

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a bold, serif font, centered between two horizontal blue bars.

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October 17, 2011

Hon. Hillary Rodham Clinton
Secretary of State
U.S. Department of State
Harry S. Truman Building
2201 C Street, NW
Washington, DC 20520

Re: Military Aid to Uzbekistan

Dear Secretary Clinton:

On behalf of the Association of the Bar of the City of New York, I write to express the Association's view that human rights issues be of prime importance as Congress and the Administration weigh providing greater military aid to Uzbekistan.¹

We are cognizant that Uzbekistan is a critical supply route for the United States and the North American Treaty Organization ("NATO") in Afghanistan. We understand that Uzbekistan's involvement in the Northern Distribution Network is of vital importance for the eventual drawdown of U.S. and NATO troops in Afghanistan. Nonetheless, because we believe that an independent judiciary and an independent legal profession are essential to the rule of law and respect for human rights, we urge you to insist on respect for that independence as part of any new agreement or undertaking with the Uzbek Government. As you are aware, Uzbekistan's government is widely considered to be one of the most repressive in the world.² Citizens face arbitrary arrest and detention, the denial of due process and fair trial, and restrictions on freedom of speech, press, assembly, and association.³ If detained, citizens are subjected to torture and mistreatment, prolonged detention, and life-threatening prison conditions.⁴ Representatives of independent non-government organizations ("NGOs"), journalists,

¹ "U.S. and Uzbekistan consider more supply routes," *The New York Times*, September 30, 2011; "Obama, Uzbek leader discuss Afghan supply route," *Reuters*, September 29, 2011.

² Swerdlow, Steve and Griffith, Patrick, "Some Straight Talk for a Washington Visitor," *The Huffington Post*, September 8, 2011, at http://www.huffingtonpost.com/steve-swerdlow/some-straight-talk-for-a-_b_954441.html (last visited October 10, 2011)

³ U.S. Department of State, 2010 Country Reports on Human Rights, Uzbekistan, p. 1 ("U.S. Department of State Report").

⁴ *Ibid.*

and human rights defenders have been imprisoned, assaulted, harassed and intimidated as a result of their work, and some representatives of international organizations and NGOs have been denied entry to Uzbekistan.⁵ Additionally, the Uzbek government has failed to sufficiently investigate attacks on and harassment of journalists and human rights defenders⁶ and has imposed severe restrictions on religious freedom (including harassment and imprisonment of religious minority group members), and freedom of movement. Violence against women and forced labor in cotton harvesting⁷ are also tolerated by the government. Of particular concern to us is the Uzbek's government's continued failure to allow an independent legal system. The Uzbek government, for example, has persecuted lawyers directly. One target of the government's campaign is Akzam Turgunov, a lay public defender who was sentenced to 10 years in prison in 2008.⁸ Turgunov was jailed on specious extortion charges while investigating police corruption; after he was arrested, authorities poured boiling water on his back, causing severe burns. Turgunov, who is 59 years old and weighs less than 100 pounds, is required to work in a brick-making prison camp.

In addition to these intimidation tactics, the Uzbek government has failed to allow detainees access to counsel and taken steps to prevent defense attorneys from representing clients in cases against the government. As noted by the U.S. Department of State in its 2010 Human Rights Report on Uzbekistan, the law stipulates that defendants have the right to legal counsel from the time they are arrested, though officials do not always respect that right in practice.⁹ In addition, in 2009 the country's Cabinet of Ministers adopted a decree requiring all defense attorneys to pass a relicensing examination. As part of the relicensing, "several experienced and knowledgeable defense lawyers who had represented human rights activists and independent journalists lost their licenses," making it difficult for some activists and defendants to find attorneys who could represent them and sending a clear message to the bar to stay away from such clients in the future.¹⁰

There are also serious questions about the independence of Uzbekistan's courts. The U.S. Department of State noted in its 2010 Report that the judicial branch often takes direction from the executive branch.¹¹ While trials are typically presided over by one professional judge and two lay assessors, the lay judges typically do not speak and the professional judges generally adopt the prosecutors' recommendations on rulings and

⁵ Concluding Observations of the Human Rights Committee, Consideration of reports submitted by States parties under Article 40 of the Covenant, CCPR/Z/UZB/CO/3, Uzbekistan, 98th Session, March 25, 2010, paragraph 24.

⁶ *Ibid.*

⁷ U.S. Department of State Report, at 1.

⁸ Swerdlow, Steve and Griffith, Patrick, "Some Straight Talk for a Washington Visitor," The Huffington Post, September 8, 2011, at http://www.huffingtonpost.com/steve-swerdlow/some-straight-talk-for-a-_b_954441.html (last visited October 10, 2011)

⁹ U.S. Department of State Report, p. 8.

¹⁰ *Ibid.*, p. 9.

¹¹ *Ibid.*, p. 11.

sentencing.¹² Although the government provides legal counsel without charge, state-appointed defense attorneys routinely act in the government's interest, as opposed to that of their clients.¹³ There have also been reports that bribes paid to judges have affected the decisions in civil suits.¹⁴

For the better part of 2011, our Association attempted to send a mission to Uzbekistan to explore the role of lawyers in Uzbekistan's civil society. The mission, which included both lawyers from the private bar and a federal judge, had hoped to meet with government officials, members of the judiciary, law teachers, practicing lawyers, and participants in bar chambers. Unfortunately, the Uzbek Ministry of Foreign Affairs repeatedly delayed its approval of the necessary visas until after the mission's deadlines and otherwise failed to facilitate the mission's proposed interviews with lawyers, judges and human rights defendants.

For all of these reasons, we call upon you -- before the Obama administration provides any further military aid to Uzbekistan -- to insist that the Uzbek government commit to take the following measures:

- (1) allow lawyers to practice law without harassment, intimidation, disbarment, detention, prosecution, or other forms of abuse imposed in response to lawyers' choices to defend or represent certain clients;
- (2) respect the right of lawyers to voluntary freedom of association;
- (3) ensure that defendants have access to fair and independent legal representation from the time of their arrest through any legal proceedings; and
- (4) promote the independence of the judiciary.

Only with these assurances can there be any prospect for improvement in Uzbekistan's dismal human right practices. We urge you to insist on them during your forthcoming meetings with President Karimov.

Yours most truly,

A handwritten signature in black ink, appearing to read 'S. Seymour', written in a cursive style.

Samuel W. Seymour

¹² U.S. Department of State Report, p. 11.

¹³ *Ibid.*, p. 11-12.

¹⁴ *Ibid.*, pp. 14, 31.