

“VERITAS” YOUTH HUMAN RIGHTS MOVEMENT OF UZBEKISTAN

A FOLLOW-UP SHADOW REPORT TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

April 10, 2011
Tashkent, Uzbekistan

Introduction

The Human Rights Committee considered the third periodic report of Uzbekistan (CCPR/C/UZB/3) at its 2692nd, 2693rd and 2694th meetings, held on 11 and 12 March 2010 (CCPR/C/SR.2692, 2693 and 2694). At its 2710 meeting, held on 24 March 2010 (CCPR/C/SR.2710), it adopted the following concluding observations – Ninety-eighth session.

In its Concluding Observations the Committee stated that in accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee’s recommendations made in paragraphs 8, 11, 14, and 24.¹

“Veritas” Youth Human Rights Movement hereby submits the present follow-up shadow report to the UN Human Rights Committee on recommendations made under paragraph 11 of the Concluding Observations which focus on combating torture in Uzbekistan. This follow-up shadow report is accompanied by an Appendix # 1 where the authors included brief description and analysis of the latest cases of torture in Uzbekistan which took place after the Committee considered the third periodic report in 2010.²

Main part

Recommendations under paragraph 11 reads as following:

“The Committee notes with concern the continued reported occurrence of torture and ill-treatment, the limited number of convictions of those responsible, and the low sanctions generally imposed, including simple disciplinary measures, as well as indications that individuals responsible for such acts were amnestied, and, in general, the inadequate or insufficient nature of investigations on torture/ill-treatment allegations. It is also concerned about reports on the use, by courts, of evidence obtained under coercion, despite the Supreme Court’s ruling of 2004 on the inadmissibility of evidence obtained unlawfully. (art. 2, art. 7, and art. 14)

The State party should:

- (a) make sure that an inquiry is conducted by an independent body in each case of alleged torture;*
- (b) strengthen its measures to put an end to torture and other forms of ill-treatment, to monitor, investigate and, where appropriate, to prosecute and punish all perpetrators of acts of ill-treatment, so as to avoid impunity;*
- (c) compensate the victims of torture and ill-treatment;*

¹ The Committee requests the State party to provide in its fourth periodic report, due to be submitted by 30 March 2013, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

² Please see Appendix # 1 to this shadow report.

- (d) envisage audio-visual recording of interrogations in all police stations and places of detention;
- (e) make sure that the specialized medical-psychological examination of alleged cases of ill-treatment is carried out in line with the *Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)*; and
- (f) review all criminal cases based on allegedly forced confessions and use of torture and ill-treatment and verify whether these claims were properly addressed”.

Recommendation (A) - Independent body responsible to conduct inquiry in each case of alleged torture:

Several UN human rights bodies have recommended the Uzbek authorities to consider creation of an independent body responsible to conduct inquiries on cases of alleged torture – e.g. the UN SR on the issue of torture in 2003 and the UN CAT in 2007. But this standing recommendation has never been taken serious by the Uzbek government and to date there is no such independent body in the country where torture in the criminal justice system is rampant. Instead the Uzbek authorities have been suggesting the following legislative, administrative, judicial and other measures.

According to the official statements, the Uzbek Government lately set up new units within some government bodies which are entitled to prevent human rights violations, including conducting inquiries in cases of alleged torture.

The Uzbek Government created an Interdepartmental Working Group of the Government of the Republic of Uzbekistan on Prevention of Torture.³ Although the Uzbek government states that the Working Group is composed of representatives from different Uzbek government bodies which are related to the criminal justice system and law enforcement we think it is far from being a representative body. Indeed, the Uzbek civil society only participates in a limited way, and is solely represented by pro-governmental institutions and GONGOs, such as the National Center for Human Rights, Tashkent Institute of Law, National Chamber of Lawyers and Public Opinion Center “Ijtimoiy Fikr”. Independent Uzbek human rights groups and NGOs are completely left out from this group. The Working Group doesn’t receive, consider and make decisions on alleged cases of torture. The activity of the Working Group lacks transparency and regularity. Its work is limited to regular roundtable discussions between the representatives of different Uzbek law enforcement bodies. It is not a real governmental organ with decisions-making power. There is no criteria to evaluate the activity of this Working Group.

