



UZBEKISTAN AND THE EBRD: PROGRESS REPORT ON THE HUMAN RIGHTS BENCHMARKS

Human Rights Watch Briefing Paper

March 23, 2004

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SUMMARY

In March 2003, the European Bank for Reconstruction and Development (EBRD) adopted a new country strategy for Uzbekistan, less than two months before it held its annual meeting in Tashkent, the Uzbek capital. In its strategy, the EBRD expressed “serious concern” over the human rights situation in Uzbekistan, citing “[s]ystematic violations of the freedom of religion, expression, association and assembly,” and problems of “arbitrary arrests and torture of detainees.”¹ To address these and other concerns the Bank adopted a series of benchmarks for the Uzbek government to fulfill, making continued investment in Uzbekistan contingent on satisfactory progress in these areas and setting a one-year deadline for compliance. Three of the benchmarks pertain specifically to human rights: (1) greater political openness and freedom of the media; (2) registration and free functioning of independent civil society groups; and (3) implementation of the recommendations issued by the United Nations Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment (U.N. Special Rapporteur on torture), Theo van Boven, following his country visit to Uzbekistan in November-December 2002.

A broad campaign launched in 2002 by Human Rights Watch and over fifty partner nongovernmental organizations (NGOs) urged the EBRD to use the leverage provided by the May 2003 annual meeting to press for concrete progress in human rights in advance of it. While the Bank did not attach the holding of the annual meeting to improvements in human rights, the approach the Bank took in the country strategy was significant in that it made clear that the Bank expects reforms in exchange for its engagement with the government. An important statement regarding Uzbekistan was also made by EBRD President Jean Lemierre, who in his press conference at the conclusion of the May 2002 annual meeting in Bucharest made clear that holding the annual meeting in Tashkent was “not an endorsement” of the Uzbek government’s human rights record, but rather “an incentive to make progress.”²

One year after the adoption of the country strategy, it is clear that the benchmarks did not trigger the necessary reforms. This failure is attributable, first and foremost, to the Uzbek government’s flagrant disregard for human rights and democracy, an attitude exhibited even during the EBRD annual meeting, when police detained or placed under house arrest human rights defenders to prevent them from attending public

¹ See EBRD’s Uzbekistan Country Strategy Overview, [online] <http://www.ebrd.com/about/strategy/country/uzbe/main.htm> (retrieved March 4, 2004). The full statement reads: “However, there are serious concerns regarding development of genuine multi-party democracy and pluralistic society and the situation with the rule of law and respect for human rights remains difficult. The overall political environment in Uzbekistan is not conducive to criticism of Government policies. The executive power is not sufficiently balanced by the legislature or judiciary. The judiciary is weak and it does not contribute to fighting pervasive corruption. Systematic violations of the freedom of religion, expression, association and assembly have been documented by human rights monitors. An area of major concern is arbitrary arrests and torture of detainees in order to obtain confessions or incriminating statements.”

² Transcript from press briefing, European Bank for Reconstruction and Development, Annual Meeting of the Board of Governors, President’s press conference, May 20, 2002.

demonstrations, restricted media coverage of the event, and harassed and intimidated civil society activists participating in the meeting.

In Uzbekistan, opposition political parties and independent civil society groups cannot function without fear of interference, harassment, confiscation of materials, and detention and ill-treatment. The government continues to harass human rights defenders, has not registered independent political parties or human rights groups, and has imposed additional, more burdensome registration requirements on international NGOs. Informal censorship of the media persists. Finally, Uzbekistan has not made substantial progress on eliminating the systematic practice of torture in Uzbekistan.

The EBRD must also bear some responsibility for the failure of the benchmarks to trigger reforms, as it rejected pressuring the Uzbek government, through public engagement, as a tool for pressing it to meet the benchmarks. Since the publication of the country strategy and the annual meeting in Tashkent, the EBRD has, to our knowledge, not made a single public statement reaffirming its reform demands, evaluating Uzbek government progress, encouraging the government to take the steps necessary to meet the benchmarks, or even commenting on the significance of the benchmarks for further engagement with the Uzbek government.

Finally, for any leverage exercised by a multilateral body to be effective, the individual governments affiliated with it must be committed to making the established calls an integral part of their bilateral relations with the target government. It is far from clear whether the EBRD's shareholder governments took this step.

The Uzbek government's failure to make credible progress in meeting the benchmarks must carry real consequences. Human Rights Watch recommends that the EBRD suspend all public sector lending to the Uzbek government until such time as the government demonstrates a genuine willingness and makes substantial, measurable progress toward meeting the benchmarks. Exceptions could be made for projects that directly affect the health, education, and well-being of the general population. Projects falling into these categories, however, should be closely monitored to ensure that they serve their intended purpose.

At the same time, it is imperative that the Bank continue to use the benchmarks as policy tools for reform. We firmly believe that if properly supported by resources and political will, these benchmarks have a real potential to trigger human rights reforms in Uzbekistan. The EBRD should make the most of its political mandate and use the benchmarks to press for tangible reforms. It should ensure that a coherent system of sustained monitoring of Uzbekistan's progress in meeting the benchmarks is set up, and publicly call for change.

At the end of the country strategy period, in March 2005, the EBRD should revisit Uzbekistan's progress; if the government meets the benchmarks, the Bank should reconsider engagement with the public sector. If the government again fails to implement the necessary reforms, the Bank should seriously consider putting a halt to all

lending to Uzbekistan, again with a narrowly-drawn and closely-monitored exception for essential services to the general population.

In July and November 2003, Human Rights Watch published fact sheets providing updates on human rights developments in each of the three benchmark areas.³ The present briefing paper summarizes the Uzbek government's performance since the publication of the March 2003 country strategy, providing detail first and foremost on developments since November 2003.

