

Testimony :: Veronika Leila Szente Goldston

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Thank you, Mr. Chairman, Commission members and representatives, for inviting Human Rights Watch to address you today and for convening a hearing on the important and timely topic of the Uzbek government's progress toward meeting its human rights commitments required for continued U.S. assistance and the impending certification decision to be taken by the Department of State.

I think it is important that I begin by noting that there appears to be no dispute as to whether or not the Uzbek government's human rights record matches the expectations spelled out in the legislation in question. Everyone seems to readily recognize that it does not. As Assistant Secretary of State Lorne Craner noted in his testimony before the House International Relations Committee last week, [I quote] "we remain deeply concerned by the poor observance of internationally recognized human rights standards by the Government of Uzbekistan and by its disappointing record in fulfilling its commitments made in our bilateral strategic partnership framework." Deputy Assistant Secretary Lynn Pascoe's testimony at the same hearing likewise makes clear that in his assessment, "Uzbekistan's record on human rights and civil society reform remains poor." Even the title of today's hearing – "Uzbekistan: Stifled Democracy, Human Rights in Decline" – leaves no doubt as to what is the generally held view on the issue of the Uzbek government's performance in this regard.

It appears, then, that the question before us today is not whether or not the Uzbek government has satisfied the human rights conditions required for continued U.S. assistance, since the overall agreement, including from the administration's side, is that it clearly has not. It continues to harass human rights defenders and has not registered a single independent domestic human rights group since the last certification. In fact, it has taken a significant step backwards by imposing new, burdensome registration requirements on international nongovernmental organizations, and expelled the Open Society Institute. Our Tashkent office continues to receive credible reports of torture and ill-treatment in custody. Not only has there been no movement toward media freedom but there have been steps backward in the area of freedom of expression and assembly. Fewer than six months before the elections, not a single genuine opposition political party has been allowed to register and their members face harassment and criminal prosecution.

The question that remains open is how will the administration handle the impending certification decision in light of this undisputed fact? I would like to emphasize that this situation is quite unprecedented. While our role in fora like these has traditionally been to present facts about a particular human rights situation for legislators and policy makers to factor into their decisions, in this case it seems a moot point. I will therefore not take up further time giving you a more detailed assessment of recent human rights developments in Uzbekistan, since we are clearly beyond that point.

Let us instead turn directly to the question of what the administration should do. On this question, our position could not be clearer. If we are operating on the basis of legislation that makes U.S. assistance to the Uzbek government conditional on that government's efforts to improve its human rights record and institute political and institutional reform, and the government in question has failed to make credible progress toward meeting these goals, then we simply cannot see how the administration could do anything but decertify. Not doing so would rob the law of its meaning, and risk putting into question the administration's credibility as its objective implementor.

This is not to imply that we at Human Rights Watch consider such a decision an easy one to take – or that we consider it a positive outcome of this process. Just as our colleague human rights defenders in Uzbekistan, we would much rather see conditions in Uzbekistan that would permit the administration to certify that the government is making substantial and continuing progress in meeting its human rights commitments. But as long as these conditions are not met, certifying would be wrong and counterproductive – wrong because it would be inconsistent with U.S. law, and counterproductive because it would indicate, incorrectly, that the U.S. was satisfied with the Uzbek government's performance and serve to enable a situation that everyone agrees is unacceptable.

Perhaps even more detrimental would be the undermining impact such a decision would have on recent serious efforts by other actors of the international community to impress upon the Uzbek leadership the necessity of implementing credible human rights reforms. The European Bank for Reconstruction and Development (EBRD) deserves particular mention in this regard. In April this year, this international financial institution – in which the United States is a key shareholder – decided to limit its investment in Uzbekistan over the lack of progress in human rights.

This unprecedented decision was taken unanimously by the EBRD's board of directors. It had the full support of the U.S. government. The decision followed a one-year deadline for the Uzbek government to meet three sets of human rights benchmarks – greater political openness and freedom of the media, the free functioning and registration of independent civil society groups, and the implementation of recommendations by the U.N. Special Rapporteur on Torture following his 2002 visit to Uzbekistan – that largely coincide with the key themes identified in the Strategic Partnership and Cooperation Framework. The Bank concluded that “[a] year after calling for improvements of the political and economic situation in Uzbekistan [...] there has been very limited progress and the Bank is no longer able to conduct business as usual.” It decided to limit investment to the private sector and stay involved in public sector projects only to the extent that they directly affect the well-being of the general population, or involve neighboring countries.

