



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

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COMMITTEE AGAINST TORTURE

Thirty-ninth session

SUMMARY RECORD OF THE 792nd MEETING

Held at the Palais Wilson, Geneva,
on Monday, 12 November 2007, at 3 p.m.

Chairperson: Mr. MAVROMMATIS

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Third periodic report of Uzbekistan (CAT/C/UZB/3; CAT/C/UZB/Q/3 and Add.1;
HRI/CORE/1/Add.129) (continued)

1. At the invitation of the Chairperson, the members of the Uzbek delegation resumed their places at the Committee table.
2. The CHAIRPERSON asked the summary record to note that Ms. M.S. Belmir apologized to the Uzbek delegation for being unable to attend the current meeting, but would study its replies to the questions she had raised at the previous meeting.
3. Mr. KANYAZOV (Uzbekistan) reaffirmed Uzbekistan's desire to strengthen its cooperation with the United Nations treaty bodies and to do its utmost to implement their recommendations. Noting that Uzbekistan was a young State whose legal system was still under construction, he said that no effort was being spared to establish a judicial framework enabling acts of torture to be effectively punished. The experience of other States parties to the Convention and their legal systems was a valuable source of information in that regard.
4. Mr. SHARAFUTDINOV (Uzbekistan) said that, under the Code of Criminal Procedure, no judgement could be based solely on confessions. Moreover, an accused person could retract his statement at any point in the procedure and declare that his confession had been extorted by torture or other illegal methods. In such cases, it was obligatory to request an expert forensic report and a further investigation. If an accused person's allegations of the use of torture or other illegal methods were found to be justified, the court declared the original confessions inadmissible and ordered proceedings to be taken against those responsible for the offences established.
5. Mr. KANYAZOV (Uzbekistan) said that Uzbekistan was deeply attached to the promotion of tolerance and peaceful coexistence among the country's different religious communities. Freedom of worship was guaranteed; the religious holidays of the various denominations in the country were celebrated freely and the State contributed to the organization of pilgrimages to holy places every year. There were more than 2,000 religious organizations in Uzbekistan, representing 16 different faiths. They had a legal status and their rights and obligations were defined by law. In particular, they were subject to provisions prohibiting any form of extremism or activity likely to stir up hostility between the different religious communities, threaten State security, disturb public order or offend against public morality. Consequently, the use of religion for one of the purposes mentioned was a punishable offence.
6. Mr. SHARAFUTDINOV (Uzbekistan), referring to the deficiencies in the arrangements for medical care and food in prisons, said that the measures for liberalization and improvement of the sentence enforcement system which had been introduced in 2003 had enabled considerable progress to be made with regard to physical conditions in prisons. The changes made in investigation and trial procedures and the lighter penalties imposed as a result had led to a

substantial reduction in the prison population, with the occupancy rate in the penal colonies currently standing at less than 60 per cent. That created an environment conducive to improving medical and health conditions and food for the prisoners. Active cooperation had been established in that area with many international intergovernmental and non-governmental organizations.

7. There seemed to have been a misunderstanding regarding the frequency of inspections in custodial establishments. The five-year schedule referred to earlier related solely to planned inspections for the purposes of prison management, to check on the organization of work and evaluate the professional conduct of prison governors. There was no timetable for inspections of places of detention designed to verify the lawfulness of detention conditions and their conformity with international human rights standards; such inspections could be carried out impromptu, on the initiative of the Ministry of Internal Affairs, the Procurator-General's Office or the Ombudsman.

8. Ms. BAKAEVA (Uzbekistan) said that the Ombudsman had extensive powers. He could submit to Parliament draft laws or amendments that he deemed necessary to strengthen human rights protection, and worked towards the establishment of a human rights culture in Uzbekistan in cooperation with various international organizations through numerous information and awareness-raising activities. He examined complaints from citizens and verified the arguments and facts on which they were based. To that end, he could conduct independent investigations with the assistance of a group of experts constituted by himself, whose conclusions served as a basis for formulating recommendations which he transmitted to judicial bodies and to the Government. In general, those recommendations were duly taken into consideration, even though they were not binding.

9. The Ombudsman was also very active with regard to the protection of women's rights. In addition to activities of the kind previously mentioned (awareness-raising, submission of draft legislation and examination of complaints) he periodically reviewed the implementation of laws on the protection of women's rights. The Ombudsman had regional representatives who acted on his behalf in all Uzbek provinces and in the Republic of Karakalpakstan.

10. Mr. SHARAFUTDINOV (Uzbekistan) said that the grounds on which it might be decided not to institute legal proceedings following a complaint were set out in the Code of Criminal Procedure: in cases where, after verification of the facts mentioned in the complaint, nothing was detected that constituted an offence, there was no justification for instituting proceedings. In other words, complaints that were not followed up by proceedings, including those involving allegations of torture, had been established as being unfounded.

11. It had been asked whether criminal proceedings could be instituted if the competent authorities failed to observe their obligation to examine all complaints. When a complaint of any kind had not been duly examined, legal proceedings could be instituted. Under the law on individual complaints, any complaint, whatever its object, must be examined thoroughly and impartially within the prescribed time limits. Any breach of that provision was prosecutable under article 208 of the Criminal Code for failure to act. During the first half of 2007, criminal proceedings had been brought against four officials on that ground.

