



Project “Support to the consolidation of national efforts for the prevention of torture and other cruel, inhuman or degrading treatment or punishment and in the fight against impunity in the Kyrgyz Republic”

Bishkek, 2017

Co-Financed by the European Union and implemented by the Soros Foundation – Kyrgyzstan in cooperation with the Coalition against Torture in Kyrgyzstan



The Project co-financed
by the European Union



THE COALITION AGAINST
TORTURE IN KYRGYZSTAN

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The Project is funded by the European Union and implemented by the Soros Foundation-Kyrgyzstan in partnership with the Coalition Against Torture in Kyrgyzstan.

The opinions expressed in this publication do not necessarily reflect the views of the European Union, the Soros Foundation-Kyrgyzstan and the Coalition Against Torture in Kyrgyzstan.



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Article 22 of the Constitution of the Kyrgyz Republic

"Noone shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

Article 5 of the Universal Declaration of Human Rights

"Noone shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

Article 7 of the International Covenant on Civil and Political Rights

"Noone shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, noone shall be subjected without his free consent to medical or scientific experimentation".

*Adopted by UN General Assembly resolution 2200A (XXI) of 16 December 1966,
Kyrgyzstan ratified the Covenant in 1994*

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

*Adopted by UN General Assembly resolution 39/46 of 10 December 1984
Ratified by Kyrgyzstan in 1997*

Statement by Mr. Juan E. Mendez, UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

International conference “Istanbul Protocol Implementation: Transforming Regional Experiences into International Norms for Effective Torture Investigation and Documentation”

Bishkek, Kyrgyzstan, September 21-22, 2016

I would like to thank the organizers for inviting me in my capacity as the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to participate in this International Conference. Due to previous commitments, I am regrettably unable to attend in person but welcome the opportunity to participate in this conference considering its worthy and important focus. In my remarks today I will concentrate on the topic of combatting torture in Central Asia and on progress and future challenges in this regard.

The eradication of torture, cruel or inhuman treatment as a matter of practice, rather than merely in the realm of normative developments, is crucial.

The prohibition against torture and other cruel, inhuman or degrading treatment or punishment is a rule of customary international law and enjoys the enhanced status of being a *jus cogens*, or peremptory norm of general international law, applying to all States. It requires States not merely to refrain from authorizing or conniving at torture or other ill-treatment, but also to suppress, prevent and discourage such practices – States have not only the obligation to “respect,” but to “ensure respect” for, the absolute prohibition against torture.

Although the existing international legal framework provides a broad range of norms and standards designed to combat, prevent, and remedy acts of torture and other ill-treatment, the sophisticated normative framework in place regrettably often does not translate into a reduction in the practice of torture. In this context, it is important to recall that implementing standards into practice is a two-stage process. First, it requires a focus on substantive constitutional, legislative, and administrative reforms that need to be expedited to ensure effective criminalization of torture and the establishment of solid safeguards against ill-treatment. Second, the effective realization of these safeguards in practice is the ultimate challenge and the key to the prevention of torture.

In the Central Asia region, incremental progress has been made towards the elimination of torture, but much more needs to be done to bridge the gap between policy and reality, law and practice.

In 2011, I visited Kyrgyzstan at the invitation of the government, with a view to assessing the situation of torture and ill-treatment on the ground, and to identifying measures needed to prevent it in the future. At the time, I expressed my appreciation for the invitation extended, as well as for the access I was afforded to make the relevant assessment. During the course of my visit, I was impressed by the progress made by the Kyrgyzstan authorities to curb torture. On the other hand, the visit made clear

that the lack of legislative safeguards to prevent torture persisted, that there were significant shortfalls in law enforcement practices, and that torture continued to occur with impunity.

At the end of my visit, I made detailed recommendations to the government of Kyrgyzstan, notably calling on the government to expedite legislative reforms to ensure the absolute prohibition of torture and establish effective safeguards in law and practice; to initiate prompt, impartial, and thorough investigations into allegations of torture and ill-treatment, and when warranted, to prosecute perpetrators without delay. I am encouraged that these recommendations have been taken seriously by the authorities and that incremental progress has continued to be made. In 2012, I engaged in a follow-up visit to Kyrgyzstan for additional consultations with state authorities and other stakeholders to examine necessary legislative and institutional reforms that were need to implement my recommendations. I have since been encouraged by some important steps forward, such as the conclusion of a Multilateral Memorandum of Understanding aimed to boost cooperation between State bodies, human rights organizations, and the international community in torture prevention; as well as the establishment of the Kyrgyzstan National Preventive Mechanism, which became operational in 2014. I welcome the fact that Kyrgyzstan has also declared its “zero tolerance” policy for torture and ill-treatment and reaffirmed its commitment. All this progress moves Kyrgyzstan closer to the eventual eradication of torture as a matter of practice.

Subsequent to my visit, the Committee Against Torture and the Human Rights Committee, while welcoming legislative and administrative measures aimed at the prevention and eradication of torture, echoed concerns with regard to ongoing common practices of torture and ill-treatment of persons deprived of their liberty, particularly during the first hours of apprehension and police custody, to extract confessions. These bodies also expressed concern at the persistent pattern of failure to conduct prompt, impartial, and full investigations into allegations of torture and prosecute perpetrators, which drives impunity and encourages the continuation of mistreatment; and at shortfalls in the definition and penalization of torture in the Criminal Code. The lack of implementation of basic safeguards for all persons deprived of their liberty, including failure to register all detainees immediately upon apprehension, the lack of access to a lawyer of their choice, the lack of a medical examination immediately after their apprehension, and the lack of access to medical assistance of their choice, also remain issues of concern. Additionally, harsh conditions in places of deprivation of liberty, including overcrowding, lack of hygiene, and insufficient food and drinking water, also remain of concern.

Within the region, I have also previously visited Tajikistan in my capacity as Special Rapporteur, where I once again appreciated both the invitation extended to me, and the cooperation of the Government of Tajikistan. While I was encouraged during the course of my visit by legislative developments in the normative framework prohibiting torture and ill-treatment, I was similarly concerned by practices identified in that country, such as pressures applied to detainees. I issued recommendations following that visit and urged the government to fully implement existing laws and policies for the eradication of torture and ill-treatment. I subsequently revisited Tajikistan and was satisfied with the extent to which my recommendations were taken seriously, and with the establishment of a national plan of action for the implementation of my recommendations. However, as I have emphasized in connection with Tajikistan, a gap still remains which must be bridged between policy and reality insofar as it relates to torture. I also expressed

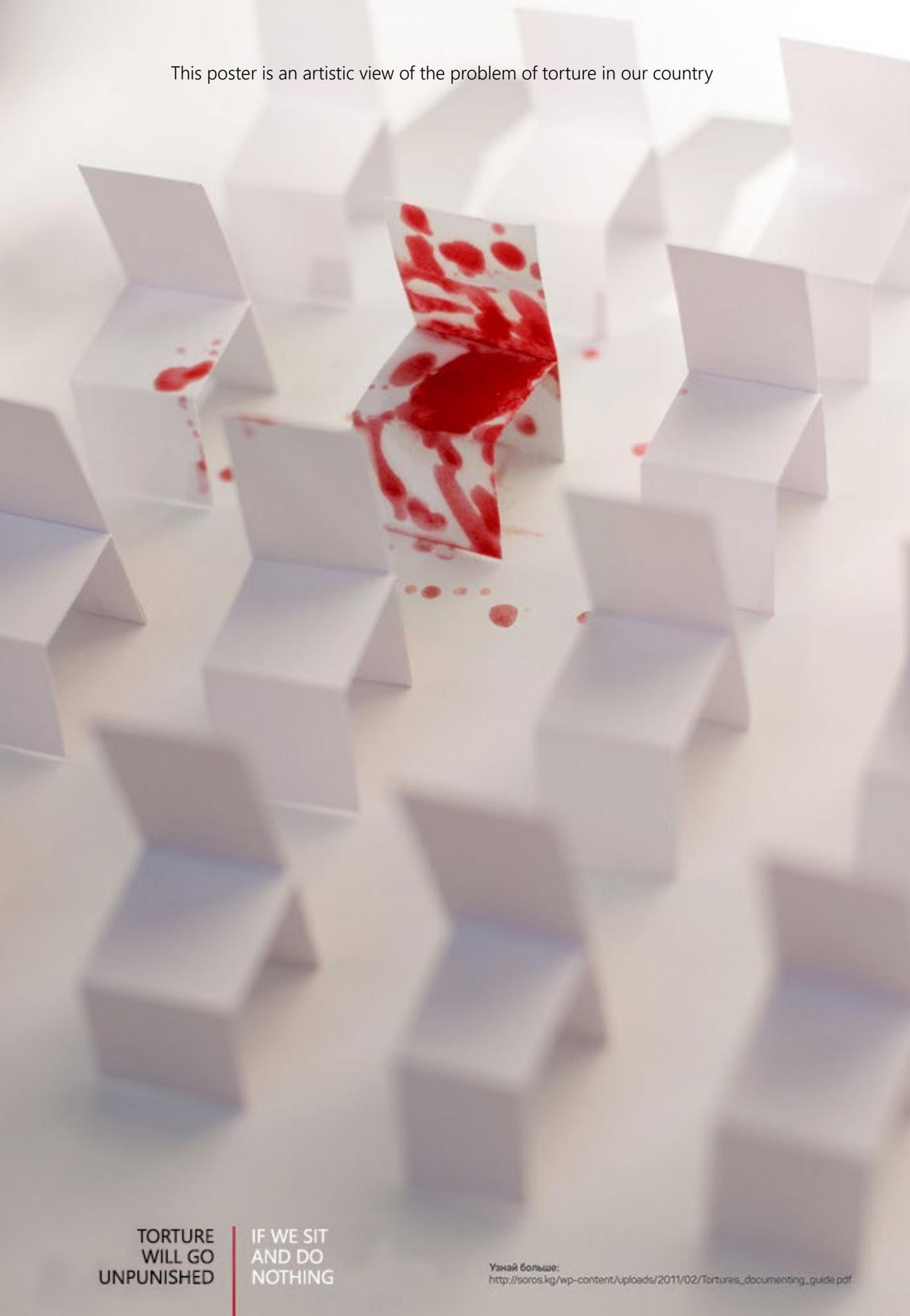
deep concern about information received related to intimidation and reprisals after my initial visit despite a clear understanding with the Government that such acts are unacceptable, and constitute a serious threat to the work of the Rapporteur and other UN Human Rights mechanisms.

The responsiveness of countries such as Kyrgyzstan and Tajikistan to ongoing dialogue and follow up with the Special Rapporteurship and other United Nations mechanisms is an example to countries within the Central Asian Region and beyond. It gives hope that through sustained efforts, effective means to investigate, document, combat, and ultimately eradicate torture can be established and implemented.

Lastly, and perhaps most important for our purposes today, I must emphasize that forensic experts have a decisive role in holding perpetrators to account, as I elaborated in my 2014 report to the General Assembly on this topic. With their forensic expertise they ensure that torture traumas, whether visible or invisible, physical or mental, are scrupulously documented before they disappear. Medical records can be instrumental in overcoming the otherwise lack of objective evidence with which survivors of torture are so commonly confronted, given that torture mostly takes place without witnesses. The work of a forensic scientist is germane to the efforts to address impunity for acts of torture, as such expert opinion forms the evidentiary basis for prosecution of allegations of torture.

In this context, the Istanbul Protocol is a key to the realization of effective investigation of torture and sets out internationally recognized standards for investigation and documentation of torture and ill-treatment. This conference will serve as an important opportunity to exchange experiences and practices surrounding the implementation of the Istanbul Protocol and to elaborate on a plan of action for its realization and implementation. In coming together to discuss the Protocol, I urge all participants to have a broad view present in their minds and in their goals for this worthy meeting, a view which supports the prevention of torture. I would also urge participants to continue the work initiated by States such as Kyrgyzstan and Tajikistan to evaluate existing legislation, mechanisms, and practices intended to foster compliance with international norms prohibiting torture and other ill-treatment. I would further urge participants to consider systemic factors, such as inadequate legislative or criminal justice frameworks, or other shortcomings that contribute to the proliferation of both torture and impunity for torturers. In moving forward with the ongoing and fundamental elaboration of the draft Istanbul Protocol Plan of Action, such overriding concerns must also receive due attention.

This poster is an artistic view of the problem of torture in our country



**TORTURE
WILL GO
UNPUNISHED**

**IF WE SIT
AND DO
NOTHING**

Узнай больше:
http://soros.kg/wp-content/uploads/2011/02/Tortures_documenting_guide.pdf

Actions Taken by Us to Prevent Torture:

Project: "Support to the consolidation of national efforts for the prevention of torture and other cruel, inhuman or degrading treatment or punishment and in the fight against impunity in the Kyrgyz Republic"

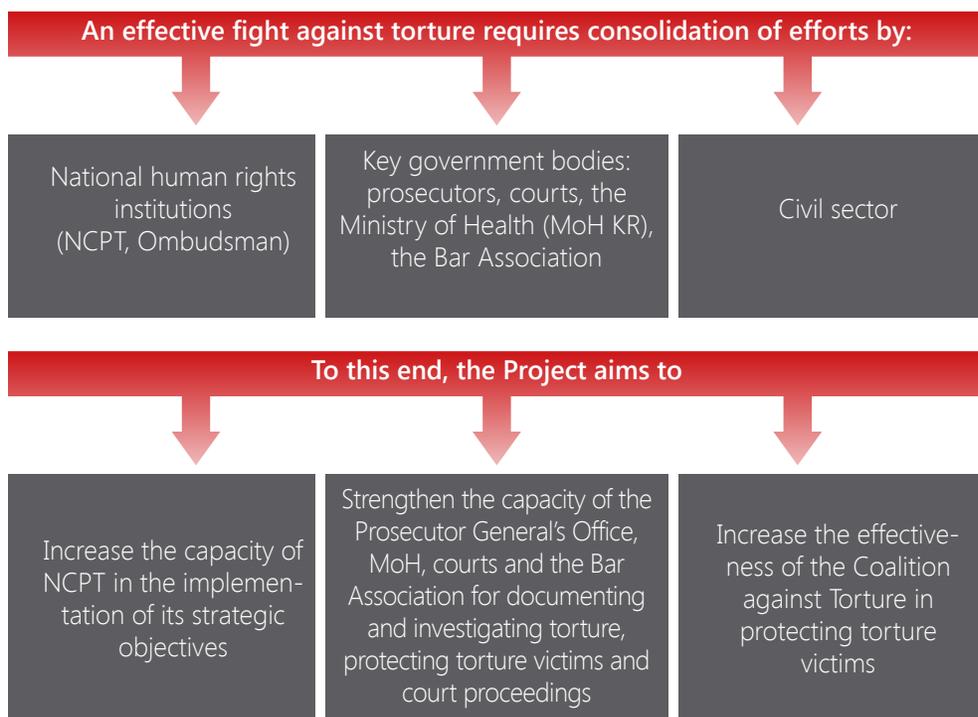
This new project of the European Union, the Soros Foundation-Kyrgyzstan and the Coalition Against Torture in Kyrgyzstan targets the problem of impunity for torture and ill-treatment in Kyrgyzstan using an integrated approach and involving all key stakeholders.

Goal:

To create positive precedents and institutionalize best practices in the prevention and effective investigation of torture by consolidating national efforts to achieve sustainable outcomes in the eradication of torture.

Timeframe: 01 January 2016 - 31 December 2017 (24 months)

Budget: 827,777 EUR (including financing of the European Union - 745,000 EUR, and Soros Foundation-Kyrgyzstan - 82,777 EUR). These funds include grants for seven organizations, which are the members of the Coalition against Torture in the Kyrgyz Republic (Coalition) - 452,905 EUR, and the National Centre for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (NCPT) - 60,000 EUR.



Project Brief Overview

The Project has three main objectives:

- 1) To strengthen the capacity of the National Center for the Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment in the implementation of its strategic objectives within the respective mandate;
- 2) To increase the capacity of key government agencies in documenting and investigating torture and ill-treatment;
- 3) To strengthen the capacity and efficiency of the Coalition against Torture.

Each objective involves achieving a series of short-term results that reinforce one another. All of the objectives are logically interconnected and target a higher overall efficiency of the Project.

Within the framework of the first objective, institutional support was provided to the National Center through updating and adopting a unified methodology of monitoring places of deprivation and restriction of liberty and creating a single database; assistance in conducting 200 monitoring visits with the involvement of external experts and specialized equipment; supporting the strategic planning, the development of the communication strategy; strengthening the capacity of the staff; support in developing and approving internal policies and procedural documents; supporting the meetings of the Coordinating Council at the National Center and other public events.

Activities planned under the second objective included supporting the efforts of the Ministry of Health, the Prosecutor General's Office, the judiciary and the Bar Association to increase their capacity to document and investigate torture and ill-treatment. Specifically, the Project supported the efforts of the Prosecutor General's Office to improve the effectiveness of countering and investigating torture. This component was implemented by PF "Legal Prosperity" together with the Center for Professional Training of Prosecutors. This support included holding seminars for the staff members of the Prosecutor's Office with a view to improving their skills, tactics and techniques in investigating torture. Besides this, the General Prosecutor's Office was provided with the office equipment as technical support to enhance the quality of prosecutors' work.

Another important element in the fight against torture and cruel treatment is the work of the Soros Foundation-Kyrgyzstan with the Bar Association and courts. The Project developed, tested and institutionalized training programs for judges and lawyers on international standards in combating torture and ill-treatment. The Project also aims to assist the Ministry of Health in implementing the Complex Action Plan for the Prevention of Violence, Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the practical application of principles of the Istanbul Protocol (UN Standards on the Effective Documentation and Investigation of Torture and Cruel treatment) by health workers.

The third objective implies for providing legal aid to victims of torture and assisting the Coalition against Torture in implementing key elements of its Strategy for 2014-2017. These elements include improving the current practice of the Coalition against Torture in combating torture (through, inter alia, using unified standards for providing legal assistance to victims of torture); institutional development of the organization, and; the development of a new methodology for the rehabilitation of torture victims.

