

Human Rights Watch

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Update:

Sanjar and Savarbek Khudaiberganov are now back in Kyrgyzstan. When they arrived in Osh on August 6, they immediately reported to UNHCR. Human Rights Watch remains deeply concerned about Sanjar Khudaiberganov's safety in Kyrgyzstan and urges that he and his family be resettled to a safe third country as a matter of urgency

(New York) - Two Uzbek asylum seekers have been missing since July 30, 2009, from the Kyrgyz capital, Bishkek, raising fears that they were forcibly returned to Uzbekistan, Human Rights Watch said today.

Sanjar Khudaiberganov and his 11-year-old son, Sarvarbek Erkinzoda, were last seen on the afternoon of July 30, 2009, returning home from the State Committee for Migration and Employment of the Kyrgyz Republic in Bishkek, where they had gone to extend their temporary registration. Khudaiberganov and his family had applied for refugee status at the office of the United Nations High Commissioner for Refugees (UNHCR) in Bishkek on June 19, 2008, but their application was still under review when they disappeared.

"We're very worried that Sanjar Khudaiberganov and his son were forced back to Uzbekistan and are at great risk," said Holly Cartner, Europe and Central Asia director at Human Rights Watch. "The Kyrgyz government has an obligation to investigate and account for what happened to them."

Khudaiberganov's wife, Saodat Khudaiberganova, alerted the Bishkek office of the UN refugee agency on July 31, after her husband and son did not return during the night. The government of Kyrgyzstan has been complicit in the past in the forced return of asylum seekers to Uzbekistan, despite the risk of torture there.

Khudaiberganov fled to Kyrgyzstan in 2008 because he feared persecution and ill-treatment in Uzbekistan. His brother, Iskander, had been arrested and sentenced to death in 2002 for, among other things, terrorism, conspiracy to overthrow the constitutional order, and subversive activity. Iskander was convicted solely on the basis of his own confessions obtained under torture and witness statements later retracted in court. Other members of the Khudaiberganov family had been involved in human rights activities.

Sanjar Khudaiberganov had been detained in 1999 and questioned about his brother's whereabouts. He was severely ill-treated while in custody. In his February 2003 report, the former UN special rapporteur on torture, Theo van Boven, said: "At the end of February 1999, [Khudaiberganov] reportedly had to be hospitalized as a result of ill-treatment by the police. ... Sanzhar Khudoberganov [an alternate spelling] was said to have been held at the SNB office in Tashkent for a week, where he was reportedly kicked and beaten in the stomach, including with rubber truncheons, and subsequently required an emergency operation for his injuries."

He continued to face harassment by the authorities. Until he left for Kyrgyzstan in June 2008, he was repeatedly summoned by the police or picked up at his home or on the street and taken to the police station, where he was insulted and threatened with imprisonment if he did not stop members of his family from their human rights work.

Legal Clinic Adilet, a local nongovernmental organization and UNHCR partner organization that provides legal services to asylum seekers, refugees and other vulnerable persons, has tried to find Khudaiberganov and his son. Adilet staff called the central morgue, the 4th City Hospital, and the police station (ROVD) in the neighborhood where the family lives, but no one had seen anyone matching their description.

Human Rights Watch called on the Kyrgyz government to investigate the whereabouts of Khudaiberganov and his son and to provide a full accounting of what happened to them. The government should also extend protection to Khudaiberganova and the couple's two other children, Laziza and Salokhiddin Erkinzoda, who are still in Kyrgyzstan.

Given the ongoing threat of forced return from Kyrgyzstan to Uzbekistan, Human Rights Watch also urged UNHCR to expedite the review of refugee claims by Uzbeks and to expedite their resettlement to third countries. UNHCR should also work closely with the Kyrgyz government to improve protection of Uzbek refugees in Kyrgyzstan, Human Rights Watch said.

Uzbekistan has a long and well-documented record of torture. The United Nations Committee Against Torture, reviewing Uzbekistan's record in November 2007, concluded that torture and ill-treatment remained "routine." Human Rights Watch continues to receive numerous, credible reports of torture and ill-treatment, indicating that torture remains a widespread practice within the prevailing law-enforcement and judicial culture in which abusers are not called to account.

Forcible returns in the face of the risk of torture or other inhuman and degrading treatment violate Kyrgyzstan's obligations under article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it ratified in 1997. It would also violate Kyrgyzstan's obligations as a party to the 1951 Refugee Convention to return asylum seekers to a place where they faced persecution.

Human Rights Watch called on the international community, including the United Nations, the European Union, and the United States to inquire about the whereabouts of Khudaberganov and his son, call on the Uzbek government to ensure their well-being and safety should they be in government custody, and seek immediate access to them.

Background

More than a dozen asylum seekers have been forcibly returned to Uzbekistan since 2005. On August 8, 2006, for example, the Kyrgyz government violated international law by forcibly [returning to Uzbekistan five Uzbeks](#), four of whom the UNHCR had recognized as mandate refugees, and one asylum seeker. At least five registered asylum seekers [disappeared from Osh](#), a city in southern Kyrgyzstan, over the course of the following two weeks. In the past there have also been serious allegations that the Kyrgyz authorities have provided details about Uzbek asylum seekers, including their names and addresses, to the Uzbek government.

In May 2008, Kyrgyz authorities handed over Erkin Holikov to Uzbek authorities despite his pending asylum claim. In September 2008, unknown individuals stopped Haiotjon Juraboev, a UNHCR-recognized refugee, in Bishkek. Witnesses said that the individuals introduced themselves as security officials. Several months later, Juraboev was discovered in an Uzbek prison. He was sentenced to a 13-year prison term in February.

In its first decision on Kyrgyzstan (*Maksudov et al. v. Kyrgyzstan*), the UN Human Rights Committee, the expert body that monitors state compliance with the International Covenant on Civil and Political Rights, ruled in July 2008 that Kyrgyzstan had breached the rights to personal liberty, freedom from torture, and right to life of the four refugees extradited to Uzbekistan in August 2006, and should provide effective remedy and put in place effective monitoring of their situation. The committee also noted that Kyrgyz extradition legislation does not comply with the state's obligations not to *refoule* (forcibly return) a person to a place where the person could face persecution. The government so far has taken no action to implement the decision.

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