



FREEDOM NOW

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**FREEDOM NOW – INDIVIDUAL SUBMISSION TO THE OFFICE OF THE
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**UNIVERSAL PERIODIC REVIEW (“UPR”): UZBEKISTAN
30TH SESSION
HUMAN RIGHTS COUNCIL – UPR WORKING GROUP**

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Introduction

1. Freedom Now submits this report to assist the UN Human Rights Council in its review of the policies and practices of the Government of Uzbekistan (“Uzbekistan”). Freedom Now is a non-partisan, non-governmental organization that works to free prisoners of conscience around the world through legal, political and public relations advocacy.¹

2. This report documents the Uzbek government’s use of arbitrary detention and politically-motivated prosecutions in violation of international law.² As outlined in detail below, Uzbekistan reportedly continues to silence civil society activists, human rights defenders, and journalists through wrongful criminal detention. Such practice violates the government’s obligations under the International Covenant on Civil and Political Rights (“ICCPR”) and the Universal Declaration of Human Rights (“UDHR”) – a pattern documented by numerous human rights organizations and international institutions – including the UN Working Group on Arbitrary Detention (the “Working Group”), the UN High Commissioner for Human Rights, and the UN Special Rapporteur on the Situation of Human Rights Defenders (the “Special Rapporteur on HRDs”).

History of Arbitrary Detention in Uzbekistan

3. Uzbekistan has a well-documented history of detaining its citizens for exercising their fundamental human rights, including the rights to freedom of expression, association, assembly and conscience. In the context of such politically-motivated prosecutions, the government has also failed to meet minimum international due process standards and violated detainees’ rights to be free from torture and other forms of mistreatment.

¹ Freedom Now is currently serving as international *pro bono* counsel to Uzbek prisoners of conscience, Salijon Abdurakhmanov, Aramais Avakyan, Azamjon Formonov, Gaybullo Jalilov, Dilmurod Saidov, and Akzam Turgunov.

² While this submission highlights the violations of the rights to freedom of expression, assembly, association, and religion and freedom from torture, the analysis is limited to arbitrary detention.

4. Concern for human rights defenders was highlighted during Uzbekistan's second Universal Periodic Review ("UPR") in 2013.³ During that review, Uzbekistan did not accept a recommendation to "end harassment and detention of persons who exercise their rights to freedom of assembly, association, expression and religion and release those currently held on such grounds" or other similar recommendations.⁴ Uzbekistan also did not accept several recommendations to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") or to increase its efforts to fight against torture through legislative, investigatory and other means.⁵

5. Uzbekistan did accept recommendations to "eradicate any type of activity that may be considered torture under judicial procedures"⁶ and to accept the request of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (the "Special Rapporteur on torture") to visit Uzbekistan.⁷ It also accepted recommendations to "safeguard freedom of expression, association and of the press."⁸

6. However, although Uzbekistan accepted some recommendations pertaining crucial human rights, it has failed to implement the changes needed to effectuate such recommendations. Uzbekistan has not strengthened the legal protections for free expression, association or the press through more robust legislation; rather, it has enacted laws further limiting these rights.⁹ For instance, article 244-1 of the Criminal Code, enacted in 2016, criminalizes a broad range of religious expression online, prescribing punishments of up to eight years in prison.¹⁰ Additionally, the 2015 Amendments to the Law on Information Technologies prohibit bloggers from defaming an individual's "honor and dignity."¹¹ These amendments preclude perceived calls for public disorder, encroachment on constitutional order, posting state secrets, issuing "threats to the state," and "other activities that are subject to criminal and other types of responsibilities according to legislation."¹²

³ UPR Info, Database of Recommendations: Uzbekistan, available at https://www.upr-info.org/database/index.php?limit=0&f_SUR=188&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=100&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly [hereinafter "UPR Recommendation Database"].

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ See, e.g., Freedom House, *Freedom in the World: Uzbekistan 2016*, available at <https://freedomhouse.org/report/freedom-world/2016/uzbekistan> [hereinafter "Freedom in the World: Uzbekistan 2016"]; US Department of State, *Country Report on Human Rights Practices for 2016: Uzbekistan*, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dldid=265554> [hereinafter "US Dep't State Report on Human Rights"].

¹⁰ Human Rights Watch, *Uzbekistan, Events of 2016*, 2017, available at <https://www.hrw.org/world-report/2017/country-chapters/uzbekistan> [hereinafter "Uzbekistan, Events of 2016"].

¹¹ US Dep't State Report on Human Rights, *supra* note 9, at 15.