It is expected that consolidated efforts and increased capacity of national and non-governmental organizations will result in a systematic approach to the prevention of human rights violations in criminal proceedings.

The Coalition against Torture was assisted in development of a communication strategy to raise public awareness and orient the public opinion towards the rejection of practices involving human rights violations such as the violation of the right to freedom from torture.

As part of the information component, the Project developed and published the following media products: video clips, special reports, TV stories, TV shows, radio broadcasts and articles covering the scope of the Project, torture cases, and expert assessment of torture. The target audience included decision-makers, experts, partners and the general public (at least 2 million people were reached). Special events have been organized to involve the public in the Project activities: a contest among the media on covering the problems of torture, a quiz night for journalists "How the World Fights Torture and Human Trafficking" organized on May 3, 2017, and a quiz night for students "Human Rights as a Tool of Justice: Reality vs. Cinematography" held on November 1, 2017, etc.

IMPUNITY LEADS TO NEW CASES OF TORTURE.
THOSE WHO COMMITTED TORTURE HAVE BEEN INDICTED
ONLY ONCE SINCE 2003 IN KYRGYZSTAN...



This poster is an artistic view of the problem of torture in our country

Project Results

Objective No.1

Increase the capacity of NCPT in the implementation of its strategic objectives within the respective mandate:

- Before the launch of the Project, a baseline study of the institutional capacity of NCPT was conducted to identify the needs of the organization and to serve as the basis of the Project strategy;
- Rules of Conduct for Preventive Visits to Places of Deprivation and Restriction of Freedom (methodology and tools) were developed and approved;
- The NCPT Strategic Plan for 2015-2017 and the Communication Strategy for 2016-2017 were developed;
- A grant was provided for, inter alia, attracting experts from various fields and conducting 200 additional preventive visits (40 visits in 2016 and 160 visits in 2017);
- The regulations and other internal documents were developed to improve and bring the work of NCPT in line with international standards;
- 6 meetings of the NCPT Coordination Council were supported;
- The organization of a decade in support to victims of torture, an open-doors day at NCPT were supported;
- 4 study visits were organized for the staff of NCPT (11 people) to exchange experiences, study positive practices in torture prevention (Poland, Georgia, Ukraine, United Kingdom);
- Building the dialogue on the problem of torture and public discussions of the NCPT Annual Report were supported;
- A new design of the NCPT website and software for the systematization of monitoring visits (data base) were developed and launched;
- Technical assistance was provided in the procurement of office equipment (laptops, printers, office furniture), special protection equipment (clothing, masks, humidity, noise and distance measuring instruments for monitoring visits);
- Training on professional burnout was conducted for NCPT staff and members of the NCPT Coordination Council.

About the National Center for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Kyrgyz Republic's National Center for the Prevention of Torture (NCPT) is a preventive body analyzing the existing systems of countering torture in the country and targeting a constructive dialogue to strengthen such systems in order to prevent torture and ill-treatment.

Since the establishment of NCPT in July 2012, about 1,000 monitoring visits have been made to places of deprivation and restriction of liberty. 3 annual reports have been submitted to the Kyrgyz Republic Jogorku Kenesh with recommendations to the Government, Supreme Court, Prosecutor General's Office, Ministry of Internal Affairs, Ministry of Health Care, State Penitentiary Service and other institutions.

Along with their main functions, from May 2016 to October 2017, NCPT staff, together with specialists in primary health care, conducted 200 additional monitoring visits to cells, temporary detention facilities, investigation facilities, correction institutions and educational colleges, and prisons, where they used specialized equipment.



Results of the National Center for the Prevention of Torture:

Open-Door Days in all NCPT regional offices.

With the Support of the European Union and the Soros Foundation Kyrgyzstan, NCPT held Open-Doors Days devoted to the International Day in Support of Victims of Torture. At the event, NCPT presented the results of its work to law enforcement officers, staff of the State Penitentiary Service, representatives of non-governmental organizations and the media.



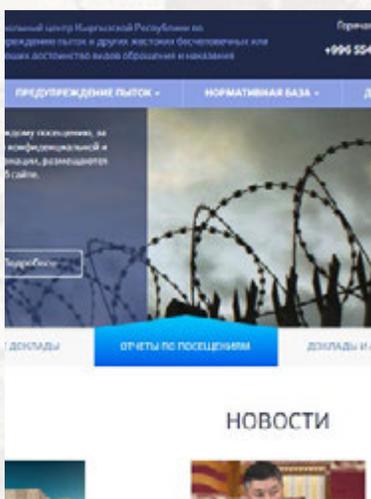
Assistance was provided to organize dialogue platforms to discuss the problems of torture and the NCPT annual report.

A press conference coincided with the International Day in Support of Victims of Torture was held. The event was a part of the information campaign "Uniting Efforts against Torture". At the press conference, Nurdin Sulaimanov, NCPT Director, spoke about the NCPT activities.



A website and software for systematizing monitoring visits were developed and launched.

Now, citizens wishing to learn more about the NCPT activities can find all necessary information on the NCPT website, which is updated on a daily basis. It features reports, including annual ones, prepared by NCPT staff.



4 training visits were organized for the NCPT staff (11 people) to exchange experiences and study best practices on torture prevention (Poland, Georgia, Ukraine, and United Kingdom).

The NCPT staff visited the Georgian Ombudsman Institute, where they met the Prevention and Monitoring Department members and discussed torture prevention issues. At the meeting, the work of the Georgian National Preventive Mechanism, the Public Defender’s Office (Ombudsmen) were presented. Participants discussed problems and possible solutions for penitentiary institutions and police stations. In addition, they scrutinized the issues of advocacy and monitoring of the implementation of the recommendations of the Georgian NPM. Study visits were made to a psychiatric hospital, the Tbilisi detention isolator and the Gldani prison. In their turn, the NCPT delegation presented their experience in the prevention of torture and the promotion of the Istanbul Protocol in the country.

Introductory visits to Ukrainian and Polish NPMs, and participation in the training “Mandela Rules” held by the University of Bristol (Great Britain) provided an opportunity to discuss and establish international cooperation with NPMs of other countries, study their approaches to monitoring visits and new mechanisms for advising government authorities.

As part of technical assistance, office equipment was purchased.

Laptops, printers, office furniture, special protection equipment (clothing, masks, humidity, noise and distance measuring instruments for monitoring visits);

NCPT developed procedures and internal documents to increase their efficiency.

These internal documents include the corporate ethics regulation, the planning and reporting regulation, guidelines for new employees, the motivation regulation, the regulation on the preventive visits department, etc.



Objective No.2

To increase the capacity of key government agencies in documenting and investigating torture and ill-treatment, legal safeguards for torture victims, and the specifics of court proceedings.

Prosecutor General's Office

- Within the framework of this component of the Project 60 prosecutors in Bishkek, Osh and Jalal-Abad were trained in combating and effective investigation into torture, and 2 roundtables were held in Karakol and Osh to discuss cooperation for effective investigation;
- Technical support in the form of computer equipment was provided to central and regional offices of Prosecutor General's Office;

Ministry of Health

- Support was provided to the Ministry of Health in implementing the provisions of the Integrated Action Plan for the Prevention of Violence, Torture and Ill-treatment for 2016, in particular:
 - Training was held for 70 forensic medical experts, forensic psychiatrists and psychologists in international and national standards for documenting torture and ill-treatment;
 - Assistance was provided in the publication of 1,500 copies of new forms for the documentation of torture and ill-treatment;
 - Two offices were renovated: a psychiatric-psychiatric examination office for victims of torture in the Republican Center for Mental Health (RCMH) and an office with associated facilities including a morgue in the Forensic Medical Examination Unit (FMEU) of the Bishkek Scientific Research Center of Traumatology and Orthopedics (BSRCTO);
 - The office and medical equipment was provided to RCMH, forensic psychiatric departments of RCMH in Chym-Korgon, Kyzyl-Jar and Osh, and the appropriate department of the Republican Center for Forensic Medical Examination (RCFME);
 - The Project together with the Mandatory Health Insurance Fund (MHIF) developed, tested and approved tools for monitoring the implementation of the Practical Guidelines on the Effective Documentation of Violence, Torture and Ill-Treatment in healthcare organizations;
 - Training on the Practical Guidance and the use of the monitoring tool was held for MHIF staff;
 - Together with MHIF, the Project staff. A total of 24 medical structures had been visited;
 - Together with MHIF, the Project staff held preliminary visits to the regions to test the monitoring tools. A total of 24 medical institutions were visited;

- 2 roundtables were held to discuss: 1) the establishment of interagency cooperation between the Ministry of Health, the Prosecutor General's Office and the Ministry of Internal Affairs on the application of the standards of the Practical Guidelines; 2) the execution of the KR Jogorku Kenesh Decree on the NCPT Annual Report;
- The analysis of the RCFME activities was held and followed by proposals and recommendations for the development strategy and work plan to improve experts' work and technical support;
- **The International Conference** " Istanbul Protocol Implementation: Transforming Regional Experiences into International Norms for Effective Torture Investigation and Documentation" was held jointly with the KR Government and other partners. During the Conference, the Kyrgyz Republic outlined its position on the eradication of torture in the country and adopted the Resolution of the Bishkek Conference on the Principles of the Istanbul Protocol Action Plan. The International Conference was attended by 250 participants from 24 countries, including leading experts and authors of the Istanbul Protocol (UN Guidelines for Effective Documentation and Investigation of Torture and Ill-Treatment);

Bar Association

- In partnership with the Training Center for Lawyers under the KR Bar Association, the Project developed and institutionalized a set of educational and methodical materials for lawyers on legal mechanisms for the protection of torture victims;
- 20 lawyers were trained to conduct trainings for lawyers on the specifics of legal mechanisms for the protection of torture victims;
- 50 lawyers from all regions of the country were trained in the specifics of legal mechanisms for the protection of torture victims.

Supreme Court

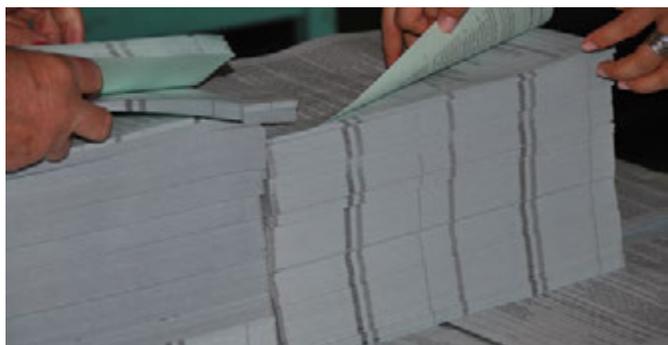
- In partnership with the Higher School of Justice under the Kyrgyz Republic Supreme Court, a training module for judges on the specifics of criminal cases related to torture was developed and institutionalized;
- 20 persons were trained to conduct trainings on the specifics of court criminal proceedings involving the use of torture;
- 50 judges from all regions of the country were trained in the specifics of court proceedings involving the use of torture.

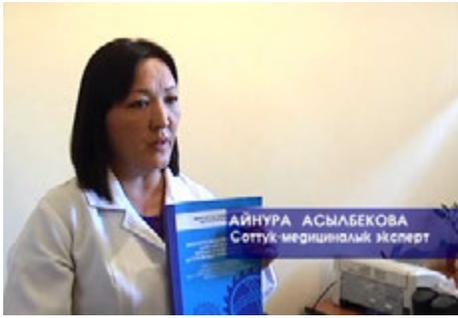
Results Achieved by the Ministry of Health:

In order to consolidate the position, functions and tasks of medical workers in the national fight against torture, following the recommendations of Mr. Juan Méndez, the UN Special Rapporteur on Torture and as part of the implementation of the Kyrgyz Republic National Action Plan for Combating Violence, Torture and Other Cruel, Inhuman or Degrading Treatment approved by the Government, the Ministry of Health in cooperation with the authorized state bodies, civil society and international partners developed and approved on December 10, 2014, a comprehensive Practical Guidelines for documenting all forms of violence, torture, cruel and inhuman treatment based on the principles of the Istanbul Protocol containing international standards for documentation and investigation. The Practical Guidelines were developed by a working group consisting of governmental and non-governmental health and legal experts, representatives of civil society and international organizations such as the Soros Foundation-Kyrgyzstan, Physicians for Human Rights and Coalition against Torture in Kyrgyzstan.

The Practical Guidelines contains minimum documentation standards and introduces three types of mandatory standardized forms for:

- primary health care workers providing medical assistance to children and adults who have been subjected to violence, torture and other cruel, inhuman or degrading treatment or punishment. Primary medical documents are the most important part of objective medical evidence of committed violence needed for a full and accurate investigation.
- forensic medical experts, forensic psychologists and psychiatrists. Forensic medical and psycho-psychiatric examination plays a crucial role in the investigation and prosecution of alleged cases of torture or other ill-treatment, especially with regard to individual responsibility and the fight against impunity.



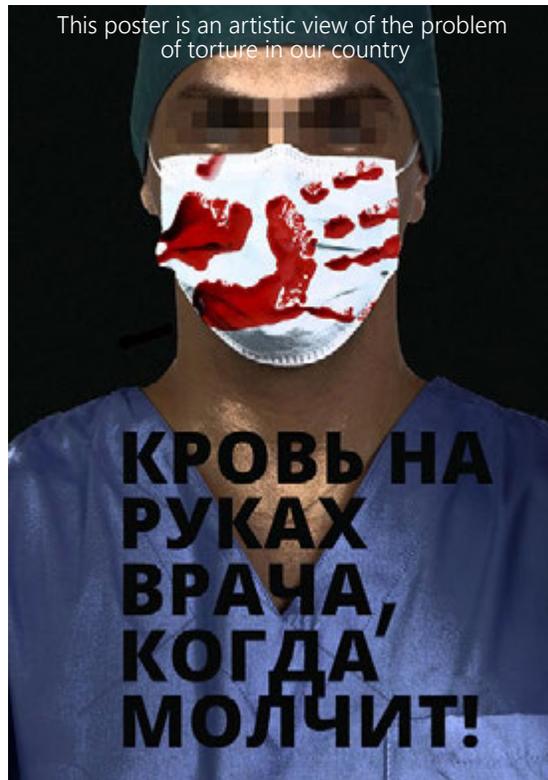


"The form developed for all health care providers should be completed when any time when they encounter a patient who complains of having been subjected to violence. The strength of this form is that it contains the exhaustive information about what happened with the patient's words and diagnostic data, which forms the basis of complex forensic medical and psycho-psychiatric examinations.

Prior to the introduction of the standards, the escort officers had to be present during a medical examination of persons detained or convicted, which created barriers to objectivity."



"A health care provider can be the first to witness torture and must report the committed crime to the authorized bodies, i.e. in cases of violence - to the bodies of internal affairs, in cases of torture and ill-treatment – to the prosecution and national security bodies."



International Conference

On September 21-22, 2016, Bishkek hosted the international conference "Istanbul Protocol Implementation: Transforming Regional Experiences into International Norms for Effective Torture Investigation and Documentation".

The main purpose of the two-day event was to exchange experiences and to study best practices to promote the comprehensive implementation of the Istanbul Protocol. The Istanbul Protocol, or the Guidelines for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are the international UN principles for assessing the actions of persons who used torture and ill-treatment with the view of investigating cases of torture and reporting to judicial bodies.

The conference had the following important tasks:

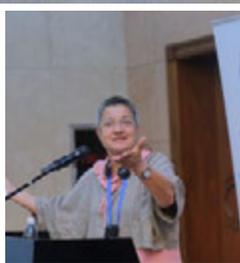
- To promote the comprehensive institutionalization and practical use of Istanbul Protocol standards in the countries of the region;
- To create networks and to exchange experiences and information at the level of individuals and institutions, between legal, medical and other professionals working on the implementation of the Istanbul Protocol;
- To emphasize the importance of applying systematic / interdisciplinary approaches in the implementation of the Istanbul Action Plans at the national level and the need to establish monitoring and evaluation systems.

One of the key parts of the conference was the study of Kyrgyzstan's experience in adapting and implementing the Istanbul Protocol. Country's experience evoked a positive response in the international professional environment, which created the basis for demonstrating and promoting this unique model at the regional and international levels.

The conference was attended by more than 200 representatives of regional governments, leading international and national experts on the fight against torture and the implementation of the Istanbul Protocol from more than 20 countries, representatives of the UN Committee against Torture, the UN Subcommittee on Prevention of Torture, international organizations and local NGOs working in this field. The conference was organized by the Kyrgyz Republic Government, Prosecutor General's Office, Ministry of Health, and the National Center for the Prevention of Torture in cooperation with the Soros Foundation-Kyrgyzstan, the Coalition against Torture and Physicians for Human Rights with the support of the European Union, the Open Society Foundations, the Office of the United Nations High Commissioner for Human Rights, the International Rehabilitation Council for Torture Victims, Ludwig Boltzmann Institute of Human Rights and the OSCE Center in Bishkek.

The conference was initiated within the framework of the project of the Soros Foundation-Kyrgyzstan and the Coalition against Torture "Support to the consolidation of national efforts for the prevention of torture and other cruel, inhuman or degrading treatment or punishment and in the fight against impunity in the Kyrgyz Republic" financed by the European Union.

This component was implemented in cooperation with the PF "Child's Rights Defenders League"



Resolution of the Bishkek Conference on the Principles of the Istanbul Protocol Action Plan

22 September 2016, Bishkek, Kyrgyz Republic

Over the past 16 years, the Istanbul Protocol has been the main international UN standard for the effective investigation and documentation of torture and ill-treatment. Since 2012, Physicians for Human Rights, International Rehabilitation Council for Torture Victims, Human Rights Foundation of Turkey, REDRESS and the Association for the Prevention of Torture have worked to develop an Action Plan for the Istanbul Protocol to outline international principles and guidelines for the implementation of the Istanbul Protocol at the state level. This initiative was supported by the United Nations High Commissioner for Human Rights, the United Nations Committee against Torture and the United Nations Special Rapporteur on Torture.