12. With regard to the right to compensation, the Civil Code contained an entire chapter on procedures for compensation for moral injury. Victims of acts of torture could invoke those provisions to obtain reparation.

13. The allegations that law enforcement personnel had beaten up witnesses to the events at Andijan in May 2005 to compel them to make statements corroborating the official version of events given by the authorities were totally false. The facts as related by the authorities were borne out by five video recordings made by the terrorists themselves, in which they could be seen torturing and executing hostages. Those recordings had been viewed during the hearing and shown to the visiting European experts. Most of those who had made statements had been relatives of the terrorists' victims; they had testified of their own free will, with the sole aim of ensuring that justice was done.

14. A question had been put regarding the outcome of 50 criminal cases of alleged obtaining of evidence through torture. It had not been possible to obtain precise information on the action taken on each of those cases but it should nevertheless be noted that, by virtue of several final and enforceable judgements of the Supreme Court, all evidence obtained by other than legal means had no legal value and was thus inadmissible. Accordingly, evidence obtained through torture, coercion, deceit or cruel or degrading treatment of any kind, through illicit measures or in violation of the right of the suspect or accused to due process could not be taken into account. Pursuant to those judgements, the courts had referred a number of cases for further investigation after evidence had been declared inadmissible on being found to have been obtained through torture, coercion or deceit.

15. Mr. KANYAZOV (Uzbekistan) said that the pre-eminence of the provisions of international instruments was laid down in the Constitution and confirmed by the Criminal Code, the Civil Code and other legislative texts in Uzbekistan. At the same time, the Government was taking steps to try and bring its domestic law into line with international law. Major preparatory work had been done with a view to incorporating the right of habeas corpus into domestic law in pursuance of a presidential decree of 2005 transferring to the courts the authority to order remand in custody, which should enter into effect on 1 January 2008. In that connection, amendments had been made to the Code of Criminal Procedure, the Penal Correction Code, the Courts Act and the Procurator's Office Act; wide-ranging explanatory and information efforts based on international experience in that field had been undertaken with the staff of law enforcement bodies, jurists, lawyers and law students, and training courses on the new procedure had been introduced for judges, procurators, examining magistrates and prison staff.

16. Furthermore, a whole range of measures had been taken with a view to effectively abolishing the death penalty. In addition to the establishment of an appropriate legislative framework and extensive efforts to inform and sensitize the population, organization and training measures had been introduced to create the necessary conditions for the detention of persons whose death sentence would be commuted to one of life or long-term imprisonment and to train staff for work in the new penal colonies that would be established.

17. Mr. SHARAFUTDINOV (Uzbekistan) said that the specialization of the courts and the strengthening of judges' independence were also important elements in the judicial reform, whose positive impact on the administration of justice was already evident. Replying to the

question as to whether the expansion of the courts' powers was not likely to create confusion between the respective powers of the Ministry of Justice, the Ministry of Internal Affairs and the Procurator-General's Office, he said that there was no danger of any confusion, since the functions and powers of each of those bodies were clearly defined in very distinct instruments.

18. Mr. DJASIMOV (Uzbekistan) said that article 235 of the Criminal Code, which prohibited acts of torture and other cruel, inhuman or degrading treatment or punishment, applied to all members of the law enforcement bodies - persons carrying out an initial inquiry or pretrial investigation, procurators or other employees of law enforcement agencies or penal institutions. If an offence covered by article 235 was committed not by one of the previously mentioned persons but rather, for instance, by a teacher or private individual, the act would be categorized in accordance with the appropriate articles of the Criminal Code. If the offence was committed at the instigation of or with the consent or acquiescence of one of the State officials concerned, his action would 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 235 and other relevant clauses of the Criminal Code.

19. Concerning the non-institution of proceedings for complaints of acts of torture, it had already been stated that all complaints must be examined thoroughly and impartially, on pain of criminal prosecution. If the procedural rules were violated, for example if a suspect was not informed of his rights or the prescribed time limit for examining the complaint was not respected, disciplinary measures could be taken against the official concerned. An official who refused to investigate a justified complaint incurred criminal responsibility.

20. With regard to the handling of complaints of acts of torture, the Supreme Court had expressly obliged the competent authorities to systematically verify them and, where appropriate, to institute criminal proceedings against the perpetrators of the acts concerned.

21. The continuation in office or suspension of officials alleged to have committed illegal acts was examined on a case-by-case basis, depending on the nature of the offence of which they were accused. In alleged cases of torture, the officials implicated were suspended.

22. It had been asked why no action had been taken on the 30 complaints filed by Ms. Tojibaeva. Each of those complaints had been rigorously examined. Each had been identical to the previous one and consequently provided no new information to justify reopening the case; accordingly, there was no basis for reviewing the sentence imposed on Ms. Tojibaeva in 2006.

23. He contested the allegations by non-governmental organizations (NGOs) that cases of torture were frequent, and hence the provisions of the Convention were not respected, in Uzbekistan. In fact, specific measures were taken to ensure compliance with article 26 of the Constitution, according to which no one could be subjected to torture, violence or other cruel or degrading treatment (written replies, para. 350), and article 235 of the Criminal Code, which made torture a criminal offence. Conditions of access by civil-society organizations to penal colonies were governed by the Code of Criminal Procedure and the special instruction issued on 20 November 2004 by the Ministry of Internal Affairs, which authorized members of the diplomatic corps and representatives of international organizations, local NGOs and the media to visit penitentiary institutions.

