunity to consult the relevant specialist.

117. The provision of professional medical treatment in penal institutions is governed by joint Ministry of Internal Affairs and Ministry of Health Order No. 231 of 2002, which corresponds to article 24 of the Health Protection Act.

Question 5 (b)

The right of an arrested person to contact members of his/her family and inform them of his/her situation and whereabouts. Please indicate instances where this has been found not to take place and what has been done to remedy it;

Reply

118. As part of the implementation of the National Programme of Action to follow up on the recommendations of the Special Rapporteur on the question of torture, the Ministry of Internal Affairs has strengthened the requirements for internal affairs officers to comply strictly with the law and guarantee citizens' rights, both at the initial inquiry and investigation stages and in places of detention, and to prohibit any coercion of citizens.

119. The procedure for handing individuals into the custody of the law enforcement authorities, detaining suspects and ensuring the absolute right to defence counsel has been reformed.

120. A key element in the implementation of the above measures was the development in 2004 by the Ministry of Internal Affairs of a strategy to strengthen the rule of law and ensure the observance of human rights by the internal affairs authorities through the following measures:

(a) Reforming the process of detention and preventing instances of arbitrary detention and handing over of suspects to the law enforcement authorities;

(b) Observing due process (including compliance with all Miranda rights) for detained persons (explaining their rights, providing effective defence counsel, notifying family members or close relatives of the detention, etc.);

(c) Conducting thorough, independent investigations, with the involvement of representatives of the general public, of communications reporting the use of torture against persons who have been detained or arrested;

(d) Ensuring transparency in the activities of the law enforcement authorities;

(e) Improving legal knowledge and culture among internal affairs officers.

121. In accordance with article 217 of the Code of Criminal Procedure, when a person conducting an initial inquiry, an investigator, a procurator or a judge has applied a preventive measure against a suspect, accused person or defendant in the form of detention, remand in custody or confinement in a medical institution for expert examination, that person must inform a family member of the measure within 24 hours or, in the absence of a family member, relatives or close acquaintances and also inform the individual's place of work or study.

122. With regard to establishing contact between detainees and their families, article 230 of the Code of Criminal Procedure stipulates that visits to detainees by relatives and other persons shall be granted by the detention centre administration only with the written authorization of the person conducting the initial inquiry or the investigator, who is in possession of the case-file relating to the detention.

123. A pamphlet entitled "What should you know about your rights if you ...?" containing information on the right to inform relatives or close acquaintances of the detainee's situation and whereabouts, is distributed to all detainees. Prepared and published by the Ministry of Internal Affairs in conjunction with the American Bar Association, the pamphlet is designed to inform detainees and persons remanded in custody of their rights, and its distribution is aimed at preventing violations of the rights of detainees.

Question 5 (c)

The right for all arrested persons to be informed of their rights from the moment they are taken into custody;

Reply

124. As in international practice, under current legislation, certain legal consequences arise from decisions to apply remand in custody or prosecute, while special attention is given to the issues relating to the protection of accused persons themselves.

125. Pursuant to article 46 of the Code of Criminal Procedure, accused persons are entitled to know the exact nature of the accusation, give testimony and explanations concerning the charge laid against them, use their mother tongue or the services of an interpreter, and conduct their own defence.

126. In accordance with articles 49 to 52 of the Code of Criminal Procedure, free legal aid is made available. Accused persons are entitled to meet with their defence counsel; such meetings are not subject to any restrictions in number or duration. The right to submit applications or petitions concerning various aspects of the criminal proceedings, including termination of proceedings, requests for additional evidence or investigative actions and access to defence counsel's access, is one of the most important rights.

127. The Code of Criminal Procedure provides for the protection of detainees, suspects and accused persons, which is an important legal safeguard. In particular, detainees and accused persons have the right to defence counsel from the moment of their arrest, and also to conduct their own defence (Code of Criminal Procedure, art. 46).

128. The right of suspects, accused persons, defendants, convicted persons and acquitted persons to a defence is a fundamental principle of criminal proceedings in Uzbekistan. This right ensures that decisions taken in such proceedings are lawful, substantiated and fair.

129. The right to a defence is guaranteed at every stage of criminal proceedings. Under articles 24 and 64 of the Code of Criminal Procedure, it is incumbent on all State bodies and officials responsible for conducting criminal proceedings, i.e. the person carrying out the initial inquiry, the investigator, the procurator and the court, to read suspects and accused persons their rights and give them real opportunities to exercise their right to a defence.

130. The criminal law programme of the American Bar Association to print and distribute in the Ministry of Internal Affairs units the pamphlet entitled "What should you know about your rights, if you ...?", which was prepared in 2004, has been carried out successfully and has had positive results; 200,000 copies of the pamphlet were printed.

131. Both the public and internal affairs officers have responded positively to the clear and easy-to-understand content of the pamphlet, and to the accessibility to the stands displaying the booklet in almost all subordinate units of the Ministry of Internal Affairs.

132. The task of all subordinate units is not only to distribute copies of the pamphlet, but also to ensure the high level of public-awareness measures throughout the country.

133. As part of these efforts, internal affairs officers have held meetings and talks in local government bodies and with the general public; in some cases, they travel to remote villages. This type of work has aroused public interest, and we intend to continue it.

134. Under article 24 and 64 of the Code of Criminal Procedure, it is incumbent on all State bodies and officials responsible for conducting criminal proceedings, i.e. the person carrying out the initial inquiry, the investigator, the procurator and the court, to read suspects and accused persons their rights and give them real opportunities to exercise their right to a defence.

135. The rights and obligations of persons involved in criminal proceedings must be specified in decisions to designate a person as a suspect or accused person. Such decisions provide details on how to make suspects aware of their rights and obligations.

Question 5 (d)

Access to lawyers. According to information made available to the Committee, six months had passed before the lawyer of imprisoned human rights defender Mutabar Tojibaeva was able to secure access to her client, while the lawyer of Sanjar Umarov has allegedly been denied access to his client since he was transferred from a pretrial detention facility to prison in spring 2006. Please specify what, in practice, are the rights of an arrested person to contact a lawyer of his/her choice at all stages of an investigation, including pretrial detention. Please provide information on complaints alleging interference with this right.

Reply

136. The information received by the Committee is incorrect. In a written statement, M. Tojibaeva indicated that she had access to a lawyer, Ms. Dilafruz Kahramon qizi Nurmatova, from the moment she was taken into custody.

137. With regard to the indictment of Ms. Tojibaeva, her lawyer was allowed access from the moment she was taken into custody and was involved in all stages of the investigation; the accused person's right to a defence was therefore fully guaranteed. The criminal proceedings against M. Tojibaeva were held in open court. Relatives of the defendants, as well as representatives of the British and American embassies, journalists and human rights defenders, were present at all court hearings and when sentence was passed.

138. Since she was taken into custody on 7 July 2006, Mutabar Tojibaeva has been granted four visits, namely, a short visit from her nephew, Gani Mamajhanovich Umirzakov, on 19 July 2006; a long visit from her sister, Mukharram Tojibaeva, on 10 August 2006; and short visits from her daughter, Makhliekhon Akromova, on 9 January 2006 and on 13 July 2006.

139. With regard to the indictment of S. Umarov, his lawyer had access from the moment of Mr. Umarov's arrest and was involved in all stages of the investigation.

140. Mr. Umarov, who has grossly violated sentence regulations, has not submitted any application to meet with his lawyer since spring 2006. He was, however, granted a short visit from his son, A. Umarov, on 27 June 2006 and a long visit from his sister, N. Umarova, and his son, A. Umarov, on 4 July 2006.

141. In accordance with the law of criminal procedure, persons facing criminal prosecution are entitled to professional legal assistance. If an accused person or defendant is held in custody, the defence counsel has the right to hold private meetings with him or her; such meetings are not subject to any restrictions in number or duration (Code of Criminal Procedure, art. 53).

142. Under the Code of Criminal Procedure, persons detained, held in custody or placed in a medical institution must be given the opportunity to meet privately with their counsel. Pursuant to article 49, part 3, of the Code of Criminal Procedure, the defence counsel can become involved in a case as soon as a citizen has been indicted or has been informed that he or she is a suspect, or as soon as he or she has been taken into custody.

143. The right of convicted persons to receive professional legal assistance from lawyers is contained in article 10 of the Penal Enforcement Code. In order to receive legal assistance, convicted persons are granted meetings with lawyers upon request. Meetings between convicted persons and their lawyers are not counted as routine visits. The meetings are provided for in the Code and are not subject to any restrictions in number and duration.

144. Strict intradepartmental scrutiny (by the Ministry of Internal Affairs) and procuratorial supervision has been established with a view to ensuring the observance of the right to a defence of persons who have been detained in accordance with article 225 of the Code of Criminal Procedure. The provisions of article 48 of the Code, concerning the explanation to detainees of their rights and obligations are strictly observed. Lawyers are allowed to meet privately with their clients and have unhindered access to them in temporary detention centres.

145. During the pretrial investigation, in accordance with articles 46 and 48 of the Code of Criminal Procedure, suspects or accused persons are guaranteed the right to defence counsel as soon as they have been informed of the decision declaring them to be suspects or from the moment of their arrest, and to meet privately with counsel after they have been questioned. Such persons also have the right to conduct their own defence.

146. Even in cases where a suspect or accused person refuses the services of a lawyer, the investigative body ensures the real involvement of a lawyer, and the record of the waiver of defence counsel is drawn up in the lawyer’s presence.

147. Article 51 of the Code of Criminal Procedure establishes a category of criminal proceedings in which the participation of a defence counsel is mandatory if the cases involve:

(a) Minors;

(b) Mute, deaf and blind persons and other individuals who, for reasons of physical disability or mental illness, experience difficulty in exercising their right to a defence;

(c) Persons who do have a command of the language in which the legal proceedings are being conducted;

(d) Persons suspected or accused of a capital offence;

(e) Persons with a conflict of interests, if at least one of those persons has a defence counsel;

(f) Participation of a State or public prosecutor;

(g) Participation of a lawyer as the victim's representative;

(h) Compulsory medical measures.

148. The person conducting the initial inquiry, the investigator, the procurator and the court also have the power to rule that a defence counsel is necessary in cases where they consider that the complexity of the case and other factors could make it difficult for the suspects, accused persons or defendants to exercise their right to a defence.

149. When in the cases mentioned in article 51 of the Code of Criminal Procedure, a defence counsel has not been retained by the suspect, the accused person or defendant or, at their request or with their consent, by other persons, the person conducting the initial inquiry, the investigator, the procurator or the court requests the head of a law office, bar association or law firm to appoint a defence counsel for the initial inquiry, pretrial investigation or judicial proceedings.

150. The waiver of defence counsel does not deprive a suspect, accused person or defendant of the right to submit, at a later date, an application for the participation of a defence counsel in the case. Such an application must be granted in all cases. An application for the participation of a defence lawyer submitted during the judicial examination is granted by the court, taking account of the circumstances of the case and in the interest of ensuring the defendant's right to a defence. The fact that a defence counsel takes up the case during the court hearing does not constitute grounds to rehear the evidence.

151. Review of investigative and judicial practice shows that the bodies conducting initial inquiries and investigations and the courts generally guarantee the right of suspects and accused persons to a defence; and that no violations of this right by law enforcement agencies have been recorded.

Question 6

According to the State party, the Central Investigation Department and the Uzbek Bar Association have drafted rules to bring lawyers into the preliminary inquiries process at an earlier stage. What is the status of these recommendations now? To what extent have they been implemented and, in particular, how is the recommendation on the provision of counsel not more than 24 hours after detention being implemented? What happens in the period before 24 hours have elapsed? Have the training, professional improvement, refresher courses, etc., outlined in the report of the State party led to an improvement in the rights of detainees? Doctors have also been trained to recognize the signs of torture, but have any doctors been able to submit reports on this to the authorities in charge of investigating such incidents?

Reply

152. Yes, training, professional improvement and refresher courses, etc., have significantly improved detainees' exercise of their rights.

153. With a view to guaranteeing the rights of detainees and accused persons, in March 2003 the Central Investigation Department, in conjunction with the board of the Tashkent Bar Association, drafted and approved regulations governing the procedure for guaranteeing the rights of detainees, suspects and accused persons.

154. The regulations clearly define the procedure for retaining lawyers and the conditions for their participation in criminal cases, establish a mechanism for ensuring a State-funded defence and the procedure for recording the waiver of defence counsel, and provide for a procedure for filing complaints concerning the violation of suspects', accused persons' and defendants' right to a defence.

155. The regulations set out the procedure for drawing up a roster of duty lawyers, who are also available at weekends and on public holidays. This ensures their immediate involvement in protecting the rights and legitimate interests of detainees at any time of the day or night. Moreover, investigators may not invite lawyers with whom they are acquainted and whom they can influence to participate formally in a criminal case. Similar agreements have also been signed in the other regions of Uzbekistan.

156. With the help of the board of the Bar Association, the results of these activities are consolidated on a quarterly basis and the relevant information is passed on to the heads of the investigative bodies of territorial internal affairs agencies and to the Central Investigative Department of the Ministry of Internal Affairs so that measures can be taken to remedy any shortcomings.

157. The procedure for ensuring the right of detainees, suspects and accused persons to a defence has yielded positive results. Between 2005 and 2007, the Ministry of Internal Affairs has received only isolated complaints from both detainees' and prisoners and lawyers concerning violations of their rights by persons conducting pretrial investigations.

158. All complaints of violations of the right of detainees to a defence are thoroughly examined, and the investigator in the case is generally discharged of his duties or dismissed from service. A case in point is the dismissal of a senior investigator, Captain S. Khuramov of the Baysun district internal affairs office in the Surkhon-Darya province for violating the right of the accused Babaev brothers and others to a defence.

159. With regard to "24 hours after detention", we should like to point out that article 50 of the Code of Criminal Procedure stipulates that, in cases where it is not possible for the chosen defence counsel to take up the case within 24 hours, the person conducting the initial inquiry, the investigator, the procurator or the court must propose that the suspect, accused person or defendant or his or her relatives request a law office, bar association or law firm to appoint a defence counsel, who is entitled to take on the case at any point. Investigative measures involving a detainee are, at his or her request, conducted only in the presence of a lawyer.

160. The decision adopted by the plenum of the Supreme Court on 19 December 2003 provides specific information on this issue. In particular, it states that an individual suspected of an offence is entitled to a defence counsel from the moment he or she is handed over to a law enforcement agency.

161. As required by the joint Ministry of Internal Affairs and Ministry of Health Order No. 248/625 of 4 December 2000 on measures to enhance medical services for persons remanded in custody and held in penal institutions, continuous efforts are being made to improve the quality of medical services. Persons remanded in custody receive consultations and treatment as necessary.

162. In application of part 14.1 of the National Programme of Action to implement the Convention against Torture of 9 March 2004, the Central Internal Affairs Department and the Ministry of Health in cooperation with the Central Office of Forensic Medicine, trained 90 health workers from penal institutions to evaluate and document cases of torture or other unlawful treatment in 2004.

163. In November and December 2004, the Central Office of Forensic Medicine organized and held six training sessions for doctors employed in the system of the Central Penal Correction Department of the Ministry of Internal Affairs on ways of identifying sequelae of physical torture or prohibited forms of cruel treatment. The training sessions lasted six days and were attended by 92 doctors.

164. On 15 and 16 December 2004, specialists from Uzbek forensic medical institutions and employees of departments of forensic medicine and medical law took part in a seminar on the forensic aspects of investigating deaths in detention. Thirty-four specialists were trained. The seminar was conducted by the chief forensic pathologist of the Ontario Office of the Chief Coroner and Associate Professor at the University of Toronto, Dr. Michael S. Pollanen.

165. Forensic experts from Uzbek forensic medical institutions and doctors from the Central Penal Correction Department participated in a training seminar on investigating and documenting cases of torture, held from 16 to 18 August 2005 at the Central Penal Correction Department’s training centre. In addition to doctors from the Central Penal Correction Department, 36 forensic experts from all regions of Uzbekistan were training at the seminar; of that number, 14 were prepared to be local trainers for each of the Uzbek regions. The training seminar was organized by the World Health Organization (WHO) Country Office in Uzbekistan, the International Rehabilitation Council for Torture Victims (IRCT) and the Ministry of Health and the Ministry of Internal Affairs of Uzbekistan.

166. With the help of WHO, training seminars were also held at the Central Penal Correction Department’s training centre from 16 to 18 August 2005 and from 19 to 21 October 2005, in conjunction with the International Rehabilitation Council for Torture Victims, a non-governmental organization based in Copenhagen, and the Ministry of Health. The seminars were held for officials of the penal correction system of the Ministry of Internal Affairs and forensic experts of the Ministry of Health on ways of identifying and documenting cases of torture and other forms of cruel treatment.

167. From 17 to 21 October 2005, a training seminar was held on the same topic for 69 medical workers from penal institutions:

(a) On 17 and 18 October 2005, seven doctors from subordinate institutions participated in and attended the workshop in their capacity as trainers, in accordance with the "peer training" principle;

(b) On 19 to 21 October, 34 doctors and 28 medical assistants participated in the work of the seminar.

168. The training seminar was organized by the International Rehabilitation Council for Torture Victims in cooperation with WHO and with financial support from the Home Office of the United Kingdom of Great Britain and Northern Ireland.

169. Internal affairs authorities, in association with the Ministry of Health, are holding working meetings and discussions on arranging medical care in custodial facilities.

170. Thus, in 2005, on the basis of professional improvement courses and refresher courses for junior and senior officers of the Central Penal Correction Department, training seminars were held for medical professionals by IRCT in association with WHO, the Central Penal Correction Department and the Ministry of Health. Doctors from penal institutions run by the Ministry of Internal Affairs and forensic experts from the Ministry of Health took part in the seminars. In 2005, 97 medical professionals, 969 doctors and 28 mid-grade medical staff members from penal institutions and remand centres were taught to identify, evaluate and document cases of torture and other forms of unlawful treatment, and were instructed in ways of treating and rehabilitating victims. Participants received the relevant certificates on the basis of the results of the course.

171. Specialists from the Central Office and the forensic medicine and medical law departments of the Tashkent Medical Academy and the Tashkent Paediatric Medical Institute took part in a conference, held at Mirzo Ulugbek National University in June 2007, on investigating offences of torture in Uzbekistan and problems related to ordering independent expert examinations in connection with such offences.

172. The forensic experts of the Ministry of Health are responsible for issuing final conclusions concerning the use of torture. Doctors working in the penal system are able to identify sequelae of torture during medical examinations; to date, they have not recorded any such instances.

Question 7

The State party report indicates (paragraphs 35 and 37, respectively) the role and functions of the new department for the protection of human rights established in the Ministry of Justice and that of the Central Commission on Respect for Human Rights under the Ministry of Internal Affairs:

(a) Please describe how the Interdepartmental Working Group of the Government of Uzbekistan (that was created pursuant to a decree of the Cabinet of Ministers on 24 February 2004) participated in the preparation of the report of the State party and explain what measures, if any, it is taking to monitor law enforcement agencies regularly, including information on any reports it has issued, and the status of any recommendations it has made.

Reply

173. In order to improve the effectiveness of the legal protection of human rights and freedoms, Cabinet of Ministers Decision No. 370 of 27 August 2003 established the Department for the Protection of Human Rights, with its territorial units, in the Ministry of Justice.

174. The most important tasks and areas of work of the Department for the Protection of Human Rights and its territorial units are to guarantee the protection of the human rights and freedoms contained in the Constitution and other legislation, ensure the all-round development of civil society institutions and strengthen the legal foundations of such institutions.

175. The Department for the Protection of Human Rights of the Ministry of Justice:

(a) Is involved in an ongoing analysis of human rights legislation and makes proposals for its improvement;

(b) Studies international practice and drafts proposals on the incorporation of the norms of international law in Uzbek legislation;

(c) Develops measures to raise the population's awareness of the law in the field of human rights and freedoms, and popularizes the concept of respect for human rights;

(d) Analyse and draws conclusions about compliance with human rights legislation, and makes proposals for its improvement to appropriate State bodies;

(e) Helps to increase the role of lawyers' associations in the protection of human rights, develops civil society institutions and reinforces their legal foundations;

(f) Cooperates with the Human Rights Commissioner (Ombudsman) of the Oliy Majlis and the National Centre for Human Rights, in monitoring respect for human rights and freedoms;

(g) Ensures the objective and comprehensive examination of complaints from citizens regarding violations of their constitutional rights and freedoms, and takes appropriate measures in accordance with the law.

176. In order to ensure that the functions involved in the protection of citizens' human rights are fulfilled, qualified legal assistance is provided on matters of interest to them, clarifications are given concerning the outcome of examination of citizens' complaints regarding violations of their constitutional rights and freedoms, measures are taken in accordance with the law to restore the rights that have been violated, steps are taken to deal with the officials and organizations that committed such violations, specifically recommendations, instructions and warnings are issued concerning the restoration of citizens' rights that have been violated, applications are lodged in the courts to protect citizens' interests and, when serious violations of citizens' rights and freedoms have been confirmed, applications are made to the law enforcement agencies and the courts for the institution of proceedings, including criminal proceedings, against officials.

177. A central commission on respect for human rights has been set up in the Ministry of Internal Affairs. The current title of this structure is the Unit for Human Rights Protection and Relations with International Organizations and the Public in the Legal Services Department of

the Ministry of Internal Affairs, which was established in September 2005 and has authority to investigate or help to investigate complaints and reports concerning unlawful acts by the personnel of internal affairs bodies, including those relating to the use of torture by decision of senior staff of the Ministry of Internal Affairs. The Unit has regional representatives in local offices. Each year, staff of the Unit help to investigate over 30 complaints relating to various human rights violations.

178. Personnel of the Unit for Human Rights Protection in the Ministry of Internal Affairs participate in checking complaints and conducting internal investigations together with staff of the special personnel inspectorate.

179. On the initiative of the Unit, a single reporting form for citizens' reports and complaints is currently being devised in the Ministry of Internal Affairs; the form contains a detailed questionnaire and a breakdown into different types of human rights violations. In addition to figures, these statistics will contain qualitative information on the nature of the violations, and will enable a prompt response to be made to emerging trends.

180. The interdepartmental working group to monitor the observance of human rights by law enforcement agencies, which was established by Government Decision No. 12-R of 24 February 2004, participated in the preparation of Uzbekistan's third periodic report on the implementation of the provisions of the Convention against Torture. The report was based on the outcome of meetings and decisions taken by the interdepartmental working group. Thanks to coordination of the activities of law enforcement agencies, the interdepartmental working group collected relevant information for the preparation of the report. At various stages during the preparation of the report, drafts were reviewed at meetings of the interdepartmental working group. Each quarter, at meetings of the interdepartmental working group under the auspices of the Ministry of Justice, the heads of law enforcement agencies reported on issues related to the exercise and protection of human rights and efforts to combat torture. The decisions taken by interdepartmental bodies set up by decision of the Cabinet of Ministers are binding on the State bodies that are members of them.

181. The interdepartmental working group to monitor the observance of human rights by law enforcement agencies works through the Department for the Protection of Human Rights in the Ministry of Justice. For the most part, the Ministry cooperates closely with the National Centre for Human Rights in the framework of the working group.

182. In July 2007, the working group considered and approved:

(a) The National Plan of Action for the implementation of the recommendations made by the United Nations Human Rights Committee following consideration of the second periodic report of Uzbekistan;

(b) The National Plan of Action for the implementation of the recommendations made by the United Nations Committee on Economic, Social and Cultural Rights following consideration of the first and second periodic reports of Uzbekistan;

(c) The National Plan of Action for the implementation of the recommendations made by the United Nations Committee on the Elimination of Racial Discrimination following consideration of the third to fifth periodic reports of Uzbekistan;

(d) The National Plan of Action for the implementation of the recommendations made by the United Nations Committee on the Elimination of All Forms of Discrimination against Women;

(e) The National Plan of Action for the implementation of the recommendations made by the Committee on the Rights of the Child.

Question 7 (b)

Please indicate whether the above-mentioned bodies are authorized to accept and investigate individual communications on torture from alleged victims of torture, their lawyers, relatives and concerned non-governmental organizations (NGOs).

Reply

183. Yes, the above-mentioned bodies are authorized to accept and investigate individual communications on torture from alleged victims of torture, their lawyers, relatives and concerned non-governmental organizations.

184. The Department for the Protection of Human Rights in the Ministry of Justice receives and examines communications and complaints from citizens concerning violations of their constitutional rights and freedoms. The complaints received by the Department in the Ministry of Justice do not relate to torture but to the violation of citizens' economic, social and cultural rights.

185. The Unit for Human Rights Protection and Relations with International Organizations and the Public in the Legal Services Department of the Ministry of Internal Affairs has authority to investigate or help to investigate complaints and reports concerning unlawful acts by the personnel of internal affairs bodies, including those relating to the use of torture.

186. According to information from the Ministry of Internal Affairs, 61, 96 and 17 complaints of torture against internal affairs officers were received by the Ministry in the years 2005, 2006 and 2007, respectively.

187. An analysis of the content of the complaints showed that four complaints received in 2005 and two received in 2006 involved unlawful actions by senior officials of the internal affairs bodies (including a director of a temporary holding facility in 2005); the other complaints concerned internal affairs officers.

188. In 2006, out of the total number of complaints filed, 53 involved bodily harm by internal affairs officers, three involved extortion, three involved unlawful criminal prosecution, one concerned illegal detention and 32 concerned unlawful actions by internal affairs officers that did not involve battery, bodily harm or detention.

Question 8

According to the State party report and annexes, the Internal Affairs Ministry constantly monitors how the right to appeal under article 241 of the Code of Criminal Procedure is being implemented and how prosecutors have met to discuss the findings of the monitoring. Please provide a summary of these findings and what decisions were made by the Office of the Prosecutor-General and the Coordinating Council of Law Enforcement Authorities which, according to annex 2, "passed decisions" based on these issues.

Reply

189. Under Ministry of Internal Affairs Order No. 43 of 7 February 2003 concerning the procedure for examining complaints and reports from citizens received by the internal affairs authorities, the Ministry of Internal Affairs continuously monitors respect for the right of citizens to make representations to the authorities.

190. Under Order No. 31 issued by the Procurator-General on 9 December 2004, every 10 days procuratorial bodies check whether persons detained in temporary detention centres in internal affairs premises are being lawfully held. In addition, each month the senior procurator checks prisoners held in remand centres, and also checks complaints and statements received from detainees, prisoners and convicted persons. These are reviewed and, where the law is found to have been broken, the procurators take appropriate steps in their supervisory role.

191. Order No. 40 issued by the Procurator-General on 17 February 2005 on the radical improvement of monitoring by procurators of respect for individual rights and freedoms during criminal proceedings places an obligation on procurators and investigators to ensure strict respect for and comply with the provisions of the Convention.

192. Order No. 21 issued by the Procurator-General on 11 May 2004 on increasing the effectiveness of procurators' participation in the consideration of criminal cases in courts lays down a procedure for conducting public prosecution in the courts and checking the lawfulness of court rulings.

193. In cases where defendants claim, during criminal proceedings in court, to have been subjected to torture and other unlawful treatment in the course of the preliminary investigation, the court verifies the claims and takes the appropriate decision.

194. Procurators participating in a trial have the right to call for appropriate checks of such claims during the proceedings.

195. All the above-mentioned orders issued by the Procurator-General are the result of consideration of these issues by the Coordinating Council of Law Enforcement Authorities in the Office of the Procurator-General.

196. The specific points in these orders and the measures they contain are the outcome of analysis of the causes of and conditions surrounding the commission of unlawful acts by personnel of law enforcement agencies, which have been identified and examined at meetings of the Coordinating Council.

Question 9

The State party's report and annex 2 note the recommendation of the Special Rapporteur on the question of torture to transfer the right to issue detention and arrest warrants to the courts, as well as the proposals presented by President Karimov at the joint parliamentary meeting on 28 January 2005 for further harmonization of Uzbek legislation with international standards. Have bills been drafted or laws passed in this regard?

Reply

197. In order to bring Uzbek legislation into line with international standards, President Islam Karimov issued a decree on 8 August 2005 transferring to the courts the authority to order remand in custody.

198. On 20 June 2007, in exercise of the President's right to initiate legislation, the Senate of the Oliy Majlis approved a law adopted by the legislative chamber of the Oliy Majlis amending certain legislative acts relating to the transfer to the courts of the authority to order remand in custody.

