



International Anti-Torture Day: NGOs call on Central Asian governments to end torture

On 26 June, International Day of Support for Victims of Torture, the Coalitions against Torture in Kazakhstan, Kyrgyzstan and Tajikistan, the Association for Human Rights in Central Asia (AHRCA, Uzbekistan, based in exile in France), the Turkmen Initiative for Human Rights (TIHR, Turkmenistan, based in exile in Austria) the Helsinki Foundation for Human Rights (Poland) and International Partnership for Human Rights (IPHR) call on the governments of Central Asia to redouble efforts to adopt a zero tolerance approach towards torture.

In recent months Central Asian governments have made some positive steps. For instance, the Prosecutor General's Office of **Kazakhstan** adopted a Plan of Comprehensive Measures to Counter Torture in early 2017 for the period until December 2018; in **Kyrgyzstan** as part of ongoing legal reforms, procedures were adopted to improve documentation of torture in line with the Istanbul Protocol; in **Tajikistan** civil society is included in discussions about a National Human Rights Protection Strategy until 2025; in **Turkmenistan** the National Plan of Action on Human Rights for 2016-2020 foresees inviting the UN Special Rapporteur on the independence of judges and lawyers, thus potentially providing opportunities to conduct independent investigations into the use of torture and ill-treatment; and in **Uzbekistan** President Mirziyoyev signed legislation prohibiting the use in court of evidence obtained through torture and strengthening punishments for torture in November 2017 and April 2018 respectively.

However, despite these improvements, torture and ill-treatment remain pervasive in Central Asia. Statistics testify to this: in **Kazakhstan** the Prosecutor General's Office reported 124 cases filed under criminal proceedings for the crime of torture as of April 2018, and the Coalition against Torture registers about 200 cases annually; in **Kyrgyzstan** the Prosecutor General's Office received 435 complaints of torture or ill-treatment in 2017; in **Tajikistan** the NGO Coalition against Torture and Impunity registered 66 new cases of torture and other ill-treatment in 2017 (a significant increase in comparison with previous years). Due to the highly repressive nature of the regimes in Uzbekistan and Turkmenistan, due to lack of transparency NGOs are unable to keep meaningful statistics, but activists continue to receive credible reports of torture.

The following critical issues need to be addressed urgently to ensure that torture becomes a thing of the past:

In **Kazakhstan** impunity is the norm. According to official statistics, between January and April 2018, 173 cases were closed including from previous years, and only nine reached court. The state

fails to ensure the safety of detainees and prisoners who lodge complaints about torture, and victims of torture are warned that they will be held criminally liable for a false denunciation, which discourages many from lodging complaints.

Valery Chupin died in March 2017 in prison colony AK-159/7 after being punished for verbally insulting a teacher in the prison. He was tortured by six other prisoners, with the knowledge of the detention centre administration. Witnesses complain of pressure and blackmail from the administration of the pre-trial detention centre in Karaganda, where they were transferred after the investigation began. It should be noted that in Kazakhstan all institutions, both the system of execution of sentences and pre-trial detention since July 2011, are under the jurisdiction of the Ministry of Internal Affairs.

The Kazakhstani authorities should: register all complaints of torture should where there are reasonable grounds to believe torture could have occurred; cease threatening people lodging complaints of torture with criminal prosecution if their complaint fails to be substantiated. They should also ensure investigations into torture complaints are carried out in an unbiased, professional manner and that the security of victims and witnesses of torture is assured.

Kyrgyzstan has not put in place crucial safeguards against torture for those in pre-trial detention. For example, domestic legislation does not provide for a Habeas Corpus procedure. The lack of effective investigatory mechanisms continues to block justice for torture victims. Only a few police officers have been convicted for the crime of torture (Article 305-1) since it was introduced in 2003. Kyrgyzstan has failed to fully implement any of the rulings by the UN Human Rights Committee in relation to victims of torture and other ill-treatment.

Nargiz Rajapova alleges that she was tortured by police officers from 23-25 March 2017 to pressurize her to incriminate her husband in the murder of a police officer. Rajapova reported that police officers beat her on the stomach with a bottle of water; put a bag over her head until she lost consciousness and inserted needles under her fingernails. Although the case involved serious procedural violations and a criminal case was opened into the allegations of torture on 28 March 2018, investigations have not progressed and the officers accused of torture continue to work.

The Kyrgyzstani authorities should create and fund an independent body endowed with sufficient authority and competence to conduct prompt, thorough and independent investigations into allegations of torture or other ill-treatment.

