

Initiative Group of Human Rights Defenders of Uzbekistan

Report of the Initiative Group of Human Rights Defenders of Uzbekistan (IGNPU) to be presented at the December 2008 UPR Session of the United Nations Human Rights Council

Systematic practice of severe torture in Uzbekistan against prisoners charged and convicted on the grounds of their religious beliefs

Summary: This report examines how the right of inviolability is implemented in Uzbekistan, along with the inadmissibility of torture and other kinds of cruel and inhuman treatment (as enshrined in the Universal Declaration of Human Rights, articles 5, 8 and 11, in the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment) as well as the rights to freedom of conscience, creed and persuasion (as enshrined in the Universal Declaration of Human Rights, articles 18 and 19, and in the International Covenant on Civil and Political Rights, articles 18 and 19). This practice shows that devout Muslims and those that adhere to independent views are subjected to arbitrary arrest, severe forms of torture and that judicial cases are fabricated against them.

Key words: freedom of conscience, creed and persuasion; torture and cruel, inhuman or degrading? treatment or punishment; independence of the judicial system; the war against terrorism; religious extremism.

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1. According to documents available at the IGNPU archives, over 8,000 prisoners are currently serving long sentences in Uzbekistan prisons due to their religious persuasion. Many of them are subjected to severe forms of torture from colony (prison) guards, as a result of which tens of convicts have died. IGNPU holds collected documents and materials from March 2003 to the present day containing irrefutable facts and evidence of torture in relation to prisoners, defendants, accused and convicted persons on the part of representatives of law enforcement bodies, Ministry of Interior investigators, the National Security Service (SNB), the Office of the Prosecutor, and prison, colony and detention centre wardens (a total of over 5,487 pages, detailing the names of the victims of torture, officials administering the torture and torture methods, together with 170 photographs).
2. Torture is performed using the following methods:
 - pushing needles under the fingernails and toenails and pulling out nails;
 - striking the head, body and legs with a rubber baton;
 - passing a high-voltage electric current through the body;
 - pouring boiling water over the naked bodies of prisoners and those on trial;
 - sexual assault by inserting a rubber baton into the anus;
 - striking the stomach area, the liver and the kidneys;
 - exposure to ice-cold water (for instance, in colony 64/71, in the village of Zhaslyk Karakalpakstan, during winter temperature of minus 25 centigrade, convicts were taken outside naked and showered with cold water);
 - seating on glass bottles of different sizes;
 - rubbing salt and pepper into open and bleeding wounds on the body, arms, legs and head;

- confinement in cement cells measuring 2x2 metres and flooding the cell with water;
 - confinement in detention cells and solitary confinement cells without food or water;
 - banning convicts from practising religious rituals and prayers;
 - placing gas-masks on the head and shutting off the oxygen flow.
3. Women and children have also been subjected to similar methods of torture:
- Women have been handcuffed and made to sit on a fixed stool. Four guards beat their bodies, arms and legs with metal switches;
 - Women have been tied by the arms and legs to a metal bedstead and a wet cloth, soaked in salt, has been applied to open wounds;
 - Women have been beaten with rubber batons and dragged across the floor by their hair;
 - Women have been stripped naked, taken into a cell with men, who, having handcuffed them behind their backs, lie on top of them simulating rape.
4. In November and December 2002, a mission of the the UN Human Rights Commission visited Uzbekistan. This mission, headed by the Special Rapporteur on Torture, Theo van Boven, inspected a number of penal colonies of the Uzbek Ministry of Interior. In violation of a commitment previously made by the Government of Uzbekistan, the representatives of the Special Rapporteur were not admitted to a Republic of Uzbekistan National Security Service detention centre, known to be a place where those on trial are subjected to torture. In March 2003, the Special Rapporteur published a report which spoke of the systematic nature of torture in Uzbekistan. The report contained 22 recommendations to the Uzbekistan Government to prevent torture, but to date a number of these recommendations remain unfulfilled by the Uzbekistan Government.
5. In August 2003, the Parliament of Uzbekistan made slight amendments to article 235 of the Republic of Uzbekistan Criminal Code, that saw the heading supplemented with the words, "...application or degrading forms of treatment", while, on 19 December 2003, the Plenum of the Supreme Court of Uzbekistan adopted Resolution No. 17, which virtually replicates a Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984. However, these obligations of Uzbekistan remain on paper alone, and in practice torture continues to be employed.
6. One reason for the widespread application of torture is the fact that Uzbekistan's judicial system is subordinate to the executive authority. In particular, when cases are brought against Muslims for their faith and persuasion, or when pronouncing a sentence, decision or ruling, judges are guided not so much by legislative norms, decisions of the Plenum of the Supreme Court and international legal norms, as by verbal instructions and orders from the executive authority. The 180 monitoring sessions of judicial processes within Uzbekistan carried out by IGNU from March 2003 to June 2008 produced the following findings:
- Almost all the criminal cases observed in relation to persons being persecuted for their religious persuasion, qualified by the authorities as religious extremism and involvement in terrorist activity, were not backed up by substantial evidence and were fabricated by the investigative authorities of Uzbekistan's Interior Ministry, the Uzbekistan National Security Service and the Office of the Prosecutor. In the main, these cases were constructed on confessions, obtained through the use of torture from the defendants themselves;
 - Judicial processes were often held without the presence of the representative of the government prosecutor;

