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# The War On Terror and its Implications for Human Rights in Uzbekistan

by Nozima Kamalova



OCCASIONAL PAPER #296

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# The War On Terror and its Implications for Human Rights in Uzbekistan

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A country's legal culture depends to a large degree on the particular features of its society, and on how that society defines legal "progress." Western societies, which are generally acknowledged to have made real progress in respecting human rights, have established legal systems reflecting the values of human rights and liberties. Many developing countries have not. In spite of developmental differences between societies, however, World War II amply demonstrated how discrimination can affect all countries. In its aftermath, the United Nations was created to combat discrimination and to develop and protect minimum standards of human rights worldwide. Unfortunately, the current global War on Terror, insofar as it is being used to usurp human rights, is putting that standard at risk.

Developed countries justify the War on Terror on the (legitimate) grounds of state security, which they define in this case as the security of people living in their countries. During the months following September 11, 2001, the world was focused on efforts to bring those responsible for the attacks to justice, and to prevent additional terrorist attacks. However, many countries around the globe have cynically

attempted to take advantage of these efforts to intensify their own crackdowns on political opponents, separatists, and religious groups, or to deflect criticism of their human rights practices.<sup>1</sup> Thus the U.S.-led War on Terror has been used by various authoritarian regimes to justify their own dictatorial agendas. One of the best examples of this process is Uzbekistan.

Under the pressure of the War on Terror, even the governments of many Western countries have persuaded their citizens to accept less progressive and rigorous norms, easing the job of law enforcement at the cost of individual human rights. According to Amnesty International, since 2001, British authorities (among others) have mounted a sustained attack on human rights, the independence of the judiciary, and the rule of law.<sup>2</sup> The human rights scholar Owen Lysak states that "basic human rights, which prior to September 11 were considered sacrosanct, have found themselves contested, and at risk of being mown down by the counter-terrorist juggernaut."<sup>3</sup> As a result, developing states like Uzbekistan feel less pressure to respect human rights, and are less constrained in further disregarding fundamental human rights in order to justify and strengthen dictatorship.

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In April–August 2006, she was a public policy scholar at the Woodrow Wilson International Center for Scholars in Washington, D.C. Most of the research presented in this paper was conducted at the Wilson Center, where she was affiliated with the Kennan Institute.

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1. For a summary of this phenomenon, see Human Rights Watch, "Opportunism in the Face of Tragedy: Repression in the name of anti-terrorism." The Human Rights Watch, 2002. <http://hrw.org/campaigns/september11/opportunismwatch.htm>.

2. Amnesty International, "UK: Human Rights Under Sustained Attack in the 'War on Terror,'" *News.Amnesty*, February 11, 2005, <http://news.amnesty.org/index/ENGEUR450502005>.

3. Owen Lysak, "Terrorism, Human Rights and the Criminal Law," *Consilio*, August 4, 2003, <http://www.spr-consilio.com/artlysak3.html>.

This work considers the example of Uzbekistan in order to explore how the policies and steps taken by governments in developed countries have led to the expansion of human rights abuses and violations in less developed countries. Given the broad parameters of this topic, discussion will be limited to a discussion of the various definitions of terrorism, an examination of particular civil and political rights under threat in Uzbekistan, and to an analysis of several case studies in which individuals in Uzbekistan have been classified as terrorists under questionable circumstances.

### HUMAN RIGHTS: THE PRICE OF SECURITY?

Over the centuries, people have struggled to conceptualize and safeguard universally applicable human rights. The Bill of Rights in England, the establishment of Habeas Corpus, the Constitution of the United States of America, the Declaration of the Rights of Man in France, the Universal Declaration of Human Rights (1945), and all of the United Nations conventions in the field of human rights are significant benchmarks in that struggle. Millions of people have worked together to develop the best principles of democracy and the rule of law. However, the recent threats posed by terrorism have led many Western countries to change their commitments to the ideals of human rights. “Since September 11, more than a thousand antiterrorism measures have been proposed in state and local jurisdictions across the nation, and already a number of them have become law. These measures threaten to criminalize speech and protest activities, limit the availability of public records, expand government surveillance powers, and promote participation in acts the legislature deems patriotic.”<sup>4</sup> These countries have found no other way of dealing with this problem but to limit the rights of their citizens to (among others) freedom, privacy, free speech, and access to lawyers. This, in turn, has given authoritarian governments the opportunity to further suppress and limit human rights in their own countries. Countries with no tradition of rule of law have often looked at more developed

states as something of an ideal, but, at the same time, have acted to preserve the power of their own leaders. Thus, the negative example of the more developed countries has allowed states in which democracy is nascent and the government is in most cases authoritarian, to defend their anti-democratic actions and stall any movement toward democratic reform.

There is no doubt that the state is responsible for the security of its citizens, but does limiting human rights actually make people more secure? Does the country become less vulnerable to threats of terrorism? Who decides the balance between state security and human rights? Who can safeguard these limitations against abuses by corrupt officials? Who can guarantee that tomorrow we can gain back the rights we relinquish today? Why do people living in democratic countries react so passively when their rights and freedoms are abrogated due to fears of terrorism? It is a paradox that citizens of democratic countries freely renounce the same rights that citizens of non-democratic countries have been dreaming of for a long time. It is true that terrorism targets civilians and noncombatants—but so do restrictions on civil liberties.

### DEFINING TERRORISM

There is no single clear and specific definition of terrorism accepted by all nations; even the United Nations cannot settle on one universal definition. The absence of a universal definition leads to abuses and the selective application of the law in authoritarian countries. Yet there is a broad consensus, which dates back to the League of Nations’ 1937 definition of terrorism as “...all criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons or a group of persons or the general public.” The United Nations’ “academic consensus definition,” written by terrorism expert A.P. Schmid and widely used by social scientists, defines terrorism as “...an anxiety-inspiring method of repeated violent action, employed by (semi-) clandestine individual, group or state actors, for idiosyncratic, criminal or political reasons, whereby—in contrast to assassination—the

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4. Nancy Chang, *Silencing Political Dissent* (New York: Seven Stories Press, 2002), 136.

direct targets of violence are not the main targets. The immediate human victims of violence are generally chosen randomly (targets of opportunity) or selectively (representative or symbolic targets) from a target population, and serve as message generators. Threat- and violence-based communication processes between terrorist (organization), (imperilled) victims, and main targets are used to manipulate the main target (audience(s)), turning it into a target of terror, a target of demands, or a target of attention, depending on whether intimidation, coercion, or propaganda is primarily sought.” Schmid has also defined an act of terrorism as the “peacetime equivalent of a war crime,” the short legal definition adopted by the UN. In scholar Walter Laqueur’s formulation, “Terrorism constitutes the illegitimate use of force to achieve a political objective when innocent people are targeted.”

#### The U.S. Definition of Terrorism

Within that broad consensus, countries have different definitions of terrorism, and some even have different definitions within their state agencies. For instance, the U.S. Department of Defense, Department of State, and the Federal Bureau of Investigations subscribe to disparate guidelines.

After the attacks of September 11, the United States adopted the Patriot Act, which defines terrorism as “...acts dangerous to human life that are a violation of the criminal laws of the United States or of any State.”<sup>5</sup> I think this is much too broad a definition: “acts dangerous to human life” can be interpreted in a wide variety of ways.

As Nancy Chang, a senior litigation attorney, states, “clashes between demonstrators and police officers and acts of civil disobedience—even those that do not result in injuries and are entirely non-violent—could be construed as ‘dangerous to human life’ and in ‘violation of the criminal laws.’ Environmental activists, anti-globalization activists, and anti-abortion activists who use direct action to further their political

agendas are particularly vulnerable to prosecution as ‘domestic terrorists.’”<sup>6</sup>

#### The U.K. Definition of Terrorism

According to the British government’s Prevention of Terrorism (Temporary Provisions) Act of 1989, terrorism is defined as “the use of violence for political ends, and includes any use of violence for the purpose of putting the public or any section of the public in fear.”<sup>7</sup> This too is quite vague and open to multiple interpretations. The actions of Greenpeace activists, for instance, might be interpreted as “putting the public or any section of the public in fear.” Britain’s Terrorism Act of 2000 defines terrorism as the “use or threat of action designed to influence the government or to intimidate the public or a section of the public [...] for the purpose of advancing a political, religious or ideological cause.” Such actions may involve “serious violence against a person, [...] serious damage to property, [may] endanger a person’s life, other than that of the person committing the action; [may] create a serious risk to the health or safety of the public or a section of the public, or is designed seriously to interfere with or seriously to disrupt an electronic system.”<sup>8</sup>

The Religious Society of Friends (Quakers) criticized this definition of terrorism as too general and too inclusive:

The current legal definition of terrorism appears to be so broadly drawn as to include activity that would not generally be considered terrorism, in the ordinary English usage of the word. We are concerned that the Terrorism Bill 2006 adopts the broad definition of the Terrorism Act 2000 and Anti-Terrorism Crime and Security Act 2001. By including violence against property, the definition could extend the meaning of terrorist activity to cover non-violent protest, which while amounting to criminal damage cannot be considered “terrorism” in the ordinary usage of the word. While those undertak-

5. USA PATRIOT Act, HR 3162, 107th Cong., 1st sess.

6. Chang, *Silencing Political Dissent*, 43.

7. Baber, Mary. “The Terrorism Bill: Bill 10 of 1999-2000,” House of Commons Research Paper 99/101, <http://www.parliament.uk/commons/lib/research/rp99/rp99-101.pdf>, (accessed June 22, 2007).

8. Greater London Authority. *The Terrorism Bill: House of Lords Report Stage Report*, January 17 & 25, 2006, <http://ejp.icj.org/IMG/78.pdf> (accessed June 22, 2007).

ing civil disobedience, recognise that their activity may lead to imprisonable offences, a definition of terrorism that equates such activity with the type of actions involving the killing of civilians on the London Underground, both offends natural justice and undermines respect for the rule of law.<sup>9</sup>

#### Uzbekistan's Definition of Terrorism

According to Article 155 of the Uzbek Criminal Code, "terrorism, that is, violence, use of force, or other acts, which pose a threat to an individual or property, or the threat to undertake such acts in order to force a state body, international organization, or officials thereof, or individual or legal entity, to commit or to refrain from some activity in order to complicate international relations, infringe upon sovereignty and territorial integrity, undermine the security of a state, provoke war, armed conflict, destabilize a sociopolitical situation, or intimidate a population, as well as activity carried out in order to support operation of and to finance a terrorist organization, preparation and commission of terrorist acts, direct or indirect provision or collection of any resources and other services to terrorist organizations, or to persons assisting to or participating in terrorist activities."<sup>10</sup> Such actions incur punishment ranging from imprisonment for eight years to capital punishment.

Of the three definitions cited, the Uzbek definition is the longest and the most perilous, as it is very broad and gives law enforcement great latitude to intimidate and threaten people just for speaking out in opposition to government policies. The Uzbek government has already exploited portions of that definition—"acts which can destabilize the sociopolitical situation," for example—to detain and prosecute human rights defenders and journalists who gave interviews to the foreign media regarding the events in Andijan last year.

