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KYRGYZSTAN: REFUGEES IN NEED OF A SAFE HAVEN

Introduction

Amnesty International is deeply concerned for the safety of hundreds of refugees from Uzbekistan who fled to Kyrgyzstan after security forces reportedly fired on thousands of mainly unarmed and peaceful demonstrators in the city of Andizhan, in Uzbekistan, on 13 May 2005.

Amnesty International is concerned that the Kyrgyz government is failing in its obligations adequately to ensure the rights of these refugees to international protection and safety. In particular, Amnesty International is concerned that the Kyrgyz authorities may not withstand the pressure they are under by the Uzbekistani authorities to extradite a large number of refugees to Uzbekistan. Despite official guarantees given to the United Nations High Commissioner for Refugees (UNHCR) by the acting President of Kyrgyzstan of temporary protection to the initial group of 541 refugees, on 9 June the authorities deported four refugees to Uzbekistan. Moreover, on 16 June the Prosecutor General's Office of Uzbekistan stated that it was seeking the extradition of 131 of the refugees whom it had "identified as direct participants of the acts of terrorism [in Andizhan]" and on 24 June the Prosecutor General of Kyrgyzstan reportedly asked that 103 refugees be removed from the camp and placed in detention. As of 28 June these refugees remained at the camp.

Amnesty International has been particularly concerned about the threat of forcible return of 29 refugees, who were transferred from the camp and taken into detention. On 21 June the UNHCR was apparently asked by the authorities of Kyrgyzstan to conduct refugee determination procedures for the 29 detained people in order to assess whether they were eligible for protection under its mandate. Yet on the following day, the Prosecutor General of Kyrgyzstan reportedly described the 29 refugees as "criminals" and indicated that they would be returned to Uzbekistan within a week. Following pressure from human rights activists and the international community he reportedly later declared that Kyrgyzstan would abide by its international obligations and that the 29 refugees would not be sent back to Uzbekistan until their refugee status determination had been completed.

Based on Amnesty International's monitoring of the past and current situation in Uzbekistan, the organization considers that there are well founded reasons to believe that anyone who fled Andizhan following the 13 May events risks being subjected to grave human rights violations and flagrant denial of justice, including cruel, inhuman and degrading treatment, incommunicado detention, torture and other ill-treatment, and unfair trials, if returned to Uzbekistan.

Some of the men may also face the death penalty. Amnesty International has documented in the past many cases of people who have been executed after unfair trials in Uzbekistan, including after being convicted on the basis of "confessions" allegedly extracted under torture. The death penalty has played an important role in the clampdown on "religious extremism" in Uzbekistan and dozens of alleged "Islamists" have been sentenced to death and executed without being granted the rights to effective assistance of counsel and to prepare a defence.

The forcible return of anyone to a country where they risk serious human rights violations, including torture and other ill-treatment, would be a flagrant violation of the Kyrgyz government's obligations under international human rights and refugee law and standards, including the 1951 Convention Relating to the Status of Refugees, the (UN) Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Covenant on Civil and Political Rights (ICCPR).

As UN Secretary-General Kofi Annan reminded the international community on 27 June 2005, the prohibition of torture is non-negotiable, and that includes an absolute ban on transferring anybody to another jurisdiction where there are reasonable grounds to believe that the person is at risk of torture.

Amnesty International remains deeply concerned for the safety of all refugees -- and in particular those being sought for extradition by Uzbekistan -- and calls on the international community to ensure as a matter of urgency that all persons recognized as refugees as well as any persons who, while not meeting the criteria of the Refugee Convention, would be at risk of serious violations of their human rights if returned to Uzbekistan, are provided with a durable solution to their plight, including resettlement in a third country.

Amnesty International has expressed grave concern that the principle of confidentiality in registration and asylum proceedings has not been respected, and that the identities of those seeking protection are known to the authorities in Uzbekistan, thus endangering the safety of those in the camp and their family members in Uzbekistan. Though in accordance with this principle the names of the persons in the camp should be kept confidential, disturbingly, lists of the persons in the camp, including their addresses in Uzbekistan, are believed to have been handed over to the Uzbekistani security services by Kyrgyz officials who had access to them. The lists have reportedly been used to put pressure on families in Andizhan of individual refugees.

Amnesty International has also been concerned about the undue pressure that the Uzbekistani authorities have been applying indirectly on the refugees to return "voluntarily". There have been harrowing scenes of refugees being put under pressure from their relatives, who have been bussed to the camp by the Uzbekistani authorities, to "voluntarily" return to Uzbekistan.

Uzbekistani media reports, which are one of the main sources of information in the border regions of Kyrgyzstan, have been describing the camp as a "terrorist" camp run by "dangerous criminals". Armed local people have reportedly entered the camp and threatened to force the refugees out of the camp if they do not return to Uzbekistan voluntarily. Concerns have also been expressed about the presence of Uzbekistani security forces outside the camp, and the infiltration of the camp by plainclothes Uzbekistani officers.

This report is based on interviews with refugees, representatives of non-governmental organizations, journalists, government officials and representatives of international organizations conducted by Amnesty International representatives in Kyrgyzstan between 30 May and 9 June 2005, as well as subsequent information received by Amnesty International.

