



# **PUNITIVE PSYCHIATRIC DETENTION IN UZBEKISTAN**

**SILENCING HUMAN RIGHTS ACTIVISTS**



**UZBEK FORUM  
FOR HUMAN RIGHTS**

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## I. EXECUTIVE SUMMARY

The use of forced psychiatric treatment to silence human rights defenders in Uzbekistan is a continuing problem dating back to the Soviet period. Because forced psychiatric treatment is often administered in institutions, far from any third-party oversight or the watchful eye of family members, patients are extremely vulnerable to abuse. Moreover, the ability to evade accountability for abuse in psychiatric institutions is easier than a traditional criminal setting, since there is an inclination to disbelieve reports of abuse from an individual who has been deemed mentally unstable.

Although Shavkat Mirziyoyev was elected President of Uzbekistan in 2016 with much anticipation that he would change Uzbekistan's terrible record on human rights abuses, five years out many are still waiting for the promised reforms. Unfortunately, there are several examples of abuses against human rights defenders even under the new Mirziyoyev Administration. There have been several reports of instances where human rights defenders have been forcibly committed to psychiatric institutions, sometimes immediately after they have exercised their political rights to either protest or petition their government for reform.

Below we highlight some of the cases, that outline how they violate Uzbekistan's numerous international treaty obligations and offer recommendations to end the abuse of psychiatric commitment laws to either silence critics or trample on the human rights and dignity of people with mental disabilities. The three most pressing recommendations are for the international community to urge Uzbekistan to:

1. Investigate the cases of abuses outlined below and hold perpetrators accountable as required by Article 2 of the International Covenant on Civil and Political Rights. The continuing impunity for past abuses ensures that they will continue regardless of any changes to the law or lofty pronouncements declaring respect for human rights.
2. Allow a visit by the UN Special Rapporteur on human rights defenders, whose office has had an outstanding request since 2001.
3. Amend its criminal law to incorporate the full definition of torture as defined in Article 1 of the Convention Against Torture. Uzbekistan's current law does not criminalize torture if it is committed in a hospital setting. Because of the widespread abuse of psychiatry in both Soviet and post-Soviet times, Uzbekistan should not only prohibit torture in all settings, including psychiatric hospitals, but amend Article 235 of its criminal code to make clear that torture includes forced psychiatric treatment.

## II. INTRODUCTION

Legal protections for the average citizen improved on paper in post-Soviet Uzbekistan. Since independence, Uzbekistan has amended some of its laws to conform to international human rights treaty obligations. However, Uzbek authorities have been exploiting mental health law, where there are fewer legal protections and ample opportunities for abuse, to persecute human rights defenders by involuntarily committing them to psychiatric institutions.

Human rights defenders, who would have been afforded more rights in the criminal law setting, are finding themselves declared mentally unfit, forcibly hospitalized, and sometimes drugged. If they are found to be incompetent, they even lose their autonomy to fight against their persecution through judicial means. It is a terrifyingly vulnerable predicament, which is why being stripped of one's autonomy or declared mentally ill is such an effective tool of repression.

A popular form of oppression in Soviet times, the use of forced psychiatric treatment to silence human rights defenders in Uzbekistan is a continuing problem. Because forced psychiatric treatment is often administered in institutions far from any third-party oversight or the watchful eye of family members, patients, whether they have a disability or not, are extremely vulnerable to abuse. Moreover, evading accountability for abuse in psychiatric institutions is easier than in a traditional criminal setting, since there is an inclination to disbelieve reports of abuse from an individual who has been declared mentally unstable.

In the following report, we will outline several cases of abuse, document how they violate Uzbekistan's many human rights treaty obligations, and make recommendations for reform. The human rights defenders whose cases are discussed below were never independently diagnosed with any mental illness. Their cases illustrate the terrible vulnerability of any individual who has been ensnared in the psychiatric health system involuntarily, whether they have an illness or not. Our recommendations will therefore include proposed reforms to confront abuses against all individuals in the mental health system.

### III. REPORTED CASES OF ABUSE

Uzbek Forum for Human Rights (Uzbek Forum) has identified seven cases of human rights defenders who were involuntarily confined on the basis of mental illness in apparent retaliation for their work or public activities.<sup>1</sup> This is despite public and laudable commitments by the current Uzbek government to improve its human rights record and end the routine targeting of advocates and minority communities that was the hallmark of Islam Karimov's decades-long dictatorship.

President Shavkat Mirziyoyev was elected President in 2016 following the death of Karimov, who had served as Uzbekistan's only President for 25 years. Mirziyoyev has made some human rights improvements, such as closing the notorious Jaslyk prison, where dissidents were tortured, and lifted the ban on some critical websites, but it appears that government critics and those who document apparent human rights abuses in Uzbekistan continue to face cycles of intimidation and detention. The cases below all involve involuntary confinement.

<sup>1</sup> Human rights defenders include "individuals, groups and associations ... contributing to ... the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals." Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144, 8 March 1999, fourth preambular paragraph, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf>. See also UN Office of the High Commissioner for Human Rights, Human Rights Defenders: Protecting the Right to Defend Human Rights (Fact Sheet No. 29), <https://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>.

## ELENA URLAEVA

protesting against  
the court decision to detain  
David Bagmalyan in a  
psychiatric hospital,  
October 2019, Tashkent.  
© Elena Urlaeva



## A. ELENA URLAEVA

Elena Urlaeva,<sup>2</sup> who heads the Tashkent-based Human Rights Alliance of Uzbekistan, is a well-known human rights defender who has been working for more than 20 years to document and eradicate forced labor in Uzbekistan's cotton industry. She has also been an outspoken advocate on behalf of other human rights advocates facing retaliation in Uzbekistan. She has been unlawfully detained no less than 18 times between 2001 and 2017.<sup>3</sup> In 2006, she was declared legally incompetent in a flawed court proceeding where, although she was represented by a lawyer, she was not allowed to participate in any way.<sup>4</sup> Without asking her a single question regarding her actual mental or emotional state, the court ruling stripped her of her autonomy, legal standing, and ability to defend herself or others in court.<sup>5</sup>

The numerous instances of her involuntary confinement and harassment have been either documented or reported by numerous third parties, including Amnesty

<sup>2</sup> Uzbek Forum for Human Rights has received permission from and worked with Elena Urlaeva to document her abuse.

<sup>3</sup> Elena Urlaeva v. Uzbekistan, Communication to The United Nations Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights [hereinafter Urlaeva Complaint], 1 June 2018, para. 170.

<sup>4</sup> *Id.*, para 36.

<sup>5</sup> *Id.* See also Decision of the Mirobod District Court of 24 August 2006. The application and declaration were made under Article 30 of the Civil Code of the Republic of Uzbekistan. Although the State was required to appoint a guardian for Urlaeva, it never did so. See Civil Code of the Republic of Uzbekistan of 21 December, 1995 No. 163-I, <https://cis-legislation.com/document.fwx?rgn=767>.

International,<sup>6</sup> Human Rights Watch,<sup>7</sup> the U.S. Mission to the Organization for Security and Co-operation in Europe (OSCE),<sup>8</sup> the Office of the Compliance Advisor Ombudsman,<sup>9</sup> Radio Free Europe,<sup>10</sup> the International Labor Rights Forum,<sup>11</sup> the World Organization Against Torture,<sup>12</sup> and Front Line Defenders.<sup>13</sup>

According to Urlaeva's own records and recollections/submissions, her periods of psychiatric detention and forced medication include:

**6 APRIL TO 30 JUNE 2001:** Urlaeva was snatched from the street by plainclothes agents in an unmarked car as she was walking to a planned, peaceful protest of government policies that resulted in the loss of people's homes. She was forced into the Tashkent City Psychiatric Hospital No. 1 without any proper intake, evaluation, or explanation of why she was there. She was forcibly medicated with different medicines, including Sulfozin, that caused extreme pain and side effects. To this day, she has neither seen the order of the medical commission regarding her compulsory treatment nor the district court decision confirming either.

