

## Human Rights Watch Submission to the United Nations Committee Against Torture on Uzbekistan

### Introduction

This submission summarizes Human Rights Watch's concerns regarding Uzbekistan's compliance with its obligations under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("the Convention") to which it acceded on September 28, 1995. Human Rights Watch believes the Committee against Torture's ("the Committee") upcoming review provides a crucial opportunity to highlight the Uzbek government's ("the government") appalling record on torture and ill-treatment and to formulate recommendations for specific steps the authorities should take to address urgent concerns in this area.

We hope this submission, which draws on extensive, detailed case information from our own research and that of colleague nongovernmental organizations (NGOs), will help inform the Committee's assessment and its recommendations to the Uzbek government. Enclosed for further reference is also our December 2011 report, *"No One Left to Witness:" Torture, the Failure of Habeas Corpus, and the Silencing of Lawyers in Uzbekistan* (available online at <http://www.hrw.org/reports/2011/12/13/no-one-left-witness-0>).

### Deterioration of Overall Human Rights Situation

Since the Committee's last review of Uzbekistan in 2007, the government has failed to meaningfully improve its abysmal human rights record, including with respect to torture, ill-treatment, and other areas of concern to the Committee as detailed in the concluding observations resulting from the review. The country is virtually closed to independent scrutiny. Freedom of expression is severely limited. Authorities continue to crack down on human rights activists, including those living in exile, and persecute religious believers who worship outside strict state controls. Forced labor of adults and children continues.

Uzbekistan currently holds well over a dozen human rights activists in prison for no other reason than their peaceful civic activism.<sup>1</sup> It also holds more than a dozen peaceful political opposition activists, journalists, and religious figures.<sup>2</sup> As noted in the Committee's List of Issues, many of these individuals have been subjected to torture and ill-treatment or are in ill-health. Also as highlighted in the List of Issues, in addition to these activists, the government has imprisoned

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<sup>1</sup> They include Solijon Abdurakhmanov, Azam Formonov, Mehrinisso Hamdamova, Zulhumor Hamdamova, Isroiljon Holdarov, Nosim Isakov, Gaibullo Jalilov, Turaboi Juraboev, Abdurasul Khudoinazarov, Ganihon Mamatkhanov, Chuyan Mamatkulov, Zafarjon Rahimov, Yuldash Rasulov, Bobomurod Razzakov, Dilmurod Saidov, Nematjon Siddikov, and Akzam Turgunov.

<sup>2</sup> Other peaceful opposition figures remain imprisoned on politically motivated charges, including: Muhammad Bekjanov, Batyrbek Eshkuziev, Ruhiddin Fahriddinov, Hayrullo Hamidov, Bahrom Ibragimov, Murod Juraev, Davron Kabilov, Matluba Karimova, Samandar Kukanov, Gayrat Mehliboev, Erkin Musaev, Yusuf Ruzimuradov, Rustam Usmanov, Ravshanbek Vafoev, and Akram Yuldashev.

several thousands of mainly Muslim men who practice Islam outside strict state controls on vague and overly broad charges of “religious extremism.”

More than ten years after the UN special rapporteur on torture issued his authoritative account on Uzbekistan’s torture record, the government has yet to acknowledge the “systematic” nature of torture in its criminal justice system, one of the special rapporteur’s key recommendations. Instead of engaging in a good-faith effort to implement recommendations made by the special rapporteur, the Committee, and other international bodies, the government has engaged in what appears a well-established pattern of introducing seemingly progressive reforms—often on the eve of reviews by UN treaty bodies—without actualizing them in practice, and in some cases, even undermining them with contradictory regulations.<sup>3</sup>

At the UN and in bilateral negotiations, the government has used habeas corpus and other so-called reforms as public relations tools, often to deflect criticism and as a substitute for substantive responses to specific queries and concerns. At the same time, the challenge of documenting and assessing the full scope of torture has grown immensely in post-Andijan Uzbekistan, as the government has systematically shut down independent civil society, putting many activists behind bars, and stripping independent lawyers of their licenses. Some rights defenders, such as Gaibullo Jalilov and Akzam Turgunov, who had documented the torture of others, have fallen victim to the same treatment following their imprisonment.<sup>4</sup>

Independent groups that still attempt to report on torture, such as the Human Rights Society of Uzbekistan or the Human Rights Alliance, remain unregistered by the government, leaving them vulnerable to harassment, including house arrest of their members and other forms of government-orchestrated violence and intimidation. *Ezgulik* (“Compassion”), the country’s single active independent human rights group with official registration, faces crippling defamation cases and in September 2013 had its Bukhara representative sentenced to 4 years imprisonment on trumped-up charges.<sup>5</sup>

Serious limitations remain in place also for international human rights groups and media outlets that were based in Uzbekistan and regularly worked to bring to light cases of torture or to strengthen the capacity of the legal profession and local media. None of the numerous organizations and media outlets that were forced to close in the years prior to the Committee’s 2007 review of Uzbekistan—

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<sup>3</sup> A key example has been the Uzbek government’s effort to curtail the independence of the legal profession just one year after introducing habeas corpus, abolishing independent bar associations, and subordinating their replacement to the Ministry of Justice. Another has been the creation of “human rights posts” and “resources centers” within various “power” ministries, such as the Ministry of Internal Affairs’ “human rights protection department,” which have evidenced no apparent independent authority or willingness to check the continuing practices of torture and ill-treatment that are still so prevalent among the rank-and-file police who work for the ministry. See “Interior Ministry opens human rights resource center,” Governmental Portal of the Republic of Uzbekistan, <http://www.gov.uz/en/press/society/11714> (accessed October 14, 2013). Similarly, while Uzbekistan abolished the death penalty and ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights in 2008, the incidence of disappearance and torture of political dissidents and violations of civil and political rights remains high.

