

Preliminary findings of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on her visit to Uzbekistan.

1. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin, conducted an official visit to Uzbekistan from 29 November to 7 December 2021 to assess its counter-terrorism laws, policies and practices, measured against its international human rights obligations.
2. The Special Rapporteur commends the constructive way in which the Government facilitated her visit, enabling a frank and open dialogue on multiple issues. She particularly thanks the Ministry of Foreign Affairs and the National Human Rights Center for their well-organized engagement with her mandate. She particularly commends the willingness and example set by the government by facilitating the visit in the context of the ongoing global pandemic. The necessity of conducting human rights work has never been more essential globally and she acknowledges the leadership of the Government, in its role on the Human Rights Council demonstrating that such visits can be carried out effectively and robustly during this Covid-19 pandemic. She also thanks the Office of the United Nations High Commissioner for Human Rights (OHCHR) Regional Office for Central Asia for the excellent support provided during the visit.
3. The Special Rapporteur met with the Minister of Foreign Affairs, the Minister of Justice, the Minister of Internal Affairs, the Minister of Finance, the Minister of Defense, the Chairman of the Supreme Court, the Chairman of the Constitutional Court, the Director of the National Human Rights Center, the Ombudsman of Uzbekistan, the Children's Ombudsman, the Business Ombudsman, the Chairperson of the Senate of the Oliy Majlis, the Speaker of Legislative Chamber of Oliy Majlis, the Chairman of the Jokargy Kenes of the Republic of Karakalpakstan, Chairman of the Committee on Combating Corruption and Judicial and Legal Issues of Legislative Chamber of Oliy Majlis, the Chairman of the Committee on Democratic Institutions, Non-Governmental Organizations and Citizens' Self-Government Bodies of Legislative Chamber of Oliy Majlis, the Chairman of the Committee on Judicial and Legal Issues and Anti-Corruption of the Senate of Oliy Majlis, the Chairman of the Committee on Defense and Security of the Senate of Oliy Majlis, the Chairman of the Committee on Women and Gender Equality of the Senate of Oliy Majlis, Prosecutor General, Head of the Department for Combating Economic Crimes of Prosecutor General, Head of the Department for Combating Organized Crime and Corruption, the Head of the Department for the Protection of the Rights and Freedoms of Citizens, the Chairman of the Committee on Women and Gender Equality the Deputy Minister and Head of the Investigation Department of the Ministry of Interior, the Head of the Legal Support Department of the Ministry of Interior, the Head of the Department of Corrections under the Ministry of Interior, Head of the Probation Service under the Ministry of Interior, Head of the Counter-Terrorism Department of the State Security Service, the Director of the Institute for the Study of Legislation and Parliamentary Research under the Oliy Majlis of the Republic of Uzbekistan, the Director of the Center for Advanced Studies of Lawyers, the acting Rector of Tashkent State Law University.
4. During her visit, apart from visiting Tashkent, the capital, the Special Rapporteur travelled to Nukus city in the Republic of Karakalpakstan, as well as to Namangan and Qashqadaryo regions. She visited the women's prison in Zangiata (Tashkent region), as well as prisons in Namangan (Namangan region), Shaikhali and Koson (Qashqadaryo region). She thanks the Government for providing access to the Umid Gulshani sanatorium, which had been converted to a rehabilitation centre for individuals repatriated from conflict zones. This visit provided a unique opportunity to meet with returnees from the Syrian and Iraqi conflict zones and with officials and staff managing the centre. The Special Rapporteur also met with a wide range of civil society organizations, activists, academics, lawyers and human rights experts, representatives of religious denominations and the United Nations Country Team.
5. Uzbekistan is a party to major international human rights instruments including the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the International Covenant on Economic and Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC) and its two optional protocols, Convention on Persons with Disabilities (CPD) as well as other international and regional agreements.

6. The risk of terrorism in Uzbekistan is generally assessed as low. The Global Terrorism Index (2020)¹ ranks Uzbekistan 134th placing the country in the category of countries with insignificant levels of global terrorism threat and experiencing high levels of security and stability. Recent regional developments, specifically the change of governing administration in Afghanistan have elevated regional security concerns. The Special Rapporteur observes the pragmatic approach of security officials in addressing the regional security context and dealing with the *de facto* authorities in Afghanistan. Concerns about proscribed organizations operating in Afghanistan were noted including those on UN designated terrorism lists, including ongoing threat assessment of Al-Qaeda and ISIS-Khorasan. In this regard, the Special Rapporteur positively notes the efforts of the government in alleviating the severe humanitarian crisis in Afghanistan including through the provision of electricity and humanitarian aid. The Special Rapporteur observes that Uzbekistan and other States in the CIS region play a critical stabilizing role and must be adequately supported by the international community to maintain and expand their capacity to prevent the impending humanitarian catastrophe in Afghanistan. Cooperation with UN humanitarian entities will be vital. Without concentrated and cooperative global efforts aimed at supporting the region as a whole, the humanitarian crisis in Afghanistan will have devastating effects on the human rights of that country's population and undermine regional and global security efforts.

