

Poverty, inequality and human rights violations in Uzbekistan: a potential time bombe

Note to the HR Subcommittee

In its informal note to the European Parliament for the plenary session in June 2005, the World Organisation Against Torture made the following recommendations to the EU:

- *the EU should closely monitor the evolution of the HR situation in Uzbekistan via its different tools (co-operation committees and Council, EU Guidelines, TACIS co-operation) and pay particular attention on the following issues:*
 - *The situation of human rights defenders that are facing increasing repression from Uzbek authorities;*
 - *The widespread practice of torture and lack of improvement since the visit of the UN special rapporteur, except some purely declarative steps;*
 - *The malfunctioning of the judicial system as a whole, including lack of access to justice and fair trial, lack of independence of judges, the use of evidence obtained under torture, etc.;*
 - *The violation of the main fundamental freedoms such as freedom of association, expression, opinion and belief preventing the development of an organised independent civil society and of a democratic secular opposition;*

15 months later, it is unfortunately clear that the HR situation has not improved in the country, to the contrary:

A. The situation of HRDs has considerably deteriorated and independent civil society is muzzled¹

Since 2006 we witnessed the confirmation of strong tendencies of repression aimed at reducing the capacity of independent civil society to operate: strategies in Uzbekistan were primarily aimed at making national laws more restrictive in relation to **freedom of association**, making it easier to control independent civil society, which is considered as a threat to the maintenance of the ruling power.

The authorities continued in 2006 to make use of this repressive context to further muzzle civil society and to suspend the activities of numerous organisations, in particular foreign ones, on the basis of restrictive laws adopted or reinforced in the past few years. For instance, on March 17, 2006, the Ministry of Foreign Affairs ordered the closure of the office of the United Nations High Commissioner for Refugees (HCR), on the grounds that the HCR had “fully implemented its tasks” and that there were “no evident reasons for its further presence in Uzbekistan”. In such a context, Uzbek defenders, who were subjected to a fierce repression for several years, became increasingly isolated, and their situation has, yet again, considerably deteriorated in 2006.

Similarly, **freedoms of expression and gathering** were restricted as peaceful gathering organised by defenders were almost systematically disrupted by the intervention of police or anti-terrorist forces.

For example, on October 16, 2006, a demonstration organised to request that human and constitutional rights be observed by the authorities, was brutally dispersed by plain-clothes officers from the anti-terrorist squad. Likewise, on October 28, 2006, defenders protesting in favour of the release of political

¹ See in particular the Observatory (an OMCT and FIDH venture) written contribution to the OSCE Supplementary Human Dimension Meeting in Vienna, March 2007, and the Observatory contribution to the OSCE supplementary meeting dimension meeting in Vienna (12-13 July 2007) – www.omct.org

prisoners and human rights defenders were dispersed after a few minutes by a group of police officers. On November 27, 2006, members of the Society for the Protection of the Rights and Freedoms of Citizens of Uzbekistan (SPRFCU) were arrested in Tashkent while about to assemble outside the Ministry of Foreign Affairs. They were requesting that a dialogue on human rights be established with Mr. Vladimir Norov, Minister for Foreign Affairs, who had said he would open such a dialogue at a meeting with representatives of the European Union on November 8, 2006, in Brussels.

Last but not least, the **acts of harassments against HRDs** continued and many of them were accused and sentenced to imprisonment in a way to sanction their human rights activities:

On January 14, 2007, Ms. **Gulbahor Turayeva**, a forensic expert and a member of Anima-kor (an NGO working to protect the rights of medical doctors and their patients), as well as a human rights activists from Andijan, was arrested at the Kyrgyz-Uzbek border. As border guards searched her luggage, and found several books, including materials on human rights and books by leaders of the Uzbek opposition, Ms. Turayeva was immediately arrested, on the ground that the books would be banned literature. Straight after her arrest, Ms. Turayeva's apartment was searched by secret services, which failed to produce anything suspicious. On April 24, 2007, Ms. Gulbahor Turayeva was sentenced to six years in prison for "attempting to overthrow the constitutional system", "slander" and "producing and spreading materials threatening public order" by the Andijan Regional Court. On June 2, 2007, her sentence was reduced to three years suspended imprisonment².