RECOMMENDATIONS

To the EBRD:

- Suspend any further investment in the public sector in Uzbekistan until such time as the government demonstrates a genuine willingness and makes substantial, measurable progress toward meeting the human rights benchmarks. Exceptions made for projects that directly affect the health, education, and well-being of the general population should be closely monitored to ensure that they serve their intended purpose. The EBRD should also inform the World Bank, the Asian Development Bank, the International Monetary Fund, and other international financial institutions and bilateral donors about its decision.
- Maximize the utility of the benchmarks by articulating the specific steps the Uzbek government would need to take in each area in order to be considered in compliance with the respective goals;
- In partnership with other actors of the international community, including the U.N. and the Organization for Security and Cooperation in Europe (OSCE), and in close consultation with civil society, set up a coherent system of sustained monitoring of Uzbekistan's progress in meeting the benchmarks;
- Issue periodic public statements to reaffirm reform demands, and actively engage partner institutions and civil society groups in mounting pressure on the Uzbek government to implement the necessary reforms.

To the Uzbek Government:

Make tangible progress in meeting the benchmarks set by the EBRD. In particular, the government should:

³ See: "Fact Sheet: EBRD Annual Meeting—Tashkent and After" June 2003 [online], <http://hrw.org/press/2003/07/ebrd-factsheet.htm> (retrieved March 4, 2004), and "Fact Sheet: Human Rights Developments in Uzbekistan from July to October 2003: Monitoring of the EBRD Human Rights Benchmarks," November 2003 [online], <http://hrw.org/campaigns/uzbekistan/uzbek-factsheet-1103.htm> (retrieved March 4, 2004).

- Register independent human rights groups, including the Human Rights Society of Uzbekistan, Mazlum, the Committee of Legal Assistance to Prisoners, Mothers against the Death Penalty and Torture, and the Initiative Group of Independent Human Rights Defenders, and lift unjustified restrictions on the operation of civil society groups, including those affecting international groups;
- Release arbitrarily detained human rights defenders such as Ruslan Sharipov, and cease any further arrest and harassment of human rights defenders, including the legal proceedings against Elena Urlaeva;
- Register opposition political parties such as Birlik (Unity) and Erk (Freedom), and cease any harassment against opposition political activists;
- Expedite the process of implementation of the recommendations of the U.N. Special Rapporteur on torture, in particular introduction of habeas corpus (judicial review of detention), and thorough and impartial investigations into claims of torture or ill-treatment, with particular attention to cases that resulted in death; make the results of these investigations public and hold accountable those found responsible for abuse;
- Ensure genuine media freedom, including by allowing newspapers closed since spring 2002, when censorship was officially lifted, to reopen; ending the practice of summoning newspaper editors to the government offices to instruct them what articles they should allow to be printed; investigating attacks on journalists and bringing to justice those found responsible; and ending the use of registration and tax laws to impede the operation of the media.

To the International Community:

- Other actors of the international community, in particular key EBRD shareholder governments such as the United States, member states of the European Union (E.U.), and Japan, should make the benchmarks an integral part of their bilateral relations with the Uzbek government and use every opportunity to actively advance progress in these areas; governments with permanent representations in Tashkent carry a particular responsibility in this regard;
- Intergovernmental bodies such as the E.U., the OSCE, and the U.N. should use every opportunity to help advance the EBRD benchmarks and send a coordinated message about needed reforms in Uzbekistan;
- Other international financial institutions such as the World Bank, the Asian Development Bank, and the International Monetary Fund should lend support to the EBRD by, at the very least, ensuring that their own lending and investment policies do not undermine the EBRD's efforts to promote human rights and democracy in Uzbekistan. Ideally, these institutions should adopt an analogous approach, recognizing the interconnectedness of political and economic reform.

AN ASSESSMENT OF PROGRESS ON THE BENCHMARKS

Benchmark No. 1: Greater Political Openness and Freedom of the Media

Introduction

Since independence from the Soviet Union in 1991, Uzbekistan has functioned essentially as a single-party state, with the state controlling most aspects of political life. The last presidential election in which a genuinely independent opposition candidate challenged President Islam Karimov was in 1992, when Mohammed Solih, leader of the opposition party Erk ran against him and subsequently suffered severe persecution, forcing him to flee the country.⁴ Elections since then have fallen dramatically short of international standards.⁵ Today there are five registered political parties in Uzbekistan. However, none of these constitutes real political opposition to the Karimov regime. All five have publicly declared their support for the incumbent president and his policies, and President Karimov has likewise publicly declared his support for them.

In the last year, the government of Uzbekistan has taken no positive steps to meet the benchmark requiring it to facilitate greater political openness and freedom of the media. It lifted the official prepublication censorship regime on May 7, 2002, raising hopes that media would develop into a freely-functioning forum for open dialogue. Instead, the government has continued its monopoly on political power and has resisted the opening of any political space for the opposition or for critical viewpoints. Media in Uzbekistan still operate under tight government restrictions and an unofficial censorship regime in which critical ideas are excised from publication, and journalists are pressured not to write critically. No independent local media outlets exist.

Since its last update on the Uzbek government's lack of progress in meeting the EBRD benchmarks, Human Rights Watch has documented further cases of harassment of the political opposition and restrictions on media freedom that confirm that the government has not met this benchmark or made any progress toward fulfilling it.

Restrictions on Political Opposition

The government did not register any independent political parties in the past year, nor did it take any steps to allow for the peaceful operation of opposition political parties, despite the upcoming parliamentary elections scheduled for December 26, 2004. This

⁴ Official results gave Solih 12 percent of the vote.

⁵ The OSCE refused to send observers to the 1999 parliamentary elections because they were neither free nor fair. Instead, they featured five pro-government parties that voiced no disagreement with government policies; even President Karimov admitted that he could not tell the difference between them. The sole candidate in the 2000 presidential elections permitted to contest the vote was a public supporter of the president's policies and leadership, and was quoted during the campaign as stating that he intended to vote for the incumbent, President Karimov. On January 27 2002, President Karimov had his term in office extended until 2007 through a referendum that once again made a mockery of the country's democratic process.

highlights the Uzbek government's continuing unwillingness to allow for the political competition essential to the development of democratic institutions.

