

21 June 2008

Public

amnesty international

Uzbekistan

Submission to the UN

Universal Periodic Review

**Third session of the UPR Working Group of
the Human Rights Council**

December 2008



Executive summary

In this submission, Amnesty International provides information under sections C and D, as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*:¹

In section C, we describe concerns related to the failure to initiate an independent international investigation into mass killings committed in May 2005; the deterioration of freedom of expression and assembly, including the harassment and imprisonment of human rights defenders and journalists; persistent allegations of torture or other ill-treatment of detainees and prisoners and failure to consistently, effectively and systematically investigate such allegations; and human rights violations in the context of national security and the fight against terrorism.

In section D, Amnesty International makes a number of recommendations for action by the government in the areas of concern listed.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

Uzbekistan

Amnesty International submission to the UN Universal Periodic Review

Third session of the UPR Working Group, December 2008

C. Promotion and protection of human rights on the ground

Failure to initiate an international independent and impartial investigation

Amnesty International takes this opportunity to reiterate its concern that the authorities continue to refuse to hold an independent, international investigation into the May 2005 mass killings in Andizhan of hundreds of men, women and children, when security forces fired at peaceful demonstrators, most of them unarmed, who had gathered in the centre of the city.² The government continues to assert that two rounds of expert talks with representatives of the European Union (EU) in December 2006 and April 2007 have addressed all the relevant issues. However, Amnesty International considers that these talks did not meet the obligation to carry out an international investigation and cannot be a substitute for an effective, independent and impartial investigation. Amnesty International wrote to EU member states and senior officials in April 2008, ahead of a General Affairs and External Relations Council meeting to review EU-Uzbekistan relations, to urge them to remain firm on the sanctions regime imposed in 2005 in response to the lack of an international independent investigation into the killings.

Following the examination of Uzbekistan's third periodic report in November 2007, the UN Committee against Torture recommended that the authorities urgently "take effective measures to [...] institute a full, effective, impartial inquiry into the May 2005 events" and that "[in] accordance with the recommendations of the High Commissioner for Human Rights and others, [...] credible, independent experts conduct this inquiry".³ In 2005, the UN Special Rapporteur on torture, the Working Group on arbitrary detention, and the Special Representative on human rights defenders expressed their concern over allegations of serious human rights violations committed by the security forces in response to events in Andizhan and joined the call by the UN High Commissioner for Human Rights for an international independent and impartial investigation into these events. As a party to the International Covenant on Civil and Political Rights, the authorities of Uzbekistan are obliged, including under Article 2(3), to ensure an independent, impartial and thorough investigation into the events of May 2005. The Human Rights Committee noted that the government's failure to do so "could of itself give rise to a separate breach of the Covenant".⁴ In December 2005, the UN General Assembly adopted a resolution expressing regret at the government's decision to reject the repeated calls for an international investigation and calling on the government to implement fully the recommendations contained in the report of the mission by the UN High Commissioner for Human Rights, "most notably with respect to granting permission to the establishment of an international commission of inquiry into the events in Andijan".⁵

² For more information, please refer to Amnesty International's report *Uzbekistan – Lifting the siege on the truth about Andizhan*, AI Index: EUR 62/021/2005, September 2005, chapter 3, pp.31-35.

³ Conclusions and Recommendations by the Committee against Torture, CAT/C/UZB/CO/3, 26 February 2008.

⁴ Human Rights Committee General Comment 31, on Article 2 of the ICCPR, adopted on 29 March 2004, at paragraph 15 (CCPR/C/21/Rev.1/Add.13).

⁵ UN General Assembly Resolution A/RES/60/174, adopted 16 December 2005.

Restrictions on the right to freedom of expression and assembly: the situation of human rights defenders and independent journalists

Amnesty International is gravely concerned about the deterioration of freedom of expression and assembly in Uzbekistan, as well as the continued targeting of human rights defenders, civil society activists, political opposition activists and independent journalists. These repressive measures have created a climate of fear among civil society. At least a dozen human rights defenders remain in prison in cruel, inhuman and degrading conditions, having been convicted to long prison terms after unfair trials. Only some of the imprisoned human rights defenders were released in the first half of 2008, under the 2007 Presidential Amnesty, and their release was not unconditional. The human rights defenders who remain in prison have limited access to relatives and legal representatives, and there are reports that they have been tortured or otherwise ill-treated.

Other human rights activists and journalists, who have not been forced into exile, are routinely monitored by uniformed or plain-clothes law enforcement officers. Human rights defenders have been called in for questioning at their local police stations, placed under house arrest or otherwise prevented from attending meetings with foreign diplomats and delegations, or from taking part in peaceful demonstrations. Human rights defenders and journalists have reported being beaten and detained by law enforcement officers, or beaten by people suspected of working for the security services. Relatives also report being threatened and harassed by the security forces; some of them have been detained and jailed in order to put pressure on the human rights defenders. There are regular television programmes and articles in the national press denouncing independent journalists and the international networks they work for, and calling them traitors.

