



OLD HABITS

THE ROUTINE USE OF TORTURE
AND OTHER ILL-TREATMENT IN
KAZAKHSTAN

AMNESTY
INTERNATIONAL



Torture remains commonplace in Kazakhstan and the torturers are allowed to go free

Kazakhstan declared at the UN Universal Periodic Review in February 2010 that the authorities “would not rest until all vestiges of torture had been fully and totally eliminated”. This bold promise has not been borne out by reality. In 2013, the security forces in Kazakhstan still enjoy impunity for human rights violations.

This is starkly underlined by the lack of effective investigation and prosecution of the use of excessive and lethal force by the security forces during strike actions and protests in the town of Zhanaozen as well as the torture and other ill-treatment of those people consequently arrested. The UN High Commissioner for Human Rights expressed concern over these violations during her visit to Kazakhstan in July 2012. She noted the many unanswered questions about the police use of force against the demonstrators and that allegations of torture and forced confessions had not been effectively investigated. She recommended an independent international investigation as “the only way to credibly answer these questions once and for all.”

Eighteen months after the events in Zhanaozen, the authorities assert that they have conducted thorough and impartial investigations into all the allegations in compliance with their international human rights obligations.

However, despite hundreds of cases of torture or other ill-treatment reported by victims, their lawyers and NGOs over the past three years,

as well as the excessive – and in some cases lethal – use of force in Zhanaozen, there have been only a small number of prosecutions of members of the security forces. Kazakhstan is obliged under international law to ensure that allegations of torture or other ill-treatment are promptly, thoroughly, impartially and independently investigated, that victims receive reparation, and that perpetrators are identified and brought to justice in fair trials with penalties commensurate with the gravity of the violation.

Independent monitoring bodies with the power to make regular, unannounced and unrestricted visits to places of detention are a key safeguard in protecting detainees against torture and other ill-treatment. The Kazakhstani authorities did allow some independent public monitoring of places of detention under the authority of the Ministry of Justice from 2005 to 2011, but visits and monitoring of police cells under the Ministry of Internal Affairs and other places of detention under the National Security Service remained problematic and most allegations of torture were received from these institutions. In 2011, the President transferred control of the entire prison system from the Ministry of Justice back to the Ministry of Internal Affairs, reaffirming the dominant role of the security forces in overseeing law and order.

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LETHAL FORCE USED AGAINST PROTESTERS IN ZHANAOKEN

During the Independence Day festivities on 16 December 2011, in the town of Zhanaozen, young men and oil workers – on strike since May 2011 – tore down festive displays in the town’s central square and reportedly attacked police and local town officials with stones.

Eyewitnesses claimed that some police fired warning shots into the air but others fired directly into the large crowd in the square, which included women and children out to celebrate. Video footage from several sources showed security forces aiming and shooting their weapons at protesters running away and beating those lying injured on the ground. Fifteen people were killed, hundreds were seriously wounded.

International law enforcement standards are clear: when dispersing non-violent protests, law enforcement officials must avoid the use of force or, where that is not practicable, must restrict its use to the minimum necessary. In the case of violent protests, they may use firearms only when



Left: Video footage of the violent clashes in Zhanaozen shows a general view of riot police on 17 December 2011. Violent clashes with security forces left at least 15 people dead. Below: Sunday 18 December 2011, some of the bodies of men killed during clashes between police and demonstrators lying in a morgue in Zhanaozen.

less dangerous means are not practicable, to defend themselves or others against the imminent threat of death or serious injury. In Zhanaozen, the security forces reportedly had no specific training in using non-violent methods of crowd control during demonstrations and strikes, despite months of being confronted by striking and protesting oil industry workers and their supporters in 2011.

President Nursultan Nazarbaev visited the town on 22 December. He blamed the violence on “young hooligans” and said that security forces had acted strictly within the law.

By late December 2011, however, the General Prosecutor’s Office publicly acknowledged that the use of firearms by some police officers had been disproportionate. It opened a criminal investigation into the use of force by security forces after the video footage of the events was released. In January 2012, five senior security officers were charged with abuse of office in relation to the use of force in Zhanaozen, and in May 2012 were

sentenced to between five and seven years in prison. The number of deaths and serious injuries from gunshot wounds would indicate that many more security officers had shot at protesters. Police officers who were trial witnesses confirmed they had also shot directly at protesters but they did not face charges.

There were loud calls for further investigations in order to establish the true number of fatalities and other casualties in Zhanaozen and bring all those responsible to justice. The General Prosecutor’s Office asserted in October 2012 that all available evidence had been thoroughly investigated by the Mangistau Regional Department of Internal Affairs and that there was no need to bring further criminal charges against other security officers.



