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Information submitted to the Committee

The State report

On 1 July 2005, Uzbekistan submitted its 3rd periodic report to the Committee against Torture ('the Committee') covering the period 2002-2004.¹ Uzbekistan has been party to the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* ('the Convention') since 31 August 1995, and has presented reports in 1999 and 2002 respectively. The State has taken measures to comply with the recommendations of various United Nations (UN) mechanisms in the framework of the liberalisation of its judicial system, a process which began in August 2001. The last main legislative amendments proposed by

¹ CAT/C/UZB/3, 28 July 2006, available at <http://www2.ohchr.org/english/bodies/cat/cats39.htm>

President Karimov in January 2005 concerned the implementation of the *habeas corpus* procedure, the progressive abolition of the death penalty, and the further liberalisation of the judicial system. The State improved existing legislation on substantive and institutional grounds. It stressed its efforts to comply with Article 10 of the Convention through spreading information on the prohibition of torture among students and law enforcement authorities. The State also enacted regulations relating to rights of detainees and suspects, namely to enhance the monitoring of the conditions of detention by national and international institutions, and to ensure better access to lawyers. Law enforcement authorities will be better equipped to investigate alleged acts of torture. The question of extradition, expulsion, and return is still governed by bilateral agreements.

List of issues

The Committee provided the list of issues to the State on 27 June 2007. It expressed concerns about the effectiveness of newly created rules (e.g. Article 235 of the Criminal Code which contains the State's definition of torture) and institutions, and requested statistics relating to their implementation. The Committee also inquired about the State's compliance with the principle of *non-refoulement*.² It requested specific information about Mutabar Tojibaeva, a human rights activist, and the alleged use of punitive psychiatric methods against her. The Committee also asked for data about human rights training activities initiated by the Government. It requested details about the measures which are being taken to improve prison conditions (modalities of inspections, particularly by non-governmental organisations), eliminate torture, and increase the transparency surrounding executions. Finally, the Committee questioned the lack of participation of independent non-governmental human rights organisations in the Working Group which drafted the State report.

NGO reports

Seven non-governmental organisations (NGOs) submitted reports to the Committee.³ Referring to the findings of the Special Rapporteur on torture, all NGOs denounced the systematic use of torture, including the use of forcible psychiatric methods, against detained persons throughout the judicial process. They particularly criticised the use of confessions obtained under duress in unfair trials which have led to severe or even capital punishment. They also drew attention to the persecution of human rights activists, and the existence of political prisoners and prisoners of conscience.⁴ The International Federation of Human Rights especially urged the State to take measures to implement the announced abolition of the death penalty, planned for January 2008. The NGOs pointed out the State's gross disregard for the Human Rights Committee's interventions in this matter. Moreover, they raised the issue of the conditions of detention, during which torture and death allegedly occur. Amnesty International, which provided an extensive review of the period 2002-2006, documented several such cases, and cast doubt on the conclusions of the official investigation. The NGOs also called for an independent international investigation on the Andijan events of May 2005.⁵ Furthermore, they stressed the State's non-compliance with the prohibition of *non-refoulement*. Amnesty expressed its concern about the withdrawal of the accreditation of many foreign NGOs, international

² This is a principle of international law which is clearly stated in international instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 3). It prohibits the State from expelling, returning or extraditing a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

³ Amnesty International, Human Rights Watch, International Federation of Human Rights (FIDH), World Organization against Torture (OMCT), Ezgulik Human Rights Society of Uzbekistan, Human Rights Alliance of Uzbekistan, Bureau on Human Rights and Rule of Law of Uzbekistan in cooperation with International Helsinki Federation for Human Rights and Mothers against Death Penalty and Torture. All reports are available at <http://www2.ohchr.org/english/bodies/cat/cats39.htm>

⁴ For example, alleged members of the banned Islamic party *Hizb-ut-Tahrir*.

⁵ On 13 May 2005, a group of armed men attacked the Andijan prison and liberated prisoners. Later that day, a crowd started to gather in the city's main square, asking for justice and an end to poverty. Sporadic incidents occurred, although the demonstration was allegedly peaceful. However in the evening, Government troops reportedly surrounded the crowd of thousands of demonstrators and opened fire indiscriminately and without warning. State authorities described the Andijan events as 'terrorist acts committed on an unprecedented scale', and argued that their response had not been disproportionate, nor did they kill civilians. Nevertheless, the Uzbek Government keeps refusing any independent international investigation of this incident.

organisations, including the United Nations High Commission for Refugees (UNHCR), and the media. The International Helsinki Federation for Human Rights and the World Organization against Torture (OMCT) submitted a joint report focused on violations of women's and children's rights in Uzbekistan, including the question of child labour in cotton fields. Furthermore, OMCT provided information on the social, economic, and cultural roots of torture in the State.