Two Dutch researchers, A. Schmid and A. Jongman, analyzed 109 academic and institu-

tional definitions of terrorism to identify their main components. According to their research, 83.5 percent of the definitions included the element of violence; 65 percent included political goals; 51 percent emphasized the element of inflicting fear and terror. Only 21 percent of the definitions mentioned arbitrariness and indiscriminate targeting and only 17.5 percent included the victimization of civilians, noncombatants, neutrals, or outsiders.<sup>11</sup>

Academics and governmental definitions appear to be less concerned with what should be most important, most crucial, and at the very center of the definition: the victimization of the public (noncombatants). My proposal of the definition of terrorism is the following:

"Terrorism is the act(s) of violence in order to achieve a political objective(s), which relies upon the creation of fear in the public where civilians are encompassed in the scope of the target."

The absence of a universal definition of terrorism has led to significant limitations and restrictions of human rights in countries with authoritarian regimes, which take advantage of this war to justify their own repressive activities. This is why the UN needs to formulate a single, universally applicable definition of terrorism, to disallow or at least minimize the chance that a government can use the War on Terror for its own purposes.

#### VIOLATIONS OF CIVIL RIGHTS IN UZBEKISTAN

This paper examines several civil rights in the context of Uzbekistan's increasingly repressive legislation passed in the name of the War on Terror. While many other civil rights continue to be violated in the country, examining these other rights is beyond the scope of this paper.

Uzbekistan presently remains an authoritarian state with very limited civil rights, in which repressive Soviet-era methods are used to suppress any kind of dissent, freedom of speech, and opposition through law enforcement bodies

9. The Religious Society of Friends (Quakers) to Lord Carlile, memorandum, to an independent review of the definition of terrorism in U.K. Law, <http://www.quaker.org.uk/Templates/Internal.asp?NodeID=92046> (accessed June 22, 2007).

10. Article 155 of the Uzbek Criminal Code,

<http://www.legislationline.org/upload/legislations/34/fc/a45cbf3cc66c17f04420786aa164.htm> (accessed June 22, 2007).

11. Schmid A. and A. Jongman, *Political Terrorism* (Amsterdam: North Holland Pub. Co., 1988), 34 as quoted in Ariel Merari, *Terrorism as a Strategy of Insurgency: Terrorism and Political Violence*, Vol. 5, No. 4 (London: Frank Cass, 1993).



utilized as a repressive machine of enormous scale and strength. These agencies are governed by the maxim that the interests of the government and state have higher priority than universally accepted human rights and freedoms, although the Constitution declares that “democracy in the Republic of Uzbekistan shall rest on the principles common to all mankind, according to which the ultimate value is the human being: his life, freedom, honour, dignity, and other inalienable rights.”<sup>12</sup>

However, the government—with its strong totalitarian heritage—failed to embark on the necessary and arduous reform process, in all cases blocking the development of democratic cornerstones such as pluralism and privatization, which resulted in strong criticism from the West. To suppress the initial efforts of an opposition movement and independent thinkers, the government used the cruel methods of an authoritarian regime. During the years of independence, Uzbekistan has not achieved any visible progress, but has been led into poverty, violence, and corruption. In addition to this, despite being rich in natural resources, Uzbekistan has become one of the poorest countries in the former Soviet block. According to World Bank data from 2002, approximately 72 percent of Uzbekistan’s rural population qualifies as extremely poor.<sup>13</sup>

From the mid-1990s, the government had to face the dilemma of how to cover up its crimes and widespread violations of human rights, and how to counter criticism from foreign governments and international organizations. The War on Terror became a great chance for Uzbekistan to divert international attention from significant domestic problems such as poverty, unemployment, and human rights abuses, and to present itself as an active supporter of the antiterrorism policy of Western countries. The president of Uzbekistan spoke about the danger of terrorist groups based in Afghanistan, and the whole foreign policy of Uzbekistan was dedicated to the war against global terror.

The president proclaimed in the early 1990s that he would need two to three years to bring

about a market economy. Only after this process could Uzbekistan consider political reforms. During this speech, he openly asked the Uzbek people to wait with respect to human rights and democracy. The people of Uzbekistan, however, have not gained any rights; in fact, the human rights situation has worsened.

Since the events of September 11, 2001, when Uzbekistan became an important partner in the United States’ campaign in Afghanistan, the Uzbek government has used the global War on Terror to justify its own domestic agenda. The Uzbek government commenced its own “war on terror” long before it started cooperating with the United States, however. By the time the Uzbek government joined the coalition, it already had a history of oppressing its secular opposition and had already launched a new phase of arrests and prosecutions of individuals practicing Islam outside government-controlled mosques. If such individuals expressed any opinion against government policy, they were immediately labeled as terrorists, and thousands of such people were sentenced to long prison terms. The government of Uzbekistan has put the security of the state above all else, while fully ignoring human rights. It is worth mentioning that for the Uzbek government the term “state security” means the security of the ruling elite. In other words, state security in Uzbekistan has nothing to do with the security of common people; moreover, it means unjustified limitation of human rights that were poor and limited in the first place.

The government describes a situation in which global terrorist movements pose a real threat to the Uzbek people. The question to be posed, however, is does Islamic extremism or radicalism really pose a threat to the stability of Uzbekistan? Indeed, the people of Uzbekistan live in shocking poverty, with no understanding at all of the government’s irresponsible economic and social agenda, and under the constant threat of the police. In actual fact, those practicing Islam outside of the strictly controlled state mosques who might have expressed an opinion

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12. Uzbekistan Const. art. XIII.

13. United Nations Development Programme, *Growth and Poverty Reduction in the Next Decade. Report to the Government of Uzbekistan*, 2004, <http://www.undp-povertycentre.org/publications/reports/Uzbekistan.pdf> (accessed June 25, 2007).

against government policy were immediately labeled as terrorists, and thousands of them were sentenced to long prison terms.

The threat of radical Islam in Uzbekistan is severely exaggerated by the Uzbek government. While it is true that there are some Islamic movements in the country, the audience for these groups is very limited. The level of radicalism of these groups is also difficult to evaluate. In fact, Uzbekistan is a secular country. As the Legal Aid Society of Uzbekistan observed, religious extremism does not appear to be a part of Uzbek society. The Legal Aid Society, on the other hand, has documented the details of many cases of alleged extremists/terrorists. When asked why they were involved in illegal activities, the answer was invariably that they needed money for their families—they were not involved for religious ideals.

#### FREEDOM OF ASSOCIATION AND ASSEMBLY

The work of constructing civil society in Uzbekistan has been difficult for the entire 15 year duration of the country's independence. The government's views on civil society have changed very little from what they had been in the times of the USSR. For several years, the Uzbek government registered no human rights NGOs, relenting only under pressure from the international community. Because the Uzbek government viewed NGOs as a means of validating itself to the international community, however, such associations were created by presidential decree or initiated by government directive. The statement made by former Georgian President Eduard Shevardnadze—accusing George Soros of organizing his political demise<sup>14</sup>—marked the beginning of a new chapter in the government's so-called “war on terror,” and transformed it into a campaign against independent civil society champions, such as human rights defenders, journalists, and anyone expressing independent views.

Following Georgia's Rose Revolution of November 2003, relations between the United States and Uzbekistan began to deteriorate, as Uzbek President Islam Karimov began to fear

the fate that befell Shevardnadze. The Uzbek government began to see NGOs as the main threat to its power. As a result, since December 2003, the government has issued a number of decrees that have paralyzed the work of the entire NGO sector. All of these steps along with others of a similar nature were taken under the aegis of the War on Terror.

The first restriction of this sort, issued in December 2003, concerned the renewal of registration for international NGOs. While international organizations had previously registered at the Ministry of Foreign Affairs, the additional procedures also required registration at the Ministry of Justice. As a result of this dual registration requirement, many foreign NGOs that were deemed dangerous had their documents refused or otherwise rejected. One of the first casualties of the change of policy was the Open Society Institute of George Soros.

The most destructive by-laws, implemented in February 2004, restricted international financial assistance. The government established a special intra-governmental committee that checks every grant transfer originating overseas, thus purportedly preventing money laundering and the financing of terrorism. The restriction is based on the Uzbek government's unsubstantiated assumption that international donors are financing terrorism, or are involved in money laundering. The “success” of this idea was proved when the work of 90 percent of all NGOs that depended heavily on foreign aid was stopped. Another resolution came in June 2004, which required NGOs to obtain licenses to print any publication or brochure. This resolution was justified as a measure to prevent the spread of terrorist views. By 2005, most of Uzbekistan's NGO sector was shut down as a result of these so-called administrative measures.

During the last two years, the government has suspended or expelled almost all international organizations working in Uzbekistan, including IREX, Inter-news, Radio Free Europe/Radio Liberty, Freedom House, ABA CEELI, Eurasia Foundation, Counterpart International and others.

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14. “Shevardnadze accuses Soros of organising a coup d'etat in Georgia,” *Pravda*, December 1, 2003, <http://newsfromrussia.com/world/2003/12/01/51582.html> (accessed June 25, 2007).

The human rights situation deteriorated dramatically after the Andijan events of May 2005. Since that time, the government has launched a full-fledged campaign against human rights defenders and journalists and opposition members, arresting or harassing in various ways Saidjahon Zainabidinov, Mutabar Tadjibaeva, Sanjar Umarov, Nodira Hidoyatova, Dilmurod Muhiddinov, Zakir Nosir, Dadahon Hasanov, Agzamjon Farmonov and many others. The Uzbek government is using Stalin-era methods and propaganda to label such individuals as well as NGOs as enemies of the state.

This repressive campaign against civil society is intended to intimidate the most politically and socially active segments of the population. It is meant to instill fear of the existing menace of the regime, of its possible evolution to new levels of despotism; it strives to destroy each person's commitment to fight against abuse and injustice. While the government initially disguised its activities under democratic slogans and was more careful in taking aggressive measures, now it is getting more bold and insolent. If, in the past, the Uzbek government needed to create the façade of a democratic state because of U.S. pressure, today it does not have to anymore. Russia—its new strategic partner in its “war on terror”—does not pressure Uzbekistan in the same way.

The government closed not only independent NGOs, but also GONGOs, non-governmental organizations established by the government. The regime became concerned that, at some point in the future, even the government-controlled NGOs might influence the state of mind of its citizens, prompting them to demand more individual rights. Many of the GONGOs “voluntarily” closed after being called in by the authorities. Only the most government-loyal organizations were allowed to continue functioning.

The existence of those NGOs that remain registered has become even more uncertain. According to laws added to the Uzbek Criminal and Administrative Codes on December 28, 2005, they must receive permission from the authorities to carry out their actions and to present reports of their activities, including documents describing the use of property and financial resources.

Furthermore, NGOs have to submit regular reports that comply with a special format. If officials deem the submission unacceptable, NGO representatives will be fined in the amount of up to 100 times the minimum wage, which is approximately \$1,000. The law does not, however, stipulate the details involved in “submit[ting] regular report[s] in the appropriate format.” NGOs may also be fined for “involving others” in their organization, but such “involvement” is nowhere defined. Thus, there is reasonable doubt about the meaning of key elements of the law's requirements.

