

[Uzbekistan violates the International Covenant on Civil and Political Rights](#)

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M.T. v. Uzbekistan (2234/2013)

Summary

In July 2015, the Human Rights Committee was asked to consider whether Uzbekistan had violated its obligations under the International Covenant on Civil and Political Rights in connection with the detention and trial of a human rights campaigner.

The communication was submitted by an Uzbek national under the Optional Protocol to the Covenant.

Background

On 1 July 2002, the author of the communication, M.T., was arrested by two police officers, who did not inform her of the reasons for her arrest. After the arrest, she was interrogated by the Kirgulin Region Police Department about her human rights activities. During this interrogation, she was beaten and threatened with rape.

On 2 July 2002, the author was charged with offending an officer and refusing to follow police orders. The case was eventually dismissed for lack of evidence.

On 5 September 2002, a criminal investigation was opened into the author's arrest and ill-treatment. However, the investigation was closed without any charge.

On 15 June and 20 August 2003, the author picketed the Regional Procurator's Office to protest against human rights violations. On both occasions, she was attacked by groups of women, whom she believed to be prostitutes paid by the authorities to carry out the attacks. The second attack left the author hospitalised for 14 days. The authorities were present during the attacks but failed to intervene.

On 15 April 2005, unidentified officials in plain clothes arrested the author and brought her to the Bektemir District Department of Internal Affairs, where she was interrogated about her human rights activities and accused of spreading propaganda against the government. One of the police officers then took her to an office where three unidentified men beat her and took turns in raping her several times until she lost consciousness. She was eventually released the same day without charge. After being threatened by the Head of the Criminal Investigations and Anti-Terrorism Unit of the Ferghana Police Department, she refrained from filing a complaint.

On 7 October 2005, 30 heavily armed police officers arrested the author at her home. Before being taken to the police station, she was charged with extortion. Her flat and offices were searched and personal and work-

related items were seized in her absence. She was questioned for several hours about her organisation and its funding. The author's repeated requests to have her lawyer present were rejected.

On 8 October 2005, at around 6 am, the author was transferred to a temporary holding cell in the basement of the police station. She was allowed to see her lawyer for the first time at around 5 pm that day. The police continued to question her for about three hours, in the presence of her lawyer. The transcript of the interrogation did not reflect the author's testimony, and she refused to sign it. Contrary to Uzbek law, the author was not brought before a judge during the first ten days of her detention.

On or around 18 October 2005, the author was transferred to Ferghana Remand Centre No. 10, where she was held until January 2006. On 29 January 2006, the author was transferred to a cell in the basement of Kuyi Chirchik District Police Station, where she was held until the end of her trial on 6 March 2006. During the detention, she was denied medical care and was placed in detention together with convicted persons. The author's lawyers were denied access on several occasions and were not allowed to speak to the author confidentially.

On 24 December 2005, the prosecution informed the author's lawyers that her case had been broadened to include 18 charges rather than 2 charges. The author's lawyers were given only 15 days to study the 13 volumes of the case file before her trial started on 30 January 2006.

During the trial, the author was not allowed to meet her lawyers outside the court room. Her lawyers could not call crucial witnesses for her defence and the Court prevented cross-examination of key prosecution witnesses. The prosecution failed to provide her lawyers with three volumes of the relevant evidence and the Court denied the lawyer's request for access to these volumes.

On 6 March 2006, the Tashkent Criminal Court found the author guilty of 13 charges and convicted her to eight years' imprisonment. On the same date, the author was imprisoned in a women's ward.

On 30 May 2006, the appeal chamber of the criminal division of the Tashkent Regional Court dismissed the author's appeal against the verdict of the Tashkent Criminal Court.

On 7 July 2006, the author was transferred to a women's colony. Upon her arrival at the colony, she was placed in a psychiatric ward together with drug addicts and dangerous criminals. During her imprisonment, the author was forced to work nine hours a day, followed sometimes by seven hours of forced standing. The author's complaints regarding such incidents were either not reported or ignored.

