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Uzbekistan: Independent international investigation needed into Andizhan events

Amnesty International calls on the government of Uzbekistan to respond positively to calls from the UN, the European Union (EU), the Organization for Security and Cooperation in Europe (OSCE) and individual countries to ensure that a thorough, independent and impartial international investigation into the events in Andizhan on 13 May 2005 is carried out.

According to information available to Amnesty International, during the night of 12-13 May 2005, a group of unidentified armed men broke into the jail of the city of Andizhan, reportedly freeing hundreds of prisoners, and later taking hostages and occupying a local government building. Throughout the day thousands of people gathered in a city square; many spoke out to demand justice and an end to poverty. There were sporadic incidents of security forces firing indiscriminately into the crowds, killing and wounding demonstrators, most of whom were unarmed. In the early evening, security forces were reported to have surrounded the crowd of thousands of protestors on the city's main square, hemming them in with buses, armed personnel carriers and other barriers. According to witnesses, hundreds of people -- men, women and children -- were killed when government troops opened fire on the crowd in the square and as they fled.ⁱ Hundreds left the country and sought international protection in neighbouring Kyrgyzstan.

The circumstances in which the security forces resorted to the use of lethal force on each occasion, and the numbers and conduct of persons killed are a matter of dispute. The government has stated that 176ⁱⁱ people were killed and that many of them were "terrorists"; however, analyses of testimonies of eyewitnesses indicate that some 300-500 civilians, many of whom were unarmed, were killed. There have also been allegations that some people were extrajudicially executed.

As a Party to the International Covenant on Civil and Political Rights, the authorities of Uzbekistan are obliged, including under Article 2(3), to ensure the initiation of an independent, impartial and thorough investigation into the events of 12- 13 May 2005. The Human Rights Committee, the independent expert body that monitors the implementation of this treaty, has made clear that **failure to do so, "could of itself give rise to a separate breach of the Covenant"**.ⁱⁱⁱ

Although a commission of inquiry has been established by the parliament of Uzbekistan into these events, Amnesty International is concerned that the composition of the commission is too closely affiliated with the executive to be considered independent and impartial. The fact that the government has invited the **diplomatic** representatives of a number of countries (including reportedly: China, Iran, India, Kazakhstan, Kyrgyzstan, Pakistan, the Russian Federation, Turkmenistan and Tajikistan^{iv}) to **monitor** the progress of the investigation, is not a substitute for a fully independent investigation **carried out by** persons with **relevant technical expertise** from the international community.

Amnesty International considers that only an independent, impartial and international investigation into the incidents - conducted in a manner consistent with international human rights standards - can begin to determine the veracity of these widely different claims.

These international standards, including the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions,^v require that the investigation should be carried out by persons of recognized impartiality, competence and independence. It is of particular importance that they should be independent of any institution, agency or person that may be the subject of the inquiry. The panel should include experts in forensic pathology, ballistics, crowd control and crime scene investigation.

International standards also demand that those conducting the investigation should have the necessary powers to obtain all information necessary to the inquiry, including the authority to summons and oblige officials and other individuals to appear before them, to provide information and to produce evidence including documents.^{vi}

The investigation should be mandated to inquire into and report on the circumstances leading up to the events of 13 May 2005, and the circumstances in which each person was killed or wounded. It should examine the rules of engagement and orders given to members of the security forces involved. It should also look into the conduct of the armed civilians. In addition, it should analyze any pattern or practice which led to death or injury.

The investigation should also seek to establish whether the use of force and firearms by members of the security forces, in each instance, was consistent with both national law and international standards, including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.^{vii} These standards, which apply even during public emergencies, require that law enforcement officials only use force when strictly necessary and to the extent required for the lawful performance of their duty. ***Firearms may only be used against people, after appropriate warnings are given, in a manner likely to minimize damage and injury and respect and preserve human life, if other means remain ineffective or without promise of preventing imminent threat of death or serious injury. The intentional lethal use of firearms may be resorted to by law enforcement officials only when strictly unavoidable to protect life.***^{viii}