¹² *Id.*

7. Uzbekistan has not revised the definition of torture contained in article 235 of the Criminal Code, which does not meet the requirements of article 7 of the ICCPR, article 5 of the UDHR or article 1 of the CAT because this definition restricts torture to illegal acts committed with the purpose of coercing testimony.¹³ Thus, the law is limited to acts of torture committed only by a person carrying out an initial inquiry or pretrial investigation, a procurator or other employee of a law enforcement agency, and results in impunity for other perpetrators.¹⁴ Uzbekistan continues to grant amnesty to persons convicted of torture or ill-treatment under article 235 of the Criminal Code.¹⁵ Finally, Uzbekistan has also not ratified the Optional Protocol to the CAT. Moreover, despite Uzbekistan's acceptance of the recommendation to allow the Special Rapporteur on torture to visit the country, it has not responded to the Special Rapporteur's requests.¹⁶

8. There have been a few encouraging signs of greater openness. In 2017, Uzbekistan received its first visit by the UN High Commissioner for Human Rights.¹⁷ Additionally, following the death of President Islam Karimov after 27 years in power, Uzbekistan's new president, Shavkat Mirziyoyev, has proposed an Action Strategy that seeks in part to ensure the rule of law and reform the justice system.¹⁸ Uzbekistan released two prisoners of conscience, Bobomurod Razzakov, who had been seriously ill-treated and denied appropriate medical care, and Samandar Kukanov, who had been imprisoned since 1993 and tortured.¹⁹ Unfortunately, despite these positive developments, many political prisoners remain in custody and torture continues to be used routinely against detainees.²⁰

Continued Use of Arbitrary Detention

9. It is currently estimated that Uzbekistan holds hundreds, possibly thousands, of prisoners on political grounds.²¹

10. In 2015, the UN Human Rights Committee expressed concern about "consistent reports of harassment, surveillance, arbitrary arrest and detention, torture and ill treatment ... and prosecutions on trumped-up charges of independent journalists, government

¹³ United Nations Human Rights Committee, *Concluding Observations on the Fourth Periodic Report of Uzbekistan*, CCPR/C/UZB/CO/4, August 17, 2015, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/UZB/CO/4&Lang=En, at 4 [*hereinafter* "Concluding Observations"].

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ "Opening Remarks by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein at a Press Conference during his Mission to Uzbekistan," Office of the High Commissioner for Human Rights, May 11, 2017, available at

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21607&LangID=E> [*hereinafter* "Opening Remarks by UN High Commissioner"]; US Dep't State Report on Human Rights, *supra* note 9.

¹⁷ Opening Remarks by UN High Commissioner, *supra* note 16.

¹⁸ *Id.*

¹⁹ Uzbekistan, Events of 2016, *supra* note 10.

²⁰ *See, e.g., id.*; Opening Remarks by UN High Commissioner, *supra* note 16.

²¹ US Dep't State Report on Human Rights, *supra* note 9.

critics and dissidents, human rights defenders and other activists, in retaliation for their work.”²² Additionally, the Special Rapporteur on HRDs expressed concern about the “continuous harassment, detention, and prosecution of human rights defenders due to their legitimate human rights work.”²³ Uzbekistan continues to arbitrarily detain journalists, political opponents, human rights defenders, and members of independent religious groups on spurious charges of extremism, bribery, extortion, and drug-related charges.²⁴

11. Trials of political prisoners are replete with due process violations.²⁵ Detainees are often held incommunicado and deprived of access to a lawyer of their choice; state-appointed attorneys routinely act in the government’s interest.²⁶ Hearings are closed and defendants are often prevented from summoning witnesses or presenting evidence.²⁷ Uzbekistan also extends the sentences of prisoners of conscience shortly before their expected release date by arbitrarily convicting them of violating de minimis prison rules under article 221 of the Criminal Code and then adding years onto their sentence.²⁸

12. Uzbekistan continues to detain people on trumped-up charges of extremism and associations with banned religious groups.²⁹ It is estimated that more than 12,000 persons have been detained for “extremism” or “anti-constitutional” activity.³⁰ Religious persons accused of violating a 2014 law banning literature or media intended to “change” a person’s beliefs have experienced threats of torture and rape.³¹

13. Torture is widespread and used with impunity in Uzbekistan, despite its acceptance of some UPR recommendations to prevent torture.³² Authorities routinely subject detainees to severe beatings, denial of food, sexual abuse, simulated asphyxiation, tying and hanging by the hands and electric shock.³³ Torture is used to coerce false confessions and witness testimony which, despite a legal prohibition to the contrary, are

²² Concluding Observations, at 8, *supra* note 14.