Registration-related Problems

On January 5, the government rejected a second application by Birlik, a major political opposition group, for official registration as a political party. The party had submitted its first registration application on August 25, 2003 but received an official rejection from the Ministry of Justice on September 26.⁶ The group attempted to address the problems in their application cited in the ministry's rejection and resubmitted an application on November 24, including a list of signatures from approximately 6,000 party members. The January 5 rejection cited Birlik's lack of members in the Autonomous Republic of Karakalpakstan, a flawed article in its by-laws, and minor technical problems as reasons for the rejection, all of which Birlik refuted.⁷ Birlik has again attempted to revise its application and resubmitted it a third time. However, in an amendment to the law on political parties apparently passed recently but not yet published, the government of Uzbekistan has increased from 5,000 to 20,000 the number of signatures of party members required for registration. There is reason to believe that this requirement will apply to Birlik's reapplication. Further, the election law specifies that only parties registered six months prior to the pre-election campaign's official start in September, may participate in elections. Thus, if Birlik is not successful in registering as a political party by the end of March, it will be excluded from participation in the parliamentary elections.

On November 5, 2003, the political party Ozod Dekhon Partiyasi (Free Peasants' Party) sought registration for the second time (the party's first application was denied shortly after Uzbekistan's independence). The Ministry of Justice did not respond to the group's application within the three-month timeframe established by law.

Harassment

In its two prior fact sheets, Human Rights Watch documented eight incidents of harassment against Erk party members and interference in party activities. Since the publication of our November fact sheet, members of the opposition party Erk have experienced continued intimidation and interference in their activities by the Uzbek government. In December 2003 and January 2004, officers from the Department of Counter-Terrorism, Anti-Corruption and Narcotics of the Ministry of Internal Affairs on several occasions summoned for questioning Erk party members Abduhashim Gaforov and Oigul Mamatova.⁸ During one interrogation, officers told Mamatova that

⁶ Official Birlik statement dated January 26, 2004 and Human Rights Watch interview with Vasila Inoyatova, General Secretary of Birlik, Tashkent.

⁷ Birlik claims to have approximately 40 members in Karakalpakstan, and presented documentation to this effect in its application for registration.

⁸ In the lead-up to the Erk party congress in late October 2003, police detained Mamatova and Gaforov and confiscated several boxes of books and other Erk materials intended for the congress, a computer, grant money received from international donors, Erk files and archives on human rights cases. See Human Rights Watch, "Fact Sheet: Human Rights Developments in Uzbekistan from July to October 2003."

unless Erk party selected a new leadership, the department would continue to interfere with the work of Erk party.⁹

Tashkentbai Chukunov, chairman of the Kashkadaria province Erk committee was detained from November 15-17 on apparently political grounds.¹⁰ While Chukunov was waiting to meet an acquaintance to discuss Erk business, local police searched his bag, found some internet articles relating to Erk, and took Chukunov to the Regional Department of Internal Affairs for questioning. Along the way, one of the officers told Chukunov that he was “wasting his time” on Erk activities and that Erk membership was bad. Chukunov was interrogated by various law enforcement officials, including the head of the Department of Counter-Terrorism, Anti-Corruption and Narcotics. They searched him three times, and formally took him into custody when they reportedly found a few unidentified leaves in the lining of his jacket. Chukunov was held for two days, given nothing to eat, made to sleep in a cold cell, and interrogated about his political activities, Erk’s registration and the Erk articles in his possession. Police released Chukunov on the third day, after a forensic examination revealed that the leaves were basil.

Restrictions on Media Freedom

In its previous two fact sheets, Human Rights Watch documented six incidents of government harassment of independent journalists and continuing limitations on the operation of media.

Since November, the government has continued to restrict the operation of Uzbekistan’s few independent journalists, also using legal avenues to limit their work, including the laws on accreditation and registration. In November 2003, the Tashkent branch of the Institute for War and Peace Reporting (IWPR), an international internet news agency, was forced to close after the Ministry of Foreign Affairs refused to renew the organization’s credentials, based on a complaint against Galima Bukharbaeva, the director of the IWPR’s Tashkent office who had attended the EBRD annual meeting and reported extensively on human rights issues surrounding it.

In early November 2003, IWPR headquarters in London received a letter from the Ministry of Foreign Affairs of Uzbekistan stating that the Tashkent branch was being denied accreditation on the grounds that director Bukharbaeva’s critical reporting on political and social issues in Uzbekistan constituted a deviation from IWPR’s stated mission of training and supporting independent journalists. The letter concluded that IWPR’s Tashkent branch would not receive accreditation unless IWPR agreed to “stop funding Ms. Bukharbaeva.”

The Ministry’s letter further protested that Bukharbaeva had continued to work “illegally” after IWPR Tashkent’s application for re-accreditation was denied in May

⁹ Human Rights Watch interview with Erk member Oigul Mamatova, Tashkent, December 15, 2003 and Erk leader Atanazar Orifov, Tashkent, February 25, 2004.

¹⁰ Human Rights Watch interview with Tashkentbai Chukunov, Tashkent, December 15, 2003.

2003 on the grounds that IWPR's mandate was limited to zones of conflict, and that Uzbekistan did not have an armed conflict on its territory. IWPR understood this as a threat against Bukharbaeva, and temporarily relocated her to Kazakhstan.¹¹

On December 2, 2003, the Samarkand Province Court upheld the ruling of a lower court that declared Komil Ashurov, director of the Samarkand Center for Human Rights Initiatives, to be in violation of article 218 (illegal preparation or distribution of forms of mass media) of the Administrative Code of the Republic of Uzbekistan for distributing an informational bulletin on his organization's recent activities and monitoring of human rights violations. The court determined that according to a new amendment to the Law on Mass Media any organization wishing to distribute forms of mass media, including bulletins, must be formally licensed as a media outlet.¹² The change to the law is significant because the publication of periodic informational bulletins is widely practiced by Uzbek and international NGOs and individual human rights activists. Ashurov was fined 16,320 som (approximately 13 euros). He appealed his case to the Supreme Court of Uzbekistan and on February 17, 2004, he received a letter informing him that his case would be reviewed.