Summary of the Andizhan Events

During the night of 12 to 13 May 2005, a group of unidentified armed men broke into the prison of the city of Andizhan, reportedly freeing hundreds of remand and convicted prisoners. The group then went on to occupy other buildings, including the regional administration building in the centre of Andizhan. The armed men took a number of people hostage, who were kept in the regional administration building and some were later used as human shields. A number of security force members were also killed. Throughout the day thousands of people gathered in the city's main square; many reportedly spoke out to demand justice and an end to poverty. There

were sporadic incidents of security forces reportedly firing indiscriminately into the crowds, killing and wounding demonstrators, most of whom were unarmed and peaceful. Gunfire was also allegedly exchanged between armed men and soldiers. Despite this, the demonstrators continued to stay in the square reportedly because initially they thought the governor of Andizhan was coming to address them, and then because they thought that President Islam Karimov would come. In the early evening, security forces were reported to have surrounded the crowd of thousands of protestors hemming them in with buses, armed personnel carriers and other barriers. According to eye-witnesses interviewed by Amnesty International, the security forces then allegedly opened fire indiscriminately and without warning into the crowd killing and wounding many people. Survivors, who fled from Andizhan to neighbouring Kyrgyzstan, have told journalists and Amnesty International representatives that security forces continued to shoot at people indiscriminately even as they were running for safety.

Amnesty International is gravely concerned at reports that hundreds of unarmed people -- men, women and children -- were killed and many were injured. Reportedly the wounded in hospitals were not allowed to be visited by their relatives. It was also reported that many of the wounded did not go to hospital for treatment out of fear of being detained for questioning.¹

The Uzbekistani authorities have denied that government troops used excessive force and that they killed civilians, including women and children. According to the General Prosecutor's Office on 20 June, 176 people were killed during armed clashes between troops and rebels in Andizhan, including 31 law enforcement officers and 79 alleged "terrorists", as well as passers-by shot reportedly by the insurgents. These official reports are in stark contrast to allegations by eye-witnesses that troops fired indiscriminately and without warning at the crowd of demonstrators gathered in the centre of Andizhan, and afterwards at fleeing demonstrators. There have also been allegations that some people were extrajudicially executed. Human rights and opposition political activists have tried to carry out house-to-house inquiries to establish the true number of people killed; however, the authorities have attempted to prevent them from doing this by arresting, harassing and threatening them.

It is believed that the events in Andizhan were triggered in part by the trial of 23 local entrepreneurs, who were charged under various articles of the Uzbekistani Criminal Code for their alleged involvement with an organization by the name of Akramia, which encourages Muslims to live according to Islamic principles and to donate portions of their income to help other Muslims in need. The authorities have also linked this organization to the banned Hizb-ut-Tahrir opposition Islamic party, categorized by Uzbekistan as a "terrorist" organization. They have also accused the Islamic Movement of Uzbekistan, IMU, (also known as the Islamic Movement of Turkestan) to have been involved in the events in Andizhan. In the months leading up to 13 May dozens of relatives and supporters of the 23 men, who deny any connection to the banned Islamic groups, held peaceful sit-down vigils outside the court building to protest the men's innocence and denounce the torture they allegedly suffered. In the last week, these numbers reportedly grew to about 1,000 protesters.

Amnesty International deplores the government's refusal to carry out an independent, international investigation into the events of 13 May, with the results made public and those responsible brought to justice. Although the Uzbekistani authorities have established a Parliamentary Commission of Inquiry, the members of this commission are all from pro-

¹ On 21 June the Uzbekistan embassy in Kyrgyzstan quoted the General Prosecutor's Office of Uzbekistan saying that 295 people had been wounded, including 62 "terrorists", 47 police officers, 35 soldiers and 18 civilians.

presidential parties or closely allied with the President. The involvement of some foreign diplomatic personnel in the monitoring of this inquiry does not fulfil the obligation of the government to establish an independent, impartial and thorough investigation into the incidents both leading up to and on 13 May.²

Crossing the border

Hundreds of people fled Andizhan in the aftermath of the violence and tried to make their way to Kyrgyzstan on foot, reportedly walking in several large groups throughout the night to reach the border.

The Uzbekistani authorities have repeatedly claimed that the majority of those who went to Kyrgyzstan did not do so of their own accord but that they were used as human shields by armed insurgents who forced groups of women and children and young men at gun point to follow them out of Andizhan. However, the refugees interviewed by Amnesty International representatives, including several women, who had crossed the border into Kyrgyzstan, insisted that they had not been coerced, but were following people whom they thought were leading them away from danger to safety.

According to Akyzbek Sharipov, the Head of the Suzak District National Security Service (*Sluzhba Natsionalnoi Bezopasnosti*, SNB) in Kyrgyzstan, who was interviewed by Amnesty International representatives, the Uzbekistani authorities had notified Kyrgyz Border guards on 13 May that 500 armed convicts had broken out of prison in Andizhan and were heading for the Kyrgyz border. Akyzbek Sharipov said that the Border Guards made preparations, but when the crowd arrived in the early morning they saw that these people were not armed prisoners. According to him, the border guards checked each person for weapons as they entered the country, and found none at point of entry.

Even though Kyrgyz border guards did not resort to force to stop those fleeing Andizhan from entering Kyrgyzstan, Amnesty International is gravely concerned at reports that Uzbekistani government forces shot at people as they were trying to cross the border. Refugees told Amnesty International representatives that troops opened fire without warning as they were approaching the border in the village of Teshik Tosh. According to eye-witness accounts, at least eight people were killed and many more wounded.

One of the women interviewed by Amnesty International representatives recounted that when they reached Teshik Tosh, the old men (in her group) said they should all go to Kyrgyzstan: they would not be shot at there. But they found the armoured personnel carriers waiting for them on the Uzbekistan side of the bridge. For her the shooting at the border was especially horrific, because they had all specially made white flags to wave to show they were peaceful. According to another eye-witness, some of the women took off their white or light-coloured headscarves and some of the men their shirts to use as flags. But, in her own words, there was still a hail of bullets. She lost hold of her children at Teshik Tosh. Her small son fell over and was under people who had been shot. She thought they were dead bodies. Her nephew, who was also in the same group, reportedly told her that he had seen a man pull her son out, but that the man was shot in the head as he went to the rescue of the boy.