The government identifies ongoing internal threats from *extremism*, notably linked to religious extremism. In addition, a number of transnational groups categorized as associated with violent extremism have been banned.² A National Strategy of the Republic of Uzbekistan on countering extremism and terrorism (2021-2026) has been produced. Uzbekistan is one of the founding countries of the Shanghai Cooperation Organization. Uzbekistan has experienced significant political changes in the past 5 years, moving from a highly repressive political system to a period of political transition and stability.

Repatriation and Reintegration

7. Through five operations since May 2019, Uzbekistan has brought back 531 individuals, (528 women and children and 3 men) from conflict zones in North-East Syria, Iraq (Mehr I, II, III and V) and Afghanistan (Mehr IV). Operation Mehr (Mercy/Compassion) commenced officially in 2019, with the return of 156 women and children and remains ongoing.
8. The Special Rapporteur conducted numerous high-level meetings with government Ministers and departments and found positive and collective commitment to repatriation and positive reintegration from the highest levels of government. There is a 'whole of government' approach evident in the political response to this challenge, and a practical willingness to provide the resources, expertise, and political will to ensure repatriation occurs and is successful. She was particularly struck by the creation of an enabling positive political and social climate for repatriation and reintegration from the government; willingness to prepare society, use of discourse that was not stigmatizing, and follow-through from political rhetoric to delivery in practice. She views the family and community-based model of repatriation developed by Uzbekistan as a model for other countries to follow and commends it to those States whose third country nationals remain arbitrarily detained in North-East Syria and other conflict zones. She further supports and encourages the ongoing co-operation between the government of Uzbekistan and the United Nations, particularly UNICEF in this endeavour. This positive child-rights focused partnership constitutes a best practice for other governments to follow in the context of child repatriation from North-East Syria and other conflict zones.
9. The Special Rapporteur conducted an on-site visit to the Umid Gulshani centre, which functions as a preliminary reception and rehabilitation centre for women and children returning from conflict zones. She met with all the key national agencies and individuals that established and operated programming across all five return operations. She understands that future returns from North-East Syria are planned, and she welcomes the sustained commitment of the Uzbekistan government to the return of their nationals. She commends the government for the planning, scale, and quality of this work. She notes that meticulous inter-agency planning, and cooperation is evident in the

¹ Global Terrorism Index (Nov, 2020)

² Including Hay'at Tahrir al-Sham, Katibat al Tawhid wal Jihad, Islamic State, Islamic State Wilayah Khorasan, TIP, and Islamic Movement of Uzbekistan.

repatriation and reintegration process. This planning runs seamlessly from the identification and physical return of individuals to immediate reception identifying health, nutrition and material needs; short-term provision of medical and psychological care for complex mental health and psychosocial needs, nutrition support, dedicated new-born/infant support, educational deficits, trauma, religious counselling, connection with family in country; medium term health, education, family, economic and social integration; and long-term return to families and communities throughout the country. She particularly welcomes the ‘one-stop’ model put in place for the immediate reception of persons returning, focused on bringing together a concentration of expertise and services in a unified way to support returnees. She noted the augmentation of expertise and knowledge transfer from the government’s partnership with UNICEF.

10. The Special Rapporteur was pleased to observe the humanity and deep individual commitment to the welfare of the returnees by the educators, medical and administrative staff engaged in the day-to-day reintegration efforts whom she met. She was struck by the language and discourse used to describe returnees from the highest level of government officials to individuals working directly with those who have come home. There was recognition of the status and rights of the child, acknowledgement of victimhood, a focus on mercy, forgiveness and welcome, and a profound humanity in supporting reintegration.
11. The Special Rapporteur learnt of and had exposure to the practicalities of medium-term repatriation. She notes good practice in relation to the provision of legal documents and birth certificates for children; good practice in relation to educational and training opportunities through local government community structures (*mahalla*) and regional engagement; good practice in seeking to support economic independence and entrepreneurship for women; provision of adequate housing and welfare support; ongoing mental health provision and child welfare as a priority. She notes the clear commitment to family unity and the recognition that children returning from conflict zones will thrive best with their mothers and in supportive family settings.
12. While it is difficult to measure long-term integration success it appears that strong evidence of success is in progress. Success will be measured by the long-term and sustained adaption, ongoing human rights-based support of communities and engagement by the government. Evidence gathered by the Special Rapporteur suggests that family-based care for children has garnered positive outcomes, women and adolescents receiving childcare, economic, and moral support are thriving. Experts have confirmed that those children adopted by relatives appear to be gaining confidence and showing signs of recovery and adaption to life at home. It remains clear that challenges persist for unaccompanied and separated children, confirming the Special Rapporteur’s broader view that having children remain in their family unit is the optimal outcome in repatriation contexts. Ongoing human rights-based monitoring and evaluation with the support of the international community will provide Uzbekistan and the international community with the means and empirical knowledge to maintain momentum and gains made while sharing knowledge meaningfully with other governments. The Special Rapporteur recommends the early adoption of effective human rights-based monitoring and evaluation.
13. The Special Rapporteur had the opportunity to meet directly with women returnees and her conversations corroborated the child, family, and right-based approach to reintegration as a lived experience. She affirms that those she met experienced significant trauma and harm in conflict zones, were profoundly grateful to be home, and committed to making better lives for themselves and their children with the support of families, communities, and the government.
14. The Special Rapporteur recommends that the ongoing partnership with UNICEF be sustained, placing protection at the core of the work, taking the lessons learnt from repatriation and reintegration and mainstreaming them into practice for other vulnerable populations. In this regard, she sees an opportunity to extend social work expertise (including the training and appointment of more social workers), trauma specialists, and psychological provision for this population but with benefits to broader vulnerable populations. She highlights the need for long-term and sustained support to this population given the enduring effect of conflict trauma and the longstanding nature of reintegration needs. She further recommends deepening human rights-based partnerships with the Office of the High Commissioner for Human Rights and UN Women with respect to enhancing long-term human rights protection for returnees. She highlights the need for ongoing specialized support to orphan children in care-settings who were unable to be placed with families.

