**UZBEKISTAN'S RESPONSE**

**TO THE CALL OF WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES IN VIEW OF A SPECIAL INITIATIVE MARKING
 THE 30TH ANNIVERSARY OF THE DECLARATION ON THE PROTECTION
OF ALL PERSONS FROM ENFORCED DISAPPEARANCE**

**INTRODUCTION**

1. On 5 November 2021, the Working Group on Enforced or Involuntary Disappearances has decided to launch a special initiative to mark the adoption of the Declaration, aiming at taking stock of the progress of international law on the subject, as well as identifying the obstacles encountered in the implementation of the Declaration and the ways in which the Working Group could support States in overcoming them, including through technical assistance and cooperation. The study will focus on the contribution of the Declaration to the progress of international and domestic law and jurisprudence, the obstacles encountered in its implementation, the relevant lessons learned and good practices.

2. We have the honour to congratulate you on the 30th anniversary of the Declaration on the Protection of All Persons from Enforced Disappearance, which has made a significant contribution to the progress of international and domestic law, and remains the main document in the fight against enforced disappearances.

3. The Government of Uzbekistan highly appreciates the opportunity to respond to this Call. This response of Uzbekistan has been prepared by the National Center of the Republic of Uzbekistan for Human Rights (NHRC) on the basis of information provided by the Supreme Court, the Prosecutor General's Office, the Ministry of Internal Affairs and the National Guard of the Republic of Uzbekistan.

4. Uzbekistan as a member of UN Human Rights Council maintains constructive interaction with the special mandate holder of the UN Human Rights Council and provides **the following information in response to the questionnaire.**

1. **Can you please share examples of how the Declaration on the Protection of All Persons from Enforced Disappearances (hereinafter, “the Declaration”) has contributed to the development of domestic legislation in your country (or countries in focus)? Can you kindly share examples of domestic provisions that were adopted in your country (or countries in focus) as a result of the implementation of the Declaration?**

5. Uzbekistan remains fully committed to the promotion and protection of human rights and has adopted a range of legislative, institutional and administrative measures to fulfil international obligations in the field of human rights.

6. Uzbekistan has joined 80 basic human rights documents, has become a party to 11 UN international treaties (7 – basic treaties and 4 – optional protocols) in the field of human rights. To date, Uzbekistan has not yet joined the Declaration on the Protection of All Persons from Enforced Disappearance, and is not a party to the International Convention for the Protection of All Persons from Enforced Disappearance.

7. Uzbekistan fulfils its obligations to submit national and periodic reports to treaty bodies in a timely fashion. Uzbekistan submitted 41 national reports to the chapter and treaty bodies on the fulfilment of its international obligations on human rights.

8. In order to implement the recommendations submitted by the United Nations human rights mechanisms, in December 2018, Uzbekistan modernized a National Mechanism for Reporting and Follow-up actions by strengthening the status of the National Centre for Human Rights of the Republic of Uzbekistan.

9. Uzbekistan attaches great importance to implementation of recommendations of the human rights mechanisms and is closely monitor this process. An important part of the system is the preparation and adoption of national action plans to implement the recommendations of the Charter of the United Nations and treaty bodies following the review of national reports.

10. The Constitution and legislation of the Republic of Uzbekistan guarantee the protection of all persons from enforced disappearance. Among the normative legal acts of national legislation regulating the provisions arising from the Declaration are:

- Constitution of the Republic of Uzbekistan (articles 13, 19, 25, 27, 28, 43, 44 and others);

-The Criminal Code (articles 135, 137, 138, 205, 206, 234, 235 and others);

-The Criminal Procedure Code (articles 18, 23, 95, 224, 226, 235, 248, 302, 304, 310, 362 and others);

- The Penal Enforcement Code (articles 5, 18, 45, 54, 55, 57, 173);

-The Law "On appeals of individuals and legal entities" (new edition of 2017);

- The Law "On operational investigative activities" (dated December 25, 2012);

- The Law "On the protection of victims, witnesses and other participants in criminal proceedings" (dated January 14, 2019);

- The Law "On combating trafficking in human beings" (new edition from 2020);

-The Law "On the Prosecutor's Office" (new edition of 2001);

-The Law "On detention in criminal proceedings" (2011);

- Decree of the President of the Republic of Uzbekistan "On measures to radically improve the procedure for working with the personnel of internal affairs bodies and the organization of their service" (29.11.2017 No. PP-3413);

- Decree of the President of the Republic of Uzbekistan "On additional measures to improve the system for identifying and preventing cases of torture" (26.06.2021, №PP-5163).

1. **Can you please indicate the status of the Declaration in the domestic legal order in your country (or countries in focus), i.e. with respect to ordinary legislation?**

11. Uzbekistan has formed its own model of implementation of international standards into national legislation and law enforcement practice, as well as national system for monitoring compliance with constitutional human rights and freedoms.

12. The Preamble of the Constitution of the Republic of Uzbekistan states the priority of universally recognized norms of international law.