199. As of 1 January 2008, preventive measures in the form of remand in custody will be taken by district (city) criminal courts on the basis of the findings of a closed judicial hearing after consideration of a request by the procurator or investigator invoking the need for a detainee, suspect or accused person to be remanded in custody.

200. A number of legislative, information and organizational measures have been implemented over the past two years to introduce the new legal institution of the right to habeas corpus in Uzbekistan. These have focused on three main aspects:

(a) First, amendments and additions to the Code of Criminal Procedure, the Penal Correction Code, the Courts Act and the Procuratorial Service Act have been drafted and adopted as a result of the transfer from the procuratorial system to the courts of the authority to issue arrest warrants;

(b) Secondly, the introduction of the right to habeas corpus has been accompanied by a wide range of measures to raise awareness and spread information among law enforcement personnel, legal experts, lawyers and students of law institutes. For two years, the experience of other countries was studied with the assistance of foreign experts and parliamentarians from European countries;

(c) Thirdly, organizational measures are under way to create the necessary conditions for introducing the right to habeas corpus. These include training and skills development for judges, procurators, investigators and staff of correctional labour institutions.

201. The aim was to ensure more effective judicial protection of citizens' rights, as contained in articles 19, 25 and 44 of the Constitution.

202. The transfer to the courts of the authority to order remand in custody is consistent with the provisions of article 19 of the Constitution and is intended to enable effective protection of the rights and legitimate interests of persons involved in criminal proceedings as suspects or accused persons.

203. The transfer of the authority to order remand in custody means transferring to the courts the right to decide, at the pretrial stage, whether to apply the preventive measure of remand in custody rather than other procedural preventive measures provided for in section 4 of the Code of Criminal Procedure.

204. The following constitute grounds for remand in custody as a preventive measure:

(a) Wilfully committing an offence punishable under the Criminal Code by more than three years' deprivation of liberty;

(b) Criminal negligence, which is punishable under the Criminal Code by deprivation of liberty for a period of more than five years.

205. The Court may, as a preventive measure, order a person to be held in custody for an offence that is punishable under the Criminal Code by deprivation of liberty for a period less than that specified in article 242, part 1, of the Criminal Code, in any of the following cases:

(a) The accused person or defendant has evaded investigation or trial**;**

(b) The identity of the detained suspect has not been established**;**

(c) The accused person or defendant has previously violated the conditions of another form of preventive measure;

(d) The person held as a suspect, accused person or defendant in the case has no fixed place of residence in Uzbekistan**;**

(e) The offence was committed when the person was serving a sentence of short-term rigorous imprisonment or deprivation of liberty.

206. The law stipulates that an application for a preventive measure in the form of remand in custody or for the extension of the period of remand in custody shall be considered solely by a judge of a district (city) criminal court or an area or territorial military court in the place where the offence was committed or where the pretrial investigation was conducted.

207. In the absence of the judge, or under circumstances that prevent the judge from participating in the examination of the case file, the application shall be considered by the judge of an equivalent court.

208. An application for a preventive measure in the form of remand in custody shall be considered within 12 hours following receipt of the case-file, but no later than the end of the period of detention specified in article 226, part 1, of the Code of Criminal Procedure.

209. An application to extend the period of remand in custody shall be considered within 72 hours following receipt of the case-file.

210. When considering an application for a preventive measure in the form of remand in custody or for the extension of the period of remand in custody, the courts are under an obligation to verify whether the detention is lawful. They are also under an obligation to investigate whether the application of a preventive measure in the form of remand in custody or the extension of the period of remand in custody is justified, without considering the question of whether or not the suspect or accused person is guilty.

211. On 29 June 2007, interdepartmental working groups composed of law enforcement personnel and legal experts were set up by a decision of the Senate and sent to the local authorities to explain the new Act and the procedure for applying it while ensuring strict observance of citizens' rights.

Question 10

Please indicate whether the State party's legislation specifically provides that no exceptional circumstances whatsoever may be invoked as a justification for torture. Is there an explicit legal provision which clearly stipulates that an order from a superior officer or a public authority may not be invoked as a justification for torture. If so, please provide examples of its application by the Uzbek courts.

Reply

212. Uzbekistan has signed the Code of Conduct for Law Enforcement Officials, article 5 of which provides that no law enforcement official may invoke superior orders or exceptional circumstances as a justification of torture.

213. Article 40 of the Criminal Code provides that a person carrying out an unlawful order from a superior is not released from criminal responsibility. Torture is an offence under article 235 of the Criminal Code and, consequently, an order from a superior or a public authority may not be invoked as a justification for torture.

214. Under article 88 of the Code of Criminal Procedure, evidence obtained by unlawful means, including the use of torture, cannot be accepted by a court.

215. No cases have been recorded of criminal proceedings brought under article 40 of the Criminal Code.

Article 3

Question 11

The Committee has received allegations that at least four refugees and one asylum-seeker who were initially refouled following abductions in August 2006 from Osh, Kyrgyzstan, have been investigated and some sent to court. Fear for the safety of these individuals was expressed publicly, after which two of them were believed to have been held in

police custody in Andijan, Uzbekistan. Can the State party please inform the Committee of the outcome of these investigations. In particular, has access to the individuals held in custody been allowed, as requested by the Secretary-General?

Reply

216. Following a request from the Office of the Procurator-General of Uzbekistan, sent to the Office of the Procurator-General of Kyrgyzstan in accordance with the provisions of the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, signed on 22 January 1993, five citizens of Uzbekistan, namely Rasuljon Raimjanovich Pirmatov, Odiljon Mashrabjanovich Rakhimov, Jahongir Yuldashevich Maksudov, Fayozbek Komiljonovich Tajikhalilov and Yokub Tashbaev, were arrested in Kyrgyzstan by the competent authorities and extradited to Uzbekistan on 8 August 2006. Criminal proceedings were instituted against the aforementioned persons for the offences of murder, terrorism and undermining the constitutional order of Uzbekistan.

217. We have no reliable information on whether the mentioned persons had refugee status at the time of their extradition, since this is a matter for the Office of the United Nations High Commissioner for Refugees and the competent authorities of Kyrgyzstan that took the extradition decision.

218. During consideration of the issue of the extradition of the above-mentioned persons from Kyrgyzstan, the Office of the Procurator-General of Uzbekistan gave the guarantees stipulated in domestic legislation that they would be granted the right to a defence, and that they would not be subjected to torture or other cruel or degrading treatment or punishment.

219. These guarantees were respected where the extradited persons were concerned during the preliminary criminal investigation, which was carried out in accordance with the requirements of Uzbek legislation relating to criminal procedure. Each of the accused was granted the right to a defence.

220. They lodged no complaints concerning their state of health or the use of unlawful methods against them.

221. On 13 August 2007, Tashkent province criminal court decided as follows:

(a) R. Pirmatov was found guilty of intentional homicide with aggravating circumstances, the murder of two or more persons during mass disturbances, terrorism leading to the death of another person and other serious consequences, an attempt against the constitutional order of Uzbekistan committed by an organized group, sabotage, the formation, leadership or membership of an organized armed group, the organization of mass disturbances accompanied by violence against individuals, massacres, arson and unlawful seizure of firearms and ammunition by means of assault by an organized group. He was sentenced under article 97, part 2, paragraphs (a) and (f), article 155, part 3, paragraphs (a) and (b), article 159, part 3, paragraph (b), article 161, article 242, part 2, article 244 and article 247, part 3, paragraphs (a) and (c), of the Criminal Code, with partial combination of the prescribed penalties under article 59 of the Criminal Code, to a total of 20 years' deprivation of liberty, to be served in an ordinary-regime penal colony;

(b) Z. Maksudov was found guilty of intentional homicide with aggravating circumstances, the murder of two or more persons during mass disturbances, terrorism leading to the death of another person and other serious consequences, an attempt against the constitutional order of Uzbekistan committed by an organized group, sabotage, the formation, leadership or membership of an organized armed group, the organization of mass disturbances accompanied by violence against individuals, massacres, arson and unlawful seizure of firearms and ammunition by means of assault of an organized group. He was sentenced under article 97, part 2, paragraphs (a) and (f), article 155, part 3, paragraphs (a) and (b), article 159, part 3, paragraph (b), article 161, article 242, part 2, article 244 and article 247, part 3, paragraphs (a) and (c) of the Criminal Code, with imposition of a punishment more lenient than the least severe punishment stipulated in those articles, in accordance with article 57 of the Criminal Code, and with partial combination of the prescribed penalties under article 59 of the Criminal Code, to a total of 11 years' deprivation of liberty, to be served in an ordinary-regime penal colony;

(c) O. Rakhimov was found guilty of intentional homicide with aggravating circumstances, the murder of two or more persons during mass disturbances, terrorism leading to the death of another person and other serious consequences, an attempt against the constitutional order, committed by an organized group, sabotage, the formation, leadership or membership of an organized armed group, the organization of mass disturbances accompanied by violence against individuals, massacres, arson and unlawful seizure of firearms and ammunition by means of assault by an organized group. He was sentenced under article 97, part 2, paragraphs (a) and (f), article 155, part 3, paragraphs (a) and (b), article 159, part 3, paragraph (b), article 161, article 242, part 2, article 244 and article 247, part 3, paragraphs (a) and (c) of the Criminal Code, with imposition of a punishment more lenient than the least severe punishment stipulated in those articles, in accordance with article 57 of the Criminal Code, and with partial combination of the prescribed penalties under article 59 of the Criminal Code, to a total of 13 years' deprivation of liberty, to be served in an ordinary-regime penal colony;

(d) F. Tajikhalilov was found guilty of intentional homicide with aggravating circumstances, the murder of two or more persons during mass disturbances, terrorism leading to the death of another person and other serious consequences, an attempt against the constitutional order of Uzbekistan committed by an organized group, sabotage, the formation, leadership or membership of an organized armed group, the organization of mass disturbances accompanied by violence against individuals, massacres, arson and unlawful seizure of firearms and ammunition, by means of assault by an organized group. He was sentenced under article 97, part 2, paragraphs (a) and (f), article 155, part 3, paragraphs (a) and (b), article 159, part 3, paragraph (b), article 161, article 242, part 2, article 244 and article 247, part 3, paragraphs (a) and (c) of the Criminal Code, with imposition of a punishment more lenient than the least severe punishment stipulated in those articles, in accordance with article 57 of the Criminal Code and with partial combination of the prescribed penalties under article 59 of the Criminal Code, to a total of three years' punitive deduction of earnings, 30 per cent of his earnings to be transferred to State coffers. In accordance with article 61 of the Criminal Code, the sentence imposed was considered to have been served, the preventive measure was removed and he was released from custody in the courtroom;

(e) The decision of the court in relation to Rasuljon Raimjanovich Pirmatov, Odiljon Mashrabjanovich Rakhimov, Jahongir Yuldashevich Maksudov and Fayozbek Komiljonovich Tajikhalilov has not yet entered into force as the deadline for appeals has not been reached;

(f) On 27 November 2006, the Andijan province criminal court found Y. Tashbaev guilty of escaping from his place of detention, as a member of an organized group, and unlawful travel abroad by prior conspiracy among a group of persons, and sentenced him under article 222, part 2, paragraph (c), and article 223, part 2, paragraph (b), of the Criminal Code, with partial combination of the prescribed penalties under article 59 of the Criminal Code, to a total of nine years' deprivation of liberty. Taking into account the imposition of punishment for a number of offences in accordance with article 60 of the Criminal Code, Mr. Tashbaev was sentenced to a total of 17 years' deprivation of liberty, to be served in an ordinary-regime penal colony. The court's decision has already entered into force.

Question 12

Please provide information to the Committee as to what mechanisms exist to ensure compliance with article 3. Who is the responsible authority for coordinating compliance? Are individuals able to challenge being returned if they believe they face a risk of torture? Please provide examples, if any. Please also comment on the current status of the State party's relations and cooperation with the United Nations High Commissioner for Refugees (UNHCR).

Reply

222. The Office of the Procurator-General is the central national body responsible for issues relating to criminal prosecution and the extradition of accused persons.

223. In accordance with the provisions of multilateral and bilateral agreements concerning legal assistance in criminal matters and extradition to which Uzbekistan is a party, and also on the basis of domestic legislation, the Office of the Procurator-General examines requests from foreign Governments for the extradition of accused persons from Uzbekistan for the purpose of legal proceedings against them in accordance with the law in relation to offences committed in foreign States.

224. If there are serious grounds for supposing that such persons may be under threat of torture in those States, the Office of the Procurator-General, in pursuance of the provisions of article 3 of the Convention against Torture, seeks from the competent authorities of the foreign States concerned guarantees that torture and other cruel or degrading treatment or punishment will not be used against the accused persons whose extradition has been requested.

225. In pursuance of the provisions of article 17 of the Code of Criminal Procedure, the question of the extradition of accused persons is examined by the Office of the Procurator-General only after the requesting State has presented an official guarantee that torture and other cruel or degrading treatment or punishment will not be used against them and that they will be assured the rights of accused persons, including the right to a defence, as laid down by law.

226. Since the Office of the United Nations High Commissioner for Refugees (UNHCR) opened an office in 1993, its main tasks have been to organize the repatriation of Tajik refugees from Afghanistan and Turkmenistan and to provide humanitarian assistance to refugees in Afghanistan.

227. Although Uzbekistan has not acceded to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, it has fully cooperated with the UNHCR office in Tashkent and assisted it in performing its functions.

228. Between 1993 and 1997, UNHCR repatriated over 17,000 Tajik refugees from Afghanistan through Uzbekistan to Tajikistan, and, between January 1998 and May 1999, over 4,500 Tajik refugees from Turkmenistan to Tajikistan.

229. UNHCR headquarters provided humanitarian assistance to Afghanistan in the period 2001-2004, when cargoes to a value of just over US$ 4 million were rerouted over the Hairaton bridge. Since 2005, UNHCR has not used Uzbekistan to provide humanitarian assistance to Afghanistan.

230. Stabilization of the situation in Tajikistan and the cessation of hostilities in Afghanistan facilitated the conclusion of the active phase of UNHCR operations in Uzbekistan.

231. The issues concerning the repatriation of Afghan refugees were fully resolved.

232. As is clear from the foregoing, the UNHCR office in Tashkent completed all of its tasks, and there were no obvious reasons for it to continue its presence in Uzbekistan.

233. Accordingly, the UNHCR office in Uzbekistan ceased its activities in April 2006.

Question 13

Please provide the Committee with information on the whereabouts and treatment of the individuals believed to have been returned to Uzbekistan from neighbouring countries following extradition requests (see also questions under articles 7, 8 and 9). Please clarify what measures, if any, exist to monitor the status of such persons, and for them to lodge complaints, as appropriate; please also clarify the offences for which the returned persons have been sent back to Uzbekistan.

Reply

234. Uzbek citizens who have committed offences in Uzbekistan and are evading prosecution abroad are extradited to Uzbekistan by foreign States at the request of the Office of the Procurator-General of Uzbekistan, in accordance with multilateral and bilateral agreements on legal assistance in criminal matters and extradition, so that criminal proceedings can be brought against them pursuant to national legislation and the principle of certainty of punishment.

235. It is not clear from the question which of the individuals who were extradited to Uzbekistan - and from which countries - are meant. As a general rule, individuals extradited from other countries are subject to all protective measures and enjoy all the rights granted to accused persons under the law of criminal procedure.

Article 4

Question 14

The Committee has received information that as recently as the summer of 2006 psychiatric methods (including the forcible administration of psychotropic drugs) were used to silence and punish human rights activist Mutabar Tojibaeva and other human rights defenders. Please specify whether amended article 235 prohibits such forced administration of drugs as a possible form of torture, inhuman or degrading treatment or punishment. Have the allegations been investigated and, if so, with what result? Please clarify the consent procedure for persons sent for psychiatric care, and the right to challenge such committal. Please provide information on the number of such committals and how many have been challenged and with what result.

Reply

236. The information received by the Committee is incorrect. Psychiatric methods (including the forcible administration of psychotropic drugs) were not used against Ms. Tojibaeva. The criminal proceedings instituted against Ms. Tojibaeva for the offences indicated were unrelated to her human rights activities.

237. The forcible administration of psychotropic drugs may be considered a form of cruel and inhuman treatment. The provisions of article 235, which are consistent with article 1 of the Convention, define torture in fairly broad terms as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

238. Ms. Tojibaeva was prosecuted and sentenced to eight years' imprisonment under the following articles of the Criminal Code: article 165, part 3, paragraph (a) (Large-scale extortion), article 167, part 3, paragraph (a) (Large-scale embezzlement or misuse of property), article 168, part 2, paragraph (b) (Fraud), article 184, part 2, paragraph (b) (Large-scale evasion of taxes or other payments), article 189, part 3 (Large-scale violation of commercial or service regulations), article 197 (Violation of requirements for the use and protection of land and mineral resources), article 209, part 1 (Falsification of official documents), article 216 (Unlawful organization of voluntary associations or religious organizations), article 228, part 2, paragraph (b), and article 228, part 3 (Production, counterfeiting, sale or use of documents, stamps, seals or forms), article 229 (Vigilantism) and article 244-1, part 3, paragraph (b) (Production or distribution of material containing threats to public order and security).

239. Ms. Tojibaeva arrived at facility UY-64/7 on 7 July 2006. She was hospitalized with a diagnosis of neurasthenia in the psychiatric department of the hospital facility UY-64/7 in order to ease the adaptation period, and remained there until 17 July 2006. During her stay in the department, she was prescribed intramuscular vitamin therapy (vitamins C and B1) and cardiac sedatives to be taken internally (tincture of motherwort, valerian extract and Corvalol), which

she categorically refused to take. These medications were not forcibly administered. No psychotropic drugs were prescribed for her. After the adaptation period, she was discharged in satisfactory condition. She did not file any complaints or statements afterwards concerning a deterioration in her health.

240. According to information from the clinical psychiatric hospital of the Ministry of Health, the Tashkent intensive psychiatric observation hospital and the psychiatric institutions in Tashkent, Ms. Tojibaeva has not been forcibly treated in psychiatric institutions.

241. The internal affairs authorities do not possess any psychotropic drugs and therefore could not have used them on anyone, including Ms. Tojibaeva. The Ministry of Internal Affairs has not received any reports of the use of psychotropic drugs, and no inquiries have been made in this regard.

242. The allegations of the use of psychiatric methods against Ms. Tojibaeva have not been confirmed.

243. Committal to a medical institution for assessment is governed by the provisions of the Code of Criminal Procedure.

244. Under article 265 of the Code, if observation in an inpatient facility is necessary in the course of a forensic medical or forensic psychiatric assessment, the person conducting the initial inquiry, the investigator, the procurator or the court may commit the accused or the defendant to an appropriate medical institution, provided that the offence in question is punishable by deprivation of liberty.

245. Persons whose mental state precludes their involvement in a criminal case as the accused or the laying of charges against them may also be committed to a psychiatric institution for the purpose of assessment, provided that there is sufficient evidence that they have committed a socially dangerous act.

246. If the statutory deadline for treating an inpatient as a suspect expires prior to the completion of the forensic psychiatric assessment, the patient must be charged (if his or her mental state so permits), released from the medical institution, or officially declared a person subject to proceedings for the application of coercive medical measures.

247. Victims and witnesses may not be committed to medical institutions for the purpose of assessment, except where they incriminate the suspect, the accused or the defendant in a serious or particularly serious offence covered by article 15, parts 4 and 5, of the Criminal Code, and their testimony cannot be reliably verified by any other means.

248. A person shall be committed to a medical institution on the basis of a decision by the person conducting the initial inquiry or the investigator, if authorized by a procurator, a decision by a procurator or a court ruling.

249. The decision or ruling to commit a person to a medical institution must indicate the name of the patient and his or her procedural status; the name of the medical institution; if necessary, directions concerning the transfer of the person to the said institution; and the decision to impose a pretrial restraining order.

250. Accused persons, defendants or persons subject to proceedings for the application of coercive medical measures, who are committed to medical institutions may be remanded in custody as a pretrial restraining measure if the institution in question is suitable for the confinement of remand prisoners. Otherwise, the pretrial restraining measure must be abrogated or a more lenient measure must be substituted.

251. The time spent in a medical institution by an accused person, defendant or person subject to proceedings for the application of coercive medical measures counts as time spent on remand.

252. An accused person, defendant or person subject to proceedings for the application of coercive medical measures may be committed to a medical institution for no longer than one month.

253. In exceptional circumstances, and on the basis of a medical opinion formed in the course of an inpatient assessment, this time limit may be extended by one month, subject to a decision by a procurator or a ruling by the court handling the case. No further extensions are possible.

254. All persons committed to a medical institution for assessment, and their counsel or legal representatives, may lodge an appeal with a higher-ranking procurator against a decision by the person conducting the initial inquiry, the investigator or the procurator to commit them to a medical institution. Court rulings may be appealed to a higher court.

255. Coercive medical measures may be applied by a court ruling to persons suffering from mental illness who have committed socially dangerous acts, in accordance with the provisions of articles 15, 26 and 27 of the Psychiatric Assistance Act.

256. Pursuant to article 13 of the Act, persons suffering from mental illness are treated after they have given their written consent. Treatment may be administered without the consent of persons suffering from mental illness or their legal representatives only in the case of application of coercive medical measures on the grounds prescribed by the legislation. It is prohibited to use surgical or other methods with irreversible effects to treat mental illness or to test medications or medical methods on such persons.

257. During 2006 and the first half of 2007, the courts examined 28 criminal cases (16 in 2006 and 12 in the first half of 2007) involving coercive medical measures, as a result of which 28 persons were committed.

Question 15

The State party's report provides different statistics on convictions under articles 235 and 234 of the Criminal Code. Please provide updated statistics regarding complaints of torture in Uzbekistan and provide full details of related convictions, specifically what rank and position the convicted persons held, for what actions they were convicted, including the duration of sentences passed or disciplinary measures imposed, and under what article of the Criminal Code they were convicted. Please also indicate how many public officials were suspended from duty or removed from their posts pending trial. Please also provide information on steps taken to address the causes of such conduct.

Reply

258. According to information from the Ministry of Internal Affairs, 61, 96 and 17 complaints of torture against internal affairs officers were received by the Ministry in the years 2005, 2006 and 2007, respectively.

259. An analysis of the content of the complaints showed that four complaints received in 2005 and two received in 2006 involved unlawful actions by senior officials of the internal affairs bodies (including a director of a temporary holding facility in 2005); the other complaints concerned internal affairs officers.

260. For example, in 2006 the Zangiata district procurator's office instituted criminal proceedings against V.M. Kurbanov, director of facility No. 64/66 of the Central Penal Correction Department, and an official of the same institution, R.A. Abdukadyrov, for inflicting minor bodily harm with impairment of health under article 206, part 1, and article 235, part 2, of the Criminal Code.

261. Both were found guilty on 24 February 2006 by the Zangiata district criminal court in Tashkent province.

262. In 2005, there were 53 complaints of bodily harm committed by internal affairs officers, 6 complaints of unlawful actions by such officers that did not involve battery, bodily harm or detention, and 2 complaints of unlawful detention.

263. Verification of the complaints filed in 2005 shows that in 8 cases the allegations were confirmed, while in 41 they were not confirmed, and in 31 cases, including some in which the allegations were not confirmed, the complaints were referred to the procuratorial authorities for verification.

264. In 2005, disciplinary penalties were imposed on 12 internal affairs officers who had committed unlawful actions against citizens.

265. In 2006, out the total number of complaints filed, 53 involved bodily harm by internal affairs officers, 3 involved extortion, 3 involved unlawful criminal prosecution, 1 concerned illegal detention and 36 concerned unlawful actions by internal affairs officers that did not involve battery, bodily harm or detention.

266. Verification of the complaints filed in 2006 shows that in 7 cases the allegations were confirmed, while in 78 others, including cases of unlawful prosecution, they were not confirmed, and in 21 cases, including some in which the allegations were not confirmed, the complaints were referred to the procuratorial authorities for verification.

267. In 2006, disciplinary penalties were imposed on 17 internal affairs officers for committing unlawful actions against citizens.

268. All the complaints filed this year have been referred to the procuratorial authorities for verification.

269. According to information from the special staff inspection unit of the Ministry of Internal Affairs, in the first half of 2007, in 13 cases of reported unlawful actions by internal affairs officers, the allegations were not confirmed.

270. Senior officials of the Ministry of Internal Affairs review all claims of unlawful action. Convicted persons are usually dismissed from office and subsequently prosecuted. Five, nine and four officers of the internal affairs authorities were sentenced by the courts under articles 234 and 235 of the Criminal Code in 2005, 2006 and 2007, respectively.

271. For example, on 12 October 2006 the Jakurgan district court in Surkhan-Darya province found Lieutenant-Colonel Makhmud Davlyatovich Narboev, detective superintendent in charge of particularly important cases of the Surkhan-Darya province internal affairs office, guilty under article 205, part 2, article 206, part 2, article 273, part 2, article 234, part 2, article 235, part 2, article 209, part 2, paragraphs (a) and (b), and article 230, part 2, of the Criminal Code and sentenced him to two years' imprisonment for unlawfully detaining and inflicting bodily harm on Mr. A. Tulaev.

272. On 15 April 2006, Captain M.F. Madrakhimov, an officer of the criminal investigation department of Khanka district in Khorezm province, brought E. Atajanov and D. Iskandarov to the internal affairs office on suspicion of theft and used physical force in an attempt to make them confess that they had committed theft in a college.

273. On 22 September 2006, criminal proceedings were instituted against Captain Madrakhimov under article 206, part 1, and article 235, part 2, of the Criminal Code and he was brought to trial. He was found guilty by the Khanka district court in Khorezm province and given a suspended sentence of two years' imprisonment.

274. On 3 May 2007, the Havast transport procurator's office in Syr-Darya province instituted criminal proceedings under article 235, part 1, and article 206, part 1, of the Criminal Code against the head of a militia transport division, Captain E.O. Normuradov, for inflicting bodily harm on Lyumanova and Bakieva in order to extract a confession of theft. The case was referred to the court on 28 June 2007.

275. The measures taken by the Ministry of Internal Affairs have led to a reduction in the number of human rights violations this year.

276. According to Order No. 41 issued by the Procurator-General on 31 May 2004, every procurator is required to question a suspect or accused person thoroughly before deciding whether or not to use the preventive measure of remand in custody. During the questioning, the procurator must ascertain whether the investigator or other persons used coercion of any kind or torture to obtain evidence.

277. If it is established during an investigation or a trial that acts of torture have occurred, or if the accused person displays physical injuries that may have resulted from torture, an inquiry with a forensic examination must be carried out. If the inquiry confirms that such acts occurred, criminal proceedings are initiated.

278. According to information from the Office of the Procurator-General, in the first six months of 2007, the procuratorial authorities received 102 complaints and reports concerning the use of threats, cruel treatment or other methods of coercion.

279. Of the total number of communications received, 97 concerned unlawful actions by internal affairs officers, 2 involved customs board officials, 2 concerned officials of the procuratorial authorities and 1 involved an official of the judiciary.

280. As a result of the investigations that were carried out, criminal proceedings were instituted in three cases against four persons, and 90 law enforcement officers were subjected to disciplinary measures.

281. For example, on 18 April 2007 E. Normuradov, acting head of the crime prevention unit in the transport division of the Havast district internal affairs office, in Syr-Darya province, exceeding his authority, unlawfully detained D. Lyumanov, Z. Bojhiev, J. Tuichev and A. Isroilov in the internal affairs office and forced them to confess to theft by means of threats, beatings, battery and cruel treatment.

282. Criminal proceedings were instituted against E. Normuradov under article 206 (Exceeding authority or official powers) and article 235 (Use of torture or other cruel, inhuman or degrading treatment or punishment) of the Criminal Code.

283. On 9 and 10 May 2007, M. Sherbaev, an officer of the criminal investigation department of the Tashkent district internal affairs office in Tashkent province, and D. Daminov, a crime prevention inspector in the same office, exceeding their authority, forced S. Akhmedov, B. Tukhtaev, B. Rakhimov and A. Amanov to confess to petty hooliganism by means of threats, beatings, battery and cruel treatment.

284. On 21 July 2007, criminal proceedings were instituted against M. Sherbaev and D. Daminov under articles 206, 234 and 235 of the Criminal Code.

