



Torture Reform Assessment: Uzbekistan’s Implementation of the Recommendations of the Special Rapporteur on Torture

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Summary

Three years ago, the government of Uzbekistan took the important step of issuing an invitation to the United Nations (U.N.) Special Rapporteur on torture and other cruel, inhuman degrading treatment or punishment, the first government of the five Central Asian states to do so.¹ The Special Rapporteur's long-awaited fact-finding visit in late 2002 represented a major development in torture reform efforts and raised significant hopes that it would trigger fundamental changes toward eradicating the use of torture in Uzbekistan. His subsequent report, issued in February 2003, detailed Uzbekistan's pervasive torture problem, which he characterized as "systematic," and made twenty-two recommendations for combating it.²

Two years later the government has taken a few halting steps toward torture reform, including seminars, technical education, outreach to the diplomatic community, engagement with select human rights activists, and technical changes to regulations on paper. While welcome, these efforts have not resulted in a fundamental change in the systematic use of torture or in policies and practices that could effectively combat it.

Nor do these measures mark substantial progress on implementing the recommendations made in the Special Rapporteur's report. Significantly, the government has shown little will to do so or even to acknowledge the conclusions in the report. Most strikingly, the government has not taken meaningful steps on two of the Special Rapporteur's key recommendations: making a clear public statement condemning torture and declaring an end to the culture of impunity, and enacting a law providing for and implementing habeas corpus. Finally, the failure to reform is perhaps most compellingly evidenced by continuing serious, credible allegations of torture by law enforcement officials during investigations, pre-trial custody, and in prisons, made by detainees, their relatives, and defense attorneys.

This briefing paper assesses changes in law and in practice in the areas covered by many of the Special Rapporteur's twenty-two recommendations. It is based on numerous interviews with former detainees, detainees' relatives, defense lawyers, and human rights defenders conducted in the past year, as well as government reports and communications with government officials.

Introduction

Several Uzbek government documents describe steps it has taken in the area of torture reform. These include a series of communications with the Special Rapporteur in 2003

¹ At the time of the mission to Uzbekistan, the Special Rapporteur on torture was Theo van Boven; he was replaced by Manfred Nowak on December 1, 2004.

² Civil and Political Rights, Including the Questions of Torture and Detention: Torture and other cruel, inhuman or degrading treatment, Report of the Special Rapporteur on the question of torture, Theo van Boven, submitted in accordance with Commission resolution 2002/38. Addendum. Mission to Uzbekistan. United Nations document E/CN.4/2003/68/Add.2. February 3, 2003 (hereinafter, Report of the U.N. Special Rapporteur on torture).

and a separate report in 2004.³ While it would be reasonable to expect delays or problems with implementation of some recommendations, particularly those calling for major changes, in its reports the government claimed to have addressed only ten recommendations in the first year and fourteen in the second year. In fact, even on the recommendations the government claimed to have addressed, in some cases the action taken does not correspond to the recommendation at all. For example, the government lists prison programs run by non-governmental organizations (NGOs) to teach macramé and hairdressing to prisoners and allow prisoners to stage musical performances as examples of progress for the recommendation calling for non-governmental investigators to monitor conditions of detention.⁴ Finally, some of the recommendations that could easily have been implemented, such as making a clear statement that torture is prohibited and those who engage in it will be punished, have yet to be addressed.

Another key document is the “National Plan of Action to Implement the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” (the Plan), which the government of Uzbekistan approved on March 9, 2004, more than a year after the release of the Special Rapporteur’s recommendations. Early drafts circulated to representatives of the international community, including Human Rights Watch, called it a plan to implement the Special Rapporteur’s recommendations. The government has not explained why the Plan no longer makes reference to the Special Rapporteur’s report, conclusions, or recommendations.

If fully implemented, the Plan has the potential to complement other reform efforts. As conceived, however, it is weak, does little to implement the recommendations made by the Special Rapporteur, and should not be accepted as a satisfactory or sufficient step toward much-needed torture reform.

The structure and content of the approved Plan are confusing; it is unclear which “actions” in the Plan correspond to which articles in the Convention Against Torture (CAT)—assuming that the Plan is designed to implement the CAT—or to which recommendations of the Special Rapporteur. This makes it difficult to monitor and evaluate the Plan’s success toward meeting its stated goal and toward meeting the Special Rapporteur’s recommendations. Overall, the actions contained in the Plan are vague and are linked to unnecessarily attenuated timelines. The Plan focuses on roundtables and

³ The first of these was a series of communications to the Special Rapporteur reflected in the first follow-up report of his visit to Uzbekistan addressing progress made in the first year since issuing his report. Civil and Political Rights Including the Questions of Torture and Detention: Torture and other cruel, inhuman or degrading treatment or punishment, Report of the Special Rapporteur on the Question of Torture, Theo van Boven. Addendum. Follow-up to the Recommendations Made by the Special Rapporteur. Visits to Azerbaijan, Brazil, Chile, Mexico, Romania, Turkey and Uzbekistan. United Nations Document E/CN.4/2004/56/Add.3, February 13, 2004, pp. 44-52 (hereinafter Follow-up to the Recommendations Made by the Special Rapporteur, February 13, 2004).

More recently, the National Human Rights Center, which led the effort to draft a National Action Plan on torture, prepared an update of the government’s progress on this plan; however, a section of the update is dedicated to steps taken on the Special Rapporteur’s recommendations. The National Human Rights Center, Information on the fulfillment of the National Action Plan towards the Implementation of the UN Convention against Torture and Other Cruel or Inhuman Degrading Forms of Treatment and Punishment, Submitted to Mark Kelly, consultant to the United Nations Development Program in Uzbekistan, on November 1, 2004 (hereinafter The National Human Rights Center, Information on the Fulfillment of the National Action Plan).

⁴ Follow-up to the Recommendations Made by the Special Rapporteur, February 13, 2004, paragraphs 297-298.

conferences rather than on implementation of concrete reforms. The government itself has acknowledged that much of the Plan is aimed toward educating law enforcement officials and gradually changing the mindsets of lawmakers. While such activities may be crucial for sustaining institutional change, they cannot substitute for real reforms designed to eradicate the use of torture and create a culture of transparency and accountability.

Some of the actions outlined in the Plan are of questionable relation to reducing the use of torture. For example, Action 4.4 calls for “Organizing a roundtable to discuss possibilities of introduction of ‘plea bargain’ institute [sic], in cases where defendants plead guilty and request simplified review of the case,” sometime in 2005.