- The courts neither paid attention to, nor investigated the declarations of defendants or their attorneys, that they were subjected to torture during their detention and in the course of the investigation;
 - In the majority of cases, during the investigation defendants were not given access to their attorney. Furthermore, they were often refused a choice of attorney and were assigned an attorney who would fail to actively defend the accused and who would convince the defendant to plead guilty. In some cases the legally assigned defence attorney would not be admitted to the accused's judicial processes (see Tables 1 and 2 in the Annex). In this way, persecuted Muslims were refused access to justice.
7. In the event that evidence revealed the use of torture against the detained person, accused, defendant or convict on the part of operatives of the Interior Ministry, National Security Service and Office of the Prosecutor, the persons responsible for this torture and those falling under Article 235 of the Republic of Uzbekistan Criminal Code were not called to criminal account. As a rule, these culpable operatives were simply demoted or, indeed, left unpunished altogether.
 8. The authorities systematically violate the principle of the separation of the state from religion, intervening in the affairs of religious communities. A number of religious communities, including Christian, Muslim and Jewish, are deprived of the right of association and the freedom of faith and persuasion.
 9. Mosques and madrasahs in Uzbekistan undergo mandatory state registration, without which they are prohibited from functioning. Operatives of special state departments monitor the visits by believers and the prayers in mosques. Imams are told on which subjects they may preach. They are forced to communicate state propaganda and to praise the policies of the ruling regime.
 10. Those convicted due to their religious persuasion and serving sentences in colonies (prisons), are restricted in their rights to practice their religion and are often forbidden to read their prayers.
 11. Since 1997, the Uzbek authorities have often detained and arrested devout Muslims. Prior to arresting an individual, law enforcement agents plant sheets, brochures and audio cassettes with religious content into his or her home. Arbitrary arrests of practising Muslims and the fabrication of criminal cases against them have become more frequent and widespread following the uprising in Andijan in May 2005.
 12. The IGMPU holds irrefutable evidence that repression on religious grounds, including acts of torture and interference in the affairs of the judicial bodies, is performed on the instruction of the presidential apparatus. For example, IGMPU holds in its archive an open admission by an Interior Ministry investigator to the mother of a person, accused on the grounds of their religious persuasion, that he was forced "from above" to fabricate a criminal case against her son, see him convicted on religious grounds, and subject him to torture. Wives of convicts have assert that a prison warden has admitted to them that he tortured their husbands on the orders of superiors, on threat of dismissal from service. The judge of one district criminal court, after passing sentence on a person standing trial on grounds of religious persuasion, declared that the defendant was not guilty, but that the sentence of 7 years' imprisonment was passed on the basis of instructions that came from the presidential administration. The Prosecutor General of the autonomous republic of Karakalpakstan declared to his niece, whose husband had been charged for his religious persuasion, that he was unable to intervene or assist as these cases are under the control of the President of the Republic of Uzbekistan.