² Reportedly diplomatic representatives from China, India, Iran, Kazakstan, Kyrgyzstan, Pakistan, the Russian Federation, Tajikistan and Turkmenistan are monitoring the progress of the investigation. The United States has declined the invitation to monitor. France has also been invited to participate, but to Amnesty International's knowledge, no diplomatic representative has so far attended any meetings.

Testimonies from different survivors appear to confirm that the men walked on the outside of the groups reportedly to protect the women and children and elderly from being in the first line of fire. Nevertheless, several of the casualties and possibly even fatalities were reported to have been women.

One of the men, who was wounded at Teshik Tosh and who only identified himself as a baker, explained that they left Andizhan at 7.00pm and made the 10-hour journey through back pathways, guided by people who knew the way. He saw soldiers at the river. The locals advised them to ford the river, but there were shots that hit his arm, another man's finger and killed two women, one of whom was pregnant. Local villagers emerged to protest. Women gave him a handkerchief to stench the flow of blood. He thought that eight villagers had been hit and two killed. Army doctors gave him immediate medical help in Kyrgyzstan.

Around 541 men, women and children, who had crossed into Kyrgyzstan -- most across the bridge in Teshik Tosh, others through the river -- in the early morning of 14 May, were settled by the Kyrgyz military as one group into a makeshift camp on so-called no-man's land in a gully just metres above the border with Uzbekistan. Eleven of the refugees were taken to Suzak Hospital, three with gunshot wounds.

The situation in the camps

First camp

According to UNHCR, as of 23 May, 491 refugees (including 85 women and 21 children) were living in a temporary camp at Barash in the Suzak district of Jalalabad region, some 150 metres from the border with Uzbekistan on disputed territory. They were part of the initial group of 541 refugees who arrived in Kyrgyzstan on 14 May. These 541 refugees were registered by the Kyrgyz authorities -- but not as asylum-seekers, given temporary identification cards and provided with blankets, food, water and medical help. There were concerns about the proximity of the camp to the border which had been heavily reinforced by Uzbekistani troops. The camp itself was located in a rift in the hillside out of sight from the border and guarded by at least 50 Ministry of Interior troops, who were supposed to guarantee the safety of the refugees. Kyrgyz border guards registered all visitors as they entered and left the camp. However, Amnesty International representatives learned from a source that Kyrgyz border guards were reportedly sharing information about visitors' identities with members of the Uzbekistani security forces.

There were concerns about poor sanitary conditions and overcrowding as the refugees were sharing 10 tents. Their movements were restricted; no one registered was allowed to leave the perimeter of the camp. It was also reported that of those 541 initially-registered refugees, 37 were Kyrgyz citizens of ethnic Uzbek origin who had been in Andizhan on 13 May on business. The latter were reportedly transferred from the camp to the city of Osh, where they were questioned by officers from the Kyrgyz SNB. According to some reports they were later released and allowed to go home. However, according to records seen by Amnesty International representatives, some Kyrgyz nationals appeared to be still registered at the camp at the beginning of June. Later reports also appeared to indicate that Kyrgyz nationals were among the refugees detained for questioning by the Kyrgyz SNB. On 20 June the General Prosecutor's Office of Uzbekistan accused 33 citizens of Kyrgyzstan of having participated in "acts of terrorism" in Andizhan and asked its counterpart in Kyrgyzstan to open a criminal case against them.

Because of serious concerns that the physical security of the refugees could not be guaranteed, UNHCR negotiated with local authorities to find a safer location for the camp away from the border; two suitable locations were turned down because of opposition by local officials, who claimed that the local population did not want the camp in their vicinity.

Second camp

At 9.30am on 4 June, the refugees finally arrived at a new camp location at Besh-Kana some 15 km outside Jalalabad on the main road to Bishkek. They were in a convoy of 12 buses accompanied by armed troops, most of whom were *spetsnaz* (special military forces). The move was effected under the direct authority of the Director of the Kyrgyz Migration Service, and monitored by UNHCR, who facilitated the move and continued to monitor the camp. However, Amnesty International was concerned by the heavy involvement of the armed forces which include Ministry of Interior, Border Guards and SNB troops in the running of the camp.

The new camp is located further from the Uzbek border than the previous campsite and is larger. Despite these improvements, however, according to local UNHCR staff, it does not meet the standards for a refugee camp. It is not large enough for the numbers accommodated there and has no direct access to water. It can therefore only be considered a temporary solution.

The camp is located at a distance from the nearest villages, hidden away from view by surrounding hills and accessible only via a dirt road which becomes impracticable after a heavy downpour of rain. The location affords little natural shelter to the inhabitants of the camp. There is a single checkpoint with a barrier on the dirt track which guards the entrance of the camp and to which all visitors must report. However, there is concern that this and the presence of Ministry of Interior troops on the hills surrounding the camp (one *Reuters*³ correspondent described “sniper nests” on the hilltops) may not be enough to deter officers from the Uzbekistani Ministry of National Security (Ministerstvo natsionalnoi bezopasnosti, MNB) or others from seeking and/or gaining access to the camp thereby compromising the physical safety of those in the camp. Indeed, according to UNHCR two Uzbekistani MNB officers found to be unlawfully in the camp were evicted on 6 June. According to a report from Osh Television, which Amnesty International representatives saw, Uzbekistani MNB officers crossed the border and searched the first camp at Barash shortly after the refugees had left for the new location. On 24 June UNHCR expressed concern that plainclothes Uzbekistani MNB officers had surrounded the camp at Besh-Kana.