Comments on government action on the Special Rapporteur’s recommendations

The Special Rapporteur’ report contains twenty-two specific recommendations for the Uzbek government to combat the problem of torture. In the report, the Special Rapporteur noted “with keen interest and great expectation the intention and willingness expressed by high government officials to follow up on the recommendations included in the report.”⁵ This report card takes the Special Rapporteur’s recommendations as its basis for evaluating progress in torture reform. However, the Uzbek government has made other efforts not directly linked to the recommendations, in particular in its National Plan of Action. We have acknowledged these actions where appropriate.

Condemnation of Torture

- (a) First and foremost, the highest authorities need to publicly condemn torture in all its forms. The highest authorities, in particular those responsible for law enforcement activities, should declare unambiguously that they will not tolerate torture and similar ill-treatment by officials and that those in command at the time abuses are perpetrated will be held personally responsible for the abuses. The authorities need to take vigorous measures to make such declarations credible and make clear that the culture of impunity must end;

The government consistently denies the extent of the torture problem, calling cases of torture individual incidents and refusing to accept that torture is systematic. As early as a month following the release of the Special Rapporteur’s report, the Uzbek government held a briefing for foreign journalists at which Abdulaziz Kamilov, then special advisor to Uzbek President Islam Karimov, acknowledged “serious violations of human rights in... detention places,” but qualified this admission, further stating “[f]orcefully condemning [these] incidents I would like to emphasize that these cases are not of systemic character.”⁶ At a news conference a year later, then Uzbek Minister of Foreign

⁵ Report of the U.N. Special Rapporteur on torture, p. 2, executive summary.

⁶ Civil and Political Rights, Including the Question of Torture and Detention. Note verbale dated 20 March 2003 from the Permanent Mission of Uzbekistan to the United Nations addressed to the New York Office of the United Nations High Commissioner for Human Rights, E/CN.4/2003/G/54 31 March 2003. This statement was

Affairs Sadyk Safayev declared, “We can’t state that [torture is] systematic,”⁷ continuing to reject one of the report’s key conclusions. Various public officials have grown more willing to discuss the problem of torture, particularly with an international audience. But they have not made a clear and unambiguous, high-level declaration condemning torture to the Uzbek people in media and in languages accessible by the majority of the population.⁸ The continued denial at the highest level fosters a culture of impunity and calls into question the government’s will to adopt real reforms, and may explain why government steps seem more focused on gaining international approval rather than improving the lives of its own citizens.

The government claims to have completely fulfilled this recommendation, citing only qualified statements made to foreign journalists and technical legal changes.⁹ Significantly, high-level public officials with authority over law enforcement agencies, such as the president, ministers of the interior, justice, national security service, and the prosecutor general have all failed to make such declarations.¹⁰ Moreover, officials have not effectively conveyed to the people of Uzbekistan in Uzbek media outlets, that they acknowledge a torture problem, condemn it, and are undertaking efforts to combat torture. For example, in a rare statement in the Uzbek media about torture, a representative of the Ombudsman’s office acknowledged that the Special Rapporteur was only “partially right. However he is particularly unfair.”¹¹

The president and other high-level officials should publicly condemn of the use of torture in Uzbekistan and declare their commitments to combating the problem effectively. These statements should be made in languages and media accessible by the local population. This would bolster efforts in other spheres to change the laws and make clear to law enforcement officials that practices must change as well.

Amendment of the Criminal Code to Include the Crime of Torture

- (b) The Government should amend its domestic penal law to include the crime of torture the definition of which should be fully consistent with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and supported by an adequate penalty;

published in the newspaper *Pravda Vostoka*, a national Russian-language newspaper under the Cabinet of Ministers with a circulation of approximately 8,500, on March 20, 2003.

⁷ Sebastian Alison, “Uzbekistan admits torture but says not systematic,” *Reuters*, January 27, 2004.

⁸ The government does not refer to any other statements in its reports on torture reform and Human Rights Watch’s search of media reports also did not reveal any other public declarations by high-level officials.

⁹ The government refers to the amendment of article 235, a draft law on the detention of suspects and accused, a draft law creating a prison Ombudsman, the translation of a torture handbook into Uzbek, a Supreme Court resolution on the right to counsel and a Cabinet of Ministers instruction creating a government working group on the observance of human rights by law enforcement. The National Human Rights Center, Information on the Fulfillment of the National Action Plan, recommendation (a).

¹⁰ In fact, President Karimov avoided a key opportunity to make such a declaration when he failed to mention human rights or condemn torture in his opening remarks at the annual meeting of the European Bank for Reconstruction and Development (EBRD) in Tashkent in May 2003, even though observers widely expected such a declaration.

¹¹ “Parliament’s ombudsman “partially” admits use of torture in Uzbekistan,” BBC Monitoring reprint from Harakat website in Uzbek, February 26, 2004.

Although the government of Uzbekistan has amended the definition of torture in article 235 of the criminal code, this definition falls short of the authoritative one contained in the article 1 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Uzbekistan is a party.¹² Article 1 of CAT proscribes acts that intentionally inflict severe physical or mental pain or suffering without regard to their legal authorization. The amended article states that torture is defined as “*illegal* physical or mental coercion” (emphasis added), thus leaving open the possibility for legal forms of coercion even if they inflict severe physical or mental pain or suffering, a possibility not left open in the original version of article 235. Article 235 as amended further provides an unduly narrow list of law enforcement authorities prohibited from the use of torture, while the CAT definition prohibits the use of torture by any “public official or other person acting in an official capacity.” This reflects an erroneous view that only law enforcement authorities are capable of using torture in their official capacity, rather than anyone acting in an official capacity.¹³

Also, the amended article 235 fails to incorporate the notion of agency captured in the CAT’s wording “inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” Finally, while article 1 of CAT defines torture as the infliction of severe physical or mental pain or suffering on someone “for such purposes as obtaining from him or a *third person* information or a confession, punishing him for an act he or a *third person* has committed, intimidating him or a *third person*...” (emphasis added), article 235 as amended does not limit the use of torture where third persons are involved.¹⁴ This is a vital safeguard for Uzbek detainees, as Human Rights Watch has found that Uzbek law enforcement authorities in some cases inflict torture on one person to obtain a confession from or punish or intimidate someone else, for example, torture of a father in the presence of his son to induce the

¹² Through an act of parliament dated August 29, 2003, and signed into law by President Karimov on October 31, 2003, the Uzbek government amended article 235 of the Criminal Code of the Republic of Uzbekistan, to modify the official legal definition of torture. The amended text of article 235 was published on November 1, 2003 and entered into force ten days later, on November 11, 2003. The amended text of article 235 defines torture as follows: “The use of torture or other cruel, inhuman or degrading treatment or punishment, that is, illegal psychological or physical coercion, against a suspect, defendant, witness, victim or other participant in the criminal process, convicted person, their close relatives by threats, hitting, beating, torture, torment or other illegal act, committed by an inquisitor, investigator, prosecutor or other law enforcement or prison official with the goal of receiving from them any information, confession of a crime or for the unauthorized punishment for any action or to induce any action.” Unofficial Human Rights Watch translation.