<sup>4</sup> “Uzbekistan’s Imprisoned Human Rights Defenders,” Human Rights Watch news release, May 12, 2011, <http://www.hrw.org/news/2011/05/12/uzbekistans-imprisoned-human-rights-defenders>

<sup>5</sup> “Uzbekistan: Trial of Activist on Trumped UP Charges,” Human Rights Watch news release, September 24, 2013, <http://www.hrw.org/news/2013/09/24/uzbekistan-trial-activist-trumped-charges>.

including the Open Society Institute, the BBC, Deutsche Welle, Radio Free Europe/Radio Liberty, Internews, Freedom House, Counterpart International, the American Bar Association—have been able to resume their operations in Uzbekistan.

In June 2011, the government closed Human Rights Watch’s Tashkent office, ending our 15-year field presence in the country. A significant focus of Human Rights Watch’s Tashkent office had been to document allegations of torture and ill-treatment in prisons, police, and National Security Services custody, and make recommendations to the Uzbek government and other actors on improving the situation. The Uzbek government also continues to deny access to the UN special rapporteur on torture, as well as to the ten other UN special mechanisms who have requested invitations to carry out country visits.

In 2012 and 2013, the Uzbek government took further steps to close the country off to independent scrutiny, by deporting several international journalists who attempted to visit the country, and by compelling, in April 2013, the International Committee of the Red Cross (ICRC) to end prison visits in Uzbekistan. In a highly unusual move, the ICRC made a public announcement on this occasion, citing as reasons its inability to follow its standard procedures for prison visits, including being able to access all detainees of concern and speaking with detainees in private.

All of these developments have contributed to an environment in which torture and ill-treatment are systematic and committed with near-total impunity.

### **Failure of Habeas Corpus and Other Due Process Guarantees**

On January 1, 2008, after years of international pressure to improve its rights record and implement reforms, the Uzbek government introduced the right of habeas corpus, or judicial review of detention. In January 2009, the government expanded, in law at least, procedural rights for pretrial detainees, including a right of access to counsel and instructing police to administer US-style “Miranda” warnings to suspects in custody. Such measures should have heralded a new and more positive era for Uzbekistan. They have not.

Despite improvements on paper, and the Uzbek government’s claims that it is committed to fighting torture, little has changed in Uzbekistan in the nearly six years since habeas corpus was adopted. The government has used habeas corpus and other reforms as public relations tools, touting them as signs of the ongoing “liberalization” of the criminal justice system. But there is no evidence that the government is committed to ending torture in practice. As shown in more detail below, none of the core features of habeas corpus or the key due process protections outlined by the Committee in its List of Issues, have been implemented in practice.

### ***Habeas Corpus***

Nearly six years since its enactment, habeas corpus exists in Uzbekistan largely on paper and has done little to protect detainees from torture.<sup>6</sup> Habeas corpus (literally: “you may have the body”) is a writ or legal action which guarantees that a detainee must be brought to court so the court can

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<sup>6</sup> For an in-depth analysis of Uzbekistan’s habeas corpus mechanism, see Human Rights Watch, *No One Left to Witness: Torture, Habeas Corpus and the Silencing of Lawyers in Uzbekistan*, (New York: Human Rights Watch, 2011), <http://www.hrw.org/reports/2011/12/13/no-one-left-witness-o>, pgs. 32-57.

determine the lawfulness (both the legality and the necessity) of a person's continued detention after arrest. It is a core international right meant to prevent arbitrary detention, but in Uzbekistan arbitrary detention remains the rule rather than the exception.

The basic principle of Uzbekistan's habeas corpus mechanism is now found in Article 18.2 of the Uzbek Criminal Procedure Code, which states that "no one shall be subject to arrest or detention other than on the basis of a court decision." Under Article 243, a prosecutor must bring an individual before a court to review the lawfulness of detention within 72 hours of arrest, a period in excess of that deemed compatible with human rights norms.

Uzbek courts approve prosecutors' applications for detention in almost all cases, often adopting government-proposed sentences verbatim, without independent review.<sup>7</sup> The operative legal standard is so narrow that it violates habeas corpus' fundamental principle—to ensure a judge reviews the lawfulness of detention. Courts also lack discretion to impose less restrictive alternatives to detention, such as bail or house arrest. Compounding the above problems, authorities often use various methods, including bogus administrative charges, to avoid bringing detainees before a court for significantly longer periods.

Access to counsel and counsel of one's choice are violated at critical stages of the investigation, including interrogation and the habeas corpus hearing itself, which is a closed proceeding.

According to practicing lawyers, habeas corpus hearings are superficial exercises, lacking essential due process guarantees, such as a recusal procedure for judges who will later hear the same criminal case. Although habeas corpus requires authorities to physically produce the detainee before a judge (as per the literal meaning of the term), habeas hearings in Uzbekistan sometimes occur without the detainee present, especially in politically-motivated cases, robbing the procedure of its essential purpose.<sup>8</sup>

In other cases, under the banner of "habeas corpus" proceedings, prosecutors ask judges to rubber stamp the pending detention of an individual who is not yet in custody. Once the individual is arrested the previous hearing is used to justify denying them an opportunity to challenge their continued detention in a proper habeas corpus hearing—what some local lawyers have called "habeas without corpus." Below are several examples of how Uzbekistan's habeas corpus law fails to meet the government's obligations under the Convention.

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<sup>7</sup> The collusion between prosecutors and judges is exemplified by the experience of one lawyer interviewed by Human Rights Watch in October 2010 who has attended many habeas corpus hearings and described them as superficial and, at times, farcical "judicial theater." He described the way in which hearings last only 10 to 20 minutes, judges do not ask investigative questions of the prosecution, and in several cases prosecutors have even provided the judges with flash drives, containing a prepared order that the judge simply prints and signs.

<sup>8</sup> The habeas corpus hearing for Farhodhon Muhtarov, a human rights activist and member of the Human Rights Alliance of Uzbekistan, was held in absentia prior to his actual arrest in July 2009. Though he had voluntarily been attending interrogation sessions at the police station in the preceding weeks, the court concluded he was in hiding and approved his detention and arrest without his presence in court, precluding the possibility that he could have a fair hearing to inform him of his arrest. He was subsequently tortured in custody.