13. Hundreds of believers, persecuted by the authorities, have been forced to leave their homes and hide in neighbouring countries for fear of arrest, torture and long prison sentences on the basis of fabricated criminal cases. A large number of persecuted refugee-believers submit applications to the Administration of the Supreme Commissioner of the UN in Kazakhstan, Kyrgyzstan and the Russian Federation for asylum and many of them have obtained asylum in Western countries.

Our recommendations to the Government of the Republic of Uzbekistan

14. To cease the persecution of citizens on religious grounds and for their religious persuasion. To release from detention persons convicted for their religious persuasion, political activists, journalists, entrepreneurs, human rights defenders and businessmen;
15. To adopt a special Resolution of the Cabinet of Ministers of the Republic of Uzbekistan on the Republic's Interior Ministry, National Security Service, Prosecutor General and Supreme Court to end the use of torture, the fabrication of criminal cases, influence on judicial decisions and the persecution of citizens on religious and political grounds;
16. To have the Oliy Mazhlis of the Republic of Uzbekistan review and adopt a law "On the authorities of internal affairs of the Republic of Uzbekistan" (draft documents on these Laws were presented to the Oliy Mazhlis of the Republic of Uzbekistan in 2001);
17. To bring together the investigative authorities of the Office of the Prosecutor, the Interior Ministry, the National Security Service in a unified investigative body to ensure objectivity and absence of discrimination, and to overcome their accusatory bias. To place the Central Administration for Execution of Punishment (GUIN) of the Republic of Uzbekistan Ministry of the Interior under the Republic of Uzbekistan Ministry of Justice.
18. To adopt measures to prevent the arbitrary detention and arrest of citizens, unlawful methods of investigation and the announcement of decisions by judicial authorities on the verbal instruction of executive authorities.

Our recommendations to the UN Council on Human Rights

19. Recommend to the Government of Uzbekistan that the recommendations of the UN Special Reporter on the prevention of torture from March 2003 be implemented in full.
20. Admit independent experts into Uzbekistan for an international investigation into the Andijan events of 13 May 2005 and for familiarisation with the cases of 400 prisoners related to these events. Grant permission for these experts to meet with these prisoners.
21. Send the Special Rapporteurs on freedom of conscience and creed, independence of courts and torture to visit Uzbekistan.
22. Send a UN Senior Human Rights Commissioner to Uzbekistan for familiarisation with the human rights situation.

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ANNEXES

Annex 1. Examples of torture and unjust courts.