Significantly, the EBRD decision on Uzbekistan also makes clear that the Bank will continue to monitor developments in Uzbekistan and press the government to make progress on the benchmarks. It was therefore not a passive declaration of failure followed by a retreat by the bank from Uzbekistan. On the contrary, the Bank made clear it was determined to continue to use the benchmarks as policy tools for reform, and carry on with its dialogue with the Uzbek government in the hope of seeing through the required reform steps. It is scheduled to adopt a

new country strategy for Uzbekistan in spring 2005.

We firmly believe that if properly supported by resources and political will, the EBRD benchmarks carry a real potential to trigger human rights improvements in Uzbekistan. By staying firm on its course and following through on its demands, the Bank has created an important momentum for reform in Uzbekistan that other actors engaged with the country, including in particular key shareholder governments like the United States, should take advantage of. It is crucial that the international community speak with one voice on these issues and send a strong and coordinated message to the Uzbek government about the need to see tangible progress in human rights. One key component of this effort is for EBRD shareholder governments to make sure that a policy they have adopted vis-à-vis Uzbekistan at the EBRD level is reflected in their bilateral relations with that country.

Let us also not forget that in decertifying the Uzbek government as making sufficient progress in human rights under the Cooperative Threat Reduction Program late last year, the administration already laid the ground for the possibility of a decertification decision under the Consolidated Appropriations Act. It conveyed an important message about dissatisfaction with the Uzbek government's performance in the area of human rights and left no doubt about the need for the country's leadership to produce concrete, measurable progress. The ball has since been, and continues to be, in the Uzbek government's court.

So, to sum up, a decertification decision should not be conceived of as a declaration of failure and the U.S. walking away from Uzbekistan. It is about showing that the U.S. takes this process seriously and means what it says. It is also consistent with the stance that the administration has taken on two important occasions on which the Uzbek government's human rights record has come up for scrutiny since the last certification decision was taken in May 2003 – the certification decision under the Cooperative Threat Reduction Program in late 2003, and the one-year assessment undertaken in the context of the EBRD in April. As is clear from the testimonies we have heard, the situation on the ground has not improved in any significant way since these decisions were taken – if anything, it has gotten worse in a number of respects, which makes it hard to argue for a decision to certify.

Certifying only out of concern of alienating those the administration has worked so hard to convince about the necessity of reform is an argument that simply does not hold. After all, that is a path that the administration already tried when it certified Uzbekistan as making progress last year, and more than one year later, we can safely conclude that this strategy simply did not produce the desired outcome. Also, the Uzbek government has repeatedly declared that it values its relationship with the United States and sees the U.S. as a critical partner for its security. In the past, it is when the United States has been firm on its reform demands that it has gotten concessions on human rights. Examples of such concessions include ICRC access to prisons, registration of the first-ever independent domestic human rights group, and the invitation extended to the U.N. Special Rapporteur on Torture to visit the country. Of course we have no illusions that the Uzbek government would democratize overnight just because it wants U.S. assistance. But it does not want the black mark of losing aid either. If the administration uses this tool, it will gain leverage, as the Uzbek authorities will be looking for ways to get re-certified.

Anticipating the other commonly-made argument, that Uzbekistan is a critical ally on the war on terrorism that the U.S. cannot afford to alienate by decertifying, our position is that if the U.S. wants to make progress in the fight against terrorism, if it wants to discourage the spread of violent ideologies, it should be more worried about alienating the Uzbek people than alienating the country's leadership. It is dangerous for the United States to be associated in the minds of Muslims in Central Asia with the governments that oppress them.

How, then, would decertification square with continued engagement on the part of the U.S. government? Much the same way as the EBRD's conclusion that the benchmarks had not been met and the subsequent decision to limit investment in Uzbekistan did not imply the Bank's pulling out of Uzbekistan are we convinced that continued U.S. engagement with the Uzbek government is perfectly consistent with a decision to decertify. The certification decisions are part of an ongoing, long-term process of engagement between the United States and Uzbekistan, not isolated events or ends in and of themselves. The administration should continue to stay engaged and use its resources to support civil society, media, and opposition political parties. It should continue to push for specific reform steps regardless of whether it certifies or not – if anything, even more forcefully in the event of a decertification decision, or with a very real, looming likelihood of such a decision in the near future, as seems clearly to be the case right now. It should hold out as a carrot the prospect of re-certification. If by the time of the next certification decision the Uzbek government has made credible and genuine efforts to meet such reform demands, the administration would of course be in its full right to reconsider its decision and, if warranted, certify the government as making substantial and continuing progress.

