

**PETITION TO:**

**UNITED NATIONS**

**WORKING GROUP ON ARBITRARY DETENTION**

Chairperson-Rapporteur: Mr. Malich Sow (Senegal)  
Vice-Chairperson: Ms. Shaheen Sardar Ali (Pakistan)  
Mr. Vladimir Tochilovsky (Ukraine)  
Mr. Roberto Garretón (Chile)  
Mr. Mads Andenas (Norway)

**HUMAN RIGHTS COUNCIL  
UNITED NATIONS GENERAL ASSEMBLY**

In the Matter of  
**Gaybullo Jalilov,**  
Citizen of Uzbekistan

v.

Government of Uzbekistan

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**URGENT ACTION REQUESTED**

Petition for Relief Pursuant to Resolutions 1997/50, 2000/36, 2003/31, and 6/4<sup>i</sup>

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## **BASIS FOR “URGENT ACTION” REQUEST**

As set forth in the attached Petition, the Uzbek government is arbitrarily depriving Gaybullo Jalilov of his liberty, and in so doing it is putting his health and life in grave danger. We request that Mr. Jalilov be considered under the “urgent action” procedure. We ask that a communication be made immediately to the Uzbek government to ensure that Mr. Jalilov receives adequate food, clean water, and medical treatment and to protect Mr. Jalilov from any possible maltreatment.

Mr. Jalilov has been severely tortured and ill-treated since his arrest. In March 2010, following an appeals hearing upholding Mr. Jalilov’s nine year prison sentence, Human Rights Watch expressed its concern about Mr. Jalilov’s safety and well-being because he came to the hearing with a swollen eye, suggesting that he was ill-treated in custody. After the hearing, Mr. Jalilov told his relatives that several days ago he was severely beaten. In November 2010, prison guards beat him with truncheons for refusing to sing the Uzbek national anthem. The beating left him nearly deaf in both ears.

When Mr. Jalilov’s family visited him in January 2011, he said his final goodbyes to his wife and children saying: “Maybe this is the last time you are seeing me my children. Be pleased with me. I never did anything wrong to anyone. Please do not think that your dad was a criminal.” During the visit, he told his family that after the police arrested him in September 2009, they took him to temporary prison in Beshkent city where he was tortured into confessing to charges. Due to his ill-treatment, he attempted to commit suicide by cutting the veins on his wrists.

Mr. Jalilov’s health will probably undergo rapid deterioration in the Navoi colony No. 64/62. According to the U.S. State Department, Uzbek prison conditions are so horrific that they can be life-threatening.<sup>ii</sup> It has been consistently reported that overcrowding is common, cells lack proper ventilation, food and water are of poor quality and at times medicine intended for prisoners is delayed.<sup>iii</sup>

Due to the maltreatment Mr. Jalilov has faced and appalling prison conditions, there is substantial reason to believe his health and life are in serious jeopardy. Accordingly, it is hereby requested that the Working Group consider this petition pursuant to the “Urgent Action” procedure.<sup>iv</sup> In addition, it is also requested that the attached Petition be considered a formal request for an opinion of the Working Group pursuant to Resolution 1997/50 of the Commission on Human Rights as reconfirmed by Resolutions 2000/36, 2003/31, and Human Rights Council Resolutions 6/4 and 15/18.

## **QUESTIONNAIRE TO BE COMPLETED BY PERSONS ALLEGING ARBITRARY ARREST OR DETENTION**

### **I. IDENTITY**

1. *Family Name:* Jalilov
2. *First Name:* Gaybullo
3. *Sex:* Male
4. *Birth Date:* August 24, 1964
5. *Nationality:* Uzbekistan
6. (a) *Identity document (if any):* N/A  
(b) *Issued by:* N/A  
(c) *On (date):* N/A  
(d) *No.:* N/A
7. *Professional and/or activity (if believed to be relevant to the arrest/detention):*  
Gaybullo Jalilov is a practicing Muslim and Karshi-based human rights defender. He has been a member of the Human Rights Society of Uzbekistan since 2003. His work focused on the violations of the right to religious freedom, particularly on the persecution of independent Muslims in the Kashkadarya region of Uzbekistan. He has been monitoring religious persecution cases since 2004 and at the time of his arrest in September 2008, he had collected information on over 200 arrests of independent Muslims in the region.
8. *Address of usual resident:* N/A

## **II. ARREST**

1. *Date of arrest:* September 5, 2009
2. *Place of arrest (as detailed as possible):* Close to Mr. Jalilov's friend's (Nodir Akhatov) house in Karshi, Uzbekistan
3. *Forces who carried out the arrest or are believed to have carried it out:* Not known.
4. *Did they show a warrant or other decision by a public authority?* Not known.
5. *Authority who issued the warrant or decision:* Not known.
6. *Relevant legislation applied (if known):* Not known.

## **III. DETENTION**

1. *Date of detention*: September 5, 2009 (convicted and sentenced on January 18, 2010)
2. *Duration of detention (if not known, probable duration)*: Since September 5, 2009 (two and a half years)
3. *Forces holding the detainee under custody*: Not known.
4. *Places of detention (indicate any transfer and present place of detention)*: Navoi colony #64/62, Navoi, Uzbekistan (as of April 5, 2012).
5. *Authorities that ordered the detention*: Kashkadarya District Court, Bukhara, Uzbekistan
6. *Reasons for the detention imputed by the authorities*: Mr. Jalilov was charged with religious extremism and anti-constitutional activity on January 18, 2010.
7. *Relevant legislation applied (if known)*: Articles Article 159(3)(b), 244(1), 244<sup>1</sup>(3)(a) and (b), and 244<sup>2</sup>(1) of the Uzbek Criminal Code

**IV. DESCRIBE THE CIRCUMSTANCES OF THE ARREST AND/OR THE DETENTION AND INDICATE PRECISE REASONS WHY YOU CONSIDER THE ARREST OR DETENTION TO BE ARBITRARY**

A. Statement of Facts

This Statement of Facts details what is known about the circumstances surrounding the arrest and continuing detention of Mr. Jalilov. Background on the current political climate in Uzbekistan is also included as it provides context that is relevant to this case.

1. Background on Uzbekistan

Uzbekistan obtained its independence from the Soviet Union in 1991, and has since been controlled by President Islam Karimov.<sup>v</sup> The people of Uzbekistan do not have a meaningful opportunity to change the composition of their government through the electoral process.<sup>vi</sup> Only parties loyal to President Karimov are allowed to register and participate in elections. In its most recent assessment of the country's democratic development Freedom House gave Uzbekistan a score of 7 (the worst possible) for "National Democratic Governance and Electoral Process".<sup>vii</sup>

The Uzbek Constitution provides for separation between the executive, legislative, and judicial branches of the national government. However, in practice, the control exercised by the executive over the other branches is nearly absolute.<sup>viii</sup> The judiciary is not independent and often takes direction from the executive.<sup>ix</sup>

Uzbekistan's laws set forth important protections for citizens accused of criminal offenses, but these protections are frequently ignored by the General Prosecutor's Office.

