

“We don’t even cry anymore”*

Torture, ill-treatment and impunity in Kazakhstan in connection with the ‘Bloody January’ events

* mother of civil activist Timur Erzhanuly, tortured in pre-trial detention in Semey during the January events



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Executive summary

This report is being published one year after the January 2022 events, when at least 238 people were killed (according to official figures), after unrest spread across Kazakhstan and was put down by the authorities using open fire, tear gas and stun grenades. During the January 2022 events, hundreds of protestors and civilians were subjected to torture and ill-treatment. In 2023, the year of the 25th anniversary of Kazakhstan's ratification of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, this report calls on the Kazakhstani authorities to take action and ensure an effective response to 'Bloody January'.

This joint report by International Partnership for Human Rights (IPHR), Kazakhstan International Bureau for Human Rights and the Rule of Law (KIBHR), and Kazakhstan's NGO Coalition against Torture (NGO Coalition), in partnership with the World Organisation against Torture (OMCT), presents concerns about the widespread use of torture and ill-treatment in relation to people involved in the January 2022 protests.

The authors' research reveals cases where Kazakhstan's law enforcement authorities used torture and ill-treatment against civilians from all walks of life, including children, persons with disabilities, civil activists and foreign nationals. Torture and ill-treatment took place in detention centres, police stations, gymnasiums and other makeshift detention centres, as well as on the streets. The report also sheds lights on the role of some medical professionals in facilitating the torture and ill-treatment of injured protestors who were taken from their hospital beds to be tortured and ill-treated in detention.

The methods of torture and ill-treatment documented by the organisations issuing this report include severe beatings, burning with hot irons, the use of electric shocks, hooding, being doused with boiling or ice-cold water outside, pulling out teeth, sexual violence, and threats of rape. These methods of torture used by Kazakhstani security officials fit into a broader, long-standing pattern witnessed over decades, and in particular in 2011 in the repression and reprisals for protests in Zhanaosen.

And yet, one year after the events of 'Bloody January', the Kazakhstani authorities have failed to conduct impartial and effective investigations into the events, and especially in regards to the allegations of torture and ill-treatment by officials. The majority of investigations into torture and ill-treatment have been prematurely closed, when investigating authorities claim that they have found no evidence of a crime. By the end of December 2022 only two trials had begun in relation to eight officials accused of torture and ill-treatment. By mid January 2023 one of those trials ended with the conviction of two officials for torture. On 5 January 2023, the Prosecutor General stated that four other trials had begun in relation to 34 officials accused of torture and ill-treatment.

As a result, impunity for torture and ill-treatment in Kazakhstan continues. The report highlights that this is not the first time violent repressions of protests have occurred and that detained protesters have been tortured and ill-treated in the Central Asian country, painting a pattern of violence that remains to be adequately addressed by the authorities if they are seriously intent on fulfilling President Tokayev's promises to "strengthen accountability for inhumane treatment of detainees and prisoners" and eradicate 'barbaric' methods.¹

1 <https://ru.sputnik.kz/20220303/tokaev-nuzhno-na-kornyu-ustranit-takie-srednevekovye-yavleniya-kak-pytki-23261748.html>, <https://akorda.kz/ru/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana-1623953>

The report concludes with recommendations to the authorities of Kazakhstan, to demonstrate their commitment to international standards by undertaking prompt, thorough, independent and impartial investigations into all allegations of torture and ill-treatment during the January events involving international and civil society experts; ensuring that all alleged perpetrators of torture and ill-treatment are duly prosecuted in a fair trial; providing effective remedy, redress and rehabilitation to the victims of torture and ill-treatment and to their families; investigating the cases of medical professionals' alleged involvement in torture and ill-treatment; and ensuring all medical professionals are aware of the doctors' role in the prevention of torture.

Introduction

In early January 2022, thousands of people across Kazakhstan took to the streets in peaceful protests to call for social and political change. The protests turned bloody as the authorities used force to end them, and some people in the crowd resorted to violence. The circumstances under which the protests evolved into riots and violent clashes between protesters and security forces, as well as the role of different actors in these developments, have yet to be fully clarified. However, there are serious concerns about the manner in which the authorities responded to the unrest, and in particular their failure to make a clear distinction between non-peaceful and peaceful protesters, and their branding of protesters as "terrorists". Moreover, the events were marked by mass arbitrary detentions of protesters; reports of the excessive use of force, including the use of lethal force against peaceful protesters and passers-by; widespread allegations of torture and ill-treatment, due process violations and disappearances of detained protesters; as well as the large-scale prosecution of those who were merely peacefully exercising their freedoms of peaceful assembly, association and expression.²

In connection with the January events, numerous international bodies and experts called for an end to the violence, torture and other human rights violations. On 6 January 2022, then UN High Commissioner for Human Rights, Michelle Bachelet, called on both security forces and protesters to refrain from violence.³ She urged the release of all those detained for exercising their rights to peaceful protest and freedom of expression. On 19 January 2022, the European Parliament adopted resolution 2022/2505(RSP), urging the government of Kazakhstan to drop politically motivated charges, put an end to all forms of arbitrary detention, immediately release arbitrarily detained demonstrators and activists and initiate a proper international investigation into the crimes committed against the people of Kazakhstan during the two weeks of protests.⁴ Non-governmental organisations also called for international investigations - including Kazakhstan International Bureau for Human Rights (KIBHR), Kazakhstan's NGO Coalition against Torture (NGO Coalition), International Partnership for Human Rights (IPHR), World Organisation against Torture (OMCT), Amnesty International, Human Rights Watch. However, to date the Kazakhstani authorities have refused to engage experts from abroad to conduct an investigation into the government response to the peaceful protests, the unrest that ensued, and the torture or ill-treatment of detainees. There are also serious concerns about the lack of impartiality and effectiveness of the investigations into reported violations initiated by national authorities. While numerous investigations were opened into allegations of torture, the vast majority of them have been prematurely

2 See more in IPHR-KIBHR special update on the January events, prepared as part of their cooperation with the CIVICUS Monitor: <https://www.iphronline.org/kazakhstan-widespread-violations-reported-during-bloody-january.html>

3 <https://news.un.org/ru/story/2022/01/1416592>

4 https://www.europarl.europa.eu/doceo/document/TA-9-2022-0012_EN.html

closed and very few law enforcement officials have been charged.⁵ One year after 'Bloody January', only four cases involving 34 law enforcement officers charged with torture or ill-treatment, including a case of death allegedly resulting from torture, had gone to trial, and the investigation into three other deaths officially recognized as resulting from torture had completed.⁶

Moreover, there are serious concerns that the amnesty law on the January events, which was signed into force by the president in November 2022, could result in law enforcement and security officials escaping accountability for violations related to these events. While officials charged with torture are not eligible for amnesty under the law, officials charged with other serious crimes such as murder committed using measures in excess of those necessary, or coercing someone to confess might be amnestied.

