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Five years on: justice still denied

10 June 2015 marks the fifth anniversary of the beginning of four days of violence between ethnic Kyrgyz and ethnic Uzbeks in southern Kyrgyzstan in 2010, during which hundreds died, thousands were injured and hundreds of thousands were displaced. To date, the authorities in Kyrgyzstan have failed in their duty to fairly and effectively investigate the violence and its aftermath and provide justice for the thousands of victims of the serious crimes and human rights violations, including crimes against humanity.

After months of rising tension, clashes between gangs of mostly ethnic Kyrgyz and Uzbek youths rapidly escalated on 10 June 2010 in Osh. Over the next four days, arson, looting and violent attacks, including killings and sexual violence, swept through the Osh and Jalal-Abad regions. Around 1,900 people were severely injured and over 400 killed. Satellite imagery revealed that 1,807 buildings in Osh city alone were totally destroyed, the vast majority belonging to ethnic Uzbeks.

While serious crimes were committed by members of both ethnic groups, the majority of the damage, injuries and deaths were suffered by ethnic Uzbeks. The latter has since been confirmed on numerous occasions by officially released figures. Nevertheless, in the period immediately following the violence and in the five years since, ethnic Uzbeks have been targeted disproportionately for detention and prosecution in relation to the June 2010 violence, and have also faced discrimination and violent attacks on the basis of their ethnicity that have not been investigated.

Amnesty International has repeatedly called on the authorities in Kyrgyzstan to thoroughly and impartially investigate the June 2010 violence and its aftermath, including all allegations of torture and other ill-treatment committed by law-enforcement officers. Amnesty International has also called for an independent review of all cases which resulted in a conviction for crimes purportedly committed during the June 2010 events. To this end, the organization has also recommended the creation of specialist units to investigate the June 2010 violence. These remain the most pertinent calls today.

Targeting of ethnic Uzbeks

While arbitrary arrests of mainly ethnic Uzbeks appear to have become less frequent in the five years since the violence, they continue to be targeted disproportionately for detention and prosecution, and some cases dating back to 2010 are still ongoing. Many continue to face unfair trials. Physical and verbal attacks on ethnic Uzbeks on the basis of their ethnic origin have not been fully and impartially investigated by the police, and there are concerns about ongoing ethnicity-based violence. In November 2014, police failed to investigate ethnically motivated attacks against Uzbeks in the Cheriomushki neighbourhood in Osh City. When an ethnic Uzbek man was beaten and verbally abused by three young ethnic Kyrgyz men in September 2014, the Prosecutor's Office in Osh only launched an investigation following pressure from international NGOs and the State Commission on National Policy.

Kyrgyzstan has issued dozens of extradition requests for ethnic Uzbeks whom the authorities accuse of having organized or participated in the June 2010 violence in Osh and Jalal-Abad. Most of those sought have fled to Russia, with lesser numbers seeking refuge in Kazakhstan and Ukraine. The European Court of Human Rights has now issued several judgements on the risk of torture and other ill-treatment for ethnic Uzbeks accused of involvement in the June 2010 violence and threatened with return from Russia to Kyrgyzstan. These judgements hold that extradition to Kyrgyzstan would be a violation of Article 3 of the European Convention of Human Rights (prohibition of torture or other ill-treatment, including sending people to places where they would face a real risk of treatment in violation of this prohibition). The most recent judgement was that of *Khamrakulov v. Russia*, handed down on 16 April 2015; two judgements were also made in 2014 (*Kadirzhanov and Mamashev v. Russia* and *Saliyev v. Russia*).

Failure to investigate allegations of torture: the case of Usmanzhan Khalmirzaev

The authorities in Kyrgyzstan have repeatedly failed to fairly and promptly investigate serious allegations of torture that followed the June 2010 violence, and courts of all instances, including the Supreme Court, have routinely not excluded or investigated evidence reportedly obtained under torture.

For example, no one has yet been held responsible for the death of Usmanzhan Khalmirzaev, an ethnic Uzbek of Russian citizenship. Usmanzhan Khalmirzaev died on 9 August 2011, two days after he was arbitrarily detained in the village of Bazar-Korgon (in Jalal-Abad region) by plain-clothes police officers and taken to the local police station. After being released from the police station on 7 August, he told his wife that during his detention a gas mask had been put over his face and he had been beaten. When he collapsed following this beating, one of the officers knelt him in the chest two or three times until he lost consciousness. He was hospitalized the morning after his release from police detention, and died of his injuries a day later. His wife said that he had told her that the police officers were responsible for his injuries. Usmanzhan Khalmirzaev's wife and her lawyer, who were present at his autopsy, reported that the forensic examination found that he had died of internal haemorrhaging. Following an official request from the consulate of the Russian Federation on 10 August, the prosecutor of Jalal-Abad opened a criminal case against four police officers with several charges, including torture.