285. Criminal proceedings were instituted against K. Malikov, head of the Angor district internal affairs office in Surkhan-Darya province, for similar unlawful actions.

286. All of the above-mentioned persons were suspended from office during the pretrial investigation. The proceedings against them have been referred to the courts.

287. Under Order No. 40 issued by the Procurator-General on 17 February 2005, concerning the radical improvement of procuratorial oversight of observance of citizens' rights and freedoms during criminal proceedings, procuratorial and investigative officials are obliged to abide strictly by and comply with the provisions of the Convention against Torture.

288. The complaints received by the procuratorial authorities from citizens reporting unlawful actions by law enforcement personnel and officials of administrative authorities may be broken down as follows:

	2002	2003	2004	2005	2006	First half of 2007
Total complaints of unlawful actions	3 059	3 277	3 427	3 070	2 275	1 144
Unlawful actions committed by internal affairs officers	2 363	2 803	2 541	2 292	1 737	874
Unlawful actions committed by procuratorial officials	121	0	115	107	51	15
Unlawful actions committed by National Security Service officers	60	97	26	15	10	0

289. The remaining complaints of unlawful actions concerned staff of other law enforcement and administrative authorities.

290. As a result of inquiries into the above complaints, criminal proceedings were brought in connection with threats and other methods of coercion (under article 235 of the Criminal Code) in the following cases:

(a) In 2002, one case was brought against one person; in 2003, four cases against four persons; in 2004, three cases against three persons; in 2005, three cases against five persons; in 2006, six cases against nine persons; and, in the first half of 2007, three cases against four persons;

(b) A total of 20 criminal cases have been brought against 26 persons.

291. In the following cases, criminal proceedings were dropped because the allegations were not confirmed: 1,022 complaints in 2002, 1,143 in 2003, 1,878 in 2004, 1,203 in 2005, 1,313 in 2006, and 713 in the first half of 2007; the remaining cases were dismissed with explanations of the reasons for dismissal or were referred to other authorities for reasons of competence.

292. The results of the verifications of citizens' complaints in this category show that the number of law enforcement officers subjected to disciplinary measures was 543 in 2002, 653 in 2003, 343 in 2004, 301 in 2005, 134 in 2006 and 90 in the first half of 2007.

293. An analysis of the violations shows that the main reasons for the imposition of disciplinary penalties were dereliction of duty, failure to give due attention to citizens' communications and violation of procedure.

294. The number of disciplinary penalties reflects an improvement in monitoring and in the management process in law enforcement authorities. This process has been reformed and regularized with the introduction of new procedures for handling complaints and communications submitted by citizens to law enforcement authorities as a result of the adoption of the new Citizens' Communications Act. The provision of broader opportunities for citizens to

submit communications and complaints to different internal and external bodies (internal and external control) has led to an improvement in the level of professionalism and the observance of due process and human rights among law enforcement officers.

295. Together with other law enforcement agencies, the procuratorial authorities are studying the circumstances and reasons that tend to encourage unlawful criminal prosecutions and are taking the necessary steps to prevent and prohibit such action.

296. Based on an analysis of the statistics on violations, their causes and the circumstances in which they occurred, departmental regulations have been adopted on action and measures to prevent such violations and remedy the situation. For example, the Procurator-General's Orders Nos. 41 of 31 May 2004 and 40 of 17 February 2005 provide for increased procuratorial supervision of criminal proceedings in the light of the violations identified.

297. The Ministry of Internal Affairs also adopts departmental regulations in response to human rights violations; these regulations provide for measures to remedy the situation. Measures aimed at addressing the causes of human rights violations by law enforcement officers also include the establishment of a special department on human rights and relations with international organizations and the public. Established in September 2005 in the Ministry's Legal Support Department, the department is authorized to participate in the investigation of citizens' complaints concerning unlawful actions by internal affairs officers.

298. At official meetings and during training for local internal affairs bodies, staff are informed of ministerial orders and the results of official investigations and criminal proceedings brought against officers under article 235 of the Criminal Code.

299. Official investigations usually include a detailed analysis of the causes of torture and the circumstances that led to the use of torture. As a rule, in such cases the Minister of Internal Affairs orders disciplinary action against persons who are found guilty of dereliction of duty and who are responsible for order and management in the body in question. This information is analysed and discussed at internal meetings and may be considered as a preventive measure to prevent further occurrences of such actions by internal affairs officers.

300. All the officials against whom criminal proceedings were brought for such offences were suspended from office during the pretrial investigation.

301. Under article 257 of the Code of Criminal Procedure, persons conducting an initial inquiry, investigators and procurators are deemed to have been suspended from office if they are involved in proceedings as accused persons or defendants.

302. Paragraph 9 of the decision of the plenum of the Supreme Court of 24 September 2004 on certain aspects of the application of provisions of the law of criminal procedure relating to the admissibility of evidence provides that, when considering criminal cases, the courts are obliged to assess carefully whether during the initial inquiry, the pretrial investigation and the court hearing the requirements of the law of criminal procedure governing the general conditions of proof have been fulfilled, and to respond to violations of the law by issuing special decisions and, where necessary, to rule on the institution of proceedings in the light of the articles of the Criminal Code that establish penalties for official misconduct or obstruction of justice.

303. The Human Rights Commissioner (Ombudsman) of the Oliy Majlis examines and investigates complaints and communications concerning unlawful actions by law enforcement personnel.

304. According to information from the Ombudsman, 314 complaints of actions by law enforcement personnel were received in 2006; 112 of those complaints were followed up. In addition, 13 complaints were submitted concerning actions of prison staff, 8 of which were followed up.

305. The Ombudsman has not received any communications concerning the use of torture; however, as we have already mentioned, there have been cases of communications reporting improper action by law enforcement personnel. For example, not long ago the Ombudsman received a communication from M. complaining of unlawful actions by A. Kholikov and other law enforcement officers in Gijduvan district. The communication was followed up and referred to the procurator's office of Bukhara province. According to the reply received, criminal proceedings were instituted against A. Kholikov and other officers of the Gijduvan internal affairs office for unlawfully taking the complainant's nephew N. into custody and using unlawful methods of investigation against him, under article 206, part 1 (Exceeding authority and official powers), article 209, part 1 (Falsification of official documents) and article 103 (Driving a person to suicide) of the Criminal Code and the case was referred to the Bukhara province criminal court.

306. In the period 2005-2007, the Ombudsman together with the National Centre for Human Rights and officials of the Centre, inspected more than 20 prison system facilities and visited 12 correctional colonies and remand centres, along with foreign visitors (members of the lower house of the German Parliament, German diplomats and officials from the Office of the Konrad Adenauer Fund in Uzbekistan).

307. Press releases are issued regarding the outcome of the visits, information is transmitted to concerned organizations and certain data are posted on a dedicated web page. Representatives of non-governmental non-profit organizations, including the Uzbekistan Association of Doctors and Lawyers, trade unions and the Makhalla Fund, are involved in these activities.

308. Communications have been received from inmates of the Zangiata young offenders, institution. However, they relate not to conditions of detention and treatment but to job placement on release, problems with living conditions and amenities and so forth.

309. In the period 2006-2007, notable measures were being taken in the Republic of Karakalpakstan, in Bukhara, Djizak, Khorezm, Namangan, Navoi, Samarkand, Surkhan-Darya, and Tashkent provinces and in the city of Tashkent, with the participation of representatives of the Ombudsman's partner organizations (the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Health, the Office of the Procurator-General, the National Centre for Human Rights and the Federation of Trade Unions), regional administrations, the courts, self-governing citizens' bodies, non-governmental non-commercial organizations and the media.

310. When dealing with communications and complaints from citizens, Uzbekistan's national human rights institutions always give attention to identifying the causes and conditions that may give rise to human rights violations; on that basis, they plan and carry out their work in the areas of human rights education, awareness-raising and monitoring, with the goal of eliminating and overcoming the factors that encourage violations.

311. Through their educational programmes, the national human rights institutions are able to influence the work of law enforcement officials, who receive skills upgrading and training in the culture of human rights.

Question 16

Please provide information on the existing internal disciplinary processes within the law enforcement agencies including how these are enforced. Are officers under investigation suspended from duty, including being barred from promotion or removed from their posts? Please describe how inquiries are conducted and their average length, and information on the final dissemination of the outcomes. Are these made public?

Reply

312. Claims of torture are reviewed by special internal security units (special staff inspectorates) that are directly subordinate to the Minister of Internal Affairs.

313. These units are effectively independent: they do not deal with combating, detecting or investigating crime and are not subordinate to departments that do.

314. All the officials against whom criminal proceedings were brought for such offences were suspended from office during the pretrial investigation.

315. Under article 257 of the Code of Criminal Procedure, persons conducting an initial inquiry, investigators and procurators are deemed to have been suspended from office if they are involved in proceedings as accused persons or defendants.

316. Representatives of the public, civil society campaigners and, in some cases, foreign experts are invited to participate in the investigation of claims of torture, especially those relating to the death of detainees and arrested persons, or of events causing a public outcry.

317. Cases of torture are handled according to the principle of transparency, as can be seen from the openness of the investigation into the death of the Uzbek citizen Andrei Shelkovenko and other individuals. Representatives of the embassies of the Russian Federation and United States of America in Tashkent, the international organizations Freedom House and Human Rights Watch, foreign criminal law specialists and forensic medical experts from Canada and the United States took part in this investigation.

318. On 10 December 2004, an agreement was concluded between the Ministry of Internal Affairs and the Human Rights Commissioner (Ombudsman) of the Oliy Majlis to work together to ensure that internal affairs agencies respect human rights.

319. The secretariat of the Ministry of Internal Affairs maintains a separate register for recording complaints of illegal acts by internal affairs officers; as a rule, the Ministry's leadership deals with such complaints, conducts official investigations and takes appropriate measures on the basis of the outcome of the investigations.

320. In accordance with the established procedure, the official investigation should take no more than one month from the date of receipt of the complaint or report.

321. Disciplinary measures are grounds for denial of promotion.

322. It is mandatory for orders concerning the imposition of disciplinary measures to be brought to the attention of staff; complainants are informed of the outcome of the investigation and the measures taken.

323. Every quarter, the appropriate services of the internal affairs agencies conduct an analysis of the reports examined concerning illegal acts by internal affairs officers and brief the leadership of the Ministry of Internal Affairs on the outcome.

324. All reports and complaints of torture received lead to official investigations into the employees involved, conducted by the appropriate agencies. If the reports or complaints are substantiated, appropriate decisions are taken regarding disciplinary measures, up to and including dismissal. If the investigation establishes that there are elements of an offence, criminal proceedings are initiated.

325. In the first six months of 2007, criminal proceedings were instituted in three cases against four persons on the basis of the findings of investigations into complaints and reports, and 90 law enforcement officers were subjected to disciplinary measures.

326. Under article 351 of the Code of Criminal Procedure, pretrial investigations must be concluded within three months of the initiation of criminal proceedings.

Question 17

The State party report indicates (para. 57) the existence of a discussion in the first half of 2004 regarding compliance with the plan of action drawn up by the Procurator-General (referred to in annex 1 to the State party's report as the Programme of Action to Comply with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). Please provide details of the outcome of the discussion. Has there been an assessment of the implementation of this plan, in particular with regard to the prohibition against torture?

Reply

327 Question 17 contains an error in that it misrepresents and conflates the work of two different bodies: the Coordinating Council of Law Enforcement Authorities under the Office of the Procurator-General, established in 1992, and the interdepartmental working group to monitor the observance of human rights by law enforcement agencies, established in 2004 and chaired by the Minister of Justice.

328. The body referred to in paragraph 57 of the report is the Coordinating Council of Law Enforcement Authorities under the Office of the Procurator-General, which was established in 1992 pursuant to the Procurator's Office Act and whose tasks include coordinating the activities of the law enforcement agencies. The Coordinating Council meets every month as required and has its own work plan.

329. Similar coordinating councils have been established under the procurator's office in each province to coordinate law enforcement agency activities at the regional level. The questions considered and discussed by the Coordinating Council reflect the main aspects of the work of the procurator's office, including general oversight of the legality of the activities of government bodies and institutions, and oversight of the legality of pretrial investigations and of the activities of places where persons are deprived of their liberty. The Coordinating Council's work is not confined to the field of human rights but encompasses the legality of the activities of government bodies as a whole.

330. The interdepartmental working group to monitor the observance of human rights by law enforcement agencies, chaired by the Minister of Justice, has been functioning since March 2004 pursuant to an order of the Prime Minister. The interdepartmental working group periodically hears reports on the progress made in implementing the National Programme of Action to implement the provisions of the Convention against Torture and takes all necessary measures to improve efforts in this area. The Office of the Procurator-General also participates in the interdepartmental working group and was involved in implementing all aspects of the National Programme of Action since March 2004. Reports on the fulfilment of all elements of the National Programme of Action have been presented, discussed and assessed at meetings of the interdepartmental working group.

331. The work of the Coordinating Council under the Office of the Procurator-General and of the interdepartmental working group is based on common goals and aims. They are, however, different bodies, established within different departments, each with its own specific characteristics and making its contribution to the realization of human rights in the activities of Uzbekistan's government bodies.

332. The decisions of the interdepartmental working group are based on its assessment of the current activities of the law enforcement agencies. Owing to the coordination of law enforcement agency activities by the interdepartmental working group and the Coordinating Council under the Office of the Procurator-General, all elements of the National Programme of Action to implement the Convention against Torture and of the recommendations of the Special Rapporteur on the question of torture, Mr. Theo van Boven, have now been implemented.

333. Paragraph 57 of the periodic report (CAT/C/UZB/3) describes the work of the Coordinating Council under the Office of the Procurator-General and its plan of action for 2004. Matters relating to compliance with the law in dealing with citizens' complaints and reports of illegal acts by law enforcement officials are considered annually at meetings of the Coordinating Council, which analyses statistics relating to the complaints examined, as well as the causes and conditions that may encourage the commission of illegal acts.

334. In the first half of 2007, the Office of the Procurator-General, on 20 April 2007, the Coordinating Council discussed matters relating to compliance with the law in dealing with citizens' complaints and reports of illegal acts by law enforcement officials.

335. Along with the work done to eliminate illegal acts by officials of the law enforcement agencies and supervisory authorities, the meeting also discussed the causes and conditions that may encourage the commission of offences by such officials and took note of the need to apply measures to prevent similar occurrences and to increase departmental and procuratorial oversight.

336. At the meeting of the Coordinating Council, specific demands were made of the relevant bodies with regard to eliminating shortcomings and combating crime more effectively.

Article 5

Question 18

Please elaborate on whether acts of torture are considered universal crimes under national law.

Reply

337. Yes, acts of torture are considered universal crimes under national law.

338. The prohibition of the use of torture, contained in national law, is absolute and admits no exceptions.

339. Persons responsible for using torture are prosecuted under article 235 of the Criminal Code.

340. Article 235 indicates the qualifying element of the offence: coercion to testify.

341. Where there are aggravating factors, the use of torture or other cruel, inhuman or degrading treatment or punishment, i.e. illegal exertion of mental or physical pressure on a suspect, an accused person, a witness, an injured party or another person participating in the proceedings, or serving a sentence as a convicted person or a close relative of such a person, by a person conducting an initial inquiry, an investigator, a procurator or other employee of a law enforcement agency or penal institution, by means of threats, blows, beatings, cruel treatment, infliction of suffering or other illegal acts in order to obtain from him or her information of any kind or a confession, or to punish him or her arbitrarily for an act he or she has committed, or to coerce him or her into action of any kind, is punishable by deprivation of liberty for up to eight years, in accordance with article 235 of the Criminal Code, as amended by the Act of 30 August 2003, which entered into force on 10 November 2003; this demonstrates that this type of offence is considered universal.

342. Under these provisions, coercion to testify is defined as the exertion of mental or physical pressure on a suspect, accused person, witness, victim or expert by a person conducting an initial

inquiry, an investigator, a procurator or other employee of a law enforcement agency by means of threats, blows, beatings, cruel treatment, infliction of suffering or of minor or moderate bodily injury, or other illegal acts in order to force him or her to testify.

343. The perpetrator's illegal acts are categorized according to the circumstances: thus, if these illegal violent acts were aimed at obtaining evidence of guilt, then, on the basis of all the elements, the person responsible is liable to prosecution for the use of torture.

344. For example, if serious bodily injury is inflicted on a suspect or accused person resulting in his or her death, the perpetrator's criminal acts, taken in aggregate, are deemed to come under article 235 and article 104, part 3, paragraph (e), of the Criminal Code (Intentional serious bodily injury).

345. The Supreme Court, in a decision adopted by the plenum, defined torture in accordance with the Convention.

346. In paragraph 18, subparagraph 4, of Decision No. 17 adopted by the plemun of the Supreme Court on 19 December 2003, on the application by the courts of laws which guarantee the right of accused persons and defendants right to a defence, it is explained that in accordance with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, of 10 December 1984, "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

347. On 9 March 2004, the Government of Uzbekistan approved the National Programme of Action to implement the provisions of the Convention against Torture; implementation of the Programme of Action is overseen by the interdepartmental working group to monitor the observance of human rights by law enforcement agencies and to further Judicial Reform, established pursuant to Cabinet of Ministers Order No. 112-F of 24 February 2004 and chaired by the Minister of Justice.

348. In order to avoid misinterpretation of the concept of "torture", in May 2005, the interdepartmental working group prepared a commentary on the application of article 235 of the Criminal Code, for distribution among law enforcement officials. The commentary clarifies the procedure to follow when instituting criminal proceedings against officials who engage in torture or other cruel, inhuman or degrading treatment or punishment.

349. The theoretical and practical commentary to article 235 (Use of torture or other cruel, inhuman or degrading treatment or punishment) of the Criminal Code [incomplete sentence]

350. Article 26 of the Constitution of Uzbekistan stipulates that "no one may be subjected to torture, violence or other cruel or degrading treatment". This article is similar to article 5 of the Universal Declaration of Human Rights of 10 December 1948.

351. The Constitution laid the foundations for the incorporation in Uzbek legislation of the universally recognized principles and standards of international law requiring the prohibition of the use of torture and cruel, inhuman or degrading treatment or punishment.

352. The use of torture and other cruel, inhuman or degrading treatment or punishment is recognized by the international community as inadmissible and inhuman and is prohibited by the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949, the International Covenant on Civil and Political Rights of 16 December 1966, the Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms of 26 May 1995, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 and a number of other instruments. The use of torture or other cruel, inhuman or degrading treatment or punishment may not be justified by invoking either an order from a superior or such exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency.

353. The use of torture and other cruel, inhuman or degrading treatment or punishment is recognized as an act incurring criminal liability. The very fact of using torture is considered by the international community to be one of the gravest violations of the fundamental principles and standards of international law and a crime against humanity.

354. From the outset, the Criminal Code of independent Uzbekistan provided for liability for the commission of acts regarded as torture under international law. However, the application of the peremptory norms of international law requiring the prohibition of the practice of torture and the criminal prosecution of perpetrators was uncoordinated and unsystematic. In particular, the concept of “torture and other cruel, inhuman or degrading treatment or punishment” did not exist as such. The Act of 30 August 2003 on amendments and additions to certain legislative acts of the Republic of Uzbekistan filled this lacuna in criminal law, rendering it more consistent and systematic.

355. The main and direct targets of the offence envisaged in article 235 of the Criminal Code are the social relations that guarantee the dignity of the individual, the right of every person to humane treatment and the unified and compulsory procedure established by law for conducting pretrial investigations and initial inquiries. The life or health of the person subjected to torture should be recognized as another direct target.

356. Only a suspect, an accused person, a witness, an injured party or another person participating in criminal proceedings or serving a sentence as a convicted person, or a close relative of such a person, may be deemed a victim of torture.

357. Under the Code of Criminal Procedure, a person is deemed:

(a) A suspect when there is information that he or she has committed an offence but such evidence is not sufficient to charge him or her in a criminal case. It is the person conducting the preliminary inquiry or pretrial investigation or the procurator who decides whether to make a person a suspect (art. 47);

(b) An accused when a decision is taken to charge him or her in a criminal case, in accordance with the procedure established by the Code of Criminal Procedure. In court, the accused person is referred to as “the defendant” and, after a verdict is issued, as “the convicted person” or “the acquitted person” (art. 45);

(c) A witness if he or she is familiar with any of the circumstances that are being ascertained in a criminal case (art. 65). Persons who are not called to testify may not be deemed witnesses (art. 115). Close relatives of a suspect or accused person are deemed witnesses only if they give their consent to testify;

(d) A victim if there is evidence to suggest that he or she has suffered mental, physical or material harm as a result of a crime or socially dangerous act not attributable to him or her. It is the person conducting the preliminary inquiry or pretrial investigation or the procurator who decides whether to deem a person a victim and the court issues a ruling (art. 54).

358. Other parties to criminal proceedings may be any of the persons referred to in chapter 6 of the Code of Criminal Procedure: experts, specialists, interpreters and official witnesses. Other persons may not be deemed other parties to criminal proceedings, irrespective of their connection to a criminal case.

359. A convicted person is a person who has been found guilty following a trial and sentenced to a given type and length of penalty. A person is deemed to be serving a sentence from the date of execution of the sentence, this being stipulated in an appropriate order by the court that issued the verdict. As stated in the article under discussion, the issue of whether a person may be deemed to be serving a sentence is not related to the type and length of penalty; this must be taken into account by the judicial and investigative bodies when considering cases in this category.

360. For the concept of “close relatives”, see section VIII of the Criminal Code.

361. In objective terms, the offence in question is manifested as torture and other cruel, inhuman or degrading treatment or punishment, i.e. the illegal exertion of mental or physical pressure on a suspect, an accused person, a witness, an injured party or another person participating in criminal proceedings or serving a sentence as a convicted person, or on a close relative of such a person, by means of threats, blows, beatings, cruel treatment, infliction of suffering or other illegal acts.

362. In the context of the article under consideration, torture must be understood to mean any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on the victim. At the same time, it must be borne in mind that torture, as distinct from “cruel or inhuman treatment or punishment”, is characterized by the infliction of significant, very severe and cruel suffering. The difference between the concept of “torture” and that of “inhuman or degrading treatment” lies in the “differing intensity of suffering”. Torture is the most severe form of cruel treatment. Moreover, torture always constitutes inhuman or degrading treatment, and inhuman treatment is always degrading.

363. The systematic use of inhuman and cruel treatment must also be considered torture, even if it does not result in the serious consequences typical of conventional torture.

364. Inhuman treatment or punishment should be regarded as the infliction of severe physical or mental suffering less intense than that caused by torture. Cruel or inhuman treatment may include holding the victim in poor sanitary conditions for a prolonged period, denying necessary medical care and inflicting significant mental suffering by means of prolonged deprivation of food, water, heat and so forth.

365. Degrading treatment or punishment is treatment intended to arouse in the victim feelings of fear, oppression and inferiority in order to insult or humiliate him or her or break down his or her physical or mental resistance. One example of degrading treatment or punishment is the use of physical force or mental pressure that is not necessary for ensuring the victim's correct behaviour.

366. Torture and cruel, inhuman or degrading treatment or punishment may be inflicted by means of both physical and mental pressure.

367. In this context, pressure must be understood to mean bringing influence to bear on the victim against his or her will, causing obvious physical or mental suffering, i.e. coercion.

368. The provisions of this article refer to ways of exercising physical or mental coercion: use of threats, blows, beatings, cruel treatment, infliction of suffering and so forth. This list is not exhaustive, and other acts may fall within the scope of the concept of physical or mental pressure, one of the hallmarks of such acts being their illegality. For example, under the article in question, deprivation of food and water, exposure to noise, deprivation of sleep or heat, being forced to stand by a wall, being held in a cold room and other such treatment should also be regarded as prosecutable acts. For more detailed information on physical and mental coercion, see the analysis of article 164 of the Criminal Code.

369. It should be borne in mind that pain and suffering "arising only from, inherent in or incidental to lawful sanctions" do not constitute torture or cruel, inhuman or degrading treatment or punishment.

370. In order to categorize a physical or psychological act performed by a person as torture or inhuman, cruel or degrading treatment or punishment, it is necessary to establish intent. As the law clearly indicates, in order to categorize a physical or psychological act as an offence under the article under discussion, the act must have been directed against a specific group of persons, namely a suspect, an accused person, a witness, an injured party or another person participating in criminal proceedings or serving a sentence as a convicted person, or a close relative of such a person. The list of such persons is exhaustive and is not open to broad interpretation. All such persons are subject to criminal procedure, and the legislation in force regulates their legal status in detail.

371. It should be pointed out that a physical or psychological act against such persons may be performed either directly or through action against persons close to them. For example, a physical or psychological act committed by a person conducting an initial inquiry, an investigator, a procurator or another law enforcement official against the legal representatives of an injured party, a suspect or an accused person, a defence counsel or other persons must be recognized as torture. In such cases there is an indirect impact on the injured party, which is generally of a psychological nature. Here acts performed against an injured party must be

categorized as torture, whereas acts performed against another person who is the direct victim of the act must be categorized as the corresponding offence against the person. For example, in order to force an accused person to testify against himself, a law enforcement official harmed the accused person's guardian, with the result that the accused person decided to incriminate himself. In such cases, the official's acts should be categorized as torture against the accused person under article 235 of the Criminal Code and as bodily harm in relation to the guardian under the corresponding articles of the Code.

372. In terms of the mental element, the offence referred to in article 235 of the Criminal Code is characterized by the presence of direct intent and a specific purpose, which is the mandatory component of the mental element of the offence in question. Here it must be borne in mind that the law defines the purpose of the commission of the offence in terms of alternatives, that is, if the act is to be classed as an offence under article 235 of the Criminal Code, the perpetrator must have sought to attain one of the following objectives:

(a) To obtain certain information;

(b) To secure a confession;

(c) To impose his or her own punishment for the act committed;

(d) To compel the injured party to perform certain acts.

373. The specific intent has no influence on the categorization of the offence, but may be taken into account by the court during sentencing. The motives underlying the act also have no influence on categorization, but may be taken into account by the court during sentencing. As a rule, these include revenge, material interest, career-related aspirations, a misconceived sense of justice, a desire for self-assertion, and so on.

374. The offence may be committed only by a person conducting an initial inquiry, an investigator, a procurator or another official of a law enforcement agency or a penal institution.

375. The person conducting an initial inquiry is the head of the bodies conducting initial inquiries or another official of such bodies who has been entrusted by the head of the body conducting the initial inquiry with the task of carrying out urgent investigative activities for the purpose of preventing or stopping a crime; the collection and maintenance of evidence; the detention of persons suspected of committing a crime and searching for suspects and accused persons who are in hiding; ensuring compensation for damage to property caused by an offence. An exhaustive list of bodies responsible for conducting initial inquiries is to be found in article 38 of the Criminal Code.

376. The investigator is an official of a procurator's office, an internal affairs body or the national security service, appointed in accordance with the procedure laid down in the law, who is responsible for conducting the preliminary investigation.

377. The procurator is an official of the procurator's office who has been given the authority to perform a supervisory function during the pretrial investigation.

378. It should be borne in mind that, in the context of the article under discussion, an individual can be considered to be a person conducting an initial inquiry, an investigator or a procurator only where he or she is responsible for conducting criminal proceedings involving persons against whom the perpetrator of the offence commits physical or psychological acts that constitute torture or cruel, inhuman or degrading treatment. If this is not the case, the individual must be classed as another law enforcement official. For example, torture against a person under investigation must be regarded as committed by:

(a) The investigator - where the guilty party is an official who is responsible for conducting a preliminary investigation in the case in question;

(b) Another official of a law enforcement agency - where he or she is not the person responsible for conducting a preliminary investigation in the case in question, even when the list of personnel indicates that he or she occupies the post of investigator and engages in the investigation of criminal cases.

379. Individuals who are regular staff of law enforcement agencies assisting in the administration of justice, but who are not responsible for conducting criminal proceedings, must be classed as other officials of a law enforcement agency. They include ordinary members of the militia, the tax service and the national security service and other persons generally performing such technical functions as ensuring the protection of suspects or accused persons, monitoring their conduct, and so on.

380. Officials who are regular staff of penal institutions, regardless of their official position, must be classed as officials of such an institution, provided that they are not investigators in a criminal case in which a torture victim is involved. For example, the head of a colony holding prisoners serving custodial sentences must be classed as an official of a penal institution; however, if a crime is committed in the colony, he has the status of a person conducting an initial inquiry in respect of the persons involved in the case (injured parties, suspects and witnesses).