24. MR. KANYAZOV (Uzbekistan), responding to the allegations that more than 200 local and international human rights organizations had been forced to close their offices, said that only 19 organizations had been ordered by the courts to cease their activities, while 12 foreign NGOs had voluntarily closed their offices. There was no basis for concluding that the Uzbek Government was hostile to human rights organizations: indeed, the steady increase in the number of NGOs clearly showed that not to be the case. In 2005, a national association of non-profit-making NGOs and a support fund had been set up, which gave grants to a number of organizations every year. In January 2007, a new law on protection of the activities of non-profit-making NGOs had been adopted. Lastly, he emphasized that most NGOs were currently in order with the authorities.

25. As indicated previously, a plan of action for implementing the Committee's conclusions and recommendations had been adopted in 2004. Practically all the measures provided for in that plan had already been applied. However, the Uzbek Government did not intend to stop there but was planning a major effort to improve the system of criminal proceedings, combat crime, incorporate international standards in domestic law and bring the activities of law enforcement bodies fully into line with international standards.

26. MR. SHARAFUTDINOV (Uzbekistan), referring to the Khamraev case, said that Mr. Khamraev had indeed been urgently admitted to hospital on 8 August 2007, but that subsequent inquiries had shown that the bodily injuries noted on his arrival in hospital resulted from wounds which he had accidentally inflicted on himself at home. In view of Mr. Khamraev's refusal to undergo a medical examination, it had not been possible to assess the seriousness of those injuries. The truth of his allegations, according to which a police officer had watched him being beaten up without intervening, had not been demonstrated. More generally, a police officer who failed to intervene when an individual was being maltreated right in front of him faced criminal prosecution.

27. With regard to access to a lawyer by persons taken into custody, in October 2003 the Ministry of Internal Affairs had introduced a regulation drawn up in cooperation with the Uzbek Bar and designed to guarantee the rights of detainees, suspects and accused persons during the initial inquiry or pretrial investigation, including the right of access to a lawyer. Should the lawyer find his client to have been the victim of violations, he reported the matter to the department responsible for the investigation and, if no action was taken, he could take the case all the way up the hierarchy to the Minister of Internal Affairs.

28. MR. DJASIMOV (Uzbekistan) said that, in the Umarov case (written replies, paras. 139 and 140), the accused had been defended by three lawyers, whom he had engaged at his own expense, while in the Zainabitdinov case, the suspect had had a lawyer appointed by the court. None of the defence lawyers had noted that his client had been maltreated while in custody or pretrial detention. Experts from the European Commission had met the men concerned after their sentencing, as well as their lawyers, and had reached the conclusion that the rights of the defence had been fully respected.

29. MR. SHARAFUTDINOV (Uzbekistan) said that the complainant in the Tojibaeva case had had as many as five lawyers. If a suspect did not have a lawyer, one could be requested from the investigating authority through an NGO, and the matter was generally settled within 24 hours.

30. MR. DJASIMOV (Uzbekistan) noted that, under article 19 of the Code of Criminal Procedure, a trial could be held in camera if the security of the parties to the proceedings and the witnesses so required. In the case of the trial of the ringleaders of the Andijan disturbances, the initial hearing had been public and had been attended by representatives of diplomatic missions and the media. The following hearings, including that of Mr. Zainabitdinov, had been held in camera in order to protect all the parties to the proceedings - both the relatives of the victims and the relatives of the accused - and they had taken place in Tashkent rather than Andijan since the terrorists had still been in possession of many firearms and grenades at that time and the witnesses had been unwilling to make statements for fear of reprisals. However, the allegations regarding the holding of secret trials were totally without foundation.

31. Mr. KANYAZOV (Uzbekistan) said that bodies for the defence of human rights had been set up within the law enforcement organs, the Ministry of Justice, the Ministry of Internal Affairs and the Procurator-General's Office and that anyone, whether Uzbek or foreign, who claimed to be the victim of a violation of his rights could lodge a complaint with one of those bodies or their regional offices. Consequently, Mr. Zainabitdinov and Ms. Tojibaeva were fully at liberty to lodge a complaint with those bodies should they so wish. The activities of those bodies were supervised by the organs to which they were accountable, as well as by the Parliament and the President.

32. With regard to the presidential decrees relating to the introduction of habeas corpus and to abolition of the death penalty, Parliament had adopted the appropriate implementing legislation, and those decrees should come into force on 1 January 2008.

33. As to whether persons committing acts of torture enjoyed impunity in Uzbekistan, he noted that torture was prohibited by the Constitution and other domestic laws. As was shown by the statistics previously provided to the Committee on prosecutions of law enforcement personnel, Uzbekistan in no way tolerated torture and was determined to combat and prevent it.

34. Mr. DJASIMOV (Uzbekistan), referring to the group of Uzbeks who had been extradited to Uzbekistan by Kyrgyzstan, said that the persons concerned were suspected of having assassinated the Andijan Procurator and that the Uzbek Government had given the Kyrgyz Government assurances that they would not be subjected to torture after their extradition. Those commitments have been respected and the individuals concerned had been brought to justice and sentenced to prison terms.