### **Denial of Access to Counsel During Habeas Corpus Hearings**

Authorities sometimes prevent independent counsel from participating in habeas corpus hearings when a detainee has been subjected to torture or ill-treatment. Human Rights Watch documented a case illustrative of this practice that occurred in March 2010. A defense lawyer specializing in corruption and extremism cases told Human Rights Watch that his client was savagely beaten by state security officers en route to the station for interrogation, breaking both of his ribs and opening up a gash in his head. The lawyer reported how the prosecutor and police officers went to great lengths to keep him from meeting with his client. Though the torture he sustained left the victim hospitalized, police officers removed him from the hospital when the lawyer arrived and demanded a meeting. His habeas corpus hearing was held at 10pm in a court in a different jurisdiction, and the lawyer was not notified, denying the victim of his right to representation and due process.<sup>9</sup>

### **Unlawful Extensions of Detention**

Police and investigators also violate Uzbekistan's habeas provision that a detainee must be brought to court within 72 hours. Under article 225 of the Criminal Procedure Code, police must immediately draw up a record of arrest as soon as a suspect is brought into custody, including information on the crime police suspect the detainee of having committed, as well as the date and time of arrest. But police and investigators often purposely avoid registering the time of detention for several hours, or even days, bypassing the 72-hour time limit. Failure to register arrests in a timely fashion allows police more time to coerce a confession while a detainee remains isolated—a practice that subverts the purpose of prompt judicial review of detention. Several lawyers reported that police and investigators routinely forge both the time and date of detention.<sup>10</sup>

### **State-Appointed Counsel at Habeas Corpus Hearings**

Lawyers, detainees, and their relatives have reported that habeas corpus hearings are often conducted without lawyers or a detainee's counsel of choice participating. Detainees are often prevented from exercising their right to counsel of their choice or pressured to refuse the services of counsel altogether. When detainees are represented by counsel, it is often by state-appointed lawyers who either do not or cannot provide an effective defense. State-appointed defense lawyers in Uzbekistan are widely viewed by the public as allied with prosecutors because of their financial and ideological dependence on these structures for continued employment. In most cases, Human Rights Watch found that detainees were pressured to accept the services of a state-appointed defense lawyer. Detainees and their families tend not to trust state-appointed lawyers, who they

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<sup>9</sup> Human Rights Watch interview with lawyer [name withheld], Tashkent, November 18, 2010.

<sup>10</sup> Human Rights Watch interview with lawyer [name withheld], Tashkent, November 26, 2010; Human Rights Watch interview with lawyer [name withheld], Tashkent, November 24, 2010; Human Rights Watch interview with lawyer [name withheld], Tashkent, November 29, 2010. Police also routinely summon someone they wish to arrest to the station as a "witness" without registering their detention in order to first extract a confession. Since the person appeared voluntarily, Uzbek law does not place limits on the amount of time they can stay at the station, nor does it oblige police to register the individual's appearance. In other cases, police forcibly arrest persons as witnesses without registering them as suspects until after the detainee has already been in custody for a day or more. One lawyer said, "My client was detained at home and transported by convoy to the police precinct in handcuffs. He was questioned as a 'witness' for almost two days before they registered him." Human Rights Watch interview with lawyer [name withheld], Tashkent, November 29, 2010.

report are disinterested in the case and often ignore serious procedural violations, including torture and ill-treatment.<sup>11</sup>

### **Use of Administrative Detention**

Authorities also use administrative charges to evade judicial review of detention. Police are known to detain suspects under the Code of Administrative Offenses for misdemeanors such as “petty hooliganism,” or by accusing individuals they have “invited” to the police station of such acts, which amounts to arbitrary detention. They are then summarily tried, convicted, and sentenced up to 15 days of administrative detention—a period of time often used to torture a suspect into further confessions that will become the basis of subsequent criminal charges. According to human rights activist Surat Ikramov, “Hooliganism or charges of resisting arrest are often used to detain a person on administrative charges for 10 to 15 days in SIZOs (investigative isolation cells). They do this to keep them locked up. From the first moment of detention the fabrication of charges and torture of the individual can begin. Close family members are not informed about the whereabouts of their relative. Investigators use these 15 days to unlawfully develop evidence against the person or get him to incriminate himself.”<sup>12</sup>

### ***January 2009 Criminal Procedure Amendments***

January 2009 amendments to the criminal procedure code that ostensibly expanded rights for pretrial detainees have turned out to be just as illusory as habeas corpus. On paper, they extend “Miranda” protections to pretrial detainees, which require informing them of their right to remain silent, the potential use of their testimony against them in court, and their right to speak to an attorney or have one appointed by the state. As noted in the List of Issues, the amendments also guarantee the right to call one’s lawyer or close family member immediately after arrest, the right to consult with a lawyer from the moment of detention, and abolish the earlier requirement that lawyers receive written permission from the prosecutor before being able to visit clients in detention.

However, our research reveals that none of these reforms have been implemented in any meaningful way and torture and ill-treatment in pretrial detention remains rampant and is practiced with impunity. Lawyers are repeatedly denied access to clients for days after their arrest, police continue to hold suspects in incommunicado detention, refusing them the legal right to contact a lawyer or relatives and denying that they are in detention, and detainees are not informed of their rights.

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<sup>11</sup> In 2009, a teenager [name withheld] was arrested for alleged involvement in a theft and taken to a police station in a district of Tashkent. Prior to the habeas corpus hearing, which was not held until six days after his arrest, investigators placed a gas mask several times over his face and suffocated him. Two officers handcuffed his wrists and ankles, threw him up in the air and let him fall to the ground. He was also made to sit on a chair with his hands and legs tied while officers kicked him in the head until he “confessed” to participating in a string of robberies to which he had maintained he had no connection. The suspect’s state-appointed defense lawyer was not present during interrogations. The lawyer that his family hired to represent him raised at the habeas corpus hearing the fact that the boy had been tortured, but the court dismissed the claims and approved his detention. Human Rights Watch, *No One Left to Witness: Torture, Habeas Corpus and the Silencing of Lawyers in Uzbekistan*, (New York: Human Rights Watch, 2011), <http://www.hrw.org/reports/2011/12/13/no-one-left-witness-0>, p.80.

<sup>12</sup> Human Rights Watch interview with Surat Ikramov, Head of the Initiative Group of Independent Human Rights Defenders of Uzbekistan (IGIHRD), Tashkent, November 24, 2010.