From July 2006 to April 2008, the wardens continuously accused the author of violating prison regulations. From 8 July 2006 to 2 June 2008, the author did not have any access to her lawyers. In November 2006, the author went on a hunger strike to protest against her treatment. Around this time, three prison wardens took her to a punishment cell, where they handcuffed her and hung her by a hook on the wall. Between January and August 2007, she was not allowed to receive any visits from her family or friends.

The author spent a total of 112 days in solitary confinement. Uzbek law prohibits detention for more than 15 days. On several occasions, the author was released after 15 days for a few hours and then placed again in isolation. The author was also deliberately exposed to freezing conditions, resulting in a deterioration of her health.

On 18 March 2008, the author was operated on against her will. The authorities failed to inform her about the reasons for the surgery, and did not tell her that her uterus was to be removed during the surgery. On 2 June 2008, the author was released on medical grounds.

On 13 October 2008, the author travelled to Germany where she sought medical care. The author subsequently received surgery in Switzerland. The doctors treating the author were unable to establish why the author had been operated on.

In March 2009, the author left Uzbekistan for France fearing for her and her family's safety.

As a result of her treatment in detention, the author has difficulties walking, severe diabetes, significant

problems with her eyesight, depression, memory loss and anxiety. The author was examined by medical specialists who found that she was suffering from post-traumatic stress disorder and that her allegations were consistent with their findings.

On 18 December 2012, the author filed this communication with the Committee under the Optional Protocol to the Covenant. She claimed that Uzbekistan had breached her rights to: (i) freedom from cruel and inhuman treatment, (ii) freedom from arbitrary detention, (iii) humane treatment in detention, (iv) a fair trial, (v) freedom from unlawful interference with her privacy and family, (vi) freedom of expression, (vii) peaceful assembly, (viii) freedom of association, and (ix) freedom from discrimination (under articles 7, 9, 10, 14, 17, 19, 21, 22 and 26 of the Covenant, respectively).

The Committee's decision

With respect to admissibility, the Committee found that the author's claim that her requests for review and appeal to the Supreme Court were denied in violation of article 14(5) of the Covenant had not been sufficiently substantiated. The Committee found, however, that the author had sufficiently substantiated her remaining claims under articles 7, 9, 10, 14, 17, 19, 21, 22 and 26 and declared those claims admissible.

On the merits, the Committee noted the author's claims that she had been: (i) verbally abused and gang-raped while in police custody, (ii) subjected to a detention regime aimed at obtaining a confession from her, and (iii) subjected to a forced surgery that included her forced sterilisation. The Committee also noted that Uzbekistan had failed to: (i) inform the author promptly of the reasons for her arrest and detention, (ii) bring her before a judge or enable her to challenge the legality of detention, (iii) ensure her right to a fair trial by an independent and impartial court, and (iv) provide her with adequate time and facilities for the preparation of her defence and to communicate with her lawyers.

The Committee observed that the author had provided a detailed account of the different types of persecution to which she had been subjected and that her description had been supported by detailed and well-documented evidence. The Committee further noted that Uzbekistan had not refuted the author's allegations specifically but that it had only stated in general terms that no violations of the author's rights had taken place. In such circumstances, the Committee considered that due weight must be given to the author's allegations. The Committee also found that the author's involuntary sterilisation and rape showed specific aggression against her as a woman and therefore constituted violations of article 26.

In view of the above, the Committee concluded that Uzbekistan had violated articles 7, 9, 14, 19, 21, 22 and 26 of the Covenant in its treatment of the author. In light of these findings, the Committee decided not to examine separately the author's allegations under articles 10 and 17(1) of the Covenant.

In accordance with article 2(3) of the Covenant, the Committee found that Uzbekistan was under an obligation to provide the author with an effective remedy, including carrying out an impartial, effective and thorough investigation into the allegations of torture and ill-treatment, initiating criminal proceedings against those responsible and providing the author with appropriate compensation. Uzbekistan was also under an obligation to prevent similar violations in the future.

Uzbekistan must now submit its written response within six months of the Committee's decision, including information on the action taken in the light of the Committee's recommendations, and ensure that the Committee's decision is published widely.

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