35. As to the alleged forced deportation of Uzbek refugees who had fled the country following the events at Andijan, the 63 refugees had come back from the United States of their own free will, and none of them had been prosecuted following their return.

36. Mr. SHARAFUTDINOV (Uzbekistan), referring to the case of Ms. Tojibaeva, said the allegations that she had been subjected to psychological pressure and forced to take psychotropic substances were totally without foundation. According to the medical diagnosis, Ms. Tojibaeva had been suffering from neurasthenia. She had been prescribed vitamins and a tranquillizer, which she had refused to take.

37. With regard to the 29 officials dismissed from office in pursuance of disciplinary sanctions, he emphasized that the acts punished had in no case been acts of torture. If those officials had been suspected of such acts, they would have been prosecuted.

38. Mr. DJASIMOV (Uzbekistan) said that confessions were only deemed admissible if they were made voluntarily. Statements obtained through torture or other illegal means could not be used as evidence.

39. Mr. KANYAZOV (Uzbekistan), referring to the plurality of functions - oversight and prosecution - of the Procurator-General's Office, said that the Office was not the only investigating body and that 80 per cent of preliminary inquiries were conducted by the Ministry of Internal Affairs or the National Security Service. Under the new legislative provisions recently introduced, some functions of the Procurator-General's Office were to be transferred to the courts and, as part of the ongoing work of reforming the judicial machinery, it was planned to modify the Procurator-General's investigative powers.

40. Mr. DJASIMOV (Uzbekistan) said that the four human rights defenders arrested and tried following the events at Andijan, namely Mr. Karamatov, Mr. Turlibekov, Mr. Kadirov and Mr. Formonov, had been sentenced for offences unrelated to human rights activities, in particular for embezzlement, extortion, tax evasion and vandalism. They had all benefited from due process and there was no reason for the courts to review their decision.

41. The allegations that several persons arrested following the Andijan disturbances had been sent to secret detention centres were unfounded: after their arrest, the suspects had been placed in pretrial facilities for the duration of the investigation conducted by the Procurator-General, and their relatives had been informed of the place where they were held.

42. Mr. SHARAFUTDINOV (Uzbekistan) said that Imam Fakhrutdinov, a Wahabite fundamentalist, had been prosecuted, inter alia, for participating in terrorist attacks committed at Tashkent in February 1999 and had been sentenced to 17 years' rigorous imprisonment in September 2006. As for the 16 Uzbeks who had allegedly disappeared in Kazakhstan, the Uzbek delegation was not in a position to provide information about them unless the Committee could supply their names.

43. In his delegation's view, closure of the Zhaslyk penal colony, which had been recommended by the Special Rapporteur on the question of torture following his 2002 visit, was no longer necessary since, as indicated by the information provided in the written replies (paras. 488-519), detention conditions in that institution had been brought into line with international standards, as various representatives of international organizations had been able to establish on the spot. There were no restrictions on visits to that institution, and the Uzbek Government had no objection to members of the Committee visiting that penal colony if they so wished. In fact, 74 visits had been organized over the last two years, with the participation of representatives of international organizations and members of diplomatic missions.

44. Following the deaths in custody of A.Y. Shelkovenko and S. Umarov (written replies, para. 651), an investigation had been carried out with the assistance of two forensic experts

from the United States and Canada, who had concluded that the two men had committed suicide, thus confirming the results of the initial autopsy. However, the case was an exceptional one, and the authorities were not planning to have any further recourse to the services of foreign experts, since the country has many perfectly well-qualified forensic doctors.

45. The Procurator-General's Office, the Ministry of Internal Affairs and the National Security Service and their regional offices maintained a special register of complaints for acts of torture. An inventory of complaints was drawn up every month, and their results were analysed and then recorded in a central register.

46. Mr. DJASIMOV (Uzbekistan) said that a bill on refugees was under consideration and should be adopted by Parliament in the near future. Extradition decisions lay within the competence of the Procurator-General's Office, but it only extradited someone after receiving diplomatic assurances from the requesting State that the person would not be subjected to torture in the country concerned.

47. Mr. SHARAFUTDINOV (Uzbekistan) acknowledged that the obligation to obtain a visa for travel within the country was an impediment to freedom of movement. However, the Uzbek Government planned to issue biometric passports as from 2010, which would solve the problem.

48. Mr. KANYAZOV (Uzbekistan) said that the conditions for the appointment of judges were specified in the Courts Act, as amended in 2000. Supreme Court and Constitutional Court judges were appointed by Parliament for a five-year term. Judges of the lower and regional courts were appointed exclusively by the President of the Republic, on the proposal of a commission of jurists responsible for selecting candidates.

49. Regarding the punishment of crimes against humanity under internal law, one section of the Uzbek Criminal Code was specifically devoted to attacks on the human person, and some 50 acts constituting crimes against humanity, such as premeditated murder, rape and trafficking in persons, were specified as offences under the Code. As to the National Security Service, its activities were regulated by the Government and its members underwent obligatory training in the field of law, among others. Like all State officials, they were required to respect the laws, including those prohibiting the use of torture.