### ***Access to Counsel during Pretrial Detention***

Under article 49 of the Criminal Procedure Code, a lawyer should now be granted immediate access to his client at any stage of the criminal process, including from the moment of their client's arrest. Instead of written authorization, a lawyer must merely present proof of his representation order, such as a retainer agreement signed by the lawyer and the family, to gain access to a facility where a client is held. Were such a right guaranteed in practice, it would significantly reduce the amount of time detainees are left in incommunicado detention, where they are often interrogated. In nearly every case of torture or ill-treatment in pretrial custody Human Rights Watch documented, however, the victim was either denied access to counsel during critical points of the proceedings or provided with a state-appointed defense lawyer who did not effectively represent them.<sup>13</sup>

### ***Incommunicado Detention***

The January 2009 amendments to the Criminal Code also provide for a detainee's right to contact a lawyer or close family member, but in practice police do not allow detainees to exercise their right to make a phone call, and do not otherwise inform a detainee's family of their detention. Although article 217 of the Criminal Procedure Code requires police, prosecutors, or courts to inform relatives or other persons named by the detainee of a detention within 24 hours, this provision is often ignored. Family members may search for days before receiving confirmation that their relatives are in custody. In some cases, police may even deny they are holding a suspect in order to throw fearful family members off the trail.<sup>14</sup>

In a case documented by Human Rights Watch in 2010, one individual spent three days after his arrest in incommunicado detention at the district department of internal affairs, followed by another ten after the habeas corpus hearing in an unknown location. During this time, according to his mother, the authorities would not provide information on his whereabouts to either his lawyer or his family, far less allow them to visit him. "I went to the jail to visit my son but he wasn't there. Where he was during those days and what was done with him I'll never know for sure."<sup>15</sup>

### **Torture and Ill-Treatment in Pretrial Detention and Prison**

Since the Committee's last review of Uzbekistan, torture has shown no sign of abating, as the deliberate practice of use of torture to extort confessions or to intimidate detainees remains

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<sup>13</sup> One lawyer who represented five defendants convicted in March 2010 on extremism charges described the authorities would not give her access to her clients until three days after their arrest. When she finally gained access to her clients, the lawyer discovered they had been beaten on the kidneys, head, and legs with water-filled rubber sticks and plastic bottles. Human Rights Watch Interview with lawyer [name withheld], Tashkent, November 18, 2010.

<sup>14</sup> The arrest, detention, or abduction of a person, followed by the refusal to acknowledge the detention of an individual or reveal the whereabouts of a person who has been deprived of liberty, which places the person outside the protection of the law, constitutes an enforced disappearance under international law, a serious human rights violation.

<sup>15</sup> Human Rights Watch interview with mother of [name withheld], Tashkent, November 21, 2010. In another case, Malika M., has been searching for her missing husband and brother-in-law for over two years. Both are officially wanted on charges of "religious extremism." Neighbors who lived by where the men were working say that plainclothes agents of the National Security Services (NSS) grabbed them while they were at work in August 2009, put wool bags over their heads, and drove off. Malika M. filed a missing persons report, but the Ministry of Internal Affairs refused to acknowledge receipt, even though by law they are the first port of call for someone reporting a missing person. Malika M. herself was later detained, interrogated without a lawyer about the whereabouts of those she had reported missing, and threatened with rape and additional jail time if she asked more questions about their whereabouts. Human Rights Watch interview with Malika M., Tashkent, November 28, 2010.

habitual and widespread. Victims include those suspected of committing “ordinary” crimes, those accused of membership in banned political or religious organizations, or those involved in human rights work or independent journalism. Torture often continues in prison following conviction, especially in the cases of those convicted on charges of “religious extremism.” In at least seven cases decided since the beginning of 2008, the European Court of Human Rights has ruled that sending an individual wanted by the authorities to Uzbekistan would be a breach of the absolute ban on return to risk of torture, on the basis that torture and ill-treatment remains so pervasive in the country.<sup>16</sup>

Victims, their relatives, lawyers, human rights defenders, and other observers also report that since the adoption of habeas corpus and related reforms, police and security agents continue to use torture to coerce detainees to implicate themselves or others and that confessions obtained under torture are still the sole basis for convictions. Despite the January 2009 amendments extending further due process rights to detainees, they are still denied access to counsel and counsel of one’s choice during interrogation, the habeas corpus hearing, and even trial. Judges still fail to investigate torture allegations, to exclude evidence obtained through torture or in the absence of counsel, and to hold perpetrators accountable.

### ***Cases of Physical and Psychological Torture***

Human Rights Watch documented cases during the reporting period in which law enforcement officials in Uzbekistan abused detainees and prisoners<sup>17</sup> using both physical and psychological torture.<sup>18</sup> Methods commonly used include beatings with rubber truncheons, plastic bottles filled with water, and electric shock, hanging by wrists and ankles, rape and sexual humiliation, asphyxiation with plastic bags and gas masks, threats of physical harm to relatives, and denial of food or water. The following represent only a few examples of the cases of torture and ill-treatment that Human Rights Watch or colleague NGOs have documented since the Committee’s 2007 review of Uzbekistan.

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<sup>16</sup> Consistently the European Court of Human Rights has held that ill-treatment has been a persistent problem in Uzbekistan with “no concrete evidence ... produced to demonstrate any fundamental improvement in this area in this country for several years.” The Court therefore concluded “that ill-treatment of detainees is a pervasive and enduring problem in Uzbekistan.” See e.g. Sultanov v Russia, European Court of Human Rights, no. 15303/09, Judgment of November 4, 2010, para. 71; Karimov v Russia, European Court of Human Rights, no. 54219/08, Judgment of July 29, 2010, para. 99; Abdulazhon Isakov v Russia, European Court of Human Rights, no. 14049/08, Judgment of July 8, 2010, para. 109; Yuldashev v. Russia, European Court of Human Rights, no. 1248/09, Judgment of July 8, 2010, para. 84; Garayev v Azerbaijan, European Court of Human Rights, no. 53688/08, Judgment of June 10, 2010, para. 72; Muminov v. Russia, European Court of Human Rights, no. 42502/06, Judgment of December 11, 2008, para. 94; Ismoilov and Others v. Russia, European Court of Human Rights, no. 2947/06, Judgment of April 24, 2008, para. 122; Yakubov v Russia, no. 7265/10, European Court of Human Rights, Judgment of November 8, 2011.