²³ United Nations General Assembly, *Report of the Special Rapporteur on the Situation of Human Rights Defenders*, A/HRC/28/63/Add.1, March 4, 2015, at 64, available at <http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-28-63-Add-1.pdf> [*hereinafter* “Report of the Special Rapporteur on HRD”].

²⁴ *See, e.g.*, Uzbekistan, Events of 2016, *supra* note 19.

²⁵ Report of the Special Rapporteur on HRD, at 64, *supra* note 23.

²⁶ *See, e.g.*, US Dep’t State Report on Human Rights, *supra* note 9; *See also*, *Aramais Avakyan v. Uzbekistan*, UN Working Group on Arbitrary Detention, Opinion No. 29/2017 UN Doc. A/HRC/WGAD/2017, May 24, 2017, pp 7-8, available at <http://www.freedom-now.org/wp-content/uploads/2017/06/Opinion-29-2017-Uzbekistan.pdf>.

²⁷ *See, e.g.*, US Dep’t State Report on Human Rights, *supra* note 9; *Aramais Avakyan v. Uzbekistan*, *supra* note 26, at 10.

²⁸ *See, e.g.*, Concluding Observations, at 6, *supra* note 14; Uzbekistan, Events of 2016, *supra* note 19.

²⁹ *See, e.g.*, *Aramais Avakyan v. Uzbekistan*, at 6, *supra* note 26.

³⁰ Uzbekistan, Events of 2016, *supra* note 19.

³¹ Freedom in the World: Uzbekistan 2016, *supra* note 9.

³² UPR Recommendation Database, *supra* note 3.

³³ *See, e.g.*, US Dep’t State Report on Human Rights, *supra* note 9; *Aramais Avakyan v. Uzbekistan*, at 5, *supra* note 26.

used as evidence in court.³⁴ Judges ignore or dismiss as unfounded credible allegations of torture.³⁵

14. Prison conditions for detainees are harsh. Prisoners are subjected to inadequate medical care, frigid temperatures, improper food and water, and long hours of manual labor.³⁶ These poor conditions disproportionately affect human rights defenders, government critics and individuals convicted of membership in Islamist groups, and have caused deaths in custody.³⁷

Uzbekistan’s Abuses Exemplified: The Cases of Six Activists Currently Imprisoned

Aramais Avakyan

15. Aramais Avakyan is a Christian fisherman detained since 2015 on charges related to membership in an Islamic extremist organization. Three days after his town’s mayor threatened to imprison him for refusing to relinquish his fishery business, he was arrested by masked officers and removed to prison. Mr. Avakyan was badly tortured in prison and has been hospitalized twice since his arrest. The authorities also arrested and tortured 16 of Mr. Avakyan’s friends and family members in an attempt to elicit damning testimony against him.

16. In 2016, after a trial replete with due process violations, Mr. Avakyan was convicted of “plotting anti-constitutional activities” and sentenced to 7 years in prison. The Working Group has confirmed his detention was arbitrary and in violation of international law.³⁸

Azamjon Formonov

17. Azamjon Formonov is a human rights defender who has been wrongly detained since 2006 on extortion charges. Prior to his arrest, Mr. Formonov served as a regional chairman of the Human Rights Society of Uzbekistan. Following his arrest, he was held incommunicado and tortured badly to elicit a confession while his government-selected attorney observed. After a closed trial replete with due process violations—including his inability to witness the trial—he was convicted to 9 years in prison. While in prison, Mr. Formonov continued to assert his rights; he sent a letter to UN Secretary-General Ban Ki-moon detailing the torture he had suffered and refused to sign all but one false confession admitting to violations of prison regulations.

³⁴ See, e.g., *Aramais Avakyan v. Uzbekistan*, at 10, *supra* note 26; US Dep’t State Report on Human Rights, *supra* note 9; Amnesty International, *Uzbekistan 2016/2017*, 2017, available at <https://www.amnesty.org/en/countries/europe-and-central-asia/uzbekistan/report-uzbekistan/> [*hereinafter* “Uzbekistan 2016/2017”]; Concluding Observations, at 5, *supra* note 14.

³⁵ See, e.g., *Aramais Avakyan v. Uzbekistan*, at 10, *supra* note 26; Uzbekistan 2016/2017, *supra* note 34.

³⁶ See, e.g., *Aramais Avakyan v. Uzbekistan*, at 5, *supra* note 26; US Dep’t State Report on Human Rights, *supra* note 9.

³⁷ See, e.g., Concluding Observations, at 6, *supra* note 26; Uzbekistan, Events of 2016, *supra* note 19.

