
amnesty international

Kyrgyzstan

Submission to the UN Universal Periodic Review

**Eighth session of the UPR Working Group of the
Human Rights Council**

May 2010



Executive summary

In this submission, Amnesty International provides information under sections C and D, as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*.¹

- In section C, Amnesty International describes concerns related to restrictions on freedom of expression and assembly, allegations of torture or other ill-treatment of detainees by law enforcement officials, including officers from the National Security Service (NSS), and failure to consistently, effectively and systematically investigate such allegations; and other human rights violations in the context of national security and the fight against terrorism, especially in relation to refugees and asylum-seekers as well as religious minorities.
- In section D, Amnesty International makes a number of recommendations for action by the government in the areas of concern listed.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

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C. Promotion and protection of human rights on the ground

Torture or other ill-treatment

Despite efforts by the authorities to reduce the use of cruel, inhuman or degrading methods of apprehension and detention, including through the accession to the Optional Protocol to the Convention against Torture and by taking steps towards the creation of a national preventive mechanism, torture and other ill-treatment remain widespread as does impunity for such acts. Beatings by law enforcement officers appear to continue to be routine, especially in the street during apprehension, during initial interrogation, in pre-charge detention facilities, or during transfer to detention centres. Comparatively few law enforcement officers have been brought to trial and held accountable for such violations, despite a considerable number of allegations, including by women and minors, of torture or ill-treatment in custody in order to extract confessions. Among unlawful methods most often reported by individuals as used by law enforcement officials are rape and threats of rape, being kicked, punched, and beaten with batons, being forced to wear a gas mask with the air supply turned off, having needles inserted under the fingernails, and being suspended from the ceiling by the hands handcuffed behind the back. Human rights defenders have also reported deaths in custody as a result of torture.

Evidence based on confessions extracted under torture is still routinely admitted by courts. Corruption in law enforcement and the judiciary is believed to significantly contribute to a climate of impunity.

Human rights defenders, freedom of assembly and expression

Amnesty International is concerned that Kyrgyzstan may be joining the list of countries that seriously restrict the space for human rights defenders. Over the last four years an increasing number of restrictions have been placed on the rights to freedom of assembly and expression, including by limiting the locations where demonstrations may be held in the capital Bishkek. Demonstrations organized by human rights defenders, youth and civil society activists and political opposition parties have been dispersed by police and state security officers. On those occasions demonstrators have been detained, and in some instances reportedly faced excessive use of force by the security forces. Dozens of protesters have been charged with and convicted of public order offences for organizing or participating in peaceful demonstrations.

In July 2008, the Constitutional Court ruled that restrictions placed on the right to demonstrate in a draft law, approved by Parliament in June, were unconstitutional. However, despite this ruling, President Bakiev signed it into law in August 2008. The new legislation gives local authorities powers to refuse permission for a demonstration on an extensive number of grounds, which have been used repeatedly to effectively deprive human rights defenders and civil society activists of their constitutional right to exercise freedom of assembly and expression.

At the end of February 2009, Vitali Ponomarev, the director of the Central Asia department of the Russian human rights organization Memorial and a prominent human rights defender, was deported from Kyrgyzstan on arrival at the international airport in Bishkek and subsequently banned from re-entering the country for five years. Amnesty International is concerned that the deportation and ban are linked to Vitali Ponomarev's

human rights work. In October 2008, the authorities in Kyrgyzstan banned Ivar Dale, a representative of the Norwegian Helsinki Committee's Central Asia department, from entering the country for 10 years.

In the period under review, there has been an increasing number of violent attacks on independent journalists in Kyrgyzstan. Such attacks are often carried out by unidentified or masked individuals who stabbed, beat or shot the journalists, in some cases wounding them fatally. While the authorities have condemned these attacks and ordered investigations into them, they deny that the attacks were linked to the journalists' professional activities. However, human rights defenders believe that many of these attacks are directly related to articles written or investigations conducted by the journalists and intended to silence them. In July 2009, a journalist was beaten to death by a group of police officers in the south of Kyrgyzstan when he went to a police station to enquire about his passport.

The investigation by the Kyrgyzstan authorities into the murder of ethnic Uzbek journalist and editor Alisher Saipov in October 2007 appeared to be making progress when the weapon used in his murder was identified. A former police officer confessed and was charged with the murder. However, he reportedly later withdrew his confession, claiming that he had been tortured during the investigation. The case was reportedly sent back for reinvestigation by the presiding judge. In June 2008, Alisher Saipov's family publicly urged President Bakiev to keep his promise to personally supervise the investigation and ensure that the perpetrators were brought to justice without delay.