15. The Special Rapporteur encourages the government of Uzbekistan to repatriate all remaining nationals from North-East Syria. She was pleased to learn that concrete attention to and provision for addressing the situation of adult male citizens of Uzbekistan detained in *de facto* prisons and detention sites in North-East Syria is underway. She encourages transparency on this process, including on the screening criteria used to determine which individuals can and will be repatriated. Globally, she remains deeply concerned that large numbers number of men and boys remain arbitrarily detained in North-East Syria in inhuman conditions absent any judicial review or authorisation. The Special Rapporteur recalls that all individuals under the age of 18 should be primarily viewed as victims of grave violations of international human rights and humanitarian law and that their detention and prosecution is tightly circumscribed under international law.
16. The Special Rapporteur is committed to ensuring accountability for serious violations of international law committed in Iraq and Syria. The government has consciously not taken a punitive response to those women and children returning. Thus, criminal prosecution for terrorism-related crimes has occurred in only a small number of cases, for male returnees. She underscores for the international donor community that a protection focused model, premised on the promotion of rights is working successfully and well in Uzbekistan, and cautions against other models with a primarily retributive, punitive and limited prosecutorial focus being layered in without due assessment of negative downstream consequences. She believes there is an appropriate role for collaboration between the General Prosecutor’s Office working collaboratively with the UN International, Impartial and Independent Mechanism for Syria,³ in specific cases where allegations of serious crimes committed under international law in conflict zones are concretely identified. An international criminal justice approach is the most likely in the appropriate cases to provide redress in a human rights and rule of law compliant way consistent with the State’s international law obligations and will help close an impunity gap for international crimes. She recommends deepening engagement with civil society in ongoing repatriation efforts to continue and strengthen best practices evidenced in the government’s approach. Further sustained cooperation with UN human rights entities that can provide relevant expertise is recommended.

National Legal Frameworks on Countering Terrorism and Countering Violent Extremism

17. The Special Rapporteur has carefully studied a series of provisions found in the Criminal Code of Uzbekistan pertaining to a range of offences including terrorism, religious extremism, separatism, storage and dissemination of extremist materials, and attempts to undermine the Constitutional order. She finds that despite some recent constructive amendments in the counter-terrorism and extremism fields, much of the domestic law regulating terrorism-related offences is vague and ambiguously worded.⁴ The Special Rapporteur notes that non-violent criticism of State policies and actors should never constitute a criminal offence since the peaceful exercise of freedom of expression and of thought, is pivotal for a society governed by rule of law and abiding by human rights principles and obligations.⁵
18. The Special Rapporteur notes her serious concern about the use of the terminology of ‘extremism’ in national law and practice.⁶ Conspicuously, international practice addresses the challenges of “violent extremism”, and “violent extremism conducive to terrorism” and are firmly acknowledged in the Secretary-General’s 2016 Plan of Action to Combat Violent Extremism.⁷ Human rights treaty bodies have strongly articulated their concerns relating to the use of the term “extremist” activity in broad and general terms,⁸ which her mandate shares. She takes the view that the term “extremism” has no purchase in binding international legal standards, and when operative as a criminal legal category, is irreconcilable with the principles of legal certainty, proportionality and necessity and is *per se* incompatible with the exercise of certain fundamental human rights. The elasticity of the notion and the ease with which it can be abused is best evidenced, in her view, by the fact that the national change of approach over the past four years has led to the removal from the register of law enforcement agencies of 20,000 numbers of individuals who had been considered

³ <https://jiim.un.org/mandate/>

⁴ Highlighting para 158 para 159 of the Criminal Code.