¹³ For example, the narrow language of amended article 235 does not cover representatives of mahalla committees, which are not officially considered law-enforcement agencies but play an important role in local law enforcement and act in an official capacity. In fact, going against the CAT definition, the government specifically rejects the notion that chairmen of mahalla committees could commit torture, arguing that illegal actions by these actors “shall rather be qualified under other articles” of the Criminal Code. The National Human Rights Center, Information on the Fulfillment of the National Action Plan recommendation (b).

¹⁴ Uzbekistan claims that the scope of the law has been broadened but in fact the definition applies narrowly to prisoners and persons directly involved in criminal justice procedures and not to third parties. Uzbekistan’s Second Periodic Report to the U.N. Human Rights Committee confirms the exclusion of torture against third persons from the definition in Uzbek law “The new provisions broaden the spectrum of persons against whom the use of torture is prohibited, namely all persons *involved in the criminal process and serving sentences in penal institutions*,” (emphasis added). International Covenant on Civil and Political Rights. Human Rights Committee. Consideration of Reports Submitted by States Parties under Article 40 of the Covenant. Second Periodic Report. Uzbekistan. August 3, 2004, p. 27.CCPR/C/UZB/2004/2 paragraph 107 (hereinafter to be Second Report of Uzbekistan Submitted to the Human Rights Committee, August 3, 2004).

son to confess to a crime.¹⁵ The minimum sentence prescribed for violations of article 235 is a fine, which is weak sanction disproportionate to the crime. The maximum sentence is eight years' imprisonment.

In December 2003, the Supreme Court of Uzbekistan adopted a resolution containing a definition of torture that does conform to the CAT definition.¹⁶ The resolution has the force of law in that judges are obligated to apply this definition of torture. However, criminal charges may be raised only on the basis of the flawed definition contained in article 235 and not on the definition in the resolution because the latter is not enshrined in the criminal code, rendering it of little practical use. In its current country report to the U.N. Human Rights Committee, the government repeats the definition in article 235 instead of the internationally accepted definition found in the Supreme Court decree.¹⁷

Habeas Corpus

- (c) The Government should also amend its domestic penal law to include the right to habeas corpus, thus providing anyone who is deprived of his or her liberty by arrest or detention the right to take proceedings before an independent judicial body which may decide promptly on the lawfulness of the deprivation of liberty and order the release of the person if the deprivation of liberty is not lawful;

The government has not enacted and implemented habeas corpus despite representations to the international community about its plans to do so. The government's Plan mentions habeas corpus only once, in Action 3.2, which calls for "organizing a roundtable to discuss international experience on implementation of habeas corpus institute in national legislatures of foreign states." Introducing habeas corpus amounts to a major reform that will require significant time and resources to implement. Government officials have appropriately referred to the need for interim measures such as the study of judicial review systems, training for judges and other technical preparation.¹⁸ However, these requirements do not justify the failure to propose a date for the introduction of legislation or a timetable for implementation of such a crucial reform. The government also claims that "there is an on-going process in the [Ministry of the Interior] of reviewing the validity of detention of suspects," but such a process, akin to the fox guarding the henhouse, does nothing to advance the fundamental purpose of habeas corpus, which is to have an independent judicial body review the lawfulness of detention.¹⁹

Judicial Independence

- (d) The Government should take the necessary measures to establish and ensure the independence of the judiciary in the performance of their duties in conformity

¹⁵ Human Rights Watch is grateful to Nozima Kamalova, director, Legal Aid Society, Tashkent, for her analysis of amended article 235 and its compliance with the international legal standard on the definition of torture.

¹⁶ Supreme Court of the Republic of Uzbekistan, Resolution No. 17, December 19, 2003.

¹⁷ Second Report of Uzbekistan Submitted to the Human Rights Committee, August 3, 2004

¹⁸ Human Rights Watch meeting with Ministry of Internal Affairs officials, December 17, 2004.

¹⁹ The National Human Rights Center, Information on the Fulfillment of the National Action Plan, Recommendation (c).

with international standards, notably the United Nations Basic Principles on the Independence of the Judiciary. Measures should also be taken to ensure respect for the principle of the equality of arms between the prosecution and the defense in criminal proceedings;

Uzbek government claims of judicial reform are belied by ongoing monitoring by Human Rights Watch that shows that the Uzbek judiciary lacks independence. Government efforts at judicial reform outlined in the government's first update consist mainly of proposals to consider changes to legislation and of plans to implement gradual amendments with no stated timelines or benchmarks to evaluate effectiveness.²⁰ No such efforts are even mentioned in the more recent update. Judges reliably issue convictions in line with the prosecutors' demands; it is common for judicial verdicts to be copied word for word from indictments, sometimes not even changing the tenses. This reflects the practice of judges adopting wholesale all the materials introduced by the prosecution rather than the careful weighing of both sides. Imbalance between the prosecution and defense persists in criminal cases. As detailed below, in practice, defense attorneys have limited private access to their clients, particularly in the early stages of an investigation when investigators secure confessions and statements. Holding defendants in cages in the courtroom during trial undermines an atmosphere conducive to the presumption of innocence, which further imbalances the prosecution and defense. In a recent striking example of the lack of judicial independence, according to independent observers, on February 18 a judge in a Tashkent district court commented as he read the guilty verdict for three young men on religion-related charges, "I believe that the defendants are not guilty and I did all I could..."²¹

Investigations of Torture Allegations

- (e) The Government should ensure that all allegations of torture and similar ill-treatment are promptly, independently and thoroughly investigated by a body, outside the procuracy, capable of prosecuting perpetrators;

In a positive move, the government of Uzbekistan allowed independent experts to observe investigations into three custodial deaths in 2004. Two of these cases included international experts.²² In each of these cases, the experts concluded that the torture or

²⁰ Follow-up to the Recommendations Made by the Special Rapporteur, February 13, 2004, paragraphs 275-279.

²¹ Initiative Group of Human Rights Defenders of Uzbekistan, Press Release, from February 18, 2005.