Disturbingly, lists of all the refugees in the camp, including their addresses in Uzbekistan, which should be confidential, are also believed to have been handed over to the Uzbekistani security services by Kyrgyz officials who had access to them. It has not been possible to confirm who passed on this confidential information, but the lists are known to be in the possession of neighbourhood committees (*mahallas*) in Andizhan and to have been used to put pressure on families of individual refugees (see below).

The movement of those in the camp continues to be restricted with no one registered in the camp allowed to freely leave and re-enter the camp.

Access to the second camp for journalists and non-governmental organizations (NGOs) has been more restricted than access to the first camp at Barash. Amnesty International representatives who witnessed the arrival of the refugees at the second camp on 4 June were not allowed access to it. A promise made by Kyrgyz Migration officials that they would be allowed

³ *Reuters* 23 June 2005, Dmitry Solovyov, “Uzbek refugees prefer life with scorpions to home”.

in on Monday 6 June, also proved to be false: they were told to apply for an access permit through the Jalalabad city administration. When they enquired about the permits, city administration officials said they knew nothing about them. On 13 June an official from the Kyrgyz Ministry of Foreign Affairs announced that access to the camp for visitors would resume but would be restricted to two-hourly slots twice weekly on Tuesday and Friday mornings. Since then, NGOs and journalists have been able to visit the camp.

Recommendations:

Amnesty International is calling on the authorities of Kyrgyzstan:

- to ensure that the refugees are accommodated in conditions which guarantee their physical security and are provided with all necessities, including food, water, shelter, and sanitary and health facilities;
- to ensure that refugees are not subjected to restrictions on their movements other than those which are necessary and permissible under international human rights standards and are proportional and consistent with all other rights guaranteed under international human rights law including those set out in the International Covenant on Civil and Political rights and the International Covenant on Social, Economic and Cultural Rights;
- to take effective measures to maintain the civilian and humanitarian character of the running of the refugee camp;
- to prevent the infiltration of security elements from Uzbekistan in the camp and to ensure that no Uzbekistani security forces operate inside and around the camp;
- to investigate the breaches of the principle of confidentiality in registration and asylum proceedings through the disclosure of the identities of those seeking protection to authorities in Uzbekistan, thus endangering the safety of those in the camp and their family members in Uzbekistan.

Access to Asylum procedures

In the camp

According to representatives from UNHCR in Jalalabad, as of 7 June there were 461 refugees in the Besh-Kana camp. However, almost a month after the refugees first crossed the border into Kyrgyzstan, the Kyrgyz Migration Service had failed to initiate asylum procedures, in accordance with national law and international refugee standards, for those held in the camp or nearby hospital. This emerged after interviews -- conducted by Amnesty International's representatives with a number of people who fled, as well as with relevant authorities -- revealed that refugees had not yet been provided with an effective opportunity to submit a claim for asylum. Although some in the camp believed that a communal document apparently signed by all was an application to the Kyrgyz authorities for asylum, it appeared to have been only a form of registration in the camp. Moreover, those who were immediately taken to hospital after crossing the border had not been given the opportunity to register in the camp.

Under Kyrgyz law the authorities have six months to determine asylum claims. The registration cards issued to the refugees at the camp suggest that they must be repeatedly renewed. They were initially valid until 28 May then extended to 15 June, but without access to an asylum procedure it was not clear what their extension depended on.

On 21 June an official from the Kyrgyz Migration Service reportedly stated that individual interviews with the people in the camp had only just started and that the process could take between six months and a year. On 24 June a UNHCR statement said that refugee determination procedures were finally underway for over 400 refugees who remained in the camp. No indication was given as to how long this process would take. On 26 June 100 refugees had reportedly already been interviewed by the Kyrgyz authorities, monitored by UNHCR. UNHCR was said to be in the process of reviewing the decisions taken by the Kyrgyz Migration officials.

Eight people were said to have voluntarily returned to Uzbekistan from the first camp. According to UNHCR, the eight left the camp after having been briefed by UNHCR staff of their rights and the situation in Uzbekistan. Reportedly those who wanted to leave the camp had to sign a statement to the Kyrgyz authorities that they had not been coerced into leaving and were returning voluntarily.

Others may have left after being pressured by family members to return. An Amnesty International representative witnessed a woman leaving the first camp apparently not entirely of her own volition but feeling compelled to do so by her family.

On 9 June the Kyrgyz Ombudsman, Tursunbay Bakir uulu, responded in writing to appeals from Amnesty International members about fears for the safety of those seeking asylum, saying that he had met with all the Uzbekistanis who had crossed the border, and tried to prevent them being forcibly returned. He said he had explained to the Border Guards, the SNB and other officials their obligations under the Refugee Convention and other international law, and undertook to do his best to prevent human rights violations against refugees. Nevertheless, Amnesty International remains concerned that Kyrgyz authorities may not have the necessary political will, or resources, to ensure the physical safety of the refugees in the camp.

Outside the camp

Amnesty International is also concerned at the lack of access to asylum procedures for individuals or families who may have crossed the border in other places and/or at other times after 13-14 May in search of international protection.

According to reports, Uzbekistani nationals seeking asylum and protection -- outside of the initial group of over 500 -- have been denied entry to Kyrgyzstan or have been returned to Uzbekistan. At least 15 refugees were reportedly refused entry to Kyrgyzstan on 18 May and were returned to Uzbekistan, where they were handed over to Uzbekistani MNB officers. It has not been possible to establish whether these 15 were subsequently released or detained.