The list of urgently needed improvements in the area of human rights is obviously long, but looking strictly at the short-term, and as a bare minimum, among such specific reform steps that the government should be required to undertake are the following:

- Rework the Plan of Action on torture to clearly reflect that it is a plan to implement the recommendations of the U.N. Special Rapporteur on Torture, as it had been in its initial version. There should be specific and reasonable timelines for implementation of each of the 22 recommendations that the Special Rapporteur formulated in his report, and the government should begin actual implementation of the required reforms. A public condemnation of torture and introduction of habeas corpus (judicial review of detention) – two of the key recommendations of the Special Rapporteur, neither of which form part of the Uzbek government's current Plan of Action, would be a good place to start.
- Release arbitrarily detained human rights defenders such as Ruslan Sharipov, and cease any further arrest or harassment of human rights defenders, including the legal proceedings against Elena Urlaeva.
- Register independent domestic human rights groups and lift unjustified restrictions on the operation of international groups. Among domestic groups that have applied for registration in the last twelve months are Mazlum, Human Rights Society of Uzbekistan, and Mothers against the Death Penalty and Torture. In terms of easing the climate for international organizations, the government should re-register the Open Society Institute's office in Uzbekistan, repeal requirements that international organizations must coordinate all their activity with the Ministry

of Justice, and reverse provisions according to which an Uzbek government committee must approve all grants issued by international organizations to local groups. The government should also cease pressure on international organizations not to work with unregistered domestic groups.

- Register opposition political parties such as Erk and Birlik and cease any harassment against opposition political activists. Opposition political parties should be granted airtime on television and allowed to organize peaceful demonstrations without burdensome permit requirements in the run-up to the elections.

In addition, it is crucial that the U.S. not be satisfied with false progress and programs and initiatives devised by the government that seem attractive in form but are devoid of content.

Mr. Chairman, let me conclude by quoting from a letter you and another seven members of the Helsinki Commission addressed to President Karimov on the eve of his visit to the United States in March 2002: “Nearly a decade after Uzbekistan joined the OSCE, a pattern of clear, gross and uncorrected violations of fundamental OSCE principles on democracy, human rights, and the rule of law continues. Against this backdrop, recent pronouncements out of Tashkent about a renewed commitment to address longstanding issues of democratization and human rights will continue to ring hollow unless they are matched by concrete deeds.”

Thank you, Mr. Chairman, members of the Commission, for this opportunity to share with you our observations.

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Dear Ms. Goldston:

Thank you for participating in the Commission’s June 24 hearing on “Uzbekistan: Stifled Democracy, Human Rights in Decline.”

During that hearing, specific criticisms of Human Rights Watch’s work were voiced by one of the witnesses. As time constraints did not permit you to respond to those criticisms, I invite you to do so now, for the record. For this purpose, I will hold the hearing record open until July 16,

and I ask that you submit your response in electronic form.

Sincerely,

Christopher H. Smith, M.C.

Chairman

Statement for the Record in Response to Submitted Question

Veronika Leila Szente Goldston

Human Rights Watch

Mr. Starr claims that our Tashkent staff hid Shelkovenko's body in their apartment. We did no such thing. Shelkovenko's body remained in the control of his family who refused to bury him until his death had been investigated. To that end, we assisted the family to find a morgue to store the body. The autopsy the international team observed could not have taken place had the body not been properly stored in a morgue.

We have publicly acknowledged that we erred in attributing Shelkovenko's death to torture. We did so as soon as the international forensic team confirmed that the cause of death was by hanging. At the same time, given the number of documented cases of torture, the number of suspicious deaths in custody, the lack of transparency regarding prison conditions in Uzbekistan, and the specific circumstances of Mr. Shelkovenko's death, fears about his mistreatment were not groundless.

Before Shelkovenko's death, Human Rights Watch had been concerned about his treatment in custody. We interviewed the family well before his death, and received credible testimony about his mistreatment. We stand by our concern that Shelkovenko may have suffered mistreatment while in custody, and urge the interdepartmental commission of inquiry into the death, established by the Uzbek government, to thoroughly investigate these allegations. We also call on the commission to investigate how the hanging could have occurred in a cell with three other inmates present. It should also take appropriate measures to prevent such deaths in the future.

We further remain concerned about the harassment and intimidation to which Shelkovenko's family was subjected by representatives of local authorities in the aftermath of Shelkovenko's death, and call on the interdepartmental commission to investigate these incidents and hold accountable those found responsible.

The Uzbek government's allowing the international forensic experts access to observe a portion of the investigation undertaken into the death was obviously a welcome step, but it remains to be seen whether this becomes an institutionalized practice, and that is where the focus should be now.

Our mistake in attributing Shelkovenko's death to torture was regrettable, but it would be even more regrettable if as a result the international community shifted away its much-needed focus on the problem of torture in Uzbekistan, and lessened its efforts to improve conditions for detainees in custody.