The term **security forces** is used in this briefing to refer to all law enforcement forces under the control of the Ministry of the Internal Affairs, the National Security Service, as well as military personnel.



ROZA TULETAEVA

Roza Tuletaeva is a labour rights activist who had been one of the main contact points for media and international organizations during the oil workers' strike in 2011. She was charged with being one of the organizers of the December 2011 violence. At her trial, which took place from March to April 2012, she stated in court that she had been subjected to torture and other ill-treatment during interrogations at a police station in Zhanaozen.

She alleged that security officers suspended her by her hair, put a plastic bag over her head to suffocate her and subjected her to assault and sexual humiliation. She also stated that that security officers threatened to harm her 14-year-old daughter. She said that she was too ashamed to describe in the courtroom the sexual torture she was subjected to, as her family and friends were present. She was sentenced to seven years in prison for "inciting social discord". Later, upon appeal, her sentence was reduced to five years.

Above: Labour activist Roza Tuletaeva was charged with being one of the organizers of the oil workers' strike in 2011.

Above right: Pumpjacks in Kazakhstan, 2012. The oil industry in Kazakhstan is a major source of wealth for the country. In 2011, many oil workers went on strike asking for better conditions and pay. These strikes were suppressed with excessive force by the security forces.



TORTURE AND OTHER ILL-TREATMENT

Reports of torture and other ill-treatment of detainees and prisoners by security forces and prison personnel have continued unabated since 2010 despite repeated government claims that they were successfully addressing the problem. The sheer number of reports of torture and other ill-treatment – including beatings, kicks, suffocation, verbal harassment, humiliation, threats to relatives and coerced confessions – that have emerged in the aftermath of the Zhanaozen events belies the government rhetoric and underlines that security forces continue the practice. Relatives, lawyers, monitors, human rights defenders and journalists reported that torture as well as cruel, inhuman or degrading treatment of prisoners was rife throughout Kazakhstan, that prison authorities restricted basic prisoner rights, and arbitrarily used solitary confinement to punish prisoners.

MASS DETENTIONS AND TORTURE AFTER ZHANAOKEN

In December 2011, the General Prosecutor's Office announced that 16 people had been arrested on charges of organizing the violence while over 130 had been detained for participating in violent mass disorders. However, many eyewitnesses put the number of those detained much higher. According to some sources, the central police station in Zhanaozen listed as many

as 700 individuals detained in the aftermath of the clashes. Investigations conducted by the General Prosecutor's Office and the Ministry of Internal Affairs into the number of detentions were, however, not thorough, independent and impartial. They relied on information and figures given by the officials in charge of the detention centres. They did not interview released detainees or their families, or journalists and human rights activists who had witnessed the detentions. The investigations have failed to establish and publicize the true number of individuals detained.

Following the violence in Zhanaozen on 16 December, released detainees and relatives of detainees reported that scores of men and women had been rounded up and kept incommunicado in police custody. Detainees claimed that they were held in overcrowded cells and had been stripped naked, beaten, kicked and doused with cold water in the police station courtyard in sub-zero temperatures. They said they heard screams coming from interrogation rooms. Independent monitors were not allowed access to the police stations, and even in those instances where the authorities allowed monitors to join a special inspection, visits were planned in advance and access to places of detention were strictly controlled by the authorities, with no private interviews of detainees allowed.



SOLITARY CONFINEMENT

In December 2012, Amnesty International was informed by the General Prosecutor's Office that in Kazakhstan, solitary confinement as a punishment for breaching prison rules cannot be imposed for longer than one month. The punishment cannot be extended for a further month without the prosecutor's approval. The General Prosecutor's Office has instructed prosecutors to monitor and scrutinize the use of solitary confinement in prisons, and in 2012 it intervened to arrange the release of 12 prisoners in isolation.

According to the General Prosecutor's Office, even those sentenced to life imprisonment are not held in solitary confinement.

However, Amnesty International has received reports that prison authorities resort to the use of solitary confinement in a manner that might amount a breach of human rights standards.

The UN Human Rights Committee noted that prolonged solitary confinement may amount to cruel, inhuman or degrading treatment. The Special Rapporteur on Torture has recommended that "the use of solitary confinement should be kept to a minimum, used in very exceptional cases, for as short a time as possible, and only as a last resort." If solitary confinement is used, steps should be taken to minimize its harmful effects by ensuring that the prisoners have adequate exercise and social and mental stimulation.



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ARON ATABEK (ALSO KNOWN AS ARON YEDIGHEEV)

Aron Atabek is a 60-year-old dissident writer and poet who was detained in 2006 and convicted for taking part in mass disorder to prevent the demolition of self-built houses on the outskirts of his native Almaty and for taking hostage and killing a police officer under disputed circumstances during those events. He is due for release in 2024, but has spent one third of his time in prison so far in solitary confinement, in very harsh, unhealthy conditions.