Themes and issues

The Uzbek delegation was led by Mr Esemurat Kanyazov, Deputy Minister of Justice. He was supported by the Deputy Minister of Internal Affairs, the Head of the Protection for Human Rights, the Heads of Divisions of the National Centre for Human Rights and one of its experts, and representatives from the Permanent Mission in Geneva.

The session began with an introductory speech by Mr Kanyazov. He started by reasserting Uzbekistan's three-pronged approach to eliminating torture: (1) the adoption of comprehensive measures to liberalise the judicial system; (2) the implementation of concrete measures to eliminate torture; (3) the increase of awareness of law enforcement authorities and the population through educational measures and further economic and social development.

Mr Kanyazov reiterated Uzbekistan's commitment to the protection of human rights as a priority. He gave examples of proposed measures to reform the judicial system both institutionally and substantively. He focussed on the new definition of torture contained in Article 235 of the Criminal Code which, according to the State, fully incorporates Article 1 of the Convention. Mr Kanyazov also highlighted the progress made towards the abolition of the death penalty and the implementation of *habeas corpus*. He drew the Committee's attention to the National Plan of Action which was enacted in light of recommendations by the UN Special Rapporteur on torture, including new monitoring mechanisms. Mr Kanyazov emphasized the creation of the Central Commission on Respect for Human Rights on 24 June 2003, following an order from the Ministry of Internal Affairs. This Commission can receive both oral and written communications from individuals. Mr Kanyazov also highlighted the efforts made by the Government to raise awareness about the Convention among law enforcement personnel, students, and the general population.

Next, other members of the delegation provided information in response to previous recommendations by the Committee. One member of the delegation detailed the improvement in the protection of torture victims resulting from the establishment of independent mechanisms to investigate complaints of torture. The principle of inadmissibility of evidence obtained through torture is outlined in the Criminal Procedure Code. Despite recognising that the process is not always adequately implemented, the delegation member highlighted the need for further measures aimed at ensuring the independence of the judiciary. Conditions of detention are supervised by the Ministry of Internal Affairs, which monitors compliance with laws on the access to a lawyer, medical care, and family. He then highlighted the regular inspection of detention facilities (including a periodic review every five years) and the systematic training of prison staff. Moreover, exile and rendition are now governed by legislative provisions.

Another member of the delegation went on to address the recommendations made by the Special Rapporteur on torture. He first asserted the building of a democratic State as the purpose of the ongoing reform in Uzbekistan. Efforts have been made to eliminate torture from domestic judicial processes and fully implement recommendations, including official condemnations of torture by the Ministry of Internal Affairs and National Security bodies. However, he recognised that a lot of improvement is still needed to achieve satisfactory standards of transparency and equitable judgment compatible with international obligations. Another member of the delegation made a final comment on the work of the Parliament, which aims at further liberalisation and democratisation of the regime, including strengthening the foundation of the legal system.

Prohibition of torture in domestic legislation

Definition of torture

The Committee expressed its concern about the definition of torture in Article 235 of the Uzbek Criminal Code. Ms Gaer, one of the rapporteurs, raised the point that this Article only covers the prohibition of torture by government officials, and not by other persons acting on behalf of the State. She also pointed out the fact that the definition in domestic legislation does not address discrimination issues, especially discrimination on the grounds of political views and religious belief. Finally the Committee questioned the adequacy of sanctions under Article 235.,

The delegation repeated its belief that the definition of torture contained in Article 235 of the Criminal Code satisfactorily reflects that contained in Article 1 of the Convention. The State furthermore argued that the alleged leniency in judgements is due to the application of the principle of absorption.⁸

While acknowledging the State's efforts to amend the existing legislation, the Committee reiterated its concern that the definition of torture in national law is still unsatisfactory, notably with regard to 'other persons acting in an official capacity'.