**27 AUGUST AND 30 DECEMBER 2002:** Urlaeva was again arrested while attending a peaceful protest in Tashkent. She was forcibly committed to the Tashkent City Psychiatric Hospital No. 1, where she was forcibly administered psychotropic drugs and tied to her bed for hours at a time. She was not told why she was detained and only released after a visit by the UN Special Rapporteur on Torture. As a result of her detention and torture, she suffered from "headaches, sleeplessness, internal pains, limited hand mobility and loosened teeth."<sup>14</sup>

In 2003, Urlaeva underwent an independent psychiatric evaluation which found Urlaeva did not suffer from any mental or psychiatric disability. It was hoped that this would shield her from any further psychiatric detentions. Unfortunately, in 2005, she was once again involuntarily committed to a hospital.

**27 AUGUST AND 27 OCTOBER 2005:** She was arrested for attempting to distribute pamphlets critical of the government. Although the initial psychiatric commission determined that she did not require any psychiatric treatment, the investigating police

<sup>6</sup> "Defender subjected to sexual violence", Amnesty International, 4 June 2015, <https://www.amnesty.org/download/Documents/EUR6217992015ENGLISH.pdf>.

<sup>7</sup> See, e.g., "Uzbekistan: Brutal Police Attack On Activist," Human Rights Watch press release, 4 June 2015, <https://www.hrw.org/news/2015/06/04/uzbekistan-brutal-police-attack-activist>.

<sup>8</sup> U.S. Mission to the OSCE, "On Uzbek Human Rights Defenders Elena Urlaeva and Azam Farmonov: Statement to the PC", 4 June 2015, <https://osce.usmission.gov/statement-on-uzbek-human-rights-defenders-elena-urlaeva-and-azam-farmonov/>.

<sup>9</sup> The Office of the Compliance Advisor Ombudsman is the independent accountability mechanism for International Finance Corporation and Multilateral Investment Guarantee Agency, the private sector arms of the World Bank Group.

<sup>10</sup> "Uzbek Activist Urlaeva Held In Psychiatric Ward," RFE/RL, 4 March 2017, <https://www.rferl.org/a/uzbekistan-urlaeva-abducted-psychiatric-ward/28350652.html>.

<sup>11</sup> "Uzbekistan Government Detains Human Rights Defender Elena Urlaeva," International Labor Rights Forum, 19 May 2016, <https://laborrights.org/releases/uzbekistan-government-detains-human-rights-defender-elena-urlaeva>.

<sup>12</sup> "Uzbekistan: Elena Urlaeva arrested, ill-treated and forcibly placed in a psychiatric facility during an ILO visit in Uzbekistan," World Organisation Against Torture, 16 March 2017, <https://www.omct.org/human-rights-defenders/urgent-interventions/uzbekistan/2017/03/d24234/>.

<sup>13</sup> "Elena Urlaeva Case Page," Front Line Defenders, <https://www.frontlinedefenders.org/en/case/elena-urlaeva-forcibly-detained-psychiatric-institution>

<sup>14</sup> Human Rights Watch, "Persecution of Human Rights Defenders in Uzbekistan", 1 May 2003, [https://www.hrw.org/legacy/backgrounder/eca/uzbek050103-bck.htm#\\_ftn16](https://www.hrw.org/legacy/backgrounder/eca/uzbek050103-bck.htm#_ftn16)

officer ordered a further psychiatric evaluation at a different hospital, Chukursai Republican Psychiatric Hospital, where she was forcibly committed. She again was forcibly medicated against her will with medications that included Risperidone.<sup>15</sup> She missed the 18 October 2005 hearing of her criminal case while detained. Neither she nor her lawyer were informed of the hearing, in which the court determined that she was schizophrenic with “delusions of persecution” and issued an order for her forcible commitment to a psychiatric facility.<sup>16</sup> She managed to escape the institution on or about 27 October 2005. On 24 August 2006, Urlaeva was stripped of her legal capacity and declared legally incompetent based on the application of the Assistant District Prosecutor.<sup>17</sup> Although she was not recommitted at that time, she was ordered to report monthly to a psychiatric outpatient clinic where, until December 2016, she was prescribed medications, but not allowed to retain copies of the prescription or an explanation of their side effects. When possible, she did not take the drugs, but there were instances when she was forcibly injected with an anti-psychotic drug, Moditen Depo,<sup>18</sup> which caused pain, shaking, twitching, weakness, swollen gums, and blurred vision.

**7 MARCH AND 1 JUNE 2016:** She was involuntarily committed to the Tashkent Psychiatric Hospital No 1. Again, neither she nor her lawyer were given notice or an opportunity to participate in her commitment hearing. Her detention coincided with the cotton planting and weeding season (April-June), during which time she had planned to monitor and document any forced labor. Her detention ended after international calls for her release.<sup>19</sup>

**1 MARCH AND 23 MARCH 2017:** Urlaeva was arrested while conducting a single-person protest outside the Department of Education in Tashkent the day before she was scheduled to meet with representatives of the International Labor Organization (ILO) and World Bank to report on human rights abuses and forced labor. She was once again involuntarily committed to a hospital at that time. Neither she nor her attorney were notified of nor present during the commitment hearing. She was also forcibly medicated, but not told what she was given. The Cotton Campaign, an international campaigning coalition, filed an urgent appeal to the UN Special Rapporteur on human rights defenders on her behalf.<sup>20</sup> Following her release, four UN Special Rapporteurs on human rights issues wrote a joint letter to the Government of Uzbekistan expressing “grave concern”

<sup>15</sup> Risperidone (also known as Risperidone) is a powerful psychotropic drug that can have permanent side effects, including tardive dyskinesia, an involuntary and often continuous movement of the tongue and lips, accompanied by grimacing. Other common side effects include nausea, anxiety, dizziness, insomnia and blurred vision. See Human Rights Watch, “Psychiatric Drugs Used to Punish Activist”, 20 October 2005, available at: <https://www.hrw.org/news/2005/10/20/uzbekistan-psychiatric-drugs-used-punish-activist>.

<sup>16</sup> “Uzbekistan: Psychiatric Punishment Used to Quash Dissent”, Human Rights Watch, 19 October 2005, <https://www.hrw.org/news/2005/10/19/uzbekistan-psychiatric-punishment-used-quash-dissent>.

<sup>17</sup> Decision of the Mirobod District Court of 24 August 2006.

<sup>18</sup> Moditen depo (Fluphenazine Decanoate) is an antipsychotic drug with adverse and potentially permanent side effects such as tardive dyskinesia (involuntary, repetitive body movements).

<sup>19</sup> See, e.g., “Uzbekistan Government detains Human Rights Defender Elena Urlaeva in a Psychiatric Hospital,” Cotton Campaign, 19 May 2016, <http://www.cottoncampaign.org/uzbekistan-government-detains-human-rights-defender-elena-urlaeva-in-a-psychiatric-hospital.html>.

<sup>20</sup> Kirill Boychenko (Cotton Campaign Coordinator), Urgent Appeal to the UN Special Rapporteur on human rights defenders, 17 March 2017 (on file with author).

at her arrest, “which appear[s] to be related to her legitimate human rights activities and might also be aimed at preventing her from cooperating with international organizations, including the ILO and the World Bank.”<sup>21</sup> She was released several days later. Although she has not been detained since, she was forcibly detained under house arrest under unjustified suspicion of COVID infection while monitoring and documenting apparent child labor violations in June 2019.<sup>22</sup>

The relationship between Urlaeva’s unlawful detention in psychiatric wards and the exercise of her political rights is evident. During her several detentions, she was tortured through forced medication, which has had lasting physical and emotional impacts. The above instances occurred within a context of ongoing intimidation against Urlaeva, including criminal arrests, investigations, and surveillance. In one gruesome incident, police watched as she was forcibly restrained and drugged before having a doctor search her vagina for a camera memory stick in May 2015.<sup>23</sup> In 2018, she learned that her 2014 application for an exit visa had been denied without notice or explanation.

In its 2019 concluding observation report, the UN Committee against Torture highlighted its concern over the reports of forced psychiatric treatment against Urlaeva in 2017 and Nafosat Ollashukurova, another human rights defender, in 2019.<sup>24</sup>

<sup>21</sup> David Kaye (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression), Maina Kiai (Special Rapporteur on the rights to freedom of peaceful assembly and of association), Michel Forst (Special Rapporteur on the situation of human rights defenders), and Dubravka Šimonovic (Special Rapporteur on violence against women, its causes and consequences), Special Procedures Communication to the Republic of Uzbekistan (AL UZB 1/2017), 5 April 2017, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23054>.