The new laws call for increasing fines for various infractions, up to 600 times the minimum monthly wage of \$10, which adds up to almost \$6,000. This is an enormous sum, considering that the average salary of an Uzbek citizen is approximately \$60–80 per month.

According to this new legislation, any citizen of Uzbekistan can be either criminally prosecuted or administratively charged for activities such as defamation, street marches and demonstrations, operating NGOs without official registration, and providing space or other facilities to participants of non-sanctioned meetings, among others. For example, the offense of providing space or other facilities to participants of non-sanctioned meetings would in the past have been confined to government-owned or public spaces only. Now, the law extends to any facility, whether public or private.

Similarly, the scope of responsibility for the given offenses has expanded. In the past, only the responsible officials were charged; now such charges can apply to any person. The law nowhere defines what constitutes a non-sanctioned meeting, so that authorities can designate any gathering of people in a house as a “non-sanctioned meeting,” even if those people are simply gathering for a social event or a meal.

Another amendment concerns the activities of representative offices and branches of international NGOs and their employees. According to this article, a penalty of up to 150 times the minimum wage, or 15 days in detention, may be imposed for initiating, creating, or supporting political organizations, as well as for participating in political activities and financing political parties and mass movements.

Finally, on June 30, 2006, the Cabinet of Ministers of Uzbekistan adopted a resolution on “[the] disclosure of information in connection with preventing legalization of income earned as a result of criminal activities and financing of terrorism.” This resolution, and its accompanying regulations, empower law enforcement officials to inspect, without any restrictions whatsoever, the financial records of any citizen who has received money from outside the country, or whose income is suspected to be related in any way whatsoever to criminal and/or terrorist activities.

The Uzbek journalist S. Ezhkov speaks on behalf of many Uzbeks in his analysis of the real impact of this resolution:

Simply speaking, officials who receive an official salary that is lower than the cost of living reserve the right to have everything, without having to answer to the state and society about the origins of their material well-being. It is also clear that these officials, often having property costing hundreds of thousands or even millions of U.S. dollars, regardless of the recent legislation will not attract the close attention of law enforcement agencies. It is also unlikely that this attention will go to the close relatives of these officials. Those who are not protected by being close to the state will face open blackmail and other unpleasant circumstances.<sup>15</sup>

Given events described in more detail below, it is not unreasonable for Ezhkov and others to interpret this new law as one that is aimed at activists, those against whom the government has been conducting a campaign of prosecution. If ever the regime wishes to accuse any such person of illicit activities, they can use this clause to charge them with money laundering and supporting terrorism. Certainly, this law can disproportionately harm the poor and the independent religious segments of society.

#### The Right to Defense

So-called terrorist cases in Uzbekistan usually

involve a large number of different human rights violations. Arbitrary detention and torture are widely used in such cases, as is holding prisoners incommunicado. In these types of cases, attorneys are denied access to their clients and before they can provide assistance, the prosecutor often manages to obtain—frequently by means of torture—the testimonies required for prosecution.

The role of defense attorneys remains extremely limited. While Uzbek law theoretically guarantees access to lawyers, that is often not the case in reality, especially in politically motivated cases or those involving charges of terrorist activities. State-sponsored legal defense is very poor: usually these cases are presented by so-called *karmannye advokati*—“pocket lawyers”—who will sign any document without even meeting with their defendants. Sometimes they even testify against their clients. Furthermore, a majority of attorneys are not adequately trained to represent their clients; they play a very passive role in court hearings and on occasion take the prosecutor’s side.

According to the Office for Democratic Institutions and Human Rights, which monitored the Andijan trial of fall 2005 and subsequently issued a report, many questions were irrelevant and defense attorneys did not actually act in the interest of their clients:

There was no attempt by the defense lawyers to question the defendants properly, to cross-examine prosecution witnesses with the aim of establishing facts that could assist the defendants, and to bring in witnesses who could provide mitigating details relevant to sentencing. The line of questioning by defense counsel was most of the time unstructured and lacked any strategy or planning of a defense case, such as with a view to minimizing the sentence that would be imposed upon their respective clients... In other cases questions were posed by the defense lawyers that might have been expected from the prosecution rather than the defense. The following are some examples: “Was there American money involved

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15. Ezhkov, Sergey. “Anyone Can Become a Terrorist,” *Democratic ERK Party of Uzbekistan*, posted July 11, 2006, <http://www.uzbekistanerk.org/modules.php?name=News&file=article&sid=2018> (accessed June 25, 2007).

in the Andijan event?” (Question posed to defendant T. Khajhiev). “What would you say to the youth of Uzbekistan?” (Question posed by Nodirov’s lawyer to the defendant). “Did the people of Uzbekistan do any harm to you? Why did you decide to come and kill people in Uzbekistan?” (Question posed by the lawyer Abdikodirova to her client Imankulov).<sup>16</sup>

The ODIHR report continues: “The closing arguments of the defense in most cases failed to analyze evidence presented at trial that might favor the defendants. In fact, the defense supported and further strengthened the arguments of the prosecution, confirming rather than seeking to refute allegations made by the prosecutor. Closing arguments were based on the prosecutors’ conclusions and were not intended to argue to the contrary. Lawyer Imembergenova, defending Sabirov, was quite straightforward: ‘There is no need to repeat what the prosecutor briefed.’”<sup>17</sup>

Uzbekistan’s violations of conventional legal principles in a rule-of-law state echo an unfortunate tendency we can observe in both the United Kingdom and the United States that limits the right to defense. According to Amnesty International, the British prime minister recently proposed a 12-point plan, “every element of which signaled further assaults on human rights, particularly for those identified as Muslims, foreign nationals, and asylum-seekers...The Bill also proposes extending from 14 days to three months the period that people purportedly suspected of involvement in terrorism can be held without charge in police custody—more than 20 times the period allowed for holding people on suspicion of murder—thereby, in effect, reintroducing internment.”<sup>18</sup>

Unfortunately in the United States the right to defense has also been restricted. On October 31, 2001, the Justice Department vested power in the Bureau of Prisons to monitor communications between attorneys and their imprisoned

clients that would previously have been treated as confidential.

John Whitehead and Steven Aden have analyzed the meaning and impact of the Patriot Act and the Justice Department’s anti-terrorism initiatives. They conclude:

For the first time in modern history, federal authorities may now refuse to respect the age-old, virtually absolute confidentiality enjoyed by a prisoner consulting with his or her attorney. On October 30, 2001, the Justice Department unilaterally imposed a requirement on federal correctional facilities that would allow the correspondence and private conversations between prisoners and their counsel to be subjected to monitoring in most situations. This rule was put into effect immediately by Attorney General Ashcroft, without the usual protections of notice and public comment afforded by the federal Administrative Procedures Act. The rule was posted in the Federal Register on October 31, 2001, the day after it went into effect. Further, the rule is not limited to alleged terrorists; rather, it extends to all incarcerated individuals. Under the rule, communications or mail between prisoners and their attorneys may be monitored if the Attorney General “has certified that reasonable suspicion exists to believe that an inmate may use communications with attorneys or their agents to further or facilitate acts of violence or terrorism.” Because the phrase “acts of violence” is so broad and discretion is vested in the Attorney General to certify which prisoners are subject to the rule, no protections exist to ensure that the monitoring will not rapidly expand to include a large percentage of federal prisoners. As the American Bar Association has noted, this monitoring violates the attorney-client privilege and is a serious infringement upon a suspect’s

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16. OSCE/ODIHR. *Trial Monitoring in Uzbekistan: September/October 2005*, Report, April 21, 2006, [http://www.osce.org/documents/odihr/2006/04/18767\\_en.pdf](http://www.osce.org/documents/odihr/2006/04/18767_en.pdf) (accessed June 25, 2007).

17. *Ibid.*

18. Amnesty International, “UK: Human rights under sustained attack in the ‘war on terror,’” *News.Amnesty*, November 2, 2005, <http://news.amnesty.org/index/ENGEUR450502005> (accessed June 25, 2007).

Sixth Amendment right to counsel. Prior to the issuance of this regulation, a judicial order could permit monitoring of attorney-client communications only upon showing that the government had probable cause to believe that criminal activity was occurring. The monitoring places an attorney in the position of either violating the ethical obligation to maintain confidentiality of communications with the client or foregoing such communications altogether, thereby seriously jeopardizing the ability to obtain or sustain legal representation.<sup>19</sup>

This not only violates U.S. and international law, but also sends the wrong message to the governments of authoritarian countries. While lawyers in countries like Uzbekistan are still struggling to gain the right to talk to their clients privately, Western citizens are easily giving up this right, which they have taken for granted for a long time.

#### FREEDOM FROM TORTURE AND ILL-TREATMENT

Freedom from torture is one of the few absolute basic rights recognized by international law. Regardless of that fact, torture is widespread and used systematically in Uzbekistan, especially in cases involving so-called Islamic extremist groups, political opponents, and cases in which the death penalty is considered. Torture has been an issue for Uzbekistan for many years. Torturers in Uzbekistan use the most brutal methods during interrogation, methods comparable to those of the medieval Inquisition.

Law enforcement officers usually employ physical abuse, which includes beating with fists, clubs, and other objects, suffocation by means of a gas mask or plastic bags, torture with electric current, burning, causing cutting injuries by sharp objects, sexual abuse, rape, and denial of food and water. In addition, victims report having been beaten with cloth sacks or plastic bottles filled with sand, which leave fewer bruises.

Victims also report that militia department officers target the waist in the area of the kidneys, which helps avoid marks on the face and hands but may seriously damage internal organs.

Torture is used as a method for discovery in practically all cases. Torturers can subject anyone to torture: old men, children, even pregnant women. Obtaining evidence by torture has been customary since Soviet times, but has increased in intensity with the current regime. Such tactics cannot fail to leave a mark on society; indeed, as a result of these tactics, Uzbekistan today can best be described as a “state of fear.”

The UN Special Rapporteur on Torture Theo van Boven described torture in Uzbekistan as systematic and widespread. Human Rights Watch, which investigated allegations of torture, concluded that “for the past decade, with increasing intensity, the government of Uzbekistan has persecuted independent Muslims. This campaign of religious persecution has resulted in the arrest, torture, public degradation, and incarceration in grossly inhumane conditions of an estimated 7,000 people... They were tortured and suffered other forms of mistreatment by police trying to obtain confessions. They endured incommunicado detention, denial of defense counsel, denial of a fair trial, and convictions based on fabricated evidence. They continue to suffer torture and ill-treatment as they serve their sentences in Uzbek prisons. We also document the arrest, harassment, and intimidation of their families, including Soviet-style public denunciations that local officials stage against perceived Islamic ‘fundamentalists.’”<sup>20</sup>

Take, for example, one so-called “terrorist” case, the case of Yokubjon Aliev, accused of anti-constitutional activities for his alleged membership in the extremist Islamic group Akromia. His sister, Maryamhon Yusupova, made a statement to the Legal Aid Society of Uzbekistan, claiming that her brother was brutally tortured in the holding cell of a Tashkent militia station. He was detained in June 2005, and during one month, he lost approximately 20

19. Whitehead, John W. and Steven H. Aden, “A Constitutional analysis of the USA Patriot Act and the Justice Department’s Anti-terrorism initiatives,” 51 *American University Law Review* 1081-1133 (2002), <http://www.ratical.org/ratville/CAH/CAofUSAPA.html> (accessed June 25, 2007).

