

## **Platform for facilitating protection of human rights in Central Asia**

### **A report on the state of freedom of speech, expression and press in Uzbekistan, to be presented at the December (2008) UPR session of the United Nations Human Rights Council**

SUMMARY: In Uzbekistan, all social processes are controlled by the government. This has resulted in changes to the government's information policy. After the Andizhan tragedy of 2005, it became particularly difficult to obtain accreditation as a journalist in Uzbekistan. The deciding factor in obtaining accreditation is one's loyalty to the country's political regime. According to official data, only three news agencies from the international mass media and 25 foreign journalists obtained accreditation in 2008. There are mechanisms in place to suppress materials criticizing the government's activities, and they are used extensively. Journalists who publish materials in which they express an independent opinion on the state of the country are subjected to severe persecution. For this reason a number of international agencies, whose reports on the Andizhan events of 2005 conflicted with the official version of those events, are no longer operating. The population's primary sources of objective information on Uzbekistan's political and socio-economic situations are internet resources beyond the .uz domain and overseas radio stations.

Keywords: *freedom of speech, expression and press; government censorship; repression against journalists.*

#### **1. National legislation concerning freedom of speech**

(1) After becoming independent in 1991, Uzbekistan ratified international treaties that regulate basic human rights and freedoms, including freedom of speech. They are reflected in Article 29 of Uzbekistan's Constitution, which states: "Everyone shall be guaranteed freedom of thought, speech and religious beliefs". In order to provide for these constitutional provisions, a number of laws have been put into effect: "Law on Mass Media" (passed on 12.26.1997, new edition from 01.15.2007), "Law on protection of the professional activity of journalists" (04.24.1997), "Law on the principles and guarantees of freedom of information" (04.24.1997).

(2) Notwithstanding these international obligations and enacted laws, not only did the situation regarding freedom of speech not improve, it took a sharp turn for the worse.

#### **2. Infringements of journalists' rights**

(3) Uzbekistan is home to continual infringement of journalists' rights of inviolability of person while executing their professional duties, guaranteed by Article 8 of the "Law on protection of the professional activity of journalists" (passed on 04.24.1997), which states that a journalist executing his professional duties enjoys the guarantee of inviolability of person, and that prosecution of a journalist for publication of critical materials is prohibited.

(4) After the Andizhan events of 2005, even greater restrictions were placed on freedom of speech. A campaign to intimidate and pressurize journalists was launched, as a result of which a number of journalists, fearing for their lives, were forced to leave the country (*see details in Appendix, 1-17*).

(5) Journalists are not only threatened, but also have administrative and criminal proceedings brought against them. Agents of law enforcement authorities plant narcotic substances, sometimes even live ammunition, in their personal belongings or vehicles. A number of criminal cases have been brought, including for defamation, light and moderate physical assault, failure to comply with the lawful orders of public agents, and so forth. When journalists, writers and human rights activists express their opinions and public criticism, they are often imprisoned for many years on fabricated charges.

(5) March of 2005 saw the publication of the first issue of the newspaper, “Shofircon’s Mirror.” The newspaper featured articles criticizing the region’s mayor and public prosecutor, including material on using forced child labor when collecting cotton. The newspaper’s first issue also became their last, as the authorities immediately shut down the publication (*see details in Appendix, 11*).

(6) The government pressures journalists by issuing direct threats and warnings and initiating criminal and civil proceedings against them (*see details in Appendix, 12-13*).

(7) On October 24, 2007, Alisher Saipov, chief editor of the newspaper “Siesat,” popular among residents of the Fergana Valley, was murdered in the center of the city of Osh (Kyrgyzstan). He was shot at point-blank range. There are numerous reasons to believe that his murder was ordered. According to reports, for three years leading up to his death Saipov received recurrent threats from the Uzbek authorities. The investigation is still going on to this day.

(8) In addition to journalists, literary figures also suffer persecution for expressing their opinions. (*see details in Appendix, 14-15*).