In November 2012, Aron Atabek was charged with multiple violations of prison rules and sentenced to two years' solitary confinement in a high security prison in Arqalyk, 1,650km away from Aron's home town. The charges ensued after Aron Atabek published his new collection of articles online about life in prison and current Kazakhstani politics. In Arqalyk,

Aron is kept in solitary confinement cells with 24-hour video surveillance. Every day, prisoners must lie down between 2pm and 4pm to sleep – no reading, sitting, or walking is allowed then – and it is forbidden to lie down at other times during the day.

Prisoners are taken daily for short walks to the roof of the prison building, hands handcuffed behind their backs, and blindfolded to prevent them from seeing and talking to other prisoners.

During his previous two-year solitary confinement in Arqalyk, between 2010 and 2012, Aron Atabek did not see or talk to a single prisoner. His books and writing supplies were taken away from him upon arrival; he protested and had his writing materials returned.

He wrote "Arqalyk is like a submarine in the vast steppes of Kazakhstan". "If I hadn't continued writing then," he said, "I would probably have lost my mind."



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Above: Aron Atabek (also known as Aron Yedigheev). Out of his first seven years spent in prison, he has spent a third in solitary confinement.

Above left: Aron Atabek's wife, who continues to campaign for his release.



DMITRI TIAN AND OLEG EVLOEV

In June 2009 in Kazakhstan's capital Astana, Dmitri Tian and Oleg Evloev were sentenced to 25 years' and life imprisonment respectively, for premeditated murder. Both men claimed that they had been tortured in order to force them to confess. The judge instructed the jury not to consider these allegations. A video tape recorded by the police following Oleg Evloev's arrest, which reportedly showed him covered in bruises, was lost by the prosecution. In November 2009, the Supreme Court turned down appeals by both defendants. No investigations into their allegations of torture were ever conducted.

The men were transferred to two different prisons in Kostanai province some 800km from

Astana in November 2010. Oleg Evloev's father is 73 years old and lives in Astana. He is permitted to visit his son once a year for 15 minutes. During the 15-minute visit, he has to sit five metres away from his son, in the presence of six police officers who can listen to their conversation, and with video cameras filming their meeting.

Dmitri Tian's wife, Irina Khan, did not know his whereabouts for two months after Dmitry had been transferred to the prison in Kostanai in November 2010, where he currently remains. She is allowed to visit him every four months. She makes the 14-hour train journey to Kostanai, and has to wait outside the prison until she is permitted to enter. Every visit to see her husband in Kostanai costs her a month's salary.

RESTRICTIONS ON PRISONERS' RIGHTS

Kazakhstan's prison system is poorly equipped and does not accommodate the needs of people with disabilities. Due to a lack of appropriate facilities, prisoners with disabilities are held in solitary confinement or in prison hospitals and isolated from other prisoners. Amnesty International has received reports that they are kept away from the independent monitors or supervising authorities. They are rarely allowed personal visits from their families. But due to their vulnerability and their round-the-clock dependence on the prison administration, prisoners with disabilities rarely complain.

With his family, Amnesty International has campaigned on the case of Zhasulan Suleimenov, a wheelchair user and paraplegic, who in 2009 was sentenced to eight years' imprisonment. He has spent more than 11 months in solitary confinement with no contact with other prisoners. Although his family found that he had been transferred several times between prisons and to a prison hospital, he had not received an independent medical examination or been transferred to a hospital for any treatment he required.

Under international standards, prisoners should be able to communicate with and receive visits from their families. Kazakhstani law states in addition that prisoners should be detained close to their place of residence. However, many prisoners are transferred to facilities hundreds of kilometres away, which



Far left: Oleg Evloev was reportedly tortured while held in detention by Kazakhstani officers in order to extract confession in murder.

Below left: Oleg Evloev's father, December 2012.

Left: Dmitri Tian with his wife and child. Dmitri Tian was tortured and otherwise ill-treated by the police officers in Kazakhstan.

Right: Kazakhstan is the largest of the Central Asian republics. Journeys by public transport to visit loved ones in prison can be very long and expensive.



make it physically and financially difficult for their families and friends to visit them. Some prisoners, especially those sentenced to long prison terms or those disciplined by solitary confinement, have their rights to receive visits restricted. They can also be denied their rights if found in violation of prison regulations to make or receive phone calls or receive parcels on a regular basis. As the prisons often lack basic necessities, prisoners depend on their families to supply food items, toiletries, warm clothes, medicines and reading and writing materials.

IMPUNITY

The authorities have failed to fully and effectively fulfil Kazakhstan's obligations under the UN Convention against Torture. They have also failed to implement the recommendations of UN treaty bodies and special procedures, especially with regard to initiating prompt, thorough, and impartial investigations. Impunity for human rights violations by the security forces including torture and other ill-treatment as well as excessive and lethal use of force, remains fundamentally unchallenged.

