

STILL WAITING FOR JUSTICE

ONE YEAR ON FROM THE
VIOLENCE IN SOUTHERN
KYRGYZSTAN

**AMNESTY
INTERNATIONAL**



In June 2010, four days of violent clashes between ethnic Kyrgyz and ethnic Uzbeks in southern Kyrgyzstan left thousands injured, hundreds dead and hundreds of thousands displaced. While serious crimes were committed by members of both ethnic groups, the majority of the damage, injuries and deaths were suffered by ethnic Uzbeks.

The Kyrgyzstani authorities are obliged to establish the truth about what happened. They must provide justice for the thousands of victims of the serious crimes and human rights violations, including crimes against humanity.

However, one year on from the June violence, justice is no closer to being done. The failure to investigate and prosecute abuses fairly and effectively, the widespread use of torture in the security operations that followed and the repeated official endorsement of an ethnically biased version of events have compounded the sense of impunity among perpetrators and injustice among victims.

In July 2010, the Kyrgyzstani authorities mandated two independent commissions of inquiry, one with a national base, the other international.

The National Commission issued its report in January 2011. It failed to address the human rights violations committed, ignored

the evidence of crimes against humanity and reiterated the official narrative of co-ordinated Uzbek aggression provoking a spontaneous response on the part of ethnic Kyrgyz.

The International Commission of Inquiry, also known as the Kyrgyzstan Inquiry Commission (KIC), published its findings in May 2011. It came to very different conclusions: serious human rights violations had taken place during and immediately after the violence. There was strong evidence of widespread, systematic and co-ordinated offences against ethnic Uzbeks in the southern city of Osh that would amount to crimes against humanity if proved in court. The investigations and prosecutions that had taken place were flawed and ethnically biased. The report concluded that torture of detainees in connection with the violence had been “almost universal”.

The Kyrgyzstani authorities cannot afford to ignore these findings. They must be publicly endorsed and widely disseminated. The

KIC’s recommendations must be implemented promptly. The international community must both push and support the Kyrgyzstani authorities to do this.

Inter-ethnic relations in Kyrgyzstan remain highly volatile and the rule of law desperately weak. The Kyrgyzstani authorities must re-establish their authority, both real and moral, in the southern regions. They must restore the confidence of all Kyrgyzstanis that they have a stake and a future in the country. None of this can be achieved without accountability for the perpetrators and justice for the victims of the June violence. The price of failure will, almost certainly, be more bloodshed.

Above right: Suleiman-Too sacred mountain – long a site of pilgrimage in Central Asia – rises in central Osh behind the heavily damaged Sharq neighbourhood.

Cover: Attackers looted a family home, smashing crockery, before destroying it, in an Uzbek neighbourhood in Osh.

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THE JUNE 2010 VIOLENCE

After months of rising ethnic tensions, on 10 June clashes between gangs of mostly ethnic Kyrgyz and Uzbek youths rapidly escalated in Osh city. Over the next four days, arson, looting and violent attacks, including killings and sexual violence, swept through the Osh and Jalal-Abad regions.

Satellite imagery revealed that 1,807 buildings in Osh city alone were totally destroyed, the vast majority belonging to ethnic Uzbeks.

Around 1,900 people were severely injured and over 400 killed. In March 2011, the General Prosecutor's Office gave the number of dead as 432. At least 268 bodies identified were Uzbek; at least 108 were Kyrgyz. Data compiled by the human rights organization Kylym Shamy (Torch of the Century), and endorsed by the KIC, showed that at least 470 people were killed, of which 74 per cent were Uzbek and 25 per cent Kyrgyz.

Some 400,000 people, both Kyrgyz and Uzbek, fled their homes. Up to 100,000 refugees, mostly Uzbek women, children and the elderly, crossed the border to Uzbekistan although almost all returned within weeks. Thousands, however, remain internally displaced. They live in temporary, mostly inadequate, accommodation with relatives, host families, or in public buildings. Tens of thousands of Uzbeks have left the country altogether since the June violence.

Independent local observers have persistently maintained that alongside the spontaneous eruption of violence, some of the crimes against ethnic Uzbeks, particularly in the city of Osh, were carefully orchestrated. They have alleged that military personnel participated in some of the violence, that government officials distributed weapons to ethnic Kyrgyz gangs and that soldiers and law enforcement officials frequently failed to intervene to prevent attacks against ethnic Uzbeks. These claims, long

denied by the authorities, have been corroborated by the KIC.

