



The Association for Human Rights in Central Asia (AHRCA), the International Federation for Human Rights (FIDH) and the International Partnership for Human Rights (IPHR) wish to draw attention to some of the human rights issues of primary concern in Uzbekistan.

Since President Mirziyoyev came to power in 2016, over 2,000 new legislative acts have been adopted, and executive decrees passed, aimed at increasing the independence of the judiciary and improving respect for human rights. However, we are concerned that these rule of law principles, which should accompany any economic liberalization, are not implemented in practice.

## **1. Concerns about ongoing violations in the criminal justice system**

### **1.1 Ongoing concerns about torture and ill-treatment**

We were dismayed in September this year to read the replies from the Uzbekistani government to the UN Committee against Torture list of issues. The state's point-blank refutations of credible and carefully gathered reports of torture and ill-treatment indicate a lack of serious intent by President Mirziyoyev's government to take steps to improve the country's abysmal record on one of the most egregious human rights violations.

We are highly concerned about these credible reports indicating that torture and ill-treatment persist in Uzbekistan despite the stated reform programme to address the issue.

### **1.2 Impunity for perpetrators of torture**

Allegations of torture are not considered in a timely manner, meaning that physical evidence can be lost (as marks of torture fade) and perpetrators escape justice.

Pressure continues on defence lawyers and victims of torture who attempt to complain about violations of their human rights. Representatives of law enforcement agencies force victims and lawyers to sign non-disclosure agreements, threatening them with criminal prosecution if they do not agree.

We are aware that officials at various levels are now being brought to justice, but the investigative measures used fall short of international human rights standards. The trials are held behind closed doors, with no independent observers present. We have monitored several cases of former officials where there were serious fair trial violations as well as the use of torture and punitive psychiatric treatment.

### 1.3 Lack of rehabilitation and redress for victims of torture imprisoned on politically motivated grounds

Although, in a positive development, the number of acquittals has increased we stress that the criminal convictions of persons who were sentenced on politically motivated grounds are not being reviewed. It is also worth noting that there is not one single case in Uzbekistan where compensation was paid to victims of torture.

For example, human rights activist Agzam Turgunov was refused the right to appeal the sentences against him, (and for which he served 10 years in prison). Former parliamentary deputy Samandar Kokanov, who served 24 years in prison, has also been denied the right to appeal. There are many other such cases.

The Uzbekistani authorities continue to refute all allegations of torture, and to block access to justice and redress for those who suffered torture in the past. At the hearing by the UN Committee against Torture in Geneva in November, the Uzbekistani delegation claimed that as no evidence of torture had been found in the cases of Agzam Turgunov and other political prisoners they were therefore did not qualify for review. Former prisoners imprisoned on politically motivated grounds who attempt to seek justice face obstacles such as being unable to obtain copies of the court verdicts against them. This is the case, for instance for Erkin Musaev.

At the 68th session of the UN Committee on Torture, head of the Uzbekistani delegation, Akmal Saidov stated that under former President Karimov there was a "blacklist" of citizens who were persecuted on religious grounds (wearing a hijab, a beard and praying five times a day) and that under President Mirziyoyev about 20,000 such people had been released from prison. Representatives of opposition parties, human rights organizations, and journalists were blacklisted.

Citizens have been prosecuted under the following articles of the Criminal Code of Uzbekistan used to punish them for their outspoken criticism of the authorities, for speaking publicly about human rights violations affecting them or their relatives, or for publicly exercising their right to religious belief:

- 158-3 ("Public insult or defamation of the President, using the press or other media"),
- 159 ("Violations of the constitutional system of the Republic of Uzbekistan"),
- 216 ("Illegal organization of public associations or religious organizations"),
- 216-1 ("Inclination to participate in the activities of illegal public associations and religious organizations"),
- 216-2 ("Violation of the law on religious organizations"),
- 244-1 ("Production or distribution of materials containing a threat to public safety and public order")
- and 244-2 ("Creation, leadership, participation in religious extremist, separatist, fundamentalist or other prohibited organizations").

Large scale fabrications of charges have occurred under these articles, and therefore **a Commission to review criminal cases under these articles of the Criminal Code must be set up as a priority, which should include independent observers.**

## 2. Prison conditions

We have received recent, credible reports of torture and conditions of slave labour from prisons in the country, and there is very little transparent and publicly available information on prisoner numbers.