20. Human Rights Watch, “Creating Enemies of the State: Religious Persecution in Uzbekistan,” *Human Rights Watch*, March 2004, <http://hrw.org/reports/2004/uzbekistan0304/> (accessed June 25, 2007).

kilograms. When he appeared in court, his relatives did not recognize him, nor did he recognize them. There was evidence of electric shock applied to his skull. During his testimony, Yokubjon Aliev was so weak that the judge allowed him to sit; he could not answer the judge's questions. His relatives assumed that he had been forcibly medicated.

Another example is the case of Bakhadyr Karimov, who was accused of terrorism. A completely innocent man, he was arrested on March 29, 2004 by 30 armed militia officers. His brother's and his own families, including five small grandchildren and his pregnant wife, were arrested, intimidated, and tortured. This occurred because one of his employees was blown up in Bukhara in March 2004. Karimov was tortured and kept incommunicado in detention for 53 days; he was beaten and strangled with a gas mask by law enforcement officers, who handcuffed his hands to his feet, threw him on his coccyx, and threatened to rape him. His pregnant wife was also detained and deprived of water and food for two days. She was not even allowed to sit down. She was in her 9th month of pregnancy and gave birth on the second day after her release.

Allison Gill, representative of Human Rights Watch in Uzbekistan, gave an interview to *Deutsche Welle* radio in which she described the consequences of the March 2004 bombing in Uzbekistan:

We received many complaints that people arrested in relation with these events were tortured. Torture here is systematic. It is applied from the moment of arrest to the moment of discharge from prison. The problem is very urgent. A typical example: entrepreneur Bakhadyr Karimov was accused of being connected to the terrorist events in March of this year. His [retail] firm [...] had branches in several cities of Uzbekistan. According to his father Utkyr Karimov, investigators used torture and threats to force Bakhadyr to sign a confession that he had sold aluminum to terror-

ists. [Karimov] was arrested at the end of March. Firstly, he did not have access to a lawyer for more than 2 months. This is terrible, as when there is no lawyer, it is very easy to torture a person, as there are no witnesses. Secondly, as far as I know, his guilt was not proven.<sup>21</sup>

## CASE STUDIES OF 'TERRORISM'

### First Case Study - Suicide Bombers and Torture Cases

The government of Uzbekistan has represented many events or incidents as terrorist acts. It is unfortunate, if not surprising, that some in the West—politicians, scholars, journalists—have accepted these government statements at face value and repeat them as factually accurate. Western politicians in turn read these “facts” as indications that the U.S.-led War on Terror is being fought effectively in Uzbekistan. Thus a vicious circle of misinformation is kept in play.

Such misinformation regarding the March 2004 explosions in Tashkent and Bukhara was, for example, relayed by Zeyno Baran from the Hudson Institute: “Two female suicide bombers were involved; the use of women signals the spreading influence of radical Islamism with roots in the Middle East. We can expect more female terrorists and suicide bombings globally.”<sup>22</sup> Baran fails to mention that this is the first instance of a female suicide bomber in Central Asia; the concept of women participating in suicide bombings is alien to Uzbek society and throughout Central Asia. Moreover, no evidence of “roots in the Middle East” has been adduced.

The facts regarding the bombings are complex. In Tashkent the bombing was precipitated by an incident at the bazaar on the afternoon of March 28, 2004. Earlier, militia troops had begun closing the local bazaars, especially the informal trade stalls that are the backbone of Uzbek society. There was some resistance to the action. As part of the protests, an *arbakesh* (hauler) confronted the militia officer as to his motivations for the closings. When the officer hit

21. Gibelgaus, Ludvig, “Uzbekistan: Domestic manufactured torture,” *Iamik.Ru*, August 10, 2004, <http://old.iamik.ru/17215.html> (accessed June 25, 2007).

22. Baran, Zeyno, “The Road from Tashkent to the Taliban: An Islamist terror group is undermining a U.S. Ally,” *National Review Online*, April 2, 2004, <http://www.nationalreview.com/comment/baran200404020933.asp> (accessed June 25, 2007).

the *arbakesh*, an elderly man confronted the militiaman who then struck him on the head. The elderly man died at the scene. The following morning, March 29, 2004, Tashkent was struck by the abovementioned explosions. The incident of March 29, described by authorities as a suicide bombing perpetrated by a female, occurred at the *Detskii Mir* (Children's World) department store. The militia was meeting in the courtyard behind the store for their morning briefing. The explosion targeted that gathering. Other explosions on this day at other locations were aimed at the militia as well, in protest against the murder of the elderly man. The officials implicated Dilnoza Khalmuradova in the explosion at Children's World, claiming that she was trained by terrorists. (On the same day, March 28, 2004, there was an explosion in a home in Bukhara; approximately 10 people, including a newborn, died. The authorities tied this incident to the suicide bombing, but there is no evidence to connect the two incidents.)

Dilnoza Khalmuradova, who was named as the bomber, and her sister Shakhnoza had disappeared from their middle-class parents' residence in Tashkent on January 17, 2004. Both young women had been studying Arabic. Their mother, Zakhro Khalmuradova, notified the militia that her daughters were missing. After some time, Dilnoza contacted her mother and the two were able to meet in an apartment used for conspiratorial activities. Zakhro Khalmuradova informed the militia of this meeting and the location of the apartment. To her surprise, the officials took no action. Following the bombings, Zakhro Khalmuradova was notified that her daughter was complicit in the explosions, and that her body was at the city morgue. Upon viewing the body, however, the mother determined that the injuries were inconsistent with an explosion: there were burn marks and signs of a gunshot injury to the girl's abdomen. Following this discovery, Zakhro Khalmuradova began to give interviews to anyone who would listen, including journalists and human rights advocates.

The evidence of Dilnoza Khalmuradova's involvement is problematic, at best. Who, then, might the suicide bomber have been? According to the Institute for War and Peace Reporting, "Zakhro Khalmuradova [the mother of Dilnoza Khalmuradova] continues to doubt the official line that Dilnoza blew herself up in a crowded market, saying her daughter's body was intact when she received it. 'She looked like she was sleeping, and there was only a burn on her stomach,' she said. 'My daughter Dilnoza did not blow herself up, she was shot.'"<sup>23</sup>

The pseudonymous Usman Khaknazarov, who identifies himself as a political scientist, describes the event in his article:

On March 29, 2004, near the *Detskii Mir* supermarket, a woman blew herself up. That woman was not the 25-year-old Dilnoza Khalmuradova, but the 40-year-old Kh. Rakhmonova, detained by members of the Uzbek Security Services (SNB, formerly the KGB) in December 2003. Rakhmonova was registered at the drug addiction clinic of Tashkent as a heroin user. After a course of treatment at the clinic, she was detained by the staff of SNB. During the four months she spent in the basement of the national Security Services building, Uzbek troops prepared for future 'terrorist acts,' forced her to study Islam and supplied her with heroin. In the explosion at *Detskii Mir*, Rakhmonova was blown into little pieces.

On March 29, she was released with the solitary purpose of delivering the plastic bag to the *Detskii Mir* building on the territory of the Chorsu bazaar. For this good work, the members of the Security Services offered her another dose of heroin. She was not aware that the sealed bag contained explosives, which were detonated remotely.<sup>24</sup>

While this account has not been confirmed, it seems obvious that Zeyno Baran's analysis is at best premature and her investigation incomplete.

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23. Institute for War and Peace Reporting, "Uzbek suicide bombers don't match terrorist profile," *International Relations and Security Network*, <http://www.isn.ethz.ch/news/sw/details.cfm?ID=8709> (accessed on June 25, 2007).

24. Khaknazarov, Usman, "This Happened in Andijan," *CentrAsia.Ru*, June 29, 2005, <http://www.centrasia.ru/newsA.php4?st=1120050000>, (accessed June 25, 2007).



It does not seem likely that more female suicide bombings will occur in Central Asia. No suicide bombings by women had taken place in Uzbekistan before the incident; none has taken place since. Women in Central Asia have not associated themselves with fundamentalist Islam to any extent. With what appears to be a staged bombing, the Uzbek government may have wished to demonstrate to its American allies that terrorism exists in Uzbekistan and that there is a need for additional funding and support under the guise of a campaign against terrorism.

Baran continues, “[t]hese attacks were not directed towards Westerners but targeted fellow Muslims. One of the bombings occurred outside a children’s store near Tashkent’s largest market, and the other, near a *madrasah*. This clearly indicates that the terrorists no longer mind killing other Muslims to achieve their ends.”<sup>25</sup>

In fact, as the circumstances make quite clear, these explosions were not directed against “fellow Muslims,” but rather the militia. The murder of the elderly man by the militia officer provoked public anger and motivated actions directed against Uzbek law enforcement officials. As the BBC reported, “The explosive device in Tashkent went off near a crowded bazaar, near a place where the militia conducts their gatherings. Judging by this, it was specifically the militia who were the targeted by the organizers of the explosion.”<sup>26</sup> An independent on-line news source, *Tribune.uz*, issued a similar account: “Many tie this event [the explosion] with yesterday’s murder of a 70-year-old man at the same bazaar, who defended the *arbakesh*. The suicide bombers acted directly against the militia men, considering that the first explosion hit at the same time as the morning briefing.”<sup>27</sup> And an independent Russian journalist, Arkady Dubnov, agreed: “From the sidelines, these events look like the beginnings of urban guerilla warfare between an armed group and the

Uzbek militia. The events in Tashkent do not look like terrorist acts, which the world has gotten used to in recent years. There are no reports of explosions in crowded places that are targeted by terrorists. However, in every single case of the armed attacks or incidents, one detail is common: the targets are exclusively militia men...”<sup>28</sup>

Of the Bukhara blast, Zeyno Baran wrote that, “...Uzbek authorities reported a blast in a private house in Bukhara that allegedly was being used as a bomb factory and as a hiding place for Kalashnikov assault rifles and Hizb ut-Tahrir (HT) propaganda. Given the Uzbek government’s credibility gap, many doubt these reports on the involvement of HT, a radical Islamist political party that seeks to overthrow the secular governments of Central Asia and replace them with a single Islamist state—the caliphate. If, in this case, an HT site was used to store weapons, it would undermine HT’s claims that it is neither a violent nor a terrorist organization.”

Without getting into the issue of HT’s activities, the incident in Bukhara on March 28 is hardly a clear and demonstrable case of terrorism, although that possibility has not been excluded. According to *Tribune.uz*, on March 28, at approximately 6:30 p.m., an explosion occurred at the home of Nemat Razzakov, who resided in the Kakhramon village of the Romitan district of Bukhara region. Initial reports attributed the explosion to a gas leak. Bakhadyr Karimov, whose torture was discussed above, was accused of terrorism in connection with this explosion, in which one of his employees died. The Legal Aid Society of Uzbekistan represented Karimov’s case during the investigation and court hearings, and was introduced to Bakhadyr Karimov’s father in the offices of Human Rights Watch by the organization’s representative, Allison Gill. He was convinced of his son’s innocence. At the time, Karimov was being detained on what his father termed “fictitious

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25. Ibid

26. BBC, “Explosion in Tashkent: Casualties Reported,” *BBC*, March 29, 2004, [http://news.bbc.co.uk/1/hi/russian/news/newsid\\_3578000/3578451.stm](http://news.bbc.co.uk/1/hi/russian/news/newsid_3578000/3578451.stm) (accessed June 25, 2007).

