

Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Human Rights Watch's Letter of Concern to President Karimov

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Human Rights Watch's Tashkent office was pleased to receive an official statement circulated by the Ministry of Foreign Affairs pertaining to the ongoing trial of individuals charged in relation to the bombings and violence in Uzbekistan in March and April. Human Rights Watch representatives have been among observers monitoring the trial, which started July 26, to verify that it conforms to international fair trial standards. This letter expresses Human Rights Watch's concerns about the observance of these standards.

The fifteen defendants are charged under eighteen articles of the Criminal Code of Uzbekistan, including aggravated murder, terrorism, religious extremism, seizure of weapons and ammunition through stealing, the preparation, transportation and storage of explosive materials, and contraband. ¹

The government of Uzbekistan has the right and obligation to protect its citizens from terrorism and to conduct an investigation to identify those responsible and bring them to justice. In that effort, the government must defend the very principles that terrorism and violence assault. In prosecuting the alleged perpetrators the government must itself uphold the rule of law, including its international human rights commitments. According to international law, fundamental human rights can never be limited, even in times of emergency or because of national security concerns. These include the rights to life, security of the person, freedom from torture, and the freedom of thought, conscience and religion.

As a state party to the International Covenant on Civil and Political Rights, the government of Uzbekistan is obligated to respect the right to open trials conducted in accordance with fair trial standards. These include, but are not limited to, the right to an adequate defense, the presumption of innocence, and the right not to be compelled to testify or confess guilt, as well as rights in pre-trial detention, such as the right to access to counsel and the right to be free from torture and mistreatment.

Based on our close monitoring during the period following the spring violence and of the trial itself, Human Rights Watch has serious concerns that this trial does not comply with these standards.

The trial is public and several independent observers and journalists, including Human Rights Watch have been allowed to attend trial sessions. However, in many cases administrative obstacles have prevented key people from attending. To gain access to the trial, observers must request permission from the chairwoman of the court. The court must respond to such requests within one month of receipt and thus, in practice, has the power to effectively bar observers from attending by delaying action on such requests. To date, only one local human rights activist has received a response to his applications to observe the trial.

Further, no relatives of any of the fifteen defendants have attended any trial sessions, raising concerns that defendants' relatives were not informed of the trial date and were effectively barred or intimidated from attending the proceedings. One relative told Human Rights Watch that he learned about the start of the trial only by seeing it on television. Another said that after she heard about the trial on television, she came to the court every day, but guards at the gate would not let her enter.

The trial also raises significant concerns relating to the presumption of innocence and the right to defense. The presumption of innocence as protected by international law is the backbone of due process. It applies to treatment during pre-trial investigation as well as to treatment in court and the evaluation of evidence. The presumption of innocence ends only after a defendant is lawfully convicted in proceedings that meet at least minimum requirements of fairness and due process. The government has compromised this principle by stating, in the document circulated by the Ministry of Foreign Affairs the day the trial was scheduled to start, that the investigation has proven the guilt of each defendant on all the charges.

The right not to be compelled to testify against oneself or to confess guilt broadly protects against any form of coercion used to elicit

confessions. Any court must exclude from evidence any confession or other evidence elicited as a result of torture or other coercion. Although Uzbekistan has been criticized by the U.N. Special Rapporteur on Torture for practicing systematic torture, none of the defendants at this trial have so far raised this issue. However, the prosecution's case is based entirely on the defendants' confessions, and the defense has so far failed to inquire at trial as to the conditions under which such confessions were made. Under such circumstances, it is incumbent on judges and magistrates to inquire as to the conditions and manner in which the defendant's confession was elicited to determine whether they can be admitted as evidence, or whether they comport with the testimony the defendants now wish to present. The judges have not, to date, made such inquiry.

The defendants have not benefited from a vigorous defense. Their state-appointed defense attorneys have participated in the trial, but have asked few questions of the defendants and have taken no steps to refute any evidence presented. Human Rights Watch is concerned that the lack of vigorous defense may derive from the states long-standing pressure on lawyers who do advocate vigorously on behalf of their clients, a pattern Human Rights Watch has documented through its ongoing monitoring.

A recent example concerns Rukhiddin Komilov, a lawyer for the human rights group Ezgulik. Komilov has several clients charged with terrorism and other serious crimes who may be tried in future terror trials. He has mounted a vigorous defense of his clients, insisting that he participate fully in the investigation according to law and have access to his clients in pre-trial detention. On July 22, three unidentified men came to Komilov's house when neither he nor his wife was present and questioned Komilov's children, age 7 and 14 about their fathers' activities, where he works and how he makes money. Komilov is concerned that this is an attempt to dissuade him from his work.

Other trials of additional suspects in the March-April violence may take place in the coming months. It is critical that they, and the current trial, conform to international standards for due process and fair trials. We urge you to do take all measures to:

Sincerely,

Rachel Denber
Acting Executive Director
Europe and Central Asia division

cc: Prosecutor General Rashid Kodirov

¹Statement by the Ministry of Foreign Affairs of Uzbekistan, Information on the beginning of the trial of the organizers and participants of the terrorist acts in March and April in Tashkent and Bukhara province, July 31, 2004. Human Rights Watch unofficial translation from the Russian original.

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