According to information received from human rights organizations in Kyrgyzstan, officials from the Border Guards of Kyrgyzstan stated that 86 refugees had been returned to Uzbekistan by 25 May. They had reportedly not been part of the initial group of 541 people who crossed into Kyrgyzstan. Instead, they arrived after 14 May and sought to join relatives already given refuge in the camp. Officials cited overcrowding and poor sanitation at the camp as the main reason for refusing entry to more Uzbekistani nationals seeking asylum.

Amnesty International representatives interviewed Uzbekistani nationals in Osh who had fled Andizhan after 13 May but had not crossed into Kyrgyzstan as part of the initial group of over

500. Several had tried to join the first refugee camp but had been turned away by Kyrgyz Interior Ministry troops. It was clear that they did not know how to access asylum procedures and that there was little or no information publicly available to explain the rights of asylum-seekers and how to lodge a claim in Osh or Jalalabad. Some were hoping that they could be admitted to the second camp as soon as it moved to its new location. All those interviewed, however, were afraid to approach Kyrgyz authorities outside the camp for fear of being detained and returned to Uzbekistan. Most of them had either participated in or witnessed the demonstrations in Andizhan and some had been wounded when government troops opened fire on the crowd in the centre of the city. They feared they would be tortured or otherwise ill-treated if returned to Andizhan.

Local human rights activists estimate that hundreds of people who fled Andizhan are hiding in Kyrgyzstan, either staying with relatives or acquaintances or living under assumed names with no proper registration, thus increasing their vulnerability.

Recommendations:

Amnesty International is calling on the authorities of Kyrgyzstan and UNHCR:

- to ensure that all persons seeking international protection get access to fair and transparent asylum procedures, with the right of appeal;
- to ensure that asylum procedures are initiated for all those who fled Uzbekistan following the events of 13 May 2005 and who wish to seek asylum, irrespective of whether they were initially registered in the camp;

Amnesty International is calling on the authorities of Kyrgyzstan:

- to ensure that all Uzbekistani nationals seeking international protection irrespective of whether they were initially registered in the camp are provided with all necessary assistance and the basic necessities of life including food, shelter, water, and sanitary and health facilities on the basis of non-discrimination;

Amnesty International is calling on the UNHCR:

- to ensure that up-to-date and detailed information is made available to Uzbekistani refugees regarding access to asylum procedures and their rights under the Refugee Convention;
- to ensure monitoring of voluntariness of returns so that no one is coerced or compelled to return to Uzbekistan in breach of the principle of non-refoulement.

Pressure on refugees to return to Uzbekistan

Pressure of Kyrgyz officials and locals on refugees

Several Kyrgyz officials have made public statements calling for the immediate return of Uzbek nationals who fled to Kyrgyzstan, refusing to acknowledge them as refugees. On 19 May, however, Acting President Kurmanbek Bakiev reportedly gave official guarantees to the UNHCR of temporary protection, promising not to return to Uzbekistan the initial group of 541 refugees, who fled Andizhan, until their status was determined.

However, there has been growing concern that the Kyrgyz authorities are giving in to ever increasing pressure from Uzbekistan to return people before their need for international protection is determined. The Uzbekistani authorities have publicly accused those who fled Andizhan to be members and supporters of *Akramia* and banned Islamic groups, such as *Hizb-ut-Tahrir* and IMU, and to have attempted to organize the violent uprising in Andizhan with a view to establishing an Islamic State in Uzbekistan. There are fears that under this pressure the Kyrgyz authorities may determine that some of those fleeing Andizhan are not recognized as refugees, especially the men, and may forcibly return them to Uzbekistan notwithstanding that they would risk being subjected to grave human rights violations, including torture and possible death penalty after unfair trials. On 22 June, for example, the Prosecutor General of Kyrgyzstan, Azimbek Beknazarov, reportedly described 29 of the refugees as "criminals". He was quoted by the *BBC* and *Reuters* as saying: "They need to be punished, their place is in prison. These are criminals, they killed people." Human rights groups have expressed their alarm at unofficial statements by other law enforcement officials that the presence of the refugees could lead to the destabilization of the political situation in Kyrgyzstan, especially in the run-up to presidential elections on 10 July.

The local population in the districts surrounding the camp is reportedly divided over the presence of the refugees. Although some, especially within the large ethnic Uzbek community, initially helped by providing food and provisions, human rights activists report a growing dissatisfaction over the presence of the refugees, whom some perceive as receiving humanitarian aid to the detriment of the local population, themselves in a difficult economic situation. Uzbekistani media is widely available in the Jalalabad region and is often the main source of information for the local population. The media in Uzbekistan have been describing the camp as a "terrorist" camp run by "dangerous criminals" and "Islamic militants" who are holding the women, children and some of the men as hostages. Through the media the Uzbekistani authorities have launched numerous and regular appeals for help in returning those in the camp.

Armed people have reportedly threatened to attack Uzbekistani refugees in the camp if they do not return to Uzbekistan. According to Kyrgyz human rights organizations, on 15 June around 70-80 inhabitants of the area around Besh-Kana entered the camp and threatened to eject the refugees from the camp by force and personally take them back to Uzbekistan if they did not return voluntarily. The group reportedly accused those in the camp of being "terrorists" and "criminals", and threatened that they would come back to the camp unless the refugees returned to Uzbekistan within three days. On the same day, the Office of the UN High Commissioner for Human Rights (OHCHR) issued a public statement expressing concern for the safety of the refugees following the incident.

