



PEN International
Contribution to the 16th session of the Working Group
of the Universal Periodic Review
Submission on Uzbekistan

October 2012

1. PEN International welcomes the opportunity provided by the Office of the High Commissioner on Human Rights to comment on the climate for free expression and human rights in Uzbekistan.
2. Uzbekistan is bound by several international commitments to human rights. The country acceded to the International Covenant on Civil and Political Rights in 1995, the Convention Against Torture in 1998, and the Convention of the Rights of the Child in 1994. Uzbekistan is also bound, like all state parties of the United Nations, by Article 19 of the Universal Declaration of Human Rights that guarantees freedom of expression. Uzbekistan's Constitution protects freedom of expression under Article 29.
3. Despite these international commitments and provisions in domestic law, Uzbekistan has failed to meet its obligation to protect freedom of expression. Importantly, the country's treatment of writers and journalists has obscured critical human rights issues in the country, including torture, the freedom of assembly, religious freedom, child labor, and the rule of law.

Persecution of writers and journalists

4. Since the review by the Human Rights Council in 2008, Uzbekistan has continued to threaten, prosecute, and imprison writers and journalists. The government controls major media channels, including television, and threatens or prosecutes journalists who cover topics such as corruption, torture, or human rights.
5. Writers and journalists may be punished under a variety of laws. These include Chapter 9 of the Uzbekistan Criminal Code, which relate to crimes against the state and the president; laws prohibiting religious activities; laws governing assembly and protests; and laws related to conduct within prisons. Judges join violations of these laws when meting out punishments, resulting in much longer prison sentences.

6. Censorship has also been used to stifle free expression in Uzbekistan. Censorship is banned as “impermissible” under Article 67 of the Constitution. However, government publications are censored by dedicated staff members, and government security services have given detailed instructions about material appropriate for publication.
7. Foreign journalists are prevented from working in Uzbekistan without official accreditation and foreign media outlets with more than 30 percent foreign ownership may not establish a presence in the country. Radio Free Europe, Voice of America, and BBC World Service have been refused permission to operate in the country. Local journalists who have left the country have been harassed upon their return and avoid meeting with foreign diplomats because they fear persecution from state security. Only two local human rights NGOs were allowed to register in the country, and their programming requires prior approval by the government. Human Rights Watch was forced to close its country office in June 2011.
8. PEN International is currently advocating on behalf of 10 imprisoned writers and journalists in Uzbekistan.
9. The treatment of Mamadali Makhmudov, recipient of the 2001 PEN/Barbara Goldsmith Freedom to Write Award, is emblematic of free expression and human rights violations by the government of Uzbekistan. Makhmudov is the author of the work *Immortal Cliffs* and is a member of the Uzbek Writers Union and Uzbek Cultural Foundation. He was arrested in 1999 following a series of bombings in the capital of Tashkent and charged with threatening the president and organizing a criminal group under articles 158, 159, 216, and 242 of the Uzbekistan Criminal Code. His arrest represented part of a wider crackdown on writers of the opposition *Erk* newspaper and people associated with exiled opposition leader Muhammed Salih. During his trial, Makhmudov testified that he was tortured under interrogation, and suffered beatings, electric shock and the threat of rape of female family members. He received throat and facial surgery while in prison in 2000, likely for abuse and neglect in prison, and has suffered three heart attacks. Makhmudov has currently been in prison longer than any other journalist in the world.
10. Uzbekistan’s March 2012 amnesty towards prisoners did not include writers or journalists.

Stifling free expression under the pretext of fighting religious extremism

11. Despite a diversity of religions in Uzbekistan, the government continues to threaten free expression under the pretext of fighting extremism. Freedom of conscience and religion are guaranteed under Article 31 of the Constitution. Illegal religious activities, including establishing new religions and recruitment of

members, are punishable under Articles 216, 229, and 241 of the Criminal Code for up to five years in prison.

12. At least three PEN cases were accused of fomenting religious extremism, and journalists in particular have been labeled as Islamists as a means to silence criticism. These include Bahrom Ibragimov, a member of Nur, a religious group, and Hayrulla Hamidov, poet and deputy editor of the newspaper *Chempion*. It is evident that these charges are a pretense to silence criticism of the government and free expression.
13. The 1999 assassination attempt upon President Karimov's life and the 2005 massacre in Andijan both led to the persecution of religious groups—and particularly Islamist groups—that are considered a threat to the state. In practice, the suppression of religious groups under the guise of extremism has enabled the government to prevent political organizing. In 2012, the government installed security cameras in 30 mosques around the country to monitor their activity, according to Radio Free Europe.