Over the past five years, the Kyrgyz Republic has been working with United Nations bodies, international human rights organizations and civil society to implement the standards of the Istanbul Protocol. This work contributed to the ongoing development of the Istanbul Protocol Action Plan and to the adoption of meaningful measures to prevent torture in the Kyrgyz Republic.

On September 21 and 22, 2016, more than 200 regional and international participants met in Bishkek (Kyrgyz Republic) to discuss experiences in the implementation of the Istanbul Protocol and formulate recommendations for the Action Plan.

Participants¹ recognize and support the development of the Istanbul Protocol Action Plan based on the following key principles:

- Ratification of the main human rights treaties, including the United Nations Convention against Torture, the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention against Torture;
- Practical implementation of the policy of zero tolerance for torture and official recognition by the states of the Istanbul Protocol with the active participation of civil society organizations and movements;
- Implementation of legal, administrative and judicial reform to effectively criminalize torture and ill-treatment; strengthening the guarantees of non-use of torture against persons deprived or restricted in freedom; establishment of effective mechanisms for complaints, prevention and preventive monitoring; effective investigation, criminal prosecution and judicial consideration of providing access to legal remedies and the right to compensation for harm and a forensic medical examination;
- Establishment and improvement of forensic medical norms and rules to ensure timely examination of persons who have been tortured and ill-treated by competent governmental and non-governmental forensic medical and psychiatric experts;

¹ Note: The representative of the International Committee of the Red Cross refrained from approving the Bishkek Conference Resolution on the basis of the organization's policy on such approvals.

- Providing training and re-training of all relevant legal and medical specialists in the application of the Istanbul Protocol; and
- Establishment of effective monitoring mechanisms for the implementation of the Istanbul Protocol.

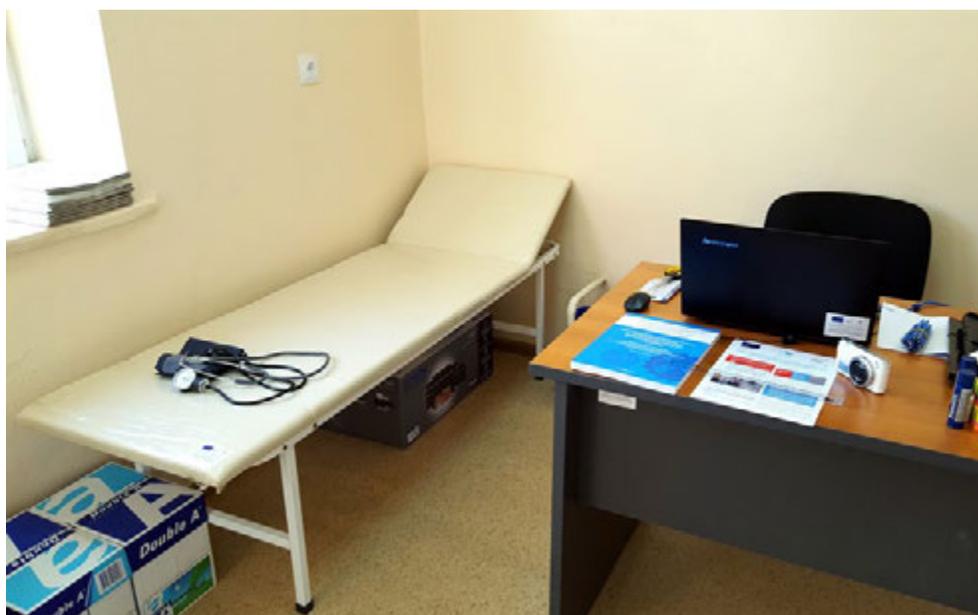
Basing on the regional and international experience of the application of the Istanbul Protocol, the participants in the Bishkek Conference recommend that the process of developing the Istanbul Protocol Action Plan be built on the evaluation of lessons learned and wide consultations and be guided by medical and legal experts, and civil society organizations. Participants recommend including and developing the following principles and issues into the Istanbul Protocol Action Plan:

- Reducing discrepancies between international standards, national law and law enforcement practices.
- Ensuring compliance with international standards by governmental and non-governmental experts to ensure uniformity of forensic assessments and reports.
- Introducing the obligation of states to finance forensic medical examinations in accordance with the Istanbul Protocol by non-governmental experts, in cases when states cannot carry out such examinations in accordance with these standards.
- Enshrining in the criminal procedure legislation of the obligation to accept examinations conducted by national and international non-governmental experts as evidence.
- Establishing truly independent mechanisms for investigating reports of torture.
- Ensuring the independence of state judicial expert services and increasing the capacity of independent, non-governmental expert services.
- Incorporating an independent review mechanism for forensic medical reports by international experts.
- Adopting an effective policy to prevent pressure on persons regardless of their status, who have been exposed to and / or reported cases of torture or ill-treatment and who participated in documenting, investigating, prosecuting and / or compensating harm in response to such forensic medical reports. Such protection should cover witnesses, alleged victims, medical and legal experts, and human rights defenders.
- Developing guidelines and strategies to combat the pressure and intimidation of persons cooperating or informing preventive monitoring mechanisms and other anti-torture authorities.
- Promoting and supporting the application of the Istanbul Protocol by various mechanisms for the prevention of torture, including training in the practical application of the Istanbul Protocol in investigations and documentation.
- Ensuring strict adherence to the rule of evidence rejection when it is claimed that such evidence was obtained with the use of torture.
- Recognizing the importance of timely decisions by international monitoring bodies regarding the international investigation of torture and the review of medical evidence.

A special room in the Forensic Psychiatry Department of the Republican Center for Mental Health will allow forensic psychologists and psychiatrists to ensure confidentiality of examinations on cases of torture and ill-treatment

On May 26, 2016, at 10.00 am, the Forensic Psychiatry Department of the Republican Center for Mental Health held an opening ceremony of a special room for forensic psychological and psychiatric examination, which will allow to ensure confidentiality of the procedure in accordance with international standards for the effective investigation and documentation of torture and ill-treatment.

On December 9, 2014, the Ministry of Health approved comprehensive Practical Guidelines for documenting all types of violence, torture, cruel and degrading treatment of children in the Kyrgyz Republic, as part of the implementation of the National Action Plan for Combating Violence, Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Practical Guidelines). These Practical Guidelines introduced three types of mandatory standardized forms for documenting traces of violence, torture and ill-treatment, including by forensic psychologists and forensic psychiatrists. One of the requirements of the new national standards is the observance of confidentiality during forensic medical and psychological and psychiatric examinations, which excludes the presence of third parties at any of these examinations.



An exception to this rule can only be the cases when, in the opinion of an examining medical officer, there is convincing evidence that the patient poses a serious threat to the safety of medical personnel. In this case, at the request of the examining medical officers, law enforcement officers may be present during the examination and should be within sight, but out of earshot. The violation of the latter two requirements is a reason for invalidating the medical report.

In order to implement the requirements of the Practical Guidelines, the Republican Center for Mental Health Center, in partnership with the project of the European Union and the Soros Foundation-Kyrgyzstan, equipped a forensic office with doors with thick transparent inserts to ensure confidentiality of the psychological and psychiatric examination, and the safety of the expert.

The room subjected to major renovations was equipped with the minimal standard package of equipment for carrying out examinations (a couch, a height meter, a scale, a screen, a tonometer), a sanitary was also renovated. The technical equipment (4 stationary computers, 3 laptops, a color printer, 3 multifunctional devices, a camera, a projector, a screen, 3 iron cabinets, and 18 pieces of office and upholstered furniture) were transferred to Forensic Psychiatric Departments of the Republican Center for Mental Health, the Osh Regional Mental Health Center and the Republican Psychiatric Hospitals in the villages of Chym-Korgon and Kyzyl-Jar.



Objective No.3

Results achieved by the Coalition against Torture in the Kyrgyz Republic

- Assistance was provided to build the institutional capacity of the Coalition against Torture in Kyrgyzstan;
- Assistance was provided in the development of Guidelines on the Provision of Legal Assistance to Victims of Torture. The Guidelines imply minimum requirements for member organizations of the Coalition on the practice of providing legal aid developed under the Coalition capacity building Project component. It is expected that the application and implementation of common standards in the work of Coalition member organizations will help to unify approaches, methods and mechanisms for assessing effectiveness of providing legal assistance to members of the Coalition in torture cases, to improve the quality of legal assistance to citizens, and to introducing systemic approaches to addressing the problem of torture and ill-treatment in Kyrgyzstan;
- Together with the Coalition, the Project has provided legal assistance to victims of torture and ill-treatment. One hundred eighty-seven (187) people (torture victims and their family members) approached seven Coalition member organizations to request legal aid. Of them, 127 reports are at the various stages of review and assistance (verification, investigation and implementation).
- Assistance was provided in the development of the methodology for the Rehabilitation Center of the Coalition Against Torture;
- Assistance was provided in organizing 5 coordination meetings of the Coalition members and 4 meetings of Coalition lawyers and attorneys-at-law;
- Support was provided for the participation of 4 members of the Coalition in international events to exchange experience and learn positive practices;
- Information support was provided for Coalition's case studies to create positive precedents in the eradication of torture;
- Information booklets and video materials were developed to raise public awareness to prevent torture and protect from the same.
- The Coalition against Torture launched its website - www.notorture.kg. The website provides the information about the mission and goals of the Coalition, the result, activities, legal advice and information on the cases assigned to members of the Coalition;
- The Coalition against Torture developed a logo and a brand book.



About Coalition against Torture

The Coalition against Torture in Kyrgyzstan is an informal network of human rights organizations, civic activists and journalists who have come together to combat torture and other cruel, inhuman or degrading treatment or punishment. The Coalition currently consists of 16 organizations from 5 regions of the country, including independent experts:

- **“Advocacy Center for Human Rights” Association of NGOs, Osh**
<http://www.advocacy.kg/>
<https://www.facebook.com/angoashr/>
- **“Accent” Public Foundation, Tyup**
- **“Voice of Freedom” Public Foundation, Bishkek**
<http://golos.kg/https://www.facebook.com/vofkg/>
- **“Golos Svobody” Public Foundation, Bishkek**
<https://www.facebook.com/golossvobody/>
- **“Kylm Shamy” Human Rights Protection Center, Bishkek**
<https://www.facebook.com/KylmShamy/>
- **“Child’s Rights Defenders League” Public Association, Bishkek**
<http://crdl.kg/>
<https://www.facebook.com/ObsestvennyjFondLigaZasitnikovPravRebenka/>
- **“Legal Prosperity” Public Foundation, Bishkek**
<http://lpf.kg/>
<https://www.facebook.com/legalprosperityfund/>
- **“Luch Solomona” Public Foundation, Osh**
- **“Defender of Human Rights and Freedoms” Public Foundation, Tokmok**
<https://www.facebook.com/pravachelpoveka.tokmok/>
- **“Positive Dialogue” Public Foundation, Osh**
<https://www.facebook.com/Pozitive.Dialogue/>
- **“Union of Accord” Public Association**
<https://www.facebook.com/SouzEdinenya>
- **“Spektrum” Social and Legal Center, Karakol**
- **“Spravedlivost” Oblast Human Rights Organization, Jalal-Abad**
<https://www.facebook.com/spravedlivost.hro.kg/>
- **“Central Asian Alliance against Addiction” Public Association, Bishkek**
<https://www.facebook.com/torturekg/>
- **“Center for Protection of Public Interests” Public Foundation, Bishkek**
- **“Center for Assistance to International Protection” Public Foundation, Osh**
- **Arsen Ambaryan, Attorney-at-Law**



Real cases led by the Coalition against Torture

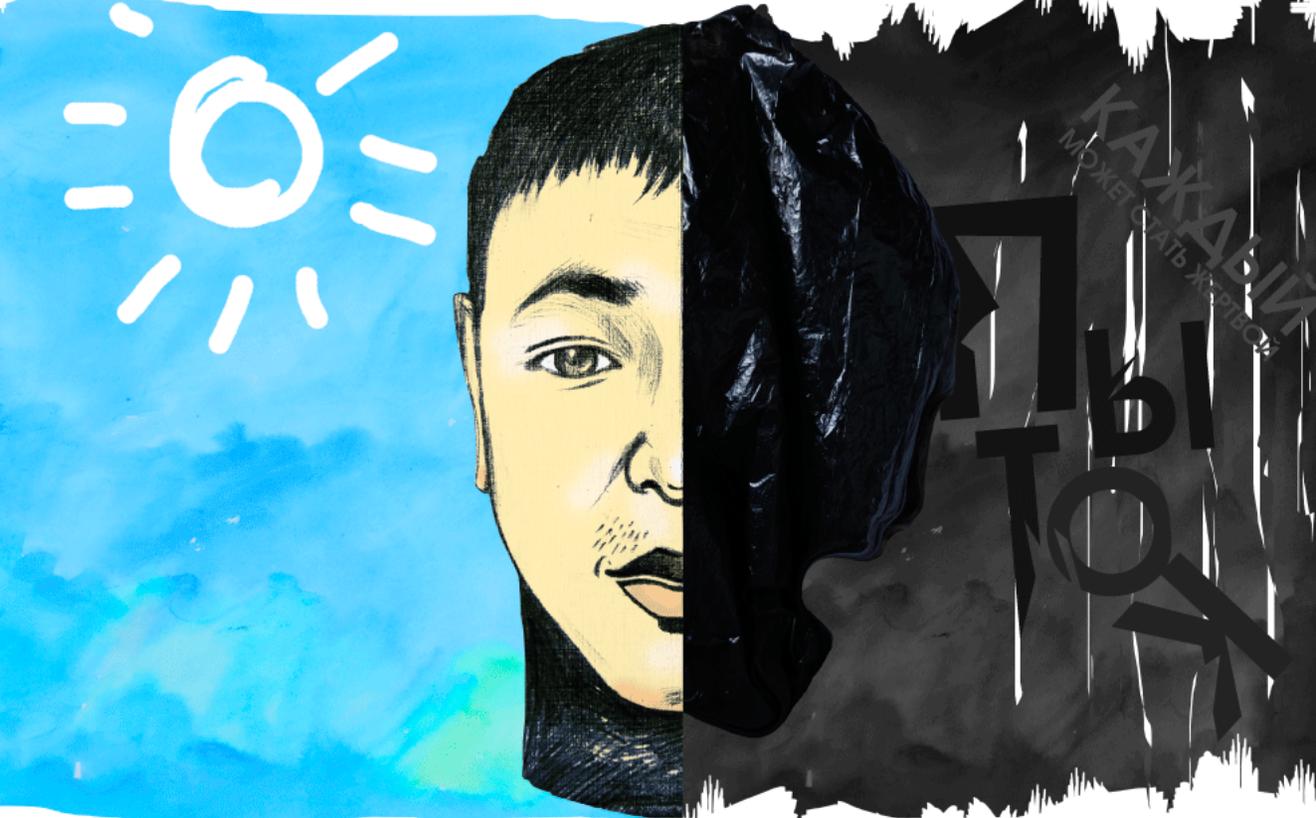


Yusuf

Yusuf had a life of an ordinary man: he had family, children and was engaged in individual entrepreneurship. One day, armed people in masks and camouflage uniforms broke into his home. They broke the gates and handcuffed Yusuf and his son. After they searched Yusuf's home, they took him to Chui Oblast Office of Internal Affairs, where he was subjected to torture in order to obtain confessions as if he stored and sold narcotic drugs. They put a cellophane bag on his head and beat him to the point that they broke his two ribs.

Yusuf filed a torture report with the Chui Oblast Prosecutor's Office. However, after a while, he was refused criminal proceedings. The reason voiced was the absence of elements of a crime in the actions of police officers. Later, however, a criminal case was instituted, but under Article 305 Part 1 of the Criminal Code "Power Abuse".

Today Yusuf is held in a correctional colony of strict regime. He was found guilty of illegal possession of narcotic drugs and imprisoned for 14 years. Yusuf completely denies he has committed this crime...