Benchmark No. 2: Registration and Free Functioning of Independent Civil Society Groups

Introduction

The Uzbek government has a long history of harassing and imprisoning human rights advocates and of maintaining an environment hostile to human rights organizations. In its commentary attached to this benchmark, the EBRD specifies that Uzbekistan should "[o]pen up the political processes to a variety of interests. Registration and free functioning of independent local NGOs, including those involved in the area of rule of law and protection of human rights, would be an essential element of this process."¹³

The Uzbek authorities have steadfastly refused to register any independent civil society groups since this benchmark was set and has continued its harassment of those who try to take part in independent activities. Disturbing trends have emerged over the past year, signaling the government's deepening intolerance of criticism. Government officials harassed activists and civil society groups directly and have also begun pressuring their family members. In its two prior assessments of the Uzbek government's lack of progress on the benchmarks, Human Rights Watch documented eleven incidents of harassment of human rights defenders and violations of the right to freedom of

¹¹ Letter from the Ministry of Foreign Affairs to the Institute for War and Peace Reporting, dated October 21, 2003. A copy of the letter is on file with Human Rights Watch. Human Rights Watch telephone interview with Galima Burkhabaeva, director of IWPR's Tashkent office, February 26, 2004.

¹² Decree number 418 of the Cabinet of Ministers of the Republic of Uzbekistan, "On the Method of Registration for Mass Media Outlets in the Republic of Uzbekistan," September 30, 2003; and Addendum to Decree 418 of the Cabinet of Ministers of the Republic of Uzbekistan of September 30, 2003.

¹³ See: Uzbekistan Country Strategy Overview, [online] <http://www.ebrd.com/about/strategy/country/uzbe/main.htm> (retrieved March 4, 2004).

assembly. In a disturbing throwback to the Soviet era, the government used forcible psychiatric detention and “treatment” as a tool to silence dissenting voices.

Persecution of Human Rights Defenders

In the past four months, the government has continued to silence dissenting voices and the work of independent human rights defenders. Ruslan Sharipov, an outspoken human rights defender and independent journalist critical of the government, remains in detention where he is at risk of torture and mistreatment. Authorities transferred Sharipov to a minimum security facility in early March, steadfastly refusing to release him or to initiate an independent review of the charges against him, which the international community has called for. Sharipov is serving a four-year sentence on what appear to be politically-motivated charges of consensual homosexual conduct and sex with a minor, following a trial that fell well below minimum standards of justice and despite credible allegations of torture.¹⁴

On February 16, authorities in Jizzakh arrested Muidinjon Kurbanov, chairman of the Jizzakh province branch of the Human Rights Society of Uzbekistan (HRSU) and of a coalition of human rights organizations. Kurbanov is also a member of the opposition political party Birlik. Kurbanov was arrested on weapons and narcotics charges after police conducted an illegal search of his home, during which they found items that appear to have been planted.¹⁵

After his arrest, Kurbanov was held incommunicado for three days, during which he was interrogated, threatened, and forced to sign a confession dictated by the police. Police reportedly threatened Kurbanov that if he did not confess to the charges they would bring in his wife and take him to the basement where they would “show him” why he should confess. They allowed Kurbanov to see his lawyer, Rukhaddin Komilov, only on February 20, after Komilov filed a complaint with the procuracy. Kurbanov, who retracted his confession after meeting with his lawyer,¹⁶ was released pending trial on February 27 after his lawyer filed a petition with the court,¹⁷ just days after U.S. Secretary of Defense Donald Rumsfeld’s meeting with President Karimov in Tashkent.

In January, police twice questioned Kurbanov about his human rights and political work, which suggests a political motivation for his subsequent arrest.¹⁸ In December,

¹⁴ See “Free Uzbek Rights Defender Ruslan Sharipov,” Human Rights Watch campaign [online], <http://hrw.org/campaigns/uzbekistan/sharipov.htm> (retrieved March 3, 2004).

¹⁵ Human Rights Watch interview with Rukhaddin Komilov, Kurbanov’s lawyer, Tashkent, February 23, 2004. In a chicken coop 50 meters away from Kurbanov’s house police reportedly found a 28-mm. hunting gun, four 19-mm. bullets and 19.82 grams of *kukpora*, a narcotic plant used in traditional medicine. Kurbanov’s wife recounted that an unknown man had entered the courtyard at 11 p.m. on February 6 and ran away when she went to investigate. The next morning she found that the lock on the chicken coop had been opened, raising suspicions that the evidence was planted.

¹⁶ *Ibid.*

¹⁷ Human Rights Watch interview with Bakhtyor Khamraev, member of HRSU in Jizzakh, February 27, 2004.

¹⁸ Human Rights Watch interview with Kurbanov’s lawyer, Rukhaddin Komilov, Tashkent, February 23, 2004.

Kurbanov told Human Rights Watch that several human rights organizations had formed a coalition and that he was working to register regional branches of the coalition, but that several members have experienced pressure from the authorities to stop their work.¹⁹

Kurbanov had been arrested on trumped-up narcotics charges in 1998 and tortured in custody, leaving him permanently injured.²⁰

Uzbek authorities have not dropped legal proceedings to declare “legally incompetent” human rights activist and HRSU member Elena Urlaeva. In late September, the judge declared a recess for Urlaeva to undergo her third psychiatric evaluation. Previously, an Uzbek evaluation declared Urlaeva to be seriously mentally ill, while an evaluation conducted in Moscow revealed that she had no mental problems. Although six months have passed since the recess was declared, the judge has yet to order the evaluation; Urlaeva fears that she will not be able to leave the country to attend international events related to her activism, such as the EBRD meeting in London in April, because proceedings against her are pending.²¹

On February 9, police at the Shaikhantaur District Department of Internal Affairs detained Urlaeva and independent activist Yuri Konoplov for approximately seven hours after the two had conducted a peaceful gathering outside the Shaikhantaur District Court, to protest trials of independent Muslims and complained when police tore their signs and tried to break up the protest.²²

On December 12, local authorities prevented religious Muslim women in Margilan, in the Fergana valley, from participating in a peaceful protest announcing a hunger strike in solidarity with their family members imprisoned on religious charges.²³ On December 11, “Shakhnoza Usmanova”²⁴ and a friend brought an announcement of the demonstration to the hokimiat (mayor’s office) in accordance with local law.²⁵ The announcement included the names of fifty religious women who planned to participate in the hunger strike and protest. That evening, police came to Usmanova’s home, and

¹⁹ Human Rights Watch interview with Muidinjon Kurbanov, Tashkent, December 16, 2003.

²⁰ See: Human Rights Watch, “Leaving no Witnesses: Uzbekistan’s Campaign against Rights Defenders,” *A Human Rights Watch Report*, Vol. 12, No. 4(D), March 2000.