50. His delegation was not familiar with the case of the 21 Uzbeks expelled by Norway, as mentioned by Mr. Wang Xuexian. It would like to have fuller information on the case so as to be able to provide the Committee with clarifications. His delegation did not know of any Uzbek national having been deported by Norway to date.

51. With regard to trafficking in human organs and in persons, he said that article 135 of the Criminal Code, which made trafficking an offence, was currently being reviewed with the aim of bringing it into line with the provisions of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Uzbekistan was planning to accede to that Protocol and had already begun to prepare a bill on action to combat trafficking.

52. Mr. SHARAFUTDINOV (Uzbekistan) said that visits had recently been organized to the penal colonies at Boukhara and Talaksai, a village situated in the vicinity of Tashkent, for participants including representatives of civil society. Moreover, staff of the Ijtimoiy Fikr Public Opinion Research Centre (written replies, para. 736) had visited detention centres on several occasions and had ascertained the prisoners' views about their conditions.

53. Under the internal police regulations, investigating officials were required to distribute to suspects a brochure on the rights of persons deprived of their liberty, prepared in cooperation with the American Association of Jurists and the Swiss Embassy at Tashkent, which cited the relevant provisions of internal legislation and of the international human rights instruments, including the Convention against Torture.

54. Mr. DJASIMOV (Uzbekistan) said that the refugees who had returned to Uzbekistan following the events at Andijan had been welcomed by their relatives on arrival in the country and had not been troubled by the police. European Union experts had made a visit to Andijan, during which the authorities had invited them to meet with those former refugees. The Uzbek authorities' discussions with those experts concerning the disturbances at Andijan had been published in a brochure that would be distributed to any member of the Committee who so wished.

55. Mr. OBIDOV (Uzbekistan) said that the information provided to the Committee concerning the action taken by the Uzbek authorities on the request for a visit to the country by the United Nations High Commissioner for Human Rights was inaccurate. When the High Commissioner had sent a letter to several central Asian countries, including Uzbekistan, the Uzbek Minister for Foreign Affairs had indicated that the proposed dates were not suitable and that it was therefore not possible to grant the request. That information had in fact been confirmed by the High Commissioner in person in an interview granted to journalists of Agence France-Presse on 27 April 2007. Uzbekistan was firmly committed to cooperating with the United Nations human rights machinery and the special procedures of the Human Rights Council. However, requests for visits must be submitted in good time so that they could be appropriately studied. The statements made by the Special Rapporteur on the question of torture following his visit to the country in 2002 were of questionable credibility in that he had failed to respect some of the procedures relating to the exercise of his mandate.

56. With regard to the activities of the Office of the United Nations High Commissioner for Refugees (UNHCR), refugees from Tajikistan, Turkmenistan and Afghanistan had been able to return to their respective countries thanks to the assistance of the UNHCR office in Tashkent, opened in 1993. While Uzbekistan had not ratified the 1951 Convention relating to the Status of Refugees, it had cooperated in the activities of the UNHCR office in Tashkent. For fuller information on Uzbekistan's treatment of the question of refugees, and in particular the action taken on the Committee's recommendations on the matter, Committee members were referred to Uzbekistan's written replies to the list of issues (CAT/C/UZB/Q/3/Add.1). Following the end of hostilities in Afghanistan, all the issues raised by the repatriation of refugees from that country had been settled so that, by April 2006, a UNHCR presence in Uzbekistan had no longer been necessary. Accordingly, his delegation did not understand the Country Rapporteur's statements regarding the closure of the UNHCR office in Tashkent, which in no way corresponded to the facts.

57. With regard to the presence of the International Committee of the Red Cross (ICRC) in Uzbekistan, some of the information referred to by the Country Rapporteur should be rectified, since it too did not reflect the facts. The ICRC regional office in Tashkent was operational and its staff, which had increased from 102 in 2005 to 122 in 2007, accounted for more than half of the ICRC delegates present in South Asia. Between 2001 and 2004, ICRC teams had been able to make more than 119 visits to places of detention and conduct more than 1,500 interviews with detainees, in conditions of confidentiality. By acceding to almost all places of detention, ICRC had been able to gather comprehensive information on detention conditions throughout the country. It was, however, regrettable that it had not respected the confidentiality agreement concluded with the Uzbek authorities and that comments on their alleged lack of cooperation had leaked to the media. Following consultations with Ministry of Internal Affairs officials, ICRC had indicated that it was ready to resume its visits, and a meeting had been held with officials of the prison administration to draw up a new schedule, which Uzbekistan was ready to implement promptly. Following those consultations, Uzbekistan had in fact invited the ICRC delegates to visit penal colonies for women, but the offer had been refused. In the light of those facts, Uzbekistan wished to draw the Country Rapporteur's attention to the inaccuracy of the information conveyed to her regarding the circumstances surrounding the closure of the ICRC office in Tashkent, which constituted a provocation.

58. With regard to the interruption of the BBC's activities in the country and the alleged loss of accreditation of four correspondents at its Tashkent office, that was simply a consequence of the governors' restructuring policy, and those journalists had never been troubled by the authorities. The professional activities of foreign press correspondents in Uzbekistan were rigorously protected by the Constitution and national laws. In fact, the BBC had never been able to present evidence to substantiate the claim that its correspondents had been the victims of acts of intimidation. The United Kingdom Embassy in Uzbekistan had tried to obtain information on the question by contacting the BBC, which had failed to reply. In the absence of specific information, there had been no need for Uzbekistan to conduct an investigation. With regard to the particular case of Ms. Monica Whitlock, the assertion that she had been subjected to pressure by the authorities was completely unfounded. Ms. Whitlock had left the country because she was pregnant and her employment contract was about to expire.