<sup>17</sup> Victims of torture in prison tend to be those charged with charges of so-called religious extremism or for the similarly overbroad category of “anti-constitutional activity,” shorthand for any political activity the government perceives to be threatening. Torture is often carried out by fellow inmates acting at the behest of prison authorities. In November 2010, relatives of Muslim religious prisoners serving sentences at Jaslyk colony, Uzbekistan’s most notorious prison, reported to Human Rights Watch that following a hunger strike, prison authorities tortured several inmates, including by undressing them naked in front of other inmates, beating and subjecting them to sexual humiliation. Human Rights Watch interview with [names withheld], Tashkent, December 13, 2010.

<sup>18</sup> Human Rights Watch, *No One Left to Witness: Torture, Habeas Corpus and the Silencing of Lawyers in Uzbekistan*, (New York: Human Rights Watch, 2011), <http://www.hrw.org/reports/2011/12/13/no-one-left-witness-o>, pgs. 58-80.



### **Torture of Zahid Umataliev**

On September 5, 2013, Parkent city police detained 24 year-old Zahid Umataliev following allegations of his involvement in selling a stolen cell phone. Umataliev's mother, who was initially detained together with her son, told Human Rights Watch that three officers, including the deputy head of the police station, beat her son on the way into the police station with rubber clubs. The beatings continued as they entered the building, she said. Umataliev later told his mother that he was beaten continuously on the legs, head, face, and body, while in the police station, until he was taken to court for sentencing.<sup>19</sup>

An administrative judge sentenced him the same day to 15 days of administrative detention on fabricated charges of "resisting arrest." Police transferred Umataliev to a detention center where he was booked and fingerprinted. But at 10pm on September 5, three police officers from the Parkent police station transferred Umataliev to a holding cell at the Tashkent region department of internal affairs where he was held for six days without being officially registered.

According to Umataliev's mother, he reported to her and his lawyer that over the next six days, Parkent police officers savagely beat him on the face and soles of his feet with rubber truncheons while he was handcuffed.<sup>20</sup> Officers demanded that he confess to additional crimes he had not committed, including assault and petty theft. They beat him unconscious, resuscitating him periodically, and then beat him again.<sup>21</sup> During this six-day period Umataliev's family members and lawyer were unable to locate him and authorities at the Tashkent region department of internal affairs denied that he was being held in their custody. Following the beatings, Umataliev finally confessed to the trumped-up charges, after which he was transferred back to his original administrative detention center. Umataliev was subsequently released at the end of his fifteen-day sentence, but is currently facing trial on the criminal charges and the prospect of imprisonment based on his forced confession.<sup>22</sup>

### **Torture of Sardorbek Nurmetov**

In June 2013, police in Urgench detained and hit Sardorbek Nurmetov, a Protestant Christian, five times with a book on the head and chest, kicked him in the legs, and refused him medical attention. Police ignored Nurmetov's formal complaint of ill-treatment and initiated charges against him for allegedly storing banned religious materials in his home.<sup>23</sup>

### **Torture of Grigorii Grigoriev**

In March 2013, a Tashkent court sentenced 16-year-old Grigorii Grigoriev, son of rights activist Larisa Grigorieva, having convicted him on trumped-up charges of theft, although the length of his prison

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<sup>19</sup> Human Rights Watch telephone interview with Dilorom Umatalieva, Parkent, October 14, 2013; Human Rights Watch telephone interview with Elena Urlaeva, head of Human Rights Alliance of Uzbekistan, Tashkent, October 10, 2013.

<sup>20</sup> Human Rights Watch telephone interview with Dilorom Umatalieva, Parkent, October 14, 2013

<sup>21</sup> Ibid.

<sup>22</sup> Human Rights Watch telephone interview with Elena Urlaeva, head of the Human Rights Alliance of Uzbekistan, Tashkent, October 10, 2013.

<sup>23</sup> "UZBEKISTAN: Ramadan restrictions, violent police assault on Protestant," Forum 18 News Release, August 3, 2013, available at [http://www.forum18.org/archive.php?article\\_id=1861&pdf=Y](http://www.forum18.org/archive.php?article_id=1861&pdf=Y).

sentence was not announced by the court.<sup>24</sup> The judge ignored Grigoriev's testimony that police had beaten him into a confession, requiring his immediate hospitalization.

#### **Torture of Religious Believer Gulchehra Abdullayeva**

In July 2012, police in western Uzbekistan detained Jehovah's Witness Gulchehra Abdullayeva on suspicion of possessing "banned" literature. Abdullayeva complained that officers made her stand facing a wall for four hours with no food or water in the summer heat. They then placed a gas mask over her head and blocked the air supply, she told Forum 18.<sup>25</sup>

#### **Torture of Human Rights Activist Gulnaza Yuldasheva**

Another recent example of torture concerns human rights activist Gulnaza Yuldasheva, who was sentenced in April 2012 to 7 years imprisonment on what appear to be politically motivated charges of extortion. The charges followed her investigations into official Uzbek government involvement in human trafficking. Following her release, pursuant to an amnesty in early 2013, Yuldasheva told Human Rights Watch that during her pretrial detention in an isolation cell of the Chinaz district division of the Ministry of Internal Affairs in April 2012, she was brought to a jail cell where seven police officers surrounded her and were instructed by their superior officer to rape her if she did not sign a false confession. According to Yuldasheva's account, several officers beat her on the legs, stomach, and shoulders with a rubber truncheon for approximately 30 minutes, dragging her around the room by the hair and causing her to lose consciousness.<sup>26</sup>