Though the relevant laws say trials shall be open to the public, it is difficult for international observers to obtain access.<sup>x</sup> Defendants in Uzbekistan are entitled to an attorney from the time they are detained;<sup>xi</sup> however, the government often violates the right to an attorney during pretrial detention and either denies or delays such access.<sup>xii</sup> In many cases, defendants are held *incommunicado*.<sup>xiii</sup> Almost all criminal cases brought by prosecutors result in guilty verdicts.<sup>xiv</sup>

The Uzbek government frequently arbitrarily arrests and detains individuals for expressing views critical of the government. The Committee to Protect Journalists described Uzbekistan as “the most censored country.”<sup>xv</sup> Human Rights Watch reports that there are at least 14 human rights defenders in prison in Uzbekistan.<sup>xvi</sup> The U.S. Department of State’s 2010 Human Rights Report indicates that harassment of human rights activists has increased.<sup>xvii</sup> Police and security services subject human rights defenders to arrests, harassment, intimidation, violence and torture.<sup>xviii</sup> Journalists and human rights activists are often ordered to cease their contacts with foreign diplomats or international human rights organizations and are retaliated against for continuing these contacts.<sup>xix</sup>

Human Rights Watch, Amnesty International, and the U.S. Department of State have all reported that the Uzbek police routinely arrested and detained human rights defenders under the guise of extortion, tax evasion and religious extremism to silence them.<sup>xx</sup> Arrests of activists are then followed by politically-motivated prosecutions and arbitrarily-long prison sentences.<sup>xxi</sup> For example, it is widely believed that Uzbek authorities retaliated against Akhmadjan Madmarov, a prominent human rights activist and a winner of the 2006 Front Line Award for Human Rights Defenders at Risk, by imprisoning to lengthy prison terms his three sons and two nephews under religious extremism charges.<sup>xxii</sup> One of his sons, Habibullah Madmarov, was serving a 16-year prison term under religious extremism charges. On July 15, 2010, Uzbek authorities extended his term by a year for violating internal prison regulations.<sup>xxiii</sup> Similarly, Akzam Turgunov, a human rights activist and political opposition leader, wrongly detained in Uzbekistan since 2008, was convicted on extortion charges and given 10 years in prison.<sup>xxiv</sup>

There are approximately 5,000 to 10,000 individuals imprisoned for prison terms as long as 20 years on Islamic religious extremism charges in Uzbekistan.<sup>xxv</sup> The U.S. Commission on International Religious Freedom reported that “[m]any of these individuals have been imprisoned because they reject state control over religious practice” and have been engaged in independent practice of Islam.<sup>xxvi</sup> The Uzbek government has punished primarily those individuals who are members of *Hizb ut-Tahrir*, *Akromiya*, *Tabligh Jamaat* and *Nur* religious groups.<sup>xxvii</sup> *Hizb ut-Tahrir* members are believed to comprise the prevailing majority of the political prisoners in Uzbekistan.<sup>xxviii</sup> According to the State Department, “[a]uthorities made little distinction between actual members of and those with marginal affiliation with [*Hizb ut-Tahrir*], such as persons who had attended Quran study sessions with the group.”<sup>xxix</sup> The government has taken particularly severe measures of persecution with regard to religious leaders. Two out of the three most prominent Uzbek imams have disappeared since 1990s.<sup>xxx</sup> The third imam, Mr. Obidkhon Qori Nazarov managed to escape two kidnapping attempts by the Uzbek government<sup>xxxi</sup> but was later shot in Stromsund, Sweden on February 22, 2012.<sup>xxxii</sup> As of April 20, 2012, he remains in critical condition. His followers believe that the Uzbek government is responsible for the assassination attempt.<sup>xxxiii</sup>

Prison conditions in Uzbekistan are “poor and in some cases life threatening.”<sup>xxxiv</sup> According to reports by international non-governmental organizations (NGOs), Uzbek prisoners face “severe abuse, overcrowding, and shortages of food and medicine” in addition to harsh working conditions for those prisoners regularly assigned to manual labor details.<sup>xxxv</sup> Those imprisoned or detained on religious extremism charges are treated particularly harshly.<sup>xxxvi</sup> Prisoners who pray or observe Muslim religious rituals are beaten and tortured.<sup>xxxvii</sup> The Uzbek government often refuses to release prisoners convicted of religious extremism at the end of their term by accusing them in violation of internal prison regulations and extending the term.<sup>xxxviii</sup>

## 2. Background on Gaybulllo Jalilov

Gaybullo Jalilov is a practicing Muslim and Karshi-based human rights defender. He has been a member of the Human Rights Society of Uzbekistan since 2003. Prior to his arrest, his human rights work focused on violations of religious freedom, particularly the persecution of independent Muslims in the Kashkadarya region of Uzbekistan.<sup>xxxix</sup> Mr. Jalilov has been monitoring religious persecution cases since 2004 and at the time of his arrest in September 2008, he had collected information on over 200 arrests of independent Muslims in the region.<sup>xl</sup>

Human Rights Watch has declared Mr. Jalilov a prisoner of conscience.<sup>xli</sup> Front Line Defenders denies that Mr. Jalilov was involved in any extremist or anti-government activities and believes the Uzbek government has persecuted him for his human rights work and religious expression.<sup>xlii</sup>

## 3. Circumstances of Gaybullo Jalilov’s Arrest and Charge

On September 5, 2009 at around 10:00pm, several men, two of whom were reportedly wearing police uniforms, forced Mr. Jalilov into a vehicle. Mr. Jalilov was returning home from Nodir Akhatov’s home, a fellow human rights defender, with Sanjar Karaev.

Mr. Jalilov was initially held *incommunicado* and his friends and family were unable to find out where he was being detained. Relatives learned his whereabouts after two days.<sup>xliii</sup>

On September 10, 2009, around 7:00am, 18 policemen from the Karshi city office of Internal Affairs came to Mr. Jalilov’s house, presented a search warrant to his wife and conducted a search. Police took a copy of a book entitled “Towards Honor and Respect” (*Izzat va sharaf sari*) and two DVD disks from Mr. Jalilov’s home.<sup>xliv</sup>

On September 23, 2009, nearly three weeks after his arrest, Mr. Jalilov’s father received a written statement from the Karshi City Department of Internal Affairs informing him of the criminal charges brought against his son.<sup>xlv</sup> Karshi authorities charged Mr. Jalilov and three other men, Fayzullo Ochilov, Utkir Sodikov, and Yusuf Bobomuradov, with a series of fabricated religious extremism charges and tried them as members of *Hizb ut-Tahrir* religious group with an extremist and separatist agenda. Mr. Jalilov was charged with terrorism, incitement of ethnic, racial or religious hatred, sabotage, organization of criminal community, production and

dissemination of materials containing threat to public safety and public order, establishment, direction of or participation in religious extremist, separatist, fundamentalist or other banned organization.<sup>xlvi</sup>

On November 6, 2009, two months later, Mr. Jalilov's family and lawyer were allowed to meet with Mr. Jalilov for the first time since his arrest.<sup>xlvii</sup> Because there were three policemen present in the meeting room, Mr. Jalilov was not able to speak freely to his relatives or legal counsel.

#### 4. Trial and Sentencing of Gaybulla Jalilov

Mr. Jalilov's first hearing began on November 24, 2009 in the Kashkadarya Regional Court.<sup>xlviii</sup> Mr. Jalilov's lawyer was not notified of the hearing and therefore was not able to attend.<sup>xliv</sup> The court repeatedly withheld scheduling information from his lawyer throughout the trial.<sup>1</sup> The hearing was closed and no relatives of Mr. Jalilov were admitted to the courtroom.<sup>li</sup>

The prosecution accused Mr. Jalilov of being a member of the *Hizb ut-Tahrir* religious group, acting against rules of social behavior and communal security in Uzbekistan.<sup>lii</sup> The prosecution alleged that Mr. Jalilov said that the government was against religion and was imprisoning practicing Muslims unlawfully, and that the only solution to all the societal problems was replacing the current government.<sup>liii</sup> During the trial, Mr. Jalilov denied the charges and asserted his innocence on all counts. He said that he performed daily obligatory prayers in Islam, learned how to pray from the *imam* (the worship leader of the mosque) at *Ko'kgumbaz* Mosque and that he was initially arrested for performing Muslim obligatory prayer.<sup>liv</sup> He also stated that he was not a member of *Hizb ut-Tahrir* and he was not involved in any terroristic groups or activities to overthrow the government. Mr. Jalilov said he signed a confession during the pre-trial investigation under coercion and did not know the content of the confession.<sup>lv</sup> His three co-defendants also testified they had been ill-treated in custody.<sup>lvi</sup> It was also reported that National Security Service threatened Mr. Jalilov's wife to make her testify against her husband.<sup>lvii</sup> The court failed to order investigation into the allegations of torture and ill-treatment by stating that Mr. Jalilov allegations were invented with the purpose of escaping criminal responsibility.<sup>lviii</sup>