Relationship between national and international law

Mr Kovalev asked the delegation about the incorporation of international conventions into domestic law, and the rules which are applied in the case of a conflict between the two. The delegation answered that primacy is given to international law in the Constitution, as well as in the Criminal and Civil Codes. Mr Grossman raised the issue of the direct opposability of conventions in domestic courts. To this, the delegation replied that it is unnecessary as all provisions related to the prohibition on torture have already been incorporated into domestic law.

Complaints procedure

Ms Gaer asked the State to provide clarification on the figures it submitted to the Committee, which revealed that few complaints give rise to criminal proceedings.⁹ Several Committee members shared the concern of the Special Rapporteur on torture that despite an increasing number of complaints, no convictions have been issued yet on the ground of torture. The Committee asked about the outcome of cases returned for further evidence and what criteria have to be met for a case to go forward. The State explained that refusal to carry out an investigation may be based on the absence of facts or of a condition required by the Criminal Code. It added however that officials must carry out actions in a timely manner; otherwise, they can be subject to prosecution. The Committee reiterated the emphasis placed by Special Rapporteur on torture on the importance of an official Presidential statement condemning the use of torture in order to combat impunity.

Ms Gaer asked about the consequences for officials sentenced with disciplinary measures. In particular, she enquired whether these individuals are allowed to return to their posts, and what measures are taken to ensure that they will not repeat their abuses. She also inquired about the publicity of these latter measures. The delegation replied that the return to work of public officials who breached their obligations is decided on a case by case basis.

⁸ Only the most severe sentence is applied and 'absorbs' other more lenient ones related to less grave offences.

⁹ During the period under consideration, only four complaints out of 30 gave rise to criminal proceedings.

¹⁰ Only the most severe sentence is applied and "absorbs" other more lenient ones related to less grave offences.

The Committee was eager to learn about the actual implementation of the National Plan of Action which was adopted to comply with the recommendations of the Special Rapporteur on torture. It pointed out the discrepancy between the evaluation of achievements by the State and the Special Rapporteur.¹² Ms Gaer reiterated her concerns about complaints of torture not being investigated. In view of the guarantees the State allegedly provided to implement the Convention, the Committee asked for information about access by detainees to an independent medical service, legal counsel, and the Ombudsman. Mr Kovalev also reminded the State of its obligation to provide compensation for torture victims and asked about legislative measures taken in this respect. The delegation replied that there are domestic provisions for compensation for damage to torture victims, including moral damage.

Following the creation of new human rights bodies in Uzbekistan, the Committee underlined the importance of transparency and asked for more information about their complaint mechanisms, transparency standards and independent supervision. In response, the delegation explained that anyone can file a complaint to these structures. These are monitored by the Ministry of Internal Affairs and report to the President and the Parliament.

In its concluding observations,¹³ the Committee expressed its disappointment with the inadequate nature and level of punishment applied to torture perpetrators, which is not commensurate with the gravity of the crime. The Committee called upon the State to remedy this situation, as well as to take effective measures to keep investigated people away from their posts. The Committee also expressed concern at the lack of independence and ineffectiveness of national institutions in charge of investigating complaints of torture. The Committee urged the State to ensure that its national complaint mechanisms fully comply with the Paris Principles. The Committee also stressed the obligation on the State to provide compensation, redress and rehabilitation to victims.

The Ombudsman

The delegation also provided information on the Ombudsman. This new democratic institution was established in 2005 at the initiative of the President, and functions like other ombudsmen such as that of Sweden. The Ombudsman is elected by the Parliament, and his main obligation is to consider complaints of violations of domestic human rights legislation, including torture. He can also carry out his own investigations. He has an independent commission of experts, including jurists, who can request documentation, visit facilities, and conduct investigations. This commission then draws up conclusions on the various complaints and submits them to the Ombudsman. These recommendations are taken into account by judicial bodies. The Ombudsman also participates in the development of bills. He conducts an annual monitoring on the extent to which the law has been enforced. He also has offices dealing with local issues under his authority.

The Committee, in its concluding observations, urged the State to take measures to ensure full independence to the Parliamentary Ombudsman in compliance with the Paris Principles.