381. The following institutions in the penal system exist under current legislation:

(a) The court - in respect of penalties in the form of fines;

(b) Internal affairs bodies - for the enforcement of penalties in the form of forfeiture of a specific right, punitive deduction of earnings, short-term rigorous imprisonment, deprivation of liberty and the death penalty. The ruling of the court regarding the forfeiture of a specific right is carried out by the administration at the convicted person’s workplace, and by bodies that have authority to cancel permission to perform the corresponding types of activity;

(c) The command of military units - in relation to military personnel who are serving sentences in the form of restrictions on their activities;

(d) Garrison guardrooms - in the case of sentences in the form of short-term rigorous imprisonment of military personnel;

(e) Special units - in relation to punishments in the form of assignment to a disciplinary unit;

(f) A body that has bestowed a rank - in relation to punishment in the form of forfeiture of military or special rank or grade.

382. The offence referred to in article 235 of the Criminal Code is recognized as having been accomplished from the moment that torture and other cruel, inhuman or degrading treatment and punishment are used, and there is no requirement that the perpetrator should have achieved specific results by means of the unlawful activity.

383. When hearing cases in this category, the courts must proceed from the principle laid down by the European Court on Human Rights: once it has been established that any person has suffered bodily harm while in police custody, it is for the police or the State to show that such harm was not prompted or caused by the actions or the negligence of the police. In other words, when detainees and persons under investigation incur bodily harm while in custody, the law enforcement agencies must explain and demonstrate their lack of involvement in causing the harm inflicted. Until it has been shown otherwise, direct responsibility for the harm inflicted is borne by the body which is responsible for detaining and holding the individual concerned.

384. Article 235, part 2, of the Criminal Code stipulates that the type of criminal act under consideration is an offence when performed:

(a) With violence such as to imperil life or health, or with the threat of such violence;

(b) On any grounds stemming from ethnic, racial, religious or social discrimination;

(c) By a group of individuals;

(d) More than once;

(e) Against a minor, or a woman whom the perpetrator knows to be pregnant.

385. Concerning these elements, see the analysis of articles 56, 97, 104, 141 and 164 of the Criminal Code.

386. Article 235, part 3, of the Criminal Code classifies as an offence the simple or aggravated use of torture and other cruel, inhuman or degrading treatment or punishment that result in serious bodily harm or other grave consequences.

387. Concerning the concept of “serious bodily harm”, see the analysis of article 104 of the Criminal Code.

388. When serious bodily harm is inflicted, the acts of the guilty party are categorized only under article 235, part 3, of the Criminal Code, without the additional application of article 104.

389. Other grave consequences must be understood to mean suicide by persons under investigation as a protest against unlawful methods of obtaining evidence, psychological disturbances, and the infliction of serious bodily harm.

Article 6

Question 19

Please provide information on existing legal provisions prohibiting confessions being extracted under duress. If these exist, how are they guaranteed in practice?

Reply

390. Obtaining evidence by unlawful methods is prohibited under the legislation relating to criminal procedure. Article 11 of the Code of Criminal Procedure guarantees full respect for and application of the requirements of the Constitution and other laws. Any failure to properly apply and respect those requirements is an offence under the law. Specifically, article 88 of the Code stipulates that citizens' rights and legitimate interests must be upheld during the collection, verification and evaluation of evidence.

391. In obtaining evidence, it is prohibited:

(a) First, to perform acts that endanger life or health or are intended to humiliate or demean;

(b) Secondly, to solicit testimony, explanations or conclusions, to perform experiments, to prepare and circulate documents or objects using violence, threats, deception or other unlawful means;

(c) Thirdly, to conduct investigative operations at night, i.e. between 10 p.m. and 6 a.m., except where it is necessary to do so in order to stop the preparation or commission of an offence, to prevent possible loss of evidence of an offence or the flight of a suspect, or to stage a re-enactment of an incident for experimental purposes.

392. Persons conducting an initial inquiry or pretrial investigation, procurators, judges or other persons involved in a case as specialists or experts, with the exception of physicians, may not be present during body searches of persons of the opposite sex performed in the course of investigative or judicial proceedings.

393. In this regard, on 24 September 2004 the plenum of the Supreme Court provided precise clarification of the inadmissibility of evidence obtained in violation of the provisions of the Code of Criminal Procedure, and ruled that the courts should not accept such evidence. Inadmissible evidence includes testimony, such as confessions obtained by the use of torture, violence or other cruel, inhuman or degrading treatment or punishment or by deception or other unlawful methods. The plenum drew the courts' attention to the need to react to any violations of the procedural law governing the collection of evidence by adopting specific rulings (decisions) on the matter and, where necessary, determining whether to institute criminal proceedings against the guilty parties.

394. During the period following the adoption of this decision by the plenum of the Supreme Court, the courts referred a number of criminal cases back for further investigation after evidence had been found inadmissible because it had been obtained by means of torture, violence or deception.

395. In particular, following a ruling by the Chirakchi district criminal court in Kashka-Darya province on 12 July 2005, criminal proceedings against the brothers Akbar and Anvar Pardaev were referred back for further investigation on the grounds that, during the pretrial investigation, they had been charged with stealing two head of cattle solely on the basis of their confessions; however, at the end of the pretrial investigation and throughout the hearing of the evidence, they retracted their initial confessions, which they said had been obtained under physical and psychological coercion by militia officers. As a result, the evidence obtained during the pretrial investigation was declared inadmissible by the court.

396. In another decision by the same court on 4 March 2005, criminal proceedings against C. Berdiev, Z. Khujamshukurov and N. Mengliev, charged with stealing five head of cattle, were also referred back for further investigation. During the pretrial investigation, C. Berdiev had denied the charges against him. At the hearing, Z. Khujamshukurov and N. Mengliev, who had admitted their guilt, retracted their initial testimony on the grounds that they had confessed under physical and psychological coercion by militia officers, and had been forced to implicate C. Berdiev in the offence. At the same time, witnesses questioned in the case refuted the allegations made by the prosecution, and the evidence obtained in the investigation was declared inadmissible. Special rulings were handed down against the militia officers, and the criminal proceedings against the above-mentioned individuals were subsequently dropped.

397. Compliance with the law during initial inquiries and pretrial investigations is ensured by the persons conducting them, as well as through supervision by procurators and internal checks by higher bodies responsible for pretrial investigations and initial inquiries.

Articles 7, 8 and 9

Question 20

Please elaborate on whether the Ministry of Foreign Affairs has added torture to the list of extraditable offences in model extradition treaties.

Reply

398. To date, the Ministry of Foreign Affairs has not officially added torture to the list of extraditable offences.

399. Uzbekistan does not include a specific list of extraditable offences when drawing up international treaties on extradition.

400. However, international agreements to which Uzbekistan is a party include a uniform rule identifying as extraditable offences acts which, under the legislation of each of the contracting parties, are punishable by deprivation of liberty for a maximum term of not less than one year or a more severe penalty.

401. The punishment laid down in article 235 of the Criminal Code is deprivation of liberty for over one year; therefore, the punishable acts referred to in the article appear on the list of extraditable offences.

402. To date, Uzbekistan has signed 19 bilateral agreements with various countries relating to mutual assistance and legal relations, extradition and the surrender of convicted persons to serve sentences; these countries include Turkey, Latvia, Georgia, Turkmenistan, Kyrgyzstan, Lithuania, Kazakhstan, Azerbaijan, Ukraine, China, India, the Islamic Republic of Iran, Tajikistan, Pakistan, the Czech Republic, the Republic of Korea and Bulgaria.

Question 21

The State party report (para. 49) states that 697 individuals were extradited to Uzbekistan from the Russian Federation, Kazakhstan, Kyrgyzstan, Ukraine, Tajikistan, Belarus, Turkmenistan, Azerbaijan, Armenia and Lithuania and "brought to justice" between 2000 and 2004. Please provide information as to how many of these persons were refugees or asylum-seekers and how many were prosecuted and convicted and for what offences.

Reply

403. Information on how many of the persons referred to were refugees or asylum-seekers at the time of their extradition is not available. This matter is a matter for the Office of the United Nations High Commissioner for Refugees and the competent authorities of the foreign countries that took the extradition decisions.

404. No official information has been received by the Office of the Procurator-General of Uzbekistan on whether such persons had the status of refugees or asylum-seekers.

405. The aforementioned persons were extradited to Uzbekistan by foreign countries at the request of the Office of the Procurator-General of Uzbekistan and in accordance with the provisions of multilateral and bilateral agreements to which Uzbekistan is a party, for the purpose of prosecution in accordance with the law.

Article 10

Question 22

With respect to human rights training activities organized in 2002 and 2003, please provide information on the number of staff that participated in each activity, disaggregated by level, function and Ministry. How are the trainees from the 2002 and 2003 training courses provided to the staff of penitentiary institutions, members of the penal correction system and employees of the Ministry of Internal Affairs, being monitored? Please provide information on the training of forensic doctors, medical personnel and others dealing with persons in detention. Please describe the extent to which training courses include information on identification of the sequelae of torture and the requirement to report and investigate such evidence. Please outline any gender-sensitive training, particularly with regard to forms of gender-related violence.

Reply

406. Concerning the provision of training for law enforcement officials in the area of international human rights standards, we wish to inform you that these issues are taught as part of the following academic courses:

(a) “General theory of human rights”;

(b) “International human rights standards for a fair trial”;

(c) “Human rights in the activities of the internal affairs authorities”;

(d) “International legal foundations of efforts to combat transnational organized crime”.

407. Each year, the “General theory of human rights” is taught at the preparatory level for 600 second-year students at the Academy of the Ministry of Internal Affairs.

408. The following institutions offer training, retraining and further training for law enforcement officials:

(a) The National Centre for the Further Training of Legal Specialists has been operating since 1997 under the Ministry of Justice. The Centre is designed to improve the supply of highly qualified personnel to government bodies and law enforcement agencies, to radically improve the training and retraining of legal specialists in the light of modern knowledge, and to engage in more thorough research in the field of law. Between 2002 and 2007, 3,564 students underwent further training (Detailed information is attached. See annex to question 22);

(b) The Centre for Promoting Observance of the law and for the Further Training of Procuratorial and Investigative Officials, set up by the Office of the Procurator-General, carries out measures to improve the qualifications of the personnel of procurator’s offices. Between 2001 and 2006, 2,497 students, including 468 procurators, 480 assistant and deputy procurators, 379 heads of departments within procurator’s offices, 656 investigators and 38 young specialists were trained at the Centre;

(c) The Academy has a faculty that provides further training for internal affairs officers. The faculty conducts retraining and further training courses on a regular basis. Such courses were held for 1,303 internal affairs officers in 54 categories in 2002, 1,358 officials in 44 categories in 2003, 1,110 officials in 58 categories in 2004, 953 officials in 57 categories in 2005, 965 officials in 36 categories in 2006 and 583 officials in 5 categories in the first half of 2007.

409. In application of part 14.1 of the National Programme of Action to implement the provisions of the Convention against Torture of 9 March 2004, the Central Internal Affairs Department and the Ministry of Health in cooperation with the Central Office of Forensic Medicine, trained 90 health workers from penal institutions to evaluate and document cases of torture or other unlawful treatment in 2004.

410. In November and December 2004, the Central Office of Forensic Medicine organized and held six training sessions for doctors employed in the system of the Central Penal Correction Department of the Ministry of Internal Affairs, on ways of identifying sequelae of physical torture or prohibited forms of cruel treatment. The training sessions lasted six days and were attended by 92 doctors.

411. On 15 and 16 December 2004, specialists from Uzbek forensics medical institutions and employees of departments of forensic medicine and medical law took part in a seminar on the forensic aspects of investigating deaths in detention. Thirty-four specialists were trained. The seminar was conducted by the chief forensic pathologist of the Ontario Office of the Chief Coroner and Associate Professor at the University of Toronto, Dr. Michael S. Pollanen.

412. Forensic experts from Uzbek forensic medical institutions and doctors from the Central Penal Correction Department participated in a training seminar on investigating and documenting cases of torture, held from 16 to 18 August 2005 at the Central Penal Correction Department's training centre. In addition to doctors from the Central Penal Correction Department, 36 forensic experts from all regions of Uzbekistan were training at the seminar; of that number, 14 were prepared to be local trainers for each of the Uzbek regions. The training seminar was organized by the World Health Organization (WHO) Country Office in Uzbekistan, the International Rehabilitation Council for Torture Victims (IRCT) and the Ministry of Health and the Ministry of Internal Affairs of Uzbekistan.

413. With the help of WHO, training seminars were also held at the Central Penal Correction Department's training centre from 16 to 18 August 2005 and from 19 to 21 October 2005, in conjunction with the International Rehabilitation Council for Torture Victims, a non-governmental organization based in Copenhagen, and the Ministry of Health. The seminars were held for officials of the penal correction system of the Ministry of Internal Affairs and forensic experts of the Ministry of Health on ways of identifying and documenting cases of torture and other forms of cruel treatment.

414. From 17 to 21 October 2005, a training seminar was held on the same topic for 69 medical workers from penal institutions:

(a) On 17 and 18 October 2005, seven doctors from subordinate institutions participated in and attended the workshop in their capacity as trainers, in accordance with the "peer training" principle;

(b) On 19 to 21 October, 34 doctors and 28 medical assistants participated in the work of the seminar.

415. The training seminar was organized by the International Rehabilitation Council for Torture Victims in cooperation with WHO and with financial support from the Home Office of the United Kingdom of Great Britain and Northern Ireland.

416. Internal affairs authorities, in association with the Ministry of Health, are holding working meetings and discussions on arranging medical care in custodial facilities.

417. Thus, in 2005, on the basis of professional improvement courses and refresher courses for junior and senior officers of the Central Penal Correction Department, training seminars were held for medical professionals by IRCT in association with WHO, the Central Penal Correction Department and the Ministry of Health. Doctors from penal institutions operated by the Ministry of Internal Affairs and forensic experts from the Ministry of Health took part in the seminars. In 2005, 97 medical professionals, 969 doctors and 28 mid-grade medical staff members from penal institutions and remand centres were taught to identify, evaluate and document cases of

torture and other forms of unlawful treatment, and were instructed in ways of treating and rehabilitating victims. Participants received the relevant certificates on the basis of the results of the course.

418. Specialists from the Central Bureau and the forensic medicine and medical law departments of the Tashkent Medical Academy and the Tashkent Paediatric Medical Institute took part in a conference, held at Mirzo Ulugbek National University in June 2007, on investigating offences of torture in Uzbekistan and problems related to ordering independent expert examinations in connection with such offences.

419. In January 2004, the *Torture Reporting Handbook* by Camille Giffard (Human Rights Centre, Essex University, United Kingdom, 2000) was translated into Uzbek and published with the assistance of the British Embassy in Tashkent. This handbook has been distributed to officials of law enforcement agencies and non-governmental organizations.

420. At a meeting held on 12 June 2004, the interdepartmental working group to monitor the observance of human rights by law enforcement agencies discussed the results of work on the translation and publishing of the *Torture Reporting Handbook* and its distribution to law enforcement officials. The book has been published and distributed to law enforcement officials.

421. A training seminar on identifying and documenting cases of torture and other forms of cruel treatment was held from 16 to 18 August 2005 at the training centre of the Central Penal Correction Department of the Ministry of Internal Affairs. It was attended by Professor Bent Sørensen (Copenhagen, Denmark), senior consultant of the International Rehabilitation Council for Torture Victims, and Nils Rune Christesen, programme coordinator; Onder Ozkalipci (Turkey), international consultant and trainer; Mariam Jishkariani (Georgia), doctor, international consultant and trainer; Z. Giyasov, head of the Central Office of Expert Studies.

422. On 30 September 2005, a ceremony was held to mark the official opening, in the training centre of the Central Penal Correction Department of the Ministry of Internal Affairs in Tashkent, of the OSCE Resource Centre in Tashkent. The ceremony was attended by M. Usmanov, Human Rights Commissioner (Ombudsman) of the Oliy Majlis; Ambassador Miroslav Jenča, head of the OSCE office in Tashkent; and Ildar Fayzulin, OSCE coordinator in Tashkent.

423. Currently, a cycle of seminar-discussions is being conducted in all regions of Uzbekistan with support from the Konrad Adenauer Foundation for Central Asia, Kazakhstan, the Caucasus and the Human Rights Commissioner (Ombudsman) of the Oliy Majlis.

424. To date, the following events have been held:

(a) A seminar-discussion on improving the penal correction system as regards the organization of supervision and respect for prisoners' rights, which took place on 22 and 23 February 2007 in IZ-8 in Termez, on 26 and 27 April 2007 in IZ-3 in Bukhara and on 26 and 27 June 2007 in IZ-12 in Namangan;

(b) A seminar-discussion on current issues in relations between the Ombudsman and government bodies and non-governmental organizations in the realization and protection of human rights, which took place on 26 and 27 January 2007 in Gulistan, on 22 and 23 March 2007 in Djizak, on 15 and 16 May 2007 in Termez, on 26 and 27 June 2007 in Andijan and on 4 and 5 September 2007 in Nukus.

425. Fifty participants took part in each of the aforementioned events - representatives of local administrations, courts, internal affairs bodies, procurators' offices, trade unions, women's committees, citizens' self-governing bodies and institutions of higher education - in all, some 400 specialists.

Annex 1 to the reply to question 22

Information on the number of trainees who attended further training courses in the Centre for Promoting Observance of the Law and for the Further Training of Procuratorial and Investigative Officials, run by the Office of the Procurator-General (2001-2007)

No.	Year	Trainees									
		Procurators	Assistant procurators	Heads of procuratorial departments	Investigators	Graduates	Department for Combating Tax and Currency Crimes		Juvenile affairs commissions		Total
							Persons conducting initial inquiries	Department heads	Executive secretaries of commissions	Newspaper correspondents	
1.	2001	85	133	-	77	-	104	-	-	-	399
2.	2002	123	79	-	66	-	120	-	95	-	483
3.	2003	97	86	-	68	-	32	61	81	-	425
4.	2004	61	77	26	36	-	33	34	157	29	453
5.	2005	67	49	62	42	-	45	46	53	28	392
6.	2006	35	56	90	16	38	17	60	33	-	345
7.	2007*	23	22	44	112	41	20	24	26	-	312
Total		491	502	222	417	79	371	225	445	57	2 809

* *Based on the first eight months of 2007.*

Annex 2 to the reply to question 22

Information on trainees in the National Centre for the Further Training of Legal Specialists of the Ministry of Justice

Year		Trainees								
		Judges and presidents of military courts and criminal courts	Judges and presidents of civil courts	Judges and presidents of economic courts	Officials of the Ministry of Justice and its subdivisions	Lawyers	Bailiffs	Notaries	Others	Total
1.	2002	59	15	0	76	0	133	112	61	456
2.	2003	62	0	0	97	28	80	80	75	422
3.	2004	68	29	0	37	8	72	129	92	435
4.	2005	69	84	54	53	21	85	113	97	576
5.	2006	124	52	39	93	78	158	231	162	937
6.	2007*	330	0	14	45	0	227	60	62	738
Total		712	180	107	401	135	755	725	549	3 564

* *Based on the first eight months of 2007.*

Question 23

Please provide information regarding the outcome of the discussion at the Central Investigation Department of the option of including an examination on international human rights standards for staff wishing to be recertified, appointed to new positions, or promoted.

Reply

426. In recent years, the Ministry of Internal Affairs has introduced more stringent requirements for the selection of candidates and for determining whether officers and supervisors are suited for the posts they hold. During an assessment of all investigators and heads of investigation departments carried out in 2006, 12 per cent of staff failed the assessment, and 11 per cent were given a conditional pass and placed on probation. The assessment tested the knowledge of investigators and heads of investigation departments concerning aspects of their professional duties, including knowledge of international human rights standards.

427. The following questions were asked during the assessment to test knowledge of human rights issues:

(a) What are the five strategic orientations adopted by the Central Investigation Department of the Ministry of Internal Affairs to strengthen observance of the law and of human rights in internal affairs bodies?

(b) How are detainees', suspects' and accused persons' rights upheld during the pretrial investigation?

(c) On what basis is a suspect detained?

(d) What is the purpose of detention?

(e) Describe the procedure for detention, the length of detention and the measures required to ensure that due process is observed.

(f) Within what period should you inform the procurator and the suspect's relatives of the detention?

(g) What are the suspect's rights and obligations?

(h) In what cases is the involvement of defence counsel mandatory?

(i) What are the rights of a detainee and of an arrested person?

(j) Name the parties to criminal proceedings, indicating their rights and obligations.

(k) What preventive measures are there?

(l) What is the procedure laid down in the Code of Criminal Procedure for the preventive measure of remand in custody?

(m) What are the rights of an accused person?

(n) What does “inadmissibility of evidence” mean, and what was explained on this subject in the Supreme Court decision of 24 September 2004?

(o) What issues were examined by the plenum of the Supreme Court on 19 December 2003, in particular concerning the observance of human rights during the pretrial investigation?

(p) How are the rights of detainees and arrested persons upheld in practice?

(q) Describe the application in practice of the regulations governing the way in which detainees’, suspects’ and accused persons’ rights are to be upheld, adopted in 2003 by the Central Investigation Department and the Uzbek Bar Association.

(r) Have you received any complaints from detainees, suspects or accused persons or from lawyers concerning violations of their rights? If so, how did you eliminate the violations?

(s) State the nature and the constituent elements of the offence defined in article 235 of the Criminal Code.

(t) Who are the subjects of the offences described in article 235 of the Criminal Code, and what do you understand by violence inflicted on a person under interrogation?

(u) Define “torture” in accordance with the Convention against Torture.

(v) What were the recommendations of the Committee against Torture and Special Rapporteur on the question of torture, Mr. Theo van Boven, concerning the observance of human rights?

(w) During criminal investigations, have you encountered instances of unlawful treatment of detainees by officials conducting initial inquiries? If so, what measures were taken and what are the regulations prescribing the procedure for responding to such violations?

428. Upon appointment, each candidate undergoes an interview that includes questions concerning knowledge of legislation on human rights, as well the way in which the candidate observes human rights in practice.

429. Officers who do not meet the prescribed requirements are not promoted. Officers whose record includes any disciplinary sanctions are not nominated for special rank.

Question 24

In annex 2, in response to point 5.2, the State party cites a public opinion study conducted among convicts and ex-prisoners by the Ijtimoiy Fikr Centre about the use of torture and similar cruel treatment. Please provide the results of this survey.

Reply

430. Information on the results of the sociological survey carried out among convicts by the non-governmental Ijtimoiy Fikr Public Opinion Research Centre is given below.

General information

431. The survey was conducted from 23 to 27 January 2006 among prisoners in a young offenders' institution and in men's and women's correctional institutions. It covered a total of 466 persons, 22.8 per cent of whom were in the young offenders' institution, 21.2 per cent in a women's correctional colony and 56.0 per cent in an ordinary-regime (strict-regime) men's correctional colony.

(a) The respondents' terms of imprisonment were as follows: up to six months - 16.1 per cent; six months to one year - 9.0 per cent; one to two years - 12.7 per cent; two to three years - 21.0 per cent; three to five years - 17.8 per cent; five to seven years - 10.7 per cent; 7 to 10 years - 5.8 per cent; 10 years and above - 1.7 per cent;

(b) Distribution by sex: 78.1 per cent of respondents were men and 21.9 per cent were women;

(c) Distribution by age: under 14 years - 0.2 per cent of respondents; 15-17 years - 13.3 per cent; 18-19 years - 10.7 per cent; 20-29 years - 24.7 per cent; 30-39 years - 28.8 per cent; 40-49 years - 14.6 per cent; 50-59 years - 7.3 per cent; 60 and above - 0.4 per cent;

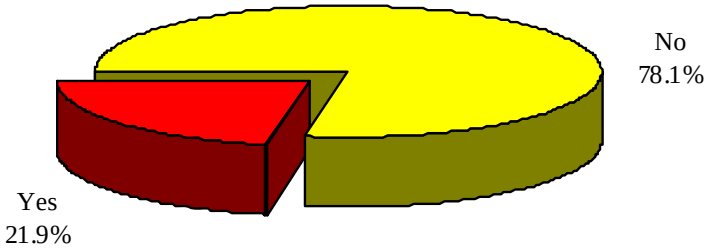
(d) Distribution of respondents by ethnic group: Uzbeks - 72.8 per cent; Central Asian peoples (Kyrgyz, Kazakhs, Tajiks, Turkmens and others) - 7.5 per cent; Slavs (Russians, Ukrainians, Belarusians) - 15.0 per cent; other ethnic groups (Tatars, Koreans, etc.) - 4.7 per cent.

432. Distribution of respondents by level of education: completed higher education - 9.7 per cent; incomplete higher education - 1.9 per cent; technical secondary education - 6.9 per cent; specialized secondary education - 12.2 per cent; secondary education - 35.6 per cent; incomplete secondary education - 30.7 per cent; primary education - 3.0 per cent.

Communications and complaints from convicted offenders

433. Convicted offenders are held in conditions that are strictly regulated by legislation and regulations. They have the right to submit complaints concerning the conditions in which they are held. The survey showed that most of the respondents (78.1 per cent) did not submit any complaints during their detention in institutions.

Did you personally submit any complaints concerning the manner and conditions in which you were held?

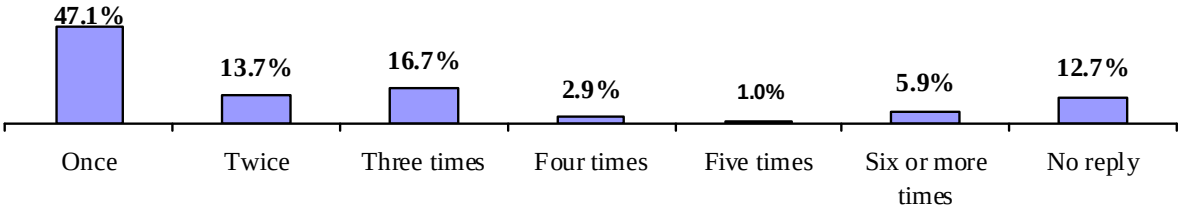


434. Complaints were most common among female convicts (38.4 per cent), followed by men at 21.1 per cent. The lowest figure was that for inmates of young offenders' institutions (8.5 per cent).

435. Most respondents, however, were unable to state specifically the content or addressee of the complaints they had submitted. Complaints generally referred to health (4.9 per cent), conditions of detention (4.9 per cent) and "insults and defamation" (4.9 per cent) and were sent to the judge (12.8 per cent), the procurator (6.9 per cent), the prison director (1.0 per cent) or the lawyer (1.0 per cent).

436. Half of those who sent complaints sent only one complaint during their entire sentence.

How many times during your sentence did you send complaints concerning the manner and conditions in which you were held? (Percentage of respondents)



437. A breakdown by institution shows that women submitted complaints most often: 13.1 per cent of respondents sent more than four complaints during their sentence.

How many times during your sentence did you send complaints concerning the manner and conditions in which you were held? (Percentage of respondents)

	Once	Twice	3 times	4 times	5 times	6 or more times	No reply
Young offenders' institution	77.8	11.1	11.1	0	0	0	0
Women's correctional colony	39.5	15.8	13.2	2.6	2.6	7.9	18.4
Men's correctional colony (ordinary regime)	47.3	12.7	20.0	3.6	0	5.5	10.9

Conditions of detention

438. It is a well known fact that it is prohibited to hold any person unlawfully in places of detention. Nonetheless, 20.4 per cent of respondents said that they were aware of such cases. Most of these respondents were serving sentences in women's and men's correctional colonies.

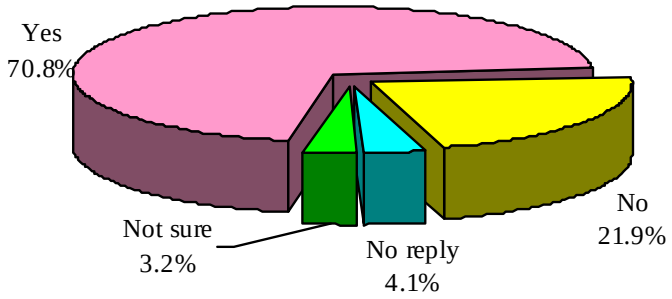
Are there any instances - or are you aware of any instances - of unlawful detention in places of deprivation of liberty, either of persons who have served their sentences or of persons who have not been sentenced by a court? (Percentage of respondents)

	Yes	No	No reply
Total	20.4	71.0	8.6
Young offenders' institution	2.8	96.2	1.0
Women's correctional colony	32.3	58.6	9.1
Men's correctional colony (ordinary regime)	23.0	65.5	11.5

439. In the enforcement of sentences of deprivation of liberty, convicted offenders are classified, enabling differentiated enforcement of sentences in order to ensure that convicts are separated from each other according to their behaviour and the degree of risk they pose to society.