²² In May, the government convened an interagency commission to investigate the custodial death of Andrei Shelkovenko in the Bustonlik district police station where he was under investigation. Family members and human rights groups, including Human Rights Watch, alleged that Shelkovenko had been tortured. Parts of the investigation, including a second autopsy, were monitored by international experts. The experts confirmed the government's initial conclusion that Shelkovenko had died of suicide by hanging. In June, the government allowed 2 local human rights activists to observe an investigation into the pre-trial death of Ilkhom Umarov, who died in pre-trial custody. The investigation determined that Umarov died of illness but officials disciplined several police officers in connection with his death. Most recently, the Uzbek government conducted an investigation into the January 2, 2005 death in prison of Samandar Umarov (no relation to Ilkhom Umarov). Local and international experts monitored some aspects of the investigation. The experts confirmed the authorities' original conclusion that Umarov died of natural causes but stated that they could not rule out antecedent trauma as the family did not consent to have the body exhumed for a second autopsy to be performed. The experts based their conclusion on interviews, documents and tissue samples provided by the

ill-treatment did not cause the death of the detainee. Each of these investigation commissions, which included procuracy staff, was established on an ad hoc basis and not as a body with a permanent mandate. The government should establish such a body. To show its willingness to establish a record of credibility and transparency in investigating deaths in custody, the government should reopen inquiries into previous deaths which remain unsatisfactorily resolved.

The Ministry of Internal Affairs has begun to review protocols from other countries on torture investigations, a useful effort, but the government has not yet adopted its own procedures or body, or clarified whether it intends to create an independent standing body for investigating and prosecuting torture cases. The government reports that it has empowered the Ombudsman's office to conduct such investigations with a view to fulfilling this recommendation.²³ In August, the government passed changes to the law on the Ombudsman, empowering the office of the Ombudsman to "demand records of criminal, administrative and civil proceedings for review" in cases of suspected torture or ill-treatment.

It is unclear whether the Ombudsman would investigate only those complaints citizens brought directly to the Ombudsman's office or whether complaints would be directed to the Ombudsman's office through other agencies or organizations, and whether the Ombudsman's office would have the power to interview detainees and witnesses and order independent medical exams. It is also unclear how the Ombudsman's office would ensure the safety of the complainant.

Currently, the Ombudsman's office does not have sufficient legal competence to conduct such investigations effectively. The Ombudsman's office also does not have the power to prosecute perpetrators. Current practice indicates that the Ombudsman's office forwards complaints of torture or ill-treatment directly to the body accused of the torture rather than investigating them independently. Uzbeks who have spoken to Human Rights Watch about their efforts to bring attention to the torture or ill-treatment of their relatives have told us they consider the office of the Ombudsman to function as a "post office" which redirects complaints rather than as a protector of rights.

Thus, the government has yet to institutionalize a mechanism for the independent investigation of allegations of torture and ill-treatment of detainees and prisoners. In practice, detainees are not afforded confidential visits with their attorneys or relatives and thus do not raise such allegations until trial, often many months too late for meaningful documentation of any injuries. Law enforcement officials also hold detainees incommunicado, which prevents detection of serious abuse, or threaten them with additional punishment for reporting torture and mistreatment. At trial, judges routinely ignore allegations of torture or ill-treatment made by defendants and refuse requests to investigate them by calling the alleged perpetrators to be questioned or allowing for independent medical exams.

Uzbek government. It is unclear how the authenticity of these materials was established. In none of the investigations did the observers comment on allegations of pressure on decedents' relatives.

²³ The National Human Rights Center, Information on the Fulfillment of the National Action Plan, recommendation (e).

Accountability for Torturers

- (f) Any public official indicted for abuse or torture should be immediately suspended from duty pending trial;

- (g) The Ministry of Internal Affairs and the National Security Service should establish effective procedures for internal monitoring of the behavior and discipline of their agents, in particular with a view to eliminating practices of torture and similar ill-treatment. The activities of such procedures should not be dependent on the existence of a formal complaint;

In conversations with foreign interlocutors, the Ministry of Internal Affairs has stated that it terminates the employment of anyone suspected of using illegal methods, pending trial or other disciplinary inquiry.

In July 2004, a high-level government official stated in remarks to *Zerkalo* newspaper that fifty-seven officers were brought to account in 2003 for the use of torture and other illegal methods of investigation. In August 2004 Human Rights Watch made a written request for information from the government to give meaning to these statistics—the context and date in which the complaint arose; the precise actions committed that gave rise to the charges; the charges against the officers; whether trials or disciplinary proceedings were held; and action taken or sentences imposed. Human Rights Watch did not receive a response to this request. In its country submission to the U.N. Human Rights Committee, the government reports that in 2003, 192 prosecutorial-investigative officers were disciplined for violating the criminal procedure code and for allowing the violations of citizens' constitutional rights, although it does not specify the nature of the violations or disciplinary measures. Of these, twenty-two were dismissed from their positions. The report also states that 408 investigators were subject to disciplinary measures, including thirty-eight who were dismissed. According to the report, fifteen officers were convicted in relation to deaths in custody.²⁴ The government has also claimed that more such prosecutions occurred in 2004, although it has not made these figures public or reported them to the HRC in its country submission. The government has also not made clear what steps, if any, it has taken to provide a remedy for victims of torture or other violations after the use of torture was proven through the convictions of officials involved in their cases.

The government has also created an interagency body devoted to investigating serious crimes committed by law enforcement officials. While interagency cooperation is needed to effectively monitor the conduct of law enforcement agents, the government has not provided detail as to how this body will improve upon the work of preexisting agencies. For any new agency to be effective there must be genuine will and commitment. There

²⁴ Second Report of Uzbekistan Submitted to the Human Rights Committee, August 3, 2004, paragraph 111. In a meeting with Human Rights Watch, officials of the Procuracy General also said that in the first nine months of 2004, thirty-six cases of human rights violators by officials were forwarded to a court. No further detail was made available.

must also be specific benchmarks for judging the effectiveness of this body, and transparency in its reporting.

Monitoring Places of Detention

- (h) In addition, independent non-governmental investigators should be authorized to have full and prompt access to all places of detention, including police lock ups, pre-trial detention centers, Security Services premises, administrative detention areas, detention units of medical and psychiatric institutions and prisons, with a view to monitoring the treatment of persons and their conditions of detention. They should be allowed to have confidential interviews with all persons deprived of their liberty;

For prison visits to be effective in detecting and preventing torture they must be conducted in a manner that reassures detainees that they will not suffer retribution for having spoken to monitors.²⁵ The Uzbek government has allowed increased monitoring of prisons by non-governmental groups, but it has not allowed access under conditions that would ensure the effectiveness of such monitoring. No NGO monitoring program currently has the appropriate guarantees of unannounced, unaccompanied, repeat visits and confidential meetings with prisoners that are essential for torture monitoring. Further, the government has not allowed full and prompt access to all places of detention, especially places of temporary detention such as police lock-ups, pre-trial detention centers and National Security Services premises.