<sup>22</sup> The fields were located in the green zone, free from COVID, and her COVID test results were never released. See “Uzbekistan: Human Rights Defenders Were Beaten and Placed under House Quarantine,” Analytical Center for Central Asia, 9 June 2020, <https://acca.media/en/uzbekistan-human-rights-defenders-were-beaten-and-placed-under-house-quarantine/>.

<sup>23</sup> “Uzbekistan: Brutal Police Attack on Activist,” Human Rights Watch, 4 June 2015, <https://www.hrw.org/news/2015/06/04/uzbekistan-brutal-police-attack-activist>. The U.S. Ambassador to the OSCE Daniel B. Baer expressed deep concern over the arrest and urged the Uzbek government to investigate. See U.S. Mission to the OSCE, “On Uzbek Human Rights Defenders Elena Urlaeva and Azam Farmonov: Statement to the PC”, 4 June 2015, <https://osce.usmission.gov/statement-on-uzbek-human-rights-defenders-elena-urlaeva-and-azam-farmonov/>.

<sup>24</sup> Committee Against Torture (CAT), Concluding observations on the fifth periodic report of Uzbekistan, CAT/C/UZB/CO/5, 14 January 2020, <https://undocs.org/CAT/C/UZB/CO/5>.

## B. NAFOSAT OLLASHUKUROVA

Nafosat Ollashukurova<sup>25</sup> is an activist who has blogged about and publicly criticized authorities for corruption and illegal demolitions. Ollashukurova blogs under the name of Shabnam Ollashkurova on a Facebook page with over 4,000 followers.<sup>26</sup>

In January 2019, she was detained while filming a peaceful protest by five local women who were petitioning for a meeting with President Mirziyoyev outside the Senate building in Tashkent. She was charged with hooliganism and sentenced to five days' administrative detention. Later that year, on 23 September 2019, she was detained by local law enforcement agents while filming another peaceful protest.<sup>27</sup> Mahmud Rajabov,<sup>28</sup> a journalist and poet, had organized a march to the capital to petition the Minister of the Interior to drop a criminal complaint against him. She was allegedly physically assaulted during her detention. On 26 September 2019, the prosecutor in the case requested that the court place her in a psychiatric institution. The prosecutor asserted that Ollashukurova, who had never suffered from mental illness, began showing signs of "psychological changes" the day after her arrest. On 30 September 2019, the Urgench district civil court ordered that Ollashukurova be transferred to the Khorezm regional psychiatric center, more than 1,000 kilometers away from her family. She had just finished serving 10 days in administrative detention on a hooliganism charge.<sup>29</sup> On 28 November 2019, her request to be freed was denied by the Khorezm Region Civil Court on the basis of conclusions provided by a medical commission. According to the court decision, a psychiatrist testified that Ollashukurova exhibited symptoms of "mental disorder," "signs of psychopathic syndrome," and "paranoid syndrome."<sup>30</sup>

Ollashukurova was finally released on 28 December 2019.<sup>31</sup> As documented in the U.S. State Department 2020 Human Rights Report on Uzbekistan, Ollashukurova reported continued harassment after her release including authorities "reminding family members her classification as a mental patient meant she could be detained without a court order

<sup>25</sup> Uzbek Forum for Human Rights has received permission from and worked with Nafosat Ollashukurova to document her abuse.

<sup>26</sup> "A blogger forced into psychiatric clinic in Uzbekistan", Committee to Protect Journalists (CPJ), 8 October 2019, <https://cpj.org/2019/10/a-blogger-forced-into-psychiatric-clinic-in-uzbeki/>.

<sup>27</sup> "Uzbekistan: Further Information: Human Rights Defender and Blogger Detained: Nafosat Ollashukurova", Amnesty International, 11 December 2019, <https://www.amnesty.org/download/Documents/EUR6215662019ENGLISH.pdf>. See also "Blogger Flees Uzbekistan After Spending Weeks in Involuntary Psychiatric Care", RFE/RL, 20 January 2020, <https://www.rferl.org/a/blogger-flees-uzbekistan-after-spending-weeks-in-involuntary-psychiatric-care/30387814.html>.

<sup>28</sup> In April 2019, the Internal Affairs Ministry initiated a criminal case against Rajabov primarily based on Rajabov's possession of books by opposition political Muhammad Salih and his brother, journalist Muhammad Bekjanov, who was released after 18 years in prison in 2017. See "Home of Poet and Journalist Mahmud Rajabov Raided by Police", Uzbek Forum for Human Rights, 13 May 2019, <https://www.uzbekforum.org/home-of-poet-and-journalist-mahmud-rajabov-raided-by-police/>; "Uzbek Journalist Mahmud Rajabov under Criminal Investigation for Possession of Books", Uzbek Forum for Human Rights, 30 May 2019, <https://www.uzbekforum.org/uzbek-journalist-mahmud-rajabov-under-criminal-investigation-for-possession-of-books/>. See also "International Organizations are Enemies", Uzbek Forum for Human Rights, 6 January 2020, <https://www.uzbekforum.org/international-organizations-are-enemies/>.

<sup>29</sup> "A blogger forced into psychiatric clinic in Uzbekistan", Committee to Protect Journalists (CPJ), 8 October 2019, <https://cpj.org/2019/10/a-blogger-forced-into-psychiatric-clinic-in-uzbeki/>.

<sup>30</sup> Decision of the Khorezm Region Civil Court on Ollashukurova's Case, 28 November 2019.

<sup>31</sup> "Blogger Nafosat Ollashukurova Released from Psychiatric Detention", Uzbek Forum for Human Rights, 28 December 2019, <https://www.uzbekforum.org/blogger-nafosat-ollashukurova-released-from-psychiatric-detention/>.

at any time.”<sup>32</sup> She was able to flee Uzbekistan in January 2020, fearing that she would be forcibly hospitalized a second time.<sup>33</sup> In an interview since her release, she stated that a regional police official had threatened her: “One regional police official threatened that if I ever publicly speak about the mistreatment I faced, they would make sure I become mentally ill for real and stay in a psychiatric hospital forever.”<sup>34</sup> She was never given access to her medical files nor information on what medication she was forcibly administered during her detention.<sup>35</sup>

### C. DILMURAD SAIDOV

According to the Human Rights Alliance of Uzbekistan and publicly available records, Dilmurad Saidov was arrested in June 2005,<sup>36</sup> tortured for more than 8 months, and detained in a prison’s psychiatric hospital<sup>37</sup> for 15 years in Chukursay in the city of Tashkent. Saidov worked at a small construction company run by people from Andijan who were later accused of organizing the Andijan crisis.<sup>38</sup> All 15 employees of the company were arrested and tortured while their torturers demanded that they confess their involvement in the crisis.<sup>39</sup>

Saidov was accused of terrorism and charged with murder, participating in the Andijan massacres,<sup>40</sup> the attempted assassination of the President, and crossing the border into Kyrgyzstan, although Saidov was in the city of Tashkent at that time and had nothing to do with the Andijan events. After his arrest, the authorities tried to force a false confession for the crimes through brutal torture techniques which included electric shocks to his genitals and severe beatings that rendered him unconscious on multiple

<sup>32</sup> 2020 Country Reports on Human Rights Practices: Uzbekistan, United States Department of State, March 2020, <https://uz.usembassy.gov/2020-country-reports-on-human-rights-practices-uzbekistan/>

<sup>33</sup> “Blogger Says She Was Beaten, Threatened By Police Before Fleeing Uzbekistan”, RFE/RL, 21 January 2020, <https://www.rferl.org/a/blogger-says-she-was-beaten-threatened-by-police-before-fleeing-uzbekistan/30389762.html>.

<sup>34</sup> *Id.*

<sup>35</sup> See Uzbek Forum report to UN Human Rights Committee, May 2019, <https://www.ecoi.net/en/document/2011254.html>. See also “Urgent Action: Nafosat Olloshkurova Released”, Amnesty International, 14 January 2020, <https://www.ecoi.net/en/file/local/2022831/EUR6216592020ENGLISH.pdf>.