440. To the question "Is the rule that different categories of convicted prisoners should be separated on the basis of the length of their sentences respected in your colony?", most respondents replied in the affirmative. However, in the view of one in five respondents (21.9 per cent), the rule that different categories of convicted prisoners should be separated on the basis of the length of their sentences is not respected in the colony.

Is the rule that different categories of convicted prisoners should be separated on the basis of the length of their sentences respected in your colony?



441. This rule is respected first and foremost in the young offenders' institution (96.2 per cent), less so in the men's colony (29.1 per cent replied in the negative).

Is the rule that different categories of convicted prisoners should be separated on the basis of the length of their sentences respected in your colony?
(Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	96.2	2.8	1.0	0
Women's colony	71.7	23.2	4.1	1.0
Ordinary-regime colony for men	60.2	29.1	5.4	5.3

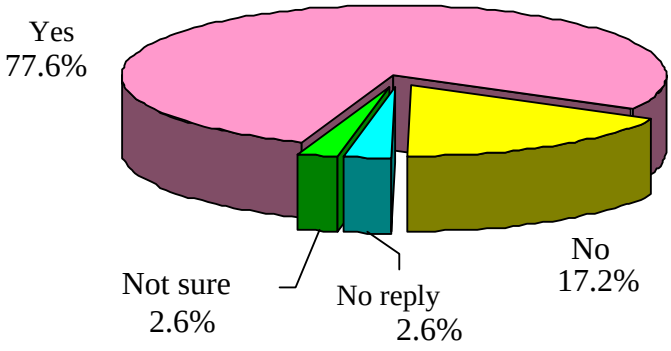
442. To the question "Is the rule that specific categories of convicted prisoners should be kept in one-person cells respected in your colony?", most respondents replied in the affirmative.

Is the rule that specific categories of convicted prisoners should be kept in one-person cells respected in the remand centre?
(Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	93.4	6.6	0	0
Women's colony	54.5	27.3	10.1	8.1
Ordinary-regime colony for men	57.5	28.0	9.5	5.0

443. Provision of medical care for convicted prisoners in penal institutions is one of the "micro-social" components of prison life. The legal regulation and organization of the provision of medical care for persons serving custodial sentences stems from the constitutional right to protection of health and to medical assistance. To the question "Are standards for the provision of medical care for convicted prisoners respected in your colony?", most respondents (77.6 per cent) replied in the affirmative.

Are standards for the provision of medical care for convicted prisoners respected in your colony?



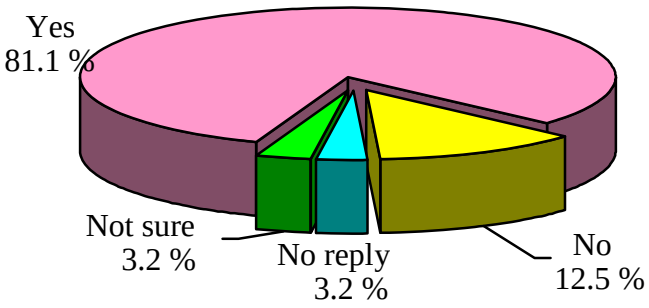
444. In the various colonies, the views of adult convicts concerning respect for standards for the provision of medical care are more critical than those of minors.

Are standards for the provision of medical care for convicted prisoners respected in your colony? (Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	100.00	0	0	0
Women's colony	71.7	25.3	1.0	2.0
Ordinary-regime colony for men	70.9	21.1	4.2	3.8

445. The survey showed that most of those questioned (81.1 per cent) consider that health standards are respected in their colonies. One respondent in eight expressed a critical opinion concerning respect for these standards.

Are health standards for convicted prisoners respected in your colony?



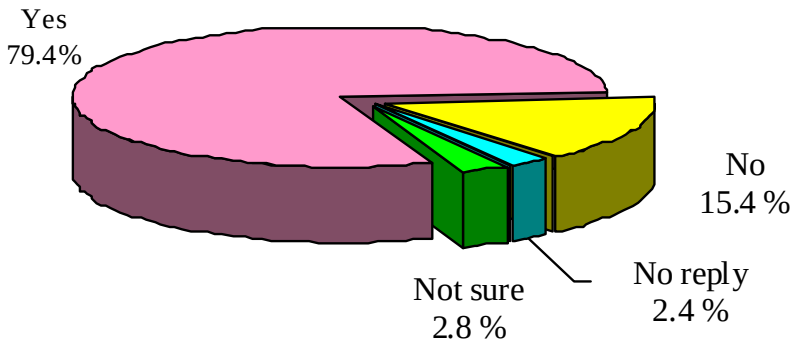
446. The most critical positions were expressed by female convicts (17.2 per cent) and male convicts (15.7 per cent). Almost 100 per cent of under-age prisoners consider that health standards are fully respected.

Are health standards for convicted prisoners respected in the remand centre (penal colony)? (Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	99.1	0	0	0.9
Women's colony	74.7	17.2	5.1	3.0
Ordinary-regime colony for men	76.2	15.7	3.8	4.3

447. Among the facilities and amenities provided to convicted prisoners in prisons is food sufficient to maintain their normal vital functions. There is an overall standard for persons held in correctional colonies that covers the provision of a specific total number of calories. The survey showed that most respondents expressed satisfaction with the standards of food in their colonies.

Are food standards for convicted prisoners respected in your colony?



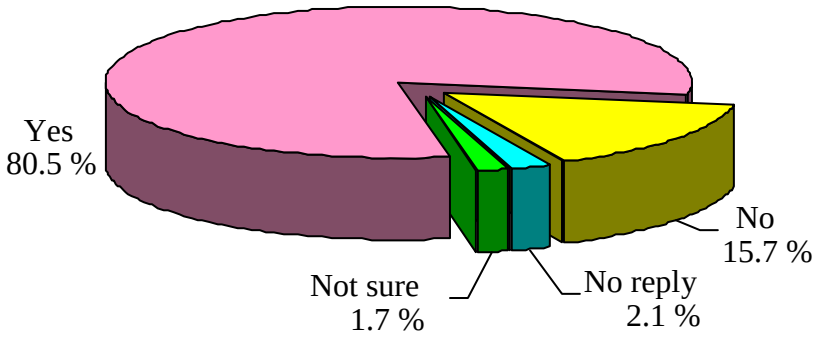
448. Least satisfaction with food standards was expressed by adult prisoners: female (19.2 per cent) and male (20.3 per cent).

Are food standards for convicted prisoners respected in the remand centre (penal colony)? (Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	100.0	0	0	0
Women's colony	68.7	19.2	6.1	6.0
Ordinary-regime colony for men	75.1	20.3	1.9	2.7

449. The survey showed that in the opinion of 80.5 per cent of those questioned, conditions as regards the granting to convicted prisoners of visits, exercise and the ability to receive mail, packages and money transfers are respected in their colonies.

Are conditions as regards the granting to convicted prisoners of visits, exercise and the ability to receive parcels and money transfers respected in your colony?



450. In the various colonies, different opinions are expressed concerning respect for this right. 100 per cent of under-age prisoners stated that convicted prisoners fully enjoy these rights in their young offenders' institution, while these indicators were lower among adult prisoners.

Are conditions as regards the granting to convicted prisoners of visits, exercise and the ability to receive parcels and money transfers respected in your colony? (Percentage of those questioned)

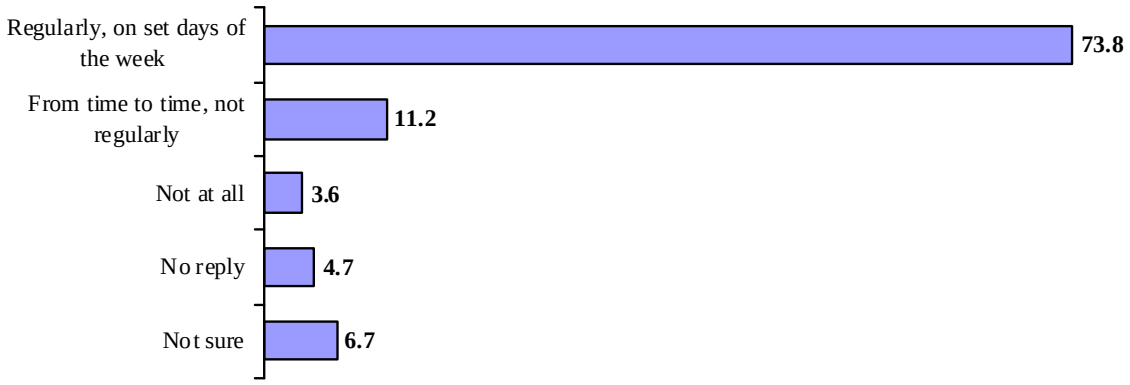
	Yes	No	No reply	Not sure
Young offenders' institution	100.0	0	0	0
Women's colony	89.9	5.1	4.0	1.0
Ordinary-regime colony for men	69.0	26.1	2.3	2.6

451. Evaluation of the work of personnel in the prison system in applying the law and ensuring prisoners' rights.

452. The purpose of this section was to study the views of persons serving sentences concerning the work of personnel in the prison system in applying the law and ensuring prisoners' rights.

453. One of the principal rights of prisoners is the right to submit complaints and applications and to contact the colony administration directly. The survey showed that 73.8 per cent of convicted prisoners believe that the colony administration regularly receives convicted prisoners in connection with their complaints and applications on set days of the week, while 11.2 per cent do not. In the view of 3.6 per cent of those questioned, convicted prisoners are not granted any access at all.

How regularly does the colony administration receive convicted prisoners in connection with their complaints and applications? (Percentage of those questioned)



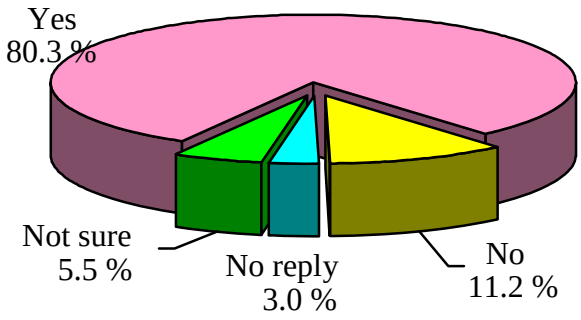
454. 100 per cent of those questioned in the young offenders' institution stated that prisoners are received strictly on the set days. 68.2 per cent agreed with that statement in the men's colony, and 60.6 per cent in the women's colony. One in five convicted female prisoners said that prisoners are not received regularly, compared with 12.3 per cent in the men's colony.

How regularly does the colony administration receive convicted prisoners in connection with their complaints and applications?
(Percentage of those questioned)

	Young offenders' institution	Women's colony	Ordinary-regime colony for men
Regularly, on set days of the week	100.0	60.6	68.2
From time to time, not regularly	0	20.2	12.3
Not at all	0	3.0	5.4
No reply	0	10.1	4.6
Not sure	0	6.1	9.5

455. To the question "Does the colony administration promptly examine complaints and applications and forward them to the appropriate bodies?", 80.3 per cent of respondents replied affirmatively, while 11.2 per cent replied negatively.

Does the colony administration promptly examine complaints and applications and forward them to the appropriate bodies?



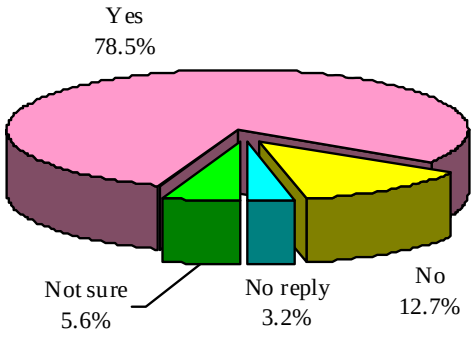
456. Replies to the question "Does the colony administration promptly examine complaints and applications and forward them to the appropriate bodies?" produced similar results in the various colonies, though some differences were observed. The young offenders' institution functions best in this area, according to those questioned (97.2 per cent), while the indicators are somewhat lower, to judge by the replies from the respondents, in the men's colony (76.6 per cent), compared with 71.7 per cent among the convicted prisoners questioned in the women's colony. In the colonies for men and women, 13.8 per cent and 14.1 per cent respectively replied "No".

Does the colony administration promptly examine complaints and applications and forward them to the appropriate bodies?
(Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	97.2	1.9	0.0	0.9
Women's colony	71.7	14.1	4.0	10.2
Ordinary-regime colony for men	76.6	13.8	3.8	5.8

457. A prompt and effective response to complaints and applications is a guarantee of a healthy atmosphere and the elimination of tensions that can arise among persons in the stressful situation of confinement. To the question "Does the colony administration take prompt steps to respond to complaints and applications received from convicted prisoners?", 78.5 per cent of convicted prisoners gave an affirmative reply.

Does the colony administration take prompt steps to respond to complaints and applications received from convicted prisoners?



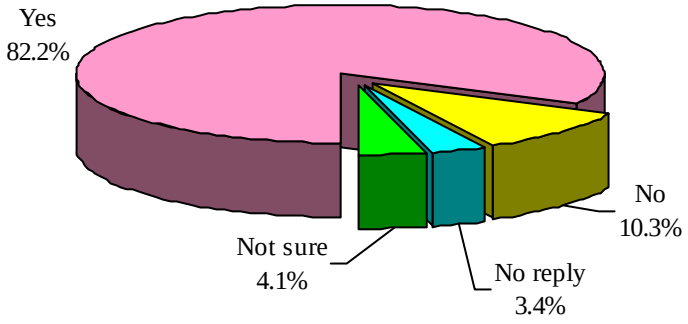
458. Replies to this question in the various colonies showed that this is the view of 99.1 per cent of respondents in the young offenders' institution, 74.3 per cent in the men's colony and 67.7 per cent of respondents among convicted prisoners in the women's colony.

Does the colony administration take prompt steps to respond to complaints and applications received from convicted prisoners?
Percentage of those questioned

	Yes	No	No reply	Not sure
Young offenders' institution	99.1	0.0	0.0	0.9
Women's colony	67.7	18.2	4.0	10.1
Ordinary-regime colony for men	74.3	15.7	4.2	5.8

459. It is extremely important to inform convicted prisoners promptly of decisions taken in response to their communications, complaints and applications. 82.2 per cent of convicted prisoners consider that this is done promptly. One in 10 gave a negative reply.

Does the administration promptly inform the convicted prisoners of (bring to their attention) replies received and the outcome of consideration of complaints and applications lodged by convicted prisoners?



460. In the young offenders' institution the number of those who consider that the administration promptly notifies them of information concerning the outcome of consideration of their communications, complaints and applications is 98.1 per cent of the total number of persons questioned in the colony in question. In the men's colony 79.3 per cent gave an affirmative reply, while in the women's colony 72.3 per cent of respondents gave an affirmative reply.

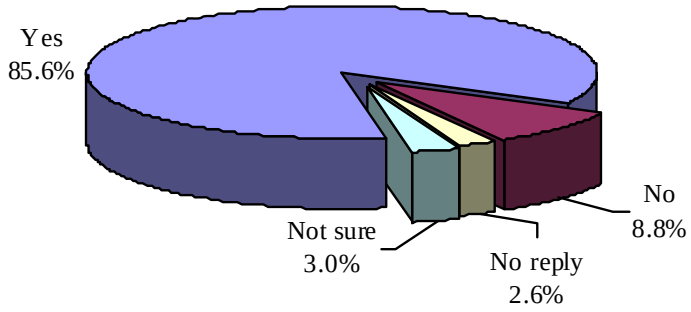
Does the administration promptly inform the convicted prisoners of (bring to their attention) replies received and the outcome of consideration of complaints and applications lodged by convicted prisoners?
(Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	98.1	1.9	0.0	0.0
Women's colony	72.7	13.1	6.1	8.1
Ordinary-regime colony for men	79.3	12.6	3.8	4.3

461. It is the task of penal institutions and bodies not only to enforce the sentences handed down by the courts and keep convicted prisoners separate from the outside world, but also to reform convicted prisoners, to create conditions for them to re-evaluate their reference points in life, and so on. Achieving this will guarantee crime prevention during the sentence, and ensure convicts' law-abiding conduct after release.

462. The survey showed that efforts aimed at reform and education are carried out among convicted prisoners. 85.6 per cent of those questioned expressed this view.

Are efforts aimed at reform and education carried out in your colony?



463. An affirmative reply was given to this question by all convicted prisoners in the young offenders' institution, 83.8 per cent in the women's colony and 80.5 per cent in the men's colony.

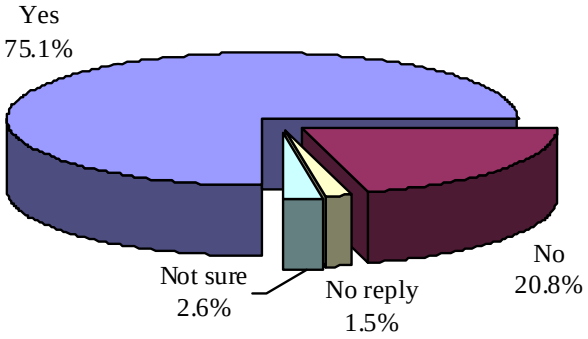
Are efforts aimed at reform and education carried out in your colony?
(Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	100.0	0.0	0.0	0.0
Women's colony	83.8	10.1	4.0	2.1
Ordinary-regime colony for men	80.5	11.9	3.1	4.6

464. The legal regulation of educational activities covers educational work with convicted prisoners, the activities of independent organizations of prisoners serving custodial sentences, the provision of basic general education and the application of incentives and research measures.

465. The provision of general education and vocational training to convicted prisoners is one of the principal means of securing their reform. The survey showed that, in the view of 75.1 per cent of convicted prisoners, efforts are made in their colonies to provide prisoners with a general education. One in five gave a negative reply.

Are efforts made in your colony to provide prisoners with a general education?



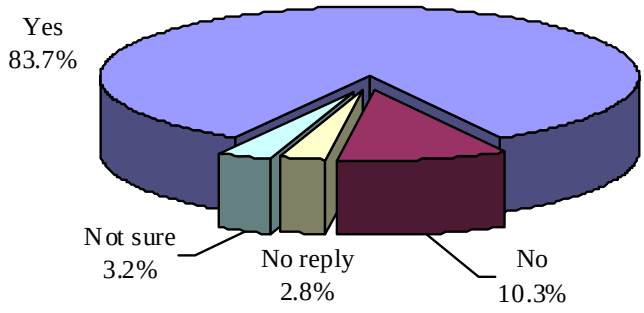
466. Among the various colonies, 99.1 per cent of respondents in the young offenders' institution, 91.9 per cent in the women's colony and 59 per cent in the men's colony gave a positive response.

Are efforts made in your colony to provide prisoners with a general education? (Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	99.1	0.0	0.9	0.0
Women's colony	91.9	4.0	3.0	1.0
Ordinary-regime colony for men	59.0	35.6	1.1	4.3

467. Vocational training is important in the reform of convicted prisoners. The lack of a skill or of socially useful occupations is a factor that often leads to criminality as a way of life. To the question "Is special vocational training for convicted prisoners provided in your colony?", 83.7 per cent of those questioned replied affirmatively.

Is special vocational training for convicted prisoners provided in your colony?



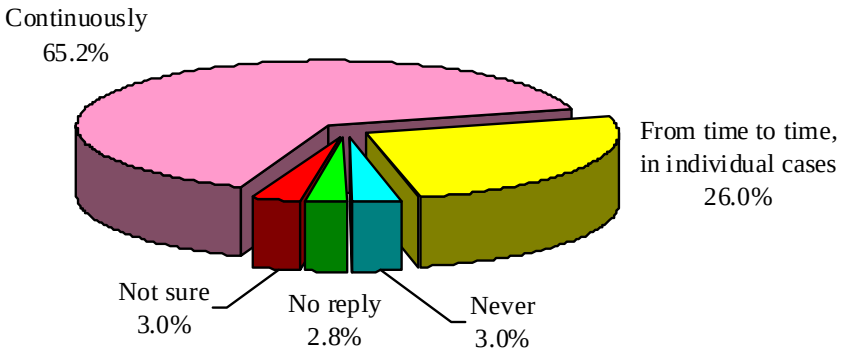
468. To this question, 100 per cent of the respondents in the young offenders' institution replied in the affirmative. 91.9 per cent gave this reply in the women's colony, as compared with 73.9 per cent of respondents in the men's colony. 17.6 per cent of convicted prisoners in the men's colony gave a negative answer.

Are special vocational training and skills training for convicted prisoners provided in your colony? (Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	100.0	0.0	0.0	0.0
Women's colony	91.9	2.0	5.1	1.0
Ordinary-regime colony for men	73.9	17.6	3.1	5.4

469. The impact of education on convicted prisoners serving custodial sentences is influenced by the incentives offered to them. 65.2 per cent of respondents consider that the administration of the reform institution continuously takes steps to encourage convicted prisoners to behave well; 26 per cent consider that such steps are taken "sometimes".

To what extent does the administration of your colony take steps to encourage convicted prisoners to behave well?



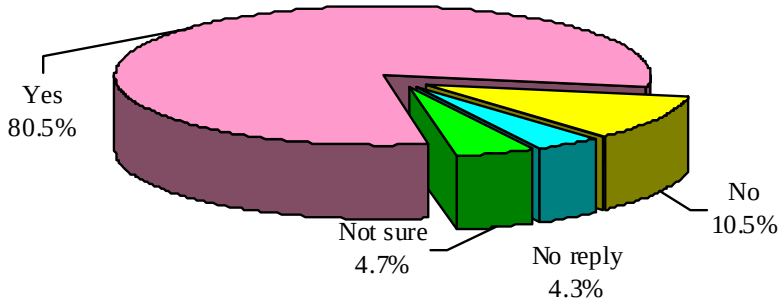
470. In the various colonies, this view is held by 89.6 per cent of the convicted prisoners in the young offenders' institution, 69.7 per cent in the women's colony and 53.6 per cent in the men's colony.

To what extent does the administration of your colony take steps to encourage convicted prisoners to behave well? (Percentage of those questioned)

	Continuously	From time to time	Never	No reply	Not sure
Young offenders' institution	89.6	6.6	2.8	0.9	0.1
Women's colony	69.7	21.2	5.1	3.0	1.0
Ordinary-regime colony for men	53.6	35.6	2.3	3.4	5.1

471. Putting convicted prisoners to work is an important method of maintaining order and discipline in custodial institutions. At the same time, such work must be organized in a way that does not infringe prisoners' rights. The survey showed that in the view of 80.5 per cent of convicted prisoners, their labour rights are respected in their places of detention.

Are the labour rights of convicted prisoners respected in your colony?



472. In the various colonies, a positive reply was given by 100 per cent of the convicted prisoners in the young offenders' institution, 75.8 per cent in the women's colony and 74.3 per cent in the men's colony.

Are the labour rights of convicted prisoners respected in your colony?
(Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	100.0	0.0	0.0	0.0
Women's colony	75.8	8.1	10.1	6.1
Ordinary-regime colony for men	74.3	15.7	3.8	6.2

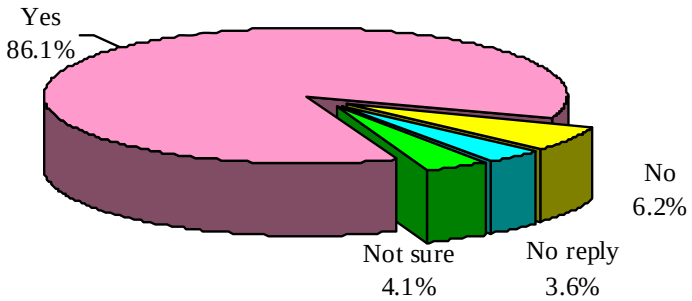
473. In keeping with the principles followed in modern States governed by the rule of law, and with a view to ensuring the humane treatment of pregnant women and women with small children, these persons are accorded certain additional rights. Almost none of the women surveyed answered the question about the observance of these rights: this may be because they had no personal experience of such situations and therefore had no information on the issue.

Do convicted pregnant women enjoy the following conditions or rights in your colony in accordance with the Penal Enforcement Code?
(Percentage of those questioned)

	Yes	No	No reply	Not sure
Additional rights for convicted pregnant women	17.4	8.4	71.7	2.5
Additional rights for women with children	14.8	8.8	73.4	3.0
Convicted women prisoners live outside the corrective labour institution	6.0	14.8	76.0	3.2
Placement of children of convicted women prisoners in a children's home attached to the corrective labour institution	15.0	8.4	74.5	2.1

474. To the question "Are amnesties applied to convicted prisoners covered by them?", 86.1 per cent replied affirmatively.

Are amnesties applied to convicted prisoners covered by them?



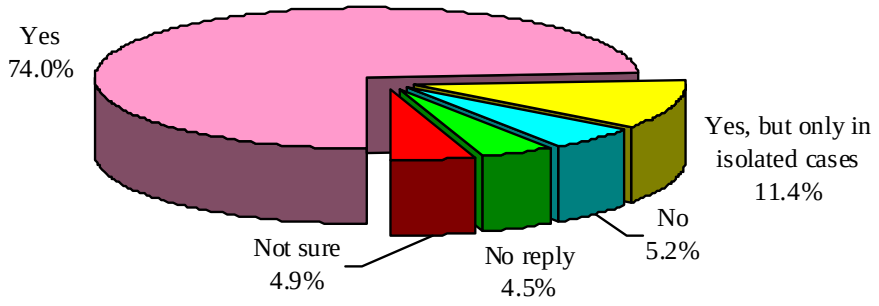
475. In the various colonies, positive replies to this question broke down as follows: young offenders' institution - 97.2 per cent, women's colony - 90.9 per cent, men's colony - 79.7 per cent respectively.

Are amnesties applied to convicted prisoners covered by them? (Percentage of those questioned)

	Yes	No	No reply	Not sure
Young offenders' institution	97.2	0.0	0.9	1.9
Women's colony	90.9	4.0	3.0	2.1
Ordinary-regime colony for men	79.7	9.6	5.0	5.7

476. In the cases of an illness that requires special treatment or isolation, the patient must be transferred to a special treatment facility. The question on this matter was answered in the affirmative by 74 per cent of prisoners. There were, however, 11.4 per cent who stated the view that this takes place only in isolated cases.

Are convicted prisoners requiring treatment transferred to special medical institutions?



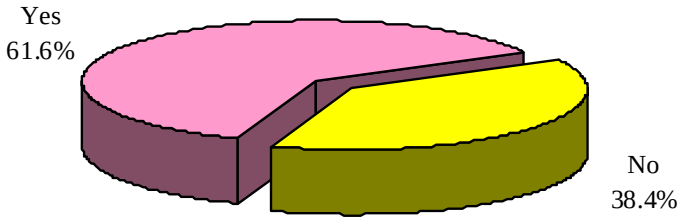
477. Replies in the various colonies show that 100 per cent of prisoners in the young offenders' institution believe that this rule is respected, 70.9 per cent in the men's colony and only 54.5 per cent in the women's colony respectively.

Are convicted prisoners requiring treatment transferred to special medical institutions? (Percentage of those questioned)

	Yes	In isolated cases	No	No reply	Not sure
Young offenders' institution	100.0	0.0	0.0	0.0	0.0
Women's colony	54.5	25.3	6.1	10.1	4.0
Ordinary-regime colony for men	70.9	10.7	6.9	4.2	7.3

478. The survey showed that 61.6 per cent of convicted prisoners are aware of visits to the colony by a procurator from the province or district.

During the time that you spent in the colony, was it ever visited by the provincial or district procurator?



During the time that you spent in the colony, was it ever visited by the provincial or district procurator? (As a percentage of the number of respondents surveyed)

	Yes	No
Young offenders' institution	91.5	8.5
Women's colony	68.7	31.3
Ordinary-regime colony for men	46.7	53.3

479. Of the prisoners surveyed, 66.9 per cent answered that they had had the opportunity to speak to a procurator face to face. This percentage was 92.8 per cent in the young offenders' institution, 59.8 per cent in the men's colony and 42.6 per cent in the women's colony.

