

Uzbek Death Penalty on Trial

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The president says capital punishment is to end – but not before it could be applied to those convicted in the latest controversial trial.

Human rights activists have welcomed Uzbekistan's announcement that it is to stop executing prisoners – but they warn that the decision to delay the move for two years will cost scores more lives in a country where due process is gravely flawed.

The August 1 decree by President Islam Karimov said that abolition of the death penalty, and its replacement by life or very long sentences, would only come into force in January 2008 after the right preparations had been made.

The death penalty, and the timing of its abolition, have come into sharp focus because some of the 15 men who went on trial on September 20 on charges of fomenting violence in Andijan in May could face the death sentence. They have been charged with aggravated murder and terrorism – the two remaining capital crimes on the law statutes after Uzbekistan removed lesser offences from the list.

Since another 106 accused are being lined up for further trials in the same case, which prosecutors say involves Islamic radicals carrying out premeditated acts of terrorism, more death sentences are likely to result.

With Belarus, Uzbekistan is one of two remaining Soviet republics not to have abolished capital punishment or imposed a moratorium on carrying it out.

The number of executions carried out is shrouded in secrecy even though Uzbekistan has an obligation as an OSCE member to release information about it, so it is impossible to say how many people have been executed since the country became independent in 2001.

In 2001, President Karimov said that around 100 people were executed every year. In 2003, the official figure given for actual executions stood at 80, and in December last year Karimov said the number of people sentenced to capital punishment stood at 50 to 60 a year. Human rights groups believe the figure is significantly higher.

Given that all 15 defendants are charged with capital crimes (premeditated murder and terrorism) they would seem obvious candidates to receive the death sentence before it is abolished.

The government has already come under sustained criticism from the international community for its refusal to allow an independent investigation of the violence on May 13. It says 187 people died in a legitimate crackdown on an uprising by Islamic radicals; human rights groups believe far more people were killed, most of them civilians gunned down in a deliberate massacre.

The authorities may now be sensitive to the public relations implications of death sentences arising out of the Andijan trial.

Sherzod Haitmurotov, representing the Supreme Court's press office, has suggested that judges would

refrain from passing death sentences.

“It can be expected that humane principles will win out, especially given that a moratorium has been declared,” he said. Haitmuradov was clearly referring to the delayed abolition – no moratorium has been declared pending the eventual ban.

Human rights defenders welcomed Karimov’s announcement, with some reservations

“Abolishing the death penalty will not only make it possible to improve Uzbekistan’s image in the eyes of the civilised international community, but also to improve the human rights situation in the republic as a whole,” said human rights activist Irina Petrova.

Cynics might argue that the announcement was timed as an effort to defuse some of the international criticism of Uzbekistan’s human rights record since Andijan. But it is certainly also the result of prolonged pressure from the international community, particularly the United Nations Commission on Human Rights.

One of the reasons given for delaying the measure in Karimov’s decree was that the country needed to build more prisons to hold life-term prisoners. At the moment death row prisoners are held in poor conditions in Tashkent prison, whereas convicts serve out their sentences in Soviet-style labour camps.

A second requirement was to prepare public opinion for the change. Such a process of public consultation process would be highly unusual in a state where the president and government simply issue orders, which must be followed.

When Karimov signalled in December last year that abolition might be in the offing, he made the point that most citizens would be against such leniency. “We must stop pronouncing death sentences. That’s my personal opinion,” he told a press conference. However, he said, “if a sociological survey were held today, the vast majority of people would be in favour of keeping the death penalty”.

That is an experience common to most states which have abolished capital punishment. Amnesty International argues that many governments have made the move in the face of public hostility.

On the streets of Tashkent, some people voiced support for continuing executions.

“I’m definitely for it - depending on the circumstances of the murder, a criminal who spills someone’s blood should know that hell is worse than death,” said a taxi driver.

A student added, “I’m personally against abolishing the death penalty. Scum who take other people’s lives should pay with their own.”

But others expressed more liberal views, including an awareness of the flaws in the justice system. A psychology said the “the death penalty is legalised vendetta”.

“In the period when the moratorium is being introduced, how many more people will go to the executioner’s block? It would be good if none of them were innocent,” said a teacher.