#### **Torture of "Husnitdin H."**

Police often use blunt instruments, such as rubber truncheons and batons, or the ends of automatic weapons or rifles to beat detainees. An example of this practice occurred in the Samarkand region in the fall of 2010, when police detained "Husnitdin H." (not his real name) as a suspect in a murder investigation. Demanding that he sign a forced confession, Husnitdin H. reported to a local human rights activist that more than a dozen police officers beat him with rubber truncheons, causing severe bruising and a laceration that required stitches. Police arrested another suspect a few days later, releasing Husnitdin H. After undergoing a medical exam and photographing his wounds, Husnitdin H. filed a complaint with local authorities against the police officers who beat him. Instead of conducting an investigation, the same officers threatened Husnitdin H. with retaliation and even jail time if he proceeded with his complaint.<sup>27</sup>

#### **Rape of Rayhon, Khosiyat, and Nargiza Soatova**

This case, highlighted in the Committee's List of Issues and involving the gang rape and other torture of sisters in custody in 2009, is illustrative of the authorities' failure to pursue justice for victims of torture and the culture of impunity for torture in detention facilities. Three sisters, Rayhon, Nargiza, and Khosiyat Soatova, were detained on May 9, 2009. According to a family member interviewed by Human Rights Watch, both Nargiza and Rayhon were gang-raped during this first

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<sup>24</sup> Human Rights Watch telephone interview with Elena Urlaeva, head of the Human Rights Alliance of Uzbekistan, Tashkent, March 20, 2013.

<sup>25</sup> "World Report Uzbekistan 2013," <http://www.hrw.org/world-report/2013/country-chapters/uzbekistan>.

<sup>26</sup> Human Rights Watch interview with Gulnaza Yuldasheva, Kiev, February 13, 2013.

<sup>27</sup> Human Rights Watch, *No One Left to Witness: Torture, Habeas Corpus and the Silencing of Lawyers in Uzbekistan*, (New York: Human Rights Watch, 2011), <http://www.hrw.org/reports/2011/12/13/no-one-left-witness-o>, p. 62.

night in custody by Uzbek law enforcement officers. All three sisters were beaten and tortured again by law enforcement officers while in custody several weeks later and were provided a state-appointed defense lawyer who openly assisted the prosecution. On September 22, 2009, Nargiza, Rayhon, and Khosiyat Soatova were convicted of hooliganism and robbery and sentenced to between six and eight years in prison. Khosiyat was eventually freed but so badly beaten that she spent two months in a hospital recovering before being released on bail.<sup>28</sup> After repeated calls for an investigation by the Soatov family, the human rights organization *Ezgulik* (“Compassion”), and the UN special rapporteur on torture, authorities eventually opened a criminal case in January 2010 against twelve police officers. Four months later, however, the authorities dropped the investigation, stating that Rayhon could not positively identify the perpetrators and that DNA evidence was inconclusive.

### **Torture of Imprisoned Human Rights Activist Azam Formonov**

Azam Formonov is a well-known rights activist who has been imprisoned at Uzbekistan’s notorious Jaslyk prison colony since 2006.<sup>29</sup> Formonov reports that he was tortured frequently in the first years of his sentence, including being stripped of his overclothing, handcuffed, and left in an unheated punishment cell for 23 days in January 2008, when temperatures reached approximately -20 C.<sup>30</sup> In 2011, he was bound and beaten for refusing to write a document denying that he’d ever been tortured. Additionally, he was repeatedly transferred back and forth to Nukus prison when prison authorities learned that representatives of the International Committee of the Red Cross (ICRC) were about to visit Jaslyk.<sup>31</sup>

### **Torture of Imprisoned Political Opposition Activist Muhammad Bekjanov**

Another victim of repeated torture and Jaslyk inmate is prominent opposition leader and journalist Muhammad Bekjanov. Convicted in 1999 on trumped up charges, Bekjanov was tortured and ill-treated repeatedly in pretrial detention and in prison. While interned at Jaslyk, Bekjanov suffered permanent hearing loss and a broken leg during sustained beatings, and contracted tuberculosis.<sup>32</sup> In 2006, his wife Nina Bekjanova visited him and reported that he had lost most of his teeth from repeated beatings. His release would have come in February 2012, but just days before his sentence was set to expire, he was convicted on a new charge of article 221 of the Uzbek Criminal Code (“disobedience to the terms of punishment”) and sentenced to a further five years in prison.<sup>33</sup> Authorities often extend sentences of prisoners convicted on politically motivated charges for

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<sup>28</sup> Human Rights Watch interview with Abdusamat Soatov, Tashkent, November 21, 2010

<sup>29</sup> Jaslyk prison has long been notorious in the international human rights community for the many reports of heinous torture of its internees and the prominent case of a prisoner dying after being immersed in boiling water. During the most recent UPR several governments repeated a long-standing recommendation by the UN special rapporteur on torture that Tashkent close Jaslyk prison once and for all.

<sup>30</sup> “Uzbekistan’s Imprisoned Human Rights Defenders,” Human Rights Watch News Release, May 13, 2011, <http://www.hrw.org/news/2011/05/12/uzbekistans-imprisoned-human-rights-defenders>

<sup>31</sup> Action by Christians for the Abolition of Torture – France, “ACAT-France statement – Uzbekistan,” March 7, 2011, [http://www.acatfrance.fr/medias/etat\\_lieux\\_pays/doc/ACAT-UZB\\_statement-7march2011.pdf](http://www.acatfrance.fr/medias/etat_lieux_pays/doc/ACAT-UZB_statement-7march2011.pdf) (accessed October 3, 2013).

<sup>32</sup> Bukharbaeva, Galima, “Jailed Uzbek Dissident Defiant,” *Institute for War and Peace Reporting*, November 14, 2013, <http://iwpr.net/report-news/jailed-uzbek-dissident-defiant> (accessed October 7, 2013).

<sup>33</sup> World Report Uzbekistan 2013, <http://www.hrw.org/world-report/2013/country-chapters/uzbekistan>.

alleged violations of prison regulations. Such extensions occur without due process and add years to a prisoner's sentence, and appear aimed at keeping religious prisoners incarcerated indefinitely.