⁵ A/HRC/37/52, para 47

⁶ SR HRCT, A/HRC/31/65, para. 21

⁷ <https://www.un.org/counterterrorism/ctitf/en/plan-action-prevent-violent-extremism>; See also UN General Assembly Resolution [A/RES/70/291](https://www.un.org/counterterrorism/ctitf/en/plan-action-prevent-violent-extremism)

⁸ CCPR/C/CG/34 para 46

adherents of radical religious movements and the release from prison of over 1,500 individuals. Her office has previously noted its concerns when the term “extremism” is deployed, not as part of a strategy to counter violent extremism, but as an offence in itself.⁹ She underscores the need to ensure that criminal and administrative offences connected with extremism are legally defined in compliance with international human rights law and do not unduly restrict freedom of expression, freedom of religion and belief, and freedom of assembly.¹⁰ The Special Rapporteur has particular concerns about the exercise of Article 244(1-2) of the Criminal Code. This article criminalizes the ‘storage with the purpose to dissemination of materials that contain ideas of religious extremism, separatism, and fundamentalism’. She identifies that purpose can be easily misconstrued in this context, and that this article criminalizes, de facto, the mere fact of keeping materials considered to be radical impinging on the fundamental rights of privacy and freedom of thought. Such provision is particularly hazardous in the present time given the speed with which massive amounts of information circulate through technological devices. The Special Rapporteur fully concurs with the assessment of the Human Rights Committee that the broad formulation of the concept of “extremism” can be used to unduly restrict freedom of religion, expression, assembly, and association. The Special Rapporteur offers her technical advice and assistance to the Criminal Code reforms assisting definitional clarity concerning extremism and related criminal offences.

19. States should ensure that national counter-terrorism legislation is limited to countering of terrorism as precisely defined in the provisions of international counter-terrorism instruments and be strictly guided by the principles of legality, necessity, and proportionality. The definition of terrorism in national legislation should be guided by the binding definition found in Security Council resolution 1566 (2004) supplemented by the Declaration on Measures to Eliminate International Terrorism and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, approved by the General Assembly in 1997. She also offers the Model Definition of Terrorism provided by the Special Rapporteur’s mandate to engage in constructive dialogue on national criminal definitions of terrorism. The Special Rapporteur considers that the definition of terrorism contained in Article 155 of the Criminal Code is too broad and fails to comply with the mentioned international standards.

Justice System, Courts, and Due Process

20. The Special Rapporteur recognizes and commends a high commitment to legal reform identified in all her meetings with national officials. The operationalization and delivery of these commitments is the challenge to hand for the government. The Ministry of Justice was highly articulate on its future agenda including revision of numerous key legislative enactments relevant to the Special Rapporteur’s mandate. The Ministry’s broad focus on access to justice and reforms includes the creation of *Madad* (legal support organisation), and if fully realized with adequate human and financial resources, will be valuable for the legal system. The Special Rapporteur welcomed the significant investments in technology by the Court system. Ensuring easy access to legal information, publishing all legal decisions digitally, normalizing technological usage including video conference in legal process, and placing administrative information online is a means to close the gap for meaningful access to justice for all citizens. Access to justice initiatives are welcomed by the Special Rapporteur. Maintenance of legal process and access to courts through the global pandemic is also an achievement for the Uzbek legal system.
21. The Special Rapporteur is cognizant that national security, terrorism and (violent) extremism proceedings have historically been plagued by a lack of openness and transparency. While the general constitutional rule provides for openness, court proceeding under Criminal Code provisions 155, 158, 159, 161, 244.1 and 244.2 extremism and national security related can be closed and inaccessible in whole or in part to the public and observers.¹¹ The Special Rapporteur is concerned that the exception is, in fact, the general norm in these cases. This is very troubling to the Special Rapporteur. Even in cases defined as implicating national security it is essential for trial to be open. This position has been affirmed consistently by the Human Rights Committee¹² and is strongly emphasized by the Special Rapporteur. Given the high number of proceedings initiated under these

⁹ A/HRC/31/65, para. 21

¹⁰ A/73/362 para. 25.

¹¹ Criminal Procedural Code, Article 19 (3) & Article 19(4) are of concern to her mandate.

¹² General Comment 32, paragraphs 25, 28-29.

provisions open access to the Court should be protected and enhanced. Furthermore, as judgements from the closed proceedings are not, in practice, made public the concerns of the Special Rapporteur are accentuated. She recommends complete review of the practice of closed proceedings. She also highlights concerns about the appointment of military judges to national security cases in which civilians are being prosecuted for criminal code offences.

22. Access to lawyers and the independence of lawyers is essential for fair trial, particularly so in national security proceedings.¹³ As the Committee Against Torture has stressed access to lawyers is essential to the prevention of torture, inhuman and degrading treatment.¹⁴ She finds that access to independent legal representation in national security cases remains limited, restricted, or ineffective.¹⁵ Currently, as a formal matter, all defendants including those charged with terrorism, extremism or national security offences are entitled to legal representation. However, the Special Rapporteur remains concerned at the quality and robustness of legal defence in such proceedings. Ensuring full access of lawyers to all relevant materials in proceeding involving national security offences is essential to protect fair trial, equality of arms and prevent miscarriages of justice.
23. In parallel, she finds evidence of sustained and endemic practices of torture, inhuman and degrading treatment pre-2016 during interrogation, pre-trial detention and accompanying prolonged incarceration.¹⁶ She is encouraged by the focus on torture prevention in current detention and interrogation practice, including the role of the Ombudsperson but believes the current system requires further strengthening and independence. OPACT ratification is an important step in this direction. The commitment of the President of Uzbekistan is significant in this regard. She believes that the strength and legitimacy of the legal system as a whole would be enhanced by fulsomely addressing accountability for pre-2016 torture practices. It would also function to demonstrate a meaningful commitment to torture prevention and accountability. She is concerned that significant numbers of persons remain incarcerated for national security offences who experienced torture, inhuman and degrading treatment during the course of arrest, interrogation, detention and/or imprisonment.¹⁷ She urges the establishment of a systematic and independent review procedure including for cases prosecuted under Criminal Code articles 155, 158, 159, 161, and 244.1 and 244.3 before 2016 with a view to ensuring accountability, redress and reparation to victims.
24. The role of expert evidence in criminal cases involving religious extremism or production, dissemination, or storage of religious materials is of concern to the Special Rapporteur. The Committee on Religious Affairs under the Cabinet of Ministers plays a central role in determining the substance of such evidence. All experts providing expertise are, in practice government-approved and security cleared. She is concerned that the use of this expertise may not be consistent with separation of powers in criminal procedures, undercut fair trial requirements, and undermine the equality of arms in extremism related cases. This is particularly problematic when expertise is *de facto* the primary source of external evidence in criminal proceedings. She notes how difficult it is in practice for a defendant, particularly those with few financial resources, to challenge the determination that a document, statement or group contains an extremist element or character.