The official reports often mention that, in order to establish effective procedures for internal monitoring of agents’ behaviour, and especially to eliminate recourse to torture and similar ill-treatment, “...*the senior management in the National Security Service [the NSS] instructed all units, in a written telegram* ⁴, *that in the event of violations by the Service staff of citizens’ legitimate rights, not only the culprits but also their unit commanders would be held*

³ The Working Group was created in pursuant to the Decree of the Cabinet of Ministers of the Republic of Uzbekistan from February 24, 2004.

⁴ Telegram # 8/074 of the chief of the National Security Service to all units reading that in the event of abuse of the citizen’s lawful rights by NSS officers not only wrongdoers but also the heads of the units will be held responsible for it. The Uzbek government argues that this telegram has established a regulatory framework for internal monitoring of the behavior and discipline of the agents of the NSS. By all means, the telegram of the chief of the NSS can’t establish or substitute a framework for internal monitoring of the behavior and discipline of the agents of the security service.

accountable".⁵ It should be mentioned that the Inspection of the NSS, a special unit, is also authorized to accept individual communications on torture from alleged victims of torture, their lawyers, relatives and NGOs, if torture or similar ill-treatment was allegedly committed by the NSS inquiry officers or investigators. A new Department of Human Rights under the Ministry of Justice of Uzbekistan was created pursuing the same goal in 2003. In principle, it is allowed to receive individual complaints on alleged human rights violations cases, including alleged torture case.⁶

However, all of the above-mentioned three measures remain at the structural level and bring to nothing except mechanical changes in the names of those departments. They can't be considered as independent mechanism/s of inquiry into cases of alleged torture. Ineffectiveness of those newly created units appears to be clear due to the following reasons:

- Those units operate on the basis of the rules and regulations that are rarely accessible to persons who might be affected by their activities – they are usually not published or otherwise made available to potential victims of human rights violations, their families, their lawyers and NGOs. For example, it is very difficult to assess the measures on establishing effective procedures for internal monitoring of the behavior and discipline of the MIA or NSS officials, by the Instructions of the senior managements of those two structures. The reasons are that (a) one normally won't have an access to such instructions, and (b) an instruction is not a law, it is more "an internal document"
- Lack of transparency and real public scrutiny in the activity of those new units
- Officials of those newly created units are overload with work– within these units, many positions are held by the law enforcement officials, who are simultaneously and permanently involved in other types of law enforcement job. Therefore, they regard his/her job within the units as a secondary one; in addition, traditionally -since the Soviet period-, in important State organs, working for those units, that is dealing with citizens' complaints and appeals, has been regarded as "not prestigious".

Under the special law "On Ombudsman" the Uzbek Ombudsman is entitled to make its own inquiries on cases of human rights violations and request the relevant government bodies and officials to prevent, stop violations and compensate damage. However, in practice the Ombudsman fails to conduct its own investigation on allegations of torture and restricts itself with just sending a written notice to the potential perpetrator or its superior informing the complaint of the alleged victim was received and that the perpetrator or its supervisor should respond the author of the complaint. As a conclusion it can be suggested that there is no independent national body in Uzbekistan which is responsible to make inquiries in alleged cases of torture.

Beginning 2004, the Uzbek Government was speaking about the need for a law "On pre-trial detention of persons suspected or accused of crimes". The purpose was to define such persons' legal status, their rights and obligations, the procedure governing their detention in pre-trial custody, the applicable conditions and procedures to conduct inspections, including civilian checks, and any element on the safeguard of detainees' rights and freedoms. In January 2011 several government-run mass media reported that the Uzbek Parliament was considering such

⁵ Appendix # 2, Progress report on the programme of action to comply with the Convention against Torture and the recommendations of the Special Rapporteur, Mr. Theo van Boven, to the Third periodic report of the Uzbek Government to the CAT.

⁶ Ibid.

draft law for approval. The local human rights NGOs and activists haven't seen the text of this draft law so far.