Human rights violations in the context of national security and the fight against terrorism

The fight against terrorism and other threats to national security are frequently referred to by the authorities as crucial to securing national and regional stability. However, all too frequently, acting in the interests of national security is the justification given for targeting minority groups and those with perceived links to terrorist organizations. On such occasions, the authorities are reported to have violated human rights, including by resorting to torture and ill-treatment. Among those particularly targeted are banned Islamic groups and Islamist parties, other religious minorities, and asylum-seekers from neighbouring countries, in particular from Uzbekistan. Although the presumption of innocence is enshrined in law, it is regularly violated, particularly in the context of the fight against terrorism, with suspects often publicly branded guilty before the trial against them has even started.

Amnesty International continues to receive reports that members or suspected members of banned Islamist parties, such as Hizb-ut-Tahrir,² targeted in counter-terrorism operations, have been subjected to torture or other ill-treatment and to arbitrary and incommunicado detention. In several such cases, their relatives have complained that the detainees had been tortured or otherwise ill-treated in order to force them to confess to crimes they had not committed. In a number of cases, Amnesty International was informed that the courts did not investigate such allegations of torture or other ill-treatment and that "confessions" extracted under torture were admitted as evidence by the trial judges.

Amnesty International is also concerned about reports of torture and ill-treatment of 32 people, including a 17-year-old boy and two women, in the context of the so-called "Nookat events" in October 2008. They were accused of being members of Hizb-ut-Tahrir and of "calling for the overthrow of the constitutional order" and were sentenced to prison terms of between nine and 20 years. Allegations that they were tortured to force them to confess were not taken into consideration by the court. On 1 October 2008, scores of villagers in the town of Nookat had reportedly clashed with police when traditional Muslim celebrations of Orozo-Ait (Eid-al-fitr) were cancelled. Relatives claim that the 32 individuals were not members of Hizb-ut-Tahrir, and that police officers used excessive force to disperse the protesters, including by beating women and children with batons. Protesters reportedly threw stones and bricks at the police officers. A report by the Russian human

² Hizb-ut-Tahrir (the party of liberation), a transnational Islamic movement with origins in the Middle East, which aspires to establishing a caliphate, does not advocate the use of violence. Hizb-ut-Tahrir is banned in Kyrgyzstan.

rights organization Memorial, published in January 2009, cast serious doubts on the safety of the convictions of the 32 individuals and the official version of events. The report points to allegations of torture and ill-treatment of the defendants, including the women, in police custody to force them to confess. The women had their braids cut off and their heads shaved. According to Memorial's report, they were later forced to stand in a concrete cell in 10 centimetres of cold chlorinated water without adequate clothing; they were also forced to remove their headscarves and to sing the national anthem to male police officers five times a day, and were regularly beaten on their shaven heads. One of the women, who was pregnant, was forced to hold a heavy coatstand while in handcuffs; she later miscarried. Some of the torture methods used on the men reportedly included setting fire to their beards with a lighter, being stripped naked and placed in a cold cell in ankle-deep chlorinated water; being beaten on the soles of their feet as well as other parts of their body while tied spread-eagled to a metallic bed. The trial itself and the subsequent appeal hearing were described by Memorial and domestic human rights defenders as falling far short of international fair trial standards. A public commission set up by the Ombudsman of Kyrgyzstan to investigate the events in Nookat largely confirmed the findings of Memorial's report. Despite allegations that confessions by the 32 defendants were obtained under torture, the convictions were upheld on appeal, and no official investigation into the allegations has yet been conducted.

Refugees and asylum-seekers

The authorities continue to co-operate with Uzbekistan in the name of regional security and fighting counter-terrorism, in ways that breach their obligations under international human rights and refugee law. Dozens of Uzbekistani refugees and asylum-seekers have been forcibly and secretly returned to Uzbekistan during the period under review. Refugees from Uzbekistan are not effectively protected and continue to be at risk of *refoulement* or abductions by the Uzbekistani security service, sometimes in co-operation with their Kyrgyzstani counterparts. Those fleeing Uzbekistan risk serious human rights violations if returned to Uzbekistan, including incommunicado detention, torture or other-ill-treatment, as well as long prison terms in cruel, inhuman and degrading conditions following unfair trials. There are also reports that Kyrgyzstani security officers have detained asylum-seekers from Uzbekistan and sold them back to Uzbekistani border guards.

In July 2008, the UN Human Rights Committee found that Kyrgyzstan had committed grave breaches of its international obligations under the International Covenant on Civil and Political Rights and its Optional Protocol, by forcibly returning four asylum-seekers to Uzbekistan in 2006, disregarding the Committee's request for interim measures of protection for the four men.³ They were held incommunicado in Uzbekistan and were sentenced to 16 years' imprisonment following a secret trial.