³⁸ *Aramais Avakyan v. Uzbekistan*, *supra* note 26.

18. A month before Mr. Formonov's sentence was set to expire in 2015, he was charged with insulting other inmates and failing to wear an ID badge as violations of prison regulations. In a second closed trial marked by due process violations, Uzbekistan denied Mr. Formonov legal representation of his own choice or the chance to cross-examine witnesses. The court sentenced him to a further five years in prison.

Salijon Abdurakhmanov

19. Salijon Abdurakhmanov is an independent journalist and member of the Real Union of Journalists of Uzbekistan who was convicted and sentenced to 10 years in prison in 2008 on fabricated drug charges. He is known for his reporting on social and economic justice, human rights, and corruption in Karakalpakstan.

20. Mr. Abdurakhmanov's arrest and trial were plagued by due process violations; the police allegedly planted drugs in his car and refused to carry out basic investigative steps. His legal team was harassed throughout the trial and his two attorneys ultimately lost their licenses.

21. Mr. Abdurakhmanov has been convicted of violating his terms of detention several times; these charges were likely fabricated to disqualify him from receiving amnesty and to extend his sentence. He suffers from chronic gastritis, a chronic duodenal ulcer, and osteochondrosis of the spine and has been denied medical care in prison. When the International Committee of the Red Cross (the "ICRC") attempted to meet Mr. Abdurakhmanov in prison in 2012, the prison authorities presented the ICRC representatives with a prisoner who claimed to be Mr. Abdurakhmanov. The ICRC delegation, having seen photographs of Mr. Abdurakhmanov, realized that the man they were meeting with was an imposter.³⁹ Given such difficulty in meeting with prisoners in Uzbekistan, the ICRC suspended their detainee visits in 2013.⁴⁰

Gaybullo Jalilov

22. Gaybullo Jalilov is a practicing Muslim and human rights defender who has been wrongly detained in Uzbekistan since 2009. He was a member of the Human Rights Society of Uzbekistan, focusing on the government's persecution of independent Muslims.

23. On September 5, 2009, Mr. Jalilov was forced into a vehicle by several officers. He was held incommunicado for several weeks and ultimately charged with terrorism,

³⁹ Radio Free Europe/Radio Liberty, *Uzbek Prison Shows 'Imposter' To Red Cross*, November 20, 2012, available at <http://www.rferl.org/content/uzbekistan-presents-impostor-to-red-cross/24776137.html>.

⁴⁰ International Committee of the Red Cross, *Uzbekistan: ICRC decides to terminate visits to detainees*, April 12, 2013, available at <https://www.icrc.org/eng/resources/documents/news-release/2013/04-12-uzbekistan-detainees.htm>.

incitement of hatred, dissemination of materials containing threats to public safety, and participation in a banned organization.

24. Mr. Jalilov's trial was plagued with violations of fair trial standards. His lawyer was not notified of his first hearing. The judge ignored Mr. Jalilov's allegations that he had confessed under torture. He was initially sentenced to 9 years' imprisonment; his sentence subsequently increased to 11 years with the addition of new charges, including membership in a banned organization and plotting to illegally overthrow public officials.

25. Mr. Jalilov's torture has been particularly egregious; a 2010 beating left him nearly deaf in both ears. He has been kept in an animal cage. This ill treatment drove him to attempt suicide. Uzbekistan has denied him visitors since 2011; he has effectively been held incommunicado for the past 6 years. The Working Group has confirmed his detention was arbitrary and in violation of international law.⁴¹

Dilmurod Saidov

26. Dilmurod Saidov is a journalist and human rights activist who has been wrongly detained since 2009 on fabricated extortion and forgery charges. Prior to his detention, his articles appeared in local newspapers and Internet news sources such as *Voice of Freedom* and *Uznews.net*. He was also a member of the human rights organization *Ezgulik*, defending farmers' rights against government corruption.

27. Mr. Saidov's trial was replete with violations of fair trial standards. Before and during trial, several witnesses rescinded their testimony, reporting that they were pressured to make false allegations against him. Court hearings were repeatedly conducted without notice to his lawyer. Despite these procedural deficiencies, Mr. Saidov was sentenced to 12.5 years in prison.