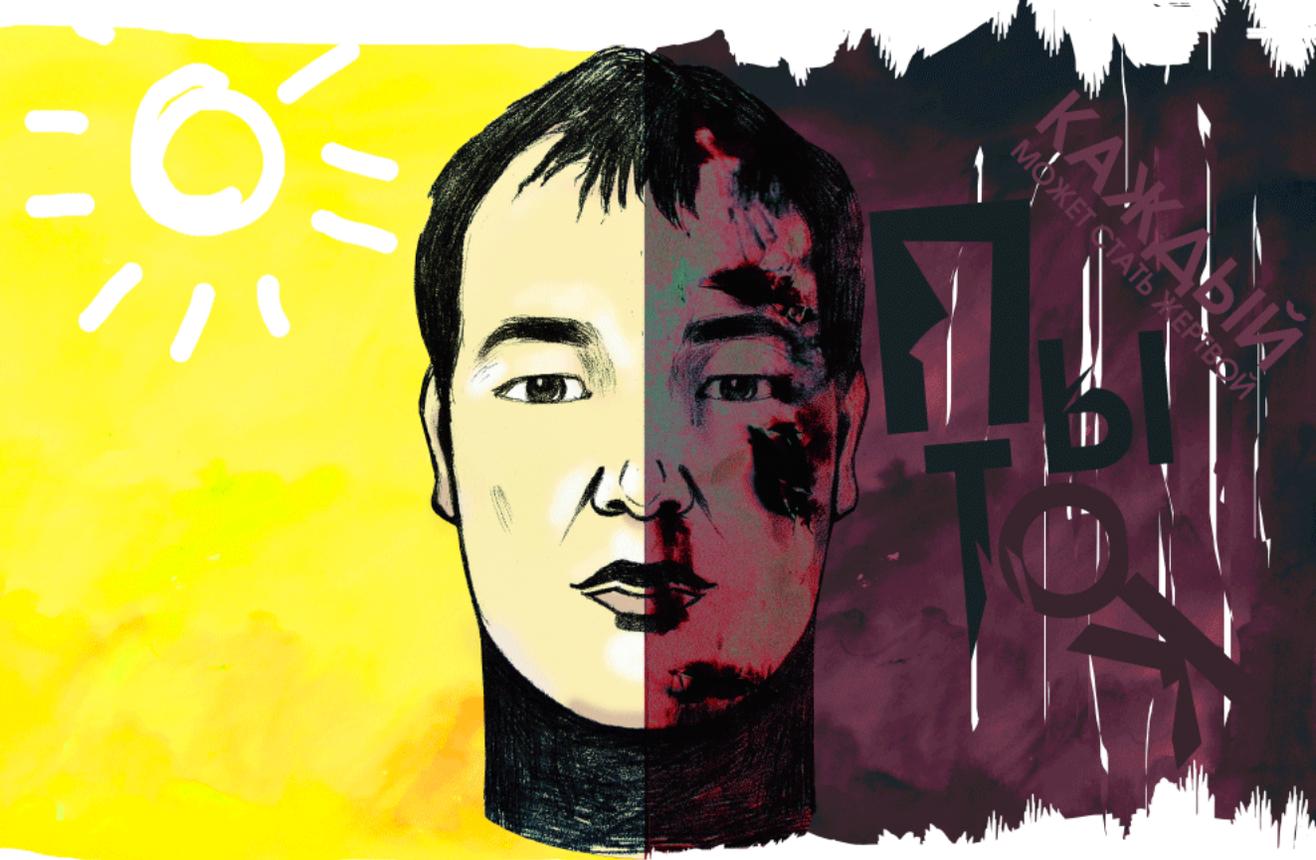


Janashbek

Janashbek is married. He provides for his family by working as a taxi driver.

On May 12, 2017, he, as usually, was on his assigned route. He received a call from a district policeman whom he knew. The latter asked for an urgent meeting in the city. When Janashbek arrived at the meeting place, two unknown men came into his minivan and began to strike him in the face. The strangers did not explain anything, nor they introduced themselves; they handcuffed him and took him to the police station in the village of Besh-Kungei, Alamudun district, Chui oblast. In the investigator's office they began to question him about the theft of car batteries. Two operatives handcuffed and began to beat him. Next, one of them took out a plastic bag and ordered Janashbek to sit on the floor, but the latter refused, for which he again received several blows. He was forced down onto the floor and put a bag on his head. At this time, he fainted from lack of air and urinated. When he regained consciousness, he could tear the bag with his teeth. The operatives got angry and hit him on the head a couple of times. One of them came out and brought stronger plastic bags. They put him on the floor, tied his feet with his belt, again put a bag over his head and began to strangle.

Unable to withstand it, he shouted that he had stolen the battery. The operatives told him to confess to stealing 11 batteries and selling them in the car market. Janashbek agreed. He was put in a car and taken to the car market, where they showed him a container, ordering: "You should say you sold all the batteries here". He was brought back to the office where they forced him to sign papers. When operatives went out to smoke, Janashbek managed to escape. The next day, he filed a complaint with the State Administration of Internal Security of the Ministry of Internal Affairs. Today, criminal proceedings against the employees of the Besh-Kungei Village Police Station, Alamudun District OIA still continue.



Esenbek

Esenbek was receiving inpatient treatment at the Republican Psychiatric Hospital in the village of Kyzyl-Jar, Jalal-Abad Oblast, from where he was taken to the police station by four police officers of the Tash-Kumyr City OIA on December 11, 2015. Police officers did not explain Esenbek any reasons for his detention and started to strike his head and face in the car.

Having delivered him to the police station, they charged him with attacking a young man with a knife, robbing someone's house and selling all the stolen goods. When Esenbek began to deny his involvement, he was beaten with a police baton on the soles of his feet, put a plastic bag over his head, a gas mask, taken out into the street and showered with cold water at a freezing temperature. From this, he lost consciousness several times. Closer to the morning, a police officer drove Esenbek's hand over the paper to write confessions. Esenbek himself cannot write.

After receiving confessions, due to the deterioration of Esenbek's health, police officers took him to the hospital where a doctor prescribed to undergo ultrasound, but the police officers placed him in the temporary detention facility of the Tash-Kumyr police department instead, where they treated Esenbek with various ointments for quick healing of wounds and concealment of traces of bodily injuries. Soon, a court session was held, where Esenbek was assigned a preventive measure in the form of house arrest. After his release, Esenbek filed a torture report with Jalal-Abad Oblast Prosecutor's Office. The Prosecutor's Office opened a criminal case, and the trial court found the police officers guilty sentencing them to a 6-year imprisonment in a strict regime colony.



Ulan

Prior to the arrest, the 24-year-old resident of a rural area Ulan was engaged in gardening, helped his parents in the household and studied to become a driver. Ulan was characterized as a calm and balanced young man.

Ulan was detained when he, along with his older brother, was sorting fruit tree seedlings for sale. A policeman approached them and said that he wanted to talk with him about seedlings, since there were theft cases. With no suspicions, Ulan got into the car to the district police station. After two days of searching, Ulan's relatives found him in the Kadamjai district, Batken oblast. He was accused of killing a woman. Police officers tortured Ulan for one and a half days: they put a plastic bag on his head for about 40 times, beat him with a baton on the heels and neck, threatened that if he does not confess to the crime, they would kill him and throw his body into the canal. In the end, when he could no longer stand it, Ulan wrote a confession to the murder.

Shortly after his arrest, Ulan's father filed a torture report with the Kadamjai District Prosecutor's Office. After numerous rejections, the Prosecutor's Office opened a criminal case against eight policemen as abusing the office. Now the case is being considered by the Kyrgyz Republic Supreme Court. Accused police officers are temporarily suspended from their posts.

Today, Ulan is serving his sentence in the pretrial detention facility No. 5 in the city of Osh. Following an investigation and trial, which lasted for a year and a half, the court sentenced him to 20 years in prison...



Ermat

Ermat worked at a car wash to feed his parents, wife and two sons. He dreamed of building a house for them.

On March 22, 2013, unknown people came to Ermat's home and forcibly took him to the city police station No. 9 of the Sverdlovskiy District OIA, Bishkek. There, he was beaten and tortured to obtain confessions to stealing 3,200 som (about 45 US dollars) from a car wash where he worked. After questioning, he was hospitalized with a closed craniocerebral trauma, brain and right kidney injuries. A criminal case was opened following a report of torture. Later, in September of the same year, three people beat Ermat when he was leaving the house. The identity of the attackers was not established, yet Ermat's relatives suspect that this was related to the judicial process.

In 2015, the Sverdlovskiy District Court issued a guilty verdict against four policemen under the article "Abuse of Office". They were fined 2 million soms and fired. Ermat and his relatives appealed to the Bishkek City Court to tighten the sentence. However, the court acquitted the police officers.

By today, the Supreme Court found the four officers guilty of torture and ordered each to pay 2 million soms to the state for torturing Ermat.



Erkinbek

On July 21, 2016, Erkinbek was at his workplace when several employees of the Osh City OIA came up to him and, without providing any explanations took them to the Osh City OIA. Six other police officers, who were waiting for them in the office, beat him, kicked him, put plastic bags over his head, strangled him; all this time he was handcuffed. The policemen wanted to obtain confessions to a crime which he never committed. Erkinbek's relatives filed a torture report with the Osh City Prosecutor's Office. The case against police officers was sent for an additional investigation to the State Committee of National Security for the city of Osh and Osh oblast.

Five months later, Erkinbek was again detained by officers of the Criminal Investigation Department of the Osh City OIA under the suspicion of hijacking a Honda Fit vehicle. Erkinbek was brought to the OIA building, where seven people were waiting for him. An unknown woman came in and pointed to him saying "It is him", after which Erkinbek was beaten up in a sophisticated way: they several times put a plastic bag over his head and used an electric shocker. Then he was taken to the Jalal-Abad City OIA. There, Erkinbek was taken to the street and forced to undress. Completely undressed, he was put on his stomach in the snow and buried. After he ceased to feel his limbs, he got frightened and had to confess to hijacking a motor vehicle. Later, the ruling of the Jalal-Abad Court dismissed the case due to the fact that true persons who committed the crime were found. Erkinbek's relatives once again filed a complaint about the police officers with the Prosecutor General. As a result, a criminal case has been filed against police officers of the Osh and Jalal-Abad City OIAs.

5 Thoughts about Torture...



**MARINA MIROSHNIK,
JOURNALIST**

- It is foolish to think that torture and beatings on the part of representatives of the authorities are somewhere in the other reality and will never happen to you.
- It is disgusting to justify torture by saying things like: "This is a drug user, that's what he needs" or "She is a prostitute".
- "Pain is given to cancer patients from above for the purification of their soul"- this is the worst thing I've heard in my life.
- Woe is the state, whose citizens must be protected from it.
- Punishing with the opportunity to repent, rather than breaking person's fate.



**TAKHMINA ASHURALIEVA,
COORDINATOR, LAW
PROGRAM OF SOROS
FOUNDATION-KYRGYZSTAN**

- The number of torture will be reduced if the evidence-based jurisprudence develops in our country.
- The effectiveness of mechanisms for international control over the prohibition and prevention of torture must be, firstly, determined by the legal nature of decisions and, secondly, by the binding nature of decisions.
- The full restoration of rights violated by torture implies measures of legal responsibility providing for compensation of damage and neutralization of its consequences.
- Impunity for the use of torture and ill-treatment in our country remains a concern as before, and this problem must be addressed through an integrated approach with the involvement of all key stakeholders in the criminal justice system.
- Personal security is a social value, and it is freedom from torture that creates prohibitions against illegal attacks on a person's personal security.



**NURIANA KARTANBAEVA,
DIRECTOR, LAW PROGRAM,
SOROS FOUNDATION-
KYRGYZSTAN**

- The fact that torture is common here speaks of our indifference as a society.
- The worst thing is that a torture victim will never recover completely.
- A person with dignity will not use torture. A torturer is itself a victim of humiliation in the past. The state and society should work on this!
- Nothing will change unless we have active political leadership in the issue of eradicating torture at the highest state level.
- I believe in Kyrgyzstan without torture.



**RYSBEK ADAMALIEV,
LAWYER, "KYLIM SHAMY"**

- Torture is absolutely prohibited, there is no excuse for it.
- The use of torture leads to tragic and shameful consequences, such as bringing an innocent person to justice, while a real criminal continues committing crimes.
- Justification of torture by torturing criminals only and by saying that it will never become your problem is an absurd logic.
- Lack of intelligence and torture as a tool of pressure make up a great symbiosis.
- Freedom from torture is a negative right; its implementation does not require financial costs, human resources or other efforts. One thing is enough – not to use torture. One is enough, just do not torture



**TYNCHTYKBEK ASANOV,
PSYCHIATRIST, "CENTRAL
ASIAN ALLIANCE AGAINST
ADDICTION" PUBLIC
ASSOCIATION**

- Torture is an archaic form of seeking and proving the truth (guilt)
- The more civilized a person is, the deeper his/her psychological suffering is.
- The suffering of the "savages" could be limited to physical sensations
- A society ignoring (not realizing) the social danger of torture demonstrates readiness for tyranny.
- The essence of power is the introduction of prohibitions, yet they do not hurry to prohibit torture...

Contests and Quizzes

Contest among Journalists

In 2016, SFK held a contest among journalists for the best coverage of the problems of combating and preventing torture and other cruel, inhuman or degrading treatment or punishment in Kyrgyzstan.

Objectives:

- To promote and support the activation of creative and professional work of journalists in covering the problem of combating torture and ill-treatment and impunity in Kyrgyzstan;
- To strengthen trust between journalists and human rights defenders in the protection of human rights and freedoms, including in the prevention of torture and ill-treatment.

Contest participants were editorial teams and individual applicants: journalists (regular and freelance), other authors whose materials were published or used in the media.

The following materials were presented for the contest:

- text materials published in print or online publications;
- audio materials broadcasted on the radio;
- video materials broadcasted on TV.

Contest winners:

- Best print material - Nina Nichiporova, "Vecherniy Bishkek"
- Best TV material - Duishok Mambetomurov, "Sanat TV"
- Best radio material - Aida Moldaliev, "Radio Manas"
- Best Internet material - Marina Miroshnik, "Zanoza"

Recipients of incentive prizes:

- TV material – Rodion Reshetov, "NBT"
- Internet material – Jyldyz Orospakova, "Azattyk"
- Internet material – Anarkhan Janybaeva, "Kok-Art Info"

The winners received cash prizes of 20,000 soms, and all other participants received incentive gifts. The contest was technically and financially supported by the European Union and the Soros Foundation-Kyrgyzstan.



Quiz Night for Journalists

On May 3, 2017, at 6 pm, an intellectual game Quiz Night dedicated to the World Press Freedom Day was held in Hayatt Hotel.

The subject of the quiz was “How the World Fights Torture and Human Trafficking”. The intellectual battle for the title of the most erudite mass media teams engaged 15 teams; **1st place** was given to “Angry Pandas”.

2nd place – “Promotank” and “Golos Svobody”.

3rd place – “Center”, “Azamat’s Angels”, “Press House”, “IBF”.

The purpose of the game was to promote the free and independent generation of independent journalists and civic activists in Kyrgyzstan, and to raise their awareness about the problems of torture and human trafficking.

Partners: The project of the Soros Foundation-Kyrgyzstan and the European Union “Support to the consolidation of national efforts for the prevention of torture and other cruel, inhuman or degrading treatment or punishment and in the fight against impunity in the Kyrgyz Republic”, “Institute for Media Policies” Public Foundation and United Nations Office on Drugs and Crime Program for Central Asian Countries for 2015-2019.



Quiz Night for Students

On November 1, an intellectual game 'Quiz Night' was held for students of law, medicine and journalism departments in Jannat Regency Hotel, Bishkek. A total of 21 teams, or 105 people participated in the intellectual battle. Following a week of training on HUMAN RIGHTS AS A TOOL OF JUSTICE: REALITY VS. CINEMATOGRAPHY, participants came together to compete for the title of the wittiest team.

Participants were given a list of films on the topic and the list of international and national legal documents prohibiting torture such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Kyrgyz Republic Constitution, Criminal Code, Criminal Procedure Code and the Istanbul Protocol.

The purpose of the game was to encourage future lawyers, judges, prosecutors, doctors, forensic experts and journalists to commit themselves to the ideas of human rights, the rule of law, and zero tolerance for torture. Worth noting that according to the statistics of correct answers, and there were a lot of them, more than half of the participants improved their understanding of the legal and medical terminology, the essence of human rights, torture, and documenting the signs thereof.

Quiz Night winners:

1st place – Asclepius, AUCA

2nd place – Veni, Vidi, Vici, Ala-Too International University

3rd place – It Depends, AUCA



"Honestly, we did not expect such a boom. Once we learned that there will be 21 teams playing, we took a very serious approach to the preparation for the Quiz Night. We learned a lot of new things during the course of preparation, and we are excited about it. The subject was very serious and at the same time interesting and insightful. As for the quiz organization, it was to the highest level. We are grateful to the Soros-Foundation-Kyrgyzstan for having expanded our knowledge. Thank you!"

Argen Berdiev, a student of Ala-Too International University, Veni, Vidi, Vici team



"First of all, I am grateful for an interesting evening. Everything was perfect. Thank you so much for organizing such a large-scale and fascinating game. I BELIEVE THAT TOGETHER WE CAN CHANGE OUR COUNTRY AND ORIENT IT TOWARDS THE RIGHT PATH".

Burul Ilyasova, a student of the Arabaev Kyrgyz State University, Human Lefts team

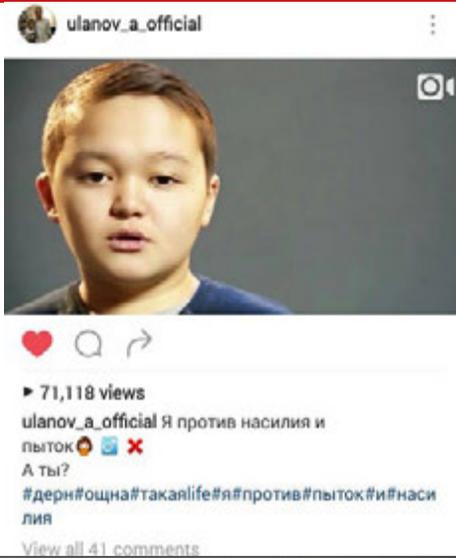


"We liked the game a lot! I would like to thank the organizers. The event was conducted to the highest level. The game itself was a pleasure, it was fun and interesting. Some questions were challenging and made us think hard. It is during the course of preparation that we learned many things about torture. Also, the game was useful in the sense that it brought together an elite cohort of capital's universities".

Zamir Mamytov, a student of AUCA, a student of the Asclepius team



Video Clips about Torture



We are happy to announce that our video "Uniting Efforts Against Torture" within the framework of the European Union and "Soros- Kyrgyzstan" foundation project has gained

more than 70,000 views and likes in the Instagram

and the figure is still growing...



Kairat Primberdiev, a singer:

...The reality is extremely complicated... And someone can feel very depressed and vulnerable right now...

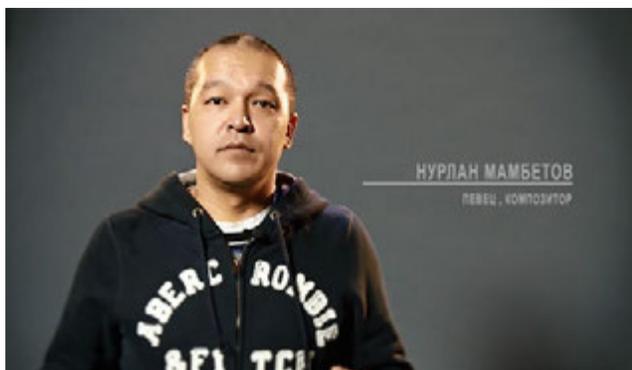


Azamat Ulanov, an actor:

We should understand that torture and cruel treatment can be used in boarding schools, nursing homes, prisons, places of deprivation and restriction of liberty...