²¹ Human Rights Watch interview with Elena Urlaeva, Tashkent, February 26, 2004.

²² Human Rights Watch interview with Elena Urlaeva and Yuri Konoplov, Tashkent, February 11, 2004.

²³ The protest was also in support of 200 religious prisoners on a hunger strike in Chirchik prison, demanding improved prison conditions.

²⁴ Human Rights Watch interview with Shakhnoza Usmanova (not her real name), Fergana City, December 12, 2003.

²⁵ A copy of the announcement is on file with Human Rights Watch. After Usmanova had attended a demonstration on November 21, 2003, protesting the detention of a group of Muslim women from a private prayer session during a holy night of Ramadan the night before, police brought her in for questioning. The head of the Department of Criminal Investigation threatened her that if she attended any more demonstrations the police would “bring the body of her husband home from prison.”

brought her to the Margilan City Department of Internal Affairs for questioning. Out of fear, Usmanova denied that she had filed the announcement of the demonstration and was allowed to return home only after she signed a document promising not to attend the demonstration the next day. On the morning of the demonstration, planned for 10:00 a.m., members of the local *mahalla* (neighborhood) committees turned demonstrators away.²⁶ Police detained eight women who appeared for the protest and held them for questioning by members of the Counter-Terrorism Department, during which they were threatened and warned not to participate in any more protests. The women were eventually brought to court, fined, and released.²⁷

On November 3, 2003, Vartanian Karapetovich was forcibly taken into psychiatric custody and held for three days. That morning, Karapetovich had participated in a picket outside the Cabinet of Ministers along with a group of unaffiliated individuals who were demanding government attention to their individual complaints. Later that day, three men in civilian clothes claiming to be police officers appeared at Karapetovich's home and demanded he accompany them to the police station. He refused because the men did not show a warrant. At approximately 7:30 that evening, a group of four to six men in civilian clothes came to his home. When he opened the door, they restrained him, bound his hands, and took him to Tashkent City Psychiatric Hospital No. 1, where he was forcibly committed. Hospital staff reportedly tied him to a bed and administered six injections. When Karapetovich asked to be untied to use the toilet, a staff member allegedly smothered his face with a towel until he gasped for breath. He was allowed to leave the hospital on November 6.²⁸

Operation of Civil Society Groups

Uzbekistan has failed to register any independent civil society groups in the year since the EBRD published the benchmarks. Instead, the Uzbek government has restricted, rather than eased registration and reporting requirements for international NGOs and has continued to impede the activities of non-registered domestic groups, violating the rights to freedom of association, assembly, and speech.

On December 11, 2003, the Cabinet of Ministers of Uzbekistan issued a decree transferring the registration and accreditation of international NGOs from the Ministry of Foreign Affairs to the Ministry of Justice.²⁹ Registration with the Ministry of Justice is a lengthy procedure requiring extensive documentation and entails burdensome reporting requirements³⁰ and intrusive supervision of all activity by the Ministry of

²⁶ For more on the implications of mahalla committees in human rights abuses, see Human Rights Watch, "From House to House: Violations by Mahalla Committees," A Human Rights Watch Report, Vol. 15, No. 5(D), September 2003.

²⁷ Human Rights Watch interview with Fairuza Abdullaeva (not her real name), among those detained, Margilan, December 13, 2003.

²⁸ Human Rights Watch interview with Vartanian Karapetovich, Tashkent, February 26, 2004.

²⁹ Cabinet of Ministers Decree No. 543, December 11, 2003.

³⁰ Law of the Republic of Uzbekistan on Non-Governmental and Non-Profit Organizations, art. 8 and Cabinet of Ministers Decree No. 132, points 12 and 17, March 12, 1993.

Justice.³¹ The decree requires NGOs to “coordinate the agenda, timing, location and order of events (conferences, seminars, trainings, meetings, etc.) with the [Ministry of Justice]”³² and provides that the Ministry “has the right to participate in all events conducted” by NGOs.³³ All international NGOs currently working in Uzbekistan must submit registration documents to the Ministry of Justice by April 1 or risk having their bank accounts frozen and losing their legal status.

The government’s interference with an NGO-organized conference on the death penalty in December was a telling illustration of how it uses the registration issue to restrict NGO activities. Mothers against the Death Penalty and Torture, a group that has repeatedly sought but been denied registration organized an international conference called “Death Penalty: Analysis, Tendencies and Realities,” which it planned to hold in Tashkent on December 5, 2003. The day before the conference, the hotel in which the group had rented a conference room informed the group that it would no longer be able to use the premises, forcing it at the last minute to find alternative accommodations. On the day of the conference, a second hotel said that it could not rent space to an “unregistered group.” According to a foreign diplomat in Tashkent, an Uzbek government official in a diplomatic statement confirmed that the government would not let the conference go forward because the Mothers against Death Penalty and Torture was not a registered organization.³⁴

The Ministry of Justice denied the first application for registration filed by Mothers against the Death Penalty and Torture in 2002. At that time, a ministry official told Tamara Chikunova, the group’s director, that it would never register a group with such a name.³⁵ The group subsequently re-applied in January 2003 under a modified name³⁶ but has still not received a response, although the law on NGOs specifies a maximum two-month period for government action on applications.³⁷

In the case of another independent human rights group, Mazlum, after the Ministry of Justice refused to register the group based on documents submitted in May 2003, the group again applied for registration in August 2003. On November 6, the group received a letter from the Ministry of Justice dated October 10, refusing registration.³⁸ Among the

³¹ Part IV, para. 28 of Cabinet of Ministers Decree No. 543 of December 11, 2003 specifies that “The registering body [Ministry of Justice] provides supervision in terms of the accordance of the activity of the [NGO’s] representative office with [the organization’s] charter’s goals....” Ministry of Foreign Affairs registration does not entail these documentation and reporting requirements.

³² Cabinet of Ministers Decree No. 543, December 11, 2003, Part IV, para. 26.

³³ *Ibid.*, para. 28.

³⁴ Statement of Jacques-André Costilhes, Ambassador of France to Uzbekistan, Tashkent, December 6, 2003.