Unlawful pressure of Uzbek state security forces on refugees and their families

Amnesty International has learned of reprisals against the local population in Andizhan, following the mass demonstration there on 13 May, and concerted pressure from the Uzbekistani authorities to make refugees return from Kyrgyzstan. There are also reports that Uzbekistani police are exerting pressure upon relatives in order to obtain the return of persons seeking international protection in Kyrgyzstan.

The pressure on the refugees to return to Uzbekistan has been mounting since the Kyrgyz authorities moved them to the new camp at Besh-Kana on 4 June. Representatives of Amnesty International witnessed five buses with Uzbekistani registration plates arriving at Besh-Kana on 5

June, each carrying around 30 relatives of the refugees in Uzbek national dress. They were told by a source who feared to be named, that the relatives on the bus were accompanied by officers of the Uzbekistan MNB who watched them as they tried to persuade the refugees to return with them to Uzbekistan. The relatives had reportedly been told that they faced arrest and detention if they did not bring their passports and 50,000 soms (approximately \$50) to their local residents' committees (*mahalla*) in Andizhan in preparation for the trip to Kyrgyzstan to persuade their family members to come home.

According to human rights activists, the buses -- provided and accompanied by the Uzbekistan MNB -- have become a regular daily occurrence at the Besh-Kana camp. Although Kyrgyz Ministry of Interior troops guarding the camp reportedly stopped some 80 relatives from entering the camp on 16 June, this has not happened as a rule. There is also concern that plainclothes MNB officers from Uzbekistan have allegedly posed as family members in order to gain access to the camp and try to remove people by force. Frequently distraught relatives themselves have attempted to physically pull refugees onto the waiting buses if their pleas have not succeeded in persuading the person to return voluntarily.

Amnesty International is aware of at least five refugees who have returned home after visits from relatives since the new camp was set up on 4 June. On 20 June the General Prosecutor's Office in Uzbekistan said that in total 30 refugees had voluntarily returned. At least one of those was reportedly detained as soon as he arrived back in Andizhan. One of the refugees in the camp told a Reuters correspondent on 23 June that his younger brother, who he said was mentally disabled, had given in to pressure from the MNB and had voluntarily returned to Andizhan.⁴ However, according to reports, he was detained almost straight away, contrary to the assertions by the authorities in Uzbekistan that none of those who return voluntarily will be detained. Amnesty International is greatly concerned for the safety of this young man as the organization has received allegations that some of those detained in relation to the events in Andizhan have been tortured and ill-treated while held in incommunicado detention, including being raped with a baton. Uzbekistani television has been broadcasting interviews with some of the returnees claiming that they were taken against their will to Kyrgyzstan and were pressured into staying in the refugee camp, as well as denying that the Uzbekistani authorities had exerted any pressure on them or their families.

Recommendations:

Amnesty International is calling on the authorities of Kyrgyzstan:

- to do everything in their power to ensure the safety and protection of those seeking refuge on its territory following the 13 May events in Andizhan, including from undue pressure from the Uzbekistani authorities;

Amnesty International is calling on the UNHCR:

- to ensure monitoring of voluntariness of returns to ensure, as much as possible, that no one is coerced or compelled to return to Uzbekistan in breach of the principle of *non-refoulement*;

Amnesty International is calling on the government of Uzbekistan:

⁴ *Reuters* 23 June 2005, Dmitry Solovyov, "Uzbek refugees prefer life with scorpions to home".

- to fully respect the civilian and humanitarian character of the refugee camp in Kyrgyzstan and refrain from any action that undermines the grant of refuge as a peaceful and humanitarian act.

Extradition Requests and Forcible Returns

Extradition request for 12 alleged former detainees from Andizhan prison

The General Prosecutor of Uzbekistan formally requested the extradition of 12 refugees under the terms of the 1994 Minsk Agreement⁵ at the beginning of June. Ortikboy Dzhabaralievich Akbarov, Abdushukur Abubakirovich Alimov, Shomsiddin Shukurullaevich Atamatov, Abdurakhmon Abdushutolipovich Bodirov, Odil Akhmadolievich Makhsadaliev, Musazhon Rasulovich Mirzaboev, Bakhtiar Adkhamovich Mukhtarov, Tursun Ibromkhimovich Nazarov, Nushonzhon Ismoilovich Nechmatov, Burkhoniddin Badirdinovich Nuritdinov, Farrukh Farkhadovich Rashidov, Yakub Toshboevich Toshboev -- who were seeking international protection in Kyrgyzstan -- are believed to be former detainees of Andizhan Prison, some of whom were among the 23 local entrepreneurs accused of "Islamic extremism" on trial in Andizhan. At the time UNHCR said it had received assurances from the Kyrgyz Government that their applications for registration and asylum would receive equal treatment to that of other refugees in the camp whose extradition was not sought by Uzbekistan.

Forcible return of four other refugees

On 9 June four refugees were forcibly returned to Uzbekistan. However, the four men, Dilshod Gadzhiev, Tavakal Gadzhiev, Abdubais (Gasani) Shakirov and Muhammad Kadirov, all Uzbekistani nationals, were not among the 12 sought for extradition by Uzbekistan at that time.

According to UNHCR the four men were transferred on 9 June by the Kyrgyz SNB from the refugee camp at Besh Kana to a detention centre in the city of Jalalabad, together with the group of 12 whose extradition the Prosecutor General of Uzbekistan had been seeking.