59. The CHAIRPERSON thanked the delegation for its detailed replies and invited comments from Committee members.

60. Ms. GAER (Country Rapporteur) thanked the delegation for its efforts to reply as precisely as possible to the large number of questions raised by Committee members. She noted that the Committee was responsible for examining compliance by States parties with their obligations under the Convention against Torture and, in that connection, expressed concern that its questions regarding the closure of the ICRC office in Uzbekistan had been described as provocative by the Uzbek delegation.

61. The CHAIRPERSON said that the delegation's statement had not been directed at Ms. Gaer personally but, rather, at the nature of the information brought to her attention.

62. Ms. GAER (Country Rapporteur) cited the ICRC report for 2006, which contained the information to which she had previously referred, and left it to the Committee members and the delegation to assess the nature of that material. She further noted that, in paragraphs 542-544 of its written replies (CAT/C/UZB/Q/3/Add.1), the State party implied that ICRC had acted from other than strictly humanitarian motives; that was the first time that such accusations had been made against that organization. On a more general level, she noted that the consideration of the second periodic report of Uzbekistan gave rise to a contrasting analysis of the situation in the country: that of the field actors, the international organizations or the media, which reported a number of problems, and that of the State party, which contested that version of the facts. That situation, which was not unusual, was problematic in that it made it difficult to verify the situation on the spot. One of the surest ways of surmounting that difficulty and promoting transparency was by recourse to independent monitoring mechanisms.

63. While welcoming the information provided by the delegation concerning the Human Rights Commissioner (Ombudsman) of the Oliy Majlis (Upper Chamber), she noted that that institution was not accredited by the International Coordinating Committee of National Human Rights Institutions and asked whether Uzbekistan was planning to modify its powers so as to make accreditation possible. She also enquired whether Uzbekistan was intending to make the declarations referred to in articles 21 and 22 of the Convention. In its written replies, Uzbekistan indicated without further detail that the matter was being examined by the Government, but what exactly was the situation? She also asked why Ms. Tojibaeva had not had access to a lawyer since being sentenced in March 2006.

64. The Committee had received numerous allegations from various NGOs concerning cases of ill-treatment inflicted by the police during interrogation, which raised the issue of respect for the rights of prisoners. According to Human Rights Watch and the World Organisation against Torture, the rules concerning respect for the fundamental rights of persons remanded in custody - such as the right to accede to a lawyer - were not spelled out in the unpublished internal regulations applied by the police, which was contrary to the Code of Criminal Procedure. Could the delegation provide the Committee with a copy of those regulations?

65. She also noted that the international community had made several appeals to Uzbekistan to accept an independent international inquiry into the events that had occurred at Andijan in May 2005. The State party had not deemed it necessary to heed those appeals, considering that, as a sovereign State, it alone was responsible for shedding light on those events and that the inquiries it had ordered showed that the acts attributed to the Uzbek authorities were not substantiated. According to information transmitted to the Committee by Human Rights Watch, the trials organized by the State party had provided no answer regarding the scale of repression and the identity of its perpetrators, and had served only to justify the authorities' conduct. Had Uzbekistan modified its stance on the matter and would it now be ready to grant the requests for an independent international inquiry which had again been addressed to it by the Organization for Security and Cooperation in Europe and the United Nations High Commissioner for Human Rights? She hoped that Uzbekistan would approve those requests, as the only way of clarifying the events, and various questions would continue to be raised for as long as the State party refused to cooperate.

66. In its written replies, Uzbekistan stated that the maximum penalty of three years' imprisonment which, under article 235 of the Criminal Code, could be imposed on anyone carrying out an initial inquiry, any procurator and any law enforcement officer who committed an act of torture posed no problem, since persons prosecuted under that article also fell within the scope of other articles of the Criminal Code, which provided for more severe penalties. Yet, in the same written replies, the State party indicated that, on 12 October 2006, the Jakurgan district court in Surkhan-Darya province had found Lieutenant-Colonel Mahmud Davlyatovich Narboev, detective superintendent in charge of particularly important cases of the Surkhan-Darya province internal affairs office, guilty under articles 205, 206, 273, 234, 235, 209 and 230 of the Criminal Code and sentenced him to two years' imprisonment for unlawfully detaining and inflicting bodily harm on Mr. A. Tulaev. She asked whether the delegation considered the penalties provided by Uzbek law to be sufficiently severe in such cases and whether they could be regarded as consistent with the spirit of the Convention against Torture.

67. Mr. KOVALEV (Alternate Country Rapporteur) thanked the Uzbek delegation for the quality of its replies and requested clarification on the question of the forced labour of Uzbek children in the cotton fields.