Despite the unprecedented scale and severity of the events, January 2022 was not the first time when Kazakhstani state forces used violence to suppress protests and tortured and ill-treated detained protesters. For this reason, the first anniversary of the January events provides an important opportunity to take stock of Kazakhstan's record in relation to the treatment of protestors and, in particular, its use of torture and ill-treatment against detainees and to provide recommendations on how to put an end to these practices once and for all.

1.1 Methodology

The information for this joint report by International Partnership for Human Rights (IPHR), the Kazakhstan International Bureau for Human Rights and the Rule of Law (KIBHR), Kazakhstan's NGO Coalition against Torture (NGO Coalition), and in partnership with the World Organisation against Torture (OMCT) was researched through official briefings and individual case interviews carried out by members of the NGO Coalition, through the National Preventive Mechanism against Torture and Ill-Treatment and the Human Rights Alliance for Fundamental Rights. The authors also carried out extensive desk and field research. This report also benefited from the data collected by the #Qantar2022 volunteer initiative, part of the Documentation Centre of the Human Rights Alliance in Kazakhstan.

International Partnership for Human Rights (IPHR) is an independent Civil Society Organisation founded in 2008. Based in Brussels, and Tbilisi, IPHR works closely with civil society groups from different countries to raise human rights concerns at the international level and promote respect for the rights of vulnerable communities.

Kazakhstan International Bureau for Human Rights and the Rule of Law (KIBHR) is a human rights organisation. Founded in 1993, KIBHR is based in Almaty and has 10 branches and one representative across Kazakhstan. It works to protect civil and political rights and freedoms in Kazakhstan. KIBHR aims to promote democratic development, rule of law and civil society building through education, monitoring (data collection, analysis and spread of information), engaging in advocacy, legislation analysis and its compliance with international standards.

5 <https://www.hrw.org/news/2022/12/20/kazakhstan-no-justice-january-protest-abuses> December 2022 publication by Human Rights Watch on the lack of investigations into torture allegations

6 From the presentation of Berik Asylov, Prosecutor General of Kazakhstan, at the Majilis (lower chamber of the Parliament) plenary session on 5 January 2023, aired live at <https://youtu.be/gFMjNWM2EYY> with the written summary in Russian available at https://www.inform.kz/ru/zaversheno-rassledovanie-smertey-v-rezul-tate-pytok-pri-yanvarskih-sobytyah-genprokuror-rk_a4020015

Kazakhstan's NGO Coalition against Torture (NGO Coalition) in Kazakhstan is an informal Non-Governmental Organisation (NGO) combining other NGOs, lawyers, and individual experts. It has been working on the freedom from torture in Kazakhstan for 15 years. From mid-January 2022 onwards, the Coalition provided victims with legal assistance, psychological and medical support.

The World Organisation against Torture (OMCT) works with around 200 member organisations which constitute its SOS-Torture Network, to end torture, fight impunity and protect human rights defenders worldwide. OMCT SOS-Torture Network is the largest global group actively standing up to torture in more than 90 countries. The international secretariat is based in Geneva, with offices in Brussels and Tunis.

1.2 Legal framework

Torture, ill-treatment and any act threatening the dignity and the physical and mental integrity of a person are prohibited at all times under international law. The universal human rights treaty - International Covenant on Civil and Political rights (ICCPR) features two provisions in this regard.

Article 7 of the ICCPR states that:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 10 of the same treaty reads:

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person".

Therefore, not only are torture and other forms of ill-treatment prohibited but there is also a positive right for individuals to be treated with respect, particularly in detention. Moreover, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) prohibits such acts when committed:

"by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".

As a state party to both the ICCPR and the UNCAT, Kazakhstan is obliged to enact and enforce legislation criminalising torture; to protect individuals from torture and ill-treatment; to investigate all allegations of such treatment⁷; and to grant redress and compensation to victims.⁸

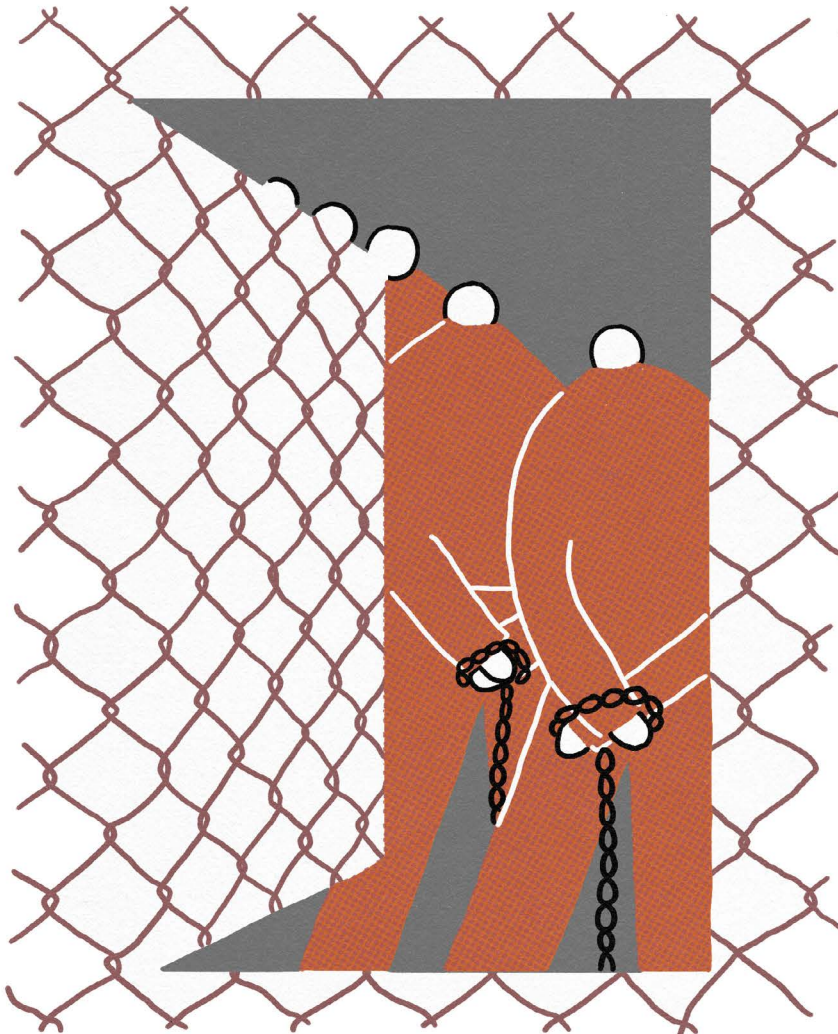
Under Kazakhstani national legislation, the prohibition on the use of torture is contained in Article 17 of the Constitution of the Republic of Kazakhstan, according to which no one shall be subjected to tor-

7 UNCAT, Article 12: "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction". Moreover, the Istanbul Protocol: Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment establish internationally recognised standards and norms for investigation."