13. The Law of the Republic of Uzbekistan "On International Treaties" in article 3 establishes that the international treaties of the Republic of Uzbekistan, along with generally recognized principles and norms of international law, are an integral part of the legal system of the Republic of Uzbekistan.

14. The Code of the Republic of Uzbekistan on Administrative Responsibility in article 9 defines that a person who has committed an administrative offense on a vessel flying the flag of the Republic of Uzbekistan or assigned to a port of the Republic of Uzbekistan and located in open air or water space outside the Republic of Uzbekistan is subject to administrative responsibility under this Code, unless otherwise provided by an international treaty of the Republic of Uzbekistan.

15. The Criminal Procedure Code of the Republic of Uzbekistan (The effect of criminal procedure legislation in time and space) stipulates that criminal proceedings are conducted in accordance with the legislation in force at the time of the inquiry, preliminary investigation and trial of the case, regardless of the place of commission of the crime, unless otherwise established by treaties and agreements concluded by the Republic of Uzbekistan with other States (article 3).

16. The provisions of the Declaration are applied through their implementation into the norms of national legislation.

1. **Can you please illustrate if the provisions of the Declaration can be invoked before domestic courts in your country (or countries in focus) and, if so, share examples of case law where domestic courts made reference to the Declaration in their verdicts (if possible, summarizing to which provisions of the Declaration reference was made and how they were interpreted)?**

## 17. Pursuant to the Law of the Republic of Uzbekistan "On international treaties", the rules of international law implemented in national legislation are applied in court decisions. However, the national legal system does not provide for the appeal of the provisions of the Declaration, in addition, the legislation does not define the direct application of the provisions of the Declaration by the courts. Considering the above, there are no such precedents in law enforcement judicial practice.

**4)** **Can you please illustrate how has the Declaration contributed to the development of international law on enforced disappearance?**

18. According to the Declaration, any act of enforced disappearance is a violation of international law, which guarantees, in particular, the right to recognition of the legal personality of the individual, the right to freedom and security of the individual and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It is also a violation of the right to life or poses a serious threat to this right.

19. The Declaration also provides for the right to use a rapid and effective means of judicial protection as a means of establishing the location or health status of persons deprived of liberty, as well as the right to unhindered access by national competent authorities to all places of detention, the compilation of centralized lists of all detained persons, the obligation to conduct a full investigation of all alleged cases of disappearance and the obligation to consider the cases of persons allegedly responsible for the commission of acts of enforced disappearance, in competent courts of deception, and not in special tribunals, in particular military courts.

20. The Declaration pays special attention to cases of disappearance of children, as well as the practice of abduction of children whose parents were subjected to enforced disappearance, or children born during the period of enforced disappearance of their mother. States must strive to find, identify and return these children to their families of origin.

21. Despite the adoption in 2006 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Declaration remains the main document in the fight against enforced disappearances, as it enshrines a set of norms that all Member States of the United Nations - without requiring ratification - are urged to apply at least in order to prevent and eliminate such practices.

**5) Has your State (or countries in focus) ratified or acceded to the International Convention on the Protection of All Persons from Enforced Disappearances? If your State (or countries in focus) has not yet ratified or acceded to the Convention, is there any pending project or initiative to do so?**

22. Uzbekistan has received several recommendations of the UN Human Rights Council on the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (101.15,101.16, 101.17).

23. The Concluding Observations (para. 30 (c)) of the UN Committee against Torture CAT/C/UZB/CO/5 (CAT 2020), Concluding Observations (para.11) of the UN Human Rights Committee (CCPR/C/UZB/CO/4 (CCPR 2015), Concluding Observations (para. 72) of the UN Committee on the Rights of the Child (CRC/C/UZB/CO/3-4 (CRC 2013) contain recommendations to the Government of Uzbekistan on ratification of the International Convention on Enforced Disappearances and bringing national legislation and practice in line with international standards in this area.

24. In order to implement the above recommendations, a working group of representatives of law enforcement agencies – the Prosecutor General's Office of the Republic of Uzbekistan, the Ministry of Internal Affairs of the Republic of Uzbekistan, as well as national human rights institutions - the Ombudsman Institute and the National Center of the Republic of Uzbekistan for Human Rights was created.

**6)** **Can you please illustrate how the Declaration has influenced international jurisprudence on enforced disappearance? In particular, can you share examples of judgments/verdicts/Views or decisions delivered by international courts or mechanisms where reference was made to the Declaration (if possible, summarizing to which provisions of the Declaration reference was made and how they were interpreted)?**

25. On November 6, 2020, the Working Group on Enforced or Involuntary Disappearances sent an appeal to the Government of Uzbekistan regarding allegations of enforced or involuntary disappearances that occurred in Uzbekistan against a citizen of Uzbekistan R. Saparov.

26. The Working Group made reference to the Declaration, which establishes that no State should practice, allow or tolerate enforced disappearances. In particular, the Working Group recalls that the Declaration establishes the necessary protection by the State, in particular articles 9, 10, 11 and 12, which relate to the rights to a prompt and effective remedy to determine the whereabouts of persons deprived of their liberty; access by competent national authorities to all places of detention; to be held in an officially recognized place of detention and to be brought to a judicial authority immediately after detention; to ensure that accurate information about the detention of persons and their place of detention is available to their family, lawyer or other persons with a legitimate interest; and to maintain official updated registers of all detainees in each place of detention. In addition, article 8 of the Declaration states that no State may expel, return (refouler) or extradite a person to another State if there are serious grounds to believe that he or she may be in danger of enforced disappearance.