CRIMES AGAINST HUMANITY

The International Criminal Court defines crimes against humanity as certain acts, such as murder, torture and sexual violence, that form part of a widespread or systematic attack directed against any civilian population.

In its December 2010 report on the June violence and its aftermath, Amnesty International asserted that there was considerable evidence to suggest that some of the attacks against ethnic Uzbeks amounted to crimes against humanity. The KIC went further. Speaking of the violence against the Uzbek *mahallahs* (neighbourhoods with traditional low-rise brick homes) in Osh during 11, 12 and 13 June, it concluded that: "certain crimes committed during the attacks... were of sufficient gravity and were systematic and, if proven beyond reasonable doubt in a

NARIMAN VILLAGE

Early on 21 June, security forces entered the Uzbek village of Nariman in the Osh region. A spokesperson for the Ministry of Internal Affairs claimed that the operation was intended to dismantle the barricades which had been erected, arrest suspects, and seize weapons.

Victims and human rights organizations report that security officers beat people with rifle butts and destroyed personal documents during the house searches. One man was shot and died on the way to hospital, another was beaten to death and many more were injured. Several men were detained.

No members of the security forces were prosecuted for human rights violations committed during the Nariman raid. The investigating authorities claimed they could not find evidence to substantiate the claims by victims and human rights organizations who had documented the violations.



Above: Security forces tore up this ethnic Uzbek villager's passport during a raid in Nariman village on 21 June 2010.

Right: Mansura sits in the remains of her family compound, which was destroyed during the violence in Osh.



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court of law, would qualify under international law as crimes against humanity." It pointed to the fact that these attacks, in the course of which Uzbek residents were beaten, killed and raped "exhibited pattern and order of several days duration". It concluded that the "sustained behaviour of specific targeting and some kind of discipline and order is not commensurate with the normal chaotic actions of rioting civilian crowds."

The authorities must ensure that these crimes are investigated and prosecuted in accordance with their qualification under international law.

RAPE AND OTHER SEXUAL VIOLENCE

Rape and other crimes of sexual violence committed as part of an attack against a civilian population qualify as crimes against humanity. Credible reports of sexual violence during the June violence have not been effectively investigated, however.

Human rights and women's organizations reported that women and girls were reluctant to report these attacks given the profound cultural stigma attached to sexual violence in their traditional communities and the trauma they suffered as a result. There are currently around 20 documented and corroborated rapes and other incidents of sexual violence against women and girls, but human rights monitors believe the real figure to be much higher.

Most of the rapes and sexual violence were committed by Kyrgyz men, often in groups, against Uzbek women and girls, although there were also instances of Uzbek men raping Kyrgyz women. There were also isolated reports of boys being raped. The rapes were accompanied by verbal ethnic abuse and severe physical violence.

The KIC expressed concern that sexual and gender-based violence remained under-reported and largely unacknowledged by the authorities: "The scope of the sexual violence, which extends beyond the fighting

itself, did not take place in isolation or as an unintended consequence of the conflict. Rather, it is closely linked to both the subordination of women to gender based discriminatory customs and practices and to the perceptions of women as markers of group identity and honour."

TORTURE AND OTHER ILL-TREATMENT

Reports of torture and other ill-treatment following the June violence were widespread. However, the authorities appear to have done little to address and prevent these serious human rights violations. The KIC concluded that "[t]here is a consistent and reliable body of material which tends to show that acts of torture were committed in detention centres by the authorities of Kyrgyzstan in the aftermath of the June events. Of particular concern to the KIC is that such acts of torture are ongoing and that the response of the authorities to allegations of torture has been grossly inadequate."



AZIMZHAN ASKAROV



Azimzhan Askarov, a prominent human rights defender, and seven others were accused of the murder of a Kyrgyz police officer during the violence in Bazar-Korgan in June.

In September 2010, their trial was marred by repeated acts of violence against Azimzhan Askarov's family and lawyers, both inside and outside the courtroom.

The defendants' lawyers were not given the opportunity to question witnesses, submit petitions, or call defence witnesses as the authorities were not able to guarantee their safety. When the lawyers said they would not be able to defend their clients under these conditions, the judge reportedly threatened to have their licences to practise revoked.

The defendants denied the charges and maintained in court that they had been forced to confess under duress. Their allegations were not investigated and five of them, including Azimzhan Askarov, were sentenced to life imprisonment.