Despite the fact that all prior hearings had been held in Karshi, authorities moved Mr. Jalilov's final hearing to Bukhara (about 150 km away) without notifying his lawyer or members of his family who had been attending the trial.<sup>lix</sup> Consequently, they did not attend. On January 18, 2010, the Kashkadarya Regional Criminal Court sentenced Mr. Jalilov and his three co-defendants to prison terms ranging from seven to 10 years. Mr. Jalilov was sentenced to nine years in prison under Article 159(3)(b), 244<sup>1</sup>(3)(a) and (b), 244<sup>2</sup>(1).<sup>lx</sup>

Mr. Jalilov's conviction was entirely based on written witness statements that were vague and had no relevance to Mr. Jalilov's alleged crimes. For example, witness P. Qlichev stated that he knows that Mr. Jalilov performed daily obligatory prayers, frequently went to *Navo* mosque and that he saw Mr. Jalilov with the other accused persons talking to each other secretly in the mosque but did not know the content of the conversation.<sup>lxi</sup> Witness U. Jumaev stated that he

knew Mr. Jalilov performed all Muslim obligatory prayers, he met him during the congregational prayers in *Navo* mosque and during one of those meetings Mr. Jalilov “spoke on various religious issues that he did not like and that because he thought that Mr. Jalilov’s views on religion contradicted with the government views, he stopped greeting and talking to Mr. Jalilov.<sup>lxii</sup> Witness U. Turdiev stated that Mr. Jalilov used to come to *Navo* mosque for congregational prayers, was a follower of a famous *imam* Abduvali Mirzaev<sup>lxiii</sup> and actively distributed his tape recordings to the public.<sup>lxiv</sup> Witness Turdiev also stated that Mr. Jalilov was known as a human rights defender, was against the government’s crackdown on independent Muslims, accused the government of being against religion and called for the overthrow of the government and establishment of a caliphate.<sup>lxv</sup> Witness A. Rahmatov stated that Mr. Jalilov introduced himself as a human rights defender, said that the government is imprisoning innocent practicing Muslims and gave him his cell phone number asking to call him in case someone was detained on religious grounds.<sup>lxvi</sup> Mr. Rahmatov also testified that he saw Mr. Jalilov speaking clandestinely with co-defendants in several occasions.<sup>lxvii</sup>

On March 9, 2010, Kashkadarya region appeals court upheld Mr. Jalilov’s nine-year sentence in a hearing that lasted only 20 minutes.<sup>lxviii</sup> The appeals court judgment does not contain any discussion of the substantive or procedural violations. The appeals court judgment repeated verbatim the first instance court’s judgment.<sup>lxix</sup>

On May 20, 2010, Mr. Jalilov’s family attempted to visit him in prison. Upon their arrival at the UYa 64/49 Prison Colony in Shaikhali (where Mr. Jalilov had been detained), they learned that he had been transferred to Tashkent.<sup>lxx</sup> They received no explanation as to why or at what point he had been transferred.<sup>lxxi</sup>

On June 7, 2010, Mr. Jalilov’s wife made a written request to the Head of Prison Administration (GUIN) for information about her husband’s whereabouts, but received no response.<sup>lxxii</sup> About six weeks later she travelled to Tashkent to look for Mr. Jalilov.

On July 23, Mr. Jalilov’s wife inquired in person about her husband’s whereabouts at the prison administration agency and was told that her husband was held in a pre-trial detention cell in Bukhara.<sup>lxxiii</sup>

On July 27, 2010, Mr. Jalilov called his wife to tell her that the government brought new charges against him and that he was in an investigation cell in Kasbi District in Kashkadarya.<sup>lxxiv</sup> At no point during the investigation did prison authorities or the investigator officially notify Mr. Jalilov’s family that Mr. Jalilov was under investigation on new criminal charges.<sup>lxxv</sup> Mr. Jalilov was not able to hire a lawyer of his own choice and was forced to be represented by a state-appointed lawyer.<sup>lxxvi</sup>

On August 4, 2010, the Kashkadarya Regional Court began considering the new charges against Mr. Jalilov. The prosecution alleged that new incriminating information became available. The prosecution based its new charges on witness testimony alleging that Mr. Jalilov had actively participated in religious gatherings and watched DVDs containing religious extremist content. In a closed hearing, the Kashkadarya Regional Criminal Court re-sentenced

Mr. Jalilov to 11 years, one month and five days in prison for violating articles 159(3)(b) and 244(1) of the Uzbek Criminal Code.<sup>lxxvii</sup> Members of Mr. Jalilov's family who attended the hearing told Human Rights Watch that Mr. Jalilov asserted his innocence on all charges and asked the prosecution to present their witnesses. The witnesses did not appear in court.<sup>lxxviii</sup> Holly Cartner, Europe and Central Asia Executive Director at Human Rights Watch, said that "Jalilov's case unfortunately follows a well-established pattern of wrongful imprisonment of human rights activists in Uzbekistan."<sup>lxxix</sup>

## 5. Torture and Ill-Treatment

In March 2010, following an appeals hearing that upheld Mr. Jalilov's nine year prison sentence, Holly Cartner, Europe and Central Asia Director of Human Rights Watch said, she "was worried about Jalilov's safety and well-being."<sup>lxxx</sup> The reason for Human Rights Watch's concern was that Mr. Jalilov came to the appeals hearing with a swollen eye, suggesting that he was ill-treated in custody.<sup>lxxxi</sup> After the hearing, Mr. Jalilov told his relatives that several days ago an official entered his cell and punched and kicked him repeatedly.<sup>lxxxii</sup>

In November 2010, prison guards beat him with truncheons for refusing to sing the Uzbek national anthem.<sup>lxxxiii</sup> The beating left him nearly deaf in both ears.<sup>lxxxiv</sup> According to his wife, during a prison visit Mr. Jalilov could not hear well and was constantly asking his wife to repeat her words.<sup>lxxxv</sup>

January 2011 was the first time that Mr. Jalilov's family was able to visit him since he was arrested in September 2009. During that visit, Mr. Jalilov said his final goodbyes to his wife and children. He said:

"Maybe this is the last time you are seeing me my children. Be pleased with me. I never did anything wrong to anyone. Please do not think that your dad was a criminal. I have never betrayed my children, family, and country."<sup>lxxxvi</sup>

Mr. Jalilov recounted that after the police arrested him in September 2009, they took him to temporary prison in Beshkent city and beat him severely to confess to the charges. Because of the torture and ill-treatment he faced in detention, Mr. Jalilov attempted to committed suicide by cutting the veins on his wrists.<sup>lxxxvii</sup> Mr. Jalilov's wife saw the stitches on his cuts during the visit on January 24-25, 2011.<sup>lxxxviii</sup>

The last time Mr. Jalilov's wife met with Mr. Jalilov was in October 2011.<sup>lxxxix</sup> His wife has not spoken to him on the phone since December 2011.<sup>xc</sup>

On April 2, 2012, Mr. Jalilov's family attempted to visit him in Zangiata; however, they were told that he had been transferred to a colony in Navoi. They were given no information about his physical or emotional state and were not provided his exact location. Mr. Jalilov's family received a letter from him confirming that he was transferred to Navoi colony N64/62 on April 5, 2012.<sup>xci</sup>

## V. LEGAL ANALYSIS

Mr. Jalilov's detention on charges of religious extremism constitutes an arbitrary deprivation of his liberty<sup>xcii</sup> falling within Category II and Category III as established by the UN Working Group on Arbitrary Detention (Working Group).<sup>xciii</sup> Mr. Jalilov's detention is arbitrary under Category II because his detention resulted from, *inter alia*, the exercise of his right of freedom of religion and expression.<sup>xciv</sup> Mr. Jalilov's is arbitrary under Category III because the non-observance of the international norms relating to the right to a fair trial in this case is of such gravity as to give the deprivation of liberty an arbitrary character.<sup>xcv</sup>

### A. Deprivation of Liberty under Category II: Violation of Articles 18, 19, 21 of UDHR and Articles 18, 19, 25 of the ICCPR

Mr. Jalilov's detention on charges of religious extremism constitutes an arbitrary detention of liberty falling within Category II of the classifications of cases as defined by the Working Group.<sup>xcvi</sup> A detention is arbitrary under Category II when it results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of UDHR and Articles 12, 18, 19, 21, 22, 25, 26 and 27 of the ICCPR.<sup>xcvii</sup> Uzbekistan failed to guarantee Mr. Jalilov his right for freedom of religion and expression in violation of Articles 18, 19 of the UDHR and Articles 18(1), 19(2) of the ICCPR.

