

"Legal Protection of Victims of Torture and Ill-Treatment" Project Report

Public Association Human Rights Movement "Bir Duino Kyrgyzstan" with the support of the United Nations Voluntary Fund for Victims of Torture



2023

SUPPORT PROVIDED TO VULNERABLE CITIZENS

The aim of the project is to protect the rights of victims of torture and ill-treatment by providing qualified legal assistance and legal defense, using national and international protection mechanisms.

Since 2018, the HRM "Bir Duino Kyrgyzstan" has been protecting citizens affected by torture and ill-treatment within the framework of the project "Protection of the Rights of Victims of Torture and Ill-Treatment" with the support of the United Nations Voluntary Fund.

Thanks to the assistance provided, the most vulnerable citizens, victims of torture, their relatives and friends receive free professional legal advice, legal support, legal defense at the stages of detention, investigation and trials, as well as assistance in preparing complaints to the UN Human Rights Committee when internal protection mechanisms are exhausted;



CHALLENGES:

Among the main problems, human rights defenders, lawyers and experts note the lack of independent and effective mechanisms for receiving complaints and conducting impartial and comprehensive investigations into allegations of torture, impunity for perpetrators of torture.



On 1 December 2021 a new institution was introduced – a pre-investigation inspection. Applicants are denied the initiation of criminal proceedings, mainly on the basis of the conclusions of forensic medical examinations. Investigation is conducted superficially, ineffectively and quickly.



Lack of procedural security often leads to the victim's refusal to report torture.



Pressure exerted on lawyers, threats received from law enforcement officials involved in torture.

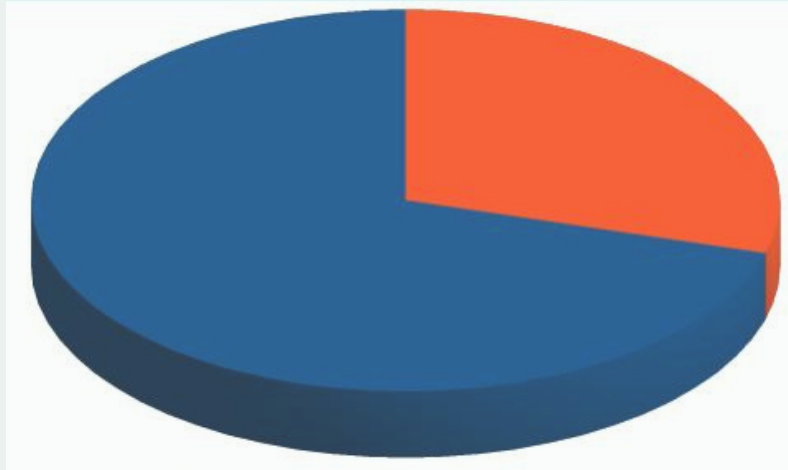


Despite the difficulties, the HRM "Bir Duino Kyrgyzstan" continues to pursue its mission of protecting the rights of victims of torture and ill-treatment.

Consultations provided in 2023

190

INCLUDING: NUMBER OF CONSULTATIONS FOR VICTIMS OF TORTURE AND ILL-TREATMENT - 70%, FOR THEIR RELATIVES AND CLOSE ONES - 30%



MEN 73%



WOMEN 27 %



Most often, complaints are submitted by people aged 36 to 60.



In 2023, there were several cases of torture against minors.

In 2023, legal protection was provided to four citizens of Tajikistan, Uzbekistan, and Russia.

Legal protection is being provided in 17 cases for 17 victims of torture and ill-treatment

In 35% of the total number of cases, the project received refusals to initiate criminal proceedings on the facts of torture and ill-treatment.

In two cases, work continues on obtaining compensation for human rights violations (cruel and inhuman treatment).



Every year, the lawyers of BDK send several complaints to the UN Human Rights Committee. The period from the initial submission of the complaint and issuance of the Views lasts for several years. Over the years of BDK's work, more than 10 complaints have been submitted, replies have been received on 5 of them, and communication is ongoing on the remainder. 3 complaints were prepared in 2023.