27. Maerkova, Sayana. “Details of the Explosions in Tashkent and Bukhara,” *Tribune.uz* (an independent newspaper that was supported by OSI and closed by the Uzbek government in July 2006), March 30, 2004, <http://www.centrasia.ru/newsA.php4?st=1080612420> (accessed June 25, 2007).

28. Dubnov, Arkady, “Urban War in Tashkent: The Main Victims of Terrorists are the Police,” *Vremya*, No. 54, March 31, 2004, <http://www.vremya.ru/2004/54/5/95251.html> (accessed June 25, 2007).

charges” in the Ministry of Internal Affairs, and had not been allowed to see an attorney in 53 days. Following the meeting, LAS took this case. Together with the World Organization Against Torture [OMCT], who worked through an extensive network [Urgent Appeals], the case became public at an international level. LAS was then able to get access to the case files and to meet with Bakhadyr Karimov in jail. At that time, pressure from the U.S. embassy also helped in calling for a fair trial for Bakhadyr Karimov.

After the first such meeting, the LAS attorney was able to document all of the evidence of torture experienced by Bakhadyr Karimov and his two associates. The LAS made depositions of evidence. Because of the torture, Karimov eventually confessed to the false accusations and signed all protocols put in front of him. Eventually, it came out that Karimov indeed had no part in the explosion and the investigation was completely faulty. It is rare in the legal profession that a case turns out to be entirely fictitious, without a particle of legitimacy, yet during the court hearing, all charges related to terrorism and participation in extremist religious organizations were dropped. However, the Uzbek justice system typically does not issue “not guilty” verdicts: Karimov was found guilty of financial infractions. He was fined and put on probation for 3 months.

In this and similar cases, the government of Uzbekistan has tried to tie various incidents to international terrorism. In this case, the charges against Bakhadyr Karimov were completely fabricated. It is advisable to regard such government accusations with a high degree of skepticism, especially when they pertain to “acts of terror” or “extremism.”

#### Second Case Study - The Andijan Massacre

The best example of the exploitation of the War on Terror is the Andijan massacre. In May 2005, the government used armed forces to suppress a massive public protest; Uzbek troops opened fire on thousands of unarmed protesters. Independent

sources claim that more than 500 people were killed and hundreds of others fled the country to Kyrgyzstan seeking asylum. According to the Uzbek government, Islamic extremist groups such as the Islamic Movement of Uzbekistan (now called Islamic Movement of Turkistan), Hizb ut-Tahrir (HT) and one of its branches, Akromia, were to blame<sup>29</sup>, and only 187 people were killed.

The Andijan protests were triggered by the arrest and trial of 23 successful local middle class businessmen. All these businessmen were charged with association with a collective known as the Akromia group. The government claimed the businessmen constituted an extremist Islamic group that had been reading *The Path to True Faith*, a book by Akrom Yuldashev. The businessmen described themselves as an informal brotherhood whose activities consisted of creating new jobs and doing charitable work, helping poor people, supporting orphanages, and other non-threatening activities. They said that they had acted in accordance with proposals the Uzbek president himself had made in his official speeches. Furthermore, while all of them acknowledged belonging to “a brotherhood,” they claimed never to have advocated violence against the government nor the formation of a caliphate (Islamic state).

Nevertheless, beginning in June 2004, the 23 businessmen were eventually detained in Andijan and charged with terrorism-related crimes and association with an extremist group.<sup>30</sup> They were held awaiting trial until spring 2005. When their trial commenced, and throughout its duration, large crowds gathered daily outside the court to protest the injustice of the arrests and charges. On May 11, 2005, as the date of the verdict neared, one of the Akromia businessmen who had not been arrested learned that the court would be issuing its verdict behind closed doors.

The next day passed with no verdict announced. Instead, police began arresting members of the crowd and confiscating all vehicles in the area. Around midnight on the night of May

29. Official statements about “extremist” responsibility occur in *The Andijan Tragedy*, a film produced by the Uzbek government. It was shown at the Hudson Institute in Washington, D.C. in May 2006.

30. These arrests initiated a series of arrests that spread to Tashkent and eventually numbered over 100 businessmen affiliated with the Akromia group. The Aliev case referred to above was not part of the Andijan arrests but occurred in Tashkent.

12–13, an unknown group of people attacked a local police checkpoint. After that, another unknown group attacked a military camp and took its weapons. According to an indictment after the fact,<sup>31</sup> both events happened almost at the same time. After this, the same or another unidentified group took over the Andijan prison and freed not only the 23 businessmen, but also hundreds of other prisoners. The circumstances surrounding the night prison break are still unclear. Who were the attackers? Who took the weapons? Who opened the prison?

A group of the liberated prisoners, including the businessmen, at least some of them newly armed, proceeded to the SNB (Uzbek Security Services) building where several other Akromia businessmen and possibly other people who had been protesting against their unjust trial were being held. Their intent was to free the prisoners from the SNB building as well. In the confrontation that followed, approximately 30 law enforcement officers and 29 or 30 resisters died. An Uzbek expert on Islam, Dr. Bakhtiar Babajanov, reports that, “at approximately five o’clock in the morning, the terrorists attacked the SNB building in Andijan, where two hours before the attack, several officers, sergeants and soldiers were wounded and killed.[...] Altogether, that was more than 30 officers and militia men, security servicemen and soldiers...”<sup>32</sup>

A few hours later, early on the morning of May 13, the group of resisters steadily grew into a massive crowd in Bobur Square, in front of the *hokimiat* (city hall). Anger over the unjust sentences given to some of the prisoners turned to criticism of the unfairness of the criminal justice system in general; speakers, including ordinary citizens, began to address socio-economic problems and the problems of their everyday lives.

After some time had passed, the protesters identified undercover security officers among them and took them hostage. This is when the crowd, numbering by then in the thousands,

heard a rumor that President Karimov would be making an appearance. Around 4 p.m., the roads around the square were blocked off. Suddenly, around 5 p.m., the square was completely surrounded by troops. A helicopter flew overhead. Attempting to protect themselves, protesters moved the security-officer-hostages in front of them. Approximately twenty minutes later, heavy fire broke out. First, the soldiers (who, according to one witness, were members of the special forces) killed the hostages standing before the protesters. Then, without any warning to leave the square, the troops started to fire at the crowd. One witness recalls going to the market, and then to the square: “Everyone was going to the square, and I also went out there out of curiosity. I stood in the crowd—and suddenly the firing began. They opened fire, and people began to run away.” Another eyewitness, Mahbuba Zakirova, the only witness who dared tell the truth during the trial of the accused members of Akromia in September–October 2005, said in the presence of international observers:

I took my kids to the city. There was a crowd in front of the park. There were many people. I went over to find out what was going on. Everyone was talking about what happened. They said that President Karimov was on his way. After that, a helicopter flew by. It hovered really low. It went over our heads twice. We thought that this really was the president. They were saying our president has really come to Andijan. We believed it, but the president hadn’t arrived. I was at the edge of the crowd. Soldiers opened fire. Someone dropped to the ground next to me. A little girl said, “I have been shot in the leg.” I was afraid for my kids, not myself. I still could not believe they were shooting at people. Words can’t describe it. It was not like that even during Hitler’s war. It was horrible, bloody. We were lying down; blood was flowing around us.<sup>33</sup>

31. OSCE/ODIHR. *Trial Monitoring in Uzbekistan: September/October 2005*, Report, April 21, 2006, [http://www.osce.org/documents/odhr/2006/04/18767\\_en.pdf](http://www.osce.org/documents/odhr/2006/04/18767_en.pdf) (accessed June 25, 2007): 39

32. Babajanov, Bakhtiar, “Return the Scales to Justice,” *LAMIK*, June 2, 2006, [www.iamik.ru](http://www.iamik.ru) (accessed June 27, 2007).

33. RFE/RL’s Uzbek Service, “Witness At Andijon Trial Says Troops Shot Civilians,” *Radio Free Europe Radio Liberty*, October 14, 2005, <http://www.rferl.org/featuresarticle/2005/10/1DEBF7A6-72AA-4B41-9E36-DC70E55E5A34.html> (accessed June 27, 2007).

A leaflet apparently written by the imprisoned businessmen, found by journalists the day after the uprising, clearly explains the reasons behind the protest:

We could tolerate it no longer. We are unjustly accused of membership in Akromia. We were tormented for almost a year, but they could not prove us guilty in court. Then they started persecuting our nearest and dearest. If we don't demand our rights, no one else will protect them for us. The problems that affect you trouble us as well. If you have a government job, your salary is not enough to live on. If you earn a living by your own efforts, they start envying you and putting obstacles in your way. If you talk about your pain, no one will listen. If you demand your rights, they will criminalize you. Dear Andijan! Let us defend our rights. Let the region's governor come and representatives of the President too, and hear our pain. When we make demands together, the authorities should hear us. If we stick together, they will not harm us.<sup>34</sup>

In their official statement about the violence the businessmen wrote:

During this time citizens of the city went into the streets supporting us. Women, children and old people participated in ... mass meetings. From the morning on, the Security forces several times shot at peaceful demonstrators in order to disperse them. Women and children were seriously wounded, but participants at this meeting did not leave the demonstration. Instead they shouted, "We will not go away until justice is victorious," and "We will support this protest action." The number of demonstrators was increasing minute by minute. Citizens, carrying out this demonstration and protest action,

remained peaceful and behaved within the norms of the law. There was no hooliganism or looting. However, official government bodies, instead of appraising the real situation, began to round up the demonstrators with armed forces.<sup>35</sup>

There is no evidence of people making extreme political or religious demands. The people who came to the square were talking about injustice and the socio-economic problems in everyone's lives. They were innocent civilians, citizens, who waited for hours for somebody important to come and talk to them. No evidence exists that the military issued any advance warning or that they tried non-lethal means, such as tear gas, to clear the crowd before opening fire. It is obvious that the Uzbek government resorted immediately to military action against the crowd.

#### THE TRIAL OF AKROMIA

Akromia, its philosophy, and the trials of its members, must be considered separately from the Andijan massacre—a gross violation of human rights in Uzbekistan. The case must be examined in greater detail for two reasons. First, the Akromia case has been widely reported in the West as an example of a terrorist case. Second, the Uzbek government continues to defend its actions in Andijan in May 2005 as a battle against terrorist acts.

#### Background

In Tashkent, on February 16, 1999, a series of closely timed explosions rocked the city. On the next day, Akrom Yuldashev was imprisoned in connection with the bombing and sentenced to 17 years imprisonment on terrorism and other charges. The government, which has been known to prosecute any preaching of Islam outside the auspices of its own mosques and has also been known to plant evidence such as drugs and ammunition

34. Human Rights Watch. "May 13: A Day of Violence, Protests, and Massacre," Human Rights Watch Publications, June 2005, <http://hrw.org/reports/2005/uzbekistan0605/5.htm> (accessed June 27, 2007).