### **Torture of Kayum Ortikov**

In January 2009, Kayum Ortikov, an employee of the British embassy in Tashkent, was convicted on trumped up charges of human trafficking and placed in National Security Services (SNB) custody where security service officers tortured him to confess to charges of espionage. The torture included burning his genitalia with newspapers they had set on fire. According to his wife, Mohira Ortikova, "they threatened my husband that if he did not confess [to espionage] they would put another inmate infected with AIDS into his cell to rape him. Even though he never committed espionage, he broke down and signed." Ortikov was held incommunicado in the basement of the Tashkent city jail and was beaten at length, including on the genitals, and had needles poked underneath his fingernails. Ortikov's suffering was so great that he tried to slit his wrists with his own teeth and later used a razor blade to cut his head and neck. Ortikov was released in May 2011, after which he and his family fled the country.<sup>34</sup>

### **Silencing the Independent Legal Profession**

An important measure of the Uzbek government's lack of commitment to implement habeas corpus or combat torture during the reporting period has been its campaign to extend its full control over the legal profession.

In January 2009, a new law, N-ZRU-198 ("law on the institution of changes and additions in several legal acts of the Republic of Uzbekistan in connection with the creation of the Institute of the legal profession") went into force, restructuring the legal profession and abolishing the previously independent bar associations, while subordinating the replacement body to the government. The new law, which violates guarantees in the Uzbek Constitution and international standards on the independence of lawyers, has resulted in the government's co-opting the entire profession. It required all lawyers to re-apply for their licenses to practice law, and mandates them to re-take the bar examination every three years. Several lawyers who consistently take on politically sensitive cases or raise allegations of torture have been effectively disbarred through this process, and there has been a chilling effect on those who remain licensed to practice.<sup>35</sup>

Article 12 of the new law on lawyers created the Chamber of Lawyers, an organization that all Uzbek defense and civil lawyers are obligated to join in order to practice law. The Ministry of Justice has the power to appoint and dismiss the chamber's chairperson, who in turn is responsible for appointing all heads of the regional branches of the Chamber across the country. In May 2009, the UN special rapporteur on the independence of judges and lawyers expressed serious concern after the passage of the Bar Association reforms, saying that this interference of the executive into the establishment and function of the legal profession violates the provisions of the United Nations Basic Principles on the Role of Lawyers.

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<sup>34</sup>Owen, Jonathan and James Hanning, "'Uzbeks Tortured Me,' Says British Embassy Man," *The Independent*, June 30, 2013, <http://www.independent.co.uk/news/uk/politics/uzbeks-tortured-me-says-british-embassy-man-8679979.html>

<sup>35</sup> Human Rights Watch interview with lawyer [name withheld], Tashkent, November 14, 2010

On March 9, 2009, the Cabinet of Ministers passed a resolution requiring all Uzbek lawyers to retake the bar exam and receive new licenses in order to practice, drawing widespread outcry from lawyers, who considered the policy unconstitutional and illegal. Lawyers who worked on politically sensitive cases or who had publicly protested the new law failed the exam. These lawyers included those who had raised issues of torture or defended individuals on trial for politically motivated charges such as human rights activists Mutabar Tajibaeva, Dilmurod Saidov, Akzam Turgunov, Ruhiddin Fahrutdinov, Solijon Abdurakhmonov, and purported members of the Andijan-based *Akromiya* organization.<sup>36</sup>

As a result, there are now many fewer lawyers able or willing to take on politically sensitive cases. Those that continue to practice since the reforms operate in an increasingly restrictive atmosphere, where taking the “wrong case,” defending a client effectively, speaking publicly about due process violations, or even participating in events organized by foreign embassies risks effective disbarment.

### **The Andijan Massacre**

More than eight years on, the Uzbek government continues to refuse an independent investigation into the May 2005 massacre of hundreds of citizens in Andijan. The government’s persistent refusal to allow an independent international investigation has denied justice to victims and failed to bring to account those responsible. Authorities persecute anyone suspected of having witnessed the atrocities or who attempts to speak publicly about them. On May 13, 2013, for example, authorities arrested activists Elena Urlaeva and Adelaida Kim as they attempted to lay a wreath of flowers at a public monument in Tashkent to commemorate the massacre’s eighth anniversary. The government also continues to intimidate family members of Andijan survivors who have sought refuge abroad. Several hundred people continue to serve prison sentences following sham trials held in the aftermath of Andijan. Some of their relatives who have fled Uzbekistan report that many have been subjected to torture and ill-treatment.<sup>37</sup>

### **Forced Sterilization**

Over the reporting period Human Rights Watch has received credible reports that some women who have given birth to two or more children have been targeted for involuntary sterilization, especially in rural regions. In some areas, doctors are pressured to perform sterilizations by the Ministry of Health or local health authorities. Lack of safe medical facilities have resulted in unsafe surgical procedures for some women subject to such sterilizations, while lack of access to information means that they sometimes occur without consent.

### **Forced Labor**

State-sponsored forced labor of children and adults in the cotton sector continues on a massive scale. Authorities forcibly mobilize over a million adults and schoolchildren, mainly ages 15-17 but some as young as nine, to pick cotton for up to two months each autumn.<sup>38</sup> Living in the fields for weeks at a time, workers live in filthy conditions without access to safe drinking water. They contract

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<sup>36</sup> Human Rights Watch, *No One Left to Witness: Torture, Habeas Corpus and the Silencing of Lawyers in Uzbekistan*, (New York: Human Rights Watch, 2011), <http://www.hrw.org/reports/2011/12/13/no-one-left-witness-o>, p.87-97

<sup>37</sup> Andijan Justice and Revival, *Andijan Refugees Speak Out*, (Finland, 2010), <http://www.eurasianet.org/node/62372>.

<sup>38</sup> “Uzbekistan: Forced Labor Widespread in Cotton Harvest,” Human Rights Watch News Release, January 26, 2013, <http://www.hrw.org/news/2013/01/25/uzbekistan-forced-labor-widespread-cotton-harvest>.

illnesses, miss work or school, and pick cotton daily in line with quotas for which they receive little to no pay.

In response to international pressure, authorities reduced the numbers of young children picking cotton but compensated by shifting the burden to older children and adults. The forced labor of adults disrupts the availability of essential services, as authorities draw heavily on public sector workers—doctors, nurses, teachers, and other civil servants—to fulfill quotas.