### 3. Government Censorship

(10) Article 67 of Uzbekistan’s Constitution, enacted on December 8<sup>th</sup> 1992, states that *censorship is prohibited*. Article 4 of the Law on protection of the professional activity of journalists” outlaws censorship. In actual practice, there are still restrictions on the work of mass media, carried out through senior editors and researchers, who are subjected to administrative pressure on the part of the president and law enforcement authorities.

(11) Immediately following the Andizhan events of 2005, all the reporters working for the international mass media were expelled from the city, the rest were denied accreditation by the government. Representatives of the BBC, “Voice of America,” “German Wave” and “Ozodlik” radio stations ceased their operations in the country.

(12) Chinese radio stations broadcast on the frequencies of BBC and “Ozodlik,” making popular programs of Uzbek information services unavailable to listeners in certain regions of Uzbekistan.

(13) Under the conditions of censorship, Internet remains the only source of diverse information on the situation in Uzbekistan. Within three months of the events in Andizhan a number of websites reporting on the tragedy of May 13<sup>th</sup> 2005 became unavailable. The website [www.neweurasia.net](http://www.neweurasia.net), a community of bloggers throughout Central Asia, was blocked. Access to the following list of websites is still being blocked:

- *research and information*: [uzmetronom.com](http://uzmetronom.com), [centrasia.ru](http://centrasia.ru), [uznews.net](http://uznews.net), [ca-oasis.info](http://ca-oasis.info), [afreeuzb.com](http://afreeuzb.com), [eurasianet.org](http://eurasianet.org), [dw-world.de](http://dw-world.de), [ozodlik.org](http://ozodlik.org), [voanews.com](http://voanews.com), [bbc.co.uk](http://bbc.co.uk), [freedolina.net](http://freedolina.net), [mediauz.ucoz.ru](http://mediauz.ucoz.ru), [freeuz.org](http://freeuz.org), [zonakz.net](http://zonakz.net), [easttime.ru](http://easttime.ru), [freeas.org](http://freeas.org), [ferghana.ru](http://ferghana.ru);
- *human rights organizations*: [hrw.org](http://hrw.org), [ignpu.com](http://ignpu.com), [ezgulik.org](http://ezgulik.org), [torture-uzb.narod.ru](http://torture-uzb.narod.ru), [amnesty.org.ru](http://amnesty.org.ru), [freedomhouse.org](http://freedomhouse.org), [ilhr.org](http://ilhr.org), [memo.ru](http://memo.ru);
- *Uzbek opposition*: [muslimuzbekistan.com](http://muslimuzbekistan.com), [birlik.net](http://birlik.net), [harakat.net](http://harakat.net), [uzbekistanerk.org](http://uzbekistanerk.org), [erkinyurt.org](http://erkinyurt.org), [uzbekinfo.org](http://uzbekinfo.org), [muhammadsalih.info](http://muhammadsalih.info), [jahongir.org](http://jahongir.org), [stopdictatorkarimov.com](http://stopdictatorkarimov.com), [uzbekcongress.org](http://uzbekcongress.org), [uzbekcongress.wordpress.com](http://uzbekcongress.wordpress.com), [isyonkor.ucoz.ru](http://isyonkor.ucoz.ru), [sunshineuzbekistan.org](http://sunshineuzbekistan.org), [uzbek-people.narod.ru](http://uzbek-people.narod.ru) and others.

(14) In 2005 a number of internet cafes posted signs that customers that visit pornographic websites, as well as [ferghana.ru](http://ferghana.ru) and [centrasia.ru](http://centrasia.ru) websites, will be fined 10,000 Som. In terms of nuisance, the Uzbek authorities equate critical material to pornography.

(15) Article 4 of the Law on protection of the professional activity of journalists” sets forth that *no one has the right to demand of a journalist to submit information or material for approval beforehand, or change or completely remove from print (air) information or material*. Unfortunately, in practice this progressive statutory provision is not put into effect. Almost all programs on all four television channels of the National TV and Radio Company of Uzbekistan (NTRCU) are broadcast only after the recorded footage has been reviewed by NTRCU’s officials. All critical statements are cut out. There is an implicit understanding of the list of prohibited words and phrases.