The UNHCR had reportedly agreed to this transfer on condition that its staff would have regular access to the men while they were in custody. However, the Kyrgyz SNB denied UNHCR staff access to the men for 24 hours, by which time Dilshod Gadzhiev, Tavakal Gadzhiev, Abdubais (Gasani) Shakirov and Muhammad Kadirov had been forcibly returned to Uzbekistan. It is believed that they were handed over to the Uzbekistan MNB.

An official at the Kyrgyz Ministry of Interior stated on 13 June that the four had returned voluntarily to Uzbekistan. They had reportedly signed letters to that effect. However, human rights organizations voiced their concern that these letters had been signed under duress.

Amnesty International strongly condemned the forcible return of the four men. They are feared to be at risk of grave human rights violations, including torture, unfair trial and possibly

⁵ The Minsk Agreements of the Commonwealth of Independent States, ratified by Kyrgyzstan, in particular Article 2, commit the authorities to guarantee to citizens of all Commonwealth of Independent States and stateless persons found within their territories civil, political, economic and cultural rights and liberties in accordance with generally recognized international norms on human rights, without discrimination. Thus this agreement requires that Kyrgyzstan respect and uphold the prohibition, under customary international law and international treaties to which it is a part, of sending a person to a state where they would be a risk of serious human rights violations, including torture. Source text in Russian: http://www.cis.minsk.by/russian/cis_doc4.htm

the death penalty. Despite concerted efforts by UN and other international agencies it has not been possible to establish their whereabouts since their forcible return to Uzbekistan.⁶

On 16 June representatives of the refugees at Besh-Kana camp sent public appeals to the UN Secretary-General Kofi Annan and to acting President of Kyrgyzstan, Kurmanbek Bakiev, expressing their dismay at the forcible returns of the four refugees and the continued detention of the other 12. The refugees alleged in their letter that Dilshod Gadzhiev, Tavakal Gadzhiev, Abdubais (Gasan) Shakirov and Muhammad Kadirov had been singled out by the authorities in Uzbekistan for their “frank” accounts to journalists about what happened in Andizhan on 13 May. They also complained that Kyrgyz security forces had been trying to persuade them to return to Uzbekistan ever since they arrived in Kyrgyzstan.

Extradition request for 131

On 16 June the Prosecutor General’s Office of Uzbekistan stated that it was seeking the extradition of 131 of the refugees whom it had reportedly “identified as direct participants of the acts of terrorism [in Andizhan]”. Shortly afterwards on the same day, 17 other refugees were reportedly removed from the camp by Kyrgyz SNB officers and taken to a detention centre in Osh. The group of 12 former detainees was reportedly also moved to the same detention centre in Osh.

On 21 June the UNHCR was apparently asked by the authorities of Kyrgyzstan to conduct refugee determination procedures for the 29 detained people in order to assess their situation. According to reports received by Amnesty International, however, the extradition orders for the 29 people had already been signed. They were therefore at imminent risk of forcible return to Uzbekistan, although the UNHCR had not yet completed the process of assessment.

On 22 June the Prosecutor General of Kyrgyzstan, Azimbek Beknazarov, reportedly described these 29 people seeking protection, as “criminals” and insisted that under bilateral agreements with Uzbekistan these people had to be returned to Uzbekistan. A UN statement of 22 June noted that a decision to return people who have sought international protection would contradict assurances given by the Kyrgyz authorities to UN Secretary-General Kofi Annan. In a joint public statement of the same day the UN High Commissioner for Human Rights, Louise Arbour, and the UN High Commissioner for Refugees, António Guterres, expressed their fears that the 29 refugees may be forcibly returned to Uzbekistan irrespective of whether or not they are refugees under international law.

The Prosecutor General of Kyrgyzstan, however, later reportedly agreed after he had talked to a delegation of prominent human rights activists and he declared that Kyrgyzstan would abide by its international obligations and that the 29 refugees would not be sent back to Uzbekistan until their refugee status determination had been completed. He reportedly also gave guarantees to the human rights activists that those not given refugee status would be given protection in Kyrgyzstan.

On 23 June the Kyrgyzstan Prosecutor General announced that he had requested that 103 persons be removed from the camp and be placed in detention. However, as of 28 June they were still believed to be in the camp.

⁶ The Assistant High Commissioner for Refugees, Kamel Morjane, stated on 27 June that no international entities had been allowed access to the four.

On 27 June the UN High Commissioner for Refugees urged the resettlement of Uzbekistani refugees to third countries.

Amnesty International considers that the forcible return of refugees to Uzbekistan would violate international human rights and refugee law as there are well founded reasons to believe that if returned they would be at risk of grave human rights violations, including torture, and flagrant denial of justice, and for some, possible execution after an unfair trial. Those reasonably suspected of committing crimes under national or international law should be tried in proceedings which meet international standards of fairness and do not result in the imposition of the death penalty either in Kyrgyzstan or in a third country where the person would receive durable protection.

Recommendations:

Amnesty International is calling on the authorities of Kyrgyzstan:

- to respect their obligations under customary international law and the principle of *non-refoulement*, as well as under the 1951 Refugee Convention, the ICCPR, and Article 3 of the Convention against Torture, which prohibit the return of a person to a country or territory where they may face serious human rights violations;
- to fully respect the right to seek and enjoy asylum and ensure that all those seeking international protection in Kyrgyzstan, including in particular the 131 refugees being sought for extradition by Uzbekistan, are provided protection in accordance with the Refugee Convention and UNHCR's mandate, including access to durable solutions;
- to ensure that all asylum applications are examined in a fair and transparent procedure that takes into account the risk of persecution or other human rights violations individual refugees risk facing if returned to Uzbekistan;

Amnesty International urges the international community:

- to provide, at the earliest possible, emergency resettlement places for all persons at imminent risk of *refoulement* to Uzbekistan, including the 29 persons in detention.