After years of refusing the International Labour Organization (ILO) access to monitor the harvest, Tashkent agreed to a limited monitoring mission in 2013. However, it insisted that the mission's mandate be limited to child labor and that monitoring teams include Uzbek officials, raising serious concerns about the mission's ability to credibly investigate abuses and to ensure the safety of those being interviewed.

## Recommendations

The government should be urged to **implement fully the numerous detailed recommendations addressed to it by a range of international expert bodies, including the Committee in 2007, the UN special rapporteur on torture in 2003, and the Human Rights Committee in 2010.** It should ensure that habeas corpus and other due process guarantees are fully implemented in line with the International Covenant on Civil and Political Rights (ICCPR), and take steps to ensure the legal profession's independence. More detailed suggestions for recommendations follow.

### *With respect to Habeas Corpus*

- Amend the Criminal Procedure Code to **make clear that a habeas corpus hearing requires a judge to determine in the presence of the detainee the existence of a reasonable suspicion for detention** and evidentiary justification for continued detention, and requires them to order a person's release if the lawfulness of continued detention is not established. Any standing orders should reinforce for judges their responsibility to assess the lawfulness of the detention during a habeas hearing.
- Amend the Criminal Procedure Code so that **a judge is obligated to initiate an investigation when provided with prima facie evidence of torture** and ill-treatment in pretrial detention during habeas corpus hearings.
- Amend the Criminal Procedure Code so that judges have the **discretion to apply less restrictive alternatives to detention** during habeas corpus hearings, including guarantees of appropriate conduct that would allow defendants to be released pending trial.
- In line with international standards, **reduce from 72 hours to not more than 48 hours** the time that a detainee, whether detained on criminal or administrative grounds, can be held before being brought to the habeas corpus hearing.
- **Allow outside participants**, such as family members, human rights organizations, media, representatives of diplomatic missions, and international organizations access to habeas corpus hearings.
- **Ensure every detainee's right to a lawyer of their choice** in habeas corpus hearings and allow defense lawyers to meet with their clients and review evidence prior to the hearing.

- **Ensure that judges who preside over habeas corpus hearings do not preside over the trial in the same criminal case**, for example, by designating some judges exclusively to conduct such hearings.
- Amend the Criminal Procedure Code to **make the government’s evidence on the necessity of continued detention available to defense lawyers immediately**, rather than placing the burden on them to obtain this material.

*With Respect to the Protection of Procedural Rights*

- Implement provisions in the Criminal Procedure Code that **provide detainees full and unimpeded access to counsel of their choice** during all phases of investigation and trial.
- **Ensure that all detainees are made aware of their rights in detention**, in the form of a declaration or charter given to any person detained or called in for informal questioning and displayed in a visible place in cells and/or investigation rooms.
- **Instruct police, security agents, investigators, prosecutors, judges, and all government officials that torture will not be tolerated** and will lead to strict disciplinary action and criminal prosecution.
- Issue instructions to police to **strictly observe due process** when detaining persons.
- **Refrain from using the Code of Administrative Offences as the basis to detain anyone for longer than 48 hours** before being brought before a judge.
- Ensure that **confessions obtained under torture** cease to be admitted as evidence in court.
- **Ratify the Optional Protocol to the Convention against Torture**, and guarantee that a body such as the Ombudsperson for Human Rights can act as an independent national preventive mechanism, as required by the treaty.
- **Ensure that individuals have the right in practice to bring allegations of torture to an independent authority** for prompt and thorough investigation, and that they are not subject to intimidation or retaliation as a result of their complaint. Empower and permit the Ombudsperson for Human Rights to act as an independent body to receive and conduct effective investigations into allegations of torture.
- **Ensure that law enforcement officers against whom there are credible allegations of mistreatment or torture are investigated, where sufficient evidence of criminal wrongdoing exists, prosecuted and, if found guilty, subjected to appropriate penalties.**
- **Ensure that torture allegations raised at trial are investigated** and documented in detail in any judgment and transcript of the proceedings.
- **Ensure unhindered access to trials and detention facilities** for human rights organizations and extend invitations to the UN special rapporteur on torture and all other UN special procedures who have requested access.
- **Permit the International Committee of the Red Cross (ICRC) unfettered access to prisons and all places of detention in Uzbekistan, including the ability to speak to any detainees in private.**

*With Respect to the Legal Profession*

- **Ensure that the Chamber of Lawyers is fully independent and self-governing** so that defense lawyers may adequately represent the interests of their clients, **remove the Ministry of Justice’s authority to appoint and dismiss the chairperson** of the Chamber and instituting free elections

for this position, and **reinstate law licenses** for those defense lawyers whose licenses were revoked as a result of their previous human rights work.

*With Respect to the Human rights Situation More Broadly*

- **Order the immediate and unconditional release** of all wrongfully imprisoned human rights defenders, journalists, members of the political opposition, and other activists held on politically motivated charges.
- **End the crackdown on civil society** and allow domestic and international human rights organizations to operate without government interference, including by promptly re-registering those that have been liquidated or otherwise forced to cease operating in Uzbekistan, and issuing visas and accreditation for staff of international nongovernmental organizations, including Human Rights Watch.
- **Allow unhindered access for independent human rights monitors**, including the eleven UN special procedures that have been unable to visit due to the government's refusal to issue the required invitations, and implement recommendations by independent monitoring bodies, including UN treaty bodies and special procedures.
- **Ensure genuine media freedom**, cease harassment of domestic journalists, grant accreditation to foreign journalists and allow domestic and international media outlets, including those that have been forced to stop operating in Uzbekistan, to register and operate freely.
- **Ensure accountability for the Andijan massacre** and cease harassment and other abuses of returned refugees and families of refugees who remain abroad.
- **End the practice of forced sterilization and protect the reproductive rights of women**, including by ensuring adequate information about the procedures and the right to withhold consent.
- **End forced labor of adults and children in the cotton sector**, and permit international and independent national nongovernmental organizations and activists to conduct their own monitoring without harassment.
- **End religious persecution**, including by decriminalizing peaceful religious activity, and ordering the release of thousands of people imprisoned solely for nonviolent religious expression.