#### 4. Restricted access to information and obstacles in journalists' work

(16) Article 4 of the Uzbek Law on the principles and guarantees of freedom of information interprets the right of every person to information more broadly than the Constitution. According to this Article, *every person is entitled to freely explore, receive, research, disseminate, use and keep information*. However, our observations show that these given rights of journalists have been consistently violated. Research conducted over the course of 2005-2007 exposed more than 600 cases of direct violations of the rights of journalists and mass media.

(17) Article 9 of the Law on protection of the professional activity of journalists accords journalists the right to gather information and conduct journalistic research. In practice, government agencies restrict the gathering of journalistic information and publication of critical materials. Judges often do not allow journalists and public representatives to be present in their courtroom, especially when the cases are of a political nature.

(18) The government prohibits journalists from storing certain data on their personal computers, such as information on religious organizations or on the events in Andizhan in 2005, including materials copied from websites of news agencies and human rights organizations. In 2007 a reporter for "Oasis," a webzine, was convicted of *"disseminating materials that posed a threat to public safety and public order by crossing the border illegally and trafficking,"* after a report of one human rights organization on the events in Andizhan in 2005 was discovered on his computer.

(19) Article 3 of the Law on the principles and guarantees of freedom of information outlines the notion of "information security" – *a state of protection of interests of individual, society and state in the information sphere*. Access to information may be restricted in accordance with legislation. A list of information that pertains to secrets of state was accepted by the Uzbek Cabinet of Ministers in the latter half of 1990s, but is yet to be published and remains unavailable.

(20) Law enforcement officials often prohibit journalists from being present in courtrooms to cover open-court trials (*see details in Appendix, n. 16*).

#### 5. Monopoly in Electronic Media

(21) January of 2004 saw the establishment of the National Association of Electronic Media (NAEM) — an organization fully controlled by the government. Thanks to government support and administrative pressure on private television stations, NAEM monopolized all broadcasting rights of video materials, including those of foreign origin. All of the country's private TV stations were forced to join the association. When "Orbit," a television company in the Tashkent region, refused to join the association, the government punished the company in 2005 by revoking their broadcasting license.

(22) NAEM's management forbade private TV stations to collaborate with "Internews," a non-profit NGO, which, prior to the formation of NAEM, would organize various trainings for journalists, purchase television equipment and assist with preparation of TV programs.

#### 6. Central Control over Cable Television

(23) Following the Andizhan events, the State Communication Inspectorate of the city of Tashkent distributed a written injunction among all the heads of cable television studios. According to the injunction, by July 6, 2005 all private stations had to switch to receiving a "unified signal from the master station," effectively forcing them to rebroadcast an abridged and censored package of programs. This package was supplied by LLC "Uzbekiston Kabel Sistemalari" ("Cable systems of Uzbekistan), which ensures centralized control over content broadcasted by private stations. As a result of censorship and centralized control, there is not a single television studio in Uzbekistan with programs dealing with topical socio-political issues; airtime is filled mainly with variety shows.

## 7. Restrictions on the work of non-profit NGOs

(24) On February 4, 2004, the Cabinet of Ministers of Uzbekistan adopted resolution No. 56, whereby all funds of nongovernmental organizations, received via international grants, were to be transferred to the National Bank of Uzbekistan or to the “Asaka” bank, allegedly to prevent and help fight the phenomenon of money laundering. This resolution essentially meant the freezing of assets of non-profit NGOs, given that as they now needed permission from corresponding government departments to access their funds. After the resolution was put into effect, many bank accounts belonging to news organizations that received financial help from abroad, including the non-profit NGO “Internews-Uzbekistan”, were frozen. Some time after, in 2005, the government shut down the organization altogether, its director and accountant were put on probation. In Bukhara, pressure from the authorities forced “The Reporter,” a debating society (non-profit NGO), to shut down as well.