Did you have the opportunity to speak face to face without restriction to the procurator? (As a percentage of the number of respondents surveyed)

	Yes	No
Total	66.9	33.1
Young offenders' institution	92.8	7.2
Women's colony	42.6	57.4
Ordinary-regime colony for men	59.8	40.2

480. In response to a specific question about the frequency of visits to the colony by the procurator, only 32 per cent of convicted prisoners gave the response "regularly", one in four said "from time to time", and 29.6 per cent said that they were not aware of any visits by a procurator. One in nine respondents failed to answer this question.

Conclusions

481. The survey showed that, in the view of the prisoners themselves, in most cases their rights as persons under investigation were upheld and guaranteed during the investigative process. This applies, in particular, to the right to be shown their detention order (75.3 per cent), the right to be informed of the rights of persons held in pretrial custody (70.0 per cent), and the right to legal counsel (80.9 per cent).

482. The survey also showed that prisoners had a fairly positive view of the conditions and arrangements for their detention, including the regime under which they were held, the

re-education measures and the living conditions and health services in the correctional facilities. In particular, most respondents stated the view that the correctional facilities maintained proper medical-care standards (77.6 per cent), health and hygiene standards (81.1 per cent), living space standards (80.3 per cent), dietary standards (79.4 per cent), and the proper conditions for visits, exercise and receiving mail, packages and money transfers (80.5 per cent).

483. Of those surveyed, 85.6 per cent were of the view that their colonies were carrying out correctional and re-education activities, including by providing general education (75.1 per cent) and special vocational training (83.7 per cent), and by offering special incentives to prisoners (65.2 per cent - constantly, 26.0 per cent - on occasion), and the opportunity to work.

484. In keeping with the principles followed in modern States governed by the rule of law, and with a view to ensuring humane treatment of pregnant women and women with small children, these persons are accorded certain additional rights. Almost none of the women surveyed answered the question about the observance of these rights: this may be because they had no personal experience of such situations and therefore had no information on the issue.

485. In accordance with the rules of the Penal Enforcement Code of Uzbekistan, in the case of an illness that requires special treatment or isolation, the patient must be transferred to a special treatment facility. The question on this matter was answered in the affirmative by 74 per cent of prisoners. There were, however, 11.4 per cent who stated the view that this takes place only in isolated cases.

486. A large majority (78.7 per cent) of the prisoners surveyed are of the view that the colonies are upholding the rules for releasing prisoners on completion of their term of punishment.

487. The survey showed that 73.8 per cent of prisoners are of the view that regular arrangements are made for prisoners to submit complaints and applications to the prison authorities on set days of the week. Most of those surveyed also expressed the conviction that the prison administration reviews such complaints and applications promptly and refers them to the appropriate authorities, while also themselves taking measures to deal with them.

Article 11

Question 25

Please provide information on any measures taken to improve conditions in prisons, in accordance with recommendation 6 (g) of the Committee against Torture of 2002. Regarding general conditions of detention, please update the Committee on what the State party has done to implement key recommendations by the Special Rapporteur on the question of torture, in particular the recommendation to consider closing Zhaslyk penal colony.

Reply

488. In accordance with recommendation 6 (g), detention conditions in the facilities of the penal correction system have been considerably improved. Since 2003, a number of measures have been carefully and systematically adopted to liberalize and improve the penal correction system.

489. Each prisoner, regardless of the extent and type of his or her punishment, receives food rations in accordance with the established standards. Under article 85 of the Penal Enforcement Code, prisoners receive a diet sufficient to ensure their normal physical functioning.

490. Dietary standards for convicted persons, and also for persons detained in remand centres and prisons, were set by the Government and ratified by Cabinet of Ministers Decision No. 529 of 13 November 1992, in accordance with the state of health of convicted persons or persons under investigation, and their age, personality and the demands of the work which they have to perform. The calorie count of these diets is pinned to a baseline of 2,550 kcal per day. The dietary standards for convicted prisoners may also be increased on the basis of an appropriate medical finding.

491. Article 75, part 4, of the Penal Enforcement Code, which was adopted on 25 April 1997, sets out the total amounts authorized for expenditure by persons held in facilities of the correction system. Thus, the total amounts authorized for such expenditure in ordinary, strict and special regime colonies was previously limited to 75 per cent of the established minimum wage. In prisons, this level was set at 50 per cent, while in young offenders' institutions, it was set at the same level as the minimum wage.

492. Pursuant to the Act of 26 September 2003 on amendments and additions to certain legislative acts of the Republic of Uzbekistan, significant changes were made to article 75, part 4, of the Penal Enforcement Code.

493. In accordance with these changes, the total amounts authorized for expenditure by persons held in ordinary-regime colonies was increased to three times the established minimum wage; for those in strict-regime colonies, to 2.5 times the minimum wage; in special-regime colonies, to twice the minimum wage; in prisons, to 1.5 times the minimum wage; and in young offenders' institutions, to 3.5 times the minimum wage.

494. Convicted persons and persons under investigation held in colonies of the penal correction system and in remand centres may receive food products, manufactured goods and also essentials, provided that they have the necessary funds to pay for these in a personal account.

495. In accordance with the changes made to the legislation, the conditions under which convicted persons are held have also been rendered significantly less harsh. Accordingly, the number of short and extended visits authorized for various categories of convicted persons and of telephone conversations, packages and parcels have been increased.

496. Certain categories of convicts requiring medical treatment and a better diet are permitted, on the basis of medical findings, to receive additional parcels, hand-delivered packages and packets.

497. Prison authorities are obliged to permit convicts to make telephone calls, and not only where the necessary technical facilities are available. In addition, the authorities are now also obliged to grant convicts the right to place a telephone call to their relatives on arrival at the correctional facility, thereby enabling their relatives to receive prompt information about their whereabouts without having to wait for official notification from the prison administration.

498. Restrictions on visiting convicted prisoners during non-working hours have been lifted at open prisons.

499. The length of time a convicted prisoner must remain in a closed prison before qualifying for transfer to less rigorous conditions of detention or to an open prison has been reduced. The duration of daily exercise periods for convicted prisoners serving their sentence in special cells and disciplinary units has been extended.

500. In other words, all the changes made to the Code are designed to extend the rights of convicted persons and further relax the conditions for serving criminal sentences and to render these conditions less harsh. These changes entered into force on 1 November 2003.

501. On 26 September 2003, the President of Uzbekistan promulgated a decree relaxing detention conditions for first-time offenders, the effects of which applied to more than 10,500 convicts.

502. Persons serving a first custodial sentence for serious and particularly serious crimes will now serve their sentences in ordinary-regime prisons, while those with previous convictions will be sent to strict-regime prisons.

503. Thus, first-time offenders will be completely segregated from prisoners with prior convictions and will serve their sentences under a regime that affords more extensive rights and privileges. The system of segregating by different prison regimes has been abolished at young offenders' institutions.

504. Persons serving a first custodial sentence for offences that pose no serious danger to society, offences committed through negligence, or less serious premeditated offences shall serve their sentences at open prisons.

505. Thus, where persons receiving a first custodial sentence are concerned, the maximum penalty for 73 per cent of all offences stipulated in the Criminal Code is detention at an open prison.

506. This sentence for the crimes indicated is not imposed on pregnant women, women with children under the age of three, old-age pensioners and minors.

507. The process of relaxing the country's criminal enforcement law has also led to the abolition of certain categories of offences.

508. Thus, the unauthorized absence of an offender from an open prison is no longer a criminal offence under the Criminal Code (Criminal Code, art. 222).

509. Such acts will henceforth be categorized not as the offence of escape from prison but as a flagrant breach of prison rules entailing a disciplinary sanction potentially as severe as transfer (return) to a closed penal institution.

510. A system of annual paid leave has been introduced in open prisons, under which prisoners are entitled to spend a period of 15 working days away from the area of the prison.

511. The process of relaxing the system of criminal penalties, implemented in compliance with Uzbek law, has made possible a radical change in the judicial and investigative practice relating to the selection of measures of restraint and the apportionment of penalties for offences committed, which have been rendered less harsh.

512. The conditions under which offenders may be exempted from liability have been greatly expanded in the case of first-time offenders committing offences that pose no great danger to society, or less serious offences.

513. As a result of amendments and additions to the Criminal Code, the Code of Criminal Procedure and the Penal Enforcement Code, together with the annual amnesties that have been proclaimed since 2001, the number of convicts and persons remanded in custody has dropped by nearly half, from 76,000 to 40,000.

514. Since the end of 2001, the penal enforcement system has been able to operate without exceeding the limits set on the number of convicts, which stands as one of the primary achievements of Uzbekistan's correctional system.

515. This has made it possible to shift attention to the detention conditions themselves, and to respond to the need for proper living conditions, medical services and meals and for facilities for convicts to perform socially useful work.

516. Of all able-bodied convicts in the category assigned to perform work, almost 80 per cent (representing one of the highest levels of any post-Soviet State) is engaged in work and, accordingly, receiving pay. Furthermore, not a single sum is deducted from convicts' pay for their own upkeep. They are able to use the entire amount that they earn as they see fit, sending it to relatives or spending it on their own needs.

517. Proposals to close the prison in the village of Jaslik failed to take account of the fact that, at the time of the visit to the facility, more than one quarter of the convicts serving sentences in that facility had resided prior to their arrests in the Republic of Karakalpakstan or Xorezm province of Uzbekistan, in which there are no other custodial facilities. It is much cheaper and easier for the relatives of these persons to travel to this prison than to prisons in other areas of Uzbekistan.

518. Over recent years, the Ombudsman, her colleagues and her regional representative have visited custodial facility UY-64/71. In addition, during the Ombudsman's most recent visit to the facility, the special representative of the Konrad Adenauer Foundation for Central Asia was also present.

519. We cannot agree with the Special Rapporteur's finding that detention conditions have been created in the prison "amounting to cruel, inhuman and degrading treatment or punishment", in particular since this is not supported by any argument or specific information in the report. It should be noted that no such comments were made by Mr. Rein Müllerson, the regional adviser of the Office of the United Nations High Commissioner for Human Rights (OHCHR) for Central Asia (2004), or other representatives of international and foreign non-governmental organizations.

Question 26

***According to the State party report (paragraphs 106 and 112 and annex 2, response to points 8.1 and 8.3), the Central Penal Correction Department staff have been tasked with regular on-site prison inspections of Ministry facilities and other organizations, including the office of the Parliamentary Commissioner for Human Rights (Ombudsman), the International Committee of the Red Cross (ICRC), the Organization for Security and Cooperation in Europe (OSCE) and the non-governmental organization Freedom House, inspected a number of prisons in 2003 and 2004. The Ministry of Justice has issued instructions for visits by international representatives of non-governmental organizations and diplomats. Please provide details of the current process for inspections of detention facilities, in particular for the period 2005-2007, including*:**

(a) What kinds of detention facilities are open for inspection by which government bodies or organizations;

(b) Whether such inspections require the agreement of any other State body or prior notification of any kind;

(c) Whether the inspecting authority has the possibility of conducting private interviews with detainees;

(d) Whether the findings of the visits are made public and if so when and where;

(e) What specific measures have been taken as follow-up to the findings of each respective visit;

(f) Please also indicate whether any non-governmental organization or body external to the Government has access to all detention facilities with a view to monitoring conditions of detention;

(g) Were ICRC, OSCE and others able to continue their visits after April 2005?

Reply

520. The Central Penal Correction Department of the Ministry of Internal Affairs carries out inspections once every five years, following a schedule, of each facility in the country's penal correction system. In accordance with the inspection schedule, checks are carried out one year after each inspection in order to verify elimination of any deficiencies identified during that inspection.

521. In accordance with a schedule ratified by the Ministry of Internal Affairs, ministry officials carry out comprehensive inspections involving obligatory site visits to facilities of the penal correction system.

522. Procuratorial officials carry out checks of compliance with the law relating to custodial facilities in establishments of the Central Penal Correction Department of the Ministry of Internal Affairs.

Inspections and checks of the operation of facilities of the penal correction system over the period April 2005-2007 by the Central Penal Correction Department of the Ministry of Internal Affairs of Uzbekistan

	2005	2006	23 August 2007
Inspections	6	4	6
Checks	5	3	4

Site visits by international and local non-governmental organizations to facilities of the penal correction system over the period April 2005-2007

2005	2006	23 August 2007
22	12	12

523. One of the principal guarantees of the humane and respectful treatment of convicted persons and prisoners is the fact that, over the past eight years or so, the penal correction system has operated in a transparent manner, open to the public.

524. In October 2004, an independent expert of the Commission on Human Rights, Mr. Latif Huseynov, visited a number of correctional institutions, as follows:

(a) Facility UY-64/18 (National Hospital);

(b) Remand centre No. 1 (Tashtyurma);

(c) Facility UY-64/25 (strict-regime colony);

(d) Facility UY-64/71 (strict-regime colony).

525. The main purpose of all these visits was to see at first hand the treatment of convicts and their living conditions, and to detect any cases of torture or other kinds of degrading treatment or punishment.

526. Similar collaborative arrangements have been established with the Uzbek media, which publish reports about the work of the correctional system in the country's press and run radio and television broadcasts on the issue. Programmes have been broadcast on a number of television channels covering problems and achievements in the correctional system. Debates are held on the detention conditions for convict persons, reports broadcast on programmes under way in facilities of the penal correction system, and interviews held with convicted prisoners. News programmes on national television, such as the "Axborot" news bulletin, carry information on this matter, informing the public about the proclamation of amnesties and about festivities held in facilities of the penal correction system. In addition, these issues are covered by the national newspapers *Narodnoe slovo*, *Pravda vostoka* and *Na postu*, and also in special legal periodicals.

527. Work in this area is also being carried out with representatives of local non-governmental non-profit organizations.

528. In 2004, two groups of non-governmental non-profit organizations - the Intilish research and training centre and the regional centre for the social adaptation and reproductive health of

women - carried out two exercises to monitor facilities of the penal correction system (facility UY-64/7) on matters relating to the rights of prisoners to receive the assistance of qualified lawyers when being held in remand centres and the rights of convicted minors to receive education and vocational training.

529. In 2005, the Centre for Legal Research carried out a monitoring exercise of one of the open prisons in Tashkent province (UY-64/3 in Tavaksay village) on matters relating to the social and economic rights of convicts and the non-governmental non-profit organization Yoshlar Markazi carried out a programme in facility UY-64/29 in Navoi province, to monitor exercise of the prisoners' right to defence.

530. **(b)** Following the prescribed procedure (Instruction of 2004 governing the organization of visits to penal institutions by representatives of the diplomatic corps, international NGOs, local non-governmental non-commercial organizations and the media), in order to obtain permission to visit and inspect detention conditions for persons convicted to custodial sentences, representatives of the diplomatic corps, international non-governmental organizations and local non-governmental non-profit organizations must submit the required application to the Ministry of Foreign Affairs, while organizations registered with the Ministry of Justice must apply to that ministry. Once it has received the application, the ministry concerned reviews it in the prescribed manner - namely, it verifies whether or not the organization is accredited and assesses the advisability of the requested visit - and thereupon, for the purpose of carrying out the necessary measures, within a period of five days transmits a request, attaching a copy of the application, to the Central Penal Correction Department of the Ministry of Internal Affairs.

531. Once it has received notification from the Ministry of Foreign Affairs or the Ministry of Justice of the submission of an application, the Central Penal Correction Department considers the application and informs the ministry concerned for the purpose of notifying the applicant whether or not permission has been granted.

532. **(c)** Yes. The inspecting authority has the possibility of conducting private interviews with detainees.

533. **(**d**)** Yes. Information about visits to detention facilities is published in the form of reports in the media and on the website of the Ministry of Internal Affairs.

534. No written findings, observations or proposals are submitted by international non-governmental organizations and diplomatic missions following their visits to custodial facilities of the correction system. Their oral comments and suggestions are taken into consideration in future work.

535. Statistical data on the activities of the penal correction system have been published in the national press since September 1999.

536. Problems and achievements in the correctional system are aired on various television channels. Debates are held on the detention conditions for convicted persons, reports broadcast on programmes under way in facilities of the penal correction system and interviews held with convicted prisoners. News programmes on national television, such as the "Axborot" news bulletin, carry information on this matter, informing the public about the proclamation of

amnesties and about festivities held in facilities of the penal correction system. In addition, these issues are covered by the national newspapers *Narodnoe slovo*, *Pravda vostoka* and *Na postu*, and also in special legal periodicals.

537. **(e)** A summary report is compiled of inspections and checks of the activities of correctional facilities, putting forward specific observations and listing the shortcomings identified during the inspections and checks. These reports then form the basis for specific action plans to eliminate any shortcomings within specified time frames and with an indication of those responsible for the measures required. These action plans are put into effect by an order of the Minister of Internal Affairs or the chief of the Central Penal Correction Department and the staff of the correctional facilities are duly familiarized with them.

538. **(f)** Following the prescribed procedure (Instruction of 2004 governing the organization of visits to penal institutions by representatives of the diplomatic corps, international non-governmental organizations, local non-governmental non-profit organizations and the media), in order to obtain permission to visit and inspect detention conditions for persons convicted to custodial sentences, representatives of the diplomatic corps, international non-governmental organizations and local non-governmental non-profit organizations must submit the required application to the Ministry of Foreign Affairs, while organizations registered with the Ministry of Justice must apply to that ministry. Once it has received the application, the ministry concerned reviews it in the prescribed manner - namely, it verifies whether or not the organization is accredited and assesses the advisability of the requested visit - and thereupon, for the purpose of carrying out the necessary measures, within a period of five days transmits a request, attaching a copy of the application, to the Central Penal Correction Department of the Ministry of Internal Affairs.

539. Once it has received notification from the Ministry of Foreign Affairs or the Ministry of Justice of the submission of an application, the Central Penal Correction Department considers the application and informs the ministry concerned for the purpose of notifying the applicant whether or not permission has been granted.

540. **(g)** On 17 January 2001, an agreement was concluded between the Government of the Republic of Uzbekistan and the International Committee of the Red Cross (ICRC) on humanitarian activities for detained or imprisoned persons (the agreement was signed by the Deputy Minister for Foreign Affairs).

541. ICRC delegates were accorded all the necessary conditions, enabling them to visit all the facilities of the country's penal correction system (four in 2001, five in 2002, 30 in 2003 and 46 in 2004).

542. Notwithstanding the reservation in article 1 of the agreement, to the effect that visits by ICRC delegates to all places of detention shall be of an exclusively humanitarian nature, since 2001 no actions of a humanitarian nature were undertaken by ICRC for the facilities of the penal correction system. Instead, ICRC officials took a selective approach to the prisoners and held interviews with individuals convicted for offences against the constitutional order of Uzbekistan.

543. The only step taken by ICRC to provide humanitarian aid was its provision, in 2005, of a wheelchair for the convicted prisoner Hasan Babaev 1978 (who served his sentence in the facility KIN-47 and was granted early parole on 29 July 2005); no other humanitarian assistance was provided.

544. On 13 December 2004, the ICRC regional office in Tashkent decided to suspend its visits to detention facilities, attributing this decision to failure to comply with all terms of the arrangements provided under the agreement.

545. Non-compliance by ICRC with the provisions of the agreement between ICRC and the Government of Uzbekistan, manifested in its breaches of the terms of articles 1, 4, 5, 10 and 13 of the agreement, cast in doubt the effectiveness and need for its activities in the facilities of the Uzbek penal correction system.

546. This notwithstanding, in early 2007 the Central Penal Correction Department of the Ministry of Internal Affairs signed further agreements with ICRC, authorizing its representatives to resume visits to detention facilities. Since that time, the Uzbek authorities have on several occasions offered to organize visits to correctional facilities but these offers have been declined by ICRC.

2005

547. On 11 January 2005, a meeting was held at the Central Penal Correction Department in Tashkent to discuss the death of the convicted prisoner S. A. Umarov at facility UY-64/29 in the city of Navoi. The meeting was attended by representatives of the United States Embassy and of the office of Freedom House in Uzbekistan; Major-General R. K. Kadyrov, Deputy Minister of Internal Affairs of Uzbekistan; Mjusa Sever, head of the Freedom House office in Uzbekistan; Ronald Suarez, independent forensic expert from the United States of America; Michael Goldman, Second Secretary at the United States Embassy in Uzbekistan; Branka Sesto, deputy head of the Freedom House office in Uzbekistan; Robert Freedman, staff-member of the Freedom House office in Uzbekistan; Fazil Hasanov, assistant to Mjusa Sever, head of the Freedom House office in Uzbekistan; Abdusalom Ergashev, human rights defender and member of the Rapid Response Group; and Vohid Karimov, member of the Rapid Response Group.

548. On 13 January 2005, a meeting was held in the Central Penal Correction Department in Tashkent to discuss the organization of training courses for adult convicted prisoners in penal facilities in the Fergana valley. The meeting was attended by representatives of the Central Asia office of the Institute for International Cooperation of the German Adult Education Association (IIZ-DVV); Major-General R. K. Kadyrov, Deputy Minister of Internal Affairs of Uzbekistan; Uwe Gartenschlaeger, head of the IIZ-DVV Central Asia office; Saodat Vahabova, Uzbekistan programme manager of the IIZ-DVV Central Asia office; and Cordula Shmygun, project manager for the detention facility UY-64LG1 project in Andijan and IIZ-DVV partner from the German Development Service (DED).

549. On 19 January 2005, a meeting was held in the Central Penal Correction Department in Tashkent to discuss further cooperation. The meeting was attended by a representative of the Uzbekistan office of the Global Fund to Fight AIDS, Tuberculosis and Malaria; Major B. F. Naberaev, head of the correctional facilities office in the Central Penal Correction Department; and Captain B. B. Yusupov, head of the OOLPP department.

550. On 20 January 2005, a meeting was held in the Central Penal Correction Department in Tashkent to discuss further cooperation with Freedom House in Tashkent. The meeting was attended by Major-General R. K. Kadyrov, Deputy Minister of Internal Affairs of Uzbekistan; Mjusa Sever, head of the Freedom House office in Uzbekistan; and Major B. F. Naberaev, head of the correctional facilities office in the Central Penal Correction Department.

551. On 25 January 2005, a meeting was held in the Central Penal Correction Department in Tashkent to discuss further cooperation with the non-governmental organization Penal Reform International. The meeting was attended by Major-General R. K. Kadyrov, Deputy Minister of Internal Affairs of Uzbekistan; Major B. F. Naberaev, head of the correctional facilities office in the Central Penal Correction Department; Vera Tkachenko, regional director of Penal Reform International; and Gulnara Kaliakbarova, project coordinator for Central Asia.

552. On 26 January 2005, a meeting was held in the Central Penal Correction Department in Tashkent to discuss issues relating to HIV/AIDS control in Central Asia with the non-governmental organization Counterpart International. The meeting was attended by a representative of the British Embassy in Tashkent; Major-General R. K. Kadyrov, Deputy Minister of Internal Affairs of Uzbekistan; Larisa Bashmakova, director of the Central Asian HIV/AIDS programme; Marek Zygad, consultant on HIV/AIDS prevention; Atabek Sharipov, representative of the United Kingdom's Department for International Development (DFID); and Jenny Crane, manager of the Central Asian HIV/AIDS programme.

553. On 23 June 2005, a briefing session was held in the Central Penal Correction Department in Tashkent on the following issues: "Introduction to the work of the Ministry of Internal Affairs of the Republic of Uzbekistan"; "Reform of the penal system"; "Monitoring arrangements in prisons"; and "Deepening dialogue and cooperation in areas of mutual interest". The session was attended by the Ambassador of the United Kingdom of Great Britain and Northern Ireland, David John Moran, and Daniel Grzenda, Third Secretary (Political) at the British Embassy.

554. From 16 to 18 August 2005, a training seminar on identifying and documenting cases of torture and other forms of cruel treatment was held at the training centre of the Central Penal Correction Department in Tashkent. It was attended by Professor Bent Sørensen, senior consultant of the International Rehabilitation Council for Torture Victims (IRCT) in Copenhagen, Denmark; Mr. Nils Rune Christensen, IRCT programme coordinator; Onder Ozkalipci, international consultant and trainer from Turkey; Dr. Mariam Jishkariani, international consultant and trainer from Georgia; and Z. Giyasov, head of the Central Office of Expert Studies.

555. On 7 September 2005, a meeting was held in the Central Penal Correction Department in Tashkent to discuss further cooperation between the Department and IIZ-DVV. The meeting was

attended by Uwe Gartenschlaeger, head of the IIZ-DVV Central Asia office; Ilona Vojan, regional coordinator for DED; Cordula Shmygun, expert from DED; and Saodat Vahabova, Uzbekistan programme manager of the IIZ-DVV Central Asia office.

556. On 20 September 2005, a site visit was arranged to facility UY-64/3 in the village of Tavaskay to assess the vocational training needs of the convicted prisoners. Cordula Shmygun, director of the IIZ-DVV adult education programme, took part in the visit.

557. On 21 September 2005, a site visit was arranged to facility UY-64/3VK in the village of Zangiata to assess the vocational training needs of the convicted prisoners. Cordula Shmygun, director of the IIZ-DVV adult education programme, took part in the visit.

558. On 26 September 2005, a site visit was arranged to facility UY-64/Y-1 in the town of Andijan to assess the vocational training needs of the convicted prisoners. Cordula Shmygun, director of the IIZ-DVV adult education programme, took part in the visit.

559. On 30 September 2005, a ceremony was held to mark the official opening, in the training centre of the Central Penal Correction Department in Tashkent, of the OSCE Resource Centre in Tashkent. The ceremony was attended by M. Usmanov, Human Rights Commissioner (Ombudsman) of the Oliy Majlis; Ambassador Miroslav Jenča, head of the OSCE office in Tashkent; and Ildar Fayzullin, OSCE coordinator in Tashkent.

560. On 28 November 2005, a meeting was held in the Central Penal Correction Department in Tashkent to discuss further cooperation. The meeting was attended by a representative of the Konrad Adenauer Foundation; Major-General R. K. Kadyrov, Deputy Minister of Internal Affairs of Uzbekistan; Hans Kaiser, regional representative of the Konrad Adenauer Foundation for Central Asia, Kazakhstan and the Caucasus; and Captain F. E. Muhamedov, acting chief of the penal corrections office of the Central Penal Correction Department. On 11 December 2005, a presentation was given in facility UY-64/7 in Tashkent of the work of the non-governmental non-profit organization “Zhenshchina i obshchestvo” (“Woman and Society”) over the previous three years. The presentation was attended by Uwe Gartenschlaeger, head of IIZ-DVV; Saodat Vahabova, interpreter; N. M. Muravyova, head of the non-governmental non-profit organization “Zhenshchina i obshchestvo”; and her deputy, T. L. Zaichenko.

2006

561. Over the course of 2006, a total of 26 visits were organized with the participation of representatives of international and local non-governmental organizations, as well as the diplomatic corps, missions and organizations and government departments of Uzbekistan. These included:

(a) 11 meetings, bilateral discussions and other consultations;

(b) 7 visits to facilities of the penal correction system;

(c) 8 seminars, training seminars and round tables.

562. In 2006, the Central Penal Correction Department engaged in cooperation with international and local non-governmental organizations, and ministries, organizations and government departments of Uzbekistan, including:

(a) Ministry of Foreign Affairs of Uzbekistan;

(b) Ministry of Justice of Uzbekistan;

(c) Office of the Procurator-General of Uzbekistan;

(d) Supreme Court of Uzbekistan;

(e) Television and radio broadcasting company of Uzbekistan;

(f) Human Rights Commissioner (Ombudsman) of the Oliy Majlis of Uzbekistan;

(g) Women's Committee of Uzbekistan;

(h) ICRC regional delegation for Central Asia;

(i) WHO;

(j) World Bank;

(k) AIDS Foundation East-West;

(l) Institute for International Cooperation of the German Adult Education Association (IIZ-DVV);

(m) Konrad Adenauer Foundation, Germany;

(n) United Nations Children's Fund (UNICEF) country office;

(o) DOTS (directly observed treatment, short-course) Centre for Uzbekistan;

(p) Global Fund to Fight AIDS, Tuberculosis and Malaria;

(q) Convent of the Holy Trinity in Tashkent.