35. Leaders of Andijan Uprising, "We Demand the Release of A. Yuldashev!" Official statement which was published on *CentrAsia.ru*, May 13, 2005, <http://www.centrasia.ru/newsA.php4?st=1115984520> (accessed June 27, 2007).

on those it detains, arrested Yuldashev in 1998, supposedly for drug possession. He was released in a general amnesty, shortly before his second arrest.<sup>36</sup>

Part of the authorities' initial suspicions against Yuldashev seemed to stem from an association that he had had, and had ended, with an Islamic group Hizb ut-Tahrir (HT) many years earlier. HT advocates the establishment of a caliphate by non-violent means. The government alleges that Yuldashev left HT in 1992 in order to form a splinter group that would pursue the same ends using violence. However, the government has presented no evidence to support this allegation.

Vitaly Ponomarev, an analyst from the Human Rights in Central Asia program of the Memorial Foundation, strongly disputes the government's assertion: "Akromia as an organization is not tied to the extremist organization Hizb ut-Tahrir. This does not at all correspond with reality. It is a local school of thought, not tied to any outside movements. It is not even an organization. Akromia does not aim to change the constitutional order." As proof, Ponomarev cites a speech given at a 2002 conference by an Uzbek expert on Islam, Bakhtiar Babajanov: "Akromia is a group, united by the idea of natural equality before Allah and oriented toward the community-based tackling of socio-economic problems."<sup>37</sup> Babajanov describes the group's goal as being "the revival within the limits of one community of the spirit of equality of original Islam—so that this success becomes an example to other Muslims."<sup>38</sup> Babajanov notes that, "...no direct calls for the overthrow of the government [can be] found in the literature of these groups."<sup>39</sup> The first wave of repressions against Akromia members, main-

ly owners of small and medium-sized businesses, began in 1998–1999, when approximately 20 people were arrested. Most of them were released, excluding Akrom Yuldashev himself. "It would have been impossible to free them," Ponomarev concludes, "if they were really accused of any serious crimes."<sup>40</sup>

Babajanov agrees that there is no connection between Akromia and Hizb ut-Tahrir, citing two flyers distributed by the local Hizb ut-Tahrir organization on May 15 and 20, 2005: "In them, among other items, the local leadership of HT admits the former membership of A. Yuldashev in their organization, speaks with regret of the sad finale of the armed uprising in Andijan, but denies any part in Akromia's activities. I suspect that this confirmation is truthful. The investigative organs have not yet presented any evidence of the participation of HT or other organizations in the Andijan tragedy."<sup>41</sup>

Aidyn Gudarze, an author who usually praises the Uzbek regime, similarly discredits the government's description of Akromia as related to HT or to the Islamic Movement of Uzbekistan (IMU):

Unlike members of Hizb ut-Tahrir, Akromia members never use leaflets advocating a caliphate and radical methods of its installation. In the thirteen years of the movement's activity, not one member was implicated in having illegal ties to Islamic armed formations, and, most importantly, participation in the international terrorist organization, Islamic Movement of Uzbekistan.<sup>42</sup>

In addition to his alleged connections to the goals of HT, Yuldashev was a suspect because of his writings. He was especially known for his

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36. Edgoroi Yuldasheva testified at her husband's trial in March 2005 that he was not involved in any radical activity nor had he ever used drugs, and that all accusations against him were slanderous: "In my husband's book 'The Road to Faith' there is nothing anti-governmental!" Yuldasheva's speech was posted on CentrAsia.ru on March 13, 2005: <http://www.centrasia.ru/newsA.php4?st=1110662640> (accessed June 27, 2007).

37. Babajanov, Bakhtiar, "Return the Scales to Justice," *LAMIK*, June 2, 2006, [www.iamik.ru/?op=full&what=content&ident=28079](http://www.iamik.ru/?op=full&what=content&ident=28079) (accessed June 27, 2007).

38. *Ibid.*

39. *Ibid.*

40. *Ibid.*

41. *Ibid.*

42. Gudarzi, Aidin, "Lessons and Paradoxes of the War against Terrorism," *CentrAsia.ru*, May 2005, <http://www.centrasia.ru/newsA.php4?st=1147676580> (accessed June 27, 2007).

essay, *The Path to True Faith*, written in 1992, and some additional “lessons” on how to prosper financially through faith in Islam. Yuldashev was a successful businessman in Andijan and a leader in the community. His “lessons” offered instruction on how to improve one’s business and advocated that businesses donate one fifth of their profits to charity. His essay, consisting of twelve “lessons,” comprises his philosophical thoughts on the Koran and gives primacy to faith over logic. He takes real-life concepts and explains how they apply to the life of a Muslim. Yuldashev’s writings appeal to the reader of the Koran to suspend logic, or, to hold in abeyance logic-based doubts that arise during the reading of the Koran.

#### Analysis

When Babajanov, at the government’s request, analyzed Yuldashev’s writings in 1999, he found nothing incriminating, but he did find compromising material in the notes of Yuldashev’s students: “Later, approximately at the end of February 1999, I was asked to write an expert opinion on several sets of notes of the arrested members of Akromia. In them, I found a short summary of the abovementioned essay by A. Yuldashev in different variations. Some of the notes contained sentences that described the ‘stages’ of the suggested activities of Akromia.”<sup>43</sup> Babajanov reconstructs these “five stages” from the students’ notes rather than from Yuldashev’s writings directly. The fifth or final stage in particular resembles ideas promoted by groups advocating the formation of a caliphate. After the Andijan uprising, however, Babajanov retroactively reinterpreted those same texts, and by 2006 he read them as signaling terrorist potentiality: “There were no plans for an uprising, though they considered it a ‘delayed duty.’ *The Path to True Faith*, written in 1992, does contain hints about fighting.”<sup>44</sup>

According to Babajanov, the five stages of Akromia activity are:

1. “Sirli” (hidden, underground): the recruitment and education of future members of the group in special groups (“khalka”), where they will be taught the “original Islamic rituals.” Having successfully negotiated this stage, a new recruit (“mushrif”) undergoes a special “mysterious” ritual, swearing on the Koran to be true to the other brothers (“buradars”).
2. “Moddi” (financial): setting up a financial base for the community through the efforts of all its members. The new recruits set to work at voluntary industrial organizations where other “brothers” already work, or at small manufacturing or agricultural companies set up by members of the group. Each group member gives one fifth of his salary to the general “bait al-mal” (coffers).
3. “Manavi” (spiritual): “spiritual contact” with a restricted (in the interest of secrecy) circle of brothers. Discussions and group prayers are led by the “naiby” (deputies) to the head of the local group.
4. “Uzvi maidon” (organic infusion, unification): the effective “legalization” of the community with the agencies of authority by means of the “spiritual recruitment” of officials, or by infiltration with their own people. This stage is seen as absolutely crucial in the expansion and legalization of the community’s status.
5. “Okhirat” (culminating, final): the “true Islamicisation” of society and the “natural transfer” of authority to leaders of the group will occur.<sup>45</sup>

The Uzbek authorities relied on such interpretations of the students’ notes in indictments against many dozens of Akromia members in Tashkent and Andijan in 2005. However, a pseudonymous independent commentator, Edgar Narbutayev, challenges and thoroughly rebuts Babajanov’s analysis:

43. Babajanov, Bakhtiar, “Return the Scales to Justice,” IAMIK, June 2, 2006, [www.iamik.ru/?op=full&what=content&ident=28079](http://www.iamik.ru/?op=full&what=content&ident=28079) (accessed June 27, 2007).

44. Babadjanov, Bahtiyar, “Akramia,” (speech, Carnegie Endowment for International Peace, Washington, D.C., May 2, 2006), <http://www.carnegieendowment.org/events/index.cfm?fa=eventDetail&cid=881&&prog=zru> (accessed June 27, 2007).

45. Rotar, Igor, “Uzbekistan: What is known about Akramia and the uprising?” *Journal of Turkish Weekly*, June 16, 2005, <http://www.turkishweekly.net/comments.php?id=1345> (accessed June 27, 2007).

We can not find in *The Path to True Faith* any mention of the infamous ‘five stages’ of preparation of the Andijan neophytes to install an Islamic caliphate in the Ferghana Valley. But it is that exact formulation of the religious goal of members of Akromia that was first put forth by Dr. Babajanov and was used as the basis for the indictment in the Tashkent trial! To rely on references to the enumerated “five stages” from notes taken by attendees at Akrom Yuldashev’s lectures is a mistake. It would not be difficult to predict the reaction of the same Professor Babajanov if, as evidence of his anti-government activities, he was confronted with the notes of his students!

... Dr. Babajanov himself emphasizes the fact that, “Caliphate, as an ideal Islamic structure, is seen more as an abstract, but positive paradigm.” Of course, in *The Path to True Faith* such concepts as jihad and ‘future works’ exist, but can anyone propagate Islam without touching upon such a concept as jihad? Let us quote Dr. Babajanov: “...the method of hints and circuitous speech is used, where with its outward innocence, the term ‘future works’ implies jihad, in the most militant of meanings.” But why must that term be understood in precisely this way? Such a term can be used in religious disputes, but not judicial formulations! Although Dr. Babajanov himself admits that the concept of jihad can be seen in a wider sense, as “the battle on the way to Allah,” i.e. including the abstract principles of battle for the purity of faith, but he himself assigns the term an exclusively aggressive meaning when relating it to the “teachings” of Akrom Yuldashev.

From all of the abovementioned, it follows that the militaristic and especially terrorist paradigms can be found in *The Path to True Faith* only when the essay is interpreted from a particular—and biased—point of view. Name me one religion whose postu-

lates have escaped various interpretations! As a result, much blood has been shed in the past; empires fell and new ones arose in their place! But is it possible in our 21st century to build a court case on slanted interpretation of the religious convictions of the accused [Akromists], supposedly promulgated by their self-taught preacher [Yuldashev]?!”<sup>46</sup>

When he spoke at the Carnegie Endowment for International Peace in Washington, D.C., Babajanov claimed that while Yuldashev was still in jail in the middle of March 2005, he issued an incendiary commentary upon the 61st Surah—“as-Saaf,” one of the poems in the Koran: “Yuldashev’s commentary to the 61st Surah, written just six weeks before the Andijan violence, contains a call for jihad.” Like most religious exegeses, however, this text of Yuldashev’s can also be read in various ways, beginning with the fact that the term “jihad” has many different meanings, including at the most basic level “struggle.”

As one prominent Arabic scholar, Fida Mohammed, explains, “Jihad is an Arabic word that literally means struggling and striving for excellence. Jihad is a multifaceted struggle for the achievement of good and prevention of evil.” He itemizes the following types of jihad:

- *Jihad-e-bil-Lissan*: Jihad with words; speaking the truth. According to one saying of Mohammad, ‘To utter a word of truth in the face of a tyrant is a supreme jihad’ (that tyrant could also be a Muslim one).
- *Jihad-e-bil-Qalam*: Jihad with a pen; writing the truth against injustice.
- *Jihad-e-bil-Mal*: Jihad with one’s property and wealth; spending in the name of God, helping the poor and doing charitable works.
- *Jihad-e-bil-Nafs*: Jihad against one’s evil desires.
- *Jihad-e-bil-Saif*: Jihad with the sword, if you are challenged by an outside power.<sup>47</sup>

46. Norbutaev, Edgar, “Evidence and Interpretations,” *LAMIK.ru*, June 14, 2006.

47. Mohammad, Fida, “Jihad as Terrorism: The Western Media and the Defamation of the Qu’ran,” in *Making Trouble: Cultural Constrctions of Crime, Deviance, and Control*, ed. Jeff Ferrell and Neil Websdale, 303 (New York: Aldine de Gruyter, 1999).