8 Article 2(3) of the ICCPR and Article 14 of UNCAT

ture, violence, other cruel or degrading treatment or punishment.⁹ Furthermore, in 2002, article 347-1 (currently article 146) was introduced into the Criminal Code of the Republic of Kazakhstan, establishing criminal liability for torture. In 2013 a new law was passed establishing a National Preventive Mechanism (NPM) aiming to identify cases of human rights violations in closed institutions. The NPM is coordinated by the Human Rights Commissioner (Ombudsperson) and carried out with the support of the Government, the United Nations Development Programme (UNDP), and other international organisations. However, despite the seemingly complete legal framework, torture in Kazakhstan continues to be a pervasive problem, lacking independent investigation and accountability. In the last published concluding observations of the Committee Against Torture (CAT) from 2016, Kazakhstan was urged to establish “an effective, fully resourced, independent and accountable body that is able to carry out prompt, impartial, thorough and effective investigations, including preliminary investigations, into all allegations of torture and ill-treatment”.¹⁰ Nevertheless, to this day international institutions and human rights defenders are concerned that this recommendation has not yet been implemented.

2. Overview of the events of ‘Bloody January’



9 Analysis of the legislation of the Republic of Kazakhstan for compliance with international standards for the effective investigation of torture, Public association “Kadir-kasiyet”, 2022, https://online.zakon.kz/Document/?doc_id=32876848&pos=4;-108#pos=4;-108

10 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FKAZ%2FCO%2F3&Lang=en

2.1 Protests, riots and armed clashes

On 1 January 2022 the price of liquified gas - a popular fuel - doubled in Mangistau Oblast (southwestern Kazakhstan) sparking peaceful demonstrations across the region in the days that followed. By 4 January 2022, the protests had spread to the rest of the country with rallies and road blockades taking place in most cities, especially in Almaty, which quickly became the centre of protests.

As thousands of people took to the streets, protestors were detained or dispersed by police forces using tear gas and stun grenades. As events evolved, some groups in the crowd of protesters set fire to police vehicles, stormed and burned official buildings, seized Almaty airport and looted restaurants and shops, including arms shops. The violence escalated rapidly. On the evening of 6 January 2022, participants at the rally came under fire from all sides, usually without warning. Witnesses reported that it was military snipers firing from the rooftops, but in some cases it was difficult to tell because of the fog.

After initially stating that it could not meet the protesters demands, the government announced a nationwide fuel-gas price reduction. However, by that time new political demands, including the resignation of the government and the release of political prisoners, were being raised by protesters across Kazakhstan, and calls to put an end to the influence of former President Nazarbayev (who led the country until 2019) were increasingly heard. It became clear that socio-economic issues related to the increase in fuel prices had become a trigger for larger political protests.

Over the course of January 2022, Kazakhstani authorities detained thousands of individuals. According to the Ministry of Interior, as of 11 January, a total of 9900 people had been detained.¹¹ The internet connection was cut off across the country on 5 January, and was only restored five to seven days later depending on the region.

The official government narrative framed the protests as acts of aggression, with President Tokayev calling the rioters 'terrorist gangs', who had allegedly been trained abroad. On 5 January 2022, a state of emergency was introduced throughout Kazakhstan and on 6 January a 'counter-terrorist operation' was officially declared in Almaty. The president appealed to the Collective Security Treaty Organisation (CSTO) for assistance, arguing that the country had been subjected to "international terrorist aggression". On 7 January 2022, the first military troops arrived in Kazakhstan as CSTO members promptly dispatched troops to Kazakhstan "to protect strategic facilities". They were officially withdrawn on 19 January when the state of emergency was lifted.

Moreover, despite later denying using armed force against peaceful demonstrators, President Tokayev, while addressing the people of Kazakhstan on 7 January, noted that "law enforcement agencies and the army were given orders by me to open fire without warning" when putting down the unrest and restoring law and order in the country.¹² President Tokayev also spoke out against human rights defenders, activists and independent media representatives, calling them "irresponsible demagogues" and suggesting that they were partly to blame for the violent turn of events.¹³

11 <https://www.instagram.com/p/CYk5PDqgHRH/>, <https://news.un.org/ru/story/2022/01/1416752>

12 <https://akorda.kz/ru/obrashchenie-glavy-gosudarstva-kasym-zhomarta-tokaeva-k-narodu-kazahstana-70412>

13 <https://www.akorda.kz/ru/obrashchenie-glavy-gosudarstva-kasym-zhomarta-tokaeva-k-narodu-kazahstana-70412>

Only in August 2022 did the government publish an official list of the names of those killed during these events. According to the Prosecutor General's Office, 238 people died.¹⁴ As there were concerns that the list does not include those who died from torture or died later as a result of injuries or under other circumstances associated with police ill-treatment, human rights organisations and media outlets compiled their own lists. According to the #Qantar2022¹⁵ initiative, established to independently compile a list of victims, 263 individuals lost their lives during and after the January events, including six people who died from injuries sustained through torture.¹⁶

In some cases, people who were shot were also subjected to abuse by police officers who kicked the wounded as they lay on the ground or ran after wounded persons who were being carried away to beat them. For example:

*As security forces opened fire against protesters in the central square of Semey on 6 January 2022, panic broke out and civil society activist **Daulet Mukhazhanov** was among those running away from the gunfire. As he stopped to help a girl who had fallen to the ground, he was hit by a bullet in the spine. Activists lifted him up and carried him to the Akimat, where they were kicked and beaten by law enforcement officials. Mukhazhanov subsequently underwent surgery to remove the bullet, but remains paralysed from the waist down. He is now in a wheelchair and doctors in Kazakhstan say they are not sure if he will walk again. As he was undergoing treatment, police officers reportedly came to the hospital and attempted to take him away to detain him, but doctors refused to let him go.¹⁷ On 17 January 2022, the day he was discharged, he was immediately taken to a local police station for questioning and is a witness in the ongoing investigation into the January events. In October 2022, Mukhazhanov filed a complaint with the Prosecutor General's Office demanding that those who had shot and tortured him be found. He is also seeking funds for urgent treatment abroad.¹⁸*

2.2 Detentions and arrests

As described above, according to official information, nearly 10,000 people were detained in connection with the January events. The vast majority of detainees were not provided with lawyers and/or were deprived of the opportunity to contact their relatives during the first days of detention, which, in many cases, was not officially registered for several days. Many were initially held in places not intended for temporary detention, as was the case in Atyrau and Ust-Kamenogorsk, where detainees were taken to the Dynamo police sports hall, or in Taraz, where detainees were held in military units. In other cities, detainees spent days in police temporary detention centres despite the fact that the national legislation stipulates that adults can only be held there for 48 hours and minors for 24 hours. Some were placed in pre-trial detention centres or in National Security Committee detention facilities, where access to prison inspectors and even pre-trial detention centre staff was not permitted.