Recommendation (B) - Strengthening measures to put an end to torture and other forms of ill-treatment, to monitor, investigate and, where appropriate, to prosecute and punish all perpetrators of acts of ill-treatment, so as to avoid impunity:

Independent non-governmental investigators, including international NGOs, do not have a full and prompt access to all detention places - that is police lock-ups, pre-trial detention centers, National Security Service detention facilities, detention units of medical and psychiatric institutions and clinics – and as such have no means to monitor personal treatments and conditions of detention. The procedure for obtaining such authorizations is not clear at all.

The Government's report states that the Central Penal/Criminal Punishment Department allows unhindered access to penitentiary institutions for independent observers based on Instructions on the Order of Arranging Visits to the Penitentiary System by Representatives of Diplomatic Corp, International and Local Non-governmental Organizations, Mass Media, including International Mass Media.⁷

The Instructions have never been made public or otherwise disseminated among the stakeholders. The authors of this report after long years of request have recently got it from one of the MPs who cooperate with human rights groups in an anonymous basis. No system allows to representatives of the civil society an access to penitentiary facilities. The penitentiary system in Uzbekistan remains a closed system. Official review bodies (regulators, public account bodies, governmental and quasi-governmental supervisory bodies), any other bodies which are involved in the penitentiary environment (probation services, social welfare, child protection, schools and etc.) as well as non-governmental organization and academics, all rely on detailed and reliable statistical information on how the penitentiary system operates in practice. Such information in Uzbekistan is, almost invariably, for „internal use only” and is not made available to the general public or to outside bodies (this is one of the obstacles in our research). Such statistics are made available to outsiders on an entirely discretionary basis. Having access to detention places, such as police lock-ups, pre-trial detention centers, National Security Service detention facilities, detention units of medical and psychiatric institutions and clinics, has become even more difficult since the Andijan events, in May 2005. The ICRC has a limited access to the Uzbek penitentiary system. Some Uzbek human rights groups have reported in 2010 that the administrations of those Uzbek prisons which hold famous political prisoners used to hide them away from the ICRC during its visits to these facilities.

According to the Law “On Ombudsman”, the Ombudsman's office visits all detention places, including police lock-ups, pre-trial detention centers, National Security Service detention facilities, detention units of medical and psychiatric institutions and clinics, in order to monitor treatment and conditions of detention. The Ombudsman is empowered with the authority to inspect, as he wants to, as necessary and without notice, any place of detention. The Ombudsman's institution in Uzbekistan is fully dependent from the executive branch and its visits to detention places may not shed any light on the situation. Reports of the Ombudsman's office upon visiting detention places, including conclusions and recommendations, are not made public. It is one of the reasons why it is so complicated to follow up the recommendations of the Ombudsman's office and its implementation by the Main Directorate for Penitentiary Institutions of the Ministry of Internal Affairs.

⁷ Instructions were approved by the Decree of the Uzbek Minister of Internal Affairs on November 01, 2004.

Recommendation (C) - Compensating the victims of torture and ill-treatment:

The Uzbek Government failed to put in place an adequate system of reparation and rehabilitation to promptly give reparation to the persons when there is credible evidence that they were subjected to torture or similar ill-treatment. In none of the individual cases in 2010 and 2011 brought in the Appendix to this report the Uzbek authorities were able to provide proper compensation for the torture victims.⁸

The Criminal Procedural Code of Uzbekistan refers to articles 985-991 of the Civil Code of Uzbekistan. These provisions deal with the procedure for compensating victims of torture and of similar cruel treatment, for moral prejudice. This entitlement is laid down in a decision of the Supreme Court of April 28, 2000 : “*Some issues with the application of the law on compensation for moral prejudice*”. According to the official reports this issue is also under consideration before the Interdepartmental Working Group, to monitor the observance of human rights by law enforcement agencies. It takes part of the plan of compliance with the Committee against Torture’s recommendations and with a view to improving the system for compensating or rehabilitating torture victims.⁹

No system for compensating or rehabilitating torture victims is set up. The reluctance of the Uzbek courts and other law enforcement bodies to recognize a fact as torture or as a similar ill-treatment and to state that testimonies or evidence someone obtained from torture is non-admissible, puts up huge barriers for creating a system of compensation and rehabilitation for torture victims. Rehabilitation centers in the administrative centers of each region and district provide assistance to former prisoners in employment, health and re-socialization issues, but do not address specifically the issue of post-torture rehabilitation.