Nurlan Mambetov, a singer and a composer:

Threats, humiliation, physical violence – these are the things we do not see or do not want to see.



НУРЛАН МАМБЕТОВ
ПЕВЕЦ, КОМПОЗИТОР

Leila Sydykova, Professor, Doctor of Legal Sciences:

Torture must not be used to combat crimes as torture itself is a crime.

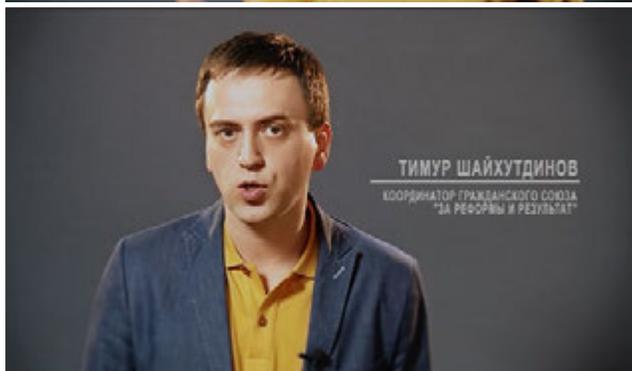


ЛЕЙЛА СЫДЫКОВА
ПРОФЕССОР, ДОКТОР ЮРИДИЧЕСКИХ НАУК

Timur Shaikhutdinov, Coordinator, "For Reforms and Result" Civil Union:

Last year, the National Center for the Prevention of Torture received 209 reports of torture and ill-treatment.

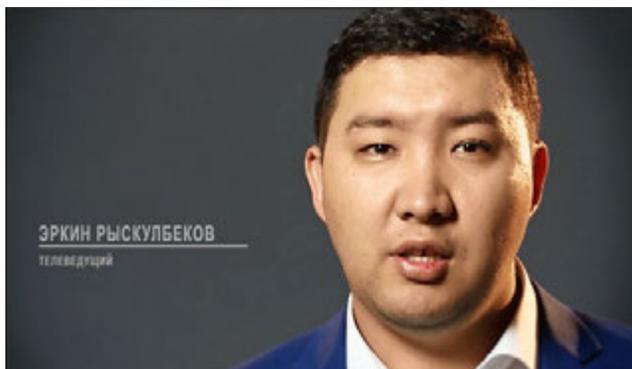
Torture has impact not only on a victim and his/her relatives. It turns into a system and has a negative effect on the society.



ТИМУР ШАЙХУТДИНОВ
КООРДИНАТОР ГРАЖДАНСКОГО СОЮЗА
"ЗА РЕФОРМЫ И РЕЗУЛЬТАТ"

Erkin Ryskulbekov, a TV host:

Help us to eradicate violence and torture! Let us unite our efforts against torture!



ЭРКИН РЫСКУЛБЕКОВ
ТЕЛЕВЕДУЩИЙ



Report on the International Conference "Istanbul Protocol Implementation: Transforming Regional Experiences into International Norms for Effective Torture Investigation and Documentation", 21-22 September 2016, Bishkek

<https://www.youtube.com/watch?v=pas86CvlzZw>



Information TV clip about torture

<https://www.youtube.com/watch?v=bVeXsoYVpww>



"All chain links"

https://www.youtube.com/watch?v=00drKrB_UkQ&t=1s



"A health worker"

https://www.youtube.com/watch?v=0EsDN2_V9_4



"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

Article 22, KR Constitution

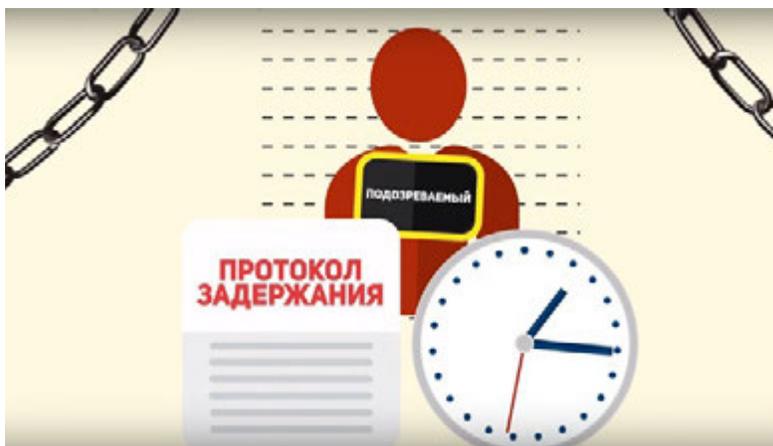


The stage of instituting criminal proceedings was excluded from the new Criminal Procedure Code. This means that each report of torture must be accepted and considered from the moment of entering information into the Single Register of Crimes and Offences.



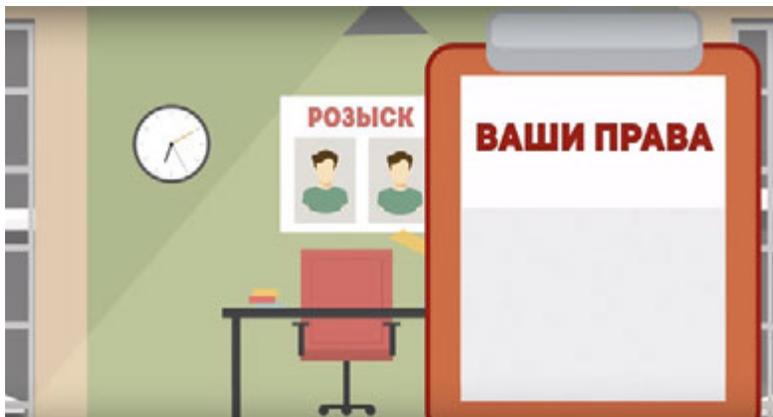
The new Criminal Code has provisions strengthening the punishment for the use of torture: this is deprivation of liberty, and the deprivation of a position with a mandatory large fine.

Torture often occurs after detention before a detention report is drawn up. The new Criminal Procedure Code has a new concept of "actual detention". Once you are detained, you must be informed of and explained your rights, which should be reflected in the detention order.

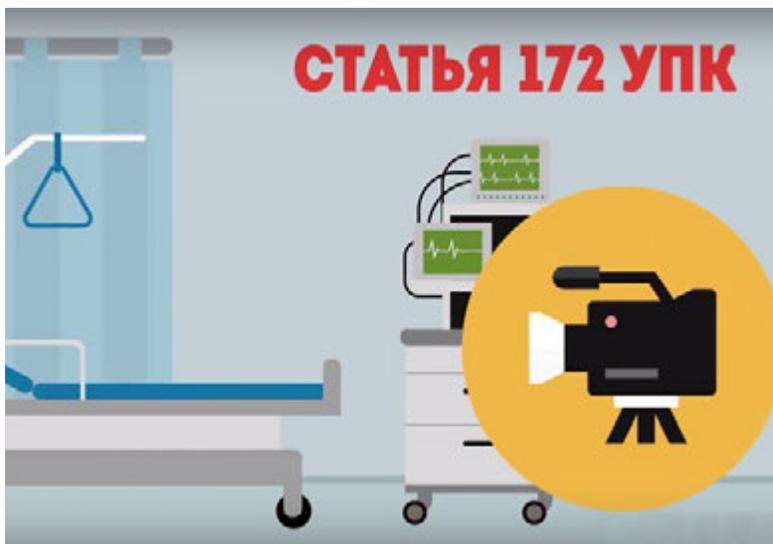


Your rights:

- When being detained, you have the right to one effective, free and controlled telephone call.
- You have the right to have a defender from the moment of actual detention; and in the absence of a chosen defender, you have the right to legal assistance guaranteed by the state.



- You have the right to a medical examination and medical assistance after actual detention. If you claim that you have been tortured, a forensic examination should be scheduled within 12 hours. An examining expert should use photography or video recording.
- Any evidence obtained through the use of torture or ill-treatment should not be accepted by court.



Special Reports and TV Shows



TV show **"Actual conversation"** on the PTRC channel devoted to the topic "Freedom from torture is an absolute right of every person"

<http://www.ktrk.kg/media/video/5231>

December 14, 2016



TV show **"Actual conversation"** on the PTRC channel timed to the International Day of Support to Victims of Torture - June 26

<http://www.ktrk.kg/media/video/7459>

June 23, 2017



On December 19, the **“Comments”** TV show with Jamby Djusubaliev was broadcasted on the PTRC channel.

The TV show informed about human rights, torture and the Istanbul Protocol implementation.

Jens Modwig, Chairman of the UN Committee Against Torture, noted that Kyrgyzstan has a legal future, since the guidelines developed contribute to the effective investigation of torture.

The fight against torture takes place in close cooperation between civil society and the Kyrgyz Republic Government. Guidelines for the effective documentation of torture developed in our country demonstrate that the state has shown political will and made considerable efforts against torture and all kinds of violence.



The **“Crossroads”** TV show devoted to the topic “Torture has not yet been eradicated”.

<https://rus.azattyk.org/a/28574440.html>

June 26, 2017

The Role of a Health Worker in Investigating Torture and Cruel Treatment – Kyrgyz Republic Minister of Health



Talantbek Batyraliev, Kyrgyz Republic Minister of Health

The health care system represented by health workers plays a decisive role both in preventing violence, torture and ill-treatment, and in effectively investigating such cases.

A health worker often becomes the witness and the first person of the state, whom the victim approaches. A health worker is obliged not only to do his job - to reduce the pain and suffering of a patient by providing assistance in his workplace, but also to help the state in every way to solve crimes and achieve justice. Whenever a victim turns to the health care system for medical assistance, there arises a possibility to document violence / torture and hand the case over to other agencies for further effective investigation. If, however, the health worker fails to do so, many torture cases will remain unrevealed. In each case, we talk about the fate of a person.

We have developed guidelines and forms to be filled out every time when someone seeks medical assistance because of violence or torture. The Practical Guidelines contains minimum standards of documentation, reflecting the principles of the Istanbul Protocol. We believe that by this the Ministry of Health has taken the first important and decisive step in the fight against torture.

Practical guidance regulated systemic measures to improve medical documentation and provide medical assistance to victims of violence and torture, first of all, by establishing a system for alerting the bodies of the Ministry of Internal Affairs and prosecutors, and a respective information path, and, secondly, by notifying patients about their rights. Thus, a medical worker not only provides first or emergency care, but also refers to further treatment by examining and, if needed, rehabilitating the victim; and most importantly, he/she acts as a bridge, a link between the victim and the state.

We have already done a lot to adapt international standards for proper documentation and investigation to the Kyrgyz context. And this is only part of the great work that the Ministry of Health intends to continue as part of the Comprehensive Plan of the Kyrgyz Republic Ministry of Health to implement Practical Guidelines and actions to reduce violence and torture in the healthcare system.

The most important message that I would like to convey today is that the real and effective implementation of these Practical Guidelines cannot be implemented by selected bodies as the Ministry of Health, but requires extensive inter-sectoral and international cooperation of all governmental and non-governmental structures.

Guarantees for the Prevention of Torture: Criminal Legal and Procedural Aspects of Legislative Reform in the Kyrgyz Republic



Leila Sydykova, Doctor of Legal Sciences, Professor

A major achievement was the recognition of the problem of torture by the state. The constitutional consolidation of the provision on rejection by the state of such a phenomenon as torture can only raise the status of the state itself and the level of public confidence in the authorities. What is the current legal policy for the prevention of torture? Basically, we are talking about the true attitude of the state represented by its bodies to people. What is the value of an individual in this state, is he/she respected?

According to one of the researchers of this phenomenon, no, even the noblest motives, can justify torture. Per the official data of the Kyrgyz Republic Prosecutor General's Office, 199 complaints about torture were registered in 2015. In 84.8% of cases, torture is used by operative officers to force confessions; together with this, they violate the detention conditions, do not inform victims' relatives, deny access to an attorney-at-law of victims' choice and an independent medical assistance.

One of the important aspects is the criminalization of torture. They often think that torture is used only by law enforcement agencies and committed only by officials. Basing on this vision, the legislator of the Kyrgyz Republic placed an article on responsibility for torture in the section devoted to official crimes. That is, torture has become a crime committed by officials. At the same time, there was to some extent a substitution of the object of criminal assault. This reduced the danger of this deed to the public. It is quite obvious that the object of torture is completely different and the placement of this provision in the section on official crimes diminishes our attitude to this phenomenon. We are talking about the constitutional right of a person to be free from torture. Therefore, we must proceed from the answer to the question "Whose interests are damaged – those of state authorities or individuals? Which is more important in this case? I think everyone understands that it is primarily about the interests of an individual, and, of course, his/her security, that is why individuals should be subject to greater protection than some other interests or state authorities. From the socio-humanitarian standpoint, the mere fact of the existence of torture testifies to the weakness of state power and of the management system. To summarize, I would like to say that the article of torture is placed in the section on crimes against the person in the new draft Criminal Code.

Chapter 29 of the Kyrgyz Republic Criminal Code "Crimes Against Civil and Other Human Rights" now contains a provision introducing liability for obstructing a medical worker from carrying examinations and other actions to prevent torture (Article 188). This provision has become one of the guarantees for the human right to be free from torture.

As for the reform of the criminal justice system, I will only cover some of the provisions that have been introduced to the new draft Criminal Procedure Code and which should also reduce the risks of torture. These are procedural safeguards against torture. At the same time, the draft CPC made an attempt to correlate the rights of persons (suspected

and accused) and the powers of state bodies to actually ensure these guarantees. Basing on the principle of respect for the honor and dignity of the person, Article 11 of the draft CPC has encompassed the following provision: "None of the persons involved in proceedings may be subjected to violence, torture and other cruel or degrading treatment or punishment". This is a very important postulate, the mechanisms of which must work at all stages of pre-trial and judicial proceedings.

Where do we most often encounter torture and violence? At the time of being detained. Therefore, the provision has been incorporated, according to which both a suspect and an accused are subject to compulsory medical examination following their delivery to a temporary detention facility or places of detention in custody, which must be documented in a relevant report. The duty to conduct a medical examination is vested in the administration of places of detention. (Articles 51, 47 of the Draft CPC). At the same time, an examination can be done both at the request of the detainee himself or of his/her attorney-at-law, close relatives or spouse.

For a more complete and detailed implementation of this provision, the article on the principle of inviolability of the person establishes the provision that prior to a judicial decision a person may be detained for a period not exceeding 48 hours, and not more than 24 hours for minors (Article 12 of the draft CPC). In this case, the concept of "actual detention" has been introduced. This is not about the time taken to deliver a person to an investigator, which may be long enough, but about the time when the person was detained, which should be reflected in a report. From this moment the time in detention begins. As practice shows, the person is subjected to some "processing" in between the arrest and delivery to an investigator, which may include torture and other unlawful actions. Thus, the establishment of the time of actual detention, and clearly defined periods (hours) spent in custody become real guarantees for the suppression of torture.

A rule has been introduced, according to which, a suspect upon his/her actual detention should be informed of what he is suspected of, and explained the right to not testify against himself/herself, the right to have an attorney-at-law, and the right to use state-guaranteed legal assistance (Article 99 of CPC). The so-called Miranda rule should begin to work. Very often, a suspect is not explained the right not to testify against himself/herself, although this is a constitutional provision. Clarification of the right to an attorney-at-law is also one of the mechanisms to prevent possible torture. This is the right to protection from the moment of detention. It is very important to immediately notify close relatives, spouse and the attorney-at-law of the suspect on the suspect's detention and provide the suspect himself/herself to inform the said persons of his/her detention at no charge. The notification should be documented in the detention report. This is the responsibility of an investigator. (Article 104 of CPC).

This is a real guarantee of the detainee's right to inform relatives of his/her whereabouts.

Another provision of CPC of interest is the one on interrogating a suspect or a defendant using sound and video recording (Article 139 of CPC). To do this, special interrogation premises should be equipped in each department of the internal affairs bodies and pre-trial detention facilities.

Any evidence obtained through the use of torture or ill-treatment should not be accepted by court (Article 12 of CPC). This principle was enshrined in Article 82 of the

draft CPC as inadmissibility of evidence, which includes the testimony of a witness, suspect, or accused, obtained during pre-trial proceedings with the use of torture, violence, threats, deception, other illegal actions and ill-treatment, and testimony obtained by using torture.

According to the Center for the Prevention of Torture, the largest number of so-called torture acts are committed by operative officers of internal affairs bodies (85.7% of cases in 2015, which is 1.1% more than in 2014). The most widespread torture methods include striking with hands and feet, humiliation with words and use of plastic bags for strangulation. In such a way, a person is prepared for a future interrogation by an investigator. Preventing such phenomena requires creating special premises for interrogation of detainees. Interrogation is carried out at the place where the dossiers are held. An investigator and an authorized official of the body of inquiry have the right, if they think it is necessary, to hold the interrogation at the location of a suspect or a defender (Article 190 Part 1 of CPC).

Another important aspect of preventing torture by operative officers concerns the latter's access to the suspect. For this purpose, a rule is established when any communication between a detained suspect and operative officers should be approved by a written permission of the investigator, the authorized official of the body of inquiry, who is in charge of proceedings, and only in the presence of an attorney-at-law (Article 103 of CPC).

The issue of guaranteeing acceptable rules for interrogation was also considered. I must admit that there were complaints about long interrogations with no breaks for food or for visiting a toilet. It is very difficult to determine the limits of a reasonable time of interrogation. Interrogators change, while an interrogated person is subjected to strong psychological pressure. I leave alone the interrogation methods used here. Nevertheless, the time limits for interrogation have been established – an interrogation cannot last more than four hours and may continue after a break of at least one hour for rest and eating; the total length of interrogation per day should not exceed 8 hours (Article 190 of CPC). In this case, one hour must be provided for rest. In the presence of medical indications, the length of interrogation is established on the basis of the medical worker's conclusion. (Article 190 Part 3 of CPC).