<sup>36</sup> «Саидов Дилмурод Кобулович, проживал в г.Ташкенте. «Акрамиёя»/Андижанские события. Арестован в мае-июле 2005 г. по подозрению в подготовке вооруженного выступления в Ташкенте. Определением Ташкентского областного суда от 22 декабря 2005 г. направлен на принудительное психиатрическое лечение. *Источник информации: обвинительное заключение по делу Сабирова М. и др., ИГНПУ, ОПЧУ «Эзгулик», Интерфакс (22.12.2005)* [Saidov Dilmurod Kobulovich lived in Tashkent. «Akramiya» / Andijan events. Arrested in May-July 2005 on suspicion of preparing an armed uprising in Tashkent. By the ruling of the Tashkent Regional Court dated 22 December 2005, he was sent to compulsory psychiatric treatment. *Source of information: indictment in the case of M. Sabirov and others, IGMPU, HRSU “Ezgulik”, Interfax (22.12.2005)*], Список лиц, арестованных и осужденных по политическим и религиозным мотивам в Узбекистане (январь 2004 г. – декабрь 2008 г.) (2-ое издание, исправленное и дополненное) [List of persons arrested and convicted for political and religious reasons in Uzbekistan (January 2004 - December 2008) (2nd edition, revised and enlarged)], Правозащитный Центр «Мемориал» [“Memorial” Human Rights Center] [hereinafter Memorial Report], 2014, at p. 201. [https://memohrc.org/sites/default/files/2014\\_0.doc](https://memohrc.org/sites/default/files/2014_0.doc).

<sup>37</sup> *Id.*

<sup>38</sup> Центр-1, “После Андижанской бойни... 13 лет в психушке [After the Andijan Massacre... 13 years in the psychiatric hospital]” [hereinafter Tsentri-1 Article], 4 April 2018, <https://centre1.com/uzbekistan/posle-andizhanskoj-bojni-13-let-v-psihushke/>.

<sup>39</sup> *Id.*

<sup>40</sup> Memorial Report, *supra* note 35.

occasions, including one instance where he suffered 86 blows to his head and body before losing consciousness.<sup>41</sup>

The torture and violence worsened Saidov's preexisting epilepsy and provoked seizures, which was then used as a pretext by authorities to involuntarily commit him to a psychiatric hospital for insanity.<sup>42</sup> This was not warranted. Epilepsy is not a mental illness and psychological issues in epilepsy are limited to people with severe and uncontrolled epilepsy.<sup>43</sup> Saidov had not had an epileptic seizure for many years prior to his torture.<sup>44</sup> Even according to the official medical records of the psychiatric hospital to which Saidov was committed, his epileptic events are exceedingly rare.<sup>45</sup> By 2015, the hospital had not noted a single seizure for the previous four years.<sup>46</sup> Moreover, while Saidov's release is officially contingent on the recommendation of a medical commission,<sup>47</sup> as of 2015, such a commission had petitioned for his release in 2010, 2012, and 2013 and been rejected by the Tashkent court presiding over his case on each occasion, despite that the doctors reported that he was socially adapted, had good behavior, and had not any seizures for an extended period.<sup>48</sup>

Saidov's co-workers, who were arrested along with him and convicted but not involuntarily committed to psychiatric institutions,<sup>49</sup> were eventually released after Uzbekistan's new president came to power.<sup>50</sup>

He was never given a hearing where he could challenge the accusations of mental illness which were used to detain him and administer psychotropic drugs without his consent and only obtained access to a lawyer in 2018.<sup>51</sup> When he tried to write a complaint about his treatment in the hospital, he was punished and forced into an isolation ward for 10 days and injected with the pain-inducing<sup>52</sup> and antipsychotic<sup>53</sup> drugs Sulfazine and Haloperidol.<sup>54</sup> To this day Saidov remains in detention and has no means of challenging either the original criminal charges or his treatment during the forced detention in the facility.

<sup>41</sup> Tsentr-1 Article, *supra* note 37.

<sup>42</sup> *Id.*

<sup>43</sup> "Epilepsy and Psychological Disorders," Epilepsy Foundation, 15 November 2016, <https://www.epilepsy.com/article/2016/11/epilepsy-and-psychological-disorders>.

<sup>44</sup> Tsentr-1 Article, *supra* note 37.

<sup>45</sup> Ташкентская Республиканская психиатрическая больница и/н МЗ РУз [Tashkent Republican psychiatric hospital], Заключение № 07/06 психиатрического освидетельствования на Саидов Дилмурод Кобыловича [Conclusion No. 07/06 of psychometric examination for Saidov Dilmurod Kobilovich] [hereinafter Hospital Report], 21 May 2015 [on file with author].

<sup>46</sup> *Id.*

<sup>47</sup> Tsentr-1 Article, *supra* note 37.

<sup>48</sup> Hospital Report, *supra* note 44.

<sup>49</sup> Tsentr-1 Article, *supra* note 37.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> Sulfozine (also known as sulfozin or sulfozinum) is a drug that causes severe pain, fevers, and immobility. Its use in the Soviet Union as a punitive treatment has been documented. See, e.g., "Report of the U.S. Delegation to Assess Recent Changes in Soviet Psychiatry", *Schizophrenia Bulletin*, 1989, [https://academic.oup.com/schizophreniabulletin/article-pdf/15/suppl\\_1/1/5391960/15-suppl\\_1-1.pdf](https://academic.oup.com/schizophreniabulletin/article-pdf/15/suppl_1/1/5391960/15-suppl_1-1.pdf).

<sup>53</sup> Haloperidol is an antipsychotic drug that can potentially cause tardive dyskinesia (involuntary, repetitive body movements) and increase the likelihood of epileptic seizures.

<sup>54</sup> Tsentr-1 Article, *supra* note 37.



#### JAMSHID KARIMOV

Nephew of deceased President of Uzbekistan, Islam Karimov.

© Jamshid Karimov

### D. JAMSHID KARIMOV

Uzbek Forum for Human Rights conducted several interviews,<sup>55</sup> with Jamshid Karimov, a nephew of former president Islam Karimov, who was held in involuntary psychiatric detention for nearly 11 years at a hospital in Samarkand. He was released in early 2017. Karimov, whose case was highlighted by the Committee to Protect Journalists,<sup>56</sup> had published articles critical of the government and contributed to the London-based Institute for War and Peace Reporting, as well as other independent media outlets, before his detention in September 2006. He was involuntarily committed to a psychiatric hospital at that time.<sup>57</sup> His colleague and friend, Ulugbek Khaidarov, was arrested and charged with extortion the same week.<sup>58</sup> Both cases were widely condemned and viewed as politically motivated retaliation for reporting on human rights abuses in Uzbekistan.

The government initially denied Karimov access to a lawyer, friends, or family and refused to release any information about his court proceedings. He was briefly released in November 2011,<sup>59</sup> but forcibly returned to the hospital, without any judicial procedures, two months later. During his second detention, he was beaten badly, and his teeth were shattered.<sup>60</sup> His daughter was told that Karimov had been detained a second time because he had spoken to journalists upon his initial release.<sup>61</sup> Karimov's forced hospitalization, treatment, and diagnosis have been used to discredit him with those who had read his critical reporting.

<sup>55</sup> Interviews conducted on 18 September, 2019 and 22 November, 2019, available at Uzbek Forum for Human Rights.

<sup>56</sup> "CPJ urges Uzbek president to lift media restrictions", Committee to Protect Journalists, 23 January 2017, <https://cpj.org/2017/01/cpj-urges-uzbek-president-shavkat-mirziyoyev-to-lift/>.

<sup>57</sup> *Id.*

<sup>58</sup> "CPJ Says Jailing of Uzbek Journalist 'Travesty'", RFE/RL, 6 October 2006, <https://www.rferl.org/a/1071842.html>.

<sup>59</sup> "Journalist Dzamshid Karimov Released from Detention in Psychiatric Hospital," PEN America, 5 December 2011, <https://pen.org/rapid-action/journalist-dzamshid-karimov-released-from-detention-in-psychiatric-hospital/>.

<sup>60</sup> Uzbek-German Forum, Uzbekistan: Universal Periodic Review – Third cycle: Alternative Thematic Report, October 2017, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5379&file=EnglishTranslation>, citing "Джамшид Каримов уже 10 лет сидит в «психушке» и не знает о смерти дяди [Jamshid Karimov Has Been in the Psych Ward for 10 Years and Doesn't Know about Uncle's Death]," Asiaterra, 18 November 2016, <http://www.asiaterra.info/personys/dzhamshid-karimov-uzhe-10-let-sidit-v-psikhushke-i-ne-znaet-o-smerti-dyadi>.