³⁵ Human Rights Watch interview with Tamara Chikunova, chairwoman of Mothers against the Death Penalty and Torture, Tashkent, February 25, 2004.

³⁶ The group used the name “Mothers against Crimes against the Individual.”

³⁷ Law of the Republic of Uzbekistan No. 763-I on Non-Governmental, Non-Profit Organizations, April 14, 1999, Art. 23.

³⁸ Human Rights Watch interview with Akzam Turgunov, chairman of Mazlum, Tashkent, February 26, 2004.

reasons cited for refusal was that the “etymological definition of the word ‘Mazlum’ means ‘oppressed’ or ‘tormented.’”³⁹ Mazlum submitted the required documents for the third time on February 5, having made the other minor corrections required by the ministry, but without changing its name.⁴⁰

The HRSU has likewise applied for registration several times and been refused; the group resubmitted registration documents on November 29, 2003, and has since been awaiting the Ministry of Justice’s reply.⁴¹

Official registration, however, is no guarantee of freedom from harassment. On November 21, authorities in Namangan, in the Fergana valley, prevented two employees from the U.S.-based NGO Freedom House, which is registered in Uzbekistan, from conducting a training for human rights defenders.⁴² The day before the training, the local government had informed Freedom House that the training was prohibited because some of the intended participants had taken part in peaceful demonstrations. When Freedom House staff attempted to reach their office to conduct the training, several cars blocked them and a mob of 80 citizens organized by the chairman of a local collective farm confronted them, shouting verbal abuse and threatening them with physical violence.⁴³

Benchmark No. 3: Implementation of the Recommendations of the U.N. Special Rapporteur on Torture

Introduction

Persistent and credible reports of torture throughout the criminal justice system have long underscored torture as a serious problem in Uzbekistan,⁴⁴ prompting the U.N. Special Rapporteur on torture to seek an invitation to visit the country. In February 2003, the Special Rapporteur issued a report on torture in Uzbekistan detailing the findings of his visit to the country in November-December 2002.⁴⁵ The report termed

³⁹ Letter #15-581 from the Ministry of Justice to the Leadership of the Non-Governmental Human Rights Organization “Mazlum,” dated October 10, 2003. A copy of the letter is on file with Human Rights Watch.

⁴⁰ Human Rights Watch interview with Akzam Turgunov, Tashkent, February 26, 2004.

⁴¹ Human Rights Watch interview with Tolib Yakoubov, chairman of HRSU, Tashkent, February 26, 2004.

⁴² “Uzbekistan Must Stop Intimidating Human Rights Workers,” Freedom House Press Release, November 22, 2003.

⁴³ *Ibid.*

⁴⁴ See for example Human Rights Watch, “And it was Hell All Over Again: Torture in Uzbekistan,” A Human Rights Watch Report, Vol. 12, No. 12(D), December 2000.

⁴⁵ See: “Civil and Political Rights, Including the Questions of Torture and Detention: Torture and other cruel, inhuman or degrading treatment, Report of the Special Rapporteur on the question of torture, Theo van Boven, submitted in accordance with Commission resolution 2002/38. Addendum. Mission to Uzbekistan. United Nations document E/CN.4/2003/68/Add.2. February 3, 2003 (hereinafter, Report of the U.N. Special Rapporteur on torture).

the use of torture in Uzbekistan “systematic”⁴⁶ and put forward a comprehensive list of specific recommendations for the Uzbek government to implement in order to eliminate the practice of torture.

Despite these developments, torture remains pervasive throughout the law enforcement structures in Uzbekistan, and occurs with near-total impunity. Torture in detention is routinely used to extract confessions and incriminating statements from suspects immediately following arrest and during criminal investigations and torture and ill-treatment continue in the prison system. High-level government officials have failed to make credible public declarations condemning torture in all its forms, as recommended by the Special Rapporteur.⁴⁷ Such statements would require no expenditures of resources or a long implementation period, and would go a long way toward signaling the government’s genuine willingness to take the necessary steps to end torture in Uzbekistan.

Analysis of Progress Cited by the Uzbek Government on Addressing Torture

National Plan of Action on Torture

Following the release of the Special Rapporteur’s report, the Uzbek government committed to studying the problem and to issuing a “National Plan of Action” on torture to establish mechanisms and a framework for reform. Although more than a year has elapsed since the Special Rapporteur’s report was made public, the Uzbek government has not yet published a final plan of action, despite promises to release a final version before the end of 2003. To its credit, the government circulated a draft of the plan in fall 2003, inviting commentary from international and local NGOs, including Human Rights Watch, and other stakeholders. As detailed in our previous updates to the Bank, the draft plan was flawed in that it consisted mainly of seminars and conferences rather than substantive changes, and provided for an attenuated timeline for implementation. For example, a law on habeas corpus was not scheduled for implementation until 2005. A second draft reflected little of the commentary offered by the international community, continued to emphasize seminars and conferences, proposed little concrete action, and contained an unjustifiably delayed timeline for action on key reforms.

Death Penalty

The government of Uzbekistan claims to have made significant progress toward abolishing the death penalty. It often refers to recent amendments to the criminal code, reducing the number of crimes for which the death penalty may be imposed. However, the government has not commuted the death sentences of those convicted before the amendments were adopted, nor has it imposed a moratorium, as recommended by the

⁴⁶ Report of the U.N. Special Rapporteur on torture, p. 2. The report also stated that torture is “used in virtually all cases” of independent Muslims imprisoned for peaceful expression of their beliefs. See *Ibid.*, p. 13, para. 40.

⁴⁷ Report of the U.N. Special Rapporteur on torture, p. 24 (recommendation a).

Special Rapporteur on torture. Further, as noted by the Special Rapporteur, critical problems surround the implementation of the death penalty in Uzbekistan, and are not addressed by the amended legislation. For example, no transparency exists around the application of the death penalty; families of those sentenced to death are not informed of the date of execution, are denied a farewell visit and are not told where their relatives' remains are kept.