Work continues on the case of death of human rights defender Azimzhan Askarov, who died in a colony on 25 July, 2020.



An analytical report has been prepared on the problems of investigating torture in Kyrgyzstan



Volunteer work for the project

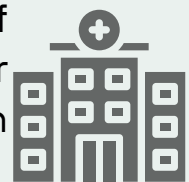


There are many poor citizens among those who sought legal assistance in torture cases. The lawyers of BDK provide legal defense in cases initiated against citizens on a volunteer basis.



Cooperation

Torture affects the life of the victim and their close circle. The effects of the stress are lifelong. Every year, several victims of torture and their family members are referred for rehabilitation with the assistance of the public foundation Voice of Freedom. This year, 3 people underwent treatment.



Information on some of the cases

Protection of foreign citizens

A citizen of the Republic of Uzbekistan, A.H., was tortured, forced to flee the country, and sought legal assistance from BDK. The Osh Regional Court overturned the decision of the Prosecutor General's Office of the KR on the transfer of the victim of torture to the Uzbek authorities, he was released from custody and left Kyrgyzstan.



23 days spent in the TDF (temporary detention facility) instead of 10

In August 2022, a resident of the Kara-Suu district of the Osh oblast was detained. He was held in the TDF of the Kara-Suu district department of internal affairs (DSolA) for 23 days. The man said that he was beaten with a truncheon on his legs, a bag was put over his head and air was cut off, and they let an electric current through his body. The prosecutor's office issued a submission. A complaint to the UN Human Rights Committee is being prepared.



A 63-year-old citizen of Tajikistan came to earn money and was subjected to torture

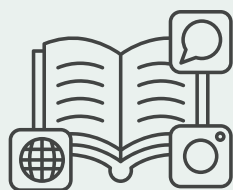
In October 2021, a 63-year-old resident of the neighboring republic came to work in the Batken oblast. He was arrested on suspicion of a crime. He was held in an unknown place for four days, and tortured with a demand to testify. The court sentenced him to 12 years in prison. At the end of 2022, he applied to BDK. He complained of the deterioration of his health. Submission of appeals against refusals to institute criminal proceedings on torture continues.



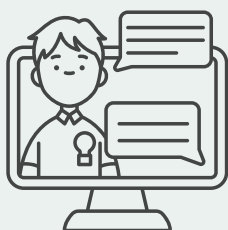
An underage guy jumped out of a moving car due to torture

On 19 September 2023, the mother of 17-year-old A.Yu. applied to BDK. The guy was arrested and they began to torture him in the car with a demand to confess to offenses. The guy jumped out of the moving car. He was screaming he was innocent. The pre-investigation inspection on the case is ongoing.

Informing the public about violations of citizens' rights



Information on protection of citizens from torture and ill-treatment and cases taken for protection was provided to the public. 99 materials on the project have been published on the organization's website. Awareness-raising is also conducted via social media accounts.



In June, video and text materials on the topic of torture created jointly with lawyers, NCPT, the Ombudsman, and Positive Dialogue Foundation were released. Also assistance was provided to prepare the video for Article 9.



The video materials are available in three languages: Russian, Kyrgyz and Uzbek with subtitles.

The confidentiality of applicants is respected when releasing information materials.



Multifaceted work

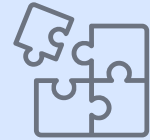
Advocacy work on protection of the rights of victims of torture is carried out at the international level, individual complaints of torture victims are sent to the UN Human Rights Committee, applications are sent to the Special Rapporteur on torture, and together with the Civic Solidarity Platform Working Group on the Fight Against Torture we participate in the preparation of the Prohibition of Torture Index in Kyrgyzstan, Review on Torture Prevention, as well as conducting a survey of citizens regarding the level of tolerance of torture.

The presentation of the results of the index and survey was made in 2023 in Warsaw at the OSCE/ODIHR Human Dimension Conference. A number of project employees are external experts of the NCPT of the KR, so they participate in monitoring closed institutions, identify and help victims of torture. Cooperation is underway with the NGO Association "Advocacy Center for Human Rights", Coalition Against Torture in the KR, PF "Spravedlivost" ("Justice"), and "Article 9".