Liberalisation of the judicial system

With regard to the liberalisation of the judicial system, Ms Belmir and Mr Mavrommatis stressed the need for true independence of the judiciary, irrespective of difficult circumstances or emergency situations. Ms Belmir pointed out the current interferences into the work of the Prosecutor by the Ministry of Internal Affairs and

¹¹ Report dated 15 March 2007, A/HRC/4/33/Add.2

¹² A/HRC/4/33/Add.2, 15 March 2007, available at http://ap.ohchr.org/documents/dpage_e.aspx?m=103

¹³ CAT/C/UZB/CO/3, available at <http://www2.ohchr.org/english/bodies/cat/cats39.htm>

¹⁵ Also known as the *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, available at <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>.

the Ministry of Justice through the production of norms issued by the Prosecutor. For example, even if the authority of delivering arrest warrants has been transferred to the courts, the Prosecutor can still order the verification of the trial. The State explained that good results have been achieved and that the institution of the Prosecutor, regulated by special law, is an effective way to ensure monitoring and investigation. Moreover, the delegation noted that there are ongoing reforms to liberalise the judicial system, including the introduction of *habeas corpus* and the abolition of the death penalty. A further reshaping of the role of the Prosecutor's Office is also under consideration. Mr Mavrommatis urged the State to take actual measures to implement the reforms it undertakes. Mr Mariño Menendez asked for details about the appointment of judges by the executive, given that this runs contrary to their independence. According to the State, the procedure to become a judge has been facilitated. It informed the Committee that lower judges are selected by the President and then reviewed by a highly qualified commission. Mr Mavrommatis responded by stating that these judges ought to be appointed by an independent body instead. The Committee welcomed the State's particular effort in the areas of public awareness-raising, education, and training of law enforcement personnel, including the security services. The delegation added that Uzbekistan is a young State and therefore recognised that work is still needed to improve the legal system. The delegation pointed to the legal systems in Western countries as examples to be emulated. Finally, Ms Gaer underscored the great need for transparency on available safeguards, as many of these remain unofficial rules and regulations.

In its concluding observations, the Committee noted the extensive information provided on the human rights training of law enforcement personnel, but noted that there is no indication that this has been effective. The Committee encouraged the State to provide specific training to medical staff dealing with detainees, in accordance with the Istanbul Protocol of 1999.¹⁵ The Committee also recommended that the State set up an assessment mechanism to evaluate the effectiveness of its training programmes. Moreover, the Committee asked for information on gender specific trainings. In addition, the Committee recommended that the State take actions to ensure the full independence of the judiciary.

Use of confessions obtained through torture

Ms Gaer stressed that many NGO reports denounced the continuing use of confessions obtained from witnesses through coercion. The Committee asked about the existence of complaint or monitoring mechanisms and expressed its concern that not a single case of dismissal of an illegal confession has occurred. The delegation asserted that confessions are used only if they are given voluntarily. Moreover, they are not the only way to ascertain guilt and must be verified by courts. Accordingly, if the proof of guilt is insufficient or unreliable, the court will either not prosecute the individual or evaluate it without taking the contended evidence into account in issuing its judgment. The delegation added that there is no need to review judicial decisions, as this can only be done through legislative amendment.

In its concluding observations, the Committee expressed its concern at the numerous credible complaints of routine use of torture by law enforcement officials to extract information subsequently used in criminal proceedings. The Committee urged the State to take a clear stand in publicly condemning practices of torture, as well as adopting effective measures to fight against impunity, such as ensuring prompt and impartial investigations in all allegations of torture, bringing perpetrators to justice and protecting complainants from reprisals. Furthermore, the Committee pointed to the delegation's acknowledgement that evidence obtained through torture has been used in some cases despite the Supreme Court's prohibition on this practice. It accordingly recommended that the State take immediate measures to ensure the inadmissibility of such evidence in proceedings and urged the review of previous cases.

¹⁸ For example, United Nations High Commission for Refugees [0](for the reason that the Afghan refugees mission was allegedly completed) and International Committee of the Red Cross (its delegates allegedly visited prisoners in a discriminatory way). As a whole, 200 domestic organisations, charities and international groups have been asked to leave the country. These include the American Bar Association, Organisation of Security and Cooperation in Europe (OSCE), and the British Broadcasting Corporation (BBC).

Conditions of detention

Mr Kovalev raised the fact that one third of the detainees are not given medical care or adequate food supply, and asked about the improvement measures in place. He also asked whether juvenile detainees have access to education. Taking into account that prisons are less than 60% full and the ongoing liberalisation reform, the delegation argued that there has been an improvement in detention conditions. Ms Gaer expressed her concern about alleged abuses committed by inmates against other inmates under the direction of prison guards. The delegation replied that officials can be held responsible in the same way as the individuals who actually commit the offence. Ms Sveaass mentioned that there are allegations of dilatory practices consisting of having inmates explain the circumstances of their arrest to postpone access to a lawyer. The State reassured the Committee of its efforts to secure to suspects immediate access to a lawyer.