## 8. Restrictions on the work of freelance journalists

(24) According to Article 4 of the Law on the principles and guarantees of freedom of information, consistent with the Constitution of the Republic of Uzbekistan, *every person is entitled to freely explore, receive, research, disseminate, use and keep information*. This provision notwithstanding, there is not a single law in the country that defines freelance journalism. On the contrary, Article 17 of the Law on Mass Media contradicts the aforementioned law by stating that an editor is an individual that is a member of an editorial staff, who gathers, analyzes, edits and prepares materials. With regard to judicial practice the government takes full advantage of this absence of rights of freelance journalists, restricting their right to gather and publish their materials on legal cases (*see details in Appendix, 18*).

## 9. Recommendations

For the government of Uzbekistan

- Ensure the fulfillment of the guarantees of freedom of speech and press, set out in the Articles 12, 29 and 67 of the Constitution of the Republic of Uzbekistan, as well as standards of international law that it has ratified in relation to freedom of speech and press;
- Put an end to persecution of journalists and release from imprisonment those who have been convicted for expressing their beliefs;
- Put an end to de facto censorship of mass media and administrative control over their work by delegating matters of mass media regulation to judicial and legislative authorities;
- Provide access to websites, whose content does not contradict the principles of freedom of speech and standards of international law;
- Restore the accreditation of international news agencies and mass media that left Uzbekistan in 2004-2008;
- Remove current administrative limitations on the work of nongovernmental news organizations;
- Include a legal definition of the status of a freelance journalist and reporter in the Law on protection of the professional activity of journalists.
- Allow a UN spokesperson on the issues of freedom of speech and expression to visit Uzbekistan.

For the UN Council of Human Rights:

- Send a UN spokesperson on the issues of freedom of speech and expression to Uzbekistan to study the situation.

This report was prepared by freelance journalists Bakhtiyar Shakhnazarov, Nadejda Atayeva and Sergey Naumov.

## APPENDIX

[1.] On April 11, 2005, Sobirzhon Yakubov, a twenty-two year old journalist, was arrested on suspicion of belonging to a religious Islamic organization. He was working for “Khurriyat,” a republican newspaper. He wrote about Islam and about the process of formation of the democratic institution in Uzbekistan. Not long before his arrest, Yakubov published an article about the fate of Georgiy Gongadze, a Ukrainian journalist who was murdered over his work. The charges didn’t hold up, but the journalist was only released on April 4, 2006

[2.] In June of 2005, Tulkin Karaev, a journalist for Iranian radio “Meshkhed,” was sentenced to ten days of administrative arrest on charges of disorderly conduct. The defense attorney was unable to defend his client, as he was not allowed to see the journalist, T. Karaev.

[3.] On May 17, 2005, Gafurzhon Yuldashev, a reporter for the Uzbek radio “Ozodlik,” prepared material on the secret burial of victims at the Bogishamol mountain range in the Andizhan region. And as early as May 19, 2005, he was apprehended by individuals, claiming to be agents of the National Security Service of the city of Karasu in the Andizhan region. There were eight of them. They used physical force to confiscate his floppy disk, which contained audio recordings, and the memory card from his photo camera. The journalist was threatened with violence if he doesn’t leave the country. On May 27, 2005, a body was found of the person who gave G. Yuldashev the interview, in which he indicated the place of burial. The journalist no longer doubted that immigration is his only remaining option.

[4.] On July 1, 2005, Lobar Kaynarova, a reporter for “Ozodlik” radio, who covered the Syrdarinskaya region, was beat up near her residence in the city of Gulistan. Her eyes and the left side of her face swelled up from the beating, and her nose was broken. At the time she was four months pregnant. She lost the child.

[5.] In September of 2005, the body of the brother of Matlyuba Azamatova, a BBC radio journalist, was found with marks of knife wounds at a marketplace in the neighborhood of Kuylyuk of the city of Tashkent. Threats of violence against the journalist Matlyuba Azamatova preceded the tragedy. The crime has not been solved to this day.

[6.] On May 13-14, 2005, Sharif Akhmedov, a BBC radio reporter, was covering the events in Andizhan. He was summoned by the National Security Service to appear at their regional office. According to S. Akhmadov, he was then threatened: “If you try to prepare materials on the events in Andizhan and the victims again, we will be forced to have a different kind of talk with you.” The journalist is presently abroad.