#### 1. The Government of Uzbekistan Denied Mr. Jalilov the Right to Freedom of Religion

Article 18(1) of the ICCPR guarantees to everyone freedom of thought, conscience and religion. This includes "freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."<sup>xcviii</sup> Freedom to manifest one's religion or beliefs can be limited when the restrictions are "prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others."<sup>xcix</sup>

The Government of Uzbekistan denied Mr. Jalilov the right to freedom of religion. The government based its case on the fact that Mr. Jalilov was a practicing Muslim. The prosecution accused Mr. Jalilov of being a member of the *Hizb ut-Tahrir* religious group.<sup>c</sup> The prosecution also accused him with acting against the rules of social behavior and communal security because he allegedly had previously said that the Uzbek government was against religion and unlawfully imprisoned practicing Muslims.<sup>ci</sup> Further, Mr. Jalilov was accused of stating that the only solution to these problems was replacing the current government.<sup>cii</sup>

Mr. Jalilov is a practicing Muslim. During the trial he admitted that he performed daily obligatory prayers in Islam, learned how to pray from the *imam* at the *Ko'kgumbaz* mosque, and attended Friday prayers.<sup>ciii</sup> It appears that the Uzbek government used these facts in bringing religions extremism charges against Mr. Jalilov by accusing him in membership in *Hizb ut-Tahrir* religions group. Mr. Jalilov denied membership in this group and asserted his innocence

on all other counts.<sup>civ</sup> He also stated that he was not involved in any terroristic group or activities to overthrow the government.<sup>cv</sup> He testified that he confessed to membership in *Hizb ut-Tahrir* under coercion and torture.<sup>cvi</sup>

The Uzbek government's case against Mr. Jalilov reflects the findings of a 2012 International Religious Freedom Report that the Uzbek government applies "vague anti-extremism laws against religious adherents and other who pose no credible threat to security."<sup>cvii</sup> During the trial, the prosecution failed to prove Mr. Jalilov's alleged membership in *Hizb ut-Tahrir* group and other charges of anti-constitutional activity. There is no reference to even what law prohibits being a member of *Hizb ut-Tahrir* group in the court's judgment. In the absence of any proof that Mr. Jalilov was involved in the alleged criminal activities, there are serious grounds to believe that the government arrested and convicted Mr. Jalilov solely for his independent practice and study of religion.

## 2. The Government of Uzbekistan Denied Mr. Jalilov the Right to Freedom of Expression

Article 19(2) of the ICCPR provides that "[e]veryone shall have the right of freedom of expression." Freedom of expression includes freedom to seek, receive and impart information of all kinds, either orally or in writing.<sup>cviii</sup> Article 19 is of special importance for human rights defenders. The Working Group has recognized the right of human rights defenders "to investigate, gather information regarding and report on human rights violations."<sup>cxix</sup> An analogous provision on the guarantee of freedom of opinion and expression is also provided in Article 19 of the UDHR.<sup>cx</sup> Further, the Uzbek Constitution guarantees "freedom of thought, speech and convictions."<sup>cxii</sup>

Mr. Jalilov's detention is arbitrary because the religious extremism charges against him were designed to punish his religious practice and stop his human rights advocacy. The circumstances surrounding Mr. Jalilov's arrest and detention are consistent with the Uzbek government's documented pattern and practice of silencing political activists by arresting them on fabricated charges. Mr. Jalilov's history of human rights activism made him a target for the government. As a member of the Human Rights Society of Uzbekistan, his work focused on investigation and reporting of persecution against independent Muslims in Kashkadarya region of Uzbekistan.<sup>cxiii</sup> At the time of his arrest in September 2008 he had collected information on over 200 arrests of independent Muslims in the region.<sup>cxiii</sup> The government arrested and convicted Mr. Jalilov on religious extremism charges as a pretext to suppressing what the International Federation for Human Rights and World Organization against Torture have acknowledged were "legitimate human rights activities."<sup>cxiv</sup> Rachel Denber, Europe and Central Asia Deputy Director at Human Rights Watch, described unlawful extension of Mr. Jalilov's term on August 4, 2010 as a demonstration of "the harshness of the Uzbek government's campaign against human rights activists."<sup>cxv</sup>

## B. Deprivation of Liberty under Category III: The Non-Observance of the International Norms Relating to the Right to a Fair Trial in Gaybullo Jalilov's Case is of Such Gravity that His Detention is Rendered Arbitrary

The detention of Mr. Jalilov on charges of religious extremism constitutes an arbitrary deprivation of liberty falling within Category III of the classifications of cases as defined by the Working Group.<sup>cxvi</sup> A detention is arbitrary under Category III, “[w]hen the total or partial non-observance of the international norms relating to the right to a fair trial [...] is of such gravity as to give the deprivation of liberty an arbitrary character.”<sup>cxvii</sup> International norms of fair trial guarantees are provided in Articles 5, 7, 8, 9, 10, and 11 of the UDHR and Articles 9 and 14 of the ICCPR. In addition to the due process requirements established by the ICCPR and UDHR, the Working Group may also look to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (hereinafter the Body of Principles) in making a determination as to the arbitrary nature of a detention.<sup>cxviii</sup> The Body of Principles provides for the basic guarantees of a fair trial in the Principles 2, 4, 7, 11, 17, 18 and 36. Uzbekistan failed to observe the minimum international standards of due process by denying Mr. Jalilov the right to an effective legal representation, a public hearing by an independent and impartial court and the presumption of innocence in violation of Articles 8, 9, 10 of the UDHR, Article 14 of the ICCPR, and Principles 2, 4, 11, 18, 36 of the Body of Principles.

#### 1. The Government of Uzbekistan Denied Mr. Jalilov the Right to an Effective Legal Representation

Article 14(3)(b) of the ICCPR provides that everyone is entitled “to have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing.” Article 14(3)(d) of the ICCPR provides that everyone shall be entitled to “defend himself in person or through legal assistance of his own choosing.” The right of an accused to defend himself through a lawyer is a fundamental component of a right to a fair trial.<sup>cxix</sup> The right to legal representation must be effective. This implies that lawyers must be able to advise and represent their clients without restrictions and undue influence or interference from any party.<sup>cxx</sup> The denial of legal assistance at various stages of criminal proceedings can jeopardize the entire process and infringe the defendant’s fair trial rights leaving him no meaningful way to participate in the proceedings.<sup>cxxi</sup>

The Government of Uzbekistan denied Mr. Jalilov the right to an effective legal representation. Mr. Jalilov was not allowed to contact a lawyer after his initial arrest on September 5, 2009. In fact, he was held *incommunicado* and his family and friends were not notified of his whereabouts.<sup>cxxii</sup> The first time Mr. Jalilov was allowed to meet his lawyer was on November 6, 2009, two months after his arrest.<sup>cxxiii</sup> Furthermore, Mr. Jalilov’s first hearing started on November 24, 2009 in the Kashkadarya Regional Court but his lawyer was not notified and thus did not attend the hearing.<sup>cxxiv</sup> The court continued to withhold scheduling information from his lawyer throughout the trial.<sup>cxxv</sup> In January 2010, despite the fact that all prior hearings had been held in Karshi, authorities moved Mr. Jalilov’s final hearing to Bukhara (about 150 km/93 miles away) without notifying his lawyer or members of his family.<sup>cxxvi</sup> Consequently, they were not able to attend the sentencing hearing that took place on January 18, 2010.<sup>cxxvii</sup> Mr. Jalilov was denied his right for effective legal representation when the prosecution brought new charges against him on August 4, 2010 too. Mr. Jalilov was not able to hire a

lawyer of his own choice and was only allowed to be represented by a state-appointed lawyer.<sup>cxxviii</sup>