Notably, the government refused requests made by the ICRC and foreign embassies to have access to detainees held in connection with the bombings and shootings that occurred in Uzbekistan in late March and early April. Human Rights Watch has received credible allegations of torture and mistreatment from the relatives of some of these detainees. Human Rights Watch has also received credible complaints that prison officials retaliate against prisoners who complain to prison investigators by the use of punishment cells, loss of privileges, beatings, and other physical mistreatment.²⁶

Going forward, independent nongovernmental investigators should be trained in prison monitoring and should be allowed repeat unplanned, unmonitored visits to all places of detention and confidential interviews with detainees. The focus should be not on visits for their own sake, but on transparency, using qualified monitors and implementing the Special Rapporteur's recommendation.

Inquiry into Treatment of Detainees

- (i) Magistrates and judges, as well as procurators, should always ask persons brought from MVD [Ministry of Internal Affairs] or SNB [National Security Service] custody how they have been treated and be particularly attentive to their condition, and, where indicated, even in the absence of a formal complaint from the defendant, order a medical examination;

²⁵ See: Association for the Prevention of Torture, "Monitoring Places of Detention: A practical Guide for NGOs," Geneva December, 2002 http://www.ap.t.ch/pub/library/MPD_Guide.pdf

²⁶ For an example, see case of Jamshid Vosiev in the Ongoing Torture section of this briefing paper, p. 20.

According to Human Rights Watch's trial monitoring and interviews with defendants' families, judges and procurators do not routinely make inquiries of persons brought from custody about how they have been treated. Human Rights Watch has observed judges make pro forma inquiries to defendants about treatment but then fail to take meaningful action when the latter make allegations of torture or ill-treatment made by defendants. To be effective, judges must engage defendants in an inquiry actually designed to elicit information about treatment in custody and be prepared to take action if defendants make credible allegations concerning torture or ill-treatment. Further, in cases of which Human Rights Watch is aware, judges show indifference to allegations of torture or ill-treatment made by detainees. Judges are known to refuse detainees' requests for forensic medical exams to prove their injuries or requests to call alleged perpetrators to testify.²⁷

Notably, in the recent Supreme Court trial of fifteen defendants charged with terrorism and other serious offenses in connection with the March-April violence, the judges, procurators and state-appointed defense attorneys all failed to ask the defendants about their treatment in custody. This is disturbing given that the prosecution's case as presented in court was based almost entirely on the defendants' confessions; to the best of our knowledge no meaningful effort was made to ascertain that these confessions were not coerced through torture.²⁸

In one case, a judge's failure to react to abusive conduct by law enforcement officials in his courtroom illustrated why people may have little confidence in the judiciary's response to allegations of torture by law enforcement more generally. In a July 2004 trial in Margilan of ten defendants charged with religious offenses, guards beat one of the defendants in the courtroom in front of relatives and other observers while the judge read the verdict and did not react to the beating. The government disputes this incident of abuse.²⁹ In the case of prisoner Jamshid Vosiev, noted below, a judge ignored his testimony that prison guards taped his mouth shut and beat him, along with 100 other religious prisoners, to force them to beg the state's forgiveness. He also refused to allow

²⁷ Moreover, by the time of trial, often many months after torture or mistreatment has occurred, a forensic medical exam may not provide meaningful documentation of torture.

²⁸ The government cites identifications, victim testimony and unspecified physical ballistic, forensic, and technical evidence on which the convictions were based and refutes Human Rights Watch's claim that the inquiries made by the judges and attorneys about the confessions were simply pro forma. No explanatory detail was provided. Answers of the Uzbek side to the letter of Rachel Denber, acting Executive Director of Human Rights Watch's Europe and Central Asia division regarding the trial of defendants connected to the terrorist acts of March-April 2004, points 1 and 4. Received January 6, 2005.

²⁹ This was at the July 23, 2004 sentencing of ten men arrested in Margilan on April 3. The Fergana Province Court barred most relatives and defense attorneys from the courtroom, violating the right to an open hearing. Several observers told Human Rights Watch that after one of the defendants, Hairullo Obidov, requested that his tight handcuffs be loosened to release pressure on his arm, five guards dragged the defendant from the courtroom and brought him back approximately twenty minutes later bruised and disheveled. They also report that they then threw the defendant onto the floor of the defendants' cage and beat him while the judge read the sentence. The Uzbek government claims that the trial was conducted in accordance with the law, that relatives and other observers were present and that Hairullo Obidov was not beaten. It further claims that this information exposes Human Rights Watch's "biased approach" and is a clear example of Human Rights Watch's attempt to "discredit the international authority" of Uzbekistan. Answers from the Uzbek side to the letter of Rachel Denber, Acting Executive Director of Human Rights Watch's Europe and Central Asia division from August 18, 2004, point 4. Received on November 9, 2004 (hereinafter: Uzbek government response to Human Rights Watch, November 9, 2004).

Vosiev to undergo a forensic medical examination to determine whether he had injuries from beatings.

Inadmissibility of Evidence Gained Illegally

- (j) All measures should be taken to ensure in practice absolute respect for the principle of inadmissibility of evidence obtained by torture in accordance with international standards and the May 1997 Supreme Court resolution;
- (k) Confessions made by persons in MVD [Ministry of Internal Affairs] or SNB [National Security Service] custody without the presence of a lawyer/legal counsel and that are not confirmed before a judge should not be admissible as evidence against persons who made the confession. Serious consideration should be given to video and audio taping of proceedings in MVD and SNB interrogation rooms;

In 2003, the Supreme Court issued an instruction barring the use of evidence as the basis for conviction if it was obtained under torture or where the suspect was deprived access to defense counsel.³⁰ In September 2004, the Supreme Court passed a resolution declaring all evidence obtained by illegal means to be inadmissible.³¹ However, judges routinely convict defendants based solely on confessions and other statements that defendants allege were coerced through torture and mistreatment or outside the presence of defense counsel. The practice of incommunicado detention persists; Human Rights Watch receives frequent reports of detainees who are mistreated and denied access to counsel.³²

Access to Defense Attorneys

- (l) Legislation should be amended to allow for the unmonitored presence of legal counsel and relatives of persons deprived of their liberty within 24 hours. Moreover, law enforcement agencies need to receive guidelines on informing criminal suspects of their right to defense counsel;
- (m) Given the numerous reports of inadequate legal counsel provided by State appointed lawyers, measures should be taken to improve legal aid service, in compliance with the United Nations Basic Principles on the Role of Lawyers;

Uzbek law provides that a detainee has the right to consult a defense attorney.³³ The government reports that a legal advice office has been assigned to each investigation unit and that the Ministry of Internal Affairs has established a schedule of duty lawyers who are on call to meet with detainees when called by investigators.³⁴ The system of duty

³⁰ Supreme Court of the Republic of Uzbekistan, Resolution No. 17, December 19, 2003.