The pattern of widespread violations in Uzbekistan

Violations of human rights in the context of the “war on terror”

The pattern of widespread human rights violations in Uzbekistan, in particular in the name of the “war on terror”, has been documented by many human rights organizations, including Amnesty International, and has been the subject of concern of international human rights mechanisms and intergovernmental bodies. Amnesty International is concerned that the Uzbekistani authorities will use the events of 13 May 2005 to justify further clampdowns on dissent and freedom of expression in the name of the “war on terror”. Amnesty International is also concerned that those arrested, extradited and tried in connection with the Andizhan events are being and will be subjected to serious human rights violations, including torture and ill-treatment, unfair trial and for some, possibly the death penalty.

The Uzbekistani authorities have accused members and supporters of *Akramia* of attempting to organize the protests in Andizhan with a view to establishing an Islamic state in Uzbekistan. They have also linked the movement to the banned *Hizb-ut-Tahrir* opposition party,

which they categorize as a “terrorist” organization. The crime of “terrorism” carries the death penalty in Uzbekistan. Most of those sentenced to death for the 1999 bombings in Tashkent were executed, reportedly after unfair trials, having been charged with terrorism as well as premeditated murder. Considering the second periodic report of Uzbekistan in March this year, the Human Rights Committee expressed concern about the lack of definition of “terrorism” in Uzbekistani law and called on the government to ensure that its legislation on this matter be in conformity with its obligations under the ICCPR.

Since late 1997 Amnesty International has been disturbed by public statements by Uzbekistani officials which have been prejudicial in a manner which is inconsistent with the presumption of innocence of members and presumed members of independent Islamic congregations and their families. On numerous occasions the Uzbekistani authorities, including the President, Interior Minister and Prosecutor General, have called on people involved in “non-traditional” Islamic groups and activities to come forward and “admit their guilt”, threatening those who do not, and their families, with punishment. Such public statements have led to thousands of arbitrary arrests and have been prejudicial to the outcome of scores of trials of alleged members or supporters of *Hizb-ut-Tahrir*, the Islamic Movement of Uzbekistan, and others.

On 26 July 2004 a first group of 15 persons went on trial before the Supreme Court in Tashkent charged with “anti-state” offences, “terrorism” and membership of illegal religious groups in relation to a series of explosions and attacks on police checkpoints in Tashkent and the city of Bukhara which took place in March and April 2004. Although President Islam Karimov had pledged that the “terrorism trials” would be open and conform to international fair trial standards, the Procurator General published a letter the same day declaring all 15 accused guilty as charged, thereby violating their rights to the presumption of innocence. Attendance at the trial was by prior arrangement only and, as the majority of the relatives of the accused reportedly had not been informed of the start date of the trial, they were consequently not allowed into the courtroom. According to independent observers, the conviction of these 15 persons was based on their “confessions”. Although the defendants in this first trial did not raise allegations in court that their confessions had been extracted as a result of torture or other ill-treatment, and pleaded guilty and asked for forgiveness, this was not the case in most of the subsequent trials of those accused of “terrorism”. Most of over 100 defendants were not granted adequate access to their lawyer in pre-trial detention and several had been held incommunicado, sometimes for several months. All were presumed guilty before trial and the majority of them reportedly were not offered adequate time or resources to mount a defence.

Widespread torture and ill-treatment

Despite declared efforts by the authorities to remedy the problem of torture and ill-treatment in Uzbekistan, Amnesty International continues to receive numerous reports from different sources of routine torture and ill-treatment. Regrettably, to date, President Islam Karimov has failed to unequivocally and publicly condemn the use of torture and ill-treatment, although he previously promised to do so. At the European Bank of Reconstruction and Development’s (EBRD) annual general meeting in Tashkent in May 2003, President Karimov promised to publicly condemn torture and ill-treatment.

Public condemnation of torture and other ill-treatment by the highest authorities was the first of 22 recommendations by the Special Rapporteur on torture following his visit to

Uzbekistan in 2002, when he concluded that “torture or similar ill-treatment is systematic”.⁷ The implementation of these recommendations was reviewed in a report submitted to the 61st session of the Commission on Human Rights. Information from NGOs, including Amnesty International, indicated that many of the Special Rapporteur’s recommendations had not been implemented at all, and some had been given only partial effect.

The Human Rights Committee expressed its concern about allegations of widespread torture and ill-treatment in Uzbekistan in March 2005 and also elaborated recommendations regarding investigation of complaints, prosecution of perpetrators, regular inspections of places of detention, medical examinations of detainees, and the use of audio and video equipment in police stations and detention facilities.⁸

Death penalty following torture and unfair trials

Amnesty International has documented the cases of people who have been executed after unfair trials in Uzbekistan. Many of the convictions have been based on “confessions” allegedly extracted under torture. In addition, the corruption of officials has tainted the investigation, trial and appeal in such cases. Many prisoners under sentence of death whose cases have been brought to Amnesty International’s attention are alleged to have been victims of fabrication of evidence by the police and wrongly convicted on the basis of such evidence. Most suspects accused of capital offences are reportedly denied rights to access to effective assistance of counsel and to prepare a defence.

⁷At the European Bank of Reconstruction and Development’s (EBRD) annual general meeting in Tashkent in May 2003, President Karimov promised to publicly condemn torture and ill-treatment, but has failed to do so.

⁸ Human Rights Committee concluding observations are contained in UN Doc. CCPR/CO/83/UZB