## 2. The Government of Uzbekistan Denied Mr. Jalilov His Right to a Public Proceeding

Article 14(1) of the ICCPR provides that in the determination of any criminal charge, “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal.” Article 10 of the UDHR provides that “[e]veryone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal.” Article 19 of the Uzbek Criminal Procedure Code provides that “criminal hearings shall be open in all courts.” The right to a public hearing is a necessary component of a fair trial.<sup>cxxix</sup> The Committee commented that “the publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large.”<sup>cxxx</sup> The requirement of public hearings requires that courts must “provide for adequate facilities for the attendance of interested members of the public.”<sup>cxxxi</sup>

The right to have public hearings is not absolute. Article 14(1) of the ICCPR provides that the courts can exclude all or part of the public for reasons of morals, public order or national security in a democratic society.<sup>cxxxii</sup> Further, Article 19 of the Uzbek Criminal Procedure Code provides that the only exception to the public hearings rule is when public proceedings might be contrary to the interests of protection of state secrets, when the court is considering sexual offence cases and crimes committed by persons under the age of 18. The court can also properly order proceedings closed with the aim of preventing disclosure of information on the private life of the citizens or degrading information, as well as to ensure security of the persons participating in the case.<sup>cxxxiii</sup>

The Government of Uzbekistan denied Mr. Jalilov his right to a public hearing. Mr. Jalilov’s first hearing on November 24, 2009 was closed and no relatives were admitted to the courtroom. Furthermore, Mr. Jalilov’s final hearing was moved from Karshi to Bukhara in January 2010 without giving any notice to this family. Consequently, Mr. Jalilov’s family was not able to attend the final hearing on January 18, 2010. By not disclosing information about Mr. Jalilov’s hearings to his family, the government has also not allowed participation to international observers, such as representatives of foreign embassies and human rights organizations.

Both the first instance and appeals courts did not provide any specific reasons why Mr. Jalilov’s trials were closed and his family had not been kept informed about the hearings and transfers. Mr. Jalilov’s case did not involve any issues related to morals, sexual offence or public order. Nor did it involve state secrets or disclosure of private or degrading information.

## 3. The Government of Uzbekistan Denied Mr. Jalilov the Right to Examine the Witnesses Against Him

By denying Mr. Jalilov the right to examine witnesses against him during trial, the court violated Article 14(3) of the ICCPR, which provides that “[i]n the determination of criminal charges against [a defendant] everyone shall be entitled ... (e) [t]o examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses of his behalf under the same conditions as witnesses against him.”

During the trial, the prosecution exclusively relied on written witness statements obtained during pre-trial investigation. The first instance court ignored Mr. Jalilov’s repeated request that the prosecution present its witnesses during the trial. Because the prosecution’s witnesses did not appear during the hearings, Mr. Jalilov had no chance of examining their statements against him. Examining witnesses during the trial was of particular importance because written statements the prosecution used against Mr. Jalilov were vague and irrelevant. For example, witness P. Qlichev and U. Jumaev stated that they knew Mr. Jalilov performed Muslim obligatory prayers, frequently went to *Navo* mosque and spoke on religious issues. These statements are very vague and have no direct relevance to Mr. Jalilov’s alleged crimes.<sup>cxxxiv</sup> Similarly, witness U. Turdiev’s statement that Mr. Jalilov was a follower of a famous imam Abduvali Mirzaev<sup>cxxxv</sup> also has no relevance without further evidence or substantiation. Witness U. Turdiev and A. Rahmatov’s statements that they knew Mr. Jalilov as a human rights defender and that he was telling people to call him if they knew someone was arrested on religious grounds does not prove any of the alleged crimes and only shows that Mr. Jalilov was doing his job as a human rights defender.

#### 4. The Government of Uzbekistan Denied Mr. Jalilov an Independent and Impartial Trial, and the Presumption of Innocence

Article 14(1) of the ICCPR provides that “everyone shall be entitled to a [...] hearing by a competent, independent and impartial tribunal.” Article 10 of the UDHR provides that “[e]veryone is entitled in full equality to a [...] hearing by an independent and impartial tribunal.” There can be no fair trial without a competent, independent and impartial court. This is an absolute right that is not subject to any exceptions.<sup>cxxxvi</sup>

One of the requirements of impartiality contained in Article 14(1) of the ICCPR is that of reasonableness. The court must appear to a reasonable observer to be impartial.<sup>cxxxvii</sup> In Mr. Jalilov’s case, the court’s failure to prevent serious procedural and substantive mistakes should be seen by a reasonable observer as an obvious indication of the court’s bias and lack of independence. As stated above, the court conducted numerous hearings without giving prior notification to Mr. Jalilov’s lawyer or his family. Neither his lawyer, nor his family could attend hearings on November 24, 2009, January 18, 2010 and August 6, 2010. Furthermore, Mr. Jalilov’s family was not informed about the new charges against him and that investigations were underway. Mr. Jalilov’s family learned about the new charges only after Mr. Jalilov called his wife on July 27 and told her about how he had spent the last two months in an investigation cell in Kasbi District in Kaskadarya. Furthermore, under the reasonable person standard the court must have ensured the presence of the witnesses during the hearings and a chance for the defense to examine them. Finally, the court must have ordered investigation into Mr. Jalilov’s allegations of ill-treatment during the trial and rejected any evidence obtained through ill-treatment.

The Government of Uzbekistan's failure to ensure Mr. Jalilov's right to fair trial can also be seen in how a higher Uzbek court resolved Mr. Jalilov's case. The right to have one's conviction reviewed by a higher court imposes on the State a duty to review the case substantively, both on the basis of sufficiency of the evidence and of the law.<sup>cxviii</sup> The Uzbek law provides that verdicts that have entered into legal force can be appealed under a supervisory review procedure.<sup>cxix</sup> Only certain groups of persons can request examination of a case under the supervisory review procedure.<sup>cxl</sup> The court reviewing the case under the supervisory review procedure shall examine the lawfulness, reasonableness and fairness of the judgment.<sup>cxli</sup> The following procedural and substantive mistakes serve as a ground to repeal the judgment under supervisory review procedure: incompleteness or one-sidedness of judicial investigation; inconsistency of the court's conclusions outlined in its judgment regarding the factual circumstances of the case; substantial violations of criminal procedure law; and, incorrect application of the criminal law and unfairness of punishment.<sup>cxlii</sup>

The Uzbek appeals court considered Mr. Jalilov's appeal on March 9, 2010. In a hearing that lasted not more than half an hour, the Uzbek appeals court upheld Mr. Jalilov's nine-year sentence.<sup>cxliii</sup> The appeals court judgment contains absolutely no discussion of substantive or procedural aspects of the case. Because its judgment is a verbatim repetition of the first instance court's judgment,<sup>cxliv</sup> there are serious grounds to believe that even the higher court failed to act as an independent and impartial arbiter.

Finally, Mr. Jalilov was denied the presumption of innocence. Article 14 of the ICCPR provides that "[e]verone charged with a criminal offence shall have the right to be presumed innocent until proved guilty [...]." Article 11 of the UDHR provides for the presumption of innocence also.<sup>cxlv</sup> The presumption of innocence is fundamental to the protection of human rights. It "imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, [and] ensures that the accused has the benefit of doubt [...]."<sup>cxlvi</sup> This implies that the court cannot presume guilt until the charge has been proved beyond reasonable doubt. Article 23 of the Uzbek Criminal Procedure Code provides that defendants "shall be considered innocent unless [their guilt] of committing a crime is proved in accordance with the procedure established by law [...]." It further provides that "[a]ny doubt about guilt, if the possibilities to eliminate them were exhausted, shall be counted in favor of the suspect, accused or defendant."