³¹ Supreme Court of the Republic of Uzbekistan, full-scale meeting, September 23, 2004.

³² For an example, see case of Jamshid Vosiev in the Ongoing Torture section of this briefing paper, p. 20.

³³ Criminal Code of the Republic of Uzbekistan, article 48.

³⁴ The National Human Rights Center, Information on the Fulfillment of the National Action Plan, recommendations (k), (l), (m). Agreement between Ministry of Internal Affairs with Association of Lawyers of Uzbekistan on the Procedure of Granting the Right to Defense Counsel to Detainees, Suspects and Accused during the Inquest and Preliminary Investigation.

lawyers is a positive step but investigators still control access to these lawyers who may appear only when called by an investigator, often much later than the first moment of detention or after an initial interrogation. It is unclear if such a system now functions in every police station. A similar system does not yet exist for those detained by the National Security Service.³⁵

Serious flaws in the law on attorney access and in its implementation render the right to counsel almost meaningless in practice. Uzbek law on attorney access distinguishes between persons held as witnesses, suspects and those accused of a crime. In practice, persons are considered “detained” only when they are accused of a crime, and the right to an attorney therefore attaches only after someone is accused, rather than from the moment of de facto detention. Thus, witnesses and suspects deprived of their liberty have no access to counsel.

In practice, law enforcement agencies do not inform detainees of their right to a lawyer. They also do not allow detainees to use a telephone or other means to contact a lawyer or relative when a detainee attempts to assert the right. Numerous relatives of detainees have told Human Rights Watch that they did not know for several days where their family member was being held, further limiting the possibility to secure access to an attorney. Investigators regulate access of defense attorneys to their clients and abuses relating to access are rampant. If an investigator is “unavailable,” the attorney may not visit the client. Visits with clients do not occur in confidential conditions, limiting the detainee’s ability to report torture or ill-treatment to his attorney. Investigators also coerce detainees to reject their attorneys of choice in favor of attorneys preferred by the government.

A positive step taken in regard to informing detainees of their rights is a pamphlet detailing the rights of witnesses, suspects and accused recently prepared by the American Bar Association’s Central and Eastern European Law Project’s Tashkent office. The Ministry of Internal Affairs has agreed to distribute this pamphlet to detainees and make it publicly available in police stations.³⁶

Access to Forensic Exams and Training of Law Enforcement Officials

- (n) Medical doctors attached to an independent forensic institute, possibly under the jurisdiction of the Ministry of Health, and specifically trained in identifying sequelae of physical torture or prohibited ill-treatment should have access to detainees upon arrest and upon transfer to each new detention facility.

³⁵ See also the U.N. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, General Assembly Resolution 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988). The principles require that a person be informed promptly of any charges against him; prompt judicial review of legality of the detention; and commencement of trial within a reasonable time.

³⁶ A copy of this pamphlet is on file with Human Rights Watch. According to the ABA/CEELI office in Tashkent, the Ministry of Internal Affairs has distributed or plans to distribute approximately 250,000 copies of the pamphlet and has requested that 400,000 more be printed. Email from ABA/CEELI program officer in Tashkent to Human Rights Watch, March 15, 2005.

Furthermore, medical reports drawn up by private doctors should be admissible as evidence in court;

- (o) Priority should be given to enhancing and strengthening the training of law enforcement agents regarding the treatment of persons deprived of liberty. The Government should continue to request relevant international organizations to provide it with assistance in that matter;

Detainees are not afforded independent medical examinations and have difficulty obtaining medical reports for use as evidence of torture.³⁷ Several roundtables and trainings for Ministry of Internal Affairs and prison officials have occurred on standards of treatment of detainees and prisoners. The Ministry of Internal Affairs has also published and distributed a compendium of human rights treaties relating to law enforcement in Uzbek.³⁸ However, based on interviews with former detainees, relatives of detainees, independent human rights activists, and defense attorneys, Human Rights Watch has documented a persistent culture of impunity among law enforcement officials, especially regarding the treatment of detainees during the interrogation and investigation stage of the criminal law process, suggesting further efforts are needed in this regard.

Ministry of Justice Authority over Places of Detention

- (p) Serious consideration should be given to amending existing legislation to place correctional facilities (prisons and colonies) and remand centers (SIZOs) under the authority of the Ministry of Justice;

The government has taken no steps to implement or consider amending existing legislation to transfer correctional facilities and remand centers from the jurisdiction of the Ministry of the Interior to the Ministry of Justice. The government does not report on any such steps in either of its updates nor activities relating such measures in the National Action Plan.

Reparation for Victims of Torture

- (q) Where there is credible evidence that a person has been subjected to torture or similar ill-treatment, adequate reparation should be promptly given to that person; for this purpose a system of compensation and rehabilitation should be put in place;

The government has taken no steps to consider or implement a system of reparation or rehabilitation for the victims of torture. The government does not report on any such steps in either of its updates nor activities relating such measures in the National Action Plan. Human Rights Watch knows of no cases in which torture victims or their families received reparation.

³⁷ Detainees can request such examinations at trial, but this can be many months after torture or mistreatment occurred, too late for an exam to provide meaningful documentation. See section (i).

³⁸ The National Human Rights Center, Information on the Fulfillment of the National Action Plan, recommendation (o).

Ombudsman's Office

- (r) The Ombudsman's Office should be provided with the necessary financial and human resources to carry out its functions effectively. It should be granted the authority to inspect at will, as necessary and without notice, any place of deprivation of liberty, to publicize its findings regularly and to submit evidence of criminal behavior to the relevant prosecutorial body and the administrative superiors of the public authority whose acts are in question;

On December 10, 2004, the government announced an agreement between the Ombudsman's office and the Ministry of Internal Affairs to improve coordination and cooperation between these agencies. The government has also produced a draft law creating a prison Ombudsman. This institution is not yet enacted in practice. To be effective, it would have to have the power to ensure the safety of complainants, including providing a confidential means to report reprisals and have the ability to refer cases of abuse for prosecution or discipline. However, numerous former detainees and the relatives of detainees have told Human Rights Watch that they lack confidence in the Ombudsman's office and perceive it as unwilling or unable to launch effective investigations into their complaints (see also commentary to recommendation (e), above). The government should empower the Ombudsman's office with the resources and competence to act independently.