27. The Government of Uzbekistan has taken into account the recommendations of the Working Group, which were considered when drafting the new version of the Criminal Code of the Republic of Uzbekistan.

**7)** **Can you kindly indicate the main obstacles – practical and legal – encountered by you/your country (or countries in focus)/ institution/organization in the implementation of the Declaration (if possible, making reference to specific provisions and concrete examples)?**

28. The application of the provisions of the Declaration takes place through their implementation into the norms of national legislation, that is, the current legislation does not determine the direct application of the provisions of the Declaration by the courts, and therefore, in law enforcement judicial practice, legal difficulties do not arise when applying the provisions of the Declaration implemented into domestic legislation.

**8) Can you kindly illustrate whether your country (or countries in focus) has previous experiences with regard to technical cooperation and assistance from Special Procedures and whether you think this could be an effective means to further disseminate and foster the implementation of the Declaration. What other kind of initiatives could be favoured?**

29. Uzbekistan seeks to further contribute to the development of cooperation with UN human rights mechanisms through active interaction with the Human Rights Council and its mechanism, processes and initiatives.

30. During the last five years Uzbekistan has its strengthened cooperation with the OHCHR and the UN HRC special procedures. the Special Rapporteur on freedom of religion or belief Ahmed Shaheed [[1]](#footnote-1) (October, 2017), Special Rapporteur on the independence of judges and lawyers Dr. Diego Garcia-Sayan[[2]](#footnote-2) (September, 2019), Special Rapporteur on the promotion and protection of human rights in the fight against terrorism, Fionnuala Ní Aoláin (November-December, 2021) visited Uzbekistan.

31. The Government of Uzbekistan welcomed the recommendations made by the special mandate holders and used them as a guide to strengthen the relevant systems. The country’s parliament adopted the “Road Maps” for the implementation of the recommendations of the Special Rapporteurs. Uzbekistan is committed to continuing the implementation of the recommendations and carrying out subsequent related activities.

32. Confirming its commitment to cooperate with the special procedures, Uzbekistan sent an invitation to the Special Rapporteur of the UN Human Rights Council on Torture to visit Uzbekistan in April 2022.

**9) Can you kindly illustrate any activity undertaken in your country (or countries in focus) to raise awareness and further disseminate the content of the Declaration? To your knowledge, has the Declaration been translated in any local language other than the six UN language? If so, could you please share a copy?**

33. In order to prevent torture and ill-treatment, by the Decree of the President of the Republic of Uzbekistan (June 26, 2021) approved additional measures to improve the system of detection and prevention of torture, and organized the training courses for employees engaged in operational investigative activities, investigation, inquiry, preliminary investigation, and penitentiary institutions.

34. NHRC together with the Ministry of Internal Affairs, the Prosecutor General's Office with the support of OSCE Project Coordinator in Uzbekistan and Danish Institute for Combating Torture (DIGNITY) the following training seminars have been organized on Nelson Mandela Rules, Bangkok Rules and Istanbul Protocol for the law enforcement bodies employees in 2020-2021.

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35. The Academy of the Ministry of Internal Affairs Information organized the trainings, seminars, conferences and round tables on the protection of all persons from enforced disappearance (see www.akadmvd.uz).

36. Pursuant to the Law of the Republic of Uzbekistan "On international treaties", international documents, to which the Republic of Uzbekistan has joined, are translated into Uzbek language. Taking into account the importance of the Declaration in the field of international law and Human Rights, the issue of translating this document into the Uzbek language is being considered.

**10) Can you kindly share information on existing training programs (directed both at authorities and at civil society organizations) in your country (or countries in focus) where the Declaration is analyzed and disseminated? Any information on the nature and frequency of such trainings is welcome.**

37. By the decision of the Cabinet of Ministers (No. 663 dated August 12, 2019), Human Rights courses were organized at the NHRC. To improve the qualifications of the heads of judicial and law enforcement agencies in the field of human rights, a special training module "Human dignity is the highest value" was developed. In 2020 - 2021, 40 online trainings with the participation of 9 international experts for more than 400 managers were held.

38. "International Convention for the Protection of All Persons from Enforced Disappearance" was included in the syllabus "International Standards of the Administration of Justice" of the Center for Advanced Training of Lawyers, "International law", "Human rights", "Criminal law", "Criminal procedure law", "General theory of Human Rights" of Tashkent State Law University and "International Law", "Protection of human rights and legal support in the activities of the Department of Internal Affairs", "International cooperation in the fight against crime" of the Academy of the Ministry of Internal Affairs, "Human rights" of the University of Public Security.

1. A/HRC/37/49Add/2 [↑](#footnote-ref-1)
2. A/HRC/44/XX/Add.1 [↑](#footnote-ref-2)