<sup>61</sup> "Details Surrounding the Case of Jamshid Karimov Have Been Made Available by a Friend and His Daughter", Uzbek Forum for Human Rights, 23 November 2016, <https://www.uzbekforum.org/details-surrounding-the-case-of-jamshid-karimov-have-been-made-available-by-a-friend-and-his-daughter/>.

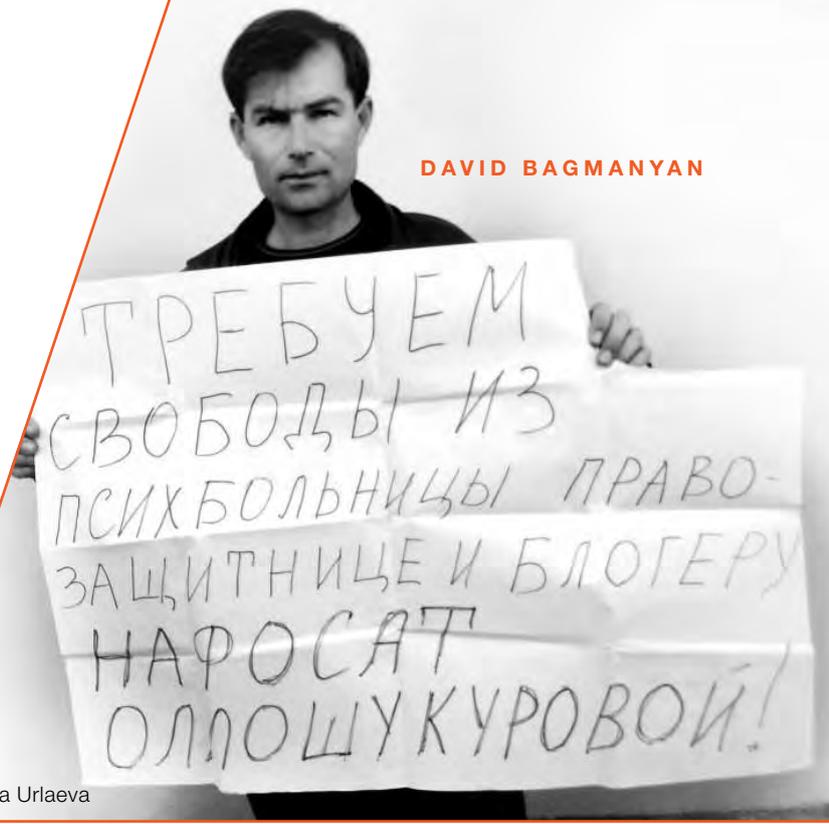
## MUZAFFAR MAMATOV

Former prosecutor of Akhangaran city, who was directly involved in filing the case against David Bagmanyan.

© Social Media



## DAVID BAGMANYAN



© Elena Urlaeva

Protesting for the release of blogger Nafosat Ollashukurova, September 2019, Tashkent.

## E. DAVID BAGMANYAN

Uzbek Forum for Human Rights interviewed David Bagmanyan<sup>62</sup>, who was detained for one month in the Republican Psychiatric Clinical Hospital in Tashkent from 23 April 2019 to 23 May 2019 because of his efforts to defend his property rights and protest unjust property seizures. The procedure to have him hospitalized was initiated not by a doctor, but by the local hokim (mayor) of the city of Akhangaran, Mr. Zhuraev, in an apparent attempt to stop Bagmanyan's efforts to confront state abuse.

Prior to the compulsory psychiatric examination, the city hokimiyat had taken the decision in 2018 to demolish Bagmanyan's property. Authorities demolished two residences belonging to his family, as well as the store where he had been a business owner for eight years. Bagmanyan told Uzbek Forum, "The authorities deprived me of all sources of income. No agreements were made with me, no payment was made. To cover up the first crime of illegally depriving me of my private property, they decided to silence my voice."

On 13 June, 2019, a district civil court in the city of Akhangaran declared Bagmanyan legally incompetent, satisfying the claim of the Akhangaran City hokimiyat. The hokimiyat claimed that Bagmanyan's complaints relating to the demolition of his property amounted to "unsubstantiated statements and slander", and that "Bagmanyan creates irritation and an unhealthy environment in society". These appear to be the grounds for the hokimiyat to request that Bagmanyan be declared incompetent and sent for compulsory psychiatric treatment.

<sup>62</sup> Interview with David Bagmanyan, 10 May, 2021, available at Uzbek Forum for Human Rights

The decision to hospitalize Bagmanyman was granted although he had never suffered from any mental illness in the past and had a certificate from the Psychoneurological Clinic in Akhangaran city dated 11 April 2019 confirming that he did not suffer from any mental illness. Nonetheless, the psychiatric examination report of 23 May, 2019 states that Bagmanyman suffered from a “mental illness in the form of paranoid schizophrenia.”

He was made aware of the decision to hospitalize him on 23 April 2019, several weeks after the hearing. The order to involuntarily commit him was issued on 26 March 2019.

Bagmanyman was involuntarily detained in the hospital until 23 May 2019. He was not given a copy of the order to commit him until June 2019 after he petitioned for it. Furthermore, he was not given access to all the files in the case until 14 August 2019, which impeded his ability to appeal the ruling. On 13 April, 2021, Bagmanyman’s application to have the civil court decision declaring him incompetent annulled was rejected by the Supreme Court of Uzbekistan.

## **F. KHUDOYAR MATYAKUBOV**

Khudoyar Matyakubov<sup>63</sup> is a human rights activist from Karakalpakstan in the Amudarya district of Uzbekistan. Before his involuntary detention in a psychiatric hospital, Matyakubov had been challenging government mismanagement of various social issues, such as the government’s inability to improve standards and practices on roads, kindergartens, playgrounds, and sports facilities.

On 5 November 2019, Matyakubov was detained by district police and forcibly detained in a psychiatric hospital in the city of Nukus, more than 130 kilometers from his home. He was held there for 26 days and forcibly administered psychotropic drugs. He was not informed of any diagnosis or given the names of the medication. He was also allegedly denied the opportunity to walk outside and reported that the conditions of the institution were crowded and unsanitary. He was released on 1 December 2019.

After he was released, Matyakubov complained about his detention. He was almost immediately detained again and taken back to the psychiatric hospital in Nukus. This time he was detained for 10 days. Matyakubov continues his work and lives in Karakalpakstan.

## **G. ALIKUL SARYMSAKOV**

Alikul Sarymsakov was a farmer who was forced into psychiatric treatment in April 2015 after criticizing the Uzbek government at a 3 March meeting of the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR).<sup>64</sup> He had previously been forcibly

<sup>63</sup> Human Rights Alliance of Uzbekistan Press Center, 24 January 2020, <https://www.facebook.com/groups/808948769204675/permalink/2321524774613726/>.

<sup>64</sup> “U.S. Concerned Over Uzbek Activist” [hereinafter Voice of America Article], Voice of America, 12 April 2015, <https://editorials.voa.gov/a/us-concerned-over-uzbek-activist/2718071.html>.

committed in 2013 following statements he made criticizing the President of Uzbekistan for running for office beyond the two-term limit and for corruption surrounding a building project. The US Government formally appealed to Uzbekistan to release him in 2015 through a communique at the OSCE. U.S. OSCE Chargé d’Affaires Kate Byrnes stated that his detention “appears in both cases to have been the direct result of his exercising the right to freely express dissenting political views.”<sup>65</sup> There are other cases that are not covered in this report known to other human rights defenders and to the public.<sup>66</sup>

## IV. VIOLATIONS OF HUMAN RIGHTS TREATY OBLIGATIONS

The above cases starkly illustrate a pattern of abuse against human rights defenders through the use of forced psychiatric treatment. These practices violate Uzbekistan’s international obligations under several human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture. They also clearly violate the Convention on the Rights of Persons with Disabilities (CRPD), which Uzbekistan ratified in July 2021.

### A. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)

Uzbekistan has been a party to the ICCPR, the leading human rights treaty, which protects against arbitrary detention and guarantees freedom of association and thought as well as other fundamental freedoms, since 1995.