Countering Terrorism Financing and Human Rights

25. The Special Rapporteur recognises the legitimate risk of terrorism financing. Her mandate has consistently underscored the need for effective, human rights and rule of law compliant responses to terrorism financing and has called on governments to ensure that countering the financing of terrorism (CFT) measures should not become a legitimizing basis for human rights abuses. She

¹³ Article 14 International Covenant on Civil and Political Rights, and the Basic Principles on the Role of Lawyers.

¹⁴ CAT/C/UZB/Co/5 para. 30 (a); United Nations Basic Principles on the Role of Lawyers

¹⁵ State authorities have acknowledged these challenges, Presidential Decree No. UP-5441 of 12 May 2018.

¹⁶ Numerous cases were brought directly to the Special Rapporteur's attention.

¹⁷ She highlights individual cases of concern: Murod Khasanboev (location prison 42, Zangiota) convicted under article 159, and who continues in the Special Rapporteur's view to suffer medical consequences from ill-treatment in custody (19 years); and Shamsuddin Giyazov (location colony settlement 46, Zangiota) detained a minor, sentenced to 20 years, 6 years plus additional sentencing of 17 years (2001); Bobur Obidjanovich Khatamov previously convicted under article under 244 in 2010 (location Koson prison).

pays particular attention to the manner in which CFT regulation negatively impacts civil society and may hinder the functioning and development of civic space.

26. Uzbekistan's existing AML/CFT framework follows from the criminalization of economic crime and terrorism financing in the Criminal Code (2001) and the adoption of Law No. 660-II "On Combating Money Laundering and Terrorist Financing" in 2004 (entered into force 2006 and periodically updated). In September 2018, the President established the Interdepartmental Commission on Counteracting the Legalization of Proceeds from Crime, Financing of Terrorism and Financing the Spread of Weapons of Mass Destruction, which appears to strengthen inter-agency AML/CFT responses. Relevant regulatory frameworks include Resolution 854 (2018) on "Regulations on the Procedure for the Interaction of Justice Bodies with Other Government Bodies, Local Governmental Bodies, and Law Enforcement Agencies to Identify Non-Governmental Non-Commercial Organizations that Violate the Law," establishing a system of inter-agency communications to monitor NGO-specific violations, including the receipt of funds from the illegal sources. This is augmented by Resolution 402 (2021) on "Additional Measures to Implement the Law 'On Combating Legalization of Proceeds from Criminal Activity, Financing of Terrorism and Financing the Proliferation of Weapons of Mass Destruction.'" The Special Rapporteur did not observe evidence of the concrete mainstreaming of human rights into the national AML/CFT strategy and framework, and officials seemed unfamiliar with the relevant international standards in this context.
27. Additionally, Article 7 of the 2018 Law on Combatting Extremism addresses financing of terrorism. In this context, the Special Rapporteur observes with concern that 'financing terrorism' is broadly defined and that asset seizure or suspension of financial transactions of legal entities could lead to a violation of significant rights, including privacy¹⁸ and due process and procedural rights.
28. Positively, on March 3, 2021, the President issued an Order on Additional Measures for State Support of Non-Governmental Non-Commercial Organizations (NNOs) Ensuring the Freedom of Their Activities, Protection of Rights and Legitimate Interests, which requires, *inter alia*, an increase in the total amount of foreign funding NGOs may receive on an annual basis; and collaboration between the Ministry of Justice, Supreme Court, and Prosecutor General's Office on drafting a law that envisions administrative liability for interference of state bodies and other officials into the legitimate work of NNOs. Further, on March 4, 2021, the President issued a decree approving the Concept on Development of Civil Society in 2021-2025 and the Road Map on Implementation of the Concept, envisioning improvements to the legal framework for civil society, partnerships between CSOs and government, and *inter alia* state support for CSOs' activities. These efforts are welcome. However, their impact on positively augmenting and enabling independent civil society—particularly in the countering terrorism and terrorism financing context, which is generally more vulnerable to governmental overreach and covert actions—are still to be demonstrated, and ongoing implementation of these commitments is recommended.
29. Uzbekistan has been a member of the Eurasian Group on Combating Money Laundering (EAG) since 2005.¹⁹ Mutual evaluation is in process and expected to take place in May 2022. Uzbekistan performed a national CFT risk assessment in 2019 with expert cooperation from specialized international organizations. The Special Rapporteur was informed that the risk assessment of non-governmental organizations and religious organizations found them to be of "higher risk" than other sectors of terrorist financing and that terrorist financing threat from the NGO sector was a government priority. Comparative global assessment has generally found the NGO sector to fall outside the high-risk category,²⁰ and the Special Rapporteur is troubled at this finding in this national context given the low terrorism and (violent)extremism threat assessment. She underlines the importance of risk assessments being undertaken in a high-quality evidence-based manner, including through direct consultation with a diverse range of NGOs, including independent civil society including community-based organizations, which are likely to have more salient information on and a more nuanced understanding of the actual risks of the complex and diverse