**PRACTICE SHOWS A HIGH DEMAND FOR
QUALIFIED LEGAL ASSISTANCE TO BE PROVIDED
TO THE POPULATION.
PROTECTION OF THE RIGHTS OF CITIZENS AFFECTED BY
TORTURE CONTINUES!**

Addendum



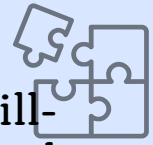
Contribution of the HRM "Bir Duino Kyrgyzstan" within the framework of the project Legal Protection of the Rights of Victims of Torture and Ill-Treatment to combating torture and impunity.

Strengths/ Contribution of the organization and the project

The Human Rights Movement "Bir Duino Kyrgyzstan" is one of the leading organizations in southern Kyrgyzstan providing assistance in the most difficult cases, including protection of victims of torture and ill-treatment:

- The project Legal Protection of Victims of Torture and Ill-Treatment implemented by the organization provides an opportunity for the most vulnerable citizens to receive free qualified assistance and protection at all stages of legal proceedings, to resist violence, which has become a common phenomenon in criminal proceedings:
- On each accepted case our lawyers claim torture, demand an investigation of the facts of torture, present evidence (conclusions of independent experts, witness testimony, etc.), refusals to investigate are appealed in accordance with the established procedure to the Prosecutor's office, judicial authorities, the President, Ombudsman Institution, NCPT of the KR:
- After the internal mechanisms have been exhausted, complaints are sent to the UN Human Rights Committee:
- The credibility of the organization is also demonstrated by the fact that foreign nationals who have been victims of torture and ill-treatment have turned to it for help. In 2023, legal defense was provided to four citizens of Tajikistan, Uzbekistan, and Russia:
- In conditions of insufficient development of juvenile justice, which requires special legal knowledge, understanding of the peculiarities of adolescent psychology, the professional level of our lawyers made it possible to work on cases of protection of juvenile victims of torture:
- We protect the rights of women and girls who have been subjected to violence, including by law enforcement officers, which requires a high level of understanding of jurisprudence, the basics of a gender approach, and empathy.

Addendum



Advocacy for the rights of victims of torture and ill-treatment is carried out in cooperation with the UN and OSCE mechanisms:

Every year we prepare three complaints to the UN Human Rights Committee. In 2022, we sent complaints of M. ugli M., K. M., E. E., on which the communication process is underway in 2023. Complaints on the cases of T. N., Z.Z., M.M. were prepared in 2023.

Over the last few years, more than 10 complaints have been submitted, decisions have been received on the complaints of B. J., Yu. Sh., A. P., S. A., J. B., communication is ongoing on the rest of the complaints.

In 2021, the Human Rights Movement "Bir Duino Kyrgyzstan" sent a message with a list of issues to the Committee against Torture (CAT) for consideration of state reports on Kyrgyzstan and participated in the 72nd session of the Committee. We raised two issues at the hearings: the need to investigate complaints of torture and death of human rights defender Azimzhan Askarov, and the issues of ensuring the safety of torture victims and their lawyers.

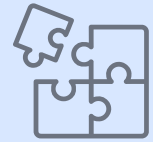
On 17 March 2023 the Government of Kyrgyzstan submitted its follow-up report to the Committee, in which it replied that the country's criminal procedure legislation provides for a mechanism to protect the victim, including against torture.

Appeals are sent to the Special Rapporteur on Torture for protection at the international level.

Within the framework of partnership with the international network Civic Solidarity Platform, we annually participate in the calculation of the torture prohibition index in the OSCE region, presenting data on Kyrgyzstan. This study helps to identify systemic challenges and solutions in combating torture in Kyrgyzstan.

An overview of the situation of torture and ill-treatment, the results of the index calculation and recommendations for Kyrgyzstan were presented at the site event of the Platform's Working Group on the Fight Against Torture.