The ICCPR is equally applied to all individuals, whether they have an actual or perceived disability. Article 2 of the Convention requires each State Party to “ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or *other status*.” (emphasis added). Disability falls into the “other status” category and cannot be used to deny an individual the same protections against arbitrary detention<sup>67</sup>

<sup>65</sup> U.S. Mission to the OSCE, “Detention of Uzbek Activist Alikul Sarymsakov”, 26 March 2015, <https://www.osce.org/files/f/documents/7/2/148731.pdf>. See also Voice of America Article, *supra* note 64.

<sup>66</sup> These known cases include the cases of Farhad Tuimebayev and Shukhrat Rustamov. Tuimebayev, an HRD working with Elena Urlaeva, was a victim of torture in Jaslyk prison. After his release, Tuimebayev wrote many complaints, went to court, and protested. As a result of his activities, he was arrested and sent to prison again in the city of Kungrad. Tuimebayev was released on 24 March 2020. Rustamov is an HRD who was found mentally incompetent by a court after he was detained in June 2015. Rustamov appealed this ruling to the Tashkent Municipal Civic Court, which in August declined his appeal despite his documentation of multiple due procedural violations. Foreign observers were not allowed to attend Rustamov’s court sessions, although officials on site said the hearing was “open.” See “Case History: Shukhrat Rustamov”, Front Line Defenders, <https://www.frontlinedefenders.org/en/case/case-history-shukhrat-rustamov>; “Ўзбекский суд признал правозащитника Шухрата Рустамова недееспособным [Uzbek court found human rights defender Shukhrat Rustamov incompetent]”, Озодлик Радиоси [RFE/RL], 8 January 2021, <https://www.ozodlik.org/a/27159482.html>.

<sup>67</sup> “Although disability is not expressly included among the prohibited grounds for discrimination, it is widely accepted that it falls under the heading “other status” and is thus treated as a ground in respect of which discrimination is prohibited.” “Disability: International Instruments,” UN Human Rights Office of the High Commissioner, <https://www.ohchr.org/EN/Issues/Disability/Pages/Instruments.aspx>.

Under Article 9, “[e]veryone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.” In its General Comment on Article 9, the Human Rights Committee explained that “everyone” for the purposes of Article 9 includes, among others, girls and boys, soldiers, persons with disabilities[.]”<sup>68</sup> It further explained that “[a]n arrest or detention may be authorized by domestic law and nonetheless be arbitrary.”<sup>69</sup> It also noted that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant, including freedom of opinion and expression, is arbitrary.<sup>70</sup>

Furthermore, Article 9 provides that “[a]nyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.” As demonstrated in the case of Urlaeva and others, human rights defenders are often not informed of the reason for their detention. Indeed, the Uzbek Government has prevented many of these human rights defenders from even receiving the most basic justifications for their detention for prolonged periods.

The cases outlined above establish a pattern of violations of one of the fundamental provisions of the Covenant - prohibiting arbitrary detention. The human rights defenders were punished because of their speech and legitimate human rights activities and were often detained in response to their exercise of rights guaranteed by the Covenant, such as participating in or reporting on a protest or peacefully petitioning their government for redress. Uzbekistan used a pretext of mental illness to punish or silence their political activities. None of the human rights defenders had a history of mental illness before their detention. Two of the human rights defenders, Urlaeva and Bagmanyar, even had an evaluation from a psychiatrist stating that they did not have any mental illness, but nonetheless endured forced psychiatric treatment.

Article 10 requires that all detainees be treated with “humanity and with respect for the inherent dignity of the human person.” The beatings, use of restraints as punishment, punitive use of psychoactive medications, and the humiliation of invasive medical searches before several officers suffered by the human rights defenders whose experiences are detailed above all amount to violations of Article 10, which the Human Rights Committee has held is non-derogable.<sup>71</sup>

Article 14(1) provides that “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law in the determination of ... his or her rights and obligations in a suit at law,” which includes non-criminal

<sup>68</sup> General Comment No. 35 on Article 9 (Liberty and security of person), CCPR/C/GC/35, 16 December 2014, para. 3, <https://digitallibrary.un.org/record/786613?ln=en>.

<sup>69</sup> *Id.* para. 12.

<sup>70</sup> *Id.* para. 17.

<sup>71</sup> See *Giri v. Nepal*, CCPR/C/101/D/1761/2008, 24 March 2011, para. 7.9 (“With respect to article 10, ... while it is not separately mentioned in the list of non-derogable rights in article 4, paragraph 2, this norm of general international law is not subject to derogation.”), <https://juris.ohchr.org/Search/Details/1664>.

proceedings.<sup>72</sup> As such, individuals must be allowed to defend themselves before the tribunal and be provided with equal access to the documents the state is using to justify their detention.<sup>73</sup> That did not happen, however, in the examples outlined above. In several cases, the human rights defenders were not even present at their commitment hearings. In others, they were denied copies of the medical notes used to justify their detention. Furthermore, they were sometimes denied copies of the court's decision, which prevented their ability to meet deadlines to appeal. In fact, in Urlaeva's case, there were no less than four occasions when Uzbek courts ordered her involuntary treatment and medication without the proper notice or ability for either her or her legal representative to participate in the proceedings.<sup>74</sup> On three of those occasions, she was not provided with a copy of the decisions, which made appealing them impossible.<sup>75</sup>

Article 19 provides that “[e]veryone 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.” The Human Rights Committee has stressed the importance of the rights protected under Article 19, noting it is necessary “for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights.”<sup>76</sup> Without this right, an individual's and community's ability to exercise and protect all other rights falter.

In all the examples above, the exercise of the rights protected under Article 19 was the source of the human rights defenders' persecution and detention. For instance, Urlaeva was first detained after being swept off the streets by plainclothes agents while walking to a peaceful protest with her elderly mother. Her arrest in 2017 followed her single person protest and was immediately before she was due to meet with ILO and World Bank officials to discuss human rights abuses. Moreover, as described above, Ollashukurova and Karimov – a blogger and a freelance contributor, respectively – were both detained following their expressive activities criticizing the Uzbek government.

Uzbekistan has been provided with ample reports of misconduct and abuse of its international treaty obligations concerning these cases, including a complaint by Urlaeva to the Human Rights Committee. The Uzbek Government has failed to systematically investigate these allegations in violation of Article 2, which obligates State parties to

<sup>72</sup> See *Casanovas v. France*, CCPR/C/51/D/441/1990, 26 July 1994, para. 5.2 (“The concept of a “suit at law” ... is based on the nature of the right in question rather than on the status of one of the parties (governmental, parastatal or autonomous statutory entities), or else on the particular forum in which individual legal systems may provide that the right in question is to be adjudicated upon.”), [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F51%2FD%2F441%2F1990&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F51%2FD%2F441%2F1990&Lang=en).

<sup>73</sup> *Wolf v. Panama*, CCPR/C/44/D/289/1988, 26 March 1992, para. 6.6., [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F44%2FD%2F289%2F1988&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F44%2FD%2F289%2F1988&Lang=en); *Thomas v. Jamaica*, CCPR/C/44/D/289/1988, 31 March 1992, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F44%2FD%2F289%2F1988&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F44%2FD%2F289%2F1988&Lang=en).

<sup>74</sup> Urlaeva Complaint, para. 221.

<sup>75</sup> *Id.*

<sup>76</sup> General Comment No 34: Article 19, CCPR/C/GC/34, 12 September 2011, para. 3, <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>.

investigate allegations of abuse.<sup>77</sup> Indeed, “[a] failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.”<sup>78</sup> Furthermore, not a single individual has been held responsible for these breaches. Under Article 2, if a violation is found to have occurred, the State Party “must ensure that those responsible are brought to justice. As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant.”<sup>79</sup>

The international community has a role to play in ending these abuses. In 2004, the Human Rights Committee, in its General Comment 31, stated that “violations of Covenant rights by any State Party deserve their attention. To draw attention to possible breaches of Covenant obligations by other State Parties and to call on them to comply with their Covenant obligations should, far from being regarded as an unfriendly act, be considered as a reflection of legitimate community interest.”<sup>80</sup>

## **B. CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

Article 7 of the ICCPR prohibits torture. The scope of this prohibition was elaborated in the Convention Against Torture, which Uzbekistan both signed and ratified in 1995. Under the Convention, all forms of torture are prohibited and never justified. Moreover, the provisions apply to everyone, including people with actual or perceived disabilities. Torture is defined as

[A]ny 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, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

This definition encompasses the arbitrary administration of powerful psychotropic drugs to which some of the human rights defenders outlined above were subjected.<sup>81</sup> These drugs were forced upon them as a form of punishment for their political activities and caused severe pain. For instance, Urlaeva suffered long term physical impairments because of the

<sup>77</sup> International Covenant on Civil and Political Rights, 19 December 1966, Article 2, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

<sup>78</sup> General Comment No. 31, CCPR/C/21/Rev.1/Add. 13, 26 May 2004, para. 15, <https://digitallibrary.un.org/record/533996?ln=en>.