Technically, according to the official charges against the businessmen, the Akromists had been planning the uprising since August 2004, which means that Yuldashev's supposed "directive" of March 2005 is hardly relevant. But even if it were, the Uzbek constitution does have a provision—still honored more in the breach than the observance—ensuring the right to free speech, similar to First Amendment protections in the U.S. Commentary on a religious text should fall within one's right to freedom of opinion. How can someone be prosecuted for his opinion?

The indictment also states that these "Akromists" were trained in Kyrgyzstan in January 2005: "Taking advantage of the unstable situation created in Kyrgyzstan and the indifference of the state officials in Osh and Jalalabad, the leaders of the terrorist movement organized the training centre in January 2005 in the village Teka [to train combatants]. At these bases, under the guidance of unidentified persons, [many suspected members of Akromia] underwent military and physical training in January–April 2005."

The Kyrgyz government denies these allegations. Babajanov repeats the government's account of events, apparently contradicting his own claim that preparations for the Andijan uprising began with Yuldashev's directive in March 2005:

Several months before the armed confrontation in Andijan, more than fifty firearms were purchased from "Bait ul-mal" and were brought to Andijan with the goal of organizing attacks on military divisions and patrol posts in order to steal armaments. According to the materials of the investigation, the illegally obtained arms were smuggled through the Kyrgyz border and remained hidden in the homes of several members of the organization until the start of the protests.<sup>48</sup>

If the allegations against the suspects are correct, why were they trained and why had arms been purchased before they received an order to conduct jihad? In fact, abundant evidence suggests that the actions of the businessmen were spontaneous responses to the government's actions of May 12, when everyone who came to protest before the court was arrested indiscriminately. According to one pseudonymous businessman, Rustam, who managed to escape the massacre, if the decision in the Andijan Akromia case had been announced on time, events would not have escalated in the way that they did.

Allah is my witness, we did not want that. Our appeals to the authorities, our peaceful resistance amounted to nothing. Pressure on us only increased, more and more innocent people were thrown behind bars. We ran out of patience with the latest developments, when a whole group of absolutely innocent men were to be jailed in Andijan. The authorities had not listened to us for months. That day, however [May 12], they deceived us and sent us home while they themselves passed the verdict behind closed doors. They proceeded then to gun down our wives, mothers, and children at a peaceful rally. That's what compelled us to take up arms. The authorities left us no choice.<sup>49</sup>

The businessmen deny that they broke out of the jail and claim they do not know who assisted them. It is entirely possible that there were *agents provocateurs* involved who contributed to and exploited events for their own ends. Rustam says, "I do not understand a lot of things that happened. I did not participate in the attacks, I had not even known they would take place."

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48 Babajanov, Bakhtiar, "Return the Scales to Justice," *IAMIK*, June 2, 2006, [www.iamik.ru/?op=full&what=content&id=28079](http://www.iamik.ru/?op=full&what=content&id=28079) (accessed June 27, 2007). During his Carnegie lecture in May 2006, Dr. Babajanov spoke of evidence that connects Akromia with other terrorist groups. He cited one small piece of evidence that he had discovered. He said that the ABN AMRO bank - "disclosed that \$200,000 was transferred from Kabul, through Istanbul and Amsterdam, to an Akromia account in Tashkent. That's all the evidence I've seen, and I can't say how strong it is." This evidence is highly problematic, since such a transaction in a large bank like ABN AMRO would have immediately raised a red flag. In ODIHR's report, the \$200,000 appears to have come directly from Russia to Tashkent, where the money was not registered by customs. Another relevant question arises: if the weapons were bought in Kyrgyzstan, why did the money have to be smuggled into Uzbekistan?

49. Stepan Samoilov (a surviving Uzbek Rebel of Akromia), interview by Ferghana.Ru, May 26, 2005, posted on *TurkishWeekly.net*, <http://www.turkishweekly.net/interview.php?id=81> (accessed June 28, 2007).



Another businessman, whom the Uzbek government called the leader of the Andijan uprising, is Kabuljan Parpiev. He states that he was among many people outside the courtroom in Andijan who protested against the trial as unfair.<sup>50</sup> After the trial's last day on May 11, it was suspended. Parpiev said on May 12 that the Uzbek police began arresting protesters and confiscating their property. He also received a warning from a friend that the police were seeking to detain him. He says all of this was an act of provocation by the Uzbek government. Nonetheless, even if there was provocation, at least some protestors appear to have succumbed to it and to have taken up arms.

This provocation did not occur in a vacuum, however. While the War on Terror has thus far provided the dominant frame within which the government has narrated events in Andijan, a nascent alternative analysis is beginning to emerge. Another explanation for the arrests and prosecutions of Akromia members—which were the events leading up to the Andijan massacre—can be found in accounts by some of the businessmen who escaped to Kyrgyzstan.

A Kyrgyz NGO that investigates allegations of corruption interviewed one of the Akromia businessmen after he escaped to Kyrgyzstan following the Andijan massacre. He claims that trouble with the authorities began with the arrival of a new *hakim* or governor: K. Abilov was replaced by S.A. Begaliev in May 2004. One month later detentions began to occur and allegations of criminal acts were issued. There was information that the new *hakim* wanted to establish his own sphere of influence and patronage networks, but the businessmen would not indulge him. Another businessman, interviewed in a refugee camp in Kyrgyzstan, said he thought that his “crime” consisted of his refusal to provide profits to someone who had the power to order his arrest.

The Russian journalist for *Newsweek* magazine, Aleksandr Raskin, who conducted his own investigation and met with the Andijan refugees, confirms that statement. “‘I am not a terrorist,’ states one of them. ‘I am a baker. I had my own company. When my business became profitable, I drew attention from the people of the *hakim* Said-Ali Begaliev. Then I was accused of acting against the government and organizing a criminal group.’”<sup>51</sup>

Further attempts to piece together what really happened at Andijan have been made by human rights organizations, and evidence contradicting government accounts is accumulating. Among the central contested facts of the events on May 12–13, 2005 in Andijan is the number of people killed, and by whom. Uzbek government sources count 187, including 31 law-enforcement officers, 60 civilians, and 94 “terrorists” including one woman and one teenager.

These numbers reflect several distinct episodes. One occurred in the early morning hours of May 13 at the SNB building where resisters clashed with police after freeing the Akromia businessmen and other prisoners. In this confrontation, evidence seems clear that both armed resisters and law enforcement officers were killed in approximately equal numbers. According to Babajanov, 30 officers were killed at the SNB building. One of the newly released prisoners (not one of the businessmen), Donier Akbarov, spoke later in front of the crowd on the square, and said that 29–30 of their people (that is, resisters) were killed near the SNB building in the early morning.<sup>52</sup>

The main firefight occurred on the square in Andijan later that afternoon. In the government's version of events, resisters fired the first shots against the security forces. However, its own report states that most if not all of the government personnel losses occurred several hours before the mass shooting on the square.<sup>53</sup>

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50. Saidazimova, Gulnoza, “Uzbekistan: Leader Of Andijon Protests Speaks To RFE/RL,” *Radio Free Europe Radio Liberty*, July 19, 2005, <http://www.rferl.org/featuresarticle/2005/07/3619c6da-3962-40f7-9cb2-12d5dc51ca1d.html> (accessed June 28, 2007).

51. Raskin, Aleksandr, “We are Neighbors, After All,” *Russian Newsweek*, June 6–12, 2005, <http://www.runewsweek.ru/rubrics/?rubric=globus&rid=257> (accessed June 28, 2007).

52. Uzbek Embassy in Belgium, *Tragedy of Andijon*, <http://www.registan.net/index.php/2006/05/13/andijon-a-year-later/> (accessed June 28, 2007), video.

53. *Ibid.* According to government statistics, 31 law enforcement personnel were killed.

This would tend to undermine the government's claim that violence by protestors on the square provoked and justified their extraordinary use of fire-power. Moreover, these documented numbers can serve as one of the main pieces of evidence that there was, at the very least, a gravely disproportionate use of force by law enforcement officials.

It is highly improbable that 150–200 people who wished to change the politics and policies of the Uzbek government would challenge its armed representatives with guns, but hardly any ammunition. Were the rebels merely naïve, or were they told that nobody would fire at them? According to Kabul Parpiev [presumably the leader of the Andijan uprising], they received a phone call from the Interior Minister warning them to disperse: “After approximately 2 hours, we received a phone call—it was Almatov calling and asking if we decided to leave and if he should send a bus. We told him that we do not need his bus and if we need it we will be able to do that ourselves. He told us: ‘You either leave in 2–3 hours or you will have to face an army of 20,000 that I have already sent to Andijan. If necessary, I will increase the number to 65,000.’”<sup>54</sup>

Much remains unclear. Why were all the prisoners released from prison, and not only the businessmen? Why did so few of the businessmen escape to neighboring countries following their release? Was it a rational state of mind that led to that series of events? Why did so many of these men keep guns with them and run into the mayor's office while a crowd began to form in the public square? Why were they asking President Putin, but not other leaders to be an intermediary?

Sergei Ezhkov, an independent Uzbek journalist, doubts that religion played a central role:

Their religiosity [...] looks doubtful. The people who make the money, who control the leading sectors of the economy, are not inclined to be particularly religious... Here,

any business, probably as in Russia, has a serious tinge of criminality. This is because no one who operates a business on the terms set by the laws that function in our republic can ever be completely clean, white and fluffy. I think that when [the businessmen] realized that despite everyone's efforts on their behalf, the result was nil, and the authorities would maintain their pressure, I think money changed hands. The main goal was to leave prison, under any circumstances. The rest—we will see later. Also, they may have presumed that because people in the Andijan district are poor and have many problems, no heat in the winter, or light, or money, that people would rise and overthrow this government and the government would act like the Kyrgyzstan government. Although I think that they never had any illusions about the actions of the government—they are not children, and they realized that Islam Karimov is not Askar Akayev. Islam Karimov will drown half the country in blood.<sup>55</sup>

The Uzbek government released a documentary depicting the events in Andijan, filmed by an associate of the businessmen.<sup>56</sup> While the regime attempted to depict the events as the actions of Islamic terrorist groups, the film simply does not support that theory. For instance, the government argued that the chants of “Allahu akbar” that rang out on the square proved the religious contents of the events: “Thus, members of the criminal group... who arrived from Kyrgyzstan and other parts of Uzbekistan gathered approximately 1,500 people around the administration building and shouted ‘Allahu akbar’ so as to portray themselves as the defenders of the public...”<sup>57</sup> No mention is made of the clearly audible phrase, “*Talpa bo'l-mayapti, ashinchin 'Allohu akbar' diysh kerak*” (“You

54. Parpiev, Kabul, “Today is Three Months Since the Andijan Tragedy,” *Ferghana.ru*, August 13, 2005, <http://ferghana.ru/article.php?id=3912> (accessed June 28, 2007).