Prison Visits

The government of Uzbekistan also cites progress in prison policy, exemplified by the increased access to prisons by international delegations. While Human Rights Watch welcomes steps toward transparency and access to prisons overall, it must be underscored that scheduled, accompanied visits to prison facilities by diplomats cannot substitute for unplanned visits by expert prison monitors trained to evaluate conditions and detect possible torture or mistreatment. Significantly, the government has also taken no steps to implement the Special Rapporteur's recommendation to close the Jaslyk prison colony, where he had found conditions to be particularly appalling.⁴⁸

Second Invitation to the U.N. Special Rapporteur on Torture

Another measure cited by the Uzbek government as progress in addressing torture is a second invitation it has issued to the Special Rapporteur on torture to visit the country. Such an unsolicited invitation, however, obviously does not substitute for the overdue implementation of the reforms the Special Rapporteur recommended in his report. In short, the real test of the Uzbek government's commitment to cooperating with the Special Rapporteur is in the implementation of the recommendations of his report, rather than in agreeing to receive him again.

Amnesty

The government further cites its annual prisoner amnesty, most recently announced in December 2003 as progress in the criminal justice sphere. However, the amnesty does nothing to affect the system of criminal investigation or prosecution and lacks transparency, undermining its value.

Definition of Torture

Finally, the Uzbek government frequently points to its amended definition of torture in the Uzbek criminal code as a concrete step to combat torture.⁴⁹ However, the new

⁴⁸ Report of the U.N. Special Rapporteur on Torture, p. 24 (recommendation t).

⁴⁹ Through an act of parliament dated August 29, 2003, and signed into law by President Karimov on October 31, 2003, the Uzbek government amended article 235 of the Criminal Code of the Republic of Uzbekistan, to modify the official legal definition of torture. The amended text of article 235 was published on November 1, 2003 and entered into force ten days later, on November 11, 2003. The amended text of article 235 defines torture as follows: "The use of torture or other cruel, inhuman or degrading treatment or punishment, that is, illegal psychological or physical coercion, against a suspect, defendant, witness, victim or other participant in the criminal process, convicted person, their close relatives by threats, hitting, beating, torture, torment or other illegal act, committed by an inquisitor, investigator, prosecutor or other law enforcement or prison official with the goal of receiving from them any information, confession of a crime or for the unauthorized punishment for any action or to induce any action." Unofficial Human Rights Watch translation.

definition falls far short of international legal standards for the definition of torture, as embodied in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).⁵⁰ The amended article states that torture is defined as “*illegal* physical or mental coercion” (emphasis added), thus leaving open the possibility for legal forms of coercion. Article 1 of CAT contains no such limitation, nor did the original version of article 235. Article 235 as amended further provides an unduly narrow list of law enforcement authorities prohibited from the use of torture, while the CAT definition prohibits the use of torture by any “public official or other person acting in an official capacity.”⁵¹ Also, the amended article 235 fails to incorporate the notion of command responsibility (*respondeat superior*), captured in the CAT’s wording “inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” Finally, while article 1 of CAT defines torture as coercion of someone “for such purposes as obtaining from him or a *third person* information or a confession, punishing him for an act he or a *third person* has committed, intimidating him or a *third person*...” (emphasis added), article 235 as amended does not fully limit the use of third persons in torture cases, a vital safeguard and frequently utilized by Uzbek authorities in cases of torture documented by Human Rights Watch.⁵²

Continuing Reports of Torture

Perhaps the clearest evidence of the government’s failure to implement the recommendations of the Special Rapporteur is the continuing and persistent reports of torture and of torture-related deaths in custody in the past year.

Deaths in Custody

Since publication of its most recent fact sheet on the Uzbek government’s progress in meeting the EBRD benchmarks in November, Human Rights Watch has documented two new suspicious deaths in custody, bringing to four the number of apparent torture-related deaths documented since the EBRD annual meeting in Tashkent last May. On December 9, relatives buried Kamalodin Jumaniyozov, whose body they had received from police custody two days earlier. Witnesses who viewed the body reported that it had bloody injuries on the forehead, bruising on the nape of the neck and a grazed

⁵⁰ Article 1.1 of the Convention against Torture reads: “For the purposes of this Convention, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating him or coercing him or any third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

⁵¹ For example, the narrow language of amended article 235 does not cover representatives of mahalla committees, which are not officially considered law-enforcement agencies but play an important role in local law enforcement.

⁵² Human Rights Watch is grateful to Nozima Kamalova, director, Legal Aid Society, Tashkent, for her analysis of amended article 235 and its compliance with the international legal standard on the definition of torture.

knee.⁵³ Police in a village in Karakalpakstan, in western Uzbekistan, arrested Jumaniyozov, a twenty-five-year old father of two, on November 29 on suspicion of theft. The prosecutor's office issued an arrest warrant on December 1, accusing him of marijuana use. On December 7, after hearing rumors of Jumaniyozov's death, his family went to the police station, where they were told to go to the morgue. At the morgue, officials showed them Jumaniyozov's already frozen body. He had apparently died at least 15 hours earlier.

The next day, when the family was preparing Jumaniyozov's body for burial they noticed injuries on the body and called various law enforcement offices requesting an investigation. A prosecutor told the relatives that Jumaniyozov had committed suicide. Following sustained international pressure, the government of Uzbekistan opened an investigation into the case. A preliminary report stated that Jumaniyozov "hanged himself by means of his underwear," although the report also states that proceedings were brought against several officers for criminal negligence.⁵⁴

Also in December, Human Rights Watch documented another suspicious death in custody that had occurred in August. On August 1, police in Bukhara province detained Nodirjon Zamonov, age twenty, on suspicion of theft. When his father went to the police station that afternoon, he saw his son terrified and crying. His father left the police station at approximately 2:00 p.m. An hour later, the family found their son dead on the floor of their cowshed, with his neck loosely encircled by a rope that did not belong to the family, and with bruises and other wounds on the body. He was slumped on the floor, but not hanging. Police claimed that Zamonov hanged himself, although the family's description of the injury to the throat appears to be inconsistent with hanging.⁵⁵ The prosecutor's office opened an investigation into Zamonov's death, but soon closed it, concluding that there was no evidence of a crime. The death certificate stated that the cause of death was unknown. Again, in response to international pressure, the government later stated that it had re-opened the investigation into the case and brought disciplinary penalties against several officers for "carelessness to their duties."⁵⁶ The case is apparently pending before the procuracy of Karakul district.