<sup>79</sup> *Id.*, para 18.

<sup>80</sup> *Id.*, para 2.

<sup>81</sup> “As noted by the UN Special Rapporteur on Torture, forced psychiatric interventions such as the administration of neuroleptics and other mind-altering drugs have been recognized as a form of torture, and psychiatric experiments and forced injection of tranquilizers against a person’s will have been found to constitute inhuman treatment.” Open Society Foundations, Treatment or Torture? Applying International Human Rights Standards to Drug Detention Centers, June 2011, <https://www.opensocietyfoundations.org/uploads/e244f8b7-ae6d-43bf-8389-a6e7f2122de4/treatment-or-torture-20110624.pdf>, citing M. Nowak, Interim report of the Special Rapporteur on torture and cruel, inhuman or degrading treatment of punishment, A/63/175 (2008), para. 63.; P. Kooijmans, Report of the UN Special Rapporteur on Torture, E/ CN.4/1986/15, para. 119; Human Rights Committee, Viana Acosta v. Uruguay, Views on Communication No. 110/1981 (adopted 29 March 1984), CCPR/ C/21/D/110/1981, paras. 2.7, 14 and 15.

drugs she was forced to take, including internal pain, headaches, uncontrollable shaking, the inability to talk for several days, loss of teeth, sleeplessness, and drooling.<sup>82</sup>

The forcible restraining of individuals, as outlined in Urlaeva's case above, is torture even for brief periods and regardless of someone's actual or perceived disability. According to Juan E. Méndez, a former UN Special Rapporteur on torture and other cruel, inhuman, or degrading treatment, "restraint of people [with mental disabilities] for even a short period of time may constitute torture and ill-treatment."<sup>83</sup> The UN Special Rapporteur on Torture has recognized that the mere act of involuntary commitment, even when administered against someone with a mental illness, could amount to torture.<sup>84</sup>

Most recently, the UN Committee on Torture expressed concern and highlighted the allegations of involuntary psychiatric treatment against Urlaeva and Ollashukurova in its Concluding Observations on the fifth periodic report of Uzbekistan (January 2020). The Committee recommended that Uzbekistan "[r]eview the laws and procedures governing compulsory medical treatment, including psychiatric confinement, and introduce safeguards to prevent its misuse by the authorities."<sup>85</sup>

Under the Convention, State parties are required to criminalize torture, prosecute perpetrators, impose penalties, and provide reparations to victims. Currently, Article 235 of the Criminal Code, which defines torture, limits torture to acts "committed by an inquiry officer, investigator, or prosecutor with the purpose to coerce to giving testimony." Therefore, it excludes the types of torture that so many human rights defenders have experienced in non-criminal settings like psychiatric hospitals and institutions. The UN Committee against Torture specifically noted this glaring loophole in its concluding observation report on Uzbekistan in January 2020.<sup>86</sup> Similarly, in 2014, the ODIHR of the OSCE, upon the request of the Director of the National Human Rights Centre of the Republic of Uzbekistan, reviewed Article 235 specifically and noted the need to amend it to include acts committed by non-police forces, especially ones committed by doctors and health professionals.<sup>87</sup>

Many years have passed since the 2014 recommendation and the failure to include limitations on torture in hospital settings may be one of the reasons state authorities are claiming human rights defenders need involuntary psychiatric hospitalizations.

<sup>82</sup> Urlaeva Complaint, para 128.

<sup>83</sup> Méndez continued, "It is essential that an absolute ban on all coercive and non-consensual measures, including restraint and solitary confinement of people with psychological or intellectual disabilities, should apply in all places of deprivation of liberty, including in psychiatric and social care institutions." UN, Juan E. Méndez, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/22/53, 1 February 2013, para. 63, [https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53\\_English.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf).

<sup>84</sup> "In certain cases, arbitrary or unlawful deprivation of liberty based on the existence of a disability might also inflict severe pain or suffering on the individual, thus falling under the scope of the Convention against Torture." Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/63/175, 28 July 2008, para. 65, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N08/440/75/PDF/N0844075.pdf?OpenElement>.

<sup>85</sup> CAT, Concluding observations on the fifth periodic report of Uzbekistan, CAT/C/UZB/CO/5, 14 January 2020, para. 18, <https://undocs.org/CAT/C/UZB/CO/5>.

<sup>86</sup> *Id.*, para. 21.

<sup>87</sup> The ODIHR recommended, "to extend the definition of torture to acts or omissions committed by "other persons acting in an official capacity", so that it will apply to a wide range of professionals such as to doctors, health professionals and social workers[.]" Opinion on Article 235 of the Criminal Code of the Republic of Uzbekistan, 10 June 2014, para. 10, <https://www.osce.org/odihr/120262>.

## C. UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

Even if any of the human rights defenders described in this report had a mental illness for which they required mental treatment in a psychiatric institution, their involuntary commitment would raise concerns with respect to Uzbekistan's obligations as a signatory to the UN Convention on the Rights of Persons with Disabilities (CRPD)<sup>88</sup> which Uzbekistan signed in 2009 and has since ratified.

Even before Uzbekistan ratified the Convention, as a signatory, it had an obligation under the Vienna Convention on the Law of Treaties (VCLT), to which it acceded in 1995, to "refrain from acts which would defeat the object and purpose of" the CRPD.<sup>89</sup>

People with both physical and mental disabilities are included in the Convention (Article 1). Article 3 lays out the principles for the Convention, the first being "[r]espect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of person."

Article 12, providing equal recognition before the law, is perhaps the most important provision. It prohibits the stripping of an individual's legal capacity based on their mental disability and requires informed consent before medical treatment can be administered. In its explanatory notes accompanying Article 12, the Committee explained that "a person's status as a person with a disability or the existence of an impairment (including a physical or sensory impairment) must never be grounds for denying legal capacity[.]"<sup>90</sup> The Committee further noted that "[l]egal capacity is indispensable for the exercise of civil, political, economic, social and cultural rights."<sup>91</sup>

Article 12 was violated several times in the cases outlined above, most egregiously with the complete stripping of Urlaeva's legal capacity which has prevented her from independently challenging her abuse in court or providing protections to other human rights defenders, since she has been denied the ability to represent them.

The Convention prohibits forced psychiatric treatment, even where States have urged that such treatment is in the "best interest" of an individual.<sup>92</sup> The Committee emphasized that "forced treatment by psychiatric and other health and medical professionals is a violation of the right to equal recognition before the law and an infringement of the rights to personal integrity (art.17); freedom from torture (art.15); and freedom from violence, exploitation and abuse (art.16)."<sup>93</sup> The Convention requires, even in extreme cases where "it is not practicable to determine the will and preferences of an individual," that the state must, through "supportive decision-making mechanisms," work to determine the

<sup>88</sup> Convention on the Rights of Persons with Disabilities: [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtldsg\\_no=IV-15&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtldsg_no=IV-15&chapter=4&clang=_en).

<sup>89</sup> Vienna Convention on the Law of Treaties, 23 May 1969, Art. 18, [https://legal.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf).

<sup>90</sup> CRPD General Comment No. 1, CRPD/C/GC/1, 19 May 2014, para. 9, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/031/20/PDF/G1403120.pdf?OpenElement>.

<sup>91</sup> *Id.*, para. 8.

<sup>92</sup> *Id.*, paras. 21, 29 (b).

<sup>93</sup> *Id.*, para. 42.