[7.] On September 1, 2005, Robia Mirzaakhmedova, a reporter for “Ozodlik” radio, was arrested by the police. Police officers confiscated her audio materials, prepared for the radio broadcast on the celebration of the Uzbekistan Independence Day.

[8.] On November 9, 2005, Aleksey Volosevich, a reporter for the news agency “Fergana.Ru,” was beat up. There are numerous reasons to believe that this assault was of a political nature.

[9.] On October 5, 2006, Ulugbek Khaydarov, a freelance journalist, was arrested and sentenced to six years in prison for extortion. Following an appeal his sentence was reduced to three years of correctional labor. After his release the journalist went public about the torture that he was subjected to during his questioning and while in prison.

[10.] In September of 2006, Dzhamshid Karimov, a journalist for the Institute for war and peace reporting, was forcibly confined to a psychiatric clinic in Samarqand for six months. So far by 2008, all attempts of journalists and human rights activists to contact his relatives proved unsuccessful. Our sources inform us that the authorities forbid them to reveal any information about him.

[11.] On July 6, 2005, Radzhabboy Raupov, journalist and creator of the “Shofircon’s Mirror” newspaper, was severely beaten in the Shofircon district of the Bukharian region. This assault took place after the publication of materials, critical in nature, concerning the operations of the region’s mayor and public prosecutor. In his newspaper he published material about the use of forced child labor in the cotton sector. This was the newspaper’s first and only issue, as the authorities shut it down immediately after.

[12.] In October of 2005, Nosir Zokir, a reporter for “Ozodlik” (“Freedom”) radio, was sentenced to three years in prison. He was charged with insulting a member of the National Security Service over the phone. He was pardoned and released in the summer of 2006.

[13.] On June 23, 2004, the Inter-District Court of Common Pleas of Namangan has delivered a judgment on the legal suit brought against the chief editor of the “Dienat” (“Consciousness”) newspaper, Shukhrat Dekhkanov, and his assistant, Israil Yusupov. They submitted a claim of retraction and recovery of moral damages to the reporter of the Uzbek “Freedom” radio, Nasyr Zakir, and the Tashkent “Freedom” radio bureau. The court obligated the journalist N. Zakir to pay the plaintiffs compensation for moral damages in the amount of 50 thousand som (approximately \$50.00 each), despite the fact that the insults came from the interviewed individuals. The Court of Appeals reduced the amount of compensation to 25 thousand som (approximately \$25.00).

[14.] Mamadali Makhmudov, a writer, has been serving a prison sentence since 1999. Over the past two years, manuscripts of his historic novel have been seized several times.

[15.] On December 17, 2007, Yusuf Zhuma, a poet-dissident, was arrested and subsequently sentenced to five years in prison. The government decided to isolate him after the poet led a series of pickets on the eve of the presidential elections, in which he reminded Islam Karimov that running for president for the third straight term violates the country’s Constitution. His son Bobur, who joined him at the pickets in an effort to defend the country’s constitutional principles, was arrested as well.

[16.] “S@t-ranj” (“Chess”), a weekly socio-political newspaper, began its publication in 2004, but saw only 4 of its issues published. The newspaper’s creators were forced to shut it down after the government imposed an implicit ban on publishing socio-political materials that have not been reviewed by the authorities beforehand.

[17.] On January 27, 2005, Obid Shabanov, a German reporter for the “German Wave” radio, was forced to leave an open-court trial by insistence of the court president. The journalist filed a claim against the judge, who had no grounds to hinder his professional work. On March 22, 2005, the Court of Appeals upheld the decision of the Trial Court to deny O. Shabanov his claim.

[18.] In 2004, Mumin Kayumov, a journalist, stood trial. He published a critical article in the newspaper “Mokhiyat,” on the grounds of which a civil suit of injury to honor and dignity was filed against him. According to the plaintiff’s representative, the author had no right to write the article, and the newspaper “Mokhiyat” has no right to publish it, given that the journalist was not a member of their staff. The Appellate Division of the Tashkent City Civil Court overturned the decision of the Trial Court only with regard to the compensation for moral damages in the amount of 500 thousand som (approximately \$500) for the plaintiff.