

# Freedom from torture

Kazakhstan | Kyrgyzstan | Tajikistan

Issue 5, November 2015

## Raising torture concerns at the 2015 Human Dimension Meeting of the OSCE

At this year's Human Dimension Implementation Meeting (HDIM) in Warsaw representatives of the NGO coalitions against torture in Kazakhstan, Kyrgyzstan and Tajikistan, Helsinki Foundation for Human Rights (Poland) and International Partnership for Human Rights (Belgium) presented their analyzes of the situation regarding torture and ill-treatment in the three Central Asian countries to representatives of member states of the Organization for Security and Co-operation in Europe (OSCE) and civil society participants.

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*Our experience shows that an investigation is only conducted when there is “noise” around the case.*

**Tatyana Chernobil,**  
Member of the Coalition  
against Torture in  
Kazakhstan



Plenary hall of the HDIM in Warsaw. © IPHR

“ ”

*Prosecutors have an inherent conflict of interest. They do all they can so that investigations aren't opened“.*

**Yulia Votslava**  
Youth Human Rights  
Group, Kyrgyzstan

### Side event on investigations into torture allegations in Kazakhstan, Kyrgyzstan and Tajikistan

On 24 September the human rights groups invited HDIM participants to a side event on **Mechanisms to investigate torture allegations in Kazakhstan, Kyrgyzstan and Tajikistan: problems and solutions** where they presented information about the current situation of investigations into torture complaints in the three Central Asian countries and discussed possible ways forward.

Tatyana Chernobil, Anastasiya Miller (Kazakhstan) Yulia Votslava (Kyrgyzstan) and Gulchekhra Kholmatova (Tajikistan) gave presentations highlighting the situation in each of the three countries.

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**IPHR**  
International  
Partnership  
for Human Rights

**HFHR** HELSINKI FOUNDATION  
for HUMAN RIGHTS

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Co-sponsor in 2015:



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*While in other areas much is being done to combat torture, very little is happening to improve investigations.*

**Nigina Bakhrieva**  
Nota Bene, Tajikistan

**Case example: Maksat Suranaliev, Ulan Bokachiev and Kanat Kadyrov** were reportedly tortured at a police station in **Kyrgyzstan's** capital Bishkek in May 2014. The torture allegedly included electric shocks, suffocation, a mock execution and severe beating. A medical doctor of the NGO Voice of Freedom, who visited them in detention, recorded fractures, injuries, bruises and a case of concussion. A forensic examination ordered by the Prosecutor General's Office in January 2015 has yet to issue a conclusion and, to our knowledge, in the meantime, the Prosecutor General's Office has taken no further steps to investigate the allegations.

In all three countries the lack of effective investigations into allegations of torture remains a problem which perpetuates a vicious circle of torture and impunity. In many cases victims are afraid to lodge complaints for fear of reprisals.

Judges at remand hearings typically do not ask detainees how they were treated in custody and detention. Prosecutors rarely open investigations into torture or other ill-treatment as part of their supervisory function over the criminal investigation process.

In those cases where criminal cases for “torture” have been opened in recent years they have usually not been conducted effectively by an independent body. Typically, investigators failed to engage in gathering evidence to study the circumstances of the alleged torture from all perspectives, such as interviewing witnesses and medical personnel or ordering a forensic medical examination; they did not interview the victims nor did they carry out cross-questioning of police and victims. Instead, investigators often relied on statements obtained from the alleged perpetrators and their colleagues.

Prosecutors, like the police, have a vested interest in achieving a high crime solution rate. In order to achieve this goal, prosecutors may be inclined to overlook human rights violations committed by police, such as torture.

In those cases where torture is revealed during court hearings prosecutors have an inherent conflict of interest as they carry out both the function of criminal prosecution and that of supervision over the legality of the investigative process. This inevitably compromises the way in which such allegations are followed up.



Panel of the side event on investigations, from left to right: Tatyana Chernobil, Anastasia Miller, Alexandra Cherkasenko, Yulia Votslava and Gulchechra Kholmatova.  
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When Tajikistan, Kyrgyzstan and Kazakhstan were last reviewed by the **United Nations Committee** against Torture in 2012, 2013 and 2014, respectively, the Committee recommended each of them that they **establish independent bodies to conduct investigations into allegations of torture** and other ill-treatment.

For further information about the side events and the five statements delivered on behalf of the coalitions against torture in Kazakhstan, Kyrgyzstan and Tajikistan, Helsinki Foundation for Human Rights and International Partnership for Human Rights, refer to:

<http://iphonline.org/raising-concerns-about-torture-in-kazakhstan-kyrgyzstan-and-tajikistan-at-the-2015-hdim-20150925.html>

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*Torture will exist as long as the career advancement of police officers will depend on how many cases they “solve”. It will continue as long as courts base their judgments on confessions and as long as there is no equality of arms of prosecutors and lawyers in the criminal justice process.*

**Yevgeni Zhovtis**

Chairman of the Board of the Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR)

**Side event on the implementation of the Istanbul Protocol in Kazakhstan, Kyrgyzstan and Tajikistan**

On 25 September the human rights groups held another side event, entitled **Implementation of the Istanbul Protocol in Kazakhstan, Kyrgyzstan and Tajikistan** in the Plenary hall of the HDIM. The participants emphasized that strict adherence to the principles of the Istanbul Protocol by forensic experts and other medical, psychological and psychiatric professionals tasked with examining detainees can serve as an important tool to combat impunity.