While welcoming a constructive dialogue with the government, the UN Special Representative on human rights defenders has repeatedly raised concerns about the deteriorating situation for human rights defenders, including by sending close to 50 individual communications, often together with other UN Special Procedures, such as the Special Rapporteur on torture and the Working Group on arbitrary detention.⁶ The Special Representative on human rights defenders has also repeatedly requested to undertake an official visit to the country. However, by July 2008 no such invitation had been forthcoming. Nor have invitations been extended to other Special Procedures, including to the Special Rapporteur on torture who, on his first visit to the country in 2002, had found that torture was widespread and systematic.

Torture or other ill-treatment

Amnesty International remains seriously concerned about persistent allegations of widespread torture and other ill-treatment of detainees and prisoners by law enforcement personnel. The relevant authorities have failed to effectively and systematically investigate such allegations. Reports of torture stem not only from men and women suspected of membership of banned Islamic groups or of having committed terrorist offences, but from all layers of civil society, including human rights activists, journalists and former - often high-profile - members of the government and security forces. Many of them routinely allege that they have been tortured or otherwise ill-treated in custody in order to extract a confession.

In November 2007, after examining Uzbekistan's third periodic report, the UN Committee against Torture urged the government to "apply a zero-tolerance approach to the continuing problem of torture and to the practice of impunity". The Committee urged the authorities to "publicly and unambiguously condemn practices of torture in all its forms" and reiterated its concern at the "numerous ongoing and consistent allegations concerning routine torture and other cruel, inhuman or degrading treatment or punishment." It regretted the "failure to conduct prompt and impartial investigations into such allegations".⁷

⁶ Most recently in the Annual Report of the Special Representative of the UN Secretary-General on the situation of human rights defenders, A/HRC/7/28/Add1., pps 392, 393.

⁷ Conclusions and Recommendations by the Committee against Torture, CAT/C/UZB/CO/3, 26 February 2008.

Human rights violation in the context of national security and the fight against terrorism

The Uzbekistani authorities continue to actively seek the extradition, in the name of national security and the fight against terrorism, of members or suspected members of banned Islamic movements or Islamist parties, such as Hizb-ut-Tahrir, or people suspected of involvement in the May 2005 Andizhan events, from neighbouring countries as well as the Russian Federation. Most of those forcibly returned to Uzbekistan are held in incommunicado detention, thereby increasing their risk of being tortured or otherwise ill-treated. In some cases, the Russian Federation has ignored decisions by the European Court of Human Rights to halt deportations of Uzbekistani asylum-seekers pending examinations of their applications by the court. Amnesty International has learned that in several cases the deported men were held in incommunicado detention and subjected to torture or other ill-treatment. In one case in 2008, a deported man was sentenced to 11 years' imprisonment after an unfair trial.

Russian officials have confirmed that Uzbekistani security forces have operated in the territory of the Russian Federation. In December 2007, for example, Russian human rights organizations received official confirmation that Uzbekistani security forces had detained an asylum-seeker in the Russian Federation and handed him over to their Russian counterparts. An interstate arrest warrant was only issued after his detention and reportedly backdated by the Uzbekistani authorities. Amnesty International has also received information that Uzbekistani security forces have operated in the territories of Kazakhstan and Kyrgyzstan and have detained or abducted asylum-seekers. Uzbekistani security forces have also exerted pressure on the families of people seeking asylum in neighbouring countries, sometimes paying for relatives to travel to Kazakhstan or Kyrgyzstan to convince the person in question to return "voluntarily".

In April 2008, the European Court of Human Rights ruled that the extradition of 12 refugees from Russia to Uzbekistan "would give rise to a violation of Article 3 [prohibition of torture] as they would face a serious risk of being subjected to torture or inhuman or degrading treatment there." The Court also stated that it was "not convinced by the Government's argument that they had an obligation under international law to cooperate in fighting terrorism and had a duty to extradite the applicants who were accused of terrorist activities, irrespective of a threat of ill-treatment in the receiving country" and reiterated that "even in these circumstances, the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victim's conduct." The Court also was "not persuaded that the assurances from the Uzbek authorities offered a reliable guarantee against the risk of ill-treatment" in this case.⁸ The 12 Uzbek men had been sought for their alleged participation in the Andizhan events.