¹⁸ OSCE, Comment on the Law of Countering "Extremism" of the Republic of Uzbekistan (Dec 4. 2019).

¹⁹ And Associate Member FATF

²⁰ FATF 2015 R8 [best practices paper](#) affirms, based on a 14-country [2014 survey](#) that "the abuse of the NPO sector by terrorist entities is, in the context of the global NPO sector, a low-probability risk" (para. 16).

sector. She is concerned that the seemingly blanket assessment of all NGOs and religious organizations as “higher risk” is inconsistent with FATF recommendation 8.²¹ More broadly this approach to NPO/NGO’s highlights broader concerns about the constriction of civic space, undue burdens on the regulation of NPOs/NGO’s and the negative impact of counter-terrorism measures on civil society. As clarified in the interpretative note to FATF Recommendation 8, countries must first identify which *subset* of NGOs falls within the FATF NPO definition, and only then undertake CFT measures that are “risk-based,” “targeted,” “proportionate” and “effective” in light of the empirically founded, differentiated sub-sectoral risks.²² She notes in this regard that FATF recently concluded that “most countries are not yet conducting adequate risk assessments of their NPO sector and fewer are conducting risk-based outreach and monitoring.”²³

30. The Special Rapporteur believes that the national AML/CFT strategy must be adjusted to ensure a tailored approach consistent with the empirical realities of the sector and Uzbekistan’s international human rights and law obligations, particularly vis-à-vis civic space and religious minorities. She emphasizes that the Terrorist Financing Convention, Security Council Resolution 2462, and the FATF interpretative note to Recommendation 8 all reaffirm that any CFT measures must be implemented consistent with international law, including human rights law and humanitarian law. She is concerned that there appear to be few safeguards in place to protect the legitimate exercise of NPOs and to protect against unfounded repression of free expression or discrimination against groups or individuals, including religious minorities, in the CFT arena—all rights protected by Articles 2, 18, 19, 21, 22 of the ICCPR, among other instruments. She emphasizes the need for the recent positive executive measures, which are intended to protect the rights and fundamental freedoms of NPOs, to be squarely aligned with the national AML/CFT strategy and any CFT measures affecting NPOs therein.
31. As regards the broader CFT national risk assessment, the Special Rapporteur notes that the national risk assessment endorses controlled access to departmental databases for government agencies and the private sector. She wishes to highlight the significant risks of the violation of the right to privacy as protected by Article 17, ICCPR. In line with other recommendations concerning data privacy, the Special Rapporteur recommends an augmentation and implantation of data protection to apply to public CFT measures and any exchanges of information with private entities.
32. The Special Rapporteur acknowledges that significant capacity building efforts have been expended on CFT including in knowledge transfer on analysis, basic and enhanced investigation, financial disruption, and UN Security Council resolutions sanctions. It is unclear how substantially human rights obligations and practice were fully mainstreamed in these efforts. She recommends substantial augmentation in technical assistance to the Interdepartmental Commission on Counteracting the Legalization of Proceeds from Crime, Financing of Terrorism and Financing the Spread of Weapons of Mass Destruction concerning human rights obligations and the NPO sector in CFT, including through collaboration with the EAG, the Justice Ministry, multilateral entities and local civil society actors and the Office of the High Commission on Human Rights. She also offers the ongoing assistance of her office in this regard. The Special Rapporteur also emphasizes the critical need to develop concrete human rights benchmarking in the national AML/CFT strategy, with explicit reference to the international human rights law and other international law obligations that apply.

Accounting for Human Rights Violations in the Context of Countering Terrorism and Violent Extremism

33. The Special Rapporteur has unfailingly stressed the need for consistent, transparent, and diligent accountability for human rights violations occurring in the context of countering terrorism or (violent) extremism.
34. She had the opportunity to visit the Namangan, Andijan and Fergana regions and met with officials, judges, investigators, prosecutors, lawyers, and civil society organizations. The events in Andijan between 12 and 14 May 2005 and their aftermath were discussed. Government officials cited the

²¹ She notes that 2010 Mutual Evaluation Report (MER) found Uzbekistan only partially compliant with Recommendation 8.

²² FATF interpretative note, pp. 59-60.