28. Mr. Saidov suffers from acute tuberculosis, which he contracted in prison, and has been denied urgent medical treatment. He has been subjected to inadequate food and water, forced labor, solitary confinement and psychotropic drugs. The Working Group has confirmed his detention was arbitrary and in violation of international law.⁴²

Akzam Turgunov

29. Akzam Turgunov is a human rights activist and political opposition leader who has been wrongly imprisoned since 2008 on extortion charges. Prior to his detention, he served as Chairman of *Mazlum*, a human-rights organization in Tashkent that advocates

⁴¹ *Gaybullo Jalilov v. Uzbekistan*, UN Working Group on Arbitrary Detention, Opinion No. 4/2013 UN Doc. A/HRC/WGAD/2013/4, July 25, 2013, available at <http://www.freedom-now.org/wp-content/uploads/2016/03/Gaybullo-Jalilov-WGAD-Opinion.pdf>.

⁴² *Dilmurod Saidov v. Uzbekistan*, UN Working Group on Arbitrary Detention, Opinion No. 67/2012, November 23, 2012, available at <http://www.freedom-now.org/wp-content/uploads/2016/03/Dilmurod-Saidov-UNWGAD-Opinion.pdf>.

on behalf of prisoners of conscience and protests torture. He also served as Director of the Tashkent section of *Erk*, a political opposition party.

30. Mr. Turgunov was arrested in 2008 on extortion charges by the very police department he was investigating for corruption. While being held incommunicado, an officer reportedly poured boiling water down Mr. Turgunov's back, causing him to lose consciousness and suffer severe burns. Though he revealed his burns in open court, the judge accepted as fact statements made by police they had not tortured him. Despite this and other procedural deficiencies, the court sentenced him to 10 years in prison. The Working Group has confirmed his detention was arbitrary and in violation of international law.⁴³

Conclusion and Recommendations

31. As a party to the ICCPR and the CAT and as bound by the UDHR, Uzbekistan is obliged to respect its citizens' rights to freedom of expression, association, assembly, religion and to a fair trial and freedoms from arbitrary detention and torture. By systematically imprisoning and torturing peaceful activists and opposition leaders for exercising these fundamental human rights, Uzbekistan has clearly violated its freely undertaken obligations under international law. As such, Freedom Now recommends that Uzbekistan:

- a) Immediately and unconditionally release and rehabilitate the civil and political rights of Salijon Abdurakhmanov, Aramais Avakyan, Azamjon Formonov, Gaybullo Jalilov, Dilmurod Saidov, Akzam Turgunov, and all other individuals detained under criminal or administrative charges for exercising their fundamental human rights, including the rights to freedom of expression, association, assembly and religion.
- b) Thoroughly investigate all cases of arbitrary detention, torture, fair trial abuse and other rights abuses directed against Salijon Abdurakhmanov, Aramais Avakyan, Azamjon Formonov, Gaybullo Jalilov, Dilmurod Saidov, Akzam Turgunov, and other human rights activists, independent journalists, government critics, and religious persons and ensure that perpetrators of such abuses are held accountable and that victims of such abuses are appropriately rehabilitated and compensated.
- c) Ensure that all detainees have immediate access to legal counsel of their own choosing, that trials are open to the public, that confessions are not obtained via use of torture or other undue pressure, and that all other procedural rights are fully respected.

⁴³ *Akzam Turgunov v. Uzbekistan*, UN Working Group on Arbitrary Detention, Opinion No. 53/2011, November 17, 2011, available at <http://www.freedom-now.org/wp-content/uploads/2014/12/Turgunov-WGAD-Opinion-No-53-2011.pdf>.

- d) Provide trainings to judges and attorneys regarding a detainee's fair trial rights under international and Uzbek law.
- e) Ensure that article 221 of the Criminal Code is not arbitrarily applied to extend prison sentences of or deny amnesty eligibility to prisoners.
- f) Promote a free and vibrant civil society by allowing journalists, human rights defenders, government critics and independent religious groups to peacefully promote the cause of human rights in accordance with the rights guaranteed to them in international human rights treaties.
- g) Review and update laws pertaining to the freedoms of speech, association, assembly and religion and freedom from torture to ensure compliance with international obligations; robustly enforce all such laws.
- h) Fully cooperate with, respond to, and follow the recommendations of the UN High Commissioner for Human Rights, the Human Rights Committee and all Human Rights Council special procedure mandate holders – including the Working Group, the Special Rapporteur on HRDs and the Special Rapporteur on torture.
- i) Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and amend criminal legislation, including article 235 of the Criminal Code, to ensure that the definition of torture fully complies with article 7 of the ICCPR, article 5 of the UDHR and article 1 of the CAT.
- j) Ensure that prison conditions comply with international standards, particularly with regards to access to medical care, nutritious food and clean water and comfortable temperatures. Promptly and independently investigate all abuses and deaths in custody, provide adequate compensation and rehabilitation to victims, and hold the perpetrators to accountable.