68. Mr. GROSSMAN noted that, according to the delegation, Uzbekistan had been unable to grant the request for a visit by the United Nations High Commissioner for Human Rights because the proposed dates had not been suitable. He asked whether the Uzbek Government had proposed new dates, so as to enable the High Commissioner to visit the country as rapidly as possible. The various questions of Committee members, it should be emphasized, were generally put to all States parties whose reports were considered, and the Committee ensured strict respect for the principle of non-discrimination in its relations with reporting States. As to the presence of ICRC in Uzbekistan, it seemed to him that the question raised had not related to the circumstances of the closure of the Tashkent office but had been intended to establish whether the ICRC delegates had been in a position to do their work. In its 2006 report, ICRC indicated that it had been refused access to places of detention since 2004, and it seemed reasonable for the Committee to bring that information to the delegation's attention so that it could state its views on the matter. He also requested clarification on reports that UNHCR had been denied access to a holding facility for refugees from Kyrgyzstan and enquired whether Uzbekistan had forcibly expelled inmates of that facility. Noting, lastly, that the Uzbek Constitution provided that international law should take precedence over domestic law, he asked whether the provisions of the Convention could be directly invoked by defendants in court.

69. Mr. MARIÑO MENÉNDEZ enquired whether, like other judges, Supreme Court and lower-court judges were appointed for a five-year term. Concerning extradition, it was stated in paragraph 224 of the written replies from the Uzbek Government (CAT/C/UZB/Q/3/Add.1) that, in pursuance of article 3, the Office of the Procurator-General sought guarantees from the competent authorities of the requesting State: what was the nature of those guarantees and did countries extraditing persons to Uzbekistan request similar assurances? Did the State party concern itself with the fate of the individuals concerned once they had been extradited? Lastly, what was the status of persons who illegally entered Uzbekistan, which apparently did not yet have legislation on asylum: were such persons with irregular status interned while their fate was being decided, were they immediately expelled or did they benefit from some kind of humanitarian protection?

70. Ms. SVEAASS asked for details of the measures taken to prevent forced sterilization of women. She would also welcome explanations on the strange practice of requiring arrested persons to themselves state the reasons for their arrest. Lastly, some NGOs had indicated their desire to re-establish a presence in Uzbekistan, which the authorities should perhaps facilitate. It was possible that the BBC wished to make savings, but the real problem was the accreditation of journalists.

71. Mr. WANG Xuexian thanked the delegation for its frank and informative explanations. He trusted that replies to unanswered questions would be included in Uzbekistan's next periodic report.

72. Mr. GALLEGOS CHIRIBOGA welcomed the exchange of views during the consideration of the State party's report. There were still some unanswered questions, and cooperation between the Committee and the State party was all the more important in that highly sensitive issues were involved. Uzbekistan should seriously consider cooperating with the Office of the United Nations High Commissioner for Human Rights to resolve the outstanding problems.

73. The CHAIRPERSON welcomed certain measures taken by Uzbekistan, such as the establishment of habeas corpus and the abolition of the death penalty. It would be useful to know whether executions had ceased even before such abolition officially took effect, and whether habeas corpus would be maintained even if a state of emergency was proclaimed.

74. The delegation had rejected outright all the allegations referred to by Committee members. Yet any allegation of torture must be properly investigated; that was an essential aspect of the fight against torture, and the delegation itself had recognized that the situation was not ideal in the State party. In conducting that struggle, international cooperation was indispensable, and hence a permanent UNHCR presence was essential in a country which had not yet introduced an asylum law. There were a thousand or so Afghan refugees in Uzbekistan and it was urgent to restore cooperation with UNHCR, which could assist in their resettlement.

75. One essential guarantee of judges' independence was security of judicial tenure, which was not ensured by five-year appointments. Moreover, the appointment of lower-court judges should not be a matter for the President, who doubtless had more important tasks to perform. The existing system was open to political manipulation and also inconsistent with the Basic Principles on the Independence of the Judiciary.

76. MR KANYAZOV (Uzbekistan) said that, if there seemed to be a two-tier system of information, that was because some sources disseminated news that was not very objective and did not reflect the true facts as reported by the official bodies. The question of making declarations under articles 21 and 22 of the Convention was under consideration, but no reply could be given at the present juncture.

77. Mr. DJASIMOV (Uzbekistan) noted that his country was at an early stage of its development and, in particular, at the very inception of its judicial reform. It was not impossible that, over time, the prison system would be transferred from the supervision of the Ministry of Internal Affairs to that of the Ministry of Justice. All the countries of the former Soviet bloc had more or less the same penal system and some had made that transfer, which was no doubt a judicious one; however, Uzbekistan must take time to reflect before adopting decisions.

78. His delegation had distributed documents on the question of access to lawyers. The relevant provisions were reproduced, inter alia, in Bar publications and were widely disseminated in the media and among various interested persons and bodies, including abroad. Access to lawyers was governed by a precise and rigorous procedure. It enabled the lawyer to keep in touch with the accused and to ensure that his rights were respected. The Tojibaeva case had been blown out of all proportion; Ms. Tojibaeva did not require medical assistance but simply refused to take the medicine prescribed to her.

79. With respect to an independent inquiry into the allegations concerning the events at Andijan, he failed to see what more could be done, since the facts had already been established by many reliable bodies, including one from the European Union. He wondered what other organ might be invited to conduct a further investigation and to what purpose. International organizations could not act as a substitute for the national judicial system, except in a way which would be rather offensive to Uzbekistan.