Addendum



Weaknesses I

The project's lawyers have been defending torture victims for several years for a low fee, up to the exhaustion of internal mechanisms and the preparation of complaints to the UN Human Rights Committee:

Victims of torture are often involved in criminal cases being unable to pay for qualified legal assistance, and therefore, the project's lawyers participate in the defense of the main case on a volunteer basis:

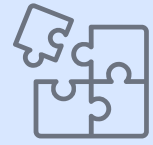
There are frequent amendments and additions to criminal legislation made without any discussion and without taking into account the opinions of lawyers and human rights defenders:

After the introduction of the institution of pre-investigation inspection and the ban on appealing a number of judicial acts to the Supreme Court, a difficult situation arose - impunity of persons involved in torture:

Local courts can support the arguments of lawyers and return the case file for review, but the supervisory authorities again issue rejections:

The principle of the inevitability of punishment does not work, those involved in torture continue to serve in law enforcement agencies.

Addendum



Weaknesses II

Even in cases where officials are prosecuted for torture, there is no guarantee that the punishment will be upheld, since in most cases, by appealing to the Supreme Court, the perpetrators manage to get their convictions overturned, as well as to get their cases reviewed and dismissed. There are facts of reinstatement of previously convicted law enforcement officers.

The more refusals are received to initiate criminal proceedings on the facts of torture, the more appeals are submitted to international mechanisms, and constant appeals to the international human rights community demonstrate the level of human rights violations, which affects the country's image at the international level.

Funds are restricted and fewer programs and projects are implemented to provide pro bono qualified legal assistance to vulnerable citizens.

Improving the effectiveness of the assistance provided by the SGLA (State Guaranteed Legal Aid), and the capacity of lawyers to handle torture cases will greatly contribute to strengthening and supporting the fight against torture.

The victims' ignorance of their rights and inability to defend them during detention also complicates further legal defense.

Corruption in government agencies is a serious obstacle to the protection of citizens' rights.

Addendum

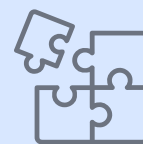


Opportunities

- Cancellation of the pre-investigation inspection procedure, as a stage that has demonstrated its inefficiency and hindered a comprehensive investigation of a case and protection of a victim of torture;
- It is necessary to appeal to the Constitutional Court against the abolition of the norm of the criminal law that prevents appealing against refusals to initiate criminal proceedings in the Supreme Court;
- In order to ensure the procedural safety of torture victims, it is necessary to remove persons involved in torture from their posts at the beginning of the investigation of the case;
- An independent investigative body should be created to ensure access to information for civil society, increase transparency and accountability of the responsible body;
- It is necessary to conduct timely, high-quality forensic medical and forensic psychological and psychiatric examinations in order to ensure effective protection of victims of torture in the judiciary;
- Raise the issue of equality of the parties in criminal proceedings.

Addendum

Threats



- Lawyers are often threatened by security forces in relation to the protection of victims' rights. For example, in the first half of 2023, lawyer Sh. Saliev, due to the protection of the victim of torture I. E. received threats from operatives in Osh.
- Lawyer I. Juraev, while defending the victim of torture T. M., was threatened by an investigator of the SCNS of the KR. While protecting the victim A. Sh., he received threats from the staff of the SRRU (Special Rapid Response Unit):
- It is necessary to ensure the physical and procedural safety of victims of torture and ill-treatment:
- Having analyzed 8 cases of victims of torture, in which the HRM "Bir Duino Kyrgyzstan" provided legal defense in previous years, we can see that only in 2 such cases the investigators granted a request to ensure the safety of victims of torture. However, these decisions do not specify exactly what security measures were taken:
- In the cases we worked on, not a single law enforcement officer was removed from his post during the pre-trial proceedings. These actions of the investigator give the law enforcement officers, who have allowed the use of violence, the opportunity to exert pressure on the victim of torture and their close ones using their official authority. Of the 8 cases, only three victims of torture remained at large, while the rest were detained based on the main charges.



Should you have any questions, please, contact
the Human Rights Movement

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The Legal Protection of Victims of Torture and Ill-Treatment project report was prepared by the PA Human Rights Movement "Bir Duino Kyrgyzstan" with the support of the United Nations Voluntary Fund for Victims of Torture in 2023.