Freedom of religion

In November 2008, the Kyrgyzstan parliament approved a new law placing restrictions on the freedom of religion. It bans all unregistered religious activities and makes it very difficult for religious minorities to seek official registration. A national programme of action to combat the "spread of religious extremism" was launched in January 2008 and appears to be targeting members of the banned Islamist party Hizb-ut-Tahrir.

D. Achievements, best practice, challenges and constraints

Among the positive developments in Kyrgyzstan welcomed by Amnesty International are the ratification of the Optional Protocol to the Convention against Torture (OPCAT) and the signing of the Optional Protocol to the International Covenant on Civil and Political Rights in 2008. As required under OPCAT, Kyrgyzstan has cooperated and consulted with civil society and international organizations to establish a national preventive mechanism to carry out independent and unannounced monitoring of all places of deprivation of liberty.

³ See *Maksudov et al. v. Kyrgyzstan*, report of the UN Human Rights Committee, Volume II, A/63/40 (Vol. II).

Public monitoring commissions are also being set up under the Ministry of Internal Affairs to encourage civilian oversight of the police.

The abolition of the death penalty in Kyrgyzstan is also a welcome development. In May 2007, President Bakiev signed several new laws relating to the criminal justice system, including one replacing the death penalty with life imprisonment for ordinary crimes.

Amnesty International calls on the government:

Ratification of human rights standards and cooperation with the UN

- To ratify all outstanding human rights treaties, in particular the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty;
- To ratify the Rome Statute of the International Criminal Court and enact implementing legislation;
- To ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

Freedom of assembly and human rights defenders

- To ensure that everyone, including human rights defenders, can peacefully exercise their right to freedom of expression and assembly in conformity with Kyrgyzstan's obligations under the International Covenant on Civil and Political Rights and national law.

Torture or other ill-treatment

- To condemn the use of torture and other ill-treatment and to ensure prompt, impartial and comprehensive investigations of all complaints of torture or cruel, inhuman or degrading treatment or punishment of any person subjected to any form of arrest, detention or imprisonment, as well as when there are reasonable grounds to believe that torture or ill-treatment has occurred even if no complaint was made;
- To establish a fully resourced independent agency to investigate all allegations of human rights violations by officers of all law enforcement agencies or by persons acting on the orders of or with the knowledge or complicity of such agencies, and to ensure that it has effective access to remand and court hearings, investigations and other relevant processes;
- To ensure that the agency is also mandated to carry out detailed reviews of past investigations conducted by law enforcement officers into allegations of torture or other ill-treatment and of judicial proceedings in such cases;
- To ensure that no statements obtained as a result of torture or other ill-treatment are used as evidence in trial proceedings, except as evidence against a person accused of torture or other ill-treatment;
- To ensure that all people deprived of their liberty are promptly informed of the reasons for their detention and any charges against them, and allowed prompt and regular access to a lawyer of their choice, as well as to their relatives and an independent medical practitioner.

Human rights violations in the context of national security and the fight against terrorism

- To ensure that all measures to protect national security are carried out in accordance with international human rights law, including the prohibition of arbitrary detention and torture or other ill-treatment;
- To ensure that all trials, including of terrorism suspects, scrupulously observe international standards for fair trial;

- To ensure all detainees are able to exercise their right to notify a relative or other person of their choice or have the person notified of the fact and place of their detention without delay.

Refugees and asylum-seekers

- To respect the principle of *non-refoulement* and its obligations under customary international law as well as the 1951 Refugee Convention, the International Covenant on Civil and Political Rights and the Convention against Torture, to ensure that no one is expelled, returned or extradited to a country or territory, where they would be at risk of serious human rights violations;
- To fully respect the right to seek asylum and ensure that all those seeking international protection in Kyrgyzstan, including in particular refugees and asylum-seekers from Uzbekistan, get access to fair and transparent asylum procedures, with the right of appeal, and that they are provided protection in accordance with the Refugee Convention, including access to durable solutions.

Freedom of religion

- To ensure respect for the human rights of religious believers and that they are able to carry out their peaceful activities without harassment and threats of detention, imprisonment and other human rights violations;
- To guarantee the freedom of individuals or communities, in public or in private, to manifest religion or belief in teaching, practice, worship, and observance.

Appendix: Amnesty International documents for further reference⁴

- *Human Rights Concerns in Central Asia*, May 2009, Amnesty International EU Office

⁴ This document is available on the website of Amnesty International's EU office: www.amnesty-eu.org