As it was demonstrated above, the court failed to prove Mr. Jalilov's guilt beyond reasonable doubt. The court must have used irregularities during Mr. Jalilov's pre-trial investigation and trial as a basis for giving him the benefit of the doubt, presumed him innocent and released.

##### 5. The Government of Uzbekistan Denied Mr. Jalilov Human Treatment

Article 7 of the ICCPR provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment. Article 5 of the UDHR and Principle 6 of the Body of Principles include analogous provisions. The prohibition of torture and cruel, inhuman or degrading is absolute."<sup>cxlvii</sup> The Convention against Torture and Other Cruel, Inhuman or

Degrading Treatment (hereinafter Convention against Torture), to which Uzbekistan acceded on October 28, 1995, defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession [...] when such pain or suffering is inflicted by or at the instigation of [...] a public official [...].”

The Uzbek government’s treatment of Mr. Jalilov during pre-trial detention constitutes torture under the Convention against Torture. When Mr. Jalilov’s wife visited him on January 24, 2011, Mr. Jalilov told her that after his arrest in September 2009, police beat him severely in order to coerce him into confessing to the charges. Further, in November 2010, prison guards beat him with truncheons for refusing to sing the Uzbek national anthem leaving him nearly deaf in both ears.<sup>cxlviii</sup> To conceal his hearing loss, prison authorities forced him to sign a statement stating that he had poor hearing before arriving at the prison.<sup>cxlix</sup> During a prison visit with his wife on January 24, 2011, Mr. Jalilov could not hear well and was constantly asking her to repeat herself.<sup>cl</sup> Due to the torture and ill-treatment he has suffered in detention, Mr. Jalilov attempted to commit suicide by cutting the veins on his wrists in the early days of his arrest in September 2009.<sup>cli</sup>

Though the Uzbek Constitution and Criminal Code prohibit torture<sup>clii</sup> and oblige courts to investigate allegations of torture and dismiss evidence obtained by it,<sup>cliii</sup> courts ignored Mr. Jalilov’s allegations of torture, did not order a forensic medical examination to verify his allegations, and admitted his confession as evidence.<sup>cliv</sup>

**VI. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN ESPECIALLY WITH THE LEGAL AND ADMINISTRATIVE AUTHORITIES, PARTICULARLY FOR THE PURPOSE OF ESTABLISHING THE DETENTION AND, AS APPROPRIATE, THEIR RESULTS OR THE REASONS WHY SUCH STEPS OR REMEDIES WERE INEFFECTIVE OR WHY THEY WERE NOT TAKEN**

On January 18, 2010, the Kashkadarya District Court in Bukhara convicted Mr. Jalilov of religious extremism and anti-constitutional activity. On March 9, 2010, the Kashkadarya Appeals Court upheld Mr. Jalilov’s conviction and the prison term.<sup>clv</sup> On August 4, 2010, the Kashkadarya District Court in Karshi city convicted Mr. Jalilov on new religious extremism and anti-constitutional activity charges. Mr. Jalilov’s family lost all hope and did not seek any other remedies inside the country.

**VII. FULL NAME AND ADDRESS OF THE PERSON(S) SUBMITTING THE INFORMATION (TELEPHONE AND FAX NUMBER, IF POSSIBLE)**

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<sup>i</sup> Resolutions 1997/50, 2000/36, and 2003/31 were adopted by the UN Commission on Human Rights extending the mandate of the Working Group on Arbitrary Detention. Resolution 6/4, also extending the mandate of the Working Group on Arbitrary Detention, was adopted by the Human Rights Council, which, in accordance with UN General Assembly Resolution 60/251, has “assume[d] . . . all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights . . .” G.A. Res. 60/251, para. 6 (Mar. 15, 2006).

<sup>ii</sup> U.S. Department of State, *2010 Human Rights Report, Uzbekistan* (April 8, 2011) (hereinafter 2010 Human Rights Report).

<sup>iii</sup> *Id.* See also, U. N. Comm. against Torture, *Consideration of Reports Submitted by States Parties Under Article 19 of the Convention, Conclusions and Recommendations of the Committee against Torture: Uzbekistan*, U.N. Doc. CAT/C/UZB/CO/3 (February 25, 2008), para. 10 (hereinafter 2008 Concluding Observations).

<sup>iv</sup> *Report of the Working Group on Arbitrary Detention*, E/CN.4/1998/44 (Dec. 19, 1997), Annex IV, paras. 22-24, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G97/145/54/PDF/G9714554.pdf?OpenElement>.

<sup>v</sup> U.S. Department of State, *Background Note: Uzbekistan* (January 31, 2012), available at <http://www.state.gov/r/pa/ei/bgn/2924.htm> (hereinafter 2012 Background Note).

<sup>vi</sup> Organization for Security and Co-Operation, *Republic of Uzbekistan Parliamentary Elections: December 26, 2004*, Final Report, OSCE/ODIHR Limited Election Observation Mission (March 7, 2005), available at <http://www.osce.org/odihr/elections/uzbekistan/41950> (hereinafter 2004 OSCE Final Report).

<sup>vii</sup> Freedom House, *Nations in Transit Country Report 2011*, available at [http://www.freedomhouse.org/sites/default/files/inline\\_images/NIT-2011-Uzbekistan.pdf](http://www.freedomhouse.org/sites/default/files/inline_images/NIT-2011-Uzbekistan.pdf).

<sup>viii</sup> *Supra* note 2, 2010 Human Rights Report.

<sup>ix</sup> *Id.*

<sup>x</sup> *Id.*

<sup>xi</sup> Articles 48 and 49 of the Uzbek Criminal Procedure Code.

<sup>xii</sup> *Supra* note 2, 2010 Human Rights Report.

<sup>xiii</sup> *Id.*

<sup>xiv</sup> *Id.*

<sup>xv</sup> Committee to Protect Journalists, *10 Most Censored Countries*, May 2, 2012, available at <http://www.cpj.org/reports/2012/05/10-most-censored-countries.php>.

<sup>xvi</sup> Human Rights Watch, *Uzbekistan: Country Summary* (January 2011), available at <http://www.hrw.org/sites/default/files/Uzbekistan.pdf> (hereinafter, Human Rights Watch, 2011 Country Summary); see also, Amnesty International, *Uzbekistan: Submission to the Human Rights Committee, 16-31 July 2009: Pre-Sessional Meeting of the Country Report Task Force on Uzbekistan* (April 28, 2009), available at <http://www.amnesty.org/en/library/asset/EUR62/002/2009/en/6bde1bfe-be09-47b0-bced-3f234ae8960b/eur620022009en.html> (“At least ten human rights defenders remain in prison in cruel, inhuman, and degrading conditions, having been sentenced to long prison terms after convictions in unfair trials.”) (hereinafter Amnesty International Submission to the Human Rights Committee).

<sup>xvii</sup> *Supra* note 2, 2010 Human Rights Report.

<sup>xviii</sup> *Id.*

<sup>xix</sup> *Id.*

<sup>xx</sup> Human Rights Watch, *Human Rights Watch Concerns on Uzbekistan* (June 8, 2009), available at <http://www.hrw.org/en/news/2009/06/08/human-rights-watch-concerns-uzbekistan-0?print> (hereinafter Human Rights Watch Concerns on Uzbekistan); *supra* note 16, Amnesty International Submission to the Human Rights Committee.

<sup>xxi</sup> Human Rights Watch, *2011 World Report*, January 2011, available at <http://www.hrw.org/world-report-2011/uzbekistan>.