In some of the individual cases analyzed for this shadow report the authors have learnt that some perpetrators were charged (and punished) with committing acts of torture or similar ill-treatment against persons.¹⁰ However it can be suggested that the perpetrators were punished only after the Uzbek human rights activists and lawyers made public facts of torture and where there were unavoidable proofs of torture. In fact the number of perpetrators brought to justice still makes up very small number. For knowing this we could also rely on and comment official information of the third periodic report of the Government of Uzbekistan. The chart on the number of Uzbek law enforcement officers who were charged with committing torture, does not reveal the real situation.¹¹ While calling it a “*chart on the number of officials brought to different types of responsibility (disciplinary, administrative and criminal) for committing torture and similar ill-treatment*”, the government report does not specify the types of responsibility and sanctions against the perpetrator. This allows us to conclude that Uzbek Authorities failed to bring the perpetrators of torture or of similar ill-treatment to responsibility. Our experience demonstrates that still, in many cases, perpetrators of torture or of similar ill-treatment in Uzbekistan might only face disciplinary measures.

During the reporting period, we could not find out the total number of recognized torture victims to whom it was given adequate reparation by the State, the total amount of money given out to the recognized torture victims as compensation or the number of recognized torture victims who

⁸ Please see Appendix # 1 to this shadow report

⁹ See Appendix # 2, Progress report on the programme of action to comply with the Convention against Torture and the recommendations of the Special Rapporteur, Mr. Theo van Boven, to the Third periodic report of the Uzbek Government to the CAT.

¹⁰ Please see Appendix # 1 to this shadow report

¹¹ See Section 184 of the third periodic report of the Government of Uzbekistan to the UN CAT.

were rehabilitated. There is no effective or practical system to redress for recognized victims of torture and no system for recognized and rehabilitated victims of torture to protect them from the revenge of perpetrators.

The Committee in its General Comment 20 to Article 7 of Covenant expressly stated that the complaints on torture “must be investigated promptly and impartially by competent authorities so as to make the remedy effective. The reports of States parties should provide specific information on the remedies available to victims of maltreatment and the procedure that complainants must follow, and statistics on the number of complaints and how they have been dealt with.”

According to the law, complaints on torture can be brought directly to law enforcement agencies (police, National Security, prosecutor’s office), which after preliminary review of facts of the complaints have to make a decision whether to open the criminal case or to deny the request for criminal investigation. This decision can be appealed to all the higher instances of the law enforcement agency up to the General Prosecutor and further to the court of general jurisdiction from the first to the third instance (review of legality). These institutions do not provide for independent investigation. The state argues that it put in place various mechanisms to ensure that the complaints of torture are handled with due care. However the practice shows that impunity for the perpetrators of torture is as systematic as the torture itself. Even the official statistics below show how insignificant the rate of prosecution is in comparison to quoted numbers of allegations.

Year	Number of registered complaints	Number of criminal cases opened
2003	544	4
2004	457	3
2005	270	3
2006	180	6
2007	189	13
2008	104	9
TOTAL: ¹²	1744	38

In its replies to the Committee, the state party indicates that over the period of 2004-2008, in total 45 law enforcement officials were prosecuted for the crimes of torture and ill-treatment. The total of 1744 complaints over six years resulting in 38 criminal cases and 45 convictions give the rate of prosecution as being slightly over 2%. These numbers demonstrate nothing but the government’s blunt disregard for the victims’ rights to remedy and its positive obligations to investigate and punish torture.

As for the quality of statistics, it is difficult to verify the numbers provided by the government as the procedure for registering and collecting data on torture is not transparent and remains closed for public access. In addition to this, the overwhelming environment of fear, oppression and despair surrounding the victims of torture prevent them from openly speaking out and reporting on their cases. The official statistics, therefore, grossly misrepresent the scope of torture, as the number of complaints on torture is far, far greater than the reported 1744 according to human rights monitors.

¹² The numbers are taken the following documents: 1) Third Periodic Report of Uzbekistan to UNHRC on ICCPR, para.N453; 2) Replies to the List of Issues (CCPR/C/UZB/Q3) pp. 15, 17; 3) HRW“Nowhere to Turn. Torture and Ill-treatment in Uzbekistan”, footnote 11, p.60.