Libel and criminal defamation

14. Libel and defamation suits are also used to silence writers and journalists in the country. Articles 139 (insult) and 140 (denigration) of the Uzbekistan criminal code impose sentences up to 3 years. Publicly insulting President Karimov is punishable by up to five years in prison under Article 158, but has been punished with longer sentences.
15. PEN case Muhammad Bekzhon (also called Bekjanov), a journalist, was convicted and sentenced to 13 years in prison in 1999 for allegedly publishing a newspaper article that libeled President Karimov. He was subsequently tortured in prison, suffered a broken leg, and contracted tuberculosis. He received an additional five-year sentence for allegedly violating prison rules only a few days before completing his initial sentence.
16. Government officials have attempted to limit criticism through libel and defamation suits even outside Uzbekistan. In 2011, Uzbekistan's ambassador to UNESCO and President Karimov's daughter, Lola Karimova-Tillyaeva, sued the online news agency Rue89 for libel in a French court for a May 2010 article in which it described her as the daughter of "dictator Karimov". The suit was dismissed by the Press Court in Paris.

Journalists threatened for reporting on critical human rights issues

17. Journalists in Uzbekistan have been threatened, harassed, and jailed for reporting on critical human rights issues, including popular protests, forced child labor, and corruption in the legal system.

Threats for reporting on freedom of assembly and protests

18. Protections for freedom of assembly are guaranteed under Article 33 of the Constitution, which permits public rallies and gatherings, but peaceful public gatherings are regularly suspended in practice under the pretext that they threaten security. Protesters who violate the complex regulations that govern assembly, which are more detailed than Article 33 stipulates, may be sentenced up to three years in prison under Article 217 of the Criminal Code.
19. The 2005 massacre in Andijan continues to affect free expression and the freedom of assembly in Uzbekistan. In 2005, 23 businessmen were placed on trial for participating in a banned Islamic group. Fearing that they would not receive a fair trial, their supporters stormed the prison in which they were held and freed them. An estimated 10,000 people then assembled in the city center to demand democratic changes. The government responded by massacring at least 187 people, according to official government figures, with as many as 800 deaths reported by unofficial sources.
20. Uzbekistan roundly rejected recommendations at the 2008 UPR review that called for an investigation into the massacre.
21. The government expelled foreign journalists from covering the events in Andijan and initiated a crackdown on local journalists. Large protests have since been prohibited in practice as a direct result of the events in Andijan. The registration of political parties also suffered, as several parties were outlawed.
22. PEN case Dzhamshid (Jamshid) Karimov, a journalist, disappeared in 2006 after covering the massacre for the London-based Institute of War and Peace Reporting (IWPR) and for his work as a freelance journalist. He was confined in a psychiatric hospital until October 2011, and disappeared again in January 2012.

Threats for reporting on the legal system

23. The lack of independence of the judiciary, the inability of journalists to expose flaws in the legal system, and state-mandated changes to the practice of law in Uzbekistan have had a significant chilling effect upon free expression and prevented the fulfillment of human rights.
24. The Constitution requires that the judiciary remain independent from the executive branch, but this does not occur in practice. Judges are appointed by the executive branch, and due process violations are common. Defendants either do not enjoy access to attorneys during trial proceedings or their state-appointed attorneys support the arguments of state prosecutors, which are then approved by judges, according to the U.S. State Department. While pre-trial detention is limited to three months, judges have the ability to extend pre-trial detention up to one year and have routinely done so without granting release on bond.

25. The government has punished journalists for investigating corruption and delay in the legal system.
26. PEN case Viktor Krymzalov, an investigative journalist, received a fine of \$1,350 dollars for libel and slander over an article that he reportedly did not write. It is likely, however, that he was punished for having exposed flaws in the legal system in the publications *Pravda Vostoka* and *Chastnaya Sobstvennost*.
27. Changes in licensing procedures for lawyers have also had a chilling effect upon free expression. In 2009 the Cabinet of Ministers decided to require the re-licensing of lawyers in order to subsume the legal profession under the jurisdiction of the Ministry of Justice. As a result, lawyers willing to defend human rights defenders have been disbarred, making it more difficult for human rights defenders to receive representation. Lawyers now either self-censor by not taking the licensing examination or refuse to defend politically sensitive clients, according to a 2012 Human Rights Watch report.