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- <sup>xxii</sup> U.S. Commission on International Religious Freedom, *2012 Annual Report: Uzbekistan*, March 2012, p. 245, available at [http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf) (hereinafter 2012 International Religious Freedom Report).
- <sup>xxiii</sup> Human Rights Watch, *Human Rights Watch Memorandum on Uzbekistan's Record in Meeting the EU Human Rights Criteria*, September 28, 2010, available at <http://www.hrw.org/news/2010/09/28/human-rights-watch-memorandum-uzbekistan-s-record-meeting-eu-human-rights-criteria>; see also, *id.*, p. 248.
- <sup>xxiv</sup> For more details about Akzam Turgunov's case, including the UN Working Group on Arbitrary Detention's opinion, visit Freedom Now's webpage on Mr. Turgunov at <http://www.freedom-now.org/campaign/akzam-turgunov/>.
- <sup>xxv</sup> *Supra* note 22, 2012 International Religious Freedom Report, p. 245.
- <sup>xxvi</sup> *Id.*, p. 245.
- <sup>xxvii</sup> *Id.*, pp. 245-247.
- <sup>xxviii</sup> *Id.*, p. 246.
- <sup>xxix</sup> U.S. Department of State, *Uzbekistan*, March 11, 2008, available at <http://www.state.gov/j/drl/rls/hrrpt/2007/100623.htm>.
- <sup>xxx</sup> *Supra* note 22, 2012 International Religious Freedom Report, p. 245.
- <sup>xxxi</sup> *Id.*
- <sup>xxxii</sup> *Id.*
- <sup>xxxiii</sup> *Id.*
- <sup>xxxiv</sup> *Supra* note 2, 2010 Human Rights Report.
- <sup>xxxv</sup> *Id.*
- <sup>xxxvi</sup> *Supra* note 22, 2012 International Religious Freedom Report, p. 249.
- <sup>xxxvii</sup> *Id.*
- <sup>xxxviii</sup> *Id.*
- <sup>xxxix</sup> Human Rights Watch, *Uzbekistan: Activist Hit with New Sentence*, August 13, 2010, available at <http://www.hrw.org/news/2010/08/13/uzbekistan-activist-hit-new-sentence> (hereinafter Human Rights Watch, *Activist Hit with New Sentence*).
- <sup>xl</sup> Human Rights Watch, *Uzbekistan's Imprisoned Human Rights Defenders* (May 31, 2011), available at <http://www.hrw.org/news/2011/05/12/uzbekistans-imprisoned-human-rights-defenders> (hereinafter Human Rights Watch, *Imprisoned Human Rights Defenders*).
- <sup>xli</sup> *Id.*
- <sup>xlii</sup> Front Line Defenders, *Human Rights Defender Mr. Gaybullo Jalilov Transferred to Another Prison Colony*, April 20, 2012, available at <http://www.frontlinedefenders.org/node/18080>.
- <sup>xliii</sup> *Supra* note 39, Human Rights Watch, *Activist Hit with New Sentence*.
- <sup>xliv</sup> Human Rights Watch, *Uzbekistan: Reverse Rights Defender's Prison Sentence*, March 12, 2010, available at <http://www.hrw.org/news/2010/03/12/uzbekistan-reverse-rights-defender-s-prison-sentence>.
- <sup>xlvi</sup>
- <sup>xlvii</sup> World Organization against Torture, *Uzbekistan: Arbitrary Detention and Prosecution of Mr. Gaybullo Jalilov*, December 8, 2009, available at <http://www.omct.org/human-rights-defenders/urgent-interventions/uzbekistan/2009/12/d20409/> (hereinafter *Arbitrary Detention and Prosecution of Mr. Gaybullo Jalilov*).
- <sup>xlviii</sup> *Id.*
- <sup>xlix</sup> *Supra* note 45, Human Rights Watch, *Reverse Rights Defender's Prison Sentence*.
- <sup>l</sup> *Id.*
- <sup>li</sup> *Supra* note 47, *Arbitrary Detention and Prosecution of Mr. Gaybullo Jalilov*.
- <sup>lii</sup> For an overview of Hizb ut-Tahrir presence in Uzbekistan and government persecution against its members, see, *supra* note 23, 2012 International Religious Freedom Report.
- <sup>liii</sup>
- <sup>liv</sup> *Id.*
- <sup>lv</sup> *Id.*, pp. 8, 18.
- <sup>lvi</sup> *Id.*

<sup>lvii</sup> BBC Uzbek, *Яқинлари инсон ҳуқуқлари ҳимоячиси Ғайбулло Жалилов тақдиридан хавотирда (Relatives of Human Rights Activist Gaybulla Jalilov are Worried About His Fate)*, June 3, 2010, available at [http://www.bbc.co.uk/uzbek/uzbekistan/2010/06/100603\\_cy\\_gaybullo\\_jalilov.shtml](http://www.bbc.co.uk/uzbek/uzbekistan/2010/06/100603_cy_gaybullo_jalilov.shtml).

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<sup>lix</sup> *Supra* note 45, Human Rights Watch, Reverse Rights Defender’s Prison Sentence.

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<sup>lxiii</sup> Abduvali Mirzaev was one of the most renowned Muslim scholars of 1990s. He disappeared in August 1995. There are serious grounds to believe that the Uzbek authorities kidnapped him. For more detailed information, see, Uznews.Net, *Абдулқуддус Мирзаев: «Халқ диний туйғулари тўғайли исён қилмайди» (Abdulquddus Mirzaev “People Will Not Revolt Because of Their Religious Sensitivities”)*, October 5, 2007, available at [http://www.uznews.net/article\\_single.php?lng=uz&cid=22&aid=550](http://www.uznews.net/article_single.php?lng=uz&cid=22&aid=550).

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<sup>lxviii</sup> *Supra* note 45, Reverse Rights Defender’s Prison Sentence.

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<sup>lxx</sup> *Supra* note 39, Human Rights Watch, Activist Hit With New Sentence.

<sup>lxxi</sup> *Id.*

<sup>lxxii</sup> *Id.*

<sup>lxxiii</sup> *Id.*

<sup>lxxiv</sup> *Id.*

<sup>lxxv</sup> *Id.*

<sup>lxxvi</sup> *Id.*

<sup>lxxvii</sup>

<sup>lxxviii</sup> *Supra* note 39, Human Rights Watch, Activist Hit With New Sentence.

<sup>lxxix</sup> *Supra* note 45, Reverse Rights Defender’s Prison Sentence.

<sup>lxxx</sup> *Supra* note 45, Reverse Rights Defender’s Prison Sentence.

<sup>lxxxi</sup> *Id.*

<sup>lxxxii</sup> *Id.*

<sup>lxxxiii</sup> BBC Uzbek, *Маҳкумга мадҳия айттириши Ўзбекистонга муҳаббатни кучайтирадими? (Will Forcing Inmates to Sing National Anthem Increase Their Patriotism)*, November 15, 2010, available at [http://www.bbc.co.uk/uzbek/uzbekistan/2010/11/101115\\_cy\\_prisoners\\_and\\_anthem.shtml](http://www.bbc.co.uk/uzbek/uzbekistan/2010/11/101115_cy_prisoners_and_anthem.shtml). Forcing prisoners to sing Uzbek national anthem is a common practice in Uzbek prisons. See also, Uznews.Net, *Prisoners Sing National Anthem to Survive*, July 5, 2007, available at [http://www.uznews.net/news\\_single.php?lng=en&sub=&cid=4&nid=321](http://www.uznews.net/news_single.php?lng=en&sub=&cid=4&nid=321).

<sup>lxxxiv</sup> *Id.*

<sup>lxxxv</sup> *Id.*

<sup>lxxxvi</sup> BBC Uzbek, *Қийноқлар ҳибсдаги Ғайбулло Жалиловни суиқасдага мажбур қилган (Torture Forced Gaybulla Jalilov to Attempt to Commit Suicide)*, February 1, 2011, available at [http://www.bbc.co.uk/uzbek/uzbekistan/2011/02/110201\\_gaybullo\\_jalilov\\_committed\\_suicide.shtml](http://www.bbc.co.uk/uzbek/uzbekistan/2011/02/110201_gaybullo_jalilov_committed_suicide.shtml).