An attempt has been made to regulate the procedure for providing a suspect with quick access to a medical examination or medical assistance if there is a request from the defense party (Article 99 Part 6 of CPC). Not later than within 12 hours, an investigator must, if necessary, appoint a commission-based forensic medical examination. (Article 116 Part 6 of CPC).

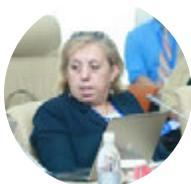
It is very important to regulate the timing of a forensic medical examination. It is clear that an examiner must document bodily injuries and other conditions to avoid losing evidence of torture. In this regard, a provision is introduced, according to which, a forensic medical examination must be scheduled within 12 hours from the submission of a report of torture or ill-treatment. (Article 172 Part 11 of CPC).

The introduction of the new institute of an investigating judge will also provide an opportunity to exercise operative judicial control over the legality and validity of coercive procedural measures, and the main restrictive acts of pre-trial proceedings. In particular, the defender is entitled to turn to an investigating judge with a request

for an examination which is to be done by an independent expert (Article 54 Part 2 paragraph 4 of CPC).

There is still a hope that torture rates will decline in our country with the adoption of the new Criminal Procedure Code. And all the procedures envisaged in it will be performed.

Torture Prevention in Closed Institutions



Zoia Khasia, an international expert on prison reform

The prevention of torture and inhuman or degrading treatment in closed institutions is a subject of discussion in many places and at different levels. Many international and national documents on the prevention of torture have been developed, but only the existence of legislation per se cannot be a guarantee for the solving this problem.

Those international standards that directly or indirectly focus on the prevention of torture have already been ratified and / or adapted in countries where torture and inhuman treatment continue to be applied to people in prisons. The reason can be found in the failure to comply with the law, when the rules are not fully translated into real mechanisms and results. The process of introducing international norms should be implemented in a way that positively influences the state officials who work in closed institutions and have free access to persons deprived of their liberty.

The question 'Why do representatives of law enforcement agencies, who should protect the rights of convicts, use torture and inhuman, degrading treatment?' is asked daily. Finding the answer to this question is not difficult. Specifically, the following factors contribute to an increased risk of torture in closed institutions:

External factors:

- Prisoners possess, or, in the opinion of government officials, may possess information that is of interest to government officials and important for some investigation. The problem is especially gross in countries where the state does not possess sufficient and appropriate capacity to carry out a full-scale investigation;
- Prisoners are in the hands of government officials and cannot protect themselves or their family members.
- Internal factors (related to the competence of personnel in closed institutions):
- Insufficient professional competencies, unawareness of the consequences of their behavior, both with regard to convicts and themselves;
- Insufficient psychological competencies, failure to control aggression and emotions, which are often associated with a sense of fear, and inability to work under stress;
- Insufficient physical competencies, which further strengthen the sense of insecurity and fear;

In the above cases, torture and inhuman treatment may be used in order to increase self-confidence and to "show / prove strength".

Ineffective management of closed institutions (lack of experience and knowledge):

- Lack of a personnel recruitment system or nepotism are one of the main reasons for appointing unskilled personnel;
- Corruption;
- Centralized management system and low level of independence;
- The head can at his own discretion cancel employees' decisions without due regards to employees' qualifications of efficiency. This factor is also a means of corruption for the head, an opportunity to "show who is the boss";
- Absence of the rule of law. There are cases when internal regulatory mechanisms do not correspond to the current legislation and are used as a priority if it is beneficial.
- A biased and partisan justice system, etc.

What could be the effect of torture in closed institutions? In modern society, the answer to this question is obvious to any person –it entails a physical or psychological effect on people. This equally includes poor conditions of detention, inadequate nutrition, lack of access to/inadequate medical care, etc., as a person in a closed institution is completely under the care of the state and is dependent on it.

According to the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), "The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings".

Accordingly, in order to maintain minimum standards for the treatment of prisoners, a mechanical, non-linear approach based solely on adopting a legislative framework is not sufficient, there should rather be a comprehensive vision based on measurable expected results, where integrity and preservation of human dignity take a central a place.

Who is More Responsible for the Problem of Torture and Ill-Treatment?



Rusudan Beriashvili, Doctor of Medical Sciences, PhD, an expert of the international organization "Physicians for Human Rights"

Today, Kyrgyzstan's specialists, forensic medical experts, forensic psychiatrists and psychologists are taught the correct and thorough documentation of cases of torture and ill-treatment, since this may be crucial for the investigation and, accordingly, the fate of a suspect. The European Union, the Soros Foundation-Kyrgyzstan and the international organization "Physicians for Human Rights" are working on this. The latter, an international organization that has operated for about 40 years, deals with human rights issues around the world from a medical point of view, and uses medical scientific knowledge and practical clinical experience to combat human rights violations in different areas. Directing the fight against torture, correct documentation and investigation is one of the priorities of the organization. The organization received the Nobel Prize and is global structure with projects all over the world; these projects are not only about torture, but also about sexual violence, the identification of missing people, etc.

The main link in addressing the issue of eradicating torture is people. One person, whoever he/she is, an ordinary citizen or president, can never solve this problem alone. Solving the problem of torture is multifaceted process, since everyone, every specialist has their own functions: doctors, journalists, lawyers, civil servants - they all have responsibilities in their field and play an important role. Yet all their efforts will not be effective if the main player-the population-does not have a correct understanding of what torture is. When people become actively involved in the decision-making of the country and do not allow bad things to happen, effective processes of change will be activated.

Currently, there is a strong network in Kyrgyzstan that works purposefully against torture and ill-treatment - the Coalition against Torture in Kyrgyzstan. They work at all stages, from identifying facts and documenting them, to monitoring all processes in the country. Their role and contribution to the actualization of the problem as well as the progress made in the fight against torture cannot be overemphasized. The Coalition is already doing a lot of work, but I think that their mandate is much wider and bigger; I think they can develop if there are enough resources, including human resources, and in the future, they can continue playing their significant role in eradicating torture in Kyrgyzstan.

Kyrgyzstan has already done a lot in the last few years, and the international conference that took place on September 21-22, 2016, dedicated to the implementation of the Istanbul Protocol, showed that Kyrgyzstan is ready as a country to the implementation of international standards. The processes in the country came to the point when the stages of training and raising competences are past stages, the moment comes when it is necessary to deal with specific cases of torture and show in practice how the system will work under the new standards. In this process, the Ministry of Health and their doctors and forensic experts are very much in the lead, as it is they who are responsible for documenting cases of torture.

Here I should also say a little about the Istanbul Protocol - it is the UN international guidelines for the effective documentation and investigation of cases of torture. This is a methodology for medical professionals, including forensic medical experts, and those involved in the investigation - lawyers, investigators, attorneys, prosecutors and judges. The Istanbul Protocol is not a Turkish document, but an international standard for the investigation and documentation of cases of torture, which has been actively introduced in Kyrgyzstan in recent years

Today, I can proudly say that cases of torture have not been observed in Georgia for a long time, especially since they are not systematic. Yet this does not give us the right to be too enthusiastic. I think that we need to continue working on systemic reforms so that torture never happens as there is simply no opportunities for it. We have come a long way and implemented numerous reforms before we achieved such results. Now I wish success to Kyrgyzstan, let those people and organizations that are already working on this topic soon see the results of their efforts. Understanding and feeling that things are going in the right direction for the Kyrgyz people should inspire and give pride.

What Needs to Be Done to Eradicate Torture?



Takhmina Ashuralieva, coordinator of the Soros Foundation-Kyrgyzstan, Law Program

The two-year project of the Soros Foundation-Kyrgyzstan (SFK) aiming to prevent torture co-funded by the European Union is coming to an end. Takhmina Ashuralieva, an officer of the Soros Foundation-Kyrgyzstan Law Program, is convinced that torture being classified as a crime against a person is already a legislative breakthrough. In an interview with the Kaktus.media, she shared her opinion on how to continue improving legislation in Kyrgyzstan, a country where torture is considered to be a systemic problem.

- You had worked on countering torture even before the joint project with the EU. What is different now?

- One of the areas of work of the SFK Law Program was the prevention of torture. Unlike other organizations, we are independent on donors and grants. We implement our strategy and have our own resources. However, they were not enough, so we raised additional funds to be able to reach a new level. The European Union responded to our proposal by allocating EUR 745 thousand, the SFK contribution was about EUR 83 thousand, of which about EUR 513 thousand were grants for seven members of the Coalition against Torture and the National Center for the Prevention of Torture.

SFK previously strengthened the capacity of the Coalition against Torture (which consists of 17 organizations working with government agencies) through grants. But there was no country-wide integrated approach, or a uniting factor. The difference is that we divided our work under the project with the European Union into three components: work with the National Center for the Prevention of Torture, the civil sector, and the state (the Prosecutor General's Office, courts, the Ministry of Health, and the legal profession).

We started finding solutions to some problems that we could not solve before.

- In what way, do you think, the non-governmental sector increased their capacity?

- NGOs have always worked with state agencies, but this time they implemented one large project as a coalition network, which strengthened the legal assistance to victims of torture; NGOs now have a Regulation on Legal Assistance and standards for providing legal assistance for victims of torture.

- What are the results of work with each of the state bodies?

- We worked intensively with the Ministry of Health Care on the implementation of the Istanbul Protocol. As a result, the Ministry issued the Manual on Documenting Torture and Ill-Treatment and developed the related protocols; we trained about 100 health care professionals. The project also involved the Mandatory Health Insurance Fund (MHIF), which monitors the quality of medical services. Now health care professionals have a special form to fill information on torture.

Three copies of the form are made at the same time using carbon paper: one copy for the victim, one for law enforcement agencies, and the last one for an institution where the medical examination was held. The MHIF's task is to monitor the quality of this service. These efforts have to be continued, so that the state itself prints such forms and hands them out to health professional in all regions of the country. Doctors, in turn, need to be trained in documenting torture.

The public foundation "Legal Prosperity", our partner, works with the prosecution authorities. The Prosecutor General's Office established a special department in charge of torture investigation and its employees were provided with subject-matter training; the Manual on the Prevention of Torture was issued for prosecutors. The work with the Prosecutor's Office was very effective.

The task of international and non-governmental organizations is to work on the problem together with state agencies, to show them ways to solve the problem, and transfer their experience to state agencies, so that the latter deal with the problem on an regular basis and do not depend on external sources of financing.

- What part of the work was the most difficult?

- Working with the police and courts. We were unable to touch on the problem deeply when working with the police. As for judges, we conducted trainings but there is still a lot of work ahead. Both law enforcers and judges have to be trained on what torture is, how to investigate it. At the same time, there should be a support on the part of state mechanisms; if the latter is not in place, we can spend as long as 50 years on countering torture, but will never eradicate it.

- An important part of the initiative is the amendment of legislation. What are the successes here?

- Amendments to the Criminal Code and Criminal Procedure Code have been introduced, but will come into force in 2019. A critical achievement is the clause on torture being included not in the "Official crimes" section, but in the section "Crimes against a person, health and personality". Lawyers will understand that this changes the system to look as "Person-Society-State". An individual becomes the most important element of the system and this resulted in the shifting of the clause and a stronger base for torture investigation; in the Constitution, a person is the highest value for the state.

That is, for example, if a person was tortured, they could previously classify torture as a power abuse and simply dismiss the torturer; under the new Code, the torturer will be sentenced to a serious punishment with no possibility of being amnestied.

A provision on state-guaranteed legal aid was introduced into the Criminal Procedure Code. This means, that when detaining a person, law enforcement officials must ask whether the person has an attorney. If he/she does not, they are obliged to provide a lawyer from the state register list of attorneys. The attorney shall be involved at all stages - detention, pre-trial investigation and trial. This rule is enshrined in the Code and will come into force in the beginning of 2019.

A great achievement is that the new Criminal Code has the same definition of torture as that contained in the UN Convention against Torture.

Those who work in state agencies realize how difficult to change or amend a law or promote some provisions and make it work. Outsiders might think: "Oh well, they simply made some changes", having no idea of the great struggle behind it. It is very difficult to formulate an amendment, persuade members of the working group, submit the amendment to the Jogorku Kenesh, and explain to each Jogorku Kenesh member that it is important not to remove or change the provision. Consideration in the Parliament is also a complex process sometimes taking up to 2-3 years and a lot of efforts to make sure the provision does not get lost.

MPs can say that the provision is unnecessary or should be placed in a different section or have a different wording. And then the same law can be interpreted in many ways – leading either to a pardon or a sentence.

- Are there some things that were left out and require additional work?

- There is no concept of ill treatment in the law. And there is no clear definition. Consequently, there is no punishment for ill-treatment, while there is only a fine line dividing torture and ill treatment. This concept needs to be introduced into legislation, but first we need to agree on what ill-treatment actually means.

Together with this, the new legislation already has a grading system, when judges can sentence a perpetrator to, say, three or five years. There is a specific grading mechanism specifying punishment for each type of crime. This innovation will also help to decision-making on torture cases.

Another legislative innovation is the Unified Register of Crimes and Misdemeanors (URCM). It will be a part of electronic justice. It provides for a complete automatization of complaint registration, where any complaint must be recorded not on paper but in electronic format. The system will help to track of complaint status – the time of receipt and consideration, the registration officer, the investigator in charge, etc. – all in electronic format. The law enforcement officials will have access levels in this system to be able to track the processing of a case.

The Register is expected to prevent many problems and unclarities such as when and where a person was detained, to find out the status of complaint, the time when an attorney was assigned, corruption incidents, and many other things.

In addition, the new Law "On State-Guaranteed Legal Aid (SGLA)" set standards for attorneys providing competent legal assistance in criminal cases as a part of the SGLA system.

Attorneys will have to meet some requirements, otherwise complaint of late or low-quality assistance can be filed with the relevant authorities: Ministry of Justice and the Ethics Committee of Attorneys.

- Is there a provision that stands to prevent such situations? For example, a person was detained and beaten, but a complaint appeared when the bruises were gone...

- It is at the moment of actual detention that a person detained must be provided with an attorney. This is an important addition to the law.

Human rights violations and torture happen between the actual apprehension and the issuance of the detention report, when no one knows where the detainee is being held

and when anything can be done to him/her. The new SGLA law stipulates the fix of the exact time within which a victim shall be provided an attorney.

- As for torture victims themselves, is there any medical, psychological, rehabilitation support after torture? Do they receive compensation?

- Mechanisms for compensation of material and moral harm to victims still need to be finalized. All charges go to the state that never provides any money to victims. To be able to receive this money, one has to file a separate request.

There is only one case, when the family of a torture victim was paid 200 thousand soms. This took many years and a lot of efforts on the part of human rights defenders. According to the court ruling, this amount was the value of human life.

To support a person who has been tortured, a rehabilitation center operates in Kyrgyzstan, where one can seek help; or the center can refer the victim to a medical facility. Unfortunately, the center is supported by grants and NGOs only.

There is also a great mechanism that has not yet been fully incorporated into legislation - how to implement the decision of the UN Committee on Human Rights, and the Committee Against Torture in the national legislation. If a right is not enshrined in a law, it is difficult to implement. If the law does not lay down the right to be free from torture, one will never prove that he/she has been tortured.

- *Soros Foundation-Kyrgyzstan will continue to work on torture prevention...*

- For some reasons, investigators have forgotten the basics of criminology, the need to collect evidence. They focus on confessions. Proving that a particular person committed a crime is very difficult, and this is where we do not always see a faithful and careful work.

The Soviet prosecutor A. Ya. Vyshinskiy (USSR Prosecutor General in 1935-1939) once said that "confession is the queen of evidence". But torture can make anyone to confess to anything. Therefore, I believe that the evidence-based jurisprudence should develop.

The Absolute Prohibition of Torture, or the Right Behavior with a Criminal



Altynai Akmatova, Project PR Coordinator

Andrei Chikatilo, the "red ripper" was recognized as the cruelest maniac in the post-Soviet territory. His victims were fifty-two people over the period of 12 years. Before he was caught, an innocent man had been shot and several others had been arrested. In total, about half a million people were checked for involvement in crimes, and 1,062 crimes were solved. During these 12 years, various people, including mentally ill, came under suspicion and gave confessions under pressure. And this is not the only case when people who did not commit any crime would receive a guilty verdict. There are cases (also in Kyrgyzstan) when a suspect was accused of a murder and admitted his/her guilt, but the murdered person would appear alive in the courtroom...

Hatred is instilled in our society, which is subject to stereotyped thinking and receives a dose of disinformation on a daily basis. People are often assured of the righteousness of cruelty and torture in cases similar to those described above.

The problem of torture remains relevant for many countries - developed and developing. To attract attention to the problem of torture, in 1997, the UN General Assembly proclaimed the Day of Support of Victims of Torture – June 26. This day bears the idea of completely eradicating torture and ensuring the effectiveness of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

What is the reason that people often justify cruel treatment and torture being used against suspects?

First, it is the old vendetta principle, the bloody revenge against an offender, typical of the tribal and clan system. Per this principle, the person who committed a murder, or one of his/her family/clan/tribe members must necessarily die as retaliation.

Secondly, it is the moral and psychological characteristics of an individual, which are expressed in an inhuman, insulting attitude towards other living beings, causing pain to them. Philosophers have for many centuries tried to explain the nature of human cruelty. Jean Jacques Rousseau believed that the reasons for such aggressive behavior lie in the development of civilization. Thomas Hobbes believed that it was the faulty nature of man.

Thirdly, it is the “cruelty for cruelty” response, which is very close in psychological terms to vendetta revenge. There are many people who consider torture to be a normal form of communication with people who have deserved to be tortured - people who have committed violence, pedophiles, murderers. They are considered to have deserved torture and even death. And this is logical - every normal person understands that a scoundrel who did an evil thing deserves punishment.