²³ <https://www.fatf-gafi.org/media/fatf/documents/Unintended-Consequences.pdf>

counter-terrorism and extremism nature of the events and identified oversight undertaken to date including criminal and parliamentary proceedings. Civil society emphasised ongoing human rights and accountability lacunae. The Special Rapporteur is encouraged by statements from the Deputy Prosecutor General concerning justice, transparency and reckoning with difficult past events when serious human rights violations are implicated. The Special Rapporteur recalls the concluding recommendations of the Human Rights Committee in its 2020 periodic review for Uzbekistan, and the concluding recommendation of the Committee Against Torture where both Committees stressed the need for full, independent, and effective investigation into the mass killings and injuries by military and security services during these events.²⁴

35. The Special Rapporteur believes that emblematic cases involving allegation of serious human rights violations have long-term implications for the integrity of and confidence in national justice systems. Counter-terrorism related emblematic cases are particularly important to resolve precisely because of the pre-eminent role played by security, military, and policing bodies. The obligation to prevent recurrence of human rights violations is only delivered when justice is done and is seen to be done by particularly affected communities. Her mandate endorses the recommendation of the Human Rights Committee to carry out an independent, impartial, thorough, and effective investigation of the circumstances surrounding the Andijan events in 2005, which is both accountability and victim focused. She holds that in the spirit of broader openness and engagement with the past, an independent investigation would strengthen the national legal system, and is consistent with the international law requirements concerning guarantees of non-recurrence.

Prisons & Places of Pre-Trial Detention

36. The Special Rapporteur visited four places of detention and one pre-trial detention centre.²⁵ She is heartened by the discussions and spirit of co-operation that ultimately enabled these visits. Uzbekistan's prisons have been historically defined by penitentiary abuses; poor infrastructure and sanitation; allegations of widespread torture, inhuman and degrading treatment; the spread of preventable diseases, such as tuberculosis; concerns about food and water quality; and mental and physical suffering by prisoners. The Special Rapporteur affirms that in the prison facilities she was able to visit the overall quality of the facilities was adequate and confirms the commitment of the government to improve the general condition of these prisons so that they are consistent with international standards. There was evidence of good practice on family access (including family and conjugal visits), medical, dental, and psychological services, work opportunities for prisoners, and knowledge by the authorities of the rights of prisoners to complain about harm or ill-treatment actualized by the installation of complaint boxes under the power of the Ombudsman. It appears that that prison conditions in the prisons visited by the Special Rapporteur are improving. This is a positive human rights development. It should be further supported and is welcomed by the Special Rapporteur.
37. Nonetheless, there is room for improvement in the prison system to ensure its full compliance with international human rights standards and the Mandela Principles. The Special Rapporteur has received credible information from interlocutors about human rights violations related to prison conditions and treatment including inadequate facilities, poor sanitation, food quality, ill-treatment and endemic health issues. Sustained expenditures enabling modernization of aging facilities will assist in prison improvements, particularly preventing overcrowding and allowing individual prisoners adequate space in their sleeping areas including appropriate physical capacity to pray. Ongoing rights training for all prison officers is recommended. In addition, adequate sanitary facilities particularly appropriate toilets should be provided in all prisons, family visiting rooms should be expanded to accommodate larger families, and all prisoners should be able to spend their sentences close to their families. She recommends in accordance with international human rights loosening restrictions on keeping personal prayer books and religious materials for prisoners of faith, acceptance for greater religious expression in prisons, and more efficient administrative processing to enable prison visits for families. To strengthen prevention of torture in prisons,

²⁴ Recalling CCPR/C/UZB/CO/4 para. 10, CCPR/C/UZB/CO/5 para 16 and 17; Recalling CAT/C/UBZ/CO/4 para. 11, CAT/C/UBZ/CO/5 para 19 and 20. Noting also the recommendations of the former High Commissioner for Human Rights Zeid Ra'ad al-Husein during his visit in 2018.

²⁵ A proposed visit to Bukhara (Koroul Bazar) was deferred due to a Covid-19 outbreak and a visit to Jaslyk prison did not occur. The Special Rapporteur chose not to visit KIN-7 Tavaksay (Tashkent region) offered by the government.

medical personnel should receive human rights training, and uphold their own ethical medical standards. It is recommended that medical staff based in detention facilities report solely to the Ministry of Health. Pre-trial detention has been highlighted by various interlocutors as a context of concern for detention access by lawyers and family members, specifically for closed cases.

38. The Special Rapporteur highlights strong concerns about the length of sentences for certain criminal offences and the practices of extension of criminal sentences,²⁶ particularly for the prisoners most concerned by her mandate resulting from the imposition of prison infractions (extremism). She finds that such additional tariffs have been inconsistent with international law.