Although in August 2019 the Uzbekistani authorities announced that Jaslyk prison is to be closed as a high security facility, we are concerned at reports that it will be used as a pre-trial detention centre which gives serious cause for concern that pre-trial guarantees will be respected in practice.

We receive ongoing and credible reports about slave labour in prisons as well as poor and insufficient health care. We hear that elderly persons, disabled people and people suffering from AIDS and other serious illnesses have inadequate medical care. The poor healthcare afforded to prisoners leads to a high rate of deaths in custody, but neither statistics nor the results of any official investigations into these cases are made publicly available.

**One of the most serious obstacles preventing improvements to prison conditions is the lack of access to places of detention for independent monitors, meaning that there is a lack of civil oversight.**

Human rights defender Agzam Turgunov tried to get permission to visit prisons alongside the Ombudsman, but his requests were rejected. (An official answer to one such request stated that his request was denied because his organization is not registered). He was also recently denied permission to meet the representative of the Prosecutor's Office responsible for investigating cases of torture and slave labour in prisons. Human rights activist Tatyana Davlatova has also come up against similar obstacles.

### **3. Need to accept independent human rights movement and activists as constructive partners, not perceive them as political threats**

#### **Difficulties of registration for independent human rights organisations**

It remains extremely difficult to register an independent human rights organisation in Uzbekistan. Surveillance, threats and administrative charges continue to be brought against independent human rights defenders in reprisal for their work. Over the past twenty years, Agzam Turgunov has tried to register his organization four times in 2019.

Reasons given by the state authorities for refusing to register the organization include:

- that the application documents were not stitched with thread, (although in fact they were stitched and had been certified by a notary) ;
- a newly introduced requirement on the need for 10 founding members instead of three;
- the absence of a line in the Charter stipulating that the organisation has the right to carry out its activities throughout the country.

Agzam Turgunov is currently awaiting a fourth decision from the Ministry of Justice on his application for registration. In case of refusal, he intends to file a court complaint.

### **4. Amendments to the Criminal Code**

The Uzbekistani authorities are currently preparing an update of the criminal code. In relation to this process, we call on the Uzbekistani authorities to:

- a) Decriminalise consensual sexual relations between men (Article 120 of the Criminal Code which currently punishes this act with from three to five years' imprisonment).
- b) Amend Article 235 (which criminalizes torture). The article currently gives an explanation that "illegal psychological or physical pressure" is a crime, implying that in some cases torture could be legal. International experts at the UN Committee on Torture considered this wording to be unacceptable, as it gives rise to judgments on the legality of torture in some circumstances, whereas, under international law, torture is always illegal. All states parties to the Convention against Torture are required to ensure absolute protection against torture. Uzbekistan should also be urged to amend Article 235 to state that crimes of torture should not have a statute of limitations.

## **5. LGBTI Persons at Risk of Torture, Sexual Abuse and Extortion**

We have received recent, credible reports that in detention facilities and prisons, gay and bisexual men are often subjected to humiliating sexual abuse and cruel, inhuman and degrading treatment by police officers, prison guards and fellow inmates.

Police also use threats of imprisonment under Article 120 and of disclosing the person's sexual orientation in order to intimidate and blackmail gay LGBTI persons, and to physically or sexually abuse them. We have documented such threats in relation to heterosexual men as well. In several recent cases police have forced men to "confess" to serious crimes such as "terrorism" to avoid being charged under Article 120.

LGBTI persons are also at risk of abuse and extortion by non-state actors. There are reports of entrapment of LGBTI persons on social media, with victims being sexually abused by homophobic men and filmed before being blackmailed.

Exiled LGBTI activists from Uzbekistan told us that several gay men were killed or severely injured after homophobic activists issued calls on internet messaging services and disseminated their personal details (photos/ addresses etc.). To our knowledge the authorities have failed to take action to investigate the crimes effectively and bring the perpetrators to justice.

In the large majority of cases victims, fearing reprisals, do not lodge complaints. We also learned of cases where LGBTI people could not cope with the intimidation and abuse and committed suicide. Furthermore, groups defending LGBTI rights cannot work safely in the country.