Threats for reporting on forced child labor

28. The use of children to pick cotton for government textile agencies has been documented in Uzbekistan as recently as September 2012. The country remains the fifth largest exporter of cotton in the world, according to the National Cotton Council of America, an industry trade group. School children—sometimes as young as 10—as well as school teachers and administrators are pressured by the government to pick cotton during the fall harvest season, with schools closing for up to six weeks.
29. Despite reassurances that the government would end the use of forced child labor during Uzbekistan's review by the Universal Periodic Review in 2008, the practice continues. Uzbekistan signed International Labour Organisation treaties No. 105 (Abolition of Forced Labor) and 182 (Worst Forms of Child labor), each of which requires monitoring to be upheld. Uzbekistan acceded to the Convention on the Rights of the Child in 1994. However, Uzbekistan has not permitted the ILO to monitor the cotton sector or allowed journalists to report on the issue.
30. Three human rights activists who attempted to monitor the cotton harvest were detained in 2011, according to the NGO coalition the Cotton Campaign. In addition, Gulshan Karaeva, a journalist and human rights activist who has reported on the harvest and other issues, was threatened and attacked in May 2012, according to Human Rights Watch.
31. UNICEF is the only major international NGO that enjoys the right to monitor children in the cotton harvest, and conducted a pilot project in 2010 to keep children under the age of 12 from working in the cotton fields in the Fergana

valley. However, UNICEF keeps its findings confidential and its work does not replace the critical role provided by journalists or human rights monitors.

Torture and due process violations

32. Torture has been widely used in Uzbekistan to silence writers and journalists. A 2011 U.S. State Department report found torture to be common in prisons, pretrial facilities, local police departments, and national security service agencies. Torture was primarily used as a method of extracting confessions from defendants in criminal proceedings. Prisons suffer from overcrowding, abuse, and a lack of medical care.
33. Uzbekistan has two structures in place that can prevent abuse and torture in prisons. The Human Rights Ombudsman's Office, which has received trainings from the Organization for Security and Cooperation in Europe, can receive confidential complaints from detainees in prison facilities and the Ministry of Interior is charged with regular inspections of prison facilities. Officials who have authorized the use of torture may themselves be punished under Article 205 of the Uzbekistan Criminal Code.
34. While PEN applauds the existence of these powers, as well as a 2011 law granting more rights to prisoners during criminal proceedings, these offices have not made significant inroads into curbing abuse, eliminating torture, or guaranteeing due process.
35. In at least two separate cases, PEN has documented instances when imprisoned writers had their sentences extended after having been accused of violating prison rules, a widespread practice used by the government to prevent the release of prisoners.

Internet censorship and surveillance

36. The Human Rights Council affirmed free expression principles on the Internet in Article 1 of its June 2012 meeting in its document "The promotion, protection and enjoyment of human rights on the Internet" (A/HRC/20/L.13). Uzbekistan's control, censorship, and surveillance of the Internet do not uphold the principles of this declaration.
37. According to the International Telecommunications Union, 30.2 percent of the population enjoys access to the Internet in Uzbekistan, yet the available bandwidth is severely censored. The Centre for Monitoring Mass Communications (CMMC) oversees the content of Internet websites and other media, and Internet services must register with the state.
38. A 2010 OpenNet Initiative report found that 80 percent of web traffic in Uzbekistan is required to pass through a centralized filtering system operated by

the government National Network of Information Transmission (UzPAK). The National Security Service (SNB) also surveils web traffic for information on human rights violations, government corruption, and organized crime, ordering ISPs to block such content under threat of revoking their license. A significant percentage of internet usage occurs through mobile phones, according to a July 2012 Freedom House report, but internet data on mobile phones still passes through a central Internet Service Provider, and is subject to filtering.

39. In 2011, the government used web filtering to block Russky Reporter, an independent website, as well as *Nezavissimaya Gazeta*, a Russian news site, according to Reporters Without Borders. The government also requires Internet Service Providers to closely monitor content related to subjects considered sensitive, such as mentions of the Karimov family, the cotton harvest, or gasoline problems, resulting in self-censorship by Internet users.
40. The government has attempted to thwart the rise of social media such as Facebook by creating its own site, Muloqot.uz, that requires identifying information of its users. Hackers and internet users accessing official news sites may be punished for up to 6 months in prison under Article 174 of the Criminal Code.

Recommendations and solutions

PEN International, together with its 144 PEN centers around the world, makes the following recommendations:

- Release all imprisoned writers and journalists, if necessary under the amnesty provisions under Article 68 of the Criminal Code on the 20th anniversary of the Constitution
- Eliminate criminal defamation laws that punish speech about President Karimov as well as provisions pertaining to “insult” and “denigration”
- Allow all journalists, both domestic and foreign, to report on critical human rights issues, such as the freedom of assembly, child labor, and corruption in the legal system
- Allow foreign journalists to register and work in the country
- End official censorship of expression in print, in broadcast media, and the Internet so that they uphold Article 29 of the Uzbekistan Constitution and Article 19 of the ICCPR
- Grant visas, registration, and accreditation so that international non-governmental organizations can operate in Uzbekistan.