<sup>lxxxvii</sup> *Id.*

<sup>lxxxviii</sup> *Id.*

<sup>lxxxix</sup> *Id.*

<sup>xc</sup> *Id.*

<sup>xci</sup> Front Line Defenders, *Uzbekistan-UPDATE: Human Rights Defender Mr. Gaybulla Jalilov Transferred to Another Prison Colony*, April, 20, 2012, available at <http://www.frontlinedefenders.org/node/18080>.

<sup>xcii</sup> An arbitrary deprivation of liberty is defined as any “depriv[ation] of liberty except on such grounds and in accordance with such procedures as are established by law.” International Covenant on Civil and Political Rights, G.A. Res 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23 March 1976, at art. 9(1) [hereinafter ICCPR]. Such a deprivation of liberty is specifically prohibited by international law. *Id.* “No one shall be subjected to arbitrary arrest, detention or exile.” Universal Declaration of

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Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at art 9 (1948) [hereinafter Universal Declaration]. “Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law...” Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment, at Principle 2, G.A. Res. 47/173, Principle 2, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988) [hereinafter Body of Principles].

<sup>xciii</sup> Office of the High Commissioner for Human Rights, *Revised Methods of Work of the Working Group*, paras. 8(b) & (c) (hereinafter Revised Methods).

<sup>xciv</sup> Deprivation of liberty is arbitrary under Category II when it results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of UDHR and Articles 12, 18, 19, 21, 22, 25, 26 and 27 of the ICCPR. See, *id.*, para. 8(b).

<sup>xcv</sup> *Id.*, para. 8(c).

<sup>xcvi</sup> *Id.*, paras. 8(b) & (c).

<sup>xcvii</sup> *Id.*, para. 8(b).

<sup>xcviii</sup> Article 18(1) of the ICCPR.

<sup>xcix</sup> Article 18(3) of the ICCPR.

<sup>c</sup> For an overview of Hizb ut-Tahrir presence in Uzbekistan and government persecution against its members, *supra* note 23, 2012 International Religious Freedom Report.

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<sup>cvii</sup> *Supra* note 22, 2012 International Religious Freedom Report, p. 245.

<sup>cviii</sup> Article 19(2) of the ICCPR. Paragraph two of Article 19 reads: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

<sup>cix</sup> Hassan Ahmed Hassan Al-Diqqi v. United Arab Emirates, Working Group on Arbitrary Detention, Opinion No. 8/2009, U.N. Doc. A/HRC/13/30/Add.1 (2010), para. 18. Although the Working Group came to this conclusion by referencing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, it noted that “in the Working Group’s view” the rights and principles of the Declaration “are based on human rights standards enshrined in the [UDHR] and in the Charter of the United Nations.”

<sup>cx</sup> Article 19 of the UDHR reads: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

<sup>cxii</sup> Article 29 of the Constitution of the Republic of Uzbekistan.

<sup>cxiii</sup> *Supra* note 39, Human Rights Watch, *Activist Hit With New Sentence*.

<sup>cxiiii</sup> *Supra* note 40, Human Rights Watch, *Imprisoned Human Rights Defenders*.

<sup>cxv</sup> Human Rights Watch, *Uzbekistan: Dissident Freed but Unjust Conviction Intact* (May 20, 2011), available at <http://www.hrw.org/news/2011/05/20/uzbekistan-dissident-freed-unjust-conviction-intact>; see also, International Federation for Human Rights, *Open Letter to the Authorities: Appalling Health Conditions of Arbitrarily Detained Uzbek Human Rights Defenders* (January 27, 2010), available at <http://999.fidh.org/Open-Letter-to-the-authorities,7456>.

<sup>cxvi</sup> *Supra* note 39, Human Rights Watch, *Activist Hit With New Sentence*.

<sup>cxvii</sup> Revised Methods of Work, paras. 8(b) & (c).

<sup>cxviii</sup> *Id.*, para. 8(c).

<sup>cxix</sup> *Id.*, para. 7(a).

<sup>cx</sup> Human Rights Committee, *General Comment No. 32, Article 14: Right to Equality Before Courts and Tribunals and to a Fair Trial*, CCPR/C/GC/32 (Aug. 23, 2007), paras. 34-38.

<sup>cxii</sup> *Id.*, para. 34.

<sup>cxiii</sup> *Id.*, para. 10.

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<sup>cxxii</sup> *Supra* note 45, Human Rights Watch, Reverse Rights Defender’s Prison Sentence.

<sup>cxxiii</sup> World Organization against Torture, *Uzbekistan: Arbitrary Detention and Prosecution of Mr. Gaybullo Jalilov*, December 8, 2009, available at <http://www.omct.org/human-rights-defenders/urgent-interventions/uzbekistan/2009/12/d20409/> (hereinafter *Arbitrary Detention and Prosecution of Mr. Gaybullo Jalilov*).

<sup>cxxiv</sup> *Supra* note 45, Human Rights Watch, Reverse Rights Defender’s Prison Sentence.

<sup>cxxv</sup> *Id.*

<sup>cxxvi</sup> *Id.*

<sup>cxxvii</sup> *Id.*

<sup>cxxviii</sup> *Supra* note 39, Human Rights Watch, Activist Hit With New Sentence.

<sup>cxxix</sup> *Supra* note 119, General Comment No. 32, para. 28.

<sup>cxix</sup> *Id.*

<sup>cxixi</sup> *Id.*

<sup>cxixii</sup> See also, Jaramani Najib Youcef v. Syrian Arab Republic, Working Group on Arbitrary Detentions, Opinion No. 11/2003, para. 11.

<sup>cxixiii</sup> Article 19 of the Uzbek Criminal Procedure Code.

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<sup>cxixvi</sup> *Supra* note 119, General Comment No. 32, para. 19. See also, Gonzalez del Rio v. Peru, Communication No. 263/1987, U.N. Doc. CCPR/C/46/D/263/1987 (1992), para. 5.2. (“The Committee recalls that the right to be tried by an independent and impartial tribunal is absolute right that may suffer no exception.”).

<sup>cxixvii</sup> *Id.*, para. 21.

<sup>cxixviii</sup> *Supra* note 119, General Comment No. 32, para. 48. See also, Kholnisso Aliboeva v. Tajikistan, Human Rights Committee, U.N. Doc. CCPR/C/85/D/985/2001 (Oct. 18, 2005), para. 6.5.

<sup>cxixix</sup> Article 510 of the Uzbek Criminal Procedure Code.

<sup>cxli</sup> Article 511 of the Uzbek Criminal Procedure Code. Persons can request examination of a case under the supervisory review procedure are: the Chairman of the Supreme Court of the Republic of Uzbekistan and his deputy; General Prosecutor of the Republic of Uzbekistan and his deputies; Chairman of the Supreme Court of the Republic of Karakalpakstan; Chairman of the region courts, Chairman of the Tashkent City court; Prosecutor of the Republic of Karakalpakstan and others.

<sup>cxli</sup> Article 478 of the Uzbek Criminal Procedure Code.

<sup>cxlii</sup> Article 484 of the Uzbek Procedure Code.

<sup>cxliiii</sup> <http://www.hrw.org/news/2010/03/12/uzbekistan-reverse-rights-defender-s-prison-sentence>

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<sup>cxlv</sup> Article 11(1) of the UDHR reads: “Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”

<sup>cxlvi</sup> *Supra* note 119, General Comment No. 32, para. 30.

<sup>cxlvii</sup> See, Article 4 of the ICCPR and Article 2 of the Convention against Torture.

<sup>cxlviii</sup> *Supra* note 83.

<sup>cxlix</sup> *Id.*

<sup>cl</sup> *Id.*

<sup>cli</sup> *Id.*

<sup>clii</sup> Article 26 of the Constitution of the Republic of Uzbekistan and Article 235 of the Uzbek Criminal Code.

<sup>cliii</sup> See Articles 173, 180 and 321 of the Uzbek Criminal Procedure Code.

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