Turning to prison inspections, the Committee argued that the five-year intervals between inspections are too long to deter abuses. It then advocated for random, unannounced, and independent reviews of all detention facilities (including pre-trial ones) and deplored the absence NGO involvement in this area. It asked the delegation whether any independent body exists to inspect prisons and, if so, how it is set up. The delegation explained that the system of inspections has not been fully understood by the Committee. With respect to the periodicity of inspections, the five-year interval only applies to headquarters and not to inspections ordered by the Ministry of Internal Affairs or the Ombudsman. Moreover, booklets are distributed to detainees to inform them of their rights. Ms Gaer enquired about Zhaslyk prison, whose closure has been recommended by the Special Rapporteur on torture. She asked whether the State is willing to accept a visit to this facility by the new mandate-holder. The delegation replied that Zhaslyk prison has been visited by virtually all organisations and has thus become something of ‘a tourist spot’.

Ms Gaer advocated for the creation of a central register for detainees to help prevent torture. According to the State, such a register is already in place. Ms Gaer also addressed the issue of deaths in custody and expressed concern about the lack of independent and thorough investigation into such cases. She asked for an explanation of the functioning and role of Investigative Committees on this issue. To this, the delegation answered that investigations had been conducted with the participation of international experts, including experts from the United States.

In its concluding observations, the Committee expressed its concern at the numerous reports of torture and death in custody, which are moreover rarely followed up by independent investigations. In particular, the Committee endorsed the Special Rapporteur on torture’s concerns regarding Zhaslyk prison, where conditions of detention are reportedly in violation of the Convention. The Committee urged the State to ensure systematic review, including independent monitoring by national and international bodies according to their standard methodologies, of all places of detention. Furthermore, the Committee underlined that the State should effectively investigate and prosecute all deaths in custody resulting from the use of torture or ill-treatment. The Committee asked the State to report on the outcomes of such investigations and proceedings. The Committee also encouraged the State to improve the conditions of detention in general. Moreover, the Committee expressed concern about unofficial rules impeding detainees’ access to a lawyer, independent doctor or family member. It recommended that the State take measures to fully implement these rights. In addition, the Committee expressed its concern about inter-prisoner violence, and recommended that the State take action in this regard, including the provision of monitoring information to the Committee.

Human rights defenders

Ms Gaer expressed concern about human rights activists being victims of abuses committed with the ‘aiding and abetting’ of officials. She gave the example of Mr Khamroev, who was allegedly beaten by a group of 20 women while police looked on. However, according to the delegation, the pre-trial investigation revealed that Mr Khamroev had suffered from these injuries at home and had refused any medical examination. Therefore,

the responsibility of police officers could not be engaged in this case. Ms Gaer also raised the issue of the alleged use of psychiatric confinement and forced administration of drugs to silence human rights activists. She exemplified her concern with the case of Mutabar Tojibaeva, who was allegedly arrested and forcefully given drugs. She then asked the State for assurances of access to Ms Tojibaeva by an independent monitor.

The State rejected all allegations of torture against detained human rights defenders, arguing that torture is prohibited under the Constitution. In particular, it stated that Ms Tojibaeva had been diagnosed with neurasthenia and had received vitamins that were not imposed on her. She worked with five lawyers who had direct access to the investigation unit and Human Rights Watch was allowed to visit her within a few days of her hospitalisation. The delegation maintained that a review of her case is out of the question. Other human rights activists, the delegation claimed, have not been prosecuted for their human rights activities, but on other non-related offences such as extortion.

Ms Gaer highlighted the gap between the delegation's assertions and the information she got about Ms Tojibaeva from NGO sources, and advocated for an independent medical oversight. The delegation expressly refused this. She also referred to reports by OMCT and Human Rights Watch which document cases of torture of individuals, including human rights defenders, and the denial of access to legal or medical assistance.

In its concluding observations, the Committee expressed its concern about the apparent trend of repression against human rights activists, including reports of ill-treatment and unfair trials of Mutabar Tojibaeva and other human rights defenders. The Committee recommended that the State take effective measures to protect human rights advocates in the exercise of their peaceful human rights activities and urged the State to release those imprisoned because of such activities.