It should be noted that over the last years, it has become extremely challenging and at times dangerous to collect and monitor the facts about torture and ill-treatment, to criticize such practices and to identify the alleged perpetrators. Victims of torture, their families, human rights activists, journalists and lawyers have been subjected to various threats and persecutions.

The government in its replies to the Committee also indicated that out of 45 law enforcement officials who were prosecuted for the crime of torture and ill-treatment, 13 were amnestied according to the amnesty laws. The use of amnesties for the crime of torture is contrary to the requirements under Article 7 of the Covenant. The Committee has noted in its General Comment 20 that “[a]mnesties are generally incompatible with the duty of States to investigate such acts; to guarantee freedom from such acts within their jurisdiction; and to ensure that they do not occur in the future”. Uzbekistan should amend its legislation to prevent the use of amnesties and statute of limitations for the crime of torture.

The insignificant level of prosecution of torture perpetrators and resulting impunity effectively undermines the rights of victims for reparation, rehabilitation and adequate compensation.

Civil law legislation provides for general provisions on obtaining compensation from the state when the harm sustained by individuals was caused by state agents. These provisions, however, do not apply to torture victims, as the civil courts will not hear the case without the results of the criminal trial. Thus, the national legislation does not provide for effective civil compensation separate from the criminal prosecution.

The state also lacks any system of rehabilitation for the victims of torture. Rehabilitation centers in the administrative centers of each region and district provide assistance to former prisoners with employment, health and re-socialization issues, but do not address specifically the issue of post-torture rehabilitation.

Recommendation (D) - Envisaging audio-visual recording of interrogations in all police stations and places of detention:

Monitoring implementation of this specific recommendation was one of the most complicated stages for the authors of the present report. No official information on this issue was available. Though based on interviews with the investigators from the police, Public Prosecutor’s offices and persons who have undergone interrogations in criminal cases in 2010-2011 it can be suggested that there are no audio-visual recording systems in most of the interrogation rooms in the police, Public Prosecutor’s and National Security Service’s investigation departments except some rooms which are equipped for the namesake and for the eyes of international visitors.¹³

It is to the discretion of the investigators to order video-recording of the interrogation process or other types of pre-trial investigative measures through mobile video-recorders but such recording will be part of the criminal case and thus not made open for a scrutiny and such recording is usually ordered when a suspect/accused are ready to confess.

Recommendation (E) - Making sure that the specialized medical-psychological examination of alleged cases of ill-treatment is carried out in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol):

¹³ Investigation on criminal cases in Uzbekistan is carried out by those three law-enforcement bodies. Different crimes depending on their character of graveness and provisions of the Uzbek Criminal Code are investigated by each of those law enforcement agencies.

The existing system of carrying out medical-psychological examination of alleged cases of ill-treatment in the criminal justice system of Uzbekistan can not be regarded as independent. Medical-psychological examination within the criminal cases can be initiated only under a special order from the investigator, Public Prosecutor and judge. It is carried out by special units of medical professionals who represent the government institutions reporting to both the Uzbek Ministry of Internal Affairs and Ministry of Public Health and thus cannot be independent. If a defence party and alleged victim of torture submit results of medical-psychological examination of alleged cases of ill-treatment to the investigator or judge they are rejected and such independent examination results do not have a value of proof.

On May 09 the Uzbek Parliament adopted a long-awaited law “On forensic examination” which is also meant to regulate issues of medical-psychological examination of alleged cases of ill-treatment in criminal cases. Despite expectations of the human rights activists and defence attorneys the new law doesn’t allow the defence party to use medical-psychological examination results in criminal cases as a proof.

Recommendation (F) - Reviewing all criminal cases based on allegedly forced confessions and use of torture and ill-treatment and verify whether these claims were properly addressed:

The principle of non-admissibility of testimonies, obtained under torture is not respected in Uzbekistan. Art. 6 of the CAT prohibits the use of evidence obtained by recourse to torture or similar ill-treatment. Part 2 of art. 88 of the Criminal Procedural Code of Uzbekistan prohibits law enforcement bodies to extract self-incriminating testimonies, explanations, conclusions and to carry out experimental actions or to prepare and provide necessary documents by the use of force, threats, lies and other illegal measures. Art. 88 of the CPC also prohibits law enforcement agents to carry out actions which could be dangerous for persons’ life and health and degrade their dignity and honour.