Relatives of Persons Sentenced to Death

- (s) Relatives of persons sentenced to death should be treated in a humane manner with a view to avoiding their unnecessary suffering due to the secrecy and uncertainty surrounding capital cases. It is further recommended that a moratorium be introduced on the execution of the death penalty and that urgent and serious consideration be given to the abolition of capital punishment;

Speaking to reporters at a December 2, 2004 session of parliament, President Karimov made the welcome remarks that he personally opposes the death penalty but went on to cite popular support for the death penalty as an impediment to imposing a moratorium.³⁹ The government's Plan has provisions for conducting public opinion polls on repealing the death penalty, assessing the practice of replacing capital punishment with imprisonment and preparing regulations on informing relatives of individuals sentenced to death (Activities 19.1, 19.2 and 19.3) in 2004 and 2005. It is unclear why public approval should be a prerequisite for such a moratorium. Further, in the case of Uzbekistan, the lack of due process, most strongly evidenced by the systematic use of torture, the use of torture to coerce confessions, and the practice of convicting defendants based on confessional evidence alone, make the continued application especially problematic and the need for an immediate moratorium all the more urgent.

³⁹ "Uzbek Leader's Interview in Parliament Intermission" (in Uzbek), Uzbek Television first channel (Tashkent), December 2, 2004, 1805 GMT, BBC Monitoring Central Asia, December 3, 2004.

Even more troubling is the government's failure to implement immediate changes to current practices in the treatment of relatives of death row convicts. Relatives are not allowed final visits, and are not informed of the date of execution or the whereabouts of their loved ones' remains. The number of executions carried out annually is considered a state secret and no official information is available on it. Since 2002, the government has carried out at least nine executions despite interventions made by the U.N. Human Rights Committee (HRC) to stay the executions pending review, including two as recently as August 2004.⁴⁰ Other death row convicts who have appealed to the HRC remain in jeopardy. It is unclear why humane treatment of relatives of individuals sentenced to death, including being afforded a last visit, being informed of the date of execution, and the disposition of their loved one's body after execution, requires the preparation of special regulations that must wait until 2005 even to be submitted for review. The government could show a commitment to real reform by making changes immediately to ensure humane treatment for relatives of death row prisoners as well as respecting interventions made by the HRC.

Jaslyk Prison Colony

- (t) The Government should give urgent consideration to closing Jaslyk colony which by its very location creates conditions of detention amounting to cruel, inhuman and degrading treatment or punishment for both its inmates and their relatives;

Jaslyk prison, located in the desert in the Karakalpakstan region, in the far northwest of the country, is a three-day train trip from the nearest urban center, a difficult and expensive journey for relatives of prisoners. As the Special Rapporteur noted in his report, Jaslyk is "often cited for its hardship conditions and inhuman practices."⁴¹ The government has made no movements to consider closing Jaslyk and actions to implement this recommendation are not included in the Plan.

Respect for U.N. Mechanisms

- (u) All competent government authorities should give immediate attention and respond to interim measures ordered by the Human Rights Committee and urgent appeals dispatched by United Nations monitoring mechanisms regarding persons whose life and physical integrity may be at risk of imminent and irreparable harm;
- (v) The Government is invited to make the declaration provided for in article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment recognizing the competence of the Committee against Torture to receive and consider communications from individuals who claim to

⁴⁰ United Nations Press Release, "U.N. Expert Deplores Uzbekistan's Lack of Cooperation with U.N. Human Rights Mechanisms," September 13, 2004
<http://www.unhcr.ch/hurricane/hurricane.nsf/0/A2DB9F8A4C6A9BE9C1256F0E0036D345?opendocument> Also see, Amnesty International Urgent Action, "Uzbekistan: Two More Executions despite UN Intervention." <http://web.amnesty.org/library/Index/ENGEUR620162004?open&of=ENG-UZB>

⁴¹ Report of the U.N. Special Rapporteur on torture, paragraph 49.

be victims of a violation of the provisions of the Convention, as well as to ratifying the Optional Protocol to the Convention, whereby a body shall be set up to undertake regular visits to all places of detention in the country in order to prevent torture. It should also invite the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders as well as the Special Rapporteur on the independence of judges and lawyers to carry out visits to the country;

The government continues to disregard interim measures ordered by the HRC. This is starkly illustrated by the recent executions of Azizbek Karimov and Yusuf Jumaev despite timely interventions by the HRC.

The Plan envisages “considering the possibility” and “studying the practice” in 2004 and 2005 of recognizing the competence of the Committee against Torture to receive complaints from Uzbek citizens and residents. It is unclear why the government has resisted stronger measures, why it has not made a declaration providing for article 22 of the CAT or ratified the Optional Protocol to the Convention, or why it has not extended invitations to other U.N. special mechanisms, although actions in part 22 of the Plan provide for “considering the possibility” and “studying the practice” in 2004 and 2005. The government should extend unconditional standing invitations to all U.N. special mechanisms immediately as a sign of willingness to undertake reform, rather than waiting even to consider the possibility. Several special mechanisms have already requested invitations for country visits from the Uzbek government, including the Special Representative of the Secretary-General on human rights defenders,⁴² and the Special Rapporteur on the independence of judges and lawyers,⁴³ as well as the Special Rapporteur for the freedom of religion or belief.⁴⁴

Ongoing Torture

The ultimate measure of Uzbekistan’s progress on torture reform is a fundamental change in law enforcement practices, a reduction in credible reports of torture, and accountability for perpetrators of torture. Despite efforts at reform, through the National Action Plan and other changes, torture continues in Uzbekistan and the culture of impunity has not changed.

Human Rights Watch’s Tashkent office has documented credible allegations of torture and ill-treatment against detainees and prisoners in the two years since the Special Rapporteur’s recommendations. Torture victims and their relatives also report to Human Rights Watch that their efforts to pursue accountability for perpetrators and

⁴² United Nations. Economic and Social Council. Promotion and Protection of Human Rights. Human Rights Defenders. Report of the Special Representative of the Secretary-General on human rights defenders, Hina Jilani E/CN.4/2005/101 December 13, 2004, paragraph 5.
<http://daccessdds.un.org/doc/UNDOC/GEN/G04/168/16/PDF/G0416816.pdf?OpenElement>

⁴³ Special Rapporteur of the Commission on Human Rights on the Independence of Judges and Lawyers, Country Visits. <http://www.ohchr.org/english/issues/judiciary/visits.htm>

⁴⁴ See: Civil and Political Rights, Including the Question of Religious Intolerance. Report Submitted by Asma Jahangir, Special Rapporteur on freedom of religion or belief, E/CN.4/2004/61 December 20, 2004, paragraph 31.

justice for victims go unresolved. In trials monitored by Human Rights Watch, judges continue to show indifference to allegations of torture and accept evidence allegedly gained under torture without conducting meaningful inquiries. Human Rights Watch regularly receives reports from defense attorneys who do not have timely access to their clients, a critical safeguard against illegal interrogation methods. Detainees who have been subject to arbitrary arrest remain at the mercy of the arresting agency and investigators without the right to appeal to an independent judicial body, which could protect them from torture and ill-treatment.