The Andijan events and their consequences

In May 2005, a group of terrorists attacked military units and State personnel, and liberated dangerous prisoners. They allegedly beat witnesses to force them to adopt their version of the events. There are videos taken by the terrorists themselves, which were shown in courts and examined by European Union (EU) experts. These clearly show the beatings by the terrorists. The delegation dismissed the allegations of beatings by officials, and described the Andijan events as 'terrorist acts committed on an unprecedented scale'.

In relation to these events, the Committee expressed concerns about the apparent pattern of repression of human rights defenders investigating the incident as way to stifle civil society and cut back on monitoring. Ms Gaer pointed to the *incommunicado* detention of those arrested in relation to the Andijan events, as well as the holding of trials which are either secret or not accessible to independent monitors. The delegation disagreed with these allegations, stating that individuals involved in the Andijan events were detained in temporary facilities, but their relatives were notified of their whereabouts and they had access to lawyers. The delegation asserted that EU experts were given the opportunity to confirm that defendant rights were respected. Moreover, the delegation claimed that all proceedings have taken place in the court buildings, even if some of them were considered *in camera* according to Criminal Code provisions to protect witnesses from terrorist reprisals. As to the refugees who returned to Uzbekistan, the delegation alleged that they now live in Andijan, but the EU experts had refused to meet them. Quoting Pierre Maurel, one of the EU experts, Ms Gaer pointed out that the experts publicly said that their visit to Andijan was not an investigation as such, and that only surface events had been shown. On the request by Ms Gaer and Mr Mavrommatis for an independent international investigation into the events, the State emphasised its sovereignty, and asserted that it is already carrying out its own investigation. The delegation argued that there is no need for an international investigation as the domestic system is functioning well.

Following the Andijan events, many members of domestic organisations were imprisoned. NGOs, international organisations, and the media have also claimed that their offices have been closed by the

Government, and that they have been asked to leave the country.¹⁸ The Committee found it difficult to believe that so many organisations had finished their work or committed infractions justifying expulsion. As an explanation, the delegation explained that all NGOs should work fully in line with the legislation. Unfortunately, some of them were in violation of their obligations. They had been warned and subsequently required to leave the country by a court order. The delegation added that several of them chose to leave voluntarily. Despite these incidents and owing to favourable conditions, most NGOs continue their work in Uzbekistan in accordance with the law. As to UNHCR, the State explained that its mission was to oversee the repatriation of Tadjik and Afghan refugees, and this was completed last year. Therefore, there was no reason for UNHCR to stay in the country. The delegation vigorously contested information received by Ms Gaer concerning the International Committee of the Red Cross (ICRC). The delegation claimed that ICRC has not reduced its activities in the region, and its personnel is in fact expanding. In 2005, ICRC suspended its visits to prisoners because of confidentiality issues, but has since expressed its intention to resume these. However, the delegation noted, ICRC has subsequently refused visits proposed by Uzbek authorities. The British Broadcasting Corporation (BBC) allegedly decided to close its own office in Tashkent for economic reasons. Ms Sveaass commented that this closure was also due to a lack of journalist accreditation. The State party rejected accusations of pressure applied on BBC journalists and reiterated the protection granted to mass media under national law. Concerning the Organisation of Security and Cooperation in Europe (OSCE), the delegation insisted that its work is continuing and that once again, the information received by the Committee was erroneous. In reply, Ms Gaer quoted the Annual Report of the ICRC to substantiate her previous comments and cast doubt on complaints by the State against the organisation. According to her, this discrepancy between the information received by the Committee and that provided by the State illustrates an underlying issue of transparency.

In its concluding observations, the Committee expressed its concern about the apparent excessive use of force by State forces to deal with the Andijan events and the lack of subsequent adequate investigation. The Committee was further concerned by the restrictions placed on independent human rights monitoring of these events, as well as the reported *incommunicado* detention of those involved in these events. The Committee noted that the State has persistently refused to set up an independent international commission of inquiry into these events, despite request by the High Commissioner for Human Rights endorsed by the UN Secretary-General and reiterated by the Committee on the Rights of the Child. The Committee recommended that the State institute a thorough inquiry led by independent experts to shed light on the facts and the measures taken during the May 2005 events, with the view to bring to justice persons responsible for violations. The Committee asked the State to provide information to families on the whereabouts of persons detained in connection to these events. The State should also ensure its personnel only uses force when strictly necessary and should subject any alleged violation to review. In addition, the Committee urged the State to facilitate the reopening and full functioning of independent national and international human rights organisations.