The Uzbek CPC, that is the main law for the criminal justice system, does not explicitly rule out the legality of evidence obtained through torture or similar ill-treatment.

However, part 19 of the Supreme Court Resolution # 17, states, “*Evidence obtained with the application of torture, force [harassment], threats, cheating, severe treatment against human dignity or other illegal measures, as well as in violation of the right of the suspect or accused, cannot be used as a basis for accusation. Inquirers, investigators, procurators and courts (judges) have to ask freed persons about the treatment they received during the inquest or investigation, as well as about conditions in custody. A thorough examination on each allegations of torture must be conducted. It includes forensic medical attestation [certification] and both procedural and legal measures, such as initiating a criminal case against official persons*”.

It should be noted that the Supreme Court Resolutions have only recommendatory force for state organs in Uzbekistan and is not a law.

In 2003, the UN Special Rapporteur against torture recommended the Uzbek Government to take legal, administrative and other measures to ensure in practice absolute respect for the principle of inadmissibility of evidence obtained by torture in accordance with international standards. The Code of Criminal Procedure of Uzbekistan does not directly secure neither a clause of non-admissibility of these kind of testimonies nor the prohibition of statements made under torture.¹⁴

In December 2003 and September 2004, accordingly, two Resolutions of the Supreme Court of Uzbekistan were adopted. Those Resolutions explicitly established non-admissibility of

¹⁴ See Articles 88 and 92-94 of the Criminal Procedural Code of Uzbekistan

testimonies obtained under torture. The Supreme Court Resolution # 17 from December 2003 mentions that evidence obtained by torture, force, threats, deceiving, and other cruel or human dignity degrading treatment or any other illegal means, as well as in violation of the rights of the suspect, cannot represent the basis of an accusation. Moreover, under this Resolution, inquirers, investigators, procurators and judges must ask a person released from pre-trial detention about how he/she was treated, including what were the detention conditions. Each statement of a person who was brought out of a place of pre-trial detention about application of torture or other illegal methodologies of inquiry or investigation must be thoroughly investigated, including checked through conducting of forensic conclusion, and upon the results of such investigation procedural and other legal actions should be taken, including a decision on opening a criminal case against the responsible officials.¹⁵

Unfortunately, none of these is followed in practice. Furthermore, contrary to what is asserted by the State party, these Resolutions are seen as a secondary source of law in Uzbekistan and are not legally binding for the State bodies and agents. It is therefore necessary that the national legislation itself be amended to explicitly prohibit statements made under torture.

In March 2010 the Committee raised the concern about the high number of convictions based on confessions made in pre-trial detention that were allegedly obtained by methods incompatible with article 7 of the Covenant. The Committee noted that the positive resolution of the Supreme Court prohibiting the use evidence obtained in violation of criminal procedure be reflected in the criminal law governing the procedure of criminal investigation and prosecution. The Committee recommended that Uzbekistan should proceed with the necessary legislative amendments to ensure full compliance with the requirements of articles 7 and 14 of the Covenant.

Since 2010, the government of Uzbekistan has not made any noteworthy efforts to change the practice of courts basing the final decisions on criminal charges on tainted evidence. None of the government reports to the Committee, such as the Comments of Uzbek government to the Concluding Observations in 2006, The Third Periodic State Report, nor the replies to the list of issues contain any new information on the measures taken by the government to address the problem. These reports refer to the outdated information regarding the Supreme Court Resolutions of 2004 which had no impact on the practice whatsoever.

The government failed to provide neither any statistics on the number of judicial decrees issued by courts on violations of criminal procedure and rights of defendants during pre-trial investigation by police, nor information on the number of cases where the defendants raised the issue of non-admissibility of evidence due to torture and resulting decisions of judges.

The authors assert that following the shoot-outs in Tashkent and suicide bombing in Andijan in 2009 summer the situation of torture and consequently the use of evidence obtained through it had dramatically deteriorated. According to the reports by the Uzbek human rights groups, in numerous trials monitored in the aftermath of those events in 2010 and 2011, none of the judges has refused to admit as evidence a confession or statement that, according to the defendant's court testimony, was coerced under torture.