But the reality is more complex, and no unequivocal solution is possible.

Let us analyze the situation when you have some problem with your neighbor, who has serious connections in law enforcement agencies or some other power structure. Your friendship is destroyed, and he turned out to be a vindictive person and decides to punish you. You were imprisoned on false charges. Being a criminal who deserves public reprimand, you can now experience the whole “greatness” of public punishment and correction. In this case, we bring the problem of corruption out of the scope of discussion. What can you do? Everybody is against you, you are left alone with the problem, which you once ignored.

Yes, this is a fictitious case. It also happens on the contrary, when swindlers and recidivists do bad things and would not admit they did them. To prove their involvement in illegal activities, investigators need to figure them out. And they use different means and methods for this. We, the civil society, relatives of suspects, do not know what happens behind closed doors.

In closed institutions, they often mock suspects in the most sophisticated ways, rape them. Will they be healthy physically and mentally after this? Tomorrow they can return to our community and live next door. Will they not want to punish someone else, less powerful, to revenge for the violence used against them? Will it not become a circle?

That is why there are the concept of a fair trial, the presumption of innocence, and a forensic medical examination, confirming or refuting the fact of violence and ill-treatment.

All the laws have been created before us, one just has to follow them. The prohibition of torture in Kyrgyzstan is a constitutional principle. Article 22 of the Constitution reads: "No one shall be subjected to torture or other inhuman, cruel or degrading treatment or punishment". Much work has been done in Kyrgyzstan to improve legislation and law enforcement activities.

We have established a national preventive mechanism in our country - the National Center for the Prevention of Torture and Cruel Treatment, which began working in 2014. The mission of the National Center is to visit closed institutions on any day and at any time of the day without serving a prior notification to the administration of the institution, and to make recommendations for improving the conditions of detention and treatment of persons deprived of or restricted in their liberty.

In 2016, the National Center organized 1,096 preventive visits, received 132 reports of torture, for which the prosecutor's office instituted nine criminal cases. As long as we receive allegations of torture, the latter exists, which means that the society must know about torture, speak about it, study the facts and work for the eradication of this "cruel disease" of our society.

Reasons for Impunity for Torture in Kyrgyzstan



Arsen Ambaryan, an attorney, Osh

Over time, along with the development and progress of humanity, more sophisticated but no less cruel modern methods of torture have come to replace the brutal ancient and medieval methods. Torture continues to be a serious threat to human security, its physical and psychological inviolability, and requires more serious prevention efforts.

Torture, cruel, inhuman or degrading treatment and punishment can occur in relation to anyone - people deprived of their liberty, people belonging to different ethnic, social and cultural groups, young and old, women and men. No one is immune from torture; everyone can become a victim!

Contrary to the widespread view that torture is inherent only in poor and "uncivilized" societies, torture occurs in two-thirds of the world's countries, including highly industrial and developed ones. And the problem is not that torture takes place in many countries, but that not all countries investigate torture cases and punish torturers. The prohibition of torture is a peremptory norm of international law. The Kyrgyz Republic Constitution also establishes an absolute prohibition of torture: "No one shall be subjected to torture or other inhuman, cruel or degrading treatment or punishment" (Article 22). However, such declarations per se are not sufficient; reliable guarantees must be created, including at the level of institutions, laws and regulations.

To implement the constitutional prohibition of torture, the Kyrgyz Republic has taken a number of revolutionary steps. Without exaggeration, the Kyrgyz Republic is

the regional leader in promoting protection against torture. Thus, the Government approved the National Plan for the Prevention of Torture, adopted the Law "On the National Center for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", introduced criminal liability for obstructing the activities of the National Center's members, tightened the criminal responsibility for torture; in 2011, the leadership of the Prosecutor General's Office issued a number of orders and instructions to strengthen supervision of the provision of the constitutional prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the Prosecutor General's Office developed practical guidelines "Counteracting Torture and Effective Investigation", a new department was created within the Prosecutor General's Office in charge of the supervision over the implementation of citizens' rights during the pre-trial stage of the criminal process, dealing primarily with the issues of counteracting torture; and finally, in 2014, the Ministry of Health developed and is now implementing the Practical Guidelines for the Effective Documentation of Violence and Torture.

There is a progressive definition of torture in the Criminal Code that classifies torture as the infliction of any physical or mental suffering committed with the aim of obtaining information or confession from a person, punishing him/her for an act that he or another person has committed or is suspected of having committed, and intimidating or coercing him/her or another person to commit certain acts, or for any reason based on discrimination of any kind. The criminal law provides for a serious punishment for using torture - up to 15 years of imprisonment.

The existence of torture is recognized at the political level, which is confirmed by the above measures taken by the state. Yet, what do we see in practice?

According to the information of the Kyrgyz Republic Prosecutor General's Office,¹⁹⁹ torture complaints were registered in 2015. According to the National Center for the Prevention of Torture, 141 people held in the institutions of the State Penitentiary Service and the Ministry of Internal Affairs said they were subjected to torture and ill-treatment. Only one guilty verdict led to perpetrators being punished in accordance with the law for 13 years of torture criminalization.

What is the reason for the impunity and ineffectiveness of the fight against torture? Why do violence and torture continue despite we have the sufficient number of tools and good laws? Why is there no effective investigation and prosecution of perpetrators?

The issue is complex and ambiguous. I believe that the key reason was voiced by the representative of the Prosecutor General's Office at the international conference "Istanbul Protocol Implementation: Transforming Regional Experiences into International Norms for Effective Torture Investigation and Documentation" held on September 21-22, 2016 in Bishkek, Kyrgyzstan: "The practice of torture use by police officers is widespread due to the retention of obsolete criteria for assessing the effectiveness of the performance of internal affairs bodies and propensity of the judicial system to rely on confessions".

Regina probationum – this is the term of the Roman law, the admittance of the guilt by a defendant, which makes all other evidence, evidence and further investigative actions redundant. Today, the relationship between two specific reasons - the lack of accountability of the police to society and the lack of independence of the judiciary, for which justice should be at the forefront - is very telling and explains the reason for the prevalence of torture in our society.

The main conclusion is that a real fight against torture in Kyrgyzstan is possible only with the direct and strong-willed participation of the institutions and agencies, for which perpetrators themselves work, with unbiased and independent judicial control. A change in the policy vector of these institutions and agencies, while preserving and strengthening work in other areas - such as the development of an independent Bar Association, forensic services, the introduction of effective methods of medical documentation, the active fulfillment of the mandate of the National Center for the Prevention of Torture – can become a turning point in the destruction of the vicious practice of encroachment on person's integrity and dignity.

Who is Important in the Fight against Impunity for Torture?



Dinara Sayakova, Deputy Director, Kyrgyz Republic National Center for the Prevention of Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment

The right to freedom from torture is the absolute right of a person, which cannot be limited under any circumstances. Torture causes not only physical suffering, but leaves an indelible mark on the psyche.

The problem of torture and ill-treatment has so far been systemic, therefore, solving the same requires a comprehensive approach.

It should be noted that in recent years, we do see the political will of our state to eradicate this gross violation of human rights. A striking confirmation of this is the creation of an independent state body in 2012- the Kyrgyz Republic National Center for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the National Center).

The objectives of the National Center are to prevent torture and ill-treatment in places of deprivation and restriction of liberty through preventive visits at any time of the day without prior notification to the administration of these places, and also to help improve the conditions of detention. Based on the results of visits, the National Center identifies the systemic causes of torture and ill-treatment, prepares recommendations for the relevant state bodies, which are included in the annual report and submitted to the Kyrgyz Republic Jogorku Kenesh.

The National Center's monitoring mandate includes places of deprivation and restraint of liberty - correctional institutions, pre-trial detention facilities, social security institutions, psychiatric institutions, military units, orphanages, nursing homes and homes for people with disabilities.

Recognizing the important role and place of this national human rights institution in an independent assessment of the situation and the development of effective measures to prevent torture, one should not hope that the situation will change without the efforts and interaction on the part of the main state bodies with whom detainees come into contact in the criminal process (internal affairs bodies, prosecutors' offices, judicial bodies, penitentiary service, state forensic examination service, the Bar Association) or in situations where custody of a person is assigned to state bodies (such as the Ministry

of Health, the Ministry of Labor and Social Protection, the Ministry of Education, etc.).

The first link in the fight against torture is the prosecutor's office, as a supervisory body, and as the body that conducts investigations for his category of cases. As part of the implementation of the Istanbul Protocol at the country level - through the Guidelines for the Effective Documentation and Investigation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - great responsibility lies with health professionals at all levels of health care. The active cooperation between the prosecutor's office in investigating the allegations of torture and ill-treatment and medical workers who should timely, completely and accurately document medical evidence, will lead to accountability and appropriate punishment for the perpetrators of torture.

Due to the fact that for many years cases of torture did not reach a trial because of the absence of the evidence base, which is a medical report, Kyrgyzstan is now implementing new standards of effective medical documentation. Over two years, more than 700 medical professionals, forensic medical experts, forensic psychologists and psychiatrists have received special training. The final recipients of the training were medical professionals of the Mandatory Health Insurance Fund (MHIF), responsible for quality control over the provision of medical assistance and documentation of trances of torture, violence and ill-treatment.

Special medical rooms are created and equipped for medical examination and assessment of victims of torture and ill-treatment under complete confidentiality.

It is gratifying that the healthcare system is currently the flagship of the state policy on combating torture and ill-treatment, and, in general, violence. Kyrgyzstan is one of the first countries in the post-Soviet territory to implement the provisions of the Istanbul Protocol and a system for implementation monitoring at the state level.

The civil sector, represented by the Coalition against Torture, also makes an important contribution to the fight against torture. Currently, it includes 18 organizations located throughout the territory of the Kyrgyz Republic.

The determining role in this complex system of interaction of state bodies and institutions for combating torture and impunity is played by the judiciary. Unfortunately, for 13 years of the validity of Article 305-1 "Torture" of the Kyrgyz Republic Criminal Code, only one conviction has been made against torturers, which entered into force. If an effective enforcement instrument is in place, all those responsible for the use of torture will be brought to justice and will receive a severe punishment commensurate with the act; this will be a clear example of the state truly fighting against torture and impunity in the country.

Now our country is at the initial stage of implementing effective standards for documenting and investigating cases of torture. All state bodies and institutions of civil society should continue uniting efforts with a single view to stop impunity for torture and ill-treatment. I believe that with the already existing political will and a sustainable and comprehensive action plan, real progress can be achieved in the coming years.

Using International Human Rights Mechanisms to Protect against Torture



Sardarbek Abdukhaliyev, Attorney, "Spravedlivost" Human Rights Center, Jalal-Abad

Torture is an absolute evil. The Kyrgyz Republic Constitution guarantees the absolute prohibition of torture and inhuman treatment against anyone, whether it be a dangerous recidivist or a suicide bomber.

The use of torture cannot be justified by any human goal or the prevention of a provocative scenario of a "ticking bomb". The essence of this prohibition is that human rights and freedoms, which stem from human dignity, are the highest value for us.

Our Constitution has created human rights mechanisms through the establishment of law enforcement and judicial bodies that must prevent any manifestation or condition of torture, and in the case of torture use, bring perpetrators to justice and assist in the rehabilitation and assistance to the victim. According to this legal concept, the legal framework as well as the practical aspect regulating the activities of the authorities are aimed at creating conditions for ensuring and enforcing the right to freedom from torture.

Kyrgyzstan assumed the obligation to prohibit torture at the international level through voluntary accession to international treaties and human rights protection mechanisms. In short, the Kyrgyz Republic, as a sovereign state and a full-fledged participant in international relations, undertaken international obligations to absolutely prohibit the use of torture and to implement appropriate policies to combat the same at the national level. This voluntary step demonstrates our country's belonging to the progressive part of the world community and confirms our willingness to take action within the framework of international human rights protection mechanisms aimed at improving the effectiveness of the fight against torture.

However, in spite of the constitutional prohibition and international commitments, in reality we see a very different picture. Torture and ill-treatment are common in the system of state power, in particular, law enforcement. It is no secret that our society perceives this kind of acts of state bodies as an integral part of the punitive criminal justice system. We have always approved of brute force and tolerated coercive actions against the will of a person. Referring to official statistics, according to the data of the Prosecutor General's Office, the prosecutor's office received 435 reports of torture and other ill-treatment in 2016. In addition, according to the data of the National Center for the Prevention of Torture for 2015, as a result of 724 visits to closed institutions, 27.6% of the total number of people detained stated that they were subjected to torture and ill-treatment. However, the real statistics are at times different from the official statistics and it is very likely that three or four persons are being tortured daily.

In essence, torture is a product of official infringement of the criminal justice system, which is called upon to guarantee and provide protection against torture. In this context, torture is the highest degree of coercion of the will by the state apparatus. The design of criminal justice should not only punish those whose guilt was proved and "especially

jealous” employees, but also make the use of torture as useless as possible. We have not moved far from the repressive nature of the Soviet criminal justice system in terms of investigation, according to which the accused is under the burden of proving the circumstances justifying him/her. Only the forms and types of the doctrinal approach to judicial evidence have changed. Thus, most sentences in criminal cases are based mainly on “confessions” that were given during the investigation; and the courts encourage this practice by relying too much on “confessions” in assessing evidence.

A legal analysis of the current Kyrgyz Republic Criminal Procedure Code shows that the section on the inadmissibility of evidence is of a declarative character and does not regulate the procedures for recognizing evidence as inadmissible. It is the very reason for the use of torture for obtaining evidence is found, and the courts accept and refer to these evidences, and this vicious circle can never be broken unless there are no benefits of torturing.

The absence of strict procedural protection measures and mechanisms to prevent the use of evidence obtained under torture along with a large number of acquittals in our judicial points to the accusatory bias of our judicial system.

The absence of the “fruit of the poisoned tree” doctrine will always promote the application of the “confession of the accused is the queen of evidence” doctrine. Practice shows that in countries applying the “fruit of the poisoned tree” rules often issue acquitting verdicts and terminate proceedings because of violations committed during the investigation.

For example, if the evidence base of the investigation in a criminal case was based on confessions obtained through torture, the court, should at least one reasoned report of torture be received, should reject the whole chain of evidence based on torture as null and void. As for our law enforcement practice, on the one hand, the law prohibits the use of torture, and on the other hand, our Themis consumes the “fruit of a poisoned tree”. This speaks to the intoxication of the entire body of the judiciary in our country. These are two sides of the same coin when it comes to our national human rights protection mechanism - declarative observance and protection of the highest value - human rights - is systematically violated.

There are a number of systemic factors preventing the state from responding properly to allegations of torture. These factors lie within national human rights protection means, including the lack of an effective investigation mechanism and an independent court. What should a person do if state bodies such as courts have shut the doors of justice and cut off all the opportunities for torture victims to defend their rights at the national level?

Besides the existence of national human rights mechanisms, Kyrgyzstan is a participant to international human rights procedures within the framework of the UN treaty bodies. These procedures monitor and supervise the observance by states of their international obligations under the UN conventions. Figuratively speaking, these mechanisms create external protection against encroachments on human rights. One of the procedure, in particular, is the UN Human Rights Committee under the International Covenant on Civil and Political Rights.

The International Covenant is one of the fundamental international human rights instruments that contains the minimum standards for the promotion and protection

of human rights and freedoms. Article 7 sets an absolute prohibition of torture and ill-treatment, according to which no reason, including the order of the higher person or authority, can justify torture.

Our republic acceded to the Covenant in 1994 and the provisions of the Covenant are binding on the Kyrgyz Republic. In addition, the Kyrgyz Republic voluntarily acceded to the Optional Protocol to the International Covenant and has thereby recognized the mandate of the UN Human Rights Committee and its legal practice to receive and consider communications from persons under the jurisdiction of the Kyrgyz Republic who claim that they are victims of a violation of any of the rights set forth in the Covenant. In other words, the UN Human Rights Committee (HRC) is an international legal institution designed to restore violated rights, should domestic remedies fail to restore the rights and freedoms provided for in the Covenant.

The Kyrgyz Republic Constitution laid the foundations for interaction between national and international human rights mechanisms. Thus, Article 6, paragraph 3 provides that the international treaties to which the Kyrgyz Republic is a party, as well as universally recognized principles and norms of international law, which entered into force in accordance with the law, are an integral part of the legal system of the Kyrgyz Republic. In addition, Article 41, paragraph 2 guarantees everyone the right, in accordance with international treaties, to approach international human rights bodies for the protection of violated rights and freedoms. In addition, Articles 31 and 32 of the Law "On international treaties of the Kyrgyz Republic" stipulate that international treaties of the Kyrgyz Republic are subject to strict observance and mandatory execution by the Kyrgyz Republic from the moment of entry into force for the Kyrgyz Republic.

Although the 2016 amendments to the Constitution excluded provisions on the requirement that the state should take action if international human rights bodies recognize violations of human rights and freedoms, this does not in any way limit the status and competence of international human rights mechanisms. Only the suspension, denunciation or termination of international human rights treaties may limit the operation of international human rights mechanisms. It is a mistake to perceive the activities of international human rights mechanisms as interference in the internal affairs of the state and violating its sovereignty. This approach leads to destructive interaction between national and international human rights mechanisms and further restriction of human rights and freedoms. Such rhetoric leads to the isolation of the country from the progressive world community in the field of the rule of law and the protection of human rights.

Since the recognition of the HRC mandate, Kyrgyz Republic has put together over 18 considerations on the violation by the Kyrgyz Republic of selected rights provided for in the Covenant. Most of the HRC decisions concern violations by the Kyrgyz Republic of Article 7 of the International Covenant prohibiting the use of torture.