The trial of the four policemen implicated in his death has been repeatedly adjourned and referred between different courts for further investigation. In September 2011, the trial had to be moved from Bazar-Korgon to Chui Region, 500km away, after relatives of the accused policemen intimidated and harassed witnesses for the prosecution, and the family and lawyer of Usmanzhan Khalmirzaev. In March 2012, the trial was returned to Jalal-Abad. The presiding judge at Jalal-Abad Regional Court called for further investigations and released two of the accused police officers on bail. But the case was again referred back to the Court in Chui Region, where the Sokoluk District Court sent it back for further investigation. On 26 December 2012, the Regional Court indefinitely postponed the trial after three of the defence lawyers failed to show at the scheduled hearing. But in 2013, the Chui district court overturned this decision and the case was referred to the Supreme Court. By the end of October 2014, the case was again under consideration by the Sokoluk District Court; it is unclear what progress has been made since then.

Kyrgyzstan is a state party to the several international documents that provide for the full prohibition of torture and the obligation of a state party to effectively and impartially investigate all allegations of torture and other ill-treatment, including Article 7 of the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The authorities' failure to bring to justice those officials involved in the torture of Usmanzhan Khalmirzaev and others represents a violation of these international commitments.

Prisoner of conscience Azimjan Askarov

Amnesty International is seriously concerned that human rights defender and prisoner of conscience, Azimjan Askarov, remains in prison. During the June 2010 violence, Azimjan Askarov, an ethnic Uzbek, and Director of independent human rights organization Vozdukh (Air), had filmed and photographed some of the violence, killings and arson attacks on mostly ethnic Uzbek homes and other buildings in Bazar-Korgon. In September 2010, Azimjan Askarov was sentenced to life imprisonment on charges of “storage of ammunition”, “accomplice to premeditated murder” and “accomplice in the killing of a law enforcement officer”, in a trial that fell short of international standards. Amnesty International believes that the charges against him have been fabricated in an attempt to stop his legitimate human rights work.

Azimjan Askarov reported that he was severely beaten in the first three days of his detention in an attempt to force him to confess to the murder of an ethnic Kyrgyz police officer, and to incriminate others in relation to the violence. On 26 July 2010, the Jalal-Abad City Court upheld a decision by the Jalal-Abad Prosecutor’s office not to investigate allegations that Azimjan Askarov was subject to torture and other ill-treatment following his detention. According to an October 2012 report by the international NGO Physicians for Human Rights (PHR), Azimjan Askarov’s medical condition had markedly deteriorated during his imprisonment including his eyesight, his nervous system and his breathing, but he had not received the necessary medical care, which constitutes a form of ill-treatment. According to more recent reports from his wife, Azimjan Askarov remains in poor health. Appeals lodged by Azimjan Askarov’s lawyer in 2013 and 2014 to reinvestigate the case were rejected.

Azimjan Askarov should be immediately and unconditionally released

Harassment and intimidation of lawyers, victims’ families and prosecution witnesses.

Trials in the cases of Azimjan Askarov and Usmanzhan Khalmirzaev, as well as other cases involving ethnic Uzbeks, have been compromised by the harassment and intimidation of defendants’ and victims’ lawyers and families, and of prosecution witnesses.

Azimjan Askarov’s lawyer and relatives were harassed and attacked several times by groups of people that included relatives of the police officer whom Azimjan Askarov was accused of killing. Only a day before the start of the trial on 2 September 2010, a decision was taken to move the trial from Bazar-Korgon to a village, Massi, some 20km away in the neighbouring district of Nookan. According to Azimjan Askarov’s lawyer, this was still not a sufficient distance from Bazar-Korgon to ensure the security of the defendants or their representatives. The lawyer was not able to attend the trial on 2 September because of the short notice he was given regarding the change of location and because of serious threats made against his life.