On January 22, 2007, Mrs. **Umida Niyazova**, a journalist who used to work at the Uzbek office of the international NGOs Internews and Freedom House and played an active role in many international human rights and social projects in Uzbekistan, was arrested. On January 26, 2007, she was transferred to the Tashkent Transport Prosecutor's Office. Later on, Mrs. Umida Niyazova was transferred to the Tashkent prison's investigation ward n°1.

On April 30, 2007, and without preliminary notification, the Tashkent's Sergeli District Court started her trial. Ms. Umida Niyazova was prosecuted for "illegally entering or illegally leaving the Republic of Uzbekistan" (Article 223 of the Penal Code), "preparing and distributing material which poses a threat to public order and security" (Article 244, Paragraph 1) and "smuggling" (Article 246)³.

On May 1, 2007, the Tashkent's Sergeli District Court sentenced Ms. Niyazova to seven years of imprisonment. On May 8, 2007, the Tashkent City Court decided, during a hearing in appeal, to commute the prison sentence of Ms. Umida Niyazova to a seven years suspended sentence, with three years of probation. Ms. Niyazova was then released from the Court room. However, under the terms of her new sentence, Mrs. Niazova has to report regularly to the neighbourhood police, must notify the authorities about any changes in her profession, and must observe a 10:00 p.m. curfew⁴.

On May 18, 2007, Mr. **Kamil Ashurov**, a journalist and an active human rights defender in Samarkand¹², was insulted and beaten in the area of "Rukh obod" mosque of Samarkand, soon after Friday's prayers. When Mr. Ashurov asked his aggressor why he was doing this, the old man hysterically said, "*you are a snake, a Scorpio and we should kill you...*" and that he had "*dared to criticize the President*"⁵.

² See Urgent Appeal UZB 001/0107/OBS 006 and 006.1, respectively issued on January 23 and May 3, 2007.

³ The charge for "smuggling" is related to the laptop computer Ms. Niyazova had with her when she was arrested at Tashkent airport in December 2006 upon returning from a trip from Bishkek. Besides, "illegal materials" refer to the content of her laptop, including various human rights documents and articles Ms. Niyazova had collected during a short period she worked in Uzbekistan. Ms. Niyazova explained to the court that the materials found on her laptop were personal copies for work and were not meant for distribution.

⁴ See Urgent Appeal UZB 002/ 0207/OBS 012, 012.1 and 012.2, respectively issued on February 1, May 3 and May 9, 2007. ¹² Among others, Mr. Ashurov provides free legal consultation to victims of human rights violations, legal defence in court, and monitoring and reporting upon abuses

⁵ See Urgent Appeal UZB 003/0507/OBS 053, issued on May 29, 2007.

On September 19, 2007, Mr. Tulaganov, Director of the Tashkent branch of the Human Rights Society of Uzbekistan (HRSU), went to the Criminal Court of the Yuzunabad District in order to be granted access to the case of slander that was filed against him by Ms. Feruza Sokatbaeva on April 13, 2007, on the basis of Article 139 of the Uzbek Criminal Code. However, not only was he denied access to the case, but he was also arrested in the premises of the tribunal on the basis of a decision of the judge, who decided to turn the compulsory order of residence by which he has been bound in 2007, in the framework of the judicial proceedings against him, into imprisonment. Since then, Mr. Tulaganov has been held incommunicado. His whereabouts remain unknown.

Ms. Sokatbaeva lodged her complaint on the basis of an article published by Mr. Tulaganov in a local newspaper, criticising the Uzbek maternity hospitals, after the latter recently discovered that his daughter and that of Ms. Sokatbaeva had been inter-changed by mistake by the personnel of the hospital a few days after their birth, more than fifteen years ago.

Since the complaint was lodged before the Criminal Court of Yuzunabad on April 13, a series of procedural irregularities have taken place. He subsequently lodged a complaint to the Prosecutor of the city of Tashkent, Mr. Valiev, in order to protest against the procedural irregularities he has been confronted to. However, he has received no answer so far⁶.