D. Achievements, best practice, challenges and constraints

In March 2008, a spokesperson for the International Committee of the Red Cross (ICRC) confirmed that an agreement had been reached with the government for the ICRC to resume prison visits under its mandate, for a trial period of six months. Amnesty International hopes that the ICRC is granted unfettered access to detention facilities as requested and that visits will continue beyond the trial period. Access by the ICRC to detention facilities in Uzbekistan had been a key demand by the UN, including in the 2005 General Assembly resolution, and by the EU, including as a benchmark in successive GAERC Conclusions relating to the EU sanctions regime on Uzbekistan.

A new law adopted by the Senate at the end of June 2007 amended the criminal procedural and criminal executive codes by replacing the death penalty with life or long-term imprisonment. The law came into effect on 1 January 2008, marking the formal abolition of the death penalty in Uzbekistan, a measure which Amnesty International welcomes. However, six months later the authorities have still not published statistics on the death penalty for previous years, including the number of sentences, executions and commutations.

⁸ *Ismoilov and Others VS Russia* (Application no. 2947/06), European Court of Human Rights Judgment, Strasbourg, 24 April 2008.

The number of death row prisoners who had their sentences commuted to life imprisonment upon abolition of the death penalty has also not been published. As of July 2008, there has been no progress on providing relatives with information about burial sites of executed prisoners.

Amnesty International calls on the government to:

Ratification of human rights standards and cooperation with the UN

Ratify all outstanding human rights treaties, in particular the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, the Optional Protocol to the Convention against Torture, and the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol;

Ratify the Rome Statute of the International Criminal Court and enact implementing legislation;

Issue a standing invitation to the Special Procedures of the UN Human Rights Council;

Andizhan events

Initiate a thorough, independent and impartial international investigation into the circumstances of the events in Andizhan on 12-13 May 2005, including in accordance with Uzbekistan's obligations under the International Covenant on Civil and Political Rights;

Freedom of expression and assembly

Release immediately and unconditionally all prisoners of conscience;

Investigate all reports of assaults on and harassment of human rights defenders and to bring to justice those responsible;

Ensure that everyone, including human rights defenders, can peacefully exercise their right to freedom of expression in conformity with Uzbekistan's obligations under the International Covenant on Civil and Political Rights;

Torture or other ill-treatment

Ensure that all trials, including those of people charged in connection with the Andizhan events or terrorism, scrupulously uphold international standards for fair trial;

Ensure that no statement obtained as a result of torture or other ill-treatment is used as evidence in trial proceedings, except as evidence against a person accused of torture or other ill-treatment;

Ensure that all people deprived of their liberty are informed promptly of the reasons for their detention, any charges against them, and allowed prompt and regular access to a lawyer of their choice, as well as to their relatives and an independent medical practitioner;

Condemn the use of torture and other ill-treatment and ensure prompt, thorough, independent and impartial investigations into all complaints of torture or other ill-treatment;

Confirm that recently introduced *habeas corpus* guarantees extend to all forms of detention and cover judicial sanction of search warrants or surveillance operations; and that court procedures to determine judicial sanction of arrest are transparent and in conformity with international fair trial standards;

Extradition of terrorism suspects

Ensure that all trials, including of people forcibly returned to Uzbekistan, scrupulously observe international standards for fair trial;

Ensure that the whereabouts of those returned are promptly disclosed and that they are allowed prompt and regular access to a lawyer of their choice, as well as to their relatives and an independent medical practitioner;

Grant the ICRC immediate access to those detained and imprisoned;

The death penalty

Reveal the burial site of executed prisoners to relatives;

Publish statistics on the past use of the death penalty.

Appendix: Amnesty International documents for further reference⁹

Uzbekistan: Lifting the siege on the truth about Andizhan, September 2005, AI Index: EUR 62/021/2005

Uzbekistan: Andizhan one year on - the victims must not be forgotten, 11 May 2006, AI Index: EUR 62/011/2006

Uzbekistan: Central Asia - Summary of human rights concerns, January 2006-March 2007, March 2007, AI Index: EUR 04/001/2007

Uzbekistan: Crackdown on human rights defenders: Secret trials and torture in the 'information age', March 2007, AI Index: EUR 62/002/2007

EU-Uzbekistan: Two years and no progress on human rights, 13 May 2007, AI Index: EUR 62/005/2007

Uzbekistan: Ongoing Health Concern: Iskandar Khudaiberganov, 15 November 2007, AI Index: EUR 62/006/2007

Uzbekistan: The government should ensure the concrete and effective implementation of the recommendations of the UN Committee against Torture as a matter of priority, 7 December 2007, AI Index: EUR 62/008/2007

Uzbekistan: Central Asia: Summary of Human Rights Concerns: March 2007 - March 2008, 9 April 2008, AI Index: EUR 04/001/2008

⁹ All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/europe-and-central-asia/eurasia/uzbekistan>