

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

17 June 2010
AI Index: EUR 58/002/2010

Kyrgyzstan: Call for an international independent and impartial investigation

While urgently needed humanitarian assistance is beginning to reach refugees and internally displaced persons in Kyrgyzstan and Uzbekistan, allegations are mounting that Kyrgyzstani security forces may have colluded in some of the human rights violations, in particular violent acts against ethnic Uzbeks, which drove thousands of people to flee the violence which engulfed the south of Kyrgyzstan over the last six days.

Amnesty International calls for an international independent and impartial investigation into the violent events of the past days to ensure that both armed individuals and security forces are held accountable for human rights abuses. The organization believes that only an international investigation is likely to be considered unbiased and credible by all affected groups and therefore would be key to restoring sustainable peace and the rule of law.

For any investigation to be effective evidence of the crimes committed needs to be collected and secured without delay in as objective and impartial a way as possible. Amnesty International is therefore concerned that, amidst allegations of collusion of law enforcement, security forces have attempted to confiscate video and photographic evidence from local journalists and residents who have documented the violence. In this context reports that local human rights defenders who have collected eyewitness testimonies have been threatened by security forces and in some cases detained are particularly worrying. In one particular incident armed and masked men claiming to be security forces allegedly fired on the gate of a human rights defender's home in Bazar Korgan when his wife refused to hand over his camera and evidence he had collected from individuals in the village. Human rights defenders play an important role in the documentation human rights violations.

While the Kyrgyzstani government reports that security forces have regained control of the situation in the cities of Osh, Jalal-Abad and surrounding towns and villages, and are concentrating their efforts on restoring order and apprehending those responsible for the violence, the security situation in the south of Kyrgyzstan remains tense and the fragile security situation is reported to hinder distribution of humanitarian aid.

Amnesty International urges the Kyrgyzstani interim government to immediately react to allegations of collusion of security forces and to send a clear signal that any human rights violations will be prosecuted.

While reiterating its call on the Kyrgyzstani interim government to protect its population and ethnic minorities in particular, Amnesty International is concerned that an emergency decree "on granting the use of lethal force to security forces", issued on 12 June, allows the use of lethal

force beyond that permitted under international law and may facilitate unlawful killings or even extrajudicial executions.

Kyrgyzstani authorities must respect and protect the right to life by adhering to international standards on the use of force. The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials require that less dangerous means be used before resorting to the use of firearms even in the context of violent assemblies and that intentional lethal use of force may not be used except where "strictly unavoidable in order to protect life." The obligation to protect life can never be derogated from or restricted, even in emergencies.

With regard to a second decree "on the formation of citizens' defence groups", also issued on 12 June, Amnesty International emphasizes that these groups are state-organized, state-coordinated and state-funded. The Kyrgyzstani government has an obligation to ensure that such groups are adequately trained, including Kyrgyzstan's domestic law and international obligations, and that a robust system of accountability for any violations committed by members of such groups is in place. The Kyrgyzstani government is responsible for any human rights abuses those groups might commit.

Background:

The deadly violence which has devastated large parts of the south of Kyrgyzstan is said to have started on 10 June with clashes between rival gangs of mostly Kyrgyz and Uzbek youths which rapidly escalated into large-scale arson, looting and violent attacks, including killings, on mainly Uzbek-populated districts in Osh. Subsequently, the violence spread to the city of Jalal-Abad and surrounding towns and villages.

On 15 June, the UN High Commissioner for Human Rights stated that the violence appeared to be "orchestrated, targeted and well-planned" and that it was set off by five simultaneous attacks by armed masked men in the city of Osh.

The interim government have blamed the violence on supporters of former President Kurmanbek Bakiev and on organized criminal groups with the intent to destabilize the situation in the country ahead of the referendum on a new constitution on 27 June.

On 12 June, the Kyrgyzstani interim government issued an emergency decree "On granting the use of lethal force to security forces". The decree allows law enforcement bodies, when a state of emergency is in place, to use lethal force:

- To protect citizens and to protect themselves from attacks that threaten life and health, to release hostages, also to prevent the violent capture of fire-arms;
- To prevent a group or armed attack on law enforcement officers or the armed forces involved in restoring order, or any other persons who are carrying out official duties or a public duty to restore public order and fight against criminality, and also any other attack when their life and health is in danger;
- To repel a group or armed attack on important and protected objects or locations, premises of citizens, premises and buildings of the state and public bodies, enterprises, establishments, organisations, to repel attacks on the army or law-enforcement bodies;
- To arrest armed men who resist, or are caught in the commission of a crime, and also to detain armed persons, refusing comply with the orders to hand over their weapons.

Article 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which elaborate the obligations of the state to respect and ensure the right to life, guaranteed under the International Convention on Civil and Political Rights, state that the application of lethal

force is permissible only "when strictly unavoidable in order to protect life." While the emergency decree partly adheres to this principle, other provisions could be used to justify the use of lethal force beyond the limitations of international human rights law, potentially leading to extra-judicial executions or other unlawful killings.

A second emergency decree, issued by the interim Kyrgyzstani government on 12 June "On the formation of citizens' defence groups" resolves to "form a uniform system of voluntary national teams of the Kyrgyz Republic", "taking into account the demands of the citizens for their personal security and the protection of their rights", involving "patriotic citizens, reserve officers of law enforcement bodies ... to carry out its activities according to the legislation of the Kyrgyz Republic together with law enforcement bodies".

According to obligations of international law the state is responsible for preventing abuses by such groups, for preventing, investigating and punishing human rights abuses, as well as for providing remedies to victims. Any unlawful killing or other human rights violation committed by these groups that is encouraged or ordered by state authorities is attributable to the state, as is any unlawful killing that results from following Kyrgyzstani law, such as unlawful elements of the emergency decree identified above.

As the Special Rapporteur on extrajudicial, summary or arbitrary executions has noted, the "State's role can exist on a continuum from being non-existent; to failing effectively to prevent the killings and prosecute perpetrators; to implied approval or tacit support for killings; to active encouragement, including official verbal support for killings; and overt direct State involvement, including official assistance in the formation of vigilante groups and their activities, and official participation or collusion in vigilante activities." (*Report of the Special Rapporteur on extrajudicial executions to the General Assembly (A/64/187, 29 July 2009), para. 56*)

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