563. On 22 January 2006, a courtesy visit was arranged to the Zangiata young offenders' institution by representatives of UNICEF. Captain F. E. Muhamedov, chief of the penal corrections office of the Central Penal Correction Department; Justice Renate Winter, international consultant with the United Nations Children's Fund (UNICEF), Ms. Reza Hossaini, head of the UNICEF office; Ms. Siyma Barkin, international consultant with the child protection programme; Timur Abdullaev, consultant with UNICEF; and Shamil Asyanov, director of the Legal Research Centre, a local non-governmental non-profit organization, took part in the visit.

564. On 26 January 2006, a parliamentary inspection was conducted by deputies of the legislative chamber of the Oliy Majlis of Uzbekistan of the work of remand centres and facilities of the penal correction system in the city of Tashkent and Tashkent province, to monitor

compliance with the provisions of the Convention against Torture. The parliamentary inspection resulted in the production of a film showing the conditions in these facilities and interviews with convicted prisoners and staff. The film was shown to deputies of the legislative chamber of the Oliy Majlis and also to participants in theoretical and practical workshops on implementation of the provisions of the Convention against Torture and national legislation, organized together with UNDP in June and December 2006.

565. On 15 February 2006, a meeting was held in the Central Penal Correction Department between A. A. Shodiev, Deputy Minister of Internal Affairs of Uzbekistan, and Pierre Lejeune, coordinator of the TACIS programme for Central Asia and the Caucasus, of the European Commission's EuropAid Cooperation Office; Joaquim Silva Rodrigues, project director of the EuropAid Cooperation Office; Ulugbek Ikramov, consultant with the European Commission's technical assistance coordination office; and Manfred Ziewers, representative of Europa House, for the purpose of discussing TACIS project proposals under its Indicative Programme.

566. On 17 February 2006, a meeting was held in the Central Penal Correction Department between A. A. Shodiev, Deputy Minister of Internal Affairs of Uzbekistan, and Captain F. E. Muhamedov, chief of the penal corrections office of the Central Penal Correction Department, and Boris Michel, head of the ICRC regional delegation; Raffaello Müller, deputy head of the ICRC regional delegation; and Johann Schustereder, interpreter and G. S. Perimkulov, Third Secretary in the United Nations and International Organizations Office of the Ministry of Foreign Affairs of Uzbekistan. The purpose of the meeting was to discuss further cooperation, visits to detention facilities and a training programme for internal affairs officers of Uzbekistan.

567. On 10 April 2006, a fact-finding visit was organized to facility UY-64/18 in Tashkent for staff of the German Embassy in Uzbekistan and members of the German Bundestag.

568. On 9 June 2006, a visit was organized to facility UY-64/7 in Tashkent for representatives of the German Government.

569. On 13 October 2006, a visit was organized to facility UY-64/7 in Tashkent for a delegation from the German Embassy and Mr. Günter Nooke, member of the German Bundestag Committee on Human Rights and Humanitarian Aid, in order for them to see at first hand the detention conditions for convicted women prisoners serving custodial sentences. During their visit, they were shown the visiting room, the infirmary, the canteen, the crèche and the sector for juveniles, and given the opportunity to meet convicted women prisoners.

2007

570. Since September 2004, the Central Penal Correction Department has been engaged in cooperation with the IIZ-DVV Central Asia office, on the basis of a partnership agreement for the conduct of a training programme for adult prisoners in the penal correction system of the Ministry of Internal Affairs of Uzbekistan.

571. In addition, with support from the Division for Central Asia, Kazakhstan and the Southern Caucasus of the Konrad Adenauer Foundation and the Human Rights Commissioner (Ombudsman) of the Oliy Majlis of Uzbekistan, a series of round tables and workshops is being

held in all regions of Uzbekistan on the topics of improving the penal correction system by organizing human rights oversight and ensuring the exercise of prisoners' rights (22 and 23 February at correctional facility IZ-8 in Termez; 26 and 27 April at correctional facility IZ-3 in Bukhara; 26 and 27 June at correctional facility IZ-12 in Namangan) and interaction between the Ombudsman and government authorities and non-governmental organizations in upholding and protecting human rights (26 and 27 January in Gulistan; 22 and 23 March in Djizak; 15 and 16 May in Termez; 26 and 27 June in Andijan; and 4 and 5 September in Nukus).

572. With support from the international AIDS Foundation East-West, workshops are being organized at facilities of the Uzbek penal correction system on the project "Reducing the demand for narcotic drugs and promoting health care in prisons" and "Organizing social support and preparing prisoners for their release".

573. In addition, cooperation is under way with the UNDP country office, the Ministry of Health of Uzbekistan, KfV Bank, ICRC, the Global Fund to Fight AIDS, Tuberculosis and Malaria and the DOTS Centre for Uzbekistan on a programme for the prevention and treatment of tuberculosis in correctional facilities, and joint efforts are being carried out to implement a tuberculosis control programme, based on the DOTS strategy, with the World Bank, the Human Rights Commissioner (Ombudsman) of the Oliy Majlis of Uzbekistan, the Uzbekistan Women's Committee, and others.

574. In June 2007, a visit was arranged to the Zangiata young offenders' institution, for a French delegation comprising David Allonsius, judge in the juvenile division of the Paris municipal court; Laurence Fara, Cooperation Attaché at the Embassy of France in Uzbekistan; and Guzal Kamalov, adviser with the UNICEF child protection programme.

575. In all, a total of 74 visits and inspections of custodial facilities took place over the period 2005-2007.

Question 27

Please describe what the State party is doing to ensure that detention conditions for juveniles are appropriate. What are the complaints mechanisms for children in institutions? Please specify the number and condition of children in the juvenile justice system and how the State party responds to allegations of ill-treatment of children who are not separated from adults in pretrial detention and in police custody.

Reply

576. Under the Code of Criminal Procedure and the Penal Enforcement Code of Uzbekistan, all appropriate conditions are provided for juveniles remanded in custody. There are no cases of juveniles being held in detention together with adults.

577. According to the figures, over the first six months of 2007, a total of 1,073 offences were committed by 1,290 juveniles. These offences have led to criminal proceedings against 1,214 juveniles in the course of 2007.

578. Under article 228 of the Code of Criminal Procedure, once a detained minor has been delivered to a special penal institution, he or she is segregated from adult offenders in official premises that are not custodial facilities, or is held in a cell in a temporary holding facility.

578. Under article 558 of the Code of Criminal Procedure, a minor can be placed in pretrial detention only on the grounds set out in article 236 of the Code of Criminal Procedure, and then only in exceptional cases, when the minor is charged with intentionally having committed an offence entailing a penalty of more than five years' deprivation of liberty and other measures of restraint are not likely to ensure that the defendant will engage in appropriate conduct.

580. When authorizing the arrest of a minor, the procurator familiarizes himself or herself with the case materials, verifies the grounds for the arrest, makes sure that the case represents an exception and questions the minor being charged with the offence about the circumstances justifying the particular measure of restraint.

581. Over the first six months of 2007, 183 juveniles were remanded in custody in connection with preliminary investigations. Of these, 19 were subsequently released and placed under non-custodial restraint measures, while the 163 juveniles who remained in detention were placed under restraint measures involving custody. Subsequently, one of these was acquitted of the charges against him following reconciliation with the victim.

582. During the reporting period there were no recorded cases of abuse or ill-treatment of juveniles during their investigation and trial.

583. Over the first six months of 2007, 5,313 neglected children were placed by internal affairs officers in centres for the social and legal assistance of juveniles run by the Ministry of Internal Affairs.

584. Convicted prisoners who committed their offences while still juveniles are detained, after sentencing by the court, in the Zangiata young offenders' institution. Currently, there are 214 such offenders held at that facility. Of these, 40 have been convicted of murder, 11 of rape, 48 of theft with violence and 1 of terrorism.

585. Uzbekistan has only one correctional facility for minors - the Zangiata young offenders' institution in Tashkent province.

586. Pursuant to the legal rules, minors are held separately from adults, both when remanded in custody for investigation and after they are convicted.

587. The Zangiata young offenders' institution is equipped to provide all inmates with secondary education and vocational training. It has facilities for educational activities and for skills training. Young offenders are unable to receive certificates of their education and training.

588. There is a gymnasium and a stadium on the grounds of the facility, with the necessary sports equipment.

589. The living quarters are divided into separate blocks for offenders of different age groups and equipped with all the necessary amenities and health and hygiene facilities. There are special leisure rooms, equipped with televisions and video equipment, a library with a reading room, and

a hall for special events. The dietary standards have been prepared by qualified dieticians and are in line with the physiological needs of children. In addition, convicted offenders have their own mini-farm, with a number of animals that they tend themselves.

590. Concerts are regularly organized on a charitable basis for the young offenders in the institution.

591. The institution staff undergo special training through the country's career development system in order to equip them to work with juveniles.

592. The detention conditions in this institution are constantly monitored by the Ministry of Internal Affairs and the Central Penal Correction Department, through regular inspections and checks.

593. Convicted juveniles have the right to submit complaints to the institution administration, the authorities of internal affairs agencies, the procurator, the Ombudsman and all other appropriate bodies, according to the specific nature of the complaint. All complaints by convicted minors are promptly reviewed and appropriate measures taken to address the situation in question.

Question 28

Please elaborate on the measures taken, if any, to prevent possible torture or ill-treatment of women in places of detention. Does the State party monitor sexual violence in places of detention and if so with what result? Please provide statistical data on the number of complaints received and investigated and the measures taken to discipline and/or prosecute and convict offenders. Also please inform the Committee of measures to protect complainants from reprisal.

Reply

594. The State party monitors not only instances of sexual violence, but all violations of rights in places of detention and takes firm measures to prevent such actions.

595. For this purpose, all necessary conditions are ensured in all facilities of Uzbekistan's penal correction system and, in particular, in the women's colony, in line with international rules and standards, to ensure that convicted prisoners can lead a normal life: cultural leisure activities are organized; the facilities are equipped with libraries, reading materials, radios, televisions, visiting rooms, and clubs; summer concerts are held; there are sports facilities for convicted prisoners; and subscriptions to newspapers and periodicals are arranged.

596. Every unit of a custodial facility is fitted with stands displaying excerpts from legislative acts relating to the rights and obligations of convicted prisoners, the daily routine and the duty roster.

597. All staff in the penal correction system have higher or specialized secondary legal education equipping them for the specific nature of their duties.

598. Topics relating to human rights and the rights of convicted prisoners and familiarization with international standards and Uzbek legislation in this area form part of official training programmes for staff of the correctional system and of information sessions for the prisoners themselves.

599. Representatives of voluntary associations, judicial and procuratorial bodies and internal affairs agencies are invited to participate in question-and-answer sessions and meetings held to explain the legislation in force and other matters of procedure.

600. Special premises have been set aside for the Ombudsman, for work involving convicted women prisoners and for interviews with them on personal matters.

601. All complaints and applications are registered in the prescribed manner upon submission, and judicial inquiries conducted into all incidents.

602. If a complaint is substantiated, the case materials are handed over to the procurator so that the appropriate legal response measures can be taken.

603. Over the past two years, no instances have come to light of ill-treatment or violence against women in places of detention.

Question 29

European Union representatives twice visited penal colony UY-64/71 (Zhaslyk) in 2003 and reporters also visited it. In July 2004, a national commission of justice, interior, and human rights officials carried out a study of the conditions in this facility. The United States Embassy and Freedom House also visited in 2004. What were the findings from these visits and the study and what measures have been taken to improve the conditions in Zhaslyk?

Reply

604. In fulfilment of the National Programme of Action to implement the Convention against Torture, between 25 and 28 July 2004, a national commission comprising representatives of the Office of the Procurator-General, the Office of the Ombudsman, the Ministry of Justice, the National Centre for Human Rights and the Ministry of Internal Affairs made a study (which included a site visit) of the conditions in which convicts were being held at colony UY-64/71, situated in the settlement of Jaslik in Kungrad district of the Republic of Karakalpakstan.

605. The findings of the study were as follows.

606. Facility UY-64/71 was designed with a planned maximum capacity for 1999 of 1,000 inmates, in compliance with Cabinet of Ministers Decision No. 163-39 of 7 April 1999 on assigning additional staff to the internal affairs agencies and the guard company of the Ministry of Internal Affairs in connection with the establishment of a specialized penal enforcement facility in the Kungrad district of the Republic of Karakalpakstan; the facility was opened the same year.

607. The facility is situated 280 km from the town of Nukus and 8 km from the village and railway station of Jaslik, with a population of some 5,000. The route of the Great Silk Road,

currently under construction, passes through Jaslik. At present, a stretch of 179 km of the road from Jaslik has been tarred, and the remainder is surfaced with a 25 cm layer of gravel and crushed stone and levelled with graders. The driving conditions of this road mean that vehicles can cover the distance between Kungrad and the Jaslik facility in two and a half hours, at an average speed of 80 kpm.

608. There is also a rail connection to Jaslik, along the Kungrad-Beyneu (Kazakhstan) line.

609. Facility UY-64/71 in Jasliq is an ordinary-regime colony intended for the detention of male prisoners; it has a holding capacity of 700.

610. The facility's detention conditions comply with the requirements of Uzbek law. Special-category prisoners are held in a three-storey building, in five separate wings, with two wings on each floor comprising separate cell blocks accommodating groups of between 10 and 12 men each. The prisoners each have their own sleeping area, measuring 3 square metres per person. The facility is fully furnished with barrack-standard furniture and fittings: bed, bedside table, table and stool, as prescribed by the regulations. The foyer on each floor is equipped with a television and seating for 50 to 70 people, for lectures and other educational activities.

611. Prisoners are allocated clothing and footwear appropriate to the time of year and bedding and other necessaries as prescribed by the regulations.

612. The facility has running hot and cold water and heating provided by its own boiler room. The boiler room equipment is supplied by the company American Boiler and comprises four units, three gas-fired and one oil-fired. The boiler room is also fitted with a 100 kilowatt DGM-400 T/100 diesel generator, used to power the lighting for the residential blocks, the facility perimeter and the administration building in the event of a power outage.

613. The facility's water supply system consists of Ecos-Aqualife water purification and filtering equipment, specially designed for the purification of drinking water. There are shower rooms on every floor of the residential block, each fitted with four hot and cold mixer taps, rubber mats and other bath necessities. In addition, each living quarter is equipped with a WC and water tap.

614. In addition, the facility has a separate sanitation block, comprising 44 toilet units and 80 taps for the washing of hands.

615. The facility has a canteen seating 400. The dietary standards comply with the established requirements. Meals are prepared as prescribed by the regulations. The funds allocated for the purchase of food products are dispensed promptly and in full. Flour, pasta, tomato puree, tea, potatoes and carrots are stored in the facility's pantries. Agreements have been concluded with collective and private farms in Kungrad district for the supply of vegetables (potatoes, onions, carrots, beetroot, aubergines). The prisoners' diet is complemented with fresh eggs and milk.

616. The dining block and kitchens are equipped with 12 boilers and stoves, with the capacity to prepare hot meals and tea three times a day. In addition, there are five electric tea urns, two electric hotplates and a potato peeler. All this equipment is in working order. The refrigeration

equipment is designed for the separate storage of perishables. The facility has its own bakery and pasta-making shop, capable of fully meeting the facility's needs for bread and other flour products. The dishwashing unit operates in accordance with the prescribed health and hygiene standards. Vegetables are stored in the basement, in conditions suitable for the long-term conservation of greens and potatoes.

617. Convicted prisoners assigned to work in the kitchens and canteens undergo prescribed daily medical inspections.

618. There is a prisoners' store on the premises of the facility. Among the goods on offer are personal necessities, stationery items, knitwear, tobacco products, foodstuffs (tinned products, black and green tea, confectionery and bread products). Prisoners can purchase goods twice a month, paying by credit from their personal accounts.

619. On the second floor of the facility there is a medical centre, equipped with 20 beds for inpatient care. The medical centre has seven posts for doctors and six for paramedics. Currently, three of the doctors' posts (medical director, psychiatrist and tuberculotherapist) and five paramedic posts are filled. The medical centre has stocks of essential medicine for outpatient and inpatient treatment within the facility. During the first six months of 2007, to cover its current needs, the centre acquired a range of medicines (antibiotics, benzylpenicillin, ampicillin, gentamicin, and heart medication - adelphane, adebaxin, dibazol, validol, papazol). During the first six months of 2007, the Central Penal Correction Department allocated a total of 5 million sum for the facility's medicinal needs.

620. Medical services are provided for the facility's inmates in accordance with the Ministry of Internal Affairs Order No. 231 of 2002. From time to time, at intervals set by the relevant regulations, the inmates undergo X-ray examinations. Disinfection and rat extermination measures are regularly conducted in the medical premises. The centre is equipped with poster stands displaying graphic information and health-awareness materials.

621. The facility also has long-term visiting rooms, where convicted prisoners may stay together with their relatives in hotel-type accommodation; there are 10 separate furnished rooms. Each room is appropriately fitted out, with a lavatory and separate shower and a refrigerator. The visiting unit has a separate shared kitchen, and a recreation area equipped with a television and upholstered furniture.

622. The room for short-term visits has nine cabins, each equipped with telephones for conversations.

623. On the second floor of the facility's detention wing, the library for convicted prisoners has a collection of 1,126 books, including the following: 42 copies of works by the President of Uzbekistan; 25 legal texts; 154 religious texts; 530 works of world literature; 310 works of Uzbek literature; 45 political texts; 20 textbooks; and a range of local and national journals and newspapers (*Xalq So'zi*, *O'zbekiston Ovozi*, *Posbon*, *Postda*, *Tinchlik Posboni* and others). On each floor of the facility there are bulletin boards, carrying announcements of State and national festivities and holidays.

624. All the premises in the detention wing are fitted with noticeboards containing extracts from legislative acts relating to the rights and obligations of convicted prisoners, the daily routine and the duty roster.

625. On the grounds of the facility there are basketball and volleyball courts and a football field. Fitness equipment is provided, for individual workouts (parallel bars and horizontal bars). Every morning, exercise sessions are held and group sports events are organized in accordance with a special schedule.

626. The necessary work is being undertaken to plant trees, to lay flower beds and to cultivate melons and gourds, both on the grounds of the facility itself and in adjacent areas.

627. The facility's carpet-weaving workshop produces woven products of two kinds, shopping bags and kitbags.

628. In 2003, the facility was visited on two occasions, by representatives of the British, German, French and Netherlands embassies. One of the visits (3 October 2003) was led by the Italian Ambassador, Mr. Angelo Persiani, with the participation of Mr. Martin Hecker, Ambassador of Germany; Mr. Adam Noble, Chargé d'affaires of the British Embassy; Mr. G. Gali, Attaché at the French Embassy; Mr. Thymen Antoni Kouwenaar, Councillor at the Netherlands Embassy; and Mr. Raban Richter, Attaché at the German Embassy.

629. In 2003, journalists from Agence France-Presse, Associated Press, Reuters and BBC Radio also visited the facility.

630. The facility was visited in 2004 by the head of the political and economic affairs department at the United States Embassy to Uzbekistan, Ms. S. Curran, and the head of the Freedom House office in Uzbekistan, Ms. Mjusa Sever.

631. The OHCHR regional adviser for Central Asia, Mr. Rein Müllerson, and the deputy director of the Uzbek National Centre for Human Rights, Mr. Shavkat Galiakbarov, also visited the facility in October 2004.

632. During all these visits, note was taken of positive reports about the operation of the facility, and willingness was expressed to continue and strengthen the cooperation that had been established.

633. Over recent years (2004-2007), the Ombudsman, her colleagues and her regional representative have made several visits to custodial facility UY-64/71. In addition, during the Ombudsman's most recent visit to the facility, the special representative of the Konrad Adenauer Foundation for the Central Asia Region, Afghanistan and Iran, Mr. Heinz Büller, was also present.

634. Detention conditions in the Jaslik colony are constantly monitored by senior officials of the Ministry of Internal Affairs; inspections and visits are carried by the Ombudsman and by representatives of international organizations. Ministry of Internal Affairs authorities provide material and technical support for the colony.

635. We cannot agree with the Special Rapporteur's finding that detention conditions have been created in the prison "amounting to cruel, inhuman and degrading treatment or punishment", in particular since this is not supported by any argument or specific evidence in the report. It should be noted that no such comments were made by Mr. Rein Müllerson, the OHCHR regional adviser for Central Asia (2004), or other representatives of international and foreign non-governmental organizations.

Article 12

Question 30

Please clarify the results in practice of the redrafted Human Rights Commissioner of the Oliy Majlis (Ombudsman) Act (paragraph 181 of the State party's report). Noting that among the provisions of the revised act is the right of the Ombudsman to undertake independent investigations into incidents of torture and other abuses, it appears that the holder of this post is also required to consider citizens' complaints. Has the Ombudsman conducted inspections and, if so, what were his findings? Has he reported on his findings based on citizens' complaints and his inspections, or advocated implementation of his recommendations vis-à-vis other law enforcement agencies? Has any other body apart from the procuracy been set up to investigate allegations of torture and ill-treatment promptly and independently, and which is capable of prosecuting perpetrators, as recommended by the Committee against Torture?

Reply

636. As stipulated by the new version of the Human Rights Commissioner (Ombudsman) of the Oliy Majlis Act, the Ombudsman receives petitions and complaints from citizens, reviews these complaints and verifies the contentions and facts adduced in them. When reviewing complaints, the Ombudsman may pass them on to another authority for the purpose of verifying the facts which they contain and for the conduct of an expert appraisal. In addition, on any specific complaint, the Ombudsman may conduct his or her own inquiry, with the involvement of members of an expert council set up in the Ombudsman's office. After the adoption of the new version of the Ombudsman Act, there was a rise in the number of independent inquiries, as a consequence of the increased number of experts involved in this work.

637. The figures recording the number of complaints received by the Ombudsman demonstrate that the number of complaints against officials of the internal affairs agencies has remained constant. At the same time, most of the applications submitted to the Ombudsman are settled in a positive manner, in terms of correcting the situations that have arisen.

638. In 2006, 314 complaints relating to refusal to accept the actions of officials of law enforcement bodies were received, and independent inquiries were conducted in respect of 112 of these. In addition, 13 complaints were submitted against staff of the penal correction service, 8 of which were referred for investigation.

639. Of the total number of complaints received, approximately one third are resolved in favour of the complainant.

640. Starting in 2001, visits have been carried out by the Ombudsman and the Ombudsman's representatives to a number of penal institutions and, in 2003, visits were made to facilities of the penal correction system in the provinces of Fergana, Andijan, Tashkent, Kashka-Darya, Xorezm and Djizak, in the city of Tashkent and in the Republic of Karakalpakstan. In July 2004, staff from the Ombudsman's office visited the facility situated in the settlement of Jaslik, in Kungrad district of the Republic of Karakalpakstan, to familiarize themselves with its detention conditions. The Ombudsman's observations and recommendations were taken into consideration and put into effect.

641. Over the period 2004-2007, the Ombudsman's representatives visited virtually all facilities of the penal correction system.

642. Since 1999, there has been close cooperation between the Central Penal Correction Department and the office of the Human Rights Commissioner (Ombudsman) of the Oliy Majlis of Uzbekistan.

643. On 10 December 2004, an agreement on cooperation in upholding human rights and freedoms was signed between the Ombudsman's office and the Ministry of Internal Affairs of Uzbekistan.

644. Close cooperation and standing liaison arrangements have also been established with Uzbekistan's National Centre for Human Rights.

645. The penal correction system has supported the initiative put forward by the Konrad Adenauer Foundation for the conduct of a series of seminars on ways of liberalizing the penal correction system, including through visits to detention facilities.

646. Starting in 2001, staff of the penal correction system have attended international seminars, conferences and training courses, held both in Uzbekistan and abroad, including in Kazakhstan, the Russian Federation, Germany, Poland, Austria, Switzerland, the United Kingdom (Scotland), the United States of America, and the Netherlands.

647. The purpose of the participation of prison service staff in these measures is to ensure the exchange of experience in the conduct of law enforcement work, to discuss regional and global issues of health in prisons and to establish cooperation in human rights education and other areas.

648. The Central Penal Correction Department, working together with the Ombudsman, has developed a draft statute on establishing a representative of the Human Rights Commissioner of the Oliy Majlis within the structure of the Central Penal Correction Department of the Ministry of Internal Affairs.

649. The Ombudsman's representative in the Central Penal Correction Department, who will be known as the Ombudsman for the rights of convicted prisoners, will render assistance to the Human Rights Commissioner of the Oliy Majlis in the parliamentary monitoring of compliance with the rights of the accused, arrested and convicted persons, and also of the staff of the offices

of the Central Penal Correction Department. In his or her work, the Ombudsman for the rights of convicted prisoners will be under the supervision of and answerable to the Human Rights Commissioner of the Oliy Majlis.

650. The Ombudsman and the Ombudsman's staff and regional representatives have conducted a number of investigations relating to communications representing the interests of individuals and international organizations, which relate to allegations of wrongful actions by the staff of law enforcement agencies (the Sharipov case, the Shelkovenko case, the case of the group of convicted prisoners in the Jaslik colony and others). Press releases have been issued relating to all aspects of these investigations and information provided to the organizations in question.

Question 31

Please elaborate on the use to date of the procedure for independent investigations into deaths in custody, as outlined in paragraph 183, and please provide specific examples.

Reply

651. The independent investigation procedure for cases involving death in custody was followed in connection with the cases of A.Y. Shelkovenko (May 2004) and S. Umarov (January 2005).

652. Criminal proceedings were instituted against A.Y. Shelkovenko (born 1968) on 22 April 2004 under article 97, part 2, paragraphs (i) and (o), and he was taken into custody by the procuratorial authorities of the Bostanlik district of Tashkent province. On 19 May 2005, at 3.40 a.m., in cell No. 4 of the temporary holding facility in the Bostanlik district internal affairs office, Shelkovenko attempted to take his own life (using a makeshift rope fashioned from his pillowcase). The emergency medical services provided by staff of the facility and doctors from the ambulance service proved unavailing and Shelkovenko died en route to the hospital. On 19 May 2005, following an examination of Shelkovenko's body, the coroner of the town of Chirchik found that his death had been due to mechanical asphyxia and that there were no other traces of beatings or contusions on his body. That same day, Shelkovenko's body was handed over to his relatives for burial.

653. The municipal authorities provided material assistance in the form of money and transport for the conduct of the funeral. Shelkovenko's relatives refused to accept the coroner's findings, however, and applied to the coroner of the Sergeli district of Tashkent for another appraisal and took Shelkovenko's body there.

654. On 26 May 2004, on the instructions of the Procurator-General, a special task force was set up comprising representatives of the Office of the Procurator-General, the Tashkent district procurator's office, the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Foreign Affairs, the Ombudsman and the National Centre for Human Rights.

655. At the same time, on the initiative of the Ministry of Foreign Affairs of Uzbekistan, an observer group was set up to work under the above-mentioned official task force, comprising representatives of the United States and Russian embassies, the international organization Freedom House, and specialists in criminal law and forensic medicine from the United States of

America and Canada (Dr. Michael Sven Pollanen, forensic pathologist, Office of Chief Coroner of Ontario Province, Canada, who had previously conducted forensic inquiries into alleged human rights violations in Cambodia, Timor-Leste and Kazakhstan, and James Michael Gannon, deputy chief of the investigations division, Morris County Prosecutor's Office, New Jersey, United States of America).

656. On 27 May 2004, on the initiative of the observer group, an independent forensic investigation was conducted, the findings of which confirmed the conclusions previously reached by the coroner.

657. The observer group was shown the case materials from the criminal proceedings against Shelkovenko and conducted a site visit to the Bostanlik district temporary remand facility.

658. On 31 May 2004, the observer group held a press conference on the premises of the Ministry of Foreign Affairs for foreign and local media and representatives of diplomatic missions, announcing the results of the independent investigation and confirming that Shelkovenko's death had resulted from suicide. At the press conference, the members of the observer group highly commended the conditions that had been provided for their work and the professionalism of the investigative agencies of the Ministry of Internal Affairs.

659. The following case relates to the independent inquiry conducted into the death of the convicted prisoner Samandar Abduganievich Umarov.