In **Tajikistan** legislation providing for safeguards against torture in pre-trial detention needs to be consistently implemented in practice as the risk of torture and ill-treatment remains particularly high in the early stages of detention. Investigations into allegations of torture and ill-treatment are rarely conducted effectively and there are no mechanisms in place to ensure prompt, thorough, impartial and fully independent investigations. This issue, combined with the fact that penalties under Article 143-1 ("torture") of the Criminal Code of Tajikistan are not commensurate with the gravity of the crimes committed and perpetrators of torture often benefit from amnesties, serves to further perpetuate the problem of impunity. Compensation awarded for moral damages sustained

through torture in recent rulings has been neither fair nor adequate, and domestic legislation does not provide victims with opportunities for rehabilitation, satisfaction or guarantees of non-repetition.

On 28 March 2018, Rasulchon Nazarov was detained by police in relation to suspicions of drug trafficking. Early the next morning, Rasulchon's wife learned that her husband had been transferred from Sino-2 police station in Dushanbe to Karabolo hospital. The next day the family were informed that Rasulchon had died.

Rasulchon's body was released to the family for burial - photos and video recordings of Rasulchon's body show clear signs of beating including bruising and grazes on the face; knees, genitals and abdomen, as well as two identical round marks 0.5 cm in size 6cm apart on his right elbow which appear to be marks from a machine used to administer electric shocks.

The lawyer from the Coalition against Torture and Impunity in Tajikistan took up the case in April 2018 and lodged complaints with the Dushanbe Prosecutor's office and the office of the General Prosecutor. The lawyer has faced persistent obstructions from the authorities in the course of her work on this case. She has not been allowed to see procedural documents in the case materials, and has not received timely responses to her requests and complaints.

The Tajikistani authorities should combat impunity by establishing a separate mechanism to investigate and prosecute torture or ill-treatment which is independent from those official bodies accused of perpetrating the crimes, and ensure that victims of torture and ill-treatment are able to access adequate compensation as well as rehabilitation and redress.

In **Turkmenistan**, concerns persist over the lack of access to prisons and places of detention for independent monitors. Visits by international observers to prisons are tightly controlled by the authorities and, as noted by the US Embassy in Turkmenistan, it is not known whether the demonstrated conditions of detention of prisoners correspond to reality. In 2016, representatives of the diplomatic community applied to visit the prison "Ovadan-Depe", but were refused permission.

Thirty persons suspected of collaboration with Fettulla Gulen (alleged organizer of an attempted coup in Turkey in 2016) were detained and subjected to torture and other ill-treatment. The group was mostly comprised of former teachers and students of Turkmen-Turkish lycees. Many detainees were sentenced to long prison terms after unfair trials, and at least two were taken to Ovadan-Depe prison. In November 2017, the UN Working Group on Arbitrary Detention recognized that the arrest of 18 of these individuals was arbitrary, and urged the authorities of Turkmenistan to immediately release them and provide compensation.

The Turkmenistani authorities should: Implement the recommendations of the UN Council Working Group on 18 convicted persons on suspicion of cooperation with Fettulla Gülen and conduct an independent investigation into all allegations of torture and bring those

responsible to justice and issue invitations to UN Special Rapporteurs including the Special Rapporteur on the independence of judges and lawyers.

In **Uzbekistan**, following Presidential criticism of the practice of torture, government representatives accused of torture have been brought to justice in recent months. However, their trials have been closed to public scrutiny, and the names of the perpetrators have not been made public. In many cases they have been charged with abuse of power (Article 301 of the Criminal Code) instead of the crime of torture (Article 235), which means that they are facing lighter penalties.

*For example, several officials were found guilty in closed court hearings of abuse of power, rather than torture, in relation to allegations that they tortured the independent journalist **Bobomurod Abdullayev**. Although the trial was mostly open to the public, closed sessions were held relating to the actions of officials who were subsequently found guilty of abuse of power (Article 301 of the Criminal Code), rather than torture. The verdict was based on a medical examination that concluded that Bobomurod Abdullayev had not been tortured, although he showed injuries sustained through torture in court.*

In a recent positive development, on 22 June 2018, the Military Court of Uzbekistan found seven former law enforcement officials guilty of torturing **Ilhom and Rakhim Ibodov** in September 2015. Ilhom died in detention. Six of the officials were sentenced to between 14 and 18 years' imprisonment after they were found guilty under Articles 235 and 301 part 3. One official was fined 70 million soms (equivalent to 7,600 Euros). In a first for Uzbekistan, four prisoners were also found guilty of torturing the Ibodov brothers on the orders of prison officials, and were sentenced to between 16 and 18 years' imprisonment. Concerns remain in this case regarding the transparency and independence of forensic medical examinations as the forensic examination found that Ilhom Ibodov died of a heart attack.

The Uzbekistani authorities should ensure that all court cases on torture are open and transparent; allow independent forensic medical examinations; and ensure that torture investigations are carried out by independent mechanisms.