

Amnesty International

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Will there ever be justice? Kyrgyzstan's failure to investigate June 2010 violence and its aftermath

Three years ago in June 2010 four days of violence between ethnic Kyrgyz and ethnic Uzbeks in the regions of Osh and Jalal-Abad, southern Kyrgyzstan, left hundreds dead, thousands injured and hundreds of thousands displaced. The lack of thorough and impartial investigations into crimes and human rights violations, including crimes against humanity has denied justice to the victims of these crimes.

Last week Amnesty International wrote to the General Prosecutor and the Minister of Internal Affairs of Kyrgyzstan raising the organization's concerns about the failure of the authorities to effectively and impartially investigate the June 2010 violence and its aftermath and calling for the creation of specialist units to investigate the June 2010 violence. The organization also called for the investigation of all torture and other ill-treatment allegations and for an independent review of all cases, which resulted in a conviction for crimes purportedly committed during the June 2010 events.

While arbitrary arrests of mainly ethnic Uzbeks appeared to have become less frequent in the past year, reports persisted of serious human rights violations committed against ethnic Uzbeks in relation to ongoing investigations into the June 2010 violence and its aftermath, including torture and other ill-treatment in detention, forced confessions and unfair trials. Ethnic Uzbeks continue to be targeted disproportionately for detention and prosecution in relation to the June 2010 violence.

Amnesty International is concerned that several individuals have been in pre-trial detention for up to three years while their cases are being sent for further investigation by different courts because of a lack of compelling evidence against them. The clearest example of this is the case of Dilmurat Khaidarov. Detained on 27 June 2010 in Osh by members of the police force, he was then reportedly subjected to torture and other ill-treatment for three days by police officers in offices of the Osh Regional Department for Internal Affairs in order to extract a confession. To date no investigation has taken place into these allegations. Instead his case has been sent for further investigation on five different occasions by courts, including the Supreme Court. Yet, there is no compelling evidence of his complicity in the crimes that he was charged with. Nonetheless, Dilmurat Khaidarov still remains in pre-trial detention and if found guilty could face life imprisonment.

Authorities repeatedly fail to fairly and promptly investigate serious allegations of torture. For example, no one is yet held responsible for the death of Usmanzhan Khalmirzaev, an ethnic Uzbek of Russian citizenship, who died on 9 August 2011, reportedly as a result of torture in a police station in the village of Bazar-Korgon.

Relatives of ethnic Uzbeks continue to be reluctant to submit complaints to police and prosecutors about torture and other ill-treatment of ethnic Uzbek detainees and of intimidation and extortion, for fear of further reprisals. Lawyers defending ethnic Uzbeks have continued to be threatened and physically attacked, including in the courtroom. Courts of all instances,

including the Supreme Court, have routinely failed to exclude or investigate evidence reportedly obtained under torture. In a recent assault 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 near the cotton processing plant Sanpa during the June 2010 events. The mob, ethnic Kyrgyz relatives and supporters of the victims, was shouting insults at the lawyers, punching and kicking them and trying to snatch papers from them. The lawyers had to escape by running away and the hearing was postponed until later in the day. The Kyrgyzstani authorities should conduct thorough, impartial and independent investigations into all incidents of the harassment and assault on lawyers and relatives of ethnic Uzbeks without delay and provide reparation and to take appropriate steps to ensure the protection of lawyers, relatives and witnesses.

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 had filmed and photographed some of the violence, killings and arson attacks on mostly ethnic Uzbek homes and other buildings in Bazar-Korgon. Azimjan Askarov was sentenced to life imprisonment in a trial that fell short of international standards for charges against him that Amnesty International believes have been fabricated in an attempt to stop his legitimate human rights work. Azimjan Askarov should be immediately and unconditionally released to ensure that Kyrgyzstan is not in violation of the right to freedom of expression as guaranteed in Article 31 of the Constitution of Kyrgyzstan and Article 19 of the International Covenant on Civil and Political Rights to which Kyrgyzstan is a state party.

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. On 16 October 2012, the European Court of Human Rights held in the case of Makhmudzhan Ergashev v. Russia, that, if the applicant, an ethnic Uzbek of Kyrgyzstani nationality, were to be extradited to Kyrgyzstan there 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). This was the first time the Court had issued a judgment on the risk of torture and other ill-treatment for ethnic Uzbeks threatened with return to Kyrgyzstan.

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).

Amnesty International calls on Kyrgyzstani authorities to respect its obligations under international law and initiate a prompt, impartial and comprehensive investigation into all allegations of torture and other ill-treatment and to ensure that any police officer found responsible of torture and other ill-treatment is brought to justice.

Background information

After months of rising ethnic 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, to Amnesty International's disappointment the Kyrgyzstani authorities have persisted in their refusal to publicly acknowledge this as fact.

Specialist Investigation Units

A key recommendation put forward to Kyrgyzstani authorities by Amnesty International in June 2011 and June 2012 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 fully aware of the resources required and realises the difficulty in finding and allocating enough resources, most 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 three 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 which could be replicated throughout the country.

Case of Azimjan Askarov

Human rights defender, Azimjan Askarov, an ethnic Uzbek, is Director of Vozdukh (Air), an independent human rights non-governmental organization (NGO), which forms part of a regional human rights network in southern Kyrgyzstan. Azimjan Askarov was detained in Bazar-Korgon on 15 June 2010, although his detention was not officially registered until 16 June. On 15 September Azimjan Askarov was sentenced to life imprisonment and confiscation of property on charges of "storage of ammunition", "accomplice to premeditated murder" and an "accomplice in the killing of a law enforcement officer". Amnesty International believes that charges against him have been fabricated in an attempt to stop his legitimate human rights work. Amnesty International adopted him as a prisoner of conscience and calls for his immediate and unconditional release. He is currently serving life imprisonment in Prison No.47 in Bishkek.