660. Samandar Abduganievich Umarov (born 1969) was sentenced to 17 years' imprisonment under various articles of the Criminal Code (arts. 159,112, 219 and 244, para. 1), and he died in facility UY-64/29 in the city of Navoi on 2 January 2005.

661. Umarov's death on 2 January 2005 following an illness in the Navoi branch of the emergency medical service was widely reported and aroused interest among foreign observers, provoking articles in the media.

662. In response to this, the Office of the Procurator-General set up an interdepartmental working group, which included appropriate specialists and members of international human rights organizations (Dr. Ronald Victor Suarez, chief pathologist in the Morris County Medical Examiner Office, New Jersey, United States of America; Mr. Drago Kos, president of the Council of Europe's Group of States against Corruption (prior to 1999, Deputy Director of the Criminal Investigation Directorate of the Slovenian Police and Ms. Mjusa Sever, head of the Freedom House office in Tashkent).

663. It was established that Samandar Abduganievich Umarov (born 1969), a citizen of Uzbekistan, with no previous convictions, married, had been sentenced by the Shaykhontokhur district court of the city of Tashkent on 20 June 2000 under various articles of the Criminal Code of Uzbekistan to 17 years' deprivation of liberty.

664. He was serving his sentence in the facility UY-64/29 in the city of Navoi.

665. During the inquiry, close attention was given to the possibility that some form of force might have been applied that could be deemed to be torture and have been responsible for the victim's death. The inquiry established that Umarov's death had been non-violent and was due to a haemorrhagic stroke. No injuries were found on his body.

666. A press conference was held on the matter with the participation of international observers, whose questions were exhaustively answered.

Article 13

Question 32

According to the State party report, the Central Investigations Department and the Uzbek Bar Association have drawn up regulations to implement a procedure to uphold the rights of detained accused persons. Please provide information on how these regulations have been implemented. What have prosecutors been mandated to ask suspects and convicts about their treatment and how are they reporting on this work under article 253 of the Code of Criminal Procedure? Please clarify if the prosecutor's office itself monitors their work, without external oversight and, if so, please explain how effective this approach is.

Reply

667. In conjunction with the Bar Association, the Central Investigation Department has drawn up and, since 1 October 2003, has been applying regulations to guarantee detainees', suspects' and accused persons' rights during preliminary inquiries and pretrial investigations. In addition, information stands and posters on human rights have been put on display in all internal affairs units, including penitentiary institutions in order to familiarize parties to criminal proceedings with their rights and obligations and improve legal knowledge and literacy both among the staff and among the general public.

668. In 2004, the Ministry of Internal Affairs, with financial support from the UNDP office in Tashkent and in cooperation with the National Centre for Human Rights of Uzbekistan and other relevant government agencies, published a compendium, in the Uzbek language, of the international human rights instruments ratified by Uzbekistan and pertinent to the activities of law enforcement agencies. The compendium has been circulated to the investigative agencies and correctional facilities of the Ministry of Internal Affairs.

669. Over the period 2004-2005, with the assistance of the American Bar Association and the Embassy of Switzerland, 200,000 copies of the brochure "What should you know about your rights?" were printed. The brochure is given to all individuals in detention.

670. Since 2004, the Central Investigation Department of the Ministry of Internal Affairs has been applying a system of testing officers on their knowledge of international human rights standards during certification of their skills and promotion to new positions or ranks.

671. It should be noted that the issue of the powers of procurators is not governed by article 253 of the Code of Criminal Procedure of Uzbekistan. This article of the Code refers to the placement of juveniles under the supervision of their parents, guardians, tutors and the administration of children's institutions, and the procedure for this placement is set out in

article 556 of the Code of Criminal Procedure. It is not clear whether this question is intended to refer to the rights of juvenile suspects or convicted offenders or of adults in those categories.

672. Under article 228 of the Code of Criminal Procedure, once a detained minor has been delivered to a special penal institution, he or she is segregated from adult offenders in official premises that are not custodial facilities, or is held in a cell in a temporary holding facility.

673. Under article 558 of the Code of Criminal Procedure, a minor can be placed in pretrial detention only on the grounds set out in article 236 of the Code of Criminal Procedure, and then only in exceptional cases, when the minor is charged with intentionally having committed an offence entailing a penalty of more than five years' deprivation of liberty and when other measures of restraint are not likely to ensure that the defendant will engage in appropriate conduct.

674. When authorizing the arrest of a minor, the procurator familiarizes himself or herself with the case materials, verifies the grounds for the arrest, makes sure that the case represents an exception and questions the minor being charged with the offence about the circumstances justifying this particular measure of restraint.

675. If the question relates to the powers of procurators to monitor appeals by adult convicted prisoners, over the course of 2006 and the first six months of 2007 no complaints were submitted to the procuratorial authorities by convicted prisoners regarding torture, unlawful acts or psychological and physical coercion by law enforcement personnel.

676. Pursuant to the provisions of article 3 of the Procurator's Office Act and article 17 of the Penal Enforcement Code, the procuratorial authorities exercise oversight functions designed to ensure compliance with the law. The object of such oversight is to ascertain whether or not the placement of convicted prisoners in a correctional establishment or other custodial facility is lawful; whether or not the rights and obligations of convicted prisoners as stipulated by law are being observed; and whether or not the enforcement of any non-custodial penalty is lawful. In the performance of their oversight functions, procurators give particular attention to ensuring compliance with those provisions of penal enforcement law that stipulate the legal status of convicted prisoners, living conditions and their medical care. Under article 24 of the Procurator's Office Act, for the purpose of supervising observance of the law in detention facilities, the procurator has the right at any time to visit any such detention facility, to peruse the documents on the basis of which persons are being subjected to deprivation of liberty and to conduct personal interviews with convicted prisoners.

677. Under the Procurator's Office Act, when breaches of the law come to light, the supervising procurator responds by adopting procuratorial instruments (protests, decisions, recommendations, applications or warnings) that clearly and specifically indicate the reasons and conditions conducive to the breaches of the law, and set out the steps needed to rectify them.

678. Such instruments drawn up by procurators in the exercise of their procuratorial oversight functions are binding and may be viewed as a form of external oversight vis-à-vis the agencies of the Ministry of Internal Affairs.

679. In particular, under Order No. 40 issued by the Procurator-General on 17 February 2005 concerning the radical improvement of procuratorial oversight of observance of citizens' rights and freedoms during criminal proceedings, procuratorial and investigative officials are obliged to abide strictly by and comply with the provisions of the Convention against Torture.

680. The complaints received by the procuratorial authorities from citizens reporting unlawful actions by law enforcement personnel and officials of administrative authorities may be broken down as follows:

	2002	2003	2004	2005	2006	First half of 2007
Total complaints of unlawful actions	3 059	3 277	3 427	3 070	2 275	1 144
- unlawful actions committed by internal affairs officers	2 363	2 803	2 541	2 292	1 737	874
- unlawful actions committed by procuratorial officials	121	0	115	107	51	15
- unlawful actions committed by National Security Service officers	60	97	26	15	10	0

681. The remaining complaints of unlawful actions concerned staff of other law enforcement and administrative authorities.

682. As a result of inquiries into the above complaints, criminal proceedings were brought in connection with threats and other methods of coercion (under art. 235 of the Criminal Code) in the following cases: in 2002, one case was brought against one person; in 2003, four cases against four persons; in 2004, three cases against three persons; in 2005, three cases against five persons; in 2006, six cases against nine persons; and, in the first half of 2007, three cases against four persons. A total of 20 criminal cases have been brought against 26 persons.

683. In the following cases, criminal proceedings were dropped because the allegations were not confirmed: 1,022 complaints in 2002, 1,143 in 2003, 1,878 in 2004, 1,203 in 2005, 1,313 in 2006, and 713 in the first half of 2007; the remaining cases were dismissed with explanations of the reasons for dismissal or were referred to other authorities for reasons of competence.

684. The results of the verifications of citizens' complaints in this category show that the number of law enforcement officers subjected to disciplinary measures was 543 in 2002, 653 in 2003, 343 in 2004, 301 in 2005, 134 in 2006 and 90 in the first half of 2007.

685. The number of disciplinary penalties reflects an improvement in monitoring and in the management process in law enforcement authorities. This process has been reformed and regularized with the introduction of new procedures for handling complaints and

communications submitted by citizens to law enforcement authorities as a result of the adoption of the new Citizens' Communications Act. The provision of broader opportunities for citizens to submit communications and complaints to different internal and external bodies (internal and external control) has led to an improvement in the level of professionalism and the observance of due process and human rights among law enforcement officers.

686. An analysis of the violations shows that the main reasons for the imposition of disciplinary penalties were dereliction of duty, failure to give due attention to citizens' communications and violation of procedure.

687. Together with other law enforcement agencies, the procuratorial authorities are studying the circumstances and reasons that tend to encourage unlawful criminal prosecutions and are taking the necessary steps to prevent and prohibit such action.

688. Work in this area is being carried out in cooperation with the Human Rights Commissioner (Ombudsman) of the Oliy Majlis of Uzbekistan.

689. In 18 criminal proceedings, Uzbek courts handed down convictions against 23 persons, who were sentenced to punishments of varying degrees of severity, as set out below.

690. Of these, 12 received custodial sentences, 1 a fine, 1 was sentenced to punitive deduction of earnings, 3 received conditional sentences under article 72 of the Criminal Code, 5 were pardoned under an amnesty and 1 was discharged on the grounds set out in article 65 (Acts or perpetrators no longer posing any social danger) of the Criminal Code.

691. One criminal case in this category involving one defendant is currently under consideration by the courts.

692. In addition, the investigative authorities have pressed criminal charges in absentia against two persons under article 235 of the Criminal Code, also placing them on the wanted persons list; proceedings in this case have currently been suspended under article 364, part one, paragraph 2 (Whereabouts of the accused unknown) of the Code of Criminal Procedure.

693. By way of illustration, prosecutions have been brought in the following cases for offences in this category.

694. E. Normuradov, acting chief of the crime prevention post of the Havast district internal affairs office in Syr-Darya province, acting in improper exercise of authority, arrested the citizens D. Lyumanov, Z. Bojiev, J. Tuychiev and A. Isroilov and unlawfully detained them in the internal affairs premises where, with the use of threats and physical beatings, he forced them to confess to the theft of property.

695. For these actions, Normuradov was prosecuted under articles 206 (Exceeding authority or official powers) and 235 (Use of torture and other cruel, inhuman or degrading treatment or punishment) of the Criminal Code.

696. The chief of the Angor district internal affairs office in Surkhan-Darya province, H. Malikov, was also prosecuted for comparable actions.

697. All the officials subjected to criminal prosecution for offences of this kind were suspended from their duties during the pretrial investigation.

Question 33

Please clarify the status of the plans for a mechanism described in paragraph 180 of the report to create a central register to respond to complaints of torture or other unlawful action, and the plan noted in annex 1 to assess it periodically. Has the register been established and the assessment plan implemented? Please clarify what cases have been initiated as a result of this and with what outcome.

Reply

698. In order to improve the observance of human rights and further strengthen judicial and legislative reform, Order No. 112 of 24 February 2004 of the Prime Minister approved the composition and mandate of an interdepartmental working group to monitor the observance of human rights by law enforcement agencies.

699. The interdepartmental working group includes among its members the Minister of Justice, the Procurator-General, the Minister of Internal Affairs, the president of the Supreme Court, the Ombudsman, the chief of the Central Penal Correction Department, the director of the National Centre for Human Rights of Uzbekistan and the head of the National Security Service.

700. Pursuant to the Order, the tasks of the interdepartmental working group are to monitor and analyse information on the observance of human rights by law enforcement bodies, to register and appraise complaints against law enforcement officials for the use of torture and other unlawful actions, to consider proposals relating to human rights from ministries, departments and non-governmental non-profit organizations and international organizations, and to draft proposals for improving legislation.

701. The interdepartmental working group coordinates the execution of the National Programme of Action to Implement the Convention against Torture, adopted in 2004 by the Government of Uzbekistan.

702. According to the Ministry of Internal Affairs Order No. 43 of 7 February 2003 on the procedure for considering complaints and applications from citizens received by officers of the internal affairs system, the Ministry of Internal Affairs continuously monitors the exercise by citizens of their right to submit complaints.

703. Pursuant to the Citizens' Communications Act, the procuratorial authorities exercise procuratorial oversight to ensure fulfilment of the requirements of the act and, where breaches are identified, take appropriate action in keeping with their oversight powers. From time to time, analyses and summaries are prepared of the work performed by ministries and departments in considering complaints from citizens and this work is discussed at official meetings.

704. In particular, under Order No. 40 issued by the Procurator-General on 17 February 2005 concerning the radical improvement of procuratorial oversight of observance of citizens' rights and freedoms during criminal proceedings, procuratorial and investigative officials are obliged to abide strictly by and comply with the provisions of the Convention against Torture.

705. Submissions by citizens complaining about measures of restraint are considered by the procuratorial authorities, however, given their exceptional nature and importance in ensuring the exercise of human rights.

706. In addition, every three months the procuratorial authorities analyse applications, complaints and communications reporting unlawful acts by law enforcement officials, including the use of torture. In 2006 and the first six months of 2007, following such analyses, letters were sent to the offices concerned giving guidance and directing the persons concerned to abide strictly and scrupulously with the provisions of the Convention against Torture.

707. The Presidential Decree of 1 August 2005 abolishing capital punishment in the Republic of Uzbekistan, and the Presidential Decree of 8 August 2005 transferring to courts the authority to order remand in custody, are expressly designed to meet Uzbekistan's international obligations to uphold human rights in the administration of justice.

708. As part of the implementation of the National Programme of Action to follow up on the recommendations of the Special Rapporteur on the question of torture, the Ministry of Internal Affairs has strengthened the requirements for internal affairs officers to comply strictly with the law and guarantee citizens' rights, both at the initial inquiry and investigation stages and in places of detention, and to prohibit any coercion of citizens.

709. The procedure for handing individuals into the custody of the law enforcement authorities, detaining suspects and strictly observing the right to defence counsel has been reformed.

710. A key element in the implementation of the above measures was the development in 2004 by the Ministry of Internal Affairs of a strategy to strengthen the rule of law and ensure the observance of human rights by the internal affairs authorities, through the following measures:

(a) Reforming the process of detention and preventing instances of arbitrary detention and handing over of suspects to the law enforcement authorities;

(b) Observing due process (including compliance with all Miranda rights) for detained persons (explaining their rights, providing effective defence counsel, notifying family members or close relatives of the detention, etc.);

(c) Conducting thorough, independent investigations, with the involvement of representatives of the general public, of communications reporting the use of torture against persons who have been detained or arrested;

(d) Ensuring transparency in the activities of the law enforcement authorities;

(e) Improving legal knowledge and culture among internal affairs officers.

711. In line with these measures, staff of the Ministry of Internal Affairs conduct seminars for internal affairs personnel at the local level, including site visits; the seminars cover the practical application of the legal requirements regarding the observance of human rights, not only during the initial inquiry and pretrial investigation stages, but in all activities of the internal affairs authorities.

712. Similar lectures are delivered at meetings with the public in institutions, organizations, enterprises and educational establishments.

Question 34

In light of the allegations received by the Committee that witnesses have been beaten into agreeing with the official Government account of the events in Andijan and concerns about torture in relation to the trials, how is the State party ensuring that all such claims are promptly and effectively investigated?

Reply

713. The information cited in the above question is not consistent with the facts.

714. The trials of the persons involved in the Andijan events were conducted in full conformity with the provisions of the Code of Criminal Procedure. During the proceedings, attention was given to the possible use of torture against the defendants, but no evidence of the uses of torture was found.

715. According to criminal procedural law, witnesses may not be held in detention during the investigation and trial of criminal cases; they are summoned to appear by the investigator or the court.

716. The allegations that the witnesses involved in the Andijan events had been detained and subjected to torture are incorrect since they are based on information from unreliable sources. During the pretrial investigation and the trial, neither the witnesses nor the victims lodged any complaints that they had been subjected to any kind of pressure, including torture.

Article 14

Question 35

Please provide information on the number of torture victims who have received compensation for torture and the levels of compensation provided. Please also provide information on those persons convicted of torture, the sentences received, the articles of the Criminal Code under which they are charged, and whether such persons once they have completed their sentences have returned to law enforcement posts. Please provide information on any measures taken to provide rehabilitation to victims of torture with physical or psychiatric conditions.

Reply

717. Over the period from 2004 to the first half of 2007, following criminal proceedings relating to the use of torture and other cruel, inhuman or degrading treatment or punishment (Criminal Code, art. 235), 26 persons are deemed to have been victims of such practices (9 in 2004, 5 in 2005, 10 in 2006 and 2 during the first six months of 2007). There are no records of such persons having filed suits for compensation for physical and moral harm.

718. Over the period 2003-2006 and the first half of 2007, the procuratorial authorities instituted criminal proceedings against 25 officers of the law enforcement services under article 235 of the Criminal Code (four in 2003, three in 2004, five in 2005, nine in 2005 and four during the first six months of 2007). Rulings were handed down by the courts in all cases in accordance with Uzbek law.

Criminal proceedings brought by the procuratorial authorities over the period 2003-2007 under article 235 of the Criminal Code of Uzbekistan

	2003	2004	2005	2006	First half of 2007	Total
Against officers of the law enforcement agencies	4	3	5	9	4	25

719. In 18 criminal proceedings, Uzbek courts handed down convictions against 23 persons, who were sentenced to punishments of varying degrees of severity, as follows:

(a) 12 received custodial sentences, one a fine, one was sentenced to punitive deduction of earnings, three received conditional sentences under article 72 of the Criminal Code, five were pardoned under an amnesty and one was discharged on the grounds set out in article 65 (Acts or perpetrators posing no social danger) of the Criminal Code;

(b) One criminal case in this category involving one defendant is currently under consideration by the courts;

(c) The investigative authorities have pressed criminal charges in absentia against two persons under article 235 of the Criminal Code, also placing them on the wanted persons list; proceedings in this case have currently been suspended under article 364, part one, paragraph 2 (Whereabouts of the accused unknown) of the Code of Criminal Procedure;

(d) The following are examples of prosecutions brought against law enforcement officers for offences in this category;

(e) E. Normuradov, acting chief of the crime prevention post of the Havast district internal affairs office in Syr-Darya province, acting in improper exercise of authority, arrested the citizens D. Lyumanov, Z. Bojiev, J. Tuychiev and A. Isroilov and unlawfully detained them in the internal affairs premises where, with the use of threats and physical beatings, he forced them to confess to the theft of property;

(f) For these actions, Normuradov was prosecuted under articles 206 (Exceeding authority or official powers) and 235 (Use of torture and other cruel, inhuman or degrading treatment or punishment) of the Criminal Code;

(g) The chief of the Angor district internal affairs office in Surkhan-Darya province, H. Malikov, was also prosecuted for comparable actions. All officials subjected to criminal prosecution for offences of this kind were suspended from their duties during the pretrial investigation;

(h) During the reporting period, there were no cases of persons who have served sentences under article 235 of the Criminal Code being reinstated in their posts.

Question 36

According to the State party, in 2003, in an effort to improve compensation for torture victims, 850 million sum and US$ 450,000 were paid in compensation. What kinds of cases were involved? Please also provide figures for the period 2003-2006.

Reply

720. It is not possible to provide figures on compensation paid over the period 2003-2006 to torture victims for physical and moral harm, since no cases are recorded in the civil court proceedings of applications to the courts for the payment of compensation or of the actual payment of such compensation.

Article 15

Question 37

Please indicate what specific measures have been taken to ensure in practice the absolute respect for the principle of inadmissibility of evidence obtained by torture, and the review of cases of convictions achieved solely on confessions. Please provide examples of any cases that have been dismissed due to the introduction of such evidence or testimony, or as a result of such review. In which cases, if any, have the 24 September 2004 decisions of the Supreme Court been specifically implemented (paragraph 168 of the report) and where have criminal proceedings been brought against those responsible (paragraph 169 of the report)? Please provide details.

Reply

721. The ordinary courts of Uzbekistan have been making a sustained effort to apply the provisions of the Convention against Torture and the National Programme of Action to implement them.

722. The logical next step in ensuring observance of human rights was the adoption by the plenum of the Supreme Court of Uzbekistan on 24 September 2004 of a decision on certain issues arising in the application of criminal procedural law relating to the admissibility of evidence, which provides that evidence obtained by a person conducting an initial inquiry, an investigator, a procurator or a judge who, for whatever reason, deviates from strict observance of and compliance with the rules of law, shall be deemed inadmissible. Inadmissible evidence covers, in particular, testimony, including confessions obtained by the use of torture, violence or other cruel, inhuman or degrading treatment, or by deception or other unlawful methods. The plenum drew courts' attention to the need to react to any violations of the procedural law governing the collection of evidence by adopting specific rulings (decisions) on the matter and, where necessary, ruling whether or not to institute criminal proceedings against the guilty parties.

723. Between 2004 and 2007, during the period following the adoption in 2003 and 2004 of these decisions by the plenum of the Supreme Court, the courts referred some 50 criminal cases back for further investigation after evidence had been found inadmissible because it had been obtained by means of torture, violence or deception.

724. In particular, following a ruling by the Chirakchi district criminal court in Kashka-Darya province on 12 July 2005, criminal proceedings against the brothers Akbar and Anvar Pardaev were referred back for further investigation on the grounds that, during the pretrial investigation, they had been charged with stealing two head of cattle solely on the basis of their confessions; however, at the end of the pretrial investigation and throughout the hearing of the evidence, the defendants retracted their initial confessions, which they said had been obtained under physical and psychological coercion by police officers. As a result, the evidence obtained during the pretrial investigation was declared inadmissible by the court.

725. In another decision by the same court on 4 March 2005, criminal proceedings against C. Berdiev, Z. Xujamshukurov and N. Mengliev, charged with stealing five head of cattle, were also referred back for further investigation. During the pretrial investigation, Berdiev had denied the charges against him. At the hearing, Xujamshukurov and Mengliev, who had admitted their guilt, retracted their initial testimony on the grounds that they had confessed under physical and psychological coercion by militia officers, and had been forced to implicate Berdiev in the offence. At the same time, witnesses questioned in the case refuted the allegations made by the prosecution, and the evidence obtained in the investigation was declared inadmissible. Special rulings were handed down against the militia officers, and the criminal proceedings against the aforementioned individuals were subsequently dropped.

726. In recent years, there have been no records in the files of the Supreme Court of convictions handed down solely on the basis of confessions by the defendants being reviewed or being dismissed in appeal proceedings because of the inadmissibility of evidence obtained by torture.

Article 16

Question 38

Please provide information on reports that the State party routinely refuses to provide information on the details of executions to the relatives of persons who have been executed, or to promptly issue a death certificate and/or to reveal the place of burial when prisoners are executed. What is the latest development on proposals to declassify the secrecy of the date of execution and place of burial of those executed? For what crimes has the death penalty been imposed? Please provide precise numbers of those executed between 2000 and 2004, since the State party report and annex 2 merely indicate that the number "has fallen" by nearly 90 per cent during that period. Please also provide the numbers of persons executed in each year since 2004.

Reply

727. In reply to reports that Uzbekistan routinely refuses to provide information on the details of executions to the relatives of persons who have been executed and other such claims, we wish to state that, under Uzbek law, the bodies of convicted prisoners who have been executed are not handed over to their families, nor are the families informed of the place of their burial.

728. The law currently in force does not provide for relatives to be informed in advance of the date of execution, with a view to preventing protests on that day.

729. Responsibility for informing close relatives that an execution has taken place rests with the court that handed down the sentence.

730. We should also like to state that the allegations cited in the question to the effect that the families of persons sentenced to death remain unaware of the fate of their relatives for years following the execution are unfounded, since persons sentenced to death are entitled to monthly meetings with their relatives.

731. Following the issuance in August 2005 of the presidential decree abolishing capital punishment in Uzbekistan, the death penalty has not been applied as a penal measure by the country's courts, nor have any executions taken place in Uzbekistan since that time.

Question 39

Please indicate whether the State party plans to ratify the Optional Protocol to the Convention against Torture.

Reply

732. The issue of Uzbekistan's accession to the Optional Protocol is currently under consideration by government bodies.

733. In particular, with the support of the UNDP office in Uzbekistan:

(a) In January 2006, Parliament conducted an exercise to check compliance with the Convention against Torture by law enforcement agencies and facilities of the penal correction system in the city of Tashkent and Tashkent province;

(b) In June 2006, a three-day theoretical and practical seminar on incorporation of the Convention against Torture into the domestic law of Uzbekistan was held, with the participation of members of Parliament, law enforcement officials, lawyers, researchers and academics, and representatives of civil society institutions;

(c) In December 2006, the Committee on International Affairs and Interparliamentary Relations of the legislative chamber of the Oliy Majlis of Uzbekistan organized a round table on improving legislation for the implementation of the Convention against Torture;

(d) In August 2007, in the town of Beldersay in Tashkent province, a workshop was held for deputies of the legislative chamber of the Oliy Majlis on the topic of the Optional Protocol

and parliamentary monitoring of execution of the National Programme of Action to implement the Convention against Torture. The workshop was attended by 70 deputies of the legislative chamber.

734. During the measures outlined above, participants discussed specific aspects of implementation of the Convention against Torture, including ratification by Uzbekistan of the Optional Protocol.

Question 40

Please indicate why the State party's working group for the preparation of the third periodic report does not appear to include independent non-governmental human rights organizations. In view of reports that numerous international non-governmental organizations were closed down by the authorities in 2006, and that at least a dozen human rights defenders have been convicted, allegedly on politically motivated charges, please clarify why the State party decided not to involve them in the Working Group.

Reply

735. The assumption that the working group for the preparation of Uzbekistan's third periodic report on implementation of the provisions of the Convention against Torture (CAT/C/UZB/3) did not include any members of independent non-governmental human rights organizations is unfounded.

736. Representatives of a range of independent non-governmental human rights organizations, such as the Judges' Association of Uzbekistan, the Bar Association of Uzbekistan, the Ijtimoiy Fikr Public Opinion Research Centre and others were extensively involved in preparing Uzbekistan's third periodic report on implementation of the Convention against Torture.

737. In preparing its replies to the Committee's additional questions, participation was also enlisted of such independent non-governmental human rights organizations as the Independent Human Rights Organization of Uzbekistan, the Women's Committee of Uzbekistan, the Centre for the Study of Human Rights and Humanitarian Law, and others.

738. Independent non-governmental human rights organizations also took part in preparing the National Programme of Action to follow up on the recommendations of the Special Rapporteur on the question of torture, Mr. Theo van Boven.

739. The allegations that a number of international non-governmental organizations were shut down in 2006 are at variance with the facts. Non-governmental organizations are established and dissolved in strict compliance with the procedure laid down in the domestic law of Uzbekistan.

740. There is no such concept as "human rights defender" in Uzbek law. All non-governmental organizations may be considered to some extent or other to be human rights-related, inasmuch as they express and defend the interests of specific categories of the population.

Question 41

Please inform the Committee of any legislative, administrative and other measures the Government has taken to respond to the threat of terrorism, and please indicate if, and how, these measures have affected human rights safeguards in law and practice.

Reply

741. In order to respond to the threat of terrorism, acts have been adopted in Uzbekistan on combating terrorism (1999) and countering the laundering of income from criminal activities and on the funding of terrorism (2004), Uzbekistan has ratified the International Convention against the Taking of Hostages (1998),[1] the Shanghai Convention on Combating Terrorism, Separatism and Extremism (2001), the International Convention for the Suppression of Terrorist Bombings (2001) and the International Convention for the Suppression of the Financing of Terrorism (2002).

742. Special counter-terrorism units have been set up within the Ministry of Internal Affairs and the National Security Service. In 2004, a regional counter-terrorism centre of the Shanghai Cooperation Organization was opened in Tashkent.

743. In application of the above counter-terrorism laws, a number of specific departmental and interdepartmental regulatory instruments have been adopted that set out more detailed provisions on efforts to combat terrorism.

744. All the above measures are intended to provide guarantees of human rights both under law and in practice. In putting them into effect, the principle of upholding human rights and freedoms has been rigorously observed.

745. A range of educational and awareness-raising work is also under way in Uzbekistan to foster public vigilance. In particular, there are regular broadcasts, public service announcements and other types of educational programmes on radio and television, designed to further the fight against terrorism. Special courses are held in Uzbek schools and colleges on countering extremism and terrorism.

---

[1] Date of entry into force for Uzbekistan.