Usmanzhan Khalmirzaev’s widow, her lawyer, and witnesses for the prosecution have been repeatedly harassed and intimidated by relatives of the policemen under investigation. Before the trial of the accused police officers had started, in September 2011, relatives and supporters of the accused police officers held public protests, which were sometimes violent, at one point blocking the main road between Jalal-Abad and Bishkek. They intimidated witnesses for the prosecution, the family and lawyer of Usmanzhan Khalmirzaev outside and inside the courtroom, and put pressure on the judge to find the accused not guilty. To date, there has been no investigation into the actions of the relatives and supporters of the accused, despite complaints by the widow of Usmanzhan Khalmirzaev and her lawyers.

Intimidation of lawyers representing ethnic Uzbek defendants continues. On 2 April 2013, Tatiana Tomina and her colleague Ulugbek Usmanov were attacked inside and outside the court building by a mob of a dozen or more people during the Supreme Court supervisory hearing in Bishkek of the case of an ethnic Uzbek man convicted in October 2010 but acquitted in January 2013 of complicity in the murder of several ethnic Kyrgyz during the

June 2010 events. The mob, ethnic Kyrgyz relatives and supporters of the victims, shouted insults at the lawyers, punching and kicking them and trying to snatch papers from them. On 9 January 2014, ethnic Kyrgyz supporters of a Kyrgyz man who had allegedly been killed by ethnic Uzbek Mahamad Bizurukov during the June 2010 violence, beat the defendant's lawyer Dinara Medetova, his public defender Dina Ivashchenko and human rights defender Risbek Amadaliev in the courtroom of Chui Regional Court. The court was due to consider Mahamad Bizurukov's appeal of a life sentence handed down by Osh Regional Court in 2012. The court had reportedly ignored Mahamad Bizurukov's allegation that he had been tortured in detention to force a confession.

In a recent case, on 27 March 2015 members of the State Committee of National Security (GKNB) raided the homes of two lawyers working for the human rights NGO Bir Duino (One World), Valerian Vakhitov and Khusanbai Saliev. The Bir Duino offices were also raided. Bir Duino has been involved in the defence cases of many ethnic Uzbeks in the period since the June 2010 violence, including the case of Azimjan Askarov. The GKNB seized papers relating to some of these cases during these raids, as well as computers and digital storage devices. Several days later, on 8 April, the brother and father of Khusanbai Saliev (who is an ethnic Uzbek) were brought in for questioning. On 30 April, the Osh City Court refused to hear a complaint made by Valerian Vakhitov and Khusanbai Saliev that the raids on their homes and subsequent questioning constituted illegal interference in their work as lawyers.

The Kyrgyzstani authorities should conduct thorough, impartial and independent investigations into all incidents of the harassment and assault of lawyers and relatives of ethnic Uzbeks without delay and provide reparation and take appropriate steps to ensure the protection of lawyers, relatives and witnesses.

Specialist Investigation Units

A key recommendation put forward to Kyrgyzstani authorities by Amnesty International following the June 2010 violence has been to create specialist inter-agency units within the police, the General Prosecutor's Office and the judiciary to deal with crimes and human rights violations committed during and after the June 2010 violence, including crimes against humanity. Appointments to these units should be ethnically and gender balanced. Amnesty International is concerned that no steps have been taken in this direction. Amnesty International is also concerned that recommendations made following the examination of Kyrgyzstan under the UN Human Rights Council Universal Periodic Review process in January 2015 to increase the representation of ethnic minorities in the police and security forces were rejected by Kyrgyzstan.

Amnesty International realises the difficulty in finding and allocating enough resources, especially experienced personnel, to investigate these thousands of cases. However, given the many glaring failures, flaws, violations and ethnic bias in the criminal investigations, prosecutions and trials over the last five years and the continued reluctance by law enforcement officials to address these issues, it is becoming ever more essential that a system of independent, unbiased investigations is set in place as soon as possible. If implemented properly these units could play an important part in institution-building and be of long-term benefit to the justice system, providing an example of best practice for thorough and impartial investigations of continuing ethnicity-based violence and other abuses, which could be replicated throughout the country.

For more information please see:

Kyrgyzstan: Dereliction of Duty (Index: EUR58/001/2012)
<https://www.amnesty.org/en/documents/eur58/001/2012/en/>

Will there ever be justice? Kyrgyzstan's failure to investigate June 2010 violence and its aftermath (Index: EUR58/001/2013)
<https://www.amnesty.org/en/documents/eur58/001/2013/en/>

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