

KYRGYZSTAN
UPR pre-session
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Presented by: Mr. Sardorbek Abdukhallilov
On behalf of the Coalition against Torture in Kyrgyzstan

Dear representatives of the Permanent Missions,
Dear Ladies and Gentlemen,

On behalf of the Coalition against Torture, I welcome the opportunity to highlight key human rights issues currently facing victims of torture and ill-treatment in Kyrgyzstan. The Coalition against torture is an informal network of human rights organizations, civic activists and journalists who have joined efforts to fight against torture and other cruel, inhuman or degrading treatment or punishment.

We would like to draw your attention to ten key concerns:

- the prevalence of torture and ill-treatment in Kyrgyzstan;
- the absence of a comprehensive, effective, prompt and impartial investigation of torture complaints;
- impunity for acts of torture;
- the failure to create conditions in detention facilities that meet international minimum standards
- the security of human rights defenders;
- the failure to implement decisions made by UN treaty bodies.

I would like to start by welcoming the commitments made by the Kyrgyz Republic with regard to combating torture and ill-treatment. We also recognize that the Kyrgyz government has adopted an Action Plan to combat torture and implementation is underway through cooperation between government agencies, international and local non-governmental organizations, including the Coalition against Torture.

The Prevalence of Torture

Torture and other forms of inhumane treatment occur regularly in Kyrgyzstan, despite their being outlawed. Kyrgyz law-enforcement bodies use such practices for many reasons, including extracting confessions and extorting cash payments. The causes of torture include gaps in legislation and law-enforcement practices. There is record of torture death cases.

In 2018, a joint study by the Coalition against Torture and the National Center for the Prevention of Torture found that one in three of the detainees at the detention facilities stated that they had been subjected to unjustified physical force or violence during arrest and detention, figures which undoubtedly show the prevalence of torture in Kyrgyzstan.

Kyrgyzstan, in its second Universal Periodic Review in January 2015, accepted and supported 22 recommendations from UPR participating states regarding torture and ill-treatment. However, Kyrgyzstan has failed to implement a number of these recommendations.

The Lack of Investigatory Mechanisms and Impunity

During the second Periodic Review, Sweden, Uruguay, Portugal, Hungary, Czechia, Serbia and Ireland made specific recommendation on ensuring the prompt, impartial and comprehensive investigation of all complaints involving the torture. Kyrgyzstan accepted these recommendations.

However, we see that current legislation does not provide effective procedures and mechanisms to ensure independent investigation of torture and other alleged misconduct. The lack of comprehensive, effective, prompt and impartial investigatory mechanisms remains the main obstacle

faced by torture victims in accessing justice. We have cases when investigations are deliberately delayed for years and torture victims are not provided access to justice. Official statistics from the General Prosecutor's Office show that in nine out of ten cases a decision is taken in refusing to initiate a criminal case into an allegation of torture. According to official statistics only a few perpetrators have been convicted and imprisoned for torture since torture acts were criminalized in 2003.

In addition, at the 2015 UPR, United States, France, Australia and Costa Rica recommended that Kyrgyzstan to ensure to application of fair trial guarantees for everyone. Kyrgyzstan accepted these recommendations.

However, the courts continue to ignore complaints of torture made by defendants and their lawyers. Most sentences in criminal cases are based primarily on confessions given during the investigation, a practice that is often encouraged by courts who overly relying on confessions when evaluating evidence. Such judicial practices make it very difficult to combat torture and impunity.

Security of Human Rights Defenders

In the 2015 UPR, six countries Austria, Belgium, Denmark, Ireland, Lithuania and Uruguay made recommendation to investigate and punish cases involving the intimidation, harassment, persecution journalists and human rights defenders, as well as participants in demonstrations¹. Kyrgyzstan accepted this recommendations.

The State does not provide security for attorneys during trials. There are dozens of cases where human rights defenders have been subjected to prosecution, harassment and interference for their activities.

Detention Conditions

In the 2015 UPR, several states recommended Kyrgyzstan to strengthen its safeguards against torture, including through the improvement of conditions in prisons and detention facilities and the establishment of a complaint mechanism for victims of torture. Kyrgyzstan accepted this recommendation.

Kyrgyzstan has not implemented international standard minimum rules for conditions in detention facilities. In prisons and detention facilities in Kyrgyzstan detainees and prisoners experience extremely poor food and a lack of basic sanitary facilities and heating. The Special Rapporteur on Torture, Juan Mendez, equated the conditions of Kyrgyzstan's detention facilities to torture or inhumane treatment and punishment.

Failure to Implement Decisions by UN Bodies

Up to date the Human Rights Committee considered 24 complaints. In over a dozen decisions, the UN Human Rights Committee (HRC) recognized that Kyrgyzstan violated the right to freedom from torture under Article 7 of the ICCPR and recommended the state to take measures of redress and pay compensation to the victim.

Despite the fact that the Government regulates the mechanism for the consideration of individual complaints and decisions of the UN human rights treaty bodies, no substantive measures have yet been taken in response to most UN HRC decisions.

The National Preventive Mechanism

In June 2012, Kyrgyzstan established a National Preventive Mechanism (NPM) for the prevention of torture. At the 2015 UPR, United Kingdom, Switzerland, Indonesia, Chile, recommended that Kyrgyzstan to ensuring that the National Centre receives adequate resources and access, and ensure its full independence. Kyrgyzstan accepted these recommendations.

Over the past five years, 46 incidents of obstruction of NPM activities were recorded and 3 criminal proceedings were initiated regarding these incidents. Currently, the prohibition of interfering and obstructing of activities of the National Center's staff and members of the Coordination Council has been excluded from the new Criminal Code and the Code of Misconduct.

We urge your government to take part in the UPR process and to make concrete recommendations to the **Government of Kyrgyzstan** to address the following issues:

- 1) Establish and guarantee access to prompt and effective investigation by an independent and impartial body for victims alleging that they were subjected to torture or ill-treatment.
- 2) Ensure strict observance of the rule of exclusion of evidence in all cases where the accused claims to have been obtained through torture.
- 1) Provide functional and financial independence of the national preventive mechanism, providing all the necessary resources, in accordance with Article 18 of OPCAT
- 3) Improve conditions in all prisons and other detention facilities to ensure compliance with international standards, including the UN Standard Minimum Rules for the Treatment of Prisoners.
- 4) Ensure the protection of the human rights of all detainees, including guarantees of due process and protection against cruel and inhumane treatment. Promote non-custodial measures.
- 5) Ensure that human rights defenders, lawyers and other civil society actors are able to carry out their legitimate activities without fear or threat of reprisal, obstruction or legal and administrative harassment.

Thank you for your kind attention.