Migrations issues

Domestic legislation

Mr Mariño Menendez expressed concern about the absence of legislation on the treatment of refugees. He requested information about the way regular and clandestine migrants are treated. The delegation acknowledged that although there is no specific legislation on refugees yet, a draft law is currently under consideration. Ms Sveaass gave the case of people being returned to Uzbekistan as an example of the lack of follow-up by immigration officers. Mr Mariño Menendez also raised the issue of the free circulation of Uzbek citizens within the country being impeded by a system of visas. The delegation announced that this problem will be solved by the introduction of biometric passports in the coming years.

In its concluding observations, the Committee recommended that the State adopt a law on refugees in compliance with the provisions of the Convention.

Non-refoulement

Ms Gaer reaffirmed the obligation on States not to return anyone to a country where he or she might face torture. She then inquired about the alleged imprisonment of Uzbeks who were abducted in Kazakhstan and returned to Uzbekistan, as well as people airlifted to Romania. She asked whether any monitoring laws or directives exist, and pointed to the potential role of UNHCR in these matters. Mr Mariño Menendez asked for more information about the guarantees offered by States to which Uzbekistan extradites individuals. Mr Wang asked about the fate of 21 Uzbeks who were recently returned to Uzbekistan from Norway.

In reply, the delegation assured the Committee that the General Prosecutor takes into consideration the threat of torture when ordering an extradition. The State informed the Committee that people returned from Kazakhstan have been imprisoned, and that the extradition was carried out after Uzbekistan had given diplomatic assurances. However, the delegation stated that nobody has been returned from Norway.

In its concluding observations, the Committee expressed concern at the reported forcible return of recognised refugees and asylum seekers and their unknown living conditions since their return. It noted that this is in violation of Article 3 of the Convention. The Committee recommended that the Government invite UNHCR to return to Uzbekistan and assist it in the protection of refugees. The Committee also encouraged the State to become party to the 1951 *Convention relating to the Status of Refugees* and its 1967 *Optional Protocol*.

Data gathering

Referring to the fact that Uzbekistan has no data on the number of refugees or asylum seekers in the country, Ms Gaer and Mr Mavrommatis commented on the valuable assistance that UNHCR could provide in this regard, and encouraged the State to renew its cooperation with it. The delegation declared that the Government is settled on this point, and that the work of UNHCR in Uzbekistan is finished.

Women and children's rights

Ms Sveaass drew the delegation's attention to gender issues. She asked for more information about both the institutional (Ombudsman) and substantive framework in place to protect women and children's rights. The delegation reassured the Committee that the Ombudsman plays an active role in upholding women's rights. Ms Sveaass expressed concern about allegations of forced sterilisation, although the delegation claimed to have no information on this practice.

As to trafficking in women and children, Ms Sveaass underscored the need to protect victims, rather than holding them responsible under the existing law. The delegation replied that a specific provision prohibiting human trafficking currently exists. Furthermore, Uzbekistan is considering ratifying the *Protocol of Accession to the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*. Mr Kovalev inquired about reports of 3,000 children who have allegedly been sent to harvest cotton. The delegation acknowledged the situation, but assured him that these children are working out of their own volition.

In its concluding observations, the Committee recommended that the State improve the protection of women against violence both in and out of prisons by, *inter alia*, adopting specific measures in accordance with the UN *Declaration on Violence against Women*, and bringing perpetrators to justice. The Committee also recommended that the State strengthen measures to combat the trafficking of women.

Other issues

¹⁹ Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949.

Freedom of expression and religion

Mr Mavrommatis commented on the criminalisation of participation in extremist religious movements. He reminded the delegation that although their existence might be ‘inconvenient’, their freedom of speech must be respected as long as they do not commit a crime. The delegation asserted the promotion of harmony and tolerance within the State as the reason for the adoption of a special law imposing the registration of religious organisations. Individuals are free to commemorate religious events and to travel for pilgrimage to Saudi Arabia, Russia, and Israel. However, the State prohibits extremism, the use of religion to propagate panic or to pit one group against another, and attacks on State institutions. Therefore, organisations which promote crime or terrorism are prohibited.

Visits by international experts

Ms Gaer asked the delegation whether invitations to the Special Rapporteur on torture and the High Commissioner for Human Rights are currently under consideration. The delegation explained that the High Commissioner was unable to visit Uzbekistan in 2007 due to scheduling issues. As to the Special Rapporteur on torture, the delegation suggested that his request to visit the country be postponed. In its response, the State expressed its concern about alleged violations by other UN rapporteurs in fulfilling their mandates.