80. Mr. SHARAFUTDINOV (Uzbekistan), referring to the allegation that a certain Ulugbek Khaidarov had been the victim of maltreatment in September 2006, said that Mr. Khaidarov had been arrested by the police after being found in the act of stealing: what would have been the point of beating him up when he had been caught red-handed? With respect to another case, one Committee member had expressed surprise that a policeman allegedly guilty of acts of torture had been sentenced to only two years' imprisonment. In that connection, the Criminal Code laid down precise rules for the penalties to be applied, taking account of the gravity of the offence and the existence of mitigating or aggravating circumstances. When there were several charges, as in the case in point, penalties could be cumulative or else the heavier penalty alone could be imposed. Two years' deprivation of liberty appeared to be a justified penalty in the circumstances, and no one had objected to it at the time. With regard to the events at Andijan, he had had the opportunity to meet European Union experts during the inquiry; he could confirm that they had been given everything they had requested and that they had met everyone they had asked to meet, including the chief of the terrorists and their lawyers. The judicial system had functioned well, and there was no reason for a fresh international inquiry.

81. It had been asked whether the provisions of the Convention could be invoked in court; his delegation had already stated that those provisions were reflected in article 235 of the Criminal Code, and that had been confirmed by the Supreme Court. In practice, there had been no reason to directly invoke the Convention, all of whose provisions were scrupulously respected; if necessary, however, it would be directly applied.

82. Ms. BAKAEVA (Uzbekistan) said there was no need to accredit the Ombudsman with any international body. The Ombudsman was an independent, democratic institution, working on the basis of active cooperation and partnership with the public authorities, NGOs and international organizations. The Ombudsman was elected by Parliament, he belonged to international ombudsmen's associations and he cooperated with a number of ombudsmen in European countries.

83. Mr. KANYAZOV (Uzbekistan) said that no child was compelled to engage in cotton-picking in his country. That was freely accepted and paid work. All judges, including

members of the Supreme Court and lower-court judges, were appointed for a five-year term. The possibility of extending their term of office with a view to protecting their independence was to be considered as part of the judicial reform. Lastly, there would be nothing to prevent NGOs from re-establishing themselves in Uzbekistan if they so wished, provided that they submitted an application in due form and in accordance with the law.

84. The decree abolishing capital punishment, dated August 2005, would enter into force in 2008. There had been no executions since March 2005, and a de facto moratorium existed. The establishment of habeas corpus was being prepared were actively. There was no provision for suspending habeas corpus, even in a state of emergency.

85. Regarding a possible visit to Uzbekistan by the United Nations High Commissioner for Human Rights, the official reply had been given by Ms. Arbour herself at a press conference: she had been unable to visit the country because her schedule, like that of the Uzbek authorities in fact, was too heavy. With respect to ICRC, Uzbekistan had made a detailed written statement of its position. ICRC activities were far from being limited to prison visits, but extended to the dissemination of information on international humanitarian law, education, cooperation with local Red Cross Societies, etc. In any event, Uzbekistan was ready to agree to the resumption of visits to prison institutions; he had so informed the representatives of the Red Cross in Geneva, who had advised him that, for technical reasons, ICRC headquarters was not yet in a position to recommence those visits. Lastly, the activities of the national and international media were accompanied by all the guarantees laid down by various laws and by the provisions of international instruments to which Uzbekistan was a party.

86. Mr. DJASIMOV (Uzbekistan) said that he did not have any precise information regarding forced sterilization. Families in Uzbekistan had many children, and such sterilizations were altogether contrary to the mentality of the Uzbek people. A woman could undergo sterilization if she so wished, but not against her will. His delegation would transmit additional information on the matter as soon as possible.

87. Mr. OBIDOV (Uzbekistan) said that the question of what sanctions would be taken if a prisoner ill-treated another prisoner at the request of a member of the prison staff was settled by criminal law: both would be accountable for their acts, and the State official would be declared responsible.

88. Mr. SHARAFUTDINOV (Uzbekistan) said that, at the previous session of the UNHCR Executive Committee, he had been informed that the issue of Afghan refugees present in Uzbekistan was in the process of being resolved; several hundred of them would be resettled in other countries. Consequently, the question of UNHCR's representation in Uzbekistan no longer arose.

89. Ms. GAER (Country Rapporteur) noted that the representative of the European Union who had visited Uzbekistan following the events at Andijan had stated expressly that his visit was not a mission of inquiry into those events; such a mission was conducted according to very precise procedures.

90. The CHAIRPERSON stressed that the intervention of external institutions following an inquiry in no way signified the abolition of a country's judicial system. Simply, when the results of an inquiry raised doubts, most countries had an independent review mechanism, since there was no point asking the same persons to repeat the investigation. In conclusion, he said that the dialogue with the State party had been very fruitful and should advance the cause of human rights in Uzbekistan. Of course, time would be required, but some measures were urgently needed.

91. Mr. SHARAFUTDINOV (Uzbekistan) thanked the Committee and asked it to take account of the considerable efforts his country was making to eradicate torture. The ongoing reform of the judicial system pursued the same aim, and the Committee's recommendations would be acted upon.

92. The Uzbek delegation withdrew.

The meeting rose at 6 p.m.