‘best interpretation of will and preferences’ of the individual.<sup>94</sup> Psychiatrists themselves recognize the harm involuntary treatment does to the doctor-patient relationship – obliterating the trust that is crucial to the relationship.<sup>95</sup> “Supported decision making” mechanisms provide support to a patient through alternative forms of communication, such as multimedia presentations of treatment options or peer group communicators to help the patient make an autonomous decision on treatment.<sup>96</sup>

Further protections against involuntary commitment and treatment are found in Article 25(d), which explicitly mandates that medical care of persons with disabilities must be through informed consent only and voluntary. Furthermore, Article 14, paragraph 1 (b), of the Convention unambiguously states that “the existence of a disability shall in no case justify a deprivation of liberty.”

In 2015, the CRPD Committee adopted a set of Guidelines concerning CRPD Art 14 concerning liberty:

The Committee has established that [CRPD] Article 14 does not permit any exceptions whereby persons may be detained on the grounds of their actual or perceived impairment. However, legislation of several State parties, including mental health laws, still provide instances in which persons may be detained on the grounds of their actual or perceived impairment, provided there are other reasons for their detention, including that they are deemed dangerous to themselves or others. This practice is incompatible with [CRPD] Article 14; it is discriminatory in nature and amounts to arbitrary deprivation of liberty (G14, para. 6).<sup>97</sup>

Under the CRPD, even if Uzbekistan had ample documentation of mental illness for the human rights defenders highlighted in this report – which it categorically does not – their involuntary hospitalizations would have violated the Convention. This is inconsistent with Uzbekistan’s obligation under the VCLT “to refrain from acts which would defeat the object and purpose of a treaty” as a signatory of the CRPD.<sup>98</sup>

<sup>94</sup> *Id.*, para. 21.

<sup>95</sup> See Martin Zinkler, “Supported Decision Making in the Prevention of Compulsory Interventions in Mental Health Care”, 29 March 2019, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6449721/>.

<sup>96</sup> See Dilip V. Jeste, Graham M.L. Eglit, Barton W. Palmer, Jonathan G. Martinis, Peter Blanck, and Elyn R. Saks, “Supported Decision Making in Serious Mental Illness”, 1 March 2018, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6093283/>.

<sup>97</sup> There is a conflict within the human rights bodies of the UN with respect to the legality of administering forced psychiatric treatment to detainees. While the CPRD absolutely prohibits such treatments, the UN Human Rights Committee does allow for forced psychiatric treatment under the ICCPR in certain circumstances. See General Comment No. 35 on Article 9 (Liberty and security of person), CCPR/C/GC/35, 16 December 2014, para. 19, <https://digitallibrary.un.org/record/786613?ln=en>. Nonetheless, given that the purpose of the forced psychiatric treatment was to use it as a form of punishment rather than to use it for any legitimate medical purpose, the forced psychiatric treatment ran afoul of both the necessity and proportionality requirements of the ICCPR and the absolute prohibition of such treatments under the CRPD, rendering it a violation of both treaties.

<sup>98</sup> Vienna Convention on the Law of Treaties, 23 May 1969, Art. 18, [https://legal.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf).

## V. RECOMMENDATIONS

1. Uzbekistan must amend its criminal law to incorporate the full definition of torture as defined in Article 1 of the Convention Against Torture. Uzbekistan's torture loophole, which does not categorize physical and mental pressure in psychiatric hospitals or any institution outside of the criminal justice system as torture, must be amended. Because of the widespread abuse of psychiatry in both Soviet and post-Soviet times, Uzbekistan should not only prohibit torture in all settings, including psychiatric hospitals, but also amend Article 235 of its criminal code to clarify that torture includes forced psychiatric treatment.
2. Uzbekistan should immediately investigate these cases as required by Article 2 of the ICCPR, hold perpetrators of the abuse accountable, and provide for reparations to the victims. The pattern of abuse targeting human rights defenders will continue regardless of legal or structural reforms as long as impunity for past misconduct persists in practice.
3. Uzbekistan should end involuntary treatment for anyone, including people with mental disabilities in accordance with the CRPD, which Uzbekistan has ratified. Although Uzbekistan's Law of Psychiatric Care<sup>99</sup> which was in effect at the time of the above outlined abuses provides many protections such as court review of involuntary psychiatric treatment, evaluation by a commission of psychiatrists, and the right to appeal before an involuntary commitment, the above cases of egregious abuse illustrate how easily a State can circumvent these laws to target dissident voices. Uzbekistan's President Mirziyoyev recently signed a new Law on Psychiatric Care<sup>100</sup> in May 2021, which will take effect on 13 August, 2021, which provides changes to involuntary commitment procedures and rules. There are welcome changes in the new law such as definitions for "informed voluntary consent" and "mental disorder," but these cosmetic changes to a law that still provides for involuntary psychiatric treatment and commitment will unlikely protect political dissidents from continued persecution.
4. Until involuntary treatment is prohibited, Uzbekistan must strengthen the independence of its courts and doctors who are evaluating patients. The Law on Psychiatric Care has not been properly applied by the courts and doctors and the new Law on Psychiatric Care also appears to be vulnerable

<sup>99</sup> Law on Psychiatric Care of the Republic of Uzbekistan, 31 August 2000, No. 123-II, <https://www.lex.uz/acts/14460>.

<sup>100</sup> Law on Psychiatric Care, 12 May, 2021, <https://xs.uz/ru/post/o-psikhiatricheskoj-pomoschi>

to abuse. A possible amendment, which may provide a short-term solution, would be to create a strict scrutiny test that must be met if the individual being evaluated for involuntary treatment was arrested during or shortly after political activity or was not afforded legal representation.

5. Allow access to UN Special Rapporteurs to investigate human rights abuses in Uzbekistan. Although Uzbekistan has invited the Special Rapporteurs on Freedom of Religion (2017) and the Independence of Judges and Lawyers (2019), it still has numerous outstanding requests from the Special Rapporteurs on torture, freedom of expression, and slavery. The Office of the Special Rapporteur on the situation of human rights defenders has had an outstanding request to visit since 2001.
6. Uzbekistan should encourage independent monitoring of institutions in two ways. First, as long as involuntary detention is permitted in Uzbekistan, the government should have an independent ombudsman who is charged with investigating allegations of abuse in each psychiatric hospital. Second, Uzbekistan should remove the many barriers, *de jure* and *de facto*, to registering nongovernmental organizations (NGOs).<sup>101</sup> In Uzbekistan's last Universal Periodic Review in 2018, numerous countries recommended Uzbekistan ease the restrictions on registering NGOs and Uzbekistan agreed to do so. NGOs, which are independent from the government, have a vital role to play in documenting abuses in institutions and advocating for reforms to prevent them in the future.

<sup>101</sup> Human rights groups continue to report extreme obstacles preventing human rights groups from even registering let alone freely operating. See Association for Human Rights in Central Asia (AHRCA), International Federation for Human Rights (FIDH), and International Partnership for Human Rights (IPHR), Letter on Uzbekistan, December 2019, <https://www.iphronline.org/wp-content/uploads/2019/12/EN-Letter-concerns-on-uzb-19.12-clean-1.pdf>. See also Dilmurad Yusupov, "Regulation of NGOs In Uzbekistan: Control or Partnership?", 20 March 2020, <https://dilmurad.me/regulation-of-ngos-in-uzbekistan-control-or-partnership/>.

## VI. CONCLUSION

Uzbekistan has received much praise for its stated commitment to improve its human rights record. The cases above reveal, however, that its citizens are still intensely vulnerable to arbitrary detention and intimidation. For each of the cases above, there are likely many more Uzbek citizens who are censoring themselves to avoid the same fate.

Involuntary psychiatric treatment provides an exploitable loophole facilitating human rights abuses. A lasting solution to human rights abuses in psychiatric settings must not distinguish between people with or without disabilities. To end abuse of political dissidents, we must create safeguards that will also protect people with disabilities.

## VII. ACKNOWLEDGEMENTS

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## **UZBEK FORUM** **FOR HUMAN RIGHTS**

Uzbek Forum for Human Rights is a Berlin-based NGO dedicated to protecting human rights and strengthening civil society in Uzbekistan. Uzbek Forum works with a network of independent human rights defenders inside Uzbekistan who conduct monitoring of human rights abuses, including forced labor in the cotton sector. Uzbek Forum's evidence-based reports are used to conduct advocacy and shape policy with the Government of Uzbekistan, the EU and the UN and raise awareness in the regional and international media.

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Uzbek human rights defender Elena Urlaeva,  
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