Autopsies on the bodies of each person who died as a result of the violence on 13 May 2005 should be carried out by independent and expert forensic pathologists and should, at a minimum, attempt to establish the identity of each deceased person, and the cause and manner of death. ***Every reasonable effort should be made to determine the time and place of death of those who died.*** A full autopsy report, including photographs and describing all injuries, should be made, and a copy given to the relatives of the deceased. The body of each deceased person should be returned to their family upon the completion of the investigation.^{ix}

Witnesses, complainants, those conducting the investigation and their respective families must be protected from any and all forms of reprisal, including violence and other forms of intimidation, and threats thereof.^x

The wounded, families of the deceased and their respective legal representatives should be informed of and have access to information relevant to the investigation and hearings, and shall be entitled to present evidence.^{xi}

A written report of the findings, scope and methods of the investigation, as well as recommendations based on these findings, ***should*** be made public within a reasonable time. Likewise within a reasonable time, the

relevant Uzbekistani authorities should reply to the report, indicating the steps they will take in response to it.^{xii}

In accordance with their obligations under the International Covenant on Civil and Political Rights, those responsible for criminal actions should be brought to justice in the course of full and fair proceedings, and the Uzbekistani authorities must ensure that victims of human rights abuses committed in the course of the events of 13 May 2005 receive adequate reparation. To date, according to the information available to Amnesty International, charges have been brought against 98 persons suspected of involvement in the events of 13 May 2005; none among them are law enforcement officials.

Amnesty International considers that the conduct of an investigation which meets the above criteria is in the interests of justice, respect for human rights and the rule of law. Those who were wounded and the families of those killed in the violence that occurred on 13 May 2005 in Andizhan deserve no less.

ⁱ The events that unfolded in Andizhan are said to be linked to the ongoing trial of 13 entrepreneurs for membership in an illegal organization and overthrow of the constitutional order; the subsequent arrest and laying of the same charges against 13 other local business men, and the arrests of relatives of the accused. See, e.g., the Report of the OSCE's Office for Democratic Institutions and Human Rights, *Preliminary Findings on the Events in Andijan, Uzbekistan, of 13 May 2005*, published on 20 June 2005; Report of Human Rights Watch: *Bullets Were Falling Like Rain, The Andijan Massacre, May 13, 2005*, published in June 2005; Report of the International Crisis Group, *Uzbekistan: The Andijon Uprising*, published on 25 May 2005.

ⁱⁱ The government stated that as of 21 June, these included 79 "terrorists", 11 soldiers, 20 security officers, and 45 civilians; the identities of 21 remain unestablished.

ⁱⁱⁱ Human Rights Committee General Comment 31, on Article 2 of the ICCPR, adopted on 29 March 2004, at paragraph 15 (UN Document: *CCPR/C/21/Rev.1/Add.13*)

^{iv} The United States has declined the invitation to monitor. France has also been invited to participate, but to Amnesty International's knowledge, no diplomatic representative has so far attended the meetings.

^v The UN **Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions** are available at <http://www.unhchr.ch/html/menu3/b/54.htm>. In its resolution 1989/65 of 24 May 1989, the UN's Economic and Social Council recommended that these Principles be taken into account and respected by Governments within the framework of their national legislation and practices.

^{vi} Principles 9, 10 and 11 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

^{vii} The **UN Code of Conduct for Law Enforcement Officials** was adopted by resolution 34/169 of United Nations General Assembly on 17 December 1979, and is available on http://www.unhchr.ch/html/menu3/b/h_comp42.htm; the **UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials** was adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990, and is available on http://www.unhchr.ch/html/menu3/b/h_comp43.htm

^{viii} Principle 9 of the UN Basic Principles;

^{ix} Principles 12, 13, 14, and 16 of the **UN Principles on the Effective Prevention and Investigation of**

Extra-legal, Arbitrary and Summary Executions.

^x Ibid at Principle 15; see also, Principle 6 of the **UN Declaration of Basic Principles of justice for Victims of Crime and Abuse of Power**, adopted by the UN General Assembly in resolution 40/34 of 29 November 1985, and available at http://www.unhcr.ch/html/menu3/b/h_comp49.htm

^{xi} Ibid at Principle 16

^{xii} Principle 17 of the **UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.**