Non-Refoulement, Refugee, Asylum or Other Status

39. During her visit, the question of the risks faced by Afghan nationals who fled from or find themselves on the territory of Uzbekistan was brought to the attention of the Special Rapporteur. She understands that approximately 13, 019 Afghan citizens have arrived in Uzbekistan since January 2021 with valid short-term visas. She concurs with the views of the UNHCR that this group are in need of international protection and that valid concerns of non-refoulement are raised in the context of the security situation in Afghanistan. The Special Rapporteur is encouraged by government statements that these individuals will not be returned to Afghanistan.²⁷ She underscores the need to consistently respect the principle of non-refoulement and grant meaningfully accessible temporary stay arrangements to those Afghans who are in Uzbekistan and cannot return to Afghanistan, until the situation in their country changes to the extent that they can voluntarily return in safety and dignity or transfer with appropriate international protection to third countries. She affirms the need for clear and precise national standards and implementation to regularize the situation of this vulnerable group.
40. Uzbekistan remains the only country in the Commonwealth of Independent States (CIS) that is not a signatory to the 1951 Convention relating to the Status of Refugees (the 1951 Convention) and its 1967 Protocol. It has not acceded to the 1954 Convention on the Status of Stateless Persons nor the 1961 Convention on the Reduction of Statelessness. The Special Rapporteur notes that Uzbekistan supported a recommendation to ratify the 1951 Convention and its 1967 Protocol as well as the above-mentioned two Statelessness Conventions during the third cycle of the Universal Periodic Review at the Human Rights Council in 2018.²⁸ The Special Rapporteur recommends that the Government Accede to the 1951 Refugee Convention and its 1967 Protocol and establish national asylum procedures aligned with international standards. In parallel, the Special Rapporteur recommends that the Government accede to the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and bring national legislation and practices in line with these international standards. In the context of countering terrorism and ensuring protection for victims of terrorism the application of these international standards is essential. The Special Rapporteur is encouraged by closer re-engagement by the Government of Uzbekistan with UNHCR since 2018 and encourages meaningful collaboration with UNHCR on asylum related issues. She stresses that the United Nations High Commissioner for Human Rights has called on states to create safe pathways for Afghan refugees and migrants, and immediately halt deportation of Afghans seeking protection. In this respect, the Special Rapporteur recalls that in any request to expulse, return or extradite a person to another State where there are substantial grounds for believing that he or she would face the risk of being tortured, the principle of non-refoulement must be fully respected, as an absolute principle of international law and customary law.

Technology and counter-terrorism and extremism

41. The Special Rapporteur acknowledges greater use of technology in regulating counter-terrorism and extremism including databases, API/PNR and biometric data collection. She emphasizes that

²⁶ She notes individual cases of concern, including Mr Muminjon Umarov (can this case be cited safely, for him), convicted under 23 articles of the criminal code (current location Koson prison) previously held in pretrial incommunicado detention between 2005-2007 (location Koroul Bazar).

²⁷ <https://www.dw.com/en/afghan-refugees-in-uzbekistan-live-in-uncertainty-facing-deportation/a-59710250>

²⁸ She confirms that Uzbekistan hosts 13 mandate refugees and supports the views of UNCHR for regularization of their status, specifically naturalization.

consistent with international human rights law the use of high-risk technologies must protect human rights, including but not limited to the right to privacy. Data protection practices must be adequate and independent oversight and monitoring of data protection and the agencies engaged in counter-terrorism and (violent) extremism data collection, including the State Security Services, is recommended.

Reprisals and Cooperation

42. During her visit the Special Rapporteur was made aware of restrictions and challenges faced by independent civil society, including organizations and individuals working on human rights violations including religious belief and exercise, some aspects of which have been addressed in the preliminary findings presented here. She stresses that a healthy, open, critical, and engaged civil society is indispensable to preventing and countering the conditions conducive to violence, violent extremism, and terrorism.²⁹ She also observes civil society engagement on issues related to repatriation, gender issues (including trafficking in persons), and social and religious work by religious organizations.
43. As is her general practice, she stresses that reprisals or negative consequences for lawyers, civil society members, or persons in detention for meeting, speaking, and/or providing relevant information to the Special Rapporteur will not be accepted and constitute acts of intimidation and reprisal for cooperation with the United Nations. The Special Rapporteur consistently follows up with all her interlocutors to ensure no such practices or consequences have followed her visit.

Conclusion

44. The Special Rapporteur concludes her preliminary findings emphasizing a uniformly positive dialogue with Uzbekistan on all the issues addressed in this report. She highly commends the work of the Government on repatriation and reintegration. Since 2016 a new wave of serious and ambitious rule of law, economic, and social reforms have been initiated by the government led by the President. Uzbekistan is to be commended for its re-commitment to human rights and the rule of law.³⁰ That commitment was also seen in the Statement of the President to the 46th Session of the Human Rights Council and the support of the government to the UN call for action on human rights. She urges and supports the implementation and meaningful realization of these significant national reforms in practice to advance the human rights and dignity of all persons and the realization of the goal to ensure that fundamental human rights and freedoms shall remain central in reforming Uzbekistan.

²⁹ A/HRC/40/52 Report of the Special Rapporteur on promotion and protection of human rights and fundamental freedoms while countering terrorism on Impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders (2019)

³⁰ Statement of the President Shavkat Mirziyoyev at the 46th Session of the United Nations Human Rights Council <https://www.un.int/uzbekistan/news/speech-president-republic-uzbekistan-shavkat-mirziyoyev-46th-session-united-nations-human>