1. At a judicial process of 14 November 2006, on the charging of Komilzhon Usmanov, who was tried for his religious persuasion, facts were proven of the application of torture. Fellow inmates acted as witnesses of the torture, even though they were not acquainted with the accused. Thus, at the stage of the investigation, in the cellars of the Central Administration for Internal Affairs (GUVd) of Tashkent, the accused K. Usmanov was suspended upside down with his hands tied and electrical current was passed through his earlobes. However, the judges of the Tashkent Municipal Criminal Court Sharipov, Mirsagatova, Shodmonov and Rasulov did not pronounce the Ruling on conducting investigative measures to reveal the cases of torture. Komilzhon Usmanov was tried under articles 159, 244-1 and 244-2 of the Republic of Uzbekistan Criminal Code and he was sentenced to 10 years' imprisonment in a maximum-security colony.
2. Rakhima Akhmadalieva, born 1961 and the mother of 5 children, sentenced to 7 years' imprisonment for religious persuasion on 17 March 2001, was pardoned in January 2004 and then detained again on 7 March 2005, where she was sentenced once more. After her arrest she was held in the cellar of the Interior Ministry and a detention centre of the National Security Service, where she was subjected to severe torture on the part of Interior Ministry operatives in the "torture chamber", where for 35 of the 54 days she was held, she was subjected to various forms of torture. She is currently held at the KIN 64/7 Prison Colony in Tashkent.
3. Torture of children. Ibrohim Sharifzhanovich Mirzazhanov, born in 1983, was unlawfully detained in 1999 by militia police operatives, convicted on the grounds of religious persuasion and sentenced to 7 years' imprisonment. He was subjected to torture both during the investigation and during the time he was held in the colony. He was granted an amnesty in 2001, but was detained again by Interior Ministry authorities in June 2002 under a fabricated criminal case. He was subjected to torture during the investigation stage and sentenced to 4 years' imprisonment. Then he was granted an amnesty once again.
4. Alexander Constantinovich Talibov, born in 1987, was detained by operatives of the Yunus-Abad District Administration for Internal Affairs for Tashkent in 2004 and he was sentenced under a fabricated case of "murder" with the motive of acquiring his parents' apartment. Upon detention and during the course of detention, he was subjected to cruel forms of torture. In court in 2005, the guilt of the defendant was not confirmed, but he was sentenced to 8 year's imprisonment. On 13 March 2006 he was freed under an amnesty, but then detained on 13 November 2006, where he was beaten by policemen of the Yunus-Abad District Administration for Internal Affairs for Tashkent charged with robbery and the rape of under-age children under a fabricated case for purposes of extortion. No confirmation of his guilt as charged was found in court, the investigation was performed without an attorney present, and the judicial process without the state prosecutor. Nevertheless he was sentenced by the Yunus-Abad Court in Tashkent to 16 years' imprisonment.
5. Aisha Fakhrudinova, the sixteen-year-old daughter of the famous Tashkent religious figure Rukhiddin Fakhruddinov, was raped by a certain Kalandarov on 31 March 2006, when investigations were being performed on the charge of the Imam under nine articles of the Republic of Uzbekistan Criminal Code. The rape was arranged by Interior Ministry

operatives in order to apply a psychological influence upon the accused, Rukhiddin Fakhriddinov, after which he was forced to accept the charge in part. His attorney Rustam Tulyaganov was not admitted to the investigation or the judicial process and the judicial process was undertaken behind closed doors.

6. In early May 2008, the National Security Service arrested 26 officers of the Republic of Uzbekistan Ministry of Defence, on a charge of religious extremism. They are being held in an SNB detention centre, where they are subjected to torture.
7. From 10 June 2008, mass arrests have commenced in Shakhriyabz of the Kashkadarinsky Region of Uzbekistan, where 15 law-abiding residents of Shakhriyabz were arrested, charged with religious extremism. All those arrested are being subjected to cruel torture at the hands of SNB operatives. The arrests continue.

Annex 2. Statistics.

TABLE 1

Number of complaints and declarations received by IGMPU and monitoring performed of judicial processes on issues of torture.

#	List of materials studied by IGMPU based on torture	From March 2003	2004	2005	2006	2007	2008 to June
1	Total number of complaints and declarations of torture	56	129	64	90	109	81
2	Total cases of monitoring courts in terms of revealing instances of torture	41	62	64	61	32	21
3	From the total number of complaints and declarations and under court monitoring of revealed instances of torture	84	395	318	214	231	114
	- against Republic of Uzbekistan Interior Ministry operatives	78	352	239	254	235	112
	- against Republic of Uzbekistan SNB operatives	4	20	44	31	46	31
	- against operatives of the authorities of the prosecutor	2	23	35	31	23	12

TABLE 2

Breach of the norms of the Republic of Uzbekistan Criminal Procedural Code and standards of international law by judicial authorities, offices of the prosecutor, the Interior Ministry and the SNB

List of names and number of breaches:	From March 2003	2004	2005	2006	2007	2008 to June
Based on the fabrications of criminal cases by the investigative authorities	32	51	58	88	98	71

of the Interior Ministry, SNB and Prosecutor of the Republic of Uzbekistan.						
Based on unlawful judicial processes in closed sessions	46	50	59	57	21	12
Based on not admitting attorneys: to detained persons, those accused, defendants and prisoners	34	21	33	41	44	20
Based on the partial or complete lack of state prosecutors in judicial processes.	44	53	48	58	19	14
Based on failure to communicate detentions to close relatives	22	111	49	79	81	18
Total:	178	286	247	323	263	135