For example, in 2015 and 2016, the UN Human Rights Committee adopted two significant considerations "outside the political context" for which the Kyrgyz Republic was found responsible for violations under Article 6, paragraph 1 (prohibition of arbitrary deprivation of life), Article 7 (prohibition of torture) and Article 2, paragraph 3 (failure to conduct an immediate and effective investigation into the facts of torture and arbitrary murder) of the Covenant against Turdubek Akmatov and Bektemir Akunov. To date, the state, through the investigative bodies, has not conducted investigations into the facts

of murders and torture, and the courts, for far-fetched reasons, have denied the victims' representatives in receiving compensation for non-pecuniary damage.

Individual complaints to the HRC are not just complaints, they are human lives and the broken fates of torture victims. The tragedy of the situation lies also in the fact that the state has not implemented any of these HRC decisions in full.

The main reason for non-compliance with the HRC decisions is the lack of political will in the relevant state authorities and of national implementation mechanisms and procedures. As a result, victims of torture are restricted by constitutional law in access to justice; left alone with their pain, they lose the hope for justice offered by the HRC decisions.

This situation will change only if there is political will to comply with international human rights norms and effective enforcement mechanisms that will allow progressive international norms and standards to be incorporated into national legislation. Implementation of decisions of international human rights bodies plays an important role in promoting the observance and provision at the national level of fundamental rights and freedoms. Kyrgyzstan, as a party to all major UN human rights treaties, must develop clear mechanisms and procedures that will implement the recommendations and decisions of the UN treaty bodies.

Psychological “Traces” of Torture. What Happens to People Many Years Later?



Elmira Asanbaeva, a practicing psychiatrist, Candidate of Medical Sciences, Assistant Professor at the Psychiatry Department of the Kyrgyz State Medical Academy

Victims of torture may not always be able to get access to an attorney-at-law on time. As a rule, traces of torture heal, and a forensic medical examination is not capable to reveal the same. In such cases, the victim is assigned a psychologic-psychiatric examination. Unlike the bodily injuries, the soul wounds take much more time to heal. The consequences of cruel treatment in the absence of psychiatrist's help can lead to various severe mental disorders. In this article, Zanoza.kg tries to understand what a psychologic-psychiatric examination is and what problems still exist in this field.

Why do we need a psychologic-psychiatric examination? According to Elmira Asanbaeva, a psychiatrist, Candidate of Medical Sciences, Assistant Professor at the Psychiatry Department at KSMA, the consequences of torture may remain for many years.

“The worst thing is that if the person has not received treatment, has not undergone a rehabilitation therapy, the torture can change his/her personality in the long term causing so-called chronic personality changes. This will have an impact not only on the person himself/herself, but also on his/her surroundings, and the society”, she notes.

Continuous fears in the subsequent life

Asanbaeva said that the relatives of torture victims clearly divide victims' lives into "before" and "after" periods. A person who has been tortured and has not received psychotherapeutic help, becomes depressed, apathetic, and loses interest in life. He/she can sit aimlessly all day, watch TV for hours. The person becomes less responsive emotionally and immerses into the self. Naturally, all this will all affect the relationship in the family. The person may have sexual problems. He/she might cease to cope with his/her social role. Students may abandon studies. Some patients lose passion in their jobs. In the end, they can lose the job itself. This may result in a negative attitude towards others, and mistrust in the authorities. Torture victims may begin to abuse alcohol or drugs. These people live under constant anxiety and fear.

"Torture refers to extremely traumatic, severe and stressful situations that go beyond the normal human experience. In terms of severity of the effect on the human psyche, they can be equated with the stresses arising in military conflicts, rape, natural disasters. Stress after torture does not just go away. Torturers do not understand how hard torture can affect people and their families. Torture and stress can lead to the development of some psychosomatic diseases, such as heart attack, stroke, cancer, diabetes, bronchial asthma. At the same time, rehabilitation therapy for torture victims is a long and costly process, the psychiatrist stressed. Some consequences are irreversible.

A brain contusion resulted from detention

The "Golos Svobody" Public Foundation brings an illustration of the consequences of torture by recalling the case of the retired colonel Abduvali Akjolov. The victim retired and worked as a taxi driver. Once he was accused of selling large amounts of narcotics and was severely beaten during the detention by employees of the State Drug Control Service (now disbanded). Because of a severe brain contusion, he was placed in the Kyzyl-Jar Psychiatric Hospital.

"We will not touch on his main charge, as Akjolov was involved in looting. Let us talk about torture with respect to the victim. According to the explanatory note, that evening, Akjolov was driving a taxi. He dropped a client off and on the way back he noticed two black jeeps following him. Akjolov did not know who they were. Seeing the pursuit, the colonel tried to run away. A man shouted that Akjolov stop, after which they began to shoot at his car.

One of the bullets broke the windshield of Akjolov's car. Employees of the State Drug Control Service caught Akjolov some place in the field - the colonel's car broke. He was dragged out of the car and badly beaten. They broke his nose, beat him on the ribs and head... Akjolov was not given an opportunity to receive inpatient treatment. They brought him to court almost immediately. He virtually fainted. Despite this, the court took the colonel into custody. He was accused of storing large amounts of drugs. Drugs were in fact confiscated from a different person, but used against the colonel", Aseil Koilubaeva, an attorney-at-law says.

According to her, an independent expert conducted an examination and came to the conclusion that the impact of the stress factor and a traumatic brain damage led to a combined mental disorder.

"The diagnosis was confirmed by psychiatrists from the Republican Center for Mental Health. However, they do not mention any causes in their written reports. There is no cause-effect relationship. They normally avoid establishing the same. However, weren't there any contributing factors?", Koilubaeva asks.

Suffering may be different

The attorney-at-law explained that by appointing a psychologic-psychiatric examination, examiners are expected to find out whether torture was the cause of the patient's condition, but human rights activists see that psychiatrists lack skills and qualifications in this part.

"Medical professionals have become more open to reforms and changes, but we still have complaints about the quality of examinations. In general, the methodology of examination is not clear. The Article "Torture" states that torture is confirmed by the presence of suffering. Independent experts say that the scale of pain and suffering is different for different people: for someone, a slap in the face is a mortal humiliation, which will be remembered for a long time", Asel Koilubaeva said.

She cited the findings of the quality analysis of a number of psychologic-psychiatric examinations. According to them, experts admit a deviation from the scientific principles of an examination, which is reflected in the non-observance of the phenomenological (detailed and descriptive) approach and method adopted in psychiatry and psychology, in the non-observance of the scientific principle of the personal approach, and in ignoring the fundamentals of human physiology and psychology.

Also, according to the research, conclusions are unreasoned and unproved, which is expressed as gross contradictions between the research part and conclusions, biased exclusion of violence by law enforcement officers from the possible causes of suffering, and almost complete absence of justification of diagnosis and conclusions.

Half of the analyzed examinations did not use a standard psychologic-psychiatric examination report form.

Noteworthy is the practice of refraining from addressing expert questions by saying that "the determination of the degree of suffering is not within the competence of forensic psychiatric examination" or "there are no methods to determine the degree of suffering".

Ill-considered materials

The psychiatrist Elmira Asanbaeva complained that most often a psychologic-psychiatric examination deals with ill-considered cases.

"When opening a case, investigators are somehow inclined to close it. Materials are often times raw presenting very little evidence. As far as I know, prosecutors were also trained in the Istanbul Protocol. But poor-quality materials still delay an examination and affect its quality. We have tools for conducting expert examinations. We interview a person who has been tortured, collect an anamnesis, use paraclinical methods of investigation, if necessary, and carry out an experimental psychological investigation. This allows you determining the level of anxiety, depression. There are special tests to reveal whether torture victims suffer from acute stress or post-traumatic stress disorder.

Yet we often lack objective information. We could interview victims' relatives and close friends, but we do not have the right to do so as this is something investigators should do it. Case files often lack such information. We have to ask for additional materials and medical documents. Having a great scope, examinations take a lot of the medical officer's personal time, going beyond the standard working hours", she said.

According to Asanbaeva, even when psychiatrists say in their reports that the psychic state of an examinee corresponds to the effect of torture, such cases rarely reach courts.

A correspondent of Zanoza.kg asked the psychiatrist whether the experts really lacked the scientific basis for an objective conclusion. Asanbaeva denied this.

"There are clear criteria for, let us say, post-traumatic disorder in the International Classification of Diseases-10 (ICD-10). The patient is troubled by obsessive unpleasant memories of the stress experienced, and any time he/she recalls the things that happened, he/she again and again experiences them, as if he/she was again in that situation. The person has nightmares, shudders from sounds, even from a phone ringing and a child crying. Smells and things reminiscent of torturers can cause a flow of unpleasant memories, frequent heartbeats, sweating, leg numbness, weakness. The victim feels fear and anxiety when he/she sees people in a police uniform. For example, a person who was tortured five or six years ago felt fear, strong heartbeats and dizziness when he saw a person on the street wearing a black T-shirt similar to the one which a torturing operative officer was wearing. He could not remain calm when seeing men wearing brown pointed shoes, because a person wearing such shoes was beating him on the head. It happens that patients are afraid of athlete-looking people. Sometimes they are just afraid to leave the house. There was a patient who tried to take children to school; he hardly managed to do it - he was sweating, looking back and barely made it to his house", she explained.

Working under pressure

Elmira Asanbaeva believes that effective fight against torture requires, first of all, publicity, support on the part of the mass media and zero-tolerance in the society.

"It took many years to build the existing system. Still, there is a corporative element there. Medical officers, like law enforcement agencies, used to be more concerned with the interests of the state than with those of an individual. Our medical experts tried to avoid diagnosing post-traumatic stress disorder, since this formulation even in emergency situations automatically raised the issue of material compensation from the state. Medical officers were reprimanded for such diagnoses. Should torture be confirmed, the state would have to pay compensation. In addition, forensic psychiatrists working in the regions can be intimidated by law enforcement officials. At this stage, neither a forensic physician nor a forensic psychiatrist is sufficiently protected. We are thinking about creating a League of Forensic Experts from among forensic physicians and forensic psychiatrists that would speak in the defense of experts whenever the latter are subjected to pressure. Not all forensic psychiatrists can conduct these examinations at a high level. These are very complex examinations, while an expert has limited time and many other tasks. More than 3,000 expert examinations are conducted annually in the Forensic Psychiatry Department", the psychiatrist stressed.

Emotional burnout is another factor affecting forensic psychiatrists, as working with torture victims causes a vicarious trauma to a medical officer himself.

There are problems in the field of psychologic-psychiatric examinations. No one denies them. Reforms in the forensic psychiatric service are just beginning to gain momentum. The whole system of psychiatric care fell out of health care reforms. Meanwhile, according to Elmira Asanbaeva, a psychiatrist, Candidate of Medical Sciences, Associate Professor at the Psychiatry Department of KSMA, medical officers are being trained in new standards, and they are ready to change.

http://kaktus.media/doc/358983_psihologicheskie_sledy_pytok._chto_proishodit_s_ludmi_mnogo_let_spystia.html

What are Kyrgyzstan's key achievements in the fight against torture and what kind of gaps are still there?



Nuriana Kartanbaeva, Soros Foundation-Kyrgyzstan Acting Executive Director

The project of the Soros Foundation-Kyrgyzstan (SFK) co-financed by the European Union targeting the systemic work with state agencies to prevent torture in the country is coming to an end soon. Nuriana Kartanbaeva, SFK Acting Executive Director, told the Kaktus.media about the Project's tangible results and SFK priority areas for the near future such as working with the judiciary and the police.

Project "Support to the consolidation of national efforts for the prevention of torture and other cruel, inhuman or degrading treatment or punishment and in the fight against impunity in the Kyrgyz Republic" is a two-year project. The total cost of the project is EUR 830 thousand with almost EUR 83 thousand allocated by SFK.

- SFK started working on torture prevention even before the joint project with the European Union. What have you been doing for the last two years different from your previous efforts?

- One of the recommendations of the UN Special Rapporteur on Torture following the country review in 2011 was to improve the quality of medical documentation, as proving torture was a serious challenge. The UN Special Rapporteur said that health care professionals in Kyrgyzstan should be very much concerned about this problem, as the lack of standards for medical documentation does not allow punishing torturers.

And we thought we could help the Ministry of Health Care, which expressed the will to implement the standards of the Istanbul Protocol (UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). The SFK Law Program started working on this subject in 2014, and as soon as in December 2014, the Ministry of Health Care issued their Manual on Medical Documentation of Violence, Torture and Ill-Treatment with our support.

In 2015, we have actively been integrating these standards into the daily practice of health care professionals. After all, there is a great difference between developing and approving some standard and making a many thousand army of doctors across the country actually apply this standard and thus change their attitudes to torture and patients.

We realized that our resources alone would not be sufficient for this large-scale initiative of helping the Ministry of Health Care to implement new practices. This is when we turned to the European Union for help, mobilized additional resources and implemented this joint project in the last two years. A large component of this project was the introduction of new practices for effective medical documentation, implementation of monitoring by MHIF (Mandatory Health Insurance Fund), and making the work of forensic medical services more effective.

At the same time, we knew that the implementation of standards for effective medical documentation would not decrease torture allegations. To make the EU-funded project work, we involved numerous actors such as the National Center for the Prevention of Torture, the Coalition against Torture, represented by 17 non-governmental organizations, the Prosecutor General's Office, the Bar Association and the judiciary.

The problem of torture, as noted by the UN Special Rapporteur, has a systemic nature, and accordingly, the relevant decision-making should involve all institutions and actors that play at least some role in this process. This was the main idea built into the title of our project - "Support to the consolidation of national efforts...".

- Has SFK acted as a grantor or an expert for this project?

- Both. First, we acted as a coordinator; a half of the resources we have allocated were direct grants to the National Center for the Prevention of Torture, and members of the Coalition against Torture to support their efforts in providing legal assistance. We also assumed a large cluster of work to strengthen the institutional capacity of the National Center for the Prevention of Torture, promote effective medical documentation, and work with the Bar Association and the judiciary.

- Are you satisfied with the results of the project?

- Yes and no. We cannot say that we have completely solved the problem of torture in Kyrgyzstan. We have always understood that this would be difficult to achieve. It is not SFK which can solve this problem but the government at their level. Our role is to provide support.

At the same time, one of the achievements of the project, as I think, is that Kyrgyzstan managed to draw the attention of the international community of professionals working in this field to the work that is being done in our country and in particular, to the practices and standards developed by our Ministry of Health Care. And in this respect, we are the leaders in Central Asia, as no other country among the post-Soviet states has introduced the standards of medical documentation of torture.

At the same time, the statistics does not show many positive changes in torture clear-up rates and bringing perpetrators to justice. This made us think that it is not all about medical documentation. When we just started the project, we had the idea that effective documentation and sound evidence should help significantly in the investigation of torture; in practice, however, we saw that even effective examinations and quality reports did not always lead to the punishment of perpetrators. We got a better understanding of the problem and know what should be done next.

- The project supported by the European Union is coming to an end. Despite this, you will continue to work on the prevention of torture. What will your further efforts be aimed at?

- Since medical documentation is not a panacea, we decided to work more with those who commit torture, to find out why torture is happening. This means we will cooperate more actively with internal affairs bodies and other law enforcement agencies. Also, we saw that many cases do not reach the courts, and those few that do either fall apart in the court or are not considering a proper way. Therefore, it is very important to continue working with judges.

- Most likely, the work will target the legal framework as it is difficult to change the thinking of law enforcement officials, am I right?

- We thought a lot about it, we met with partners to discuss how to work with the police, and what mechanisms would be effective. There have been numerous attempts to reform the law enforcement agencies, but these efforts were sporadic and brought no visible results. We want to analyze and understand the ways to get involved in the process of preventing torture and the possible entry points. The main emphasis will be laid on the criteria for assessing the work of the police, as one of the key problems is the police striving to improve crime clear-up rate and the respective statistics at any cost.

We also plan to continue support the implementation of the judicial reform in the country, the introduction of innovative provisions in the new criminal law, that will enter into force in early 2019. We have high hopes for the new codes and laws, as they contain new mechanisms and guarantees for the respect of human rights.

- And what are the areas you are going to target in you work with the judiciary?

- We provided support to the Higher School of Justice in developing a methodology and training materials to train judges to consider cases on torture, and in conducting this training. Many new judges who joined recently do not have sufficient knowledge on this topic. In particular, they are lack in understanding the specifics of the forensic medical and forensic psycho-psychiatric examinations. Therefore, large-scale training of judges is necessary.

Also, it would be useful to analyze torture cases ever considered; there are not so many of them – between 30 and 40. Yet, their objective analysis will make it possible to understand gaps and bottlenecks in the judicial practice. Our immediate plan is to focus on the analysis and research to better understand the problem and develop new solution mechanisms.

- You have actively worked with the civil sector. Can you say that the level of human rights defenders has grown and what capacity gaps are still remaining?

- One of the goals of the project is to strengthen the capacity of the Coalition Against Torture. I think the project has achieved very good results. Within the framework of the project, the Coalition Against Torture unified and harmonized its standards of legal assistance and developed a new methodology for the rehabilitation of victims of torture and ill-treatment. Before, each organization used to apply their own standards, now everyone uses a single approach. NGOs can provide consolidated statistics on cases for the country, their analysis of the situation and, accordingly, offer new recommendations to the state.

- Do you think that the state will become more active when it comes to torture prevention or you have no such hopes?

- The political will to reform law enforcement agencies has been declared. Yet, we need time to see how these transformations are implemented in practice.

What do I believe to be important in countering torture? We need people with political weight and political will in all key institutions of power who will lead, control and monitor this process, acting as the main driving force. Unless the state assumes responsibility and starts acting, civil society and donors will not be able to solve this problem.



The Project was initiated and organized by the team of the Soros Foundation Kyrgyzstan. We would like to thank our partners - the European Union, Coalition against Torture and National Center for the Prevention of Torture and Other Cruel Inhuman or Degrading Treatment or Punishment. All results presented in this publication were possible only through close cooperation and support.

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We hope that our initiative will be continued and scaled up by our partners as part of the important work of torture and ill-treatment prevention.