Police and security agents arrested Bakhtior Muminov, a religious Muslim, on March 29, 2004, on suspicion of connection to recent terrorist violence. The officers claimed that they needed to question him and that he would return home within two hours. They did not present any identification, warrant or subpoena. Two days later officers told the family that Muminov had been “tried” and was being held in the basement of the police station for five days to serve his sentence. After two more days, plainclothes officers detained Muminov’s brother, Abdumanob at his home, saying he could see Bakhtior. Officers held Abdumanob over night and interrogated him about his brother. When he was released, Abdumanob Muminov had bruises on the sides of his chest and he told his family that he was extremely frightened. He reported that the police had beaten him and hit him on the head during the interrogation. Although Bakhtior Muminov’s relatives retained a lawyer, authorities did not allow the lawyer to see Muminov or even confirm his whereabouts. In June, his lawyer surmised that Muminov might be in pre-trial detention in Tashkent Prison, but gained access to him only on August 11, after repeated official requests and complaints. Muminov had apparently been assigned a public defender who was present for at least one of his early interrogations. But prior to August 11, for months Muminov had no access to his own attorney. At trial, Muminov testified that he had been severely beaten and subjected to electric shock during the investigation. He was convicted of terrorism, murder, anti-constitutional activity and other charges on November 10, 2004.⁴⁵

Police in Zangiota arrested Abdubosit Yusupov on March 29. Yusupov is a former religious prisoner who had been amnestied after serving part of a sentence for anti-constitutional activities and narcotics possession. Police alleged that they found narcotics in his pocket, although Yusupov originally said the police planted the drugs on him. His family retained an attorney, who was allowed to see Yusupov at Tashkent Prison for the first time on April 20. She told Human Rights Watch that Yusupov’s legs were swollen and he could barely walk. He had difficulty moving his arms and hands and could not grip a pen to sign his name. He had a large bruise on his upper right arm and burns on his face. Yusupov told his attorney that officers at the Tashkent Province Department of Internal Affairs beat him all over his body and on the soles of his feet, sodomized him with batons, set his beard on fire and handcuffed his arms behind his knees and suspended him from a rod threaded under his armpits for many hours. The government

⁴⁵ The government claims that law enforcement officials did not violate any norms during the investigation, that Muminov had access to an attorney from the moment of detention and that they received no complaints from Muminov or his attorney about access. The government does not specify whether Muminov had access to his own attorney or to a government appointed one. It also makes no comment regarding claims by Muminov that he was tortured. Uzbek government response to Human Rights Watch, point 5, November 9, 2004.

disputes these allegations of abuse. In May, Yusupov was sentenced to a two-year suspended sentence after partially agreeing to the charges.⁴⁶

Also, on March 29, police in Ramitan, in Bukhara Province arrested Fazliddin Tukhtaev in connection with the explosions and bombings that had recently occurred. His lawyer was only allowed to see him nearly four months later on July 23. He reported to his attorney that he had been beaten throughout his time in custody, but was too afraid to give details since prison guards were listening to the conversation. During that visit Tukhtaev signed a written request to the investigator to give his attorney access to the investigation materials. The next day he rescinded the request, raising concerns that he was pressured or coerced. Tukhtaev's attorney had no access to the materials of the investigation and was barred from the trial.⁴⁷

Jamshid Vosiev and two other men already convicted and serving sentences in Novoi Prison under article 159, (attempting to overthrow the constitutional order of Uzbekistan, an article often used against religious Muslims) were charged with allegedly violating article 159 again, while in prison. Vosiev alleges that the charges are revenge for complaining about conditions to a government commission that inspected the prison earlier this year, and for refusing to beg forgiveness and repudiate their Islamic ideas and beliefs. On June 15 the Novoi Province court sentenced Vosiev to seven years of a strict prison regime, in addition to the eleven he has already been serving. However, the trial failed to meet basic fair trial standards. Vosiev's lawyer was not permitted to participate in the investigation and saw his client for the first time at trial. Although the proceedings were open, the judge did not allow Vosiev's mother in the courtroom during the questioning of witnesses from the prison. Several other witnesses who gave evidence against the defendants were not brought to court to testify, although the judge allowed their testimony as evidence. To the best of Human Rights Watch's knowledge, the charges are based on allegations that Vosiev had a religious leaflet in his cell. The judge ignored Vosiev's testimony that prison guards taped his mouth shut and beat him along with 100 other religious prisoners to force them to beg forgiveness. He also refused to allow Vosiev to undergo a forensic medical examination to determine whether he has injuries from beatings.

Judge Arziev of the Novoi Province Court refused to allow a representative of Human Rights Watch to observe the Vosiev's appeal proceedings, even though he insisted the proceedings were open. He told Human Rights Watch that "we have our own protocol [for open trials] here in Novoi." The judge later barred Vosiev's mother from the courtroom. The government disputes this, claiming that Human Rights Watch attempted to enter the court illegally.⁴⁸

⁴⁶ The government claims that the investigation did not confirm his attorney's allegations that Yusupov was tortured and provides no other explanation. Uzbek government response to Human Rights Watch, point 6, November 9, 2004.

⁴⁷ The government reports that it received no complaints from Tukhtaev but does not comment on the claim that he was tortured and pressured. Uzbek government response to Human Rights Watch, point 7, November 9, 2004.

⁴⁸ The government claims that the materials from the investigation show that the new charges against Vosiev were properly brought and that he was not subject to pressure to renounce his religious beliefs. It also claims, erroneously, that Judge Arziev barred the Human Rights Watch representative from observing Vosiev's appeal because he attempted to enter the courtroom with prohibited video and sound recording devices. Judge Arziev

made no such claims to Human Rights Watch, the Human Rights Watch representative had no such equipment and further, Human Rights Watch's Tashkent office owns no such equipment. Uzbek government response to Human Rights Watch, point 9, November 9, 2004.