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 during the days of violence, and to incriminate others in relation to the violence. His lawyer Nurbek Toktakunov managed to take photographs of bruising to Azimjan Askarov's body during a meeting with him on 22 June but his request for an independent medical examination was rejected by the Bazar-Korgon Deputy District Prosecutor whose subordinates were present during the meeting. 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 a 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. Following an examination in January 2012, PHR experts concluded that Azimzhan Askarov showed clinical evidence of traumatic brain injury as a result of torture. In November 2012, his lawyer submitted a complaint to the UN Human Rights Committee.

Azimjan Askarov's lawyer and relatives were harassed and attacked several times by groups of people, including on the premises of the police detention centre. The groups included relatives of the police officer whom Azimjan Askarov was accused of killing. On 21 July 2010, a group of women threw stones at Azimjan Askarov's sister-in-law inside the police detention centre when she tried to deliver a food parcel to him. On 2 August, his lawyer was also attacked on

the premises of the police detention centre. He said that a group of men and women surrounded him and threatened to punish him if he continued to defend an ethnic Uzbek. 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 Nurbek Toktakunov, lawyer of Azimjan Askarov, this was still not a sufficient distance from Bazar-Korgon to ensure the security of the defendants or their representatives. The lawyer Nurbek Toktakunov 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.

Case of Usmanzhan Khalmirzaev

Usmanzhan Khalmirzaev, an ethnic Uzbek of Russian citizenship, died on 9 August 2011, reportedly as a result of torture, two days after he was arbitrarily detained in the village of Bazar-Korgon 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, one of the officers reportedly kned him in the chest two or three times until he lost consciousness. He was hospitalized the next morning and died of his injuries a day later. His wife said that he had told her that the officers were responsible for his injuries. His 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.

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, blocking at one point the main road between Jalal-Abad and Bishkek. They intimidated witnesses for the prosecution, the family and lawyer of Usmanzhan Khalmirzaev outside the court and inside the courtroom, and put pressure on the judge to find the accused not guilty. The trial was moved to Chui Region, 500km away, for security reasons. Nevertheless, key witnesses were threatened with violence and some changed their testimony in favour of the accused. Several felt compelled to leave the country fearing for their family's safety. The Jalal-Abad Regional Prosecutor has not started investigations into the actions of the relatives and supporters of the accused, despite complaints by the widow of Usmanzhan Khalmirzaev and her lawyers. In March 2012, the trial of four police officers charged with torture of Usmanzhan Khalmirzaev 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. On 26 December 2012, the Regional Court indefinitely postponed the trial after three of the defence lawyers failed to show at the scheduled hearing.

Case of Dilmurat Khaidarov

Dilmurat Khaidarov, an ethnic Uzbek lawyer, was detained on 27 June 2010 in Osh by members of the police force. Dilmurat Khaidarov was charged with organizing and participating in mass disorders and taking part in the murder of an ethnic Kyrgyz tax inspector and two ethnic Kyrgyz military officers in the village of Nariman of Osh Region during the June 2010 violence. The investigation into Dilmurat Khaidarov's alleged crimes was neither full nor impartial and there is no direct evidence linking him to them. Some witnesses have confirmed that he was in another place at the time of the tax inspector's murder and the eye witnesses to one of the military officers' murder could not identify him during the investigation. He remains in pre-trial detention and if found guilty could face life imprisonment.

After his detention, police officers reportedly beat Dilmurat Khaidarov with rubber truncheons on different parts of his body including on the head and fingers, smothered him with a plastic bag and inserted paper clips under his finger nails. His detention was not officially registered. Despite the torture and other ill-treatment he was subjected to, Dilmurat Khaidarov refused to sign a confession. Bruises and other signs of torture were documented by medical personnel at

the IVS (centre for temporary pre-charge detention) where he was transferred to after the torture and again later by medical staff at the pre-trial detention centre no. 5 in Osh.

In addition, Dilmurat Khaidarov's lawyer has been subjected to intimidation and harassment. Tatiana Tomina, an independent lawyer and an ethnic Russian, has regularly taken on ethnic Uzbek clients. At the beginning of August 2011 she was assaulted by four ethnic Kyrgyz women as she was leaving Osh City Court. One of the women hit her with a bag and the others proceeded to beat, kick and punch her while shouting abuse. Court employees and police officers witnessed the assault and did not intervene to protect Tatiana Tomina or stop the women from attacking her. Before leaving the court building the women then threw stones at the lawyer and threatened her with further violence. The same group of women were seen later that day by a human rights monitor shouting abuse at Tatiana Tomina at the Osh pre-trial detention facility. She was attending a hearing for another ethnic Uzbek client charged with a crime unrelated to the June 2010 violence. Police officers present did little to stop the women. In February 2012 Tatiana Tomina was again assaulted in the courtroom by relatives of the victim while she was defending an ethnic Uzbek client. She was verbally abused and had her documents torn to pieces.

For more information please see: *Kyrgyzstan: Dereliction of Duty* (Index: EUR58/001/2012) <http://amnesty.org/en/library/info/EUR58/001/2012/en>

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