On appeal, the Jalal-Abad Regional Court also declined to examine any of the allegations of forced confessions by the defendants or order an investigation into them. Defence lawyers were not able to call witnesses; relatives and colleagues of the murdered police officer continued to threaten the lawyers. In November, the Appeal Court upheld the convictions and the sentences imposed.

As the director of the NGO Vozdukh (Air), Azimzhan Askarov worked on cases of torture, in particular in police custody. He believes that he had been detained, tortured and ill-treated to punish him for his investigations into police abuses in the Jalal-Abad region. Amnesty International considers Azimzhan Askarov to be a prisoner of conscience and is calling for his immediate and unconditional release.

In the immediate aftermath of the June violence, security forces reportedly used excessive force in their search operations – ostensibly carried out to seize weapons and detain suspects. Law enforcement operations and criminal investigations in the following weeks disproportionately targeted Uzbeks and Uzbek neighbourhoods, while failing to identify and investigate alleged Kyrgyz perpetrators. Hundreds of men, mostly Uzbek, were arbitrarily detained and allegedly beaten during raids and later tortured or otherwise ill-treated in detention.

By mid-August, large-scale search-and-sweep operations were replaced by frequent smaller-scale security operations. Human rights monitors reported that scores of people, mostly Uzbek, were stopped in the streets being held incommunicado in custody, being beaten and tortured to force them to confess to a crime or to incriminate others – often in order to extort money from them.

Attempts by relatives to submit complaints about the torture and other ill-treatment to police and prosecutors were obstructed. Prosecutors invariably failed to thoroughly and impartially investigate the allegations and bring those responsible to justice.

The consequences of this failure are still being felt. The June violence and the resulting impunity afforded to perpetrators has given licence to criminals and armed groups. Human rights monitors have received numerous reports of armed masked men raiding homes and businesses, taking hostages and committing murder.

ETHNIC BIAS IN THE JUSTICE SYSTEM

The ethnic bias in the law enforcement operations that followed the June violence has been equally evident in the resulting criminal investigations and prosecutions.

Only two ethnic Kyrgyz have been convicted of a serious criminal offence committed in

NASIBA NARBAEVA

In August 2010 in Jalal-Abad, Nasiba Narbaeva's husband Makhkam Narbaev was abducted from his home at night by three masked men and later killed. Nasiba, who witnessed the abduction, was threatened, bound and gagged by the intruders. Although they were masked she identified them as Kyrgyz by their speech. The intruders were looking for money and valuables and accused Makhkam of having extorted money from a Kyrgyz.

Following her husband's murder, Nasiba was repeatedly brought in for questioning by local police. Nasiba describes how she was accused of lying to cover up for a crime committed by Uzbeks, of inciting ethnic hatred and of having organized her husband's murder. She was called a prostitute and subjected to ethnic insults. She reports being beaten, bound to a chair and having her hijab forcibly removed. When Nasiba refused to sign a confession implicating herself and a young male relative in the murder of her husband, she alleges that the police officers threatened to rape and kill her. Nasiba finally signed a confession which had been prepared for her and was released.

A young Uzbek relative and his Uzbek friend were charged with the murder of Makhkam. They were denied access to a lawyer, tortured and forced to confess. Both men were sentenced to long prison terms after an unfair trial.

Nasiba sought help from local human rights defenders to lodge official complaints about the police behaviour, but in the face of continuing threats against her and her family she eventually decided to leave the country.



the course of the June violence even though the majority of those killed during the violence were Uzbek.

Ethnic Uzbeks accounted for 75 per cent of the casualties and sustained 90 per cent of property losses. However, official figures released in November 2010 revealed that of the 271 individuals who had been taken into custody in relation to the June violence, 230 were ethnic Uzbek and only 29 ethnic Kyrgyz.

FORCED CONFESSIONS AND UNFAIR TRIALS

Following unfair trials, courts have handed down at least 27 life sentences and six long-term sentences of between 15 and 25 years' imprisonment for murder and mass disturbances in relation to the June unrest. All those given life sentences were Uzbek. Amnesty International has received numerous reports that allegations of forced confessions were not investigated, defence witnesses were not interviewed and lawyers were threatened and physically attacked.

The KIC concluded that "there is a consistent and reliable body of material which shows that multiple violations of fair trial rights were committed in the aftermath of the June events."