B. Widespread practice of torture and systematic impunity

o Widespread practice of torture against marginalised groups

Torture is reported during all stages of criminal procedure starting from first moments of detention, police interrogations, prisons, etc. Research has demonstrated that the majority of cases of torture occur during the 72 hours pre-trial detention period, before charges are brought and preventive measures selected, during which prisoners are usually kept incommunicado, without proper fulfilment of procedural documentation. From the materials gathered it would appear that the use of torture during this period is the rule rather than the exception⁷. In addition, in cases perceived as being political the length of incommunicado detention reported is sometimes much longer.

On top of political opponents, critical journalists and human rights defenders, an important number of cases are “ordinary people” from economically disadvantaged or targeted groups (such as alleged members of Muslim movements or criminal groups), that object to local corruption or try to assert their rights against the authorities, or that are simply taken as scapegoats by police officers in search of results. Relatives can also be targeted. These cases benefit from much less publicity nor attention from international community, also because victims or relatives are afraid of reprisal and often consider any action as useless in view of the widespread corruption and lack of independence within the judicial system⁸. There is a lack of adequate control of the legality of detentions by a legal authority within a short period after detention: existing procedures for questioning the legality of a detention are extremely limited

o Extremely poor conditions of detention

Despite a legislation that provides for a framework for detention conditions, in practice they fall far from minimum standards. The most frequently reported ill-treatment in detention are: beating, food deprivation, denial of medical attention, stripping the detainee naked, rape, denial of access to bathroom facilities, unavailability of sleeping places and linen, unsanitary wards of confinement, severe overcrowding and unacceptable shortage of space in wards of confinement per person in square meters, insults.

⁶ See Urgent Appeal UZB 004/0907/OBS 118, issued on September 26, 2007

⁷ OMCT is about to release an alternative report to the CAT that include about 30 documented cases of torture – see www.omct.org for more information in the coming weeks

⁸ The executive and judicial powers in Uzbekistan constitute a single and indivisible system and the executive power visibly dominates the judiciary, through nominations and corruption

o *A right to fair trial denied in practice*

Access to legal counsel/lawyer is guaranteed by the Uzbek legislation. Unfortunately however, in practice, these laws seem to have only declarative character and their provisions are not respected in concrete cases. The rights of defendants are frequently violated. Law enforcement personnel employ all means at their disposal to deny persons in detention access to a lawyer while trying to gather evidence for prosecution through various unlawful methods, including torture. This has led to frequent violations of defendant's rights and attacks on their independence, and also numerous violations of their client's rights and liberties.

In the same way by law whenever torture is used in obtaining evidence in a criminal procedure that evidence should not be taken into account. Nevertheless, in practice, judges routinely ignore complaints of torture and continue to use evidence obtained under torture as a basis for convictions.

Last but not least obtaining redress and reparation in cases of torture is almost impossible. For a number of reasons, both institutional and because of certain legal inadequacies, the government does not comply with its obligation to investigate, prosecute and punish torture in the overwhelming majority of cases. Public officials routinely refuse to investigate allegations of torture and judges often simply do not take evidence of torture into account, despite the fact that they could, theoretically, be held criminally responsible. In practice, courts decline the absolute majority of petitions for initiating a criminal case submitted by the defence against members of the power structures who apply such methods. Only in exceptional circumstances are criminal cases are filed, and, as a rule, those responsible get very light, purely symbolical, punishment.

C. Poverty, inequality and violence: a potential time bombe

In Uzbekistan, the clear warnings that the rise in poverty and inequality could lead to violence went unheeded, with the results we know today. Since 1991, Uzbekistan has embarked on the difficult transition away from a totalitarian system and a centralized economy, with little success.

The evaluation describes a situation of **increasing poverty and inequality** (as compared to the Soviet era) that, combined with a **blocked political system**, offers little hope for change. This has caused **growing social tension** to which the government has responded with **increasingly repressive measures** that have pushed some people to **violence**.

The causal connection between government policies that fail to provide protection for economic and social rights and increasing violence was identified with clarity in a 2003 United Nations Development Group report⁹.

For further details, see the annexed report, which is Chapter 8 of the OMCT publication "*Attacking the Root Causes of Torture, Poverty, Inequality and Violence: An interdisciplinary Study*".

⁹ United Nations Development Group (UNDG), "Common Country Assessment Uzbekistan 2003", http://www.undg.org/documents/5479-Uzbekistan_CCA.pdf, p. 19, pp. 43-45.