The authorities continue to dismiss allegations of torture as unfounded, including those made under oath in court by individuals detained in the aftermath of the Zhanaozen events.

In March 2012, most of the 37 defendants on trial for organizing or participating in the protests alleged that they were tortured or otherwise ill-treated in detention by security

forces in order to extract confessions, and they retracted their confessions in court. The court of first instance ordered that these complaints should be investigated. After a superficial inquiry by the General Prosecutor's Office and the police, the presiding judge dismissed them as unsubstantiated.

Ten witnesses for the prosecution withdrew their testimonies against the defendants during the trial, complaining that they had been tortured or otherwise ill-treated into giving false evidence. No investigations were carried out into the witnesses' allegations of torture and other ill-treatment.

The investigation into the torture allegations by the defendants was assigned to the same team of specialist prosecutors who had initially investigated the violent clashes in Zhanaozen. They were therefore not impartial. Furthermore, the team of specialist prosecutors requested that the Internal Security Service of the Ministry of Internal Affairs investigate the defendants' allegations. This is not an independent body but an integral part of one of the security forces whose members had been accused of committing the crime.

Despite the defendants' allegations that the prosecution case was based on evidence which was coerced, the judge stated that the allegations of torture and other ill-treatment were an attempt by the defendants to avoid justice and sentenced them to imprisonment.

BAZARBAI KENZHEBAEV

Bazarbai Kenzhebaev, aged 50, died on 21 December 2011 two days after he was released from police custody. He managed to tell his family and a journalist from Russia that he had been tortured and subjected to other ill-treatment in the Zhanaozen main police station after being detained following the protests on 16 December. The then acting head of the police station, Zhenishbek Temirov, was the only person charged in this case for abuse of power resulting in serious injury. The Aktau City Court sentenced him to five years in prison on 17 May 2012 and ordered him to pay 1 million Kazakhstani tenge (approx. €5,000) in moral damages to the victim's family, which has still not been paid to the family.

The General Prosecutor's Office failed to identify any of the security officers alleged by other witnesses to have tortured and otherwise ill-treated Bazarbai Kenzhebaev and others, and to bring them to justice.

Prisoners with disabilities are held in solitary confinement or in prison hospitals and isolated from other prisoners.

CONCLUSION

The authorities of Kazakhstan have failed to hold the security forces accountable and to carry out an independent investigation into their abuses. It is time to change a culture that always ranks security above human rights. Reform is long overdue and real changes should be introduced as a matter of urgency. Victims of government abuses and their families are still waiting for justice.

Right: Kazakhstan has been an independent state for over 20 years and the Kazakhstan flag flies in the modern capital Astana, but old habits in the security forces die hard.
Cover: Security personnel enforcing the 20-day state of emergency in Zhanaozen, 17 December 2011. © REUTERS/Olga Yaroslavskaya



RECOMMENDATIONS

To the President of Kazakhstan

- Authorize and facilitate an independent, thorough and impartial international investigation, as recommended by the UN High Commissioner for Human Rights, into the use of lethal force by security forces in Zhanaozen in December 2011, establishing the true number of fatalities and casualties, and into the reports of subsequent arbitrary detentions and the use of torture by security forces to extract confessions.
- Establish a fully resourced independent agency to investigate all allegations of human rights violations committed by officers of all law enforcement agencies or by anyone acting with the knowledge or complicity of such agencies.
- Ensure that a judicial review of the convictions of those individuals who claim to have been forced to confess under duress

takes place; and allow for truly independent and impartial investigations into all allegations of torture and other ill-treatment by security forces.

- Ensure that an effective National Preventive Mechanism is established in full compliance with the Optional Protocol to the UN Convention against Torture.

To the General Prosecutor's Office

- Ensure prompt, impartial and comprehensive investigations of all complaints of torture and other cruel, inhuman or degrading treatment or punishment, and ensure that anyone reasonably suspected of such violations is prosecuted in proceedings which comply with international standards of fairness.
- Protest the convictions of those individuals who claim to have been forced to confess

under duress and allow for truly independent and impartial investigations to take place into all allegations of torture and other ill-treatment by security forces.

To the Ministry of Internal Affairs

- Ensure that prison conditions meet international standards and in particular improve the situation of prisoners with disabilities so that conditions are not cruel, inhuman or degrading, and where feasible use alternatives to imprisonment, especially for disabled prisoners.
- Ensure that the use of solitary confinement is kept to a minimum, used in very exceptional cases, for as short a time as possible and only as a last resort. If solitary confinement is, exceptionally, used, steps should be taken to minimize its harmful effects.

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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.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

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