Asel Koylubaeva from Golos Svobody in Kyrgyzstan, Parvina Navruzova from the Civil society organisation “Human Rights Centre” in Tajikistan, Anara Ibraeva from the Kadyr Kassiet (Dignity) Public Foundation Kazakhstan and medical doctor Rahima Duisekova from the Aman Saulyk Public Foundation in Kazakhstan, gave presentations highlighting the situation in each of the three countries. Rusudan Beriashvili from the international organization Physicians for Human Rights (PHR) also gave a presentation about the progress towards the adoption of the standards of the Istanbul Protocol in Central Asia.

Kyrgyzstan and Tajikistan have made significant progress regarding the implementation of the standards contained in the Istanbul Protocol in recent years by obliging employees of the respective Ministry of Health to abide by these standards when examining detainees and documenting their findings. The NGO coalitions against torture in Kyrgyzstan and Tajikistan are currently monitoring the situation to assess the impact of these recent steps.

In 2014 in **Tajikistan**, a national plan of action to combat torture was drawn up. On 2 December 2013 by order of the Ministry of Health and Social Protection, a Working Group was established to improve internal procedures and documentation in accordance with the standards of the Istanbul Protocol. Representatives from the Civil society organization “Human Rights Centre”, a member of the Coalition against Torture, were invited to participate in this Working Group. The Working Group developed clinical protocols for medical examinations and forensic medical examinations in accordance with the principles of the Istanbul Protocol. These forms assist medical professionals and forensic-medical experts to document information correctly and clarify referral mechanisms at different stages, and also to send copies of the form to the prosecutors offices involved in investigations. In November 2014 the Ministry of Health approved these forms as mandatory for use in medical examinations. In 2015 over 90 medical personnel have been trained on the implementation of the standards of the Istanbul Protocol in practice by Tajikistani trainers. In June 2015 work began on preparation for standardized documentation forms for doctors working in closed institutions such as prisons, and on the inclusion of the Istanbul Protocol standards on the curricula of the Department of Criminal and Forensic medicine of Law Faculty at the Tajikistan National University .

Priorities for future work in Tajikistan include: further training for judges, lawyers, doctors of private clinics and prison doctors in order to assist the timely access of a detainee to a doctor, to ensure action is taken when there are signs that



**Parvina Navruzova** from Human Rights Centre and Kakhramon Sanginov from the International Bar Association in Tajikistan.



**Asel Koylubaeva**, Golos Svobody, Kyrgyzstan

**Case example:** One of the victims of torture and hazing in the armed forces in Tajikistan is **Abduvakhob Kayumov**, whom two fellow-soldiers beat and hit so severely with a wooden stick that he died on the way to hospital in July 2015.

**Case example:** In its November 2013 decision on the case of Oleg Evloev, the Committee against Torture urged Kazakhstan to conduct an effective investigation with the aim of identifying the perpetrators and to provide the victim with adequate reparation, including compensation and full rehabilitation. However, the authorities failed to implement the Decision.

a prisoner has been tortured or ill-treated; working with judges to ensure they understand more about the psychological aspects of working with victims of torture. Also, improving the referral systems between doctors and lawyers and the development of mechanisms and procedures for the creation of non-governmental institutes of forensic expertise.

In **Kyrgyzstan**, a national plan of action to combat torture has also been developed and training on the Istanbul Protocol has taken place of human rights defenders, medical personnel, prosecutors and police. Standardized forms and practical guidelines have been developed for medical personnel and in November 2014 the Ministry of Health obliged medical personnel to use standardized forms developed on the basis of the Istanbul Protocol. These forms have proved useful because they help to clarify the role of the medical practitioner in the criminal justice system and to challenge previously held ideas amongst some doctors that their role was to protect the state. The Coalition against Torture is now concentrating on working with judicial experts and psychologists, developing an ethical code for doctors and improving mechanisms for gathering statistics. Inter-agency cooperation in Kyrgyzstan also leaves room for improvements although currently the Ministry of Health cooperates well with civil society and the General Prosecutor's office. However, the national preventative mechanism is not yet as effective as it could be and this means that although there are resources available for documentation cases need thorough follow up.