Conclusions and next steps

As was illustrated by the long series of questions asked by Ms Gaer and the numerous unfavourable NGO reports, a lot of improvement is still needed in Uzbek standards pertaining to the prohibition of torture. Efforts such as the abolition of the death penalty and the introduction of *habeas corpus* were welcomed by the Committee. However, through most of their questions, the Committee members looked for evidence of actual implementation of the institutional and legislative reforms claimed by the State. Discrepancies between the State and the Committee’s versions of certain events, as exemplified by the lively discussion on ICRC’s capacity to work within the country, demonstrated the need for transparency. Mr Mavrommatis eventually acknowledged that much more time is needed for the effective implementation of policies.

In its last examination of Uzbekistan in 2002, the Committee made recommendations aimed at reaffirming the prohibition of the use of confessions obtained through torture and advocating the review of cases decided before the State acceded to the Convention. It had also pointed out the lack of training of law enforcement personnel, the need for better monitoring of conditions of detention, the lack of transparency of the criminal justice system, the need to ensure the independence of the judiciary, and the weakness of the complaint mechanisms for victims.²⁰ When the Human Rights Committee reviewed Uzbekistan in 2001, it expressed concern about issues similar to those raised by the Committee against Torture in its present examination.²² These include the principle of *non-refoulement*, prohibition of violence against women, widespread use of torture by officials, protection of torture victims, conditions of detention, the definition of terrorism, and the death penalty.²⁵ The Committee on the Rights of the Child was particularly concerned about allegations of torture and ill-treatment of children.²⁷ Moreover, in 2006, the High Commissioner for Human Rights issued a report specifically addressing the Andijan events. In her report, the High Commissioner emphasised the

²⁰ CAT/C/CR/28/7, 2002, available at <http://www2.ohchr.org/english/bodies/cat/cats28.htm>

²¹ Concluding observations (CCPR/CO/71/UZB) available at website

²² CCPR/CO/71/UZB, 2001, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs71.htm#71st>

²³ CCPR/CO/83/UZB (HRC, 2005), paragraph 23.

²⁴ CCPR/CO/83/UZB (HRC, 2005).

²⁵ CCPR/CO/83/UZB, 2005, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs83.htm>

²⁶ CAT/C/CR/28/7 (CAT, 2002).

²⁷ CRC/C/UZB/CO/2, 2 June 2006, available at <http://www2.ohchr.org/english/bodies/crc/crcs42.htm>

urgent need for a stay of deportation to Uzbekistan of Uzbek asylum seekers and eyewitnesses of these events, who face the risk of torture if returned.²⁸

In its concluding observations, the Committee reminded the State that no exceptional circumstances whatsoever could be invoked as a justification for torture. While welcoming the entry into force of the law abolishing the death penalty, the Committee recommended that the State take action to remedy the distress caused to relatives of persons sentenced to death. Furthermore, the Committee welcomed the latest judicial, administrative and legislative developments at the State level to comply with its obligations under the Convention. It also noted the ratification by Uzbekistan of two additional international instruments as a positive development.²⁹ Moreover, the Committee encouraged the State to make declarations under Articles 21 and 22 of the Convention, become party to the *Optional Protocol* to the present Convention, the *Rome Statute* of the International Criminal Court, and the core UN human rights treaties to which it is not yet a party. Finally, the Committee encouraged the State to disseminate widely the reports submitted by Uzbekistan to the Committee and the conclusions and recommendations, in appropriate languages, through various media.

The State is invited to submit its fourth periodic report by 30 December 2011. The Committee recommended that the next report be drafted in accordance with the requirements of the Committee, in particular the submission of disaggregated data. The Committee requested that the State submit within one year information on the follow-up given to a number of the Committee's recommendations in the present concluding observations.³⁰

Last revised and updated: 26 February 2008.

²⁸ Paragraph 55, E/CN.4/2006/119, 1 February 2006, available at http://ap.ohchr.org/documents/dpage_e.aspx?c=201&su=200

²⁹ *Convention against Transnational Organized Crime* (2000) and *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* (1949).

³⁰ On allegations of torture and ill-treatment, conditions of detention, safeguards for prisoners, independent monitoring of places of detention and closure of human rights and other independent organisations.

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