A police officer relatively high in the system also said he favoured ending capital punishment. "It is a step in accordance with international human rights standards," he said.

The delay will inevitably mean more executions - of murderers as well as those characterised as "terrorists".

"Scores of people are likely to be executed by 2008," said Anna Sunder-Plassmann, Central Asia researcher for Amnesty International. "It's important that the international community does not let Uzbekistan off the hook because of the promise to abolish the death penalty.

"If the Uzbek authorities have come to the conclusion that the death penalty is inhumane, why wait until 2008?"

A journalist from the Caucasus said it was unclear why the process should take so long - in Azerbaijan, for example it took weeks rather than years to push the legislation through.

Human rights groups say that apart from objections to capital punishment itself, there are specific problems in Uzbekistan, relating to flaws in ensuring defendants get a fair trial. The use of torture to extract written confessions - a key component in trials which are weighted towards the prosecution evidence - has been widely documented.

Maira Rahmanova, an abolitionist from Samarkand, knows only too well what happens when someone is arrested for a capital offence.

Her brother Marat Rahmanov was arrested in 1999 for a double murder, and claimed that investigating officers tortured him to extract a confession.

The abuse included burning, repeated beating about the head, and the "swallow" where the victim is suspended face down by his arms and legs.

Maira then experienced for herself another favoured police tactic - threats against female relatives to force the accused to testify against himself.

She and her small child Malika were detained and held in a basement cell where she was unable to feed the girl or change her clothes. She believes that the jaundice that afflicts Malika, now seven, is a consequent of that treatment.

According to Maira, her brother was told by investigators that "everything will be done to them that was done to you, and even worse, because they are women".

Under such pressure, he signed a confession and was sentenced to death. The sentence was commuted to 20 years in jail after local human rights groups pleaded his case.

"Looking back and analysing everything that happened, I am firmly convinced that only placing a moratorium on carrying out the death penalty in Uzbekistan will make it possible to avoid errors during investigation and trial," said Rahmanova.

An added concern in trials of those accused of Islamic radicalism – such as the Andijan case - are heavily politicised, and there is little chance that someone caught up in such a case can be found innocent.

“The death penalty has played an important role in the clampdown on ‘religious extremism’ in Uzbekistan, and dozens of alleged ‘Islamists’ have been sentenced to death and executed without being granted the rights to effective assistance of counsel and to prepare a defence,” Amnesty International said in a recent report.

Another problematic aspect is the intense secrecy that surrounds the actual execution – which follows the Soviet pattern of a lone executioner firing a single pistol shot.

“In Uzbekistan, everything concerning the death penalty remains shrouded in secrecy. It is a state secret which it is dangerous to touch on,” said Tamara Chikunova, who heads the pressure group Mothers Against the Death Penalty and Torture. “When a crime is committed, they need to find someone guilty and demonstrate 100 per cent success in crime detection.”

Relatives are not told execution is imminent – and in some cases are not even told after it has been carried out. The only indication they have is when the case has gone to the presidential clemency commission, which generally turns down appeals, and implementation of the sentence can be assumed to follow in short order. On other occasions, family members have arrived for a prison visit and are told simply that their relative is no longer listed on death row.

A foreign journalist working in Uzbekistan, who has gained access to jails in other former Soviet countries, said, “I’m constantly surprised that here in Uzbekistan, it’s almost impossible to get answers from officials of various kinds, not to mention elected politicians, even to the most basic questions of an everyday nature.”

Human rights activists and reporters in Uzbekistan are themselves harassed for showing too much interest in death-penalty cases.

Chikunova started her pressure group after her own son was executed in 1999. But the fact that a different individual was later charged with the same crime raises a strong possibility of judicial error.

Since then, she has faced repeated harassment for her work. Although she is an ethnic Russian, the authorities even accused her of aiding and abetting Muslim fundamentalists after she supported Uzbeks charged with Islamic terrorism.

As the Andijan trial opened in Tashkent, Chikunova was preparing to go to Paris to receive the latest in a series of international human rights awards. In an unprecedented step, UN Secretary General Kofi Annan is to attend the October 1 ceremony and hand Chikunova her award.

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