55. Sergei Ezhkov, Interview with Irina Lagunina, “Vremia i Mir,” *Radio Free Europe Radio Liberty*, May 27, 2005, <http://www.svoboda.org/programs/tw/2005/tw.052705.asp> (accessed June 28, 2007).

56. Olcott, Martha Brill and Marina Barnett, “The Andijan Uprising, Akramiya and Akram Yuldashev,” *Carnegie Endowment for International Peace Publications*, June 22, 2006, <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=18453&prog=zru> (accessed June 28, 2007).

57. OSCE/ODIHR. *Trial Monitoring in Uzbekistan: September/October 2005*, Report, April 21, 2006, [http://www.osce.org/documents/odihr/2006/04/18767\\_en.pdf](http://www.osce.org/documents/odihr/2006/04/18767_en.pdf) (accessed June 28, 2007): 39.

need to shout ‘Allahu akbar,’ otherwise the crowd will not come”), nor the chanting of other words, such as “ozodlik” (freedom), nor the fact that neither the crowd nor the organizers at any time mentioned “caliphate,” “building an Islamic state,” or overthrowing the constitutional order. Many recordings were made of the speeches that were given throughout the day; unfailingly, these speeches were about the day-to-day injustices suffered by ordinary citizens and former inmates.

Neither in Bobur Square nor at the trials did the businessmen advocate violence or violent protests. Even though men with guns are visible in the film, the guns are slung awkwardly across their shoulders without any visible ammunition belts or bags. We do not see any signs of organized use of or pointing of the guns against the crowd. The filmmaker records one of the businessmen in Bobur Square saying how important it is to stand up “for our rights, for our future, for our children; if necessary, we will stay here three more days”—hardly a call for violence. Although the government accuses the men of terrorism, the film makes quite clear that one of the main characteristics of terrorism was absent: there was no effort to frighten civilians or any violence toward the crowd by the resisters. It looked more like an uprising against the local mayor.

Dr. Bakhtiar Babajanov made the following observation on the trial:

No one says that on the 13th of May, the day of the rebellion, there should have been a verdict on the case of these 23 businesspeople stating their support for Akromia. I saw a decision that should have been dispensed. They were no longer charged under article 159—that is, the article on “Religious Extremism and Terrorism.” They [the court] had taken out those articles, and the maximum sentence for one head of the business group was two years probation; the rest were nominal fines and the like.<sup>58</sup>

In Babajanov’s interpretation, the Uzbek court behaved properly in removing these articles from the indictment and the protesters behaved provocatively because they did not wait for the decision to begin their protest. But regardless of his interpretation, the court’s withdrawal of those charges indicates that the businessmen were never members of the “Akromia-terrorist” group to begin with. The court’s decision to charge the defendants only with violating the commercial law indicates equally clearly that the government had no proof for the other charges made against these businessmen. Hence the sentences were handed down for business irregularities, not for religious extremism.

Two days before the Andijan massacre, on May 11, 2005, the prosecutor in the case against the businessmen was asked by the German journalist, Markus Bensmann, what these people had actually done. He replied that they had not done anything yet, but that there was a possibility they could do something in the future. This again suggests that the government had no basis for its accusations against the businessmen.

Even today, nobody knows what really happened in Andijan. The government perpetuates its own dubious version. Much evidence suggests at least one other version of the precipitating events exists, which is that the conflict originated in a local “clash of clans”—a new governor moved in to Andijan and wanted to reorganize the balance of financial powers. The independent political scientist Edgar Norbutayev concludes that “The Andijan revolt did not have a religious basis and did not have as a goal the overthrow of the secular leadership of the republic. The rebellion was provoked, and to the organizers of the provocation, who were very well aware of the capabilities of the rebels, their sound defeat was more valuable than their victory.”<sup>59</sup> Only an independent international investigation can determine what actually happened, and why, but the Uzbek government is extremely anxious to avoid such an investigation.

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58. Ferghana.ru, “Scenes from a Famous Film about the Andijan Incidents Shown on Russian Television,” *Ferghana.ru: News from Central Asia*, November 1, 2006, <http://www.ferghana.ru/article.php?id=4186> (accessed June 28, 2007).

59. Norbutaev, Edgar, “Evidence and Interpretations,” *LAMIK.ru*, June 14, 2006, <http://www.iamik.ru/?op=full&what=content&ident=28254>

The three key components that must be investigated overlap with one another, but must be examined individually. The first is the trial of socially active businessmen, whose case must be reviewed in a fair trial, by an independent court. The second is the armed take-over of the prison; it is still unclear who was responsible. The third is the massacre of the peaceful protesters, which, by any standards of international law, involved a disproportionate use of force against a peaceful demonstration and massive summary executions of hundreds of people.

All Western countries, including the United States, and international organizations criticized the Uzbek government for its indiscriminate and excessive use of force. The position of the United States caused the Uzbek government to evict U.S. military personnel from the Karshi-Khanabad base in southern Uzbekistan and ruined bilateral relations. Despite the severe criticism of Western governments, Russia and China supported the position of the Uzbek government, saying that this was an internal issue and that the government had the right to fight against terrorism.

An examination of the Andijan massacre is important, not just because it was a terrible human tragedy, but also because an assessment is needed to determine whether it is being misrepresented by the Uzbek government as one of the battles in the global War on Terror. Hopefully, the above discussion of several key issues has supported the claim that Uzbekistan's "war on terror" has had no other effect than the creation of a vicious circle of social and political tension.

## CONCLUSION

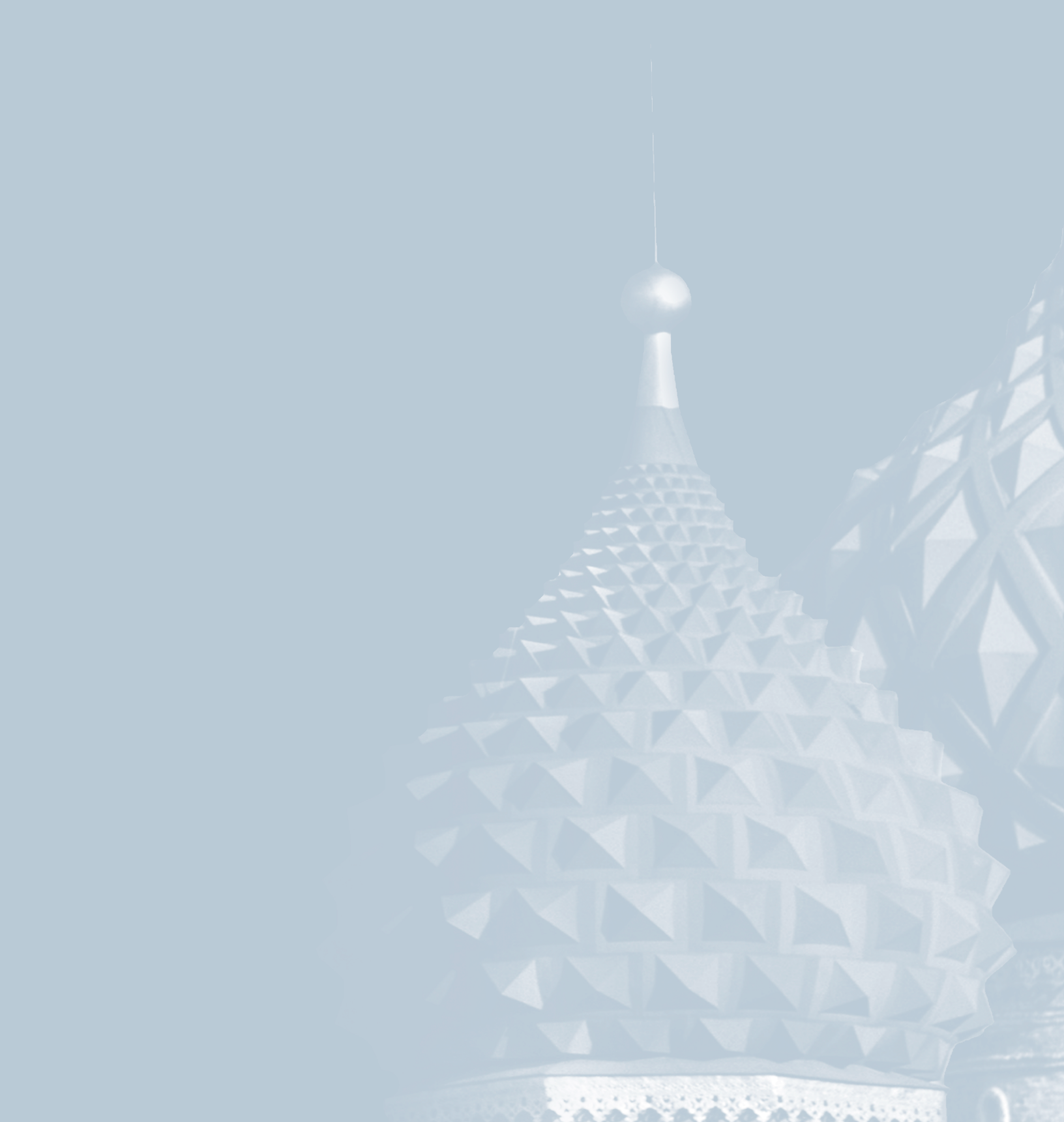
A broad definition of terrorism such as the one formulated by the Uzbek government gives countries great latitude to undermine and even violate international principles of human rights. Given this problem, it is imperative that countries and international organizations take great

care to ensure that their definitions of terrorism are precise. If even Western democracies deviate from the standards they have achieved over the course of history, there will be much less hope for people living in constant fear and fighting for very basic human rights.

From a human rights perspective, the ideal of democracy should be based on the rule of law, shared prosperity, the right to choose one's representatives, and transparency and accountability of government. Governments should respond not only to the demands of the majority, but also be mindful of the concepts of human freedom and independence. However, the recent decay of civil liberties in the West makes the fight for human rights in other parts of the world, especially in authoritarian societies like Uzbekistan, all the more difficult—indeed, nearly impossible.

When the United States and other Western governments support dictatorships that cooperate with them in the War on Terror, it serves to encourage such regimes to perpetuate the abuse of human rights. Established democracies should keep in mind that friendship and cooperation with dictators will lead neither to democratization (and the related advances in human rights) nor to a more realistic and effective fight against international terrorism. In these circumstances, these dictatorships will always seek selfish causes and defend their regimes at all costs.

Western democracies have no moral right to abandon the ideals of human rights and civil liberties. It is exceedingly clear that there is nothing more permanent than temporary changes. Those who are willing to restrict civil rights today declare that it is not forever, but it will not be easy to regain human rights once they are lost. As Benjamin Franklin said, "Those who would sacrifice a little liberty for a little security deserve neither." For every step that Western democracies take in the direction of restricting human rights, non-democratic countries are only too willing to walk a mile.



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