In the days that followed the initial protests, police and special forces rounded up those that they believed were connected with the protests. Security officials followed criteria to detain others whom they believed had been involved in the protests, including screening hospitals for patients with gunshot wounds and checking mobile phone data to check who had been logged in near to protest sites.

14 <https://www.gov.kz/memleket/entities/prokuror/press/news/details/413195?lang=ru>

15 Qantar: Kazakh for January.

16 <https://qantar2022.org/>

17 <https://rus.azattyq.org/a/31657755.html>

18 http://telemetr.io/en/channels/1446240705-qaharman_news/posts/3505

Of the roughly 10,000 people detained, dozens were civil society activists and opposition activists (often activists associated with banned opposition movements, the Democracy Choice of Kazakhstan (DVK) and the Koshe (Street) Party). According to KIBHR, more than 50 civil society activists, opposition activists, trade union activists, journalists and bloggers were among those detained and charged with various administrative and criminal offences in relation to the January events, including in some cases for serious crimes carrying lengthy prison sentences such as involvement in mass riots and participation in “acts of terrorism”. Some activists were injured during the January events, both during detention and while being held in temporary detention facilities and places not designed for detainees. Many of them were reportedly tortured while in detention (see more in chapter 3.4 on Torture and ill-treatment against activists).

In January 2022 the Human Rights Alliance for Fundamental Rights was set up by human rights organisations in Kazakhstan to ensure an objective and impartial analysis of the January 2022 events and promote respect for the fundamental rights of citizens during the investigations.¹⁹ In August 2022, the Alliance published the results of their survey on the violations of the rights of detainees during investigations of the January events.²⁰ The survey was conducted between June and July 2022 and surveyed 63 detainees: 62 men and one woman. The questionnaires were completed mainly by lawyers and by the relatives of those detained. The findings of the study highlighted frequent failure to carry out medical examinations of detainees after apprehension and upon admission to pre-trial detention centres. The study also found that 71 per cent of the detainees surveyed had sustained bodily injuries and that none of them had obtained results in response to their complaints of torture and other ill-treatment. Moreover, although lawyers filed complaints about torture in 53 (83 per cent) of the 63 cases studied, and it was possible to identify the suspects in 49 (77 per cent) of these cases, individuals were recognised as victims of torture in 11 (18 per cent) of the cases, meaning that investigations into torture allegations were opened only in these cases.

By the end of January, the Prosecutor General’s Office announced that more than 2000 criminal cases had been initiated against individuals involved in the protests.

2.2.1 DETENTION OF MINORS AND CHILDREN

According to the Commissioner for Human Rights of Kazakhstan, Elvira Azimova, 28 minors were detained during the riots, all of whom were subsequently released until trial and handed over to their parents.²¹ On 17 March 2022 the Ministry of Internal Affairs and the Prosecutor General’s Office reported that they were investigating 12 and 16 cases against minors respectively.²² However, at the time of writing, there is little publicly-accessible information on how many cases against minors were investigated and how many went to trial. On 1 December 2022, 17-year-old Andrei Opushiev, who was beaten by security officials and shot dead, was posthumously found guilty of participating in mass unrest (Article 272 part 2 of the Criminal

19 <https://bureau.kz/novosti/zayavlenie-o-sozdanii-pravozashhitnogo-alyansa/> KIBHR statement on the establishment of the Human Rights Alliance for Fundamental Rights

20 https://bureau.kz/monitoring_2/doklady_i_otchety_kmbpc/o-soblyudenii-prav-licz-v-yanvare/ Analytical report on the observance of the rights of persons detained during and after the January events of 2022, at the stage of pre-trial investigation. Despite the relatively small sample group, the data obtained is closely correlated with previously obtained figures of human rights activists.

21 https://baigenews.kz/azimova-_28_nesovershennoletnikh_zaderzhannykh_peredany_roditelyam_pod_ikh_poruchitelstva_128709/

22 <https://informburo.kz/novosti/genprokuratura-otvecaet-na-voprosy-o-rassledovanii-yanvarskix-sobytii-tekstovaya-translyaciya>

Code) in Taraz after a court hearing held behind closed doors.²³ (see Section 3.3 for more information) Numerous other minors were convicted under a simplified procedure and given suspended sentences or amnestied but little information is available about these cases either, and in some regions trials related to the January events are still ongoing or have not yet begun.

3. Torture and ill-treatment



3. 1 The problem of torture and ill-treatment in Kazakhstan

The year 2023 marks the 25th anniversary of Kazakhstan's ratification of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment. Since 1998, Kazakhstan has reported three times to the UN Committee against Torture (UN CAT). However, the authorities have failed to implement the majority of the UN CAT recommendations. The recommendations include establishing "a fully independent, ["fully resourced and accountable"] complaints mechanism and to ensure prompt, impartial, and full investigations into the many allegations of torture reported to the authorities and the prosecution and punishment, as appropriate, of perpetrators, [including law en-

²³ <https://rus.azattyq.org/a/32156915.html>

forcement officials and others]”, as well as on “transferring detention and investigation facilities currently under the jurisdiction of the Ministry of Internal Affairs or National Security Committee to the Ministry of Justice”. Although these recommendations were made by the CAT in 2001,²⁴ 2008,²⁵ and 2014,²⁶ to date Kazakhstan has failed to implement them in practice.

In 2016, the UN Human Rights Committee (UN HRC) expressed, in its concluding observations, concerns about the high rate of reports of torture in Kazakhstan compared to the high number of dismissed claims of torture, as a result of the “excessive evidentiary standard required to pursue an investigation under the new Criminal Procedure Code”.²⁷ Prior to this, in 2011, the UN HRC expressed concerns over “increased reports of torture” in the country.²⁸

These concerns were exacerbated after the Zhanaozen events in December 2011, when at least sixteen people were killed and many more wounded following a police crackdown on protesting oil-workers. In 2011, over three dozen people who stood trial on charges of ‘mass disorder’ raised torture claims in court. All of these torture allegations were dismissed as unfounded. Only five police officers were convicted of excessive use of force and abuse of power and sentenced from five to seven years in prison. The only relatively high-ranking official brought to justice in a torture-related case of death was the young chief of the Zhanaozen Police Detention Centre. It was in this centre that one of the victims, 50-year-old Bazarbay Kenzhebaev was tortured and died at home following hospitalisation upon his release from detention. Despite the mass scale and extreme severity of the alleged torture in Zhanaozen, not one case relating directly to torture reached court, and no one was held accountable for these criminal acts. As a result, the victims and the general public did not see justice served.

Navi Pillay, the then UN High Commissioner for Human Rights who visited Kazakhstan in July 2012, stated that the allegations of torture and forced confessions in Zhanaozen “did not seem to have been properly investigated”, and noted “many serious question marks over the fairness of judicial processes, and the conduct of trials”.²⁹ She called for “an independent international investigation into the events themselves, their causes and their aftermath” pointing at the overall “human rights concerns and critical gaps in the country’s laws and rule-of-law institutions”.³⁰

And in 2022, after the authorities of Kazakhstan used torture and other ill-treatment on a much larger scale during the January unrest in strikingly similar circumstances to those in Zhanaozen in 2011, we again saw a similar response by the Kazakhstani authorities.

However, as stated above, torture and ill-treatment were widespread in Kazakhstan long before the 2011 Zhanaozen and 2022 January events. To date, the UN CAT and UN HRC have found violations by the authorities of their obligations regarding the prohibition of torture and other ill-treatment in 14 individual complaints. These cases most notably include reports of torture to obtain confessions, torture against a person with disability, torture by forcible incarceration in a psychiatric facility, torture to incite

24 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=A%2f56%2f44&Lang=en

25 <https://docstore.ohchr.org/>

26 <https://docstore.ohchr.org/>

27 <https://docstore.ohchr.org/>

28 <https://docstore.ohchr.org/>

29 <https://www.ohchr.org/en/statements/2012/07/opening-remarks-un-high-commissioner-human-rights-navi-pillay-press-conference-0?LangID=E&NewsID=12343>

30 <https://www.ohchr.org/en/statements/2012/07/opening-remarks-un-high-commissioner-human-rights-navi-pillay-press-conference-0?LangID=E&NewsID=12343>

detainees to obey, torture by failing to allow hospitalization of an injured person, as well as extradition to other countries despite the international principle of non-refoulement. Of these 14 cases, only two victims have received compensation for moral damages from the state. All the other UN recommendations, including bringing the perpetrators to justice and providing reparation for victims' suffering, have yet to be implemented.

Since 2008, the Coalition registers around 200-250 complaints of torture and other ill-treatment each year. In 2015, when the new Criminal Procedure Code came into force, requiring reports of a crime to be registered immediately, prosecutor's offices began reporting a higher number of complaints of torture per year – up to 600. Despite these developments, and according to figures from the Prosecutor General's Office - only one or two per cent of complaints ever reach court. Cases where the perpetrators of torture have been found guilty are even less common. Thus, impunity for torture prevails.

Additionally, the cruelty of the torture methods documented in relation to January 2022 can be seen as a continuation of established practices by police and security forces in the country. Cases of torture extensively documented by the Coalition where the perpetrators have enjoyed impunity include burning with hot irons, cigarette burns, and rape by police officers. The use of extensive beatings, suffocation with a plastic bag, burning with an iron and a cigarette lighter, inserting needles under nails have been documented by the Coalition long before January 2022, including in the case from Almaty of Roman Ogly and his sons (burning with an iron and a cigarette lighter) in 2011 or the case of Alexey Ushenin from Uralsk, which reached the UN CAT (beating on the soles of the feet and palms, putting out cigarettes on the body, burning buttocks with cigarettes, repeatedly inserting a rubber baton in the anus), also from 2011.³¹

Therefore the controversial anniversary of Kazakhstan's ratification of the UN Convention against Torture provides an opportunity to examine the country's widespread, long-standing practice of the use of torture and ill-treatment against detainees from all walks of life and to call for an end to torture both on paper and in practice.

3.2 Torture and ill-treatment of detainees in January 2022

At the time of writing, the exact figure of those subjected to torture and ill-treatment in connection with the January 2022 events remains unknown. However, based on their monitoring, human rights groups believe that most people who were detained during the police or other state force operations during the crackdown of the protests and the riots was subject to ill-treatment and hundreds - to torture.³² As of December 2022, the NGO Coalition had registered 190 complaints of torture and other ill-treatment in the course of the post-January arrests and detention from across the country, of which 178 involved men, 12 women, and 13 minors. However, it is believed that the real figures are much higher. The Coalition submitted 56 cases to the UN Special Rapporteur against Torture. Communication on these cases is ongoing at the time of writing.

Although the protests took place in some 60 cities and towns across the country, the use of torture was not documented everywhere, and the severity of torture varied depending on the region. KIBHR record-

31 <https://docstore.ohchr.org/SelfServices/>

32 KIBHR stated that, 234 criminal cases were initiated on allegations of torture, with only 134 criminal cases remaining open as of 12 July 2022 <https://www.hrw.org/news/2022/07/29/kazakhstan-joint-statement-january-2022-events>

ed the highest numbers of torture cases in the cities of Almaty, Taldykorgan, Taraz, Semey, Kyzylorda, Atyrau and Shymkent. There were also reports of torture in Aktobe, Ekibastuz, Kostanai, Ust-Kamenogorsk, and Uralsk.

The vast majority of the people tortured were men aged 18-50, although, there were also reports of torture against women and adolescents.³³ Reported methods of torture included allegations of severe beatings, the use of electric shocks, hooding, being doused with boiling water, being burnt with a hot iron, pulling out teeth, and threats of sexual violence, amongst others.

Torture was used to extract confessions but mainly also to extrajudicially punish most of those who were arbitrarily arrested during the first days or, in some cases, weeks of their unregistered detention.

Individuals were reportedly tortured in pre-trial detention centres, police departments, as well as ill-treated on the streets. In Atyrau in Western Kazakhstan and in Ust-Kamenogorsk, participants from the January protests, as well as mere bystanders, were taken to the Dynamo sports halls, owned by the cities' police departments. Witnesses say that in Atyrau up to 400 people passed through the sports centres starting 6 January 2022, most of whom were tortured either at the sports hall or in separate rooms at the police station.³⁴ On 13 January, the Atyrau Area Command Office denied that torture was being used in the Dynamo sports halls.³⁵ The Human Rights Ombudsperson and members of the National Preventive Mechanism were allowed to visit Dynamo only on 24 January 2022, by which time the sports halls were no longer being used to hold detainees.

*Activist **Sergei Shutov** recounted his experience in the Atyrau stadium on social media, alleging that the police turned the sport centre into a 'torture house' to punish the detained protesters.³⁶ Shutov was detained on 11 January at home and taken to what he recognised as a gym. "I was placed with my legs spread wide facing the floor and ordered not to look around. After a while I was allowed to look at the wall. Unidentified masked officers approached me with questions about the rally in Atyrau, which I took part in on 4 January. I was tortured and forced to do squats and push-ups or they threatened to take me to the torture room. [...] In [a] corner there was a toilet and a shower room where they regularly took different detainees and beat them." Shutov was questioned about his role in allegedly organising the protests, which he denied, saying he just filmed what was happening for a couple of hours. He was then taken to a room where he was beaten.*

"The first blow was to my chest, after which I covered my face with my hands and crouched down in pain, there were kicks and punches to my head, back, shoulders and lower back. I was asked if I would still go to rallies, I screamed in pain and asked to stop.... They put me facing the wall and ordered me to put my hands behind my head, after which they delivered me several blows to my ribs on both sides and back in the kidney areas, after hitting my hips so I fell down and could not get up, they ordered me to crawl on all fours from the shower room through the entire gym, [...], between the tables where police officers were set and put me back into a stretch position." "While I was trying to come to my senses I heard several masked officers gathering around me and beating me. Police officers, whom I know by sight after personal meetings since 2016, regularly came up to me and asked if I would still go to rallies, I answered no. I don't remember their names, but I recognize them by sight. They did nothing to prevent and stop the abuse. [...]"

33 See cases in section 3.3

34 <https://atpress.kz/18611-ombudsmen-proverila-pytochnuyu-dlya-mitingovavshikh-v-atyrau>

35 The Area Command Office (Комендатура местности) is set up during a state of emergency. It can include representatives of different power structures. This time, representatives of the police were appointed as Commandants.

36 <https://www.facebook.com/shutov2.0/posts/5316544505040482>

Later, Shutov was made to write a dictated statement and then taken to another detention cell where he was held with 15 other detainees until he was tried on administrative offences on 12 January. “The prosecutors [...] asked why I took part in the rally and they gave me an explanation of the law in situations of a state of emergency. They were not interested in why I could barely walk.” Shutov was sentenced to two days’ of administrative detention and reported suffering pain, swelling, and blood in his urine after his release.

Police and military officers reportedly rounded up people undergoing treatment in hospitals after sustaining injuries during the protests. The Kazakhstani service of Radio Free Europe/Radio Liberty (RFE/RL) ‘Radio Azattyk’ published a video showing officers of the special forces taking away injured people, some of whom were limping or walking on crutches, from an Almaty hospital on 9 January 2022.³⁷ As a result, individuals with serious injuries (including gunshot wounds) were reportedly placed in detention where they were refused access to necessary medical assistance.

3.3 Torture and ill-treatment of women, children and vulnerable persons

To date, the NGO Coalition has registered 12 cases of torture and ill-treatment against women and 13 against minors and children in connection to the January events.

Some of those tortured were injured and in very poor health and suffering from serious illnesses including heart problems of diabetes.

In relation to women, the Coalition documented the use of sexual violence as a means of torture in the case of Raigul Sadyrbayeva described below.

*On 5 January 2022, disabled civil activist **Raigul Sadyrbayeva**, from the unregistered human rights initiative “Yelimai”, went to the Semey local authority building (Akimat) to monitor a rally. On 12 January 2022 her home was searched by National Security Committee officers, after which the 50-year-old woman was detained. It was later reported that she was held in the police temporary detention facility of the police department, where police officers demanded that she confess to having taken part in the riots. One policeman choked her with the hood of his jacket until she lost consciousness, another allegedly tried to rape her with a police baton, and a third put a gun to her head saying “You’re dead, old woman”. The officers also reportedly threatened to kill her son. She was then held in a cold cell - with no light, water, fresh air, working toilet, or mattress. Staff at the detention facility reportedly prevented her from contacting her lawyer. Her relatives were unaware of her whereabouts for a month. Only on 9 February 2022 was Sadyrbayeva’s son able to visit his mother in the detention centre of Ust-Kamenogorsk, where she had been transferred from Semey police detention facility. On 14 January, Raigul testified in court about the torture she had endured, but both the prosecutor and the judge failed to react. Sadyrbayeva was a suspect in a criminal case under articles 272 part 2 (participation in mass riots) and 269 part 2 (attack or seizure of buildings, constructions, means of communication and communication, committed by a criminal group) of the Criminal Code. On 19 January 2022 the European Parliament referred to Raigul Sadyrbayeva in a resolution on the January events in Kazakhstan, calling for the immediate release of arbitrarily detained demonstrators and activists and the rehabilitation of political prisoners. On 2 December 2022 Abai Regional Prosecutor’s Office dropped the charges against Raigul Sadyrbayeva.*

37 https://www.youtube.com/watch?v=kTJD8hrZo10&ab_channel=AzattyqTV-%D0%90%D0%B7%D0%B0%D1%82%D1%82%D1%8B%D2%9B-%D0%90%D0%B7%D0%B0%D1%82%D1%82%D1%8B%D0%BA

There were also several reported threats of rape and rape in relation to men detainees.

The NGO Coalition registered 13 cases of torture and ill-treatment against children and minors from January 2022. Law enforcement officials failed to register children and teenagers upon apprehension and thus illegally detained them in temporary detention centres or pre-trial detention centres. As minors they could not officially register complaints of torture until they had been visited by members of the National Preventive Mechanism or other state approved monitors such as the Ombudsperson. Some of them were inadequately defended by their state-appointed lawyers, who failed to act on their clients' complaints of torture.

*On 4 January 2022 **Saken Talipov**, a 17-year-old ethnic Kazakh returnee from Uzbekistan, attended a rally near the Almaty Arena and, together with other participants, went to the Akimat (municipal building). According to the investigation into the charges against him, a video surveillance camera recorded him picking up a shield and a truncheon thrown by one of the police officers. As a result, he was arrested on 1 February 2022 and held in pre-trial detention. Whilst in detention, law enforcement officials from Almaty City Prosecutor's Office reportedly beat him, despite Talipov telling them he was under 18. The officials reportedly introduced themselves as National Security Committee employees but Saken recognised them. They reportedly hung him up by the hands from the ceiling and beat him on the inside of his legs, and at night they used a stun gun to administer electric shocks. No medical assistance was provided to him or to other victims in the pre-trial detention centre until he became so ill that the staff of the detention centre had to call an ambulance. However, staff of the detention centre did not allow the doctors to hospitalise Talipov. The teenager wrote a complaint about the use of torture against him, but in May 2022 his case was closed "for lack of corpus delicti". On 19 July, Saken Talipov was sentenced to a year's probation under Article 272 part 2 of the Criminal Code (participation in mass riots), while the charges of "use of violence against a police officer" were dropped. He has since been amnestied.*

In some cases, police officers used psychological pressure and threats against children and minors while interrogating them, as the case below illustrates:

*Twelve-year-old **Valery Levchuk** from the village of Dikhan (Zhambyl Oblast), found a gun near an abandoned house on 13 January 2022. He reportedly thought it was a toy and took it home. When a neighbour came to ask whether the boy had found a gun, Valery's mother, Sandugash Levchuk, returned the gun to its owner and asked the neighbour not to tell anyone about the incident. Nevertheless, the police found out at the end of March and interrogated both the woman and her son five times in ten days, suspecting Valery of hiding guns belonging to locals involved in the riots. During the interrogations the police repeatedly asked Valery: "Who did you give the guns to?", "Where did you hide them?" According to his mother, the police shouted at the 12-year-old, pressured him to answer, frightened him, cursed at him and threatened that his parents would go to prison because of him. As a result of these interrogations, Valery was left suffering from depression and afraid to go out.*

3.4 Torture and ill-treatment of civil activists

Human rights groups in Kazakhstan report that over 30 criminal cases have been filed against civil society and opposition activists in relation to the January 2022 events. Activists have been charged with and, in some cases, convicted of participating in mass riots and other crimes despite the lack of any evidence of their involvement in violent, unlawful actions during the January protests. Some of those charged have subsequently been amnestied; however, it remains of serious concern that they were prosecuted in the first place. The targeting of civil society actors in relation to the January events forms part of a pat-

tern of persecution of civil society and opposition activists which has been seen in Kazakhstan in recent years. Representatives of the international community have repeatedly spoken out against this pattern. For example, a delegation of Members of the European Parliament, who visited Kazakhstan in August 2022, called for “an immediate halt to the harassment and intimidation of political and civil society activists and the release of all political prisoners.”³⁸

In some cases there have been reports of activists being subjected to torture and ill-treatment while in detention. See the cases of Sergei Shutov and Raigul Sadyrbayeva above, as well as Kuat Shamuratov, below:

*Civil society activist **Kuat Shamuratov** was detained in the city of Aktobe on 7 January 2022 after participating in protests held in the city on 5 and 6 January. Three days later, he was held in pre-trial detention on charges of organising riots (Article 272 of the Criminal Code), after allegedly being severely beaten in an attempt to get him to confess.³⁹ According to Shamuratov’s lawyer, the charges against him are unfounded and his client in fact tried to prevent people from storming the mayor’s office after being provoked by others in the crowd.⁴⁰ Shamuratov’s relatives and colleagues believe that the case against him was brought in retaliation for his civic activism, including his previous participation in peaceful protests against government policies. Shamuratov was transferred from pre-trial detention to house arrest on 19 March 2022 after a ruling by Aktobe City Court.⁴¹ A criminal investigation has been opened against two police officers suspected of torturing him, but according to Shamuratov’s relatives the officers in question have been allowed to continue to work during the investigation.⁴² Shamuratov’s trial began on 14 October 2022 in Aktobe and is ongoing at the time of writing of this report.*

*Political opposition activist **Asset Abishev** was detained on 4 January 2022 by police in Almaty while returning from a wake. He was taken to Zhetysu District Police Department and held for three days without being told the reason for his detention. On the third day, he says that as he was being beaten by police officers, he asked to see the prosecutor and was transferred to a police temporary detention facility. There he was detained for another four days as a witness with the right to a legal defence. He reports that police and military officers beat him severely on a daily basis, causing severe bruising. Abishev was released on 10 January 2022 and was never charged by the police. Although a criminal case was initiated into his allegations of torture and ill-treatment with the help of the NGO Coalition, the authorities failed to take any investigative action. In November 2018, Asset Abishev was sentenced to four years behind bars for participating in the banned Democratic Choice of Kazakhstan opposition party and was allegedly tortured and ill-treated when in prison.*

***Olesya Vertinskaya**, activist and blogger from Atyrau, was monitoring a spontaneous peaceful gathering of people on 4 January 2022 in the central square of the city. Three days later, on 7 January, when the internet was switched off, police officers in plain clothes came to Olesya’s house around lunchtime. The CCTV footage installed around the house showed them opening the outer door themselves with a key. Olesya remembers losing her keys the day before. Police officers knocked on the window, while two men wearing civilian clothes holding machine guns stood nearby.*

38 <https://www.europarl.europa.eu/news/en/press-room/20220824IPR37911/meps-assessed-the-human-rights-situation-in-kazakhstan>

39 https://www.facebook.com/permalink.php?story_fbid=2060222834131624&id=100004317827315&comment_id=2060244690796105¬if_id=1641974677175006¬if_t=comment_mention&ref=notif

40 <https://rus.azattyq.org/a/31649493.html>

41 <https://rus.azattyq.org/a/31763092.html>

42 <https://rus.azattyq.org/a/31753451.html>

Olesya recalled: "I was frightened. I thought they were terrorists. When I came to my senses, I asked who they were. Prosecutor Yusupov showed me his ID card through the door. When I asked whether they had a permit to enter the house, Yusupov replied that he had all the documents and that he would show me them if I opened the door. I believed that they were government employees, so I did. But once he entered my house he started shouting "Get dressed quickly or we will use force!" My husband was not at home. The children were frightened. I asked the officials to explain what was going on, but the prosecutor instead called the officers who were standing in the courtyard with machine guns. They immediately took the catches off the machine guns and walked in [...]. The men pointed their arms straight at my children who are three, six and 16 years old. They then put me in a civilian car with dirty number plates, with heavily armed officers sitting on both sides. I was not allowed to make a phone call. They drove me around the city for a long time and did not answer my questions as to where they were taking me."

Olesya was eventually taken to the police station, where she saw that the other detainees had been put up against the wall and heard how people were being beaten. Olesya asked for a lawyer, but said that an officer replied: "You don't need a lawyer! You've seen too many movies! Get up against the wall right now! I'll start a criminal case against you!". She noticed that the mobile phones of the detainees were taken away, although her own phone was not taken from her and eventually, she was released and sent home.

On 9 January, Olesya received a phone call from police officers saying that they wanted to talk to her. A civilian car appeared in front of her house, with officers who did not identify themselves. Olesya was taken to Dynamo sports hall. There she saw five to six young men and middle-aged people, all covered in blood. "To my question about the detention report, the officer rudely told me to shut up. He pushed me against the wall." Olesya reports that she hit her head so hard that it gave her a severe headache.

"When I said he had no right to detain me for more than three hours, he replied that he would let me go and bring me back every three hours." Olesya witnessed how officials began kicking and hitting another group of five to seven young men. "They threatened them with machine guns, told them to get up, did not give them water, or allow them to go to the toilet."

Another police officer came in. Olesya recalls that "he started shouting that I should be shot, and my head should be shoved somewhere". Other officers reportedly also spoke about her in a humiliating way.

The senior investigator refused Olesya's request for a lawyer. Olesya said she had a headache as she had been pushed on the head and hit the wall. She asked for a copy of her detention record. The head of the City Police Department then ordered her to be released.

On 14 January, Olesya stood trial under Article 488 part 6 of the Code of Administrative Offences for participating in an unlawful peaceful rally. The court acquitted her on the grounds that she was a journalist. A year later, Olesya's complaint of torture was dismissed as lacking the elements of a crime.

On 11 June 2022 a Kyzylorda Court sentenced lawyer **Adilkhan Bedenbayev** to a year and a half of restricted freedom on charges of "participating in mass disorder" during the January events. The charges were based on the fact that a check of Bedenbayev's mobile phone showed that he had been near the police department, city police department and central square during the Kyzylorda protests. Bedenbayev claims that he was returning home on 5 January, and was at the scene of the rally only because he was near to his apartment, which is opposite the police department. A witness of the January events reportedly admitted before a commission of enquiry into the unrest held on 16 February 2022 that, under torture and threat of rape and execution, he had falsely accused Bedenbayev of being present at the protests. Bedenbayev was detained by the police on 11 January 2022 and taken to Kyzylorda City Police Department.⁴³ He was charged with "assault on a police department" and "participation in mass

43 <https://rus.azattyq.org/a/kazakhstan-kyzylorda-january-events-adilkhan-bedenbayev-lawyer-torture/31800849.html>

disorder” on 5 January 2022 and held in detention, where he was beaten for several days, resulting in him sustaining serious bruising, and being made to confess to the charges against him. Bedenbayev believes that his abuse was organised by a police officer whom Bedenbayev had previously criticised for abuse of power. On 14 January 2022 the court ruled to retain him in custody for two months, despite the allegations of torture and ill-treatment. On 11 April 2022 the court changed the measure to house arrest. The investigation into the allegations of torture was closed after an investigator from the Agency for Combatting Corruption ordered a medical examination to determine whether Bedenbayev could have inflicted the beating and injuries on himself. His lawyer has lodged two written complaints, to which there has been no response at the time of writing.

3.5 Torture and ill-treatment of foreign nationals

According to Kazakhstan’s Ombudsman Elvira Azimova, some 18 foreigners were detained on suspicion of involvement in the January events.⁴⁴ According to unofficial reports, at least four foreigners were killed,⁴⁵ and two Uzbek nationals have been reported missing.⁴⁶ Foreign citizens were among those subjected to torture and ill-treatment in relation to the January 2022 events, including at least two Kyrgyzstani citizens.⁴⁷

Vikram Ruzakhunov - On 9 January 2022 state television channel Qazaqstan aired footage of a “foreign mercenary” confessing on camera that he had “come to Kazakhstan from Kyrgyzstan to participate in a rally for 200 USD”. The footage shows a number of bruises on the speaker’s face. Although the individual was not named in the video, he was recognised as a well-known jazz musician from Bishkek, Vikram Ruzakhunov. Ruzakhunov had been invited to Almaty to perform a concert, arriving in Almaty on 2 January 2022. When the violence began, he tried to leave Kazakhstan by land, since the border with Kyrgyzstan is a three-hour drive from Almaty. On the way, military officials stopped his car at a roadblock and on seeing his Kyrgyzstani passport, beat him, including allegedly hitting him on the head with an iron rod before taking him to a temporary detention facility where he was beaten and tortured for four days, in order to force him to confess to participating in the riots as a mercenary. Eventually, Ruzakhunov was forced to confess on television.

A criminal investigation into Ruzakhunov’s torture was opened by Oktyabrsky District Police Department in Bishkek. On 9 January, another investigation was opened in Almaty, but on 10 January, Almaty Prosecutor’s Office stated that it had been unable to establish the cause of the traces of injuries on Ruzakhunov’s body. On 10 January 2022 the Kyrgyzstani Ministry of Justice requested the Kyrgyzstani Prosecutor General’s Office to open a criminal case into Ruzakhunov’s torture and ill-treatment. On 12 January 2022 he was released and returned to Bishkek, where he underwent surgery. After his release, Ruzakhunov wrote that he was grateful that he had been made to confess on camera because it led to him being recognised: “Thank you to the man who chose me, out of hundreds of detained and innocent people, and made me memorise the script and retell it on camera. According to my doctors, I did not have long to live, as my broken ribs had already damaged my left lung, and it would have only taken a couple more blows to damage my heart...”.

Three months later, on 3 May 2022, the investigation into the torture allegations was suspended due to Ruzakhunov’s refusal to testify when he had not been given security guarantees. On 26 September 2022 Ruzakhunov returned to Almaty to take part in the resumed investigation. He met with the Kazakhstani

44 <https://rus.azattyk.org/a/31718388.html>

45 <https://vlast.kz/obsshestvo/48250-zertvy-anvara.html>

46 <https://rus.azattyq.org/a/31753490.html>

47 <https://rus.azattyk.org/a/31838557.html>

investigator and visited the site where he had been detained and allegedly tortured in order to confront his perpetrators face-to-face. Before returning to Kazakhstan Ruzakhunov gave an interview to Kyrgyz media 24.Kg, stating that “the [Kazakhstani] authorities have not conducted an objective and transparent investigation into the mass torture. They do not even recognise the law enforcement officers who were identified by victims of torture as suspects, and evidence has been destroyed and withheld from lawyers and victims.”⁴⁸ In December 2022, Ruzakhunov announced that he would seek compensation from Astana once the investigation into his treatment at the hands of Kazakhstani law enforcement officials was completed.⁴⁹

3.6 Deaths in custody as a result of torture

According to information from official and civil society sources, at least six people who were detained in connection with the January 2022 protests died as a result of being subjected to torture in detention. On 5 January 2023, the authorities for the first time publicly named three people who are thought to have died after torture and said that these cases will be sent to court.⁵⁰ Of the six, two people died in Almaty, three in the East Kazakhstan Region and one in Taldykorgan (Jetysu region since June 2022). The names of those who died in custody known to the authors of this report at the time of writing are Zhandos Zhotabaev (Semey), Zhasulan Anafiyayev (Almaty), Yerbol Otepbayev (Almaty), Yeldos Kaliyev (Semey) and Almas Mukashev (Taldykorgan).⁵¹

Civil society activist **Aitbai Aliev** died in the city of