Allegations of Torture in Criminal Proceedings

Human Rights Watch has continued to document criminal cases involving serious allegations of torture. Our previous fact sheets contained information about fourteen cases of alleged torture. Since November alone, defendants and witnesses raised torture allegations in four trials monitored by Human Rights Watch, involving twenty men and

⁵³ Human Rights Watch interview with relatives of Kamalodin Jumaniyozov, Tashkent, December 19, 2003. A video shown to Human Rights Watch confirmed these injuries.

⁵⁴ Report No. 11/191 from the Ministry of Foreign Affairs to the Embassy of Switzerland, Tashkent, January 7, 2004.

⁵⁵ Human Rights Watch interview with the relatives of Nodirjon Zamonov, Bukhara province, December 8, 2003.

⁵⁶ Report No. 11/191 from the Ministry of Foreign Affairs to the Embassy of Switzerland, Tashkent, January 7, 2004.

women charged with non-violent offenses connected to their practice of Islam outside government controls.

Human Rights Watch also continued to receive credible allegations of torture in prisons during this period. In December 2003, in Zarafshan Prison No. 64/48, authorities put religious prisoners who prayed *namaz* (the five daily prayers of Islam) into isolation cells and beat them. Prison authorities also reportedly threatened religious prisoners as a collective group, saying that prison authorities had received new torture instruments and were awaiting orders to “destroy” religious prisoners.⁵⁷ Also in December 2003, in Chirchik Prison No. 64/6, a religious prisoner was beaten with a beam on his shoulders and legs, as a result of which he was admitted to the prison infirmary.⁵⁸

Since December 23, 2003, criminal proceedings for murder and theft are ongoing in the Chirchik City Court against five defendants, all of whom have testified that police used torture to coerce them to confess to the charges.⁵⁹ Three of the defendants are charged with murder and two are charged with stealing a cow.⁶⁰ In a session of the trial observed by Human Rights Watch, on February 24, defendant Yarkin Shermatov told Judge Muslimov that an officer from the investigative unit of the Chirchik City Procuracy had beaten him on the mouth with a pistol, breaking several of his teeth. Shermatov further said that when he tried to gather the tooth fragments, the officer prevented him and told Shermatov that the officer himself would keep the tooth fragments as a reminder of what he had accomplished.⁶¹ At another session of the trial observed by Human Rights Watch in February, at which Judge Muslimov summoned Investigator Nurillo Iusunov of the Tashkent Province Procuracy as a witness, defendant Sherzod Mirzatillaev showed the court that his fingernail had been ripped out from the middle finger of his right hand, and told the Judge that Iusunov was responsible for the officers who had tortured him in that manner.⁶²

In a session of the same trial on January 21, 2004, an underage witness, the younger brother of one of the defendants, testified that shortly after investigators summoned him for interrogation, he was admitted to a local hospital with injuries to his kidney. When a defense attorney asked the witness whether his kidney injuries were the result of physical torture during his interrogation, Judge Muslimov interrupted, forbade the witness to

⁵⁷ Press release from the Initiative Group of Independent Human Rights Defenders of Uzbekistan (IGNPU) dated December 28, 2003. Surat Ikramov, director of IGNPU, interviewed the wives of two religious prisoners in Zarafshan Prison.

⁵⁸ Press release from the Human Rights Society of Uzbekistan, dated December 29, 2003.

⁵⁹ Human Rights Watch unofficial transcript, Chirchik City Court, January 21, February 13; and interviews on February 26, 2004 with relatives of the defendants who were present at sessions of the trial at which defendants gave testimony.

⁶⁰ The five are said to have formed a criminal conspiracy, although they did not all know each other prior to the start of proceedings.

⁶¹ Human Rights Watch unofficial transcript, Chirchik City Court, February 24, 2004.

⁶² Human Rights Watch interview with the mother of Sherzod Mirzatillaev, Chirchik, February 24, 2004.

answer the question, and dismissed him from the witness stand.⁶³ In courtroom testimony and letters of appeal to regional and national law-enforcement bodies, other defendants, as well as their family members and other witnesses, reported torture, threats, and extortion during the investigation of the case. At the time of writing, the trial was still in progress and those who are charged with murder are at risk of receiving the death penalty.

Also in December 2003 a group of thirteen men filed an appeal to the Supreme Court on the grounds of torture, after the Andijan Province Court found them guilty of premeditated murder in connection with an incident in which a group of residents of a collective farm apprehended and beat an alleged thief, who later died of his injuries.⁶⁴ In personal letters of appeal to the Supreme Court, defendants and their relatives complained that local authorities had tortured both defendants and witnesses in order to force them to sign confessions and accusatory statements. Police officers allegedly brought in unidentified men in civilian clothes and allowed the men to beat defendant Zeidullo Mamadaliev until he lost consciousness.⁶⁵ As a result of the beating, Mamadaliev was permanently blinded.⁶⁶ Police from another police department in Andijan province allegedly beat witness Zakhidjon Kholdarov, as a result of which he was admitted to a local hospital to be treated for punctures to his intestines.⁶⁷ Other defendants and their relatives likewise wrote to the Supreme Court that police used torture during the investigation. At the time of writing, the appeal on behalf of the thirteen defendants was pending before the Supreme Court of Uzbekistan.

⁶³ Human Rights Watch unofficial transcript, Chirchik City Court, January 21, 2004.

⁶⁴ Appeal to the Supreme Court of the Republic of Uzbekistan, dated December 18, 2003, filed by the legal representative of the thirteen defendants convicted by the Andijan Province Court on October 24, 2003. A copy of the appeal is on file with Human Rights Watch.

⁶⁵ Letter to the Supreme Court of the Republic of Uzbekistan from the wife of Zeidullo Mamadaliev, dated January 7, 2004. A copy of the letter is on file with Human Rights Watch.

⁶⁶ Report by a medical expert of the Andijan Province Procuracy, upon examination of Zeidullo Mamadaliev, copy dated September 30, 2003. A copy of the report is on file with Human Rights Watch.

⁶⁷ Letter to the Supreme Court of the Republic of Uzbekistan from Zokirjon Kholdarov, dated January 27, 2004. A copy of the letter is on file with Human Rights Watch.