IMPUNITY

Corruption and impunity go hand in hand in Kyrgyzstan. Whole strata of local government and law enforcement bodies have been co-opted by criminal elements, which has entrenched the power of, and allegiances to, specific interest groups that operate largely beyond the reach of the law. This has severely undermined public confidence in the administration of justice and law enforcement and hampered efforts to implement the rule of law.

Impunity for law enforcement officers who have perpetrated torture and other ill-treatment has long been a serious problem in Kyrgyzstan, especially at the local and regional level. Since the June 2010 events, it has become even more apparent.



In November 2010, President Roza Otunbaeva told prosecutors that she was concerned about the number of complaints she had received of torture and other ill-treatment by security forces which apparently had not been properly investigated. Yet by the end of March 2011 not a single prosecution for torture or other ill-treatment in police custody appeared to have taken place.

The President repeated her concerns about torture and other ill-treatment in February 2011. The Osh Regional Prosecutor's Office then announced that it would review 995 criminal cases to check whether the proceedings in these cases complied with national legislation.

In April 2011, a new General Prosecutor was appointed. She soon issued a directive requiring all reports and complaints of torture to be immediately investigated and all places of detention to be inspected regularly and without notice.

Impunity has clearly not been limited to abusive law enforcement officials, however. Investigators and prosecutors have failed to investigate and prosecute the vast majority of crimes committed both during and immediately after the June violence.

Out of 5,162 open cases relating to the June violence, only 170 criminal charges, against 331 accused, had been filed with the courts in both Osh and Jalal-Abad by December 2010, and very few have been added since then. Ethnic bias is significantly to blame for these very low figures – 79 per cent of these charges are against ethnic Uzbek and only 18 per cent against ethnic Kyrgyz. But it is also true that the necessary investigative work can be time-consuming and the perpetrators hard to identify. The resources of the criminal justice system and, in particular, its representatives in Osh and Jalal-Abad, are clearly not equal to the task that they currently face.

The consequence of this failure, however, is that hundreds, if not thousands, of

individuals – officials and civilians, ethnic Kyrgyz and ethnic Uzbek – are escaping accountability for their crimes. The rule of law is being undermined, corruption and criminality encouraged, and the seeds of future turmoil and future human rights violations are being sown.

Above: Burnt out shops in Uzbek neighbourhood in Osh, June 2010.

Left: A medical centre in one of Osh's mainly Uzbek neighbourhoods was smashed, looted and burnt.



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Refugees from Kyrgyzstan cross the steep embankment of a canal at the border with Uzbekistan.

RECOMMENDATIONS

To the Kyrgyzstani authorities:

- Endorse and disseminate the findings of the KIC and promptly implement its recommendations.
- Create specialist units of investigators, prosecutors and judges within the police, General Prosecutor's Office and the judiciary, to deal with crimes and human rights violations committed during and in the aftermath of the June violence. Appointments to these units should be ethnically and gender balanced.
- Transfer criminal investigations and charges filed with the courts directly to the specialist unit within the General Prosecutor's Office, which should conduct a thorough review of any allegations of procedural irregularities and of the use of torture or ill-treatment by law enforcement officials.
- Carry out an independent review of all cases that have resulted in convictions, without prejudice to any outstanding right

of appeal, in order to identify possible procedural violations, violations of fair trial guarantees and the use of torture and other ill-treatment.

- Ratify the Rome Statute of the International Criminal Court and amend the Criminal Code of Kyrgyzstan. Genocide, crimes against humanity and war crimes should be made criminal under national law, regardless of the date of their commission.
- Investigate and prosecute crimes against humanity and other crimes under international law committed during the June violence.
- Ensure the investigation and prosecution of sexual and gender-based violence.
- Publicly condemn the use of torture and other ill-treatment and ensure prompt, impartial and comprehensive investigations of all complaints of torture or other cruel, inhuman and degrading treatment or punishment of any person, regardless of their ethnic origin.

To the international community:

- Welcome the strong signal sent out by the Kyrgyzstani authorities in mandating the KIC; endorse its findings and encourage and assist the Kyrgyzstani authorities in implementing its recommendations.
- The international community, in particular European Union institutions and member states, the USA, and the Organization for Security and Co-operation in Europe (OSCE) should provide funding, training and technical assistance to the June 2010 specialist units in order to ensure that they can function independently and effectively and deliver justice without prejudice.
- The international community, in particular the UN High Commissioner for Human Rights and the OSCE, should monitor progress of the investigations and prosecutions of the specialist units and report regularly to the Kyrgyzstani authorities and the international community.

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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

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