Although medical personnel have participated in trainings on the Istanbul Protocol in **Kazakhstan**, the authorities have yet to oblige medical personnel to abide by them. Recommendations from UN Committee against Torture in 2014 to ensure that medical staff in places of detention are truly independent from the organs of justice administration by transferring them from the Ministry of Internal Affairs to the Ministry of Health, have not yet been implemented. Since the new Criminal Procedure Code came into force in January 2015, domestic legislation provides for medical examinations of all detainees, but only upon a written request by the detainee. Introducing routine medical examinations by independent doctors promptly after apprehension would provide a stronger safeguard against torture or other ill-treatment. Substantial changes to procedures in Kazakhstan remain needed in order to uphold Istanbul protocol standards in practice. International advocacy initiatives should focus on this as a priority issue in the future.

Further progress is needed in all three countries. The authorities of Kazakhstan, Kyrgyzstan and Tajikistan should ensure that personnel carrying out medical examinations in temporary police detention facilities (IVS) and investigation isolation facilities (SIZO) and prisons are truly independent from the agencies running the detention facilities. A serious lack of enough trained psychologists and medical personnel hampers efforts to provide adequate medical and rehabilitation services to torture victims.



**Anara Ibraeva** from Kadyr Kassiet (Dignity) Public Foundation, Kazakhstan



**Rahima Duisekova** from Aman Saulyk Public Foundation, Kazakhstan



**Yulia Votslava** of the Youth Human Rights Group in Kyrgyzstan

### **Presenting concerns in the plenary of the HDIM**

During the Working session no. 8 on the rule of law that took place on 25 September human rights defenders delivered five interventions on behalf of the project partners and the coalitions against torture in Kazakhstan, Kyrgyzstan and Tajikistan to inform government delegations of OSCE participating states and civil society activists of key concerns in the three Central Asian countries.

Anne Sunder-Plassmann of IPHR called on the authorities of each of these countries to take note of their neighbours' positive steps and follow their example in those areas where they have made more progress. "Kyrgyzstan and Tajikistan should follow Kazakhstan's example of having significantly strengthened the legal safeguards accessible to detainees, as Kazakhstan did in its new Criminal Procedure Code. Kazakhstan should follow recent steps taken by Kyrgyzstan's and Tajikistan's Ministries of Health. They obliged medical personnel – when conducting examinations of detainees -- to document torture and other ill-treatment in line with the principles contained in the UN's Istanbul Protocol", she stated.

Dilshod Dzhuraev of the NGO Office of Civil Freedoms in Tajikistan drew attention to ongoing torture in Tajikistan's armed forces. He stated: "Six soldiers died since the beginning of 2014. The NGO Coalition against Torture in Tajikistan recorded a total of 12 cases of torture and other ill-treatment in the armed forces since January 2014. These 12 cases constitute the tip of the iceberg as victims and families often refrain from complaining for fear of reprisals and to avoid being labelled as "traitors" by their peers and commanding officers."

Yulia Votslava of the Youth Human Rights Group in Kyrgyzstan expressed concern that in Kyrgyzstan detainees have no access to basic safeguards at the early stages of detention. She stated: "The Criminal Procedure Code does not provide detainees with basic safeguards until they have been entered into a detention facility and their detention has been recorded. In practice, in very many cases lawyers are not present during interrogations and often detainees see their lawyer for the first time at the remand hearing that takes place within 72 hours after the detainee is entered into the detention facility."

Anna Smirnova of the Kazakhstan International Bureau for



**Dilshod Juraev** of the NGO Office of Civil Freedoms in Tajikistan



**Gulchechra Kholmatova** of the Bureau for Human Rights and Rule of Law in Tajikistan



**Anna Smirnova** of the Kazakhstan International Bureau for Human Rights and Rule of Law

Human Rights and Rule of Law drew attention to the failure of the Kazakhstani authorities' to implement the decisions of UN treaty bodies with regard to individual torture cases from Kazakhstan. In recent years the Committee against Torture and the Human Rights Committee have found Kazakhstan guilty of breaching its international obligation to prevent or not to permit torture in seven cases of torture victims and urged Kazakhstan to conduct investigations into the complaints, bring the perpetrators to justice and provide reparation including compensation to the victims. So far, Kazakhstan has partly implemented the treaty bodies' recommendations in only two cases. Torture victims Alexander Gerasimov and Rasim Bayramov were awarded compensation for the harm suffered through torture. However, the compensation payments were not adequate and no effective investigations have been conducted. The perpetrators have not been found and have not been brought to justice. Anna Smirnova concluded: "The denial of justice to victims of torture adds to their suffering and violates Kazakhstan's UN human rights obligations."

Gulchekhra Kholmatova of the Bureau for Human Rights and Rule of Law in Tajikistan drew the participants' attention to the need to provide adequate compensation to victims of torture for moral damages. She mentioned the cases of Safarali Sangov, Bahromiddin Shodiev, Nazomiddin Khomidov and Shakhbol Mirzoev who (or whose families) were awarded compensation in Tajikistan.

**We welcome your ideas, comments and feedback. Please contact the editors:**

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