RECOMMENDATION ON ARTICLE 7 OF THE ICCPR - PROHIBITION OF TORTURE:

The State should announce an official policy of zero tolerance approach to torture and ill-treatment in the country. To that effect the State should take the following concrete measures:

¹⁵ See Section 19 of Resolution # 19 of the Supreme Court of Uzbekistan.

1. Bring the definition of torture in its Article 235 of the Criminal Code into full compliance with the definition provided in article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Amendments should be made to avoid the use of amnesty for the crime of torture.
2. End impunity for torture perpetrators by establishing an independent mechanism in accordance with the Istanbul Protocol with the special jurisdiction to investigate the cases of torture and ill-treatment across all areas not limiting to criminal justice, including any cases of death in closed institutions. The special mechanism should be entitled to receive and process all complaints of torture and ill-treatment by any agent of the State. The powers should include investigation of torture and ill-treatment crimes committed by all law-enforcement agencies including officers of the National Security Service, Ministry of the Interior, Department of Prisons, Prosecutors Office and other law-enforcement bodies. The functions should include conducting visits to all-closed institutions in par with the National Ombudsman to review complaints and launch investigation. This independent body should be directly accountable to the Parliament and make regular public reports on the status of fighting torture and ill-treatment in the country, including detailed statistics on number of allegations, number of investigations, prosecutions and compensations to the victims of torture.
3. Introduce in the legislation a specialized procedure for the examination of reports and complaints on torture with the following requirements:
 - a. the period of preliminary examination of reports and complaints of torture must be limited to a maximum of 10 days;
 - b. upon receiving/registering a report or a complaint of torture the specialized body in charge of examination must order an immediate forensic-medical examination to promptly record any physical injuries.
4. Provide in the legislation for the special rights of the victims of torture during preliminary examination, including, but not limited to the following:
 - a. to be informed of the process of a preliminary examination;
 - b. to raise questions and put forward requests to examine the additional facts and circumstances of alleged torture;
5. Amend its legislation governing rules of evidence to the following effect:
 - a. To diminish the possibility of law-enforcement agencies to extract confessions during criminal investigation, introduce amendments to its legislation making it a rule, that only confessions made before a judge during trial are considered as admissible evidence; confessions under all other circumstances not confirmed in court should be deemed as inadmissible.
 - b. To diminish the possibility of law-enforcement agencies harassing witness and extracting their statements, introduce amendments to its legislation whereby only those witness statements made in court should be considered and admitted as evidence in criminal trial. Any witness statement obtained prior to trial and not confirmed before a judge in trial should be deemed as inadmissible.
 - c. Admit results of medical examination conducted other than by official agency on medical expertise, upon confirming standard medical qualifications.
6. Strengthen the safeguards against torture and ill-treatment by taking the following measures:

- a. End practice of police interrogations in closed offices by introducing specially designated interrogation rooms with window walls and easy public access, equipped with digital surveillance cameras to monitor the process of interrogations. Special procedures should be set in place to store the information from digital cameras. No persons other than law-enforcements officials should be allowed in the administrative sections of the police stations.
 - b. At all time during investigation the lawyer should have an unhindered access to the defendant under any form of detention without prerequisite permission from the investigator.
 - c. Anyone should have access to independent medical examination, results of which are treated equally as the state agencies on medical expertise
 - d. Anyone arrested or detained should be able to immediately exercise the right to inform his/her family about his whereabouts.
 - e. All persons admitted to police custody or pretrial detention should immediately upon admission be subject to a routine medical examination. Such service should be independent from police authority. The report should provide detailed description of a person's health status, complains and information on origins of any injuries. Copy of such records should be kept with the medical service.
7. Provide in the legislation for the specific rights of the victims of torture to claim compensation from the state in civil courts independent from the criminal proceedings on the same case. Ensure that the process of payment of compensation from the state budget is adequate and timely.
 8. Establish a mechanism of providing for the psychological and medical rehabilitation for torture victims.
 9. Make available for public review and scrutiny all regulations, instructions or manuals pertaining to the rights and responsibilities of any type of detainees in closed institutors and conditions of such detention, including custody and pre-trial detention centers under the National Security Agency.