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THE RIGHT TO REPARATIONS OF POLITICAL PRISONERS IN UZBEKISTAN: EXECUTIVE SUMMARY

'UZBEKISTAN NEEDS REHABILITATION MORE THAN I DO. THERE IS AN ELEMENT OF CONVERGENCE OF THE PEOPLE AND THE AUTHORITIES IN THIS WORK'

— Former political prisoner

CONTEXT

Since 2016, hundreds of Uzbekistan's political prisoners have been released by the mass pardons of President Shavkat Mirziyoyev. The policy paper analyses the fulfillment of the right to reparations of political prisoners in Uzbekistan. It takes stock of the current and long-term needs of political prisoners, many of whom were tortured and ill-treated while in prison, provides an overview of their rights and Uzbekistan's obligations with respect to reparations, and provides recommendations to the government of Uzbekistan.

WHY THE RIGHT TO REPARATIONS?

Reparations are a crucial component of post-conflict or post-authoritarian transitional justice processes. They represent the enhanced legal

obligation of States to provide 'an effective remedy' or victims of human rights violations, when violations are of mass and systematic character and involve grave crimes like torture.

Reparations are seen as a central aspect of reconstruction of social trust in the aftermath of systemic violence; they further restoration of victims' dignity and a sense of belonging to the community as full members, expressing to victims and society at large that the State is committed to addressing their concerns and the root causes of abuses, and ensuring they do not happen again. This policy paper examines the issue of reparations for recently released political prisoners as a way to not only improve their situation, but also to further reestablishment of trust and consolidation of human rights advances in Uzbekistan more broadly.

RUSSIA

The Commission for Rehabilitation of Victims of Political Repression was created in Russia in 1992. Since then, the Commission has rehabilitated a total of over 3.7 million people.

GEORGIA

In 2012, the General Prosecutor's Office of Georgia established a special department to investigate crimes committed during trials. The Department was engaged in investigating crimes committed by officials, restoring rights and returning property to victims. The Department reviewed more than 440 applications and helped victims claim 44.3 million dollars in compensation from the courts.

KAZAKHSTAN

In Kazakhstan in different periods of 20th Century there were several rehabilitation commissions. The commission, which existed from 1988 to 1993, rehabilitated about 75,000 victims of the Stalinist terror. Another commission was established in 1993 to rehabilitate victims of mass repressions. In the course of its work, 350,000 people were rehabilitated and 35.793 received compensation.

MAIN FINDINGS

Relevant domestic framework

In Uzbekistan, national law provides for the right to an effective remedy and reparations for wrongful imprisonment, torture and ill-treatment, mostly in line with the country's international obligations. Among others, it allows for a satisfactory fulfilment of the rights to compensation for material and moral harm, restoration of employment, pension and housing.

The national legal framework is fragmented and incomplete however, particularly in the sphere of medical and psychological rehabilitation, and is well short of best State practice. The possibility of current prisoners to seek release on the basis of being wrongfully accused is not clearly established by law and the procedure for seeking reparations is complex and overly burdensome.

The realisation of the right to reparations

In 2020, just one former political prisoner has been provided with anything other than symbolic compensation for the years they spent in prison. Few receive the necessary medical or psychological support for the beatings and torture they endured. Only three achieved a formal reinstatement of their rights through acquittal. In roughly half of the cases we surveyed, wrongfully convicted individuals have been unable to obtain their original convictions and other court case materials enabling them to file legal challenges. The reparations practice so far falls short of even the most basic country-specific reparations practice. Nor does the existing system further transitional justice

objectives in Uzbekistan by acknowledging the truth about the past, recognizing victims, and restoring trust in institutions.

RECOMMENDATIONS

01 Identify individuals entitled to reparations

Identify individuals released as a result of amnesties or pardons who might have been prosecuted on political motives, and persons still in custody for politically motivated charges, including so called 'religious prisoners', entitled to release and reparations.

02 Conduct a preliminary needs assessment

Conduct a preliminary needs assessment in consultation with victim representatives and former detainees, of recently released political prisoners who have been legally acquitted, as well as political prisoners who have been released but not acquitted, particularly victims of torture and other ill treatment.

03 Adopt a comprehensive reparations or Transitional Justice policy

Adopt a comprehensive policy on the 'Reparation' or 'Rehabilitation' of 'political prisoners' or 'wrongfully convicted persons', separate or part of a larger policy for Transitional Justice in Uzbekistan, envisioning the creation of an inter-agency or fully independent commission to implement its mandate and objectives.

03 POLICY ON REPARATIONS OR TRANSITIONAL JUSTICE

- Harmonizes the existing domestic legal framework for reparations;
- Allows for the reconsideration of sentences of persons convicted of 'political' offenses;
- Provides for reparations to 'wrongfully convicted persons', or 'political prisoners', and their heirs and families;
- Includes the families and heirs of political prisoners in reparations as victims on an equal basis;
- Ensures the execution of views issued against the State by the UN Human Rights Committee and decisions of other interstate organs;
- Establishes a central Reparations Commission, with regional branches, to achieve all of the above.

'WHEN I WAS IN PRISON, I SAW THOUSANDS OF INNOCENT PERSONS AROUND ME. I HOPED THAT, UPON MY RELEASE, I WILL CREATE AN ORGANIZATION THAT WILL HELP FORMER POLITICAL PRISONERS, AND THERE ARE MANY OF THEM.'

— Former political prisoner

REPARATIONS COMMISSION

- A.** Formed outside of the national system for the prevention of human rights violations in prisons and closed institutions and be an independent, separate ad hoc or permanent institution;
- B.** Incorporates a documentation unit to facilitate access to archives, investigation of politically motivated charges and development of commemorative initiatives;
- C.** Ensures the engagement of the civil society, international experts, the Ombudsman, and representatives of political prisoners in the formation and functioning;
- D.** Possesses adjudicatory powers, as prescribed by the policy, such as to give binding decisions and provide authoritative recommendations on the release and reparations requests;
- E.** Designs and facilitates the implementation of psychosocial and medical support policies focused on improving the mental and physical health of victims;
- F.** Provides opportunities for ex-prisoners to participate in civic engagement, community and other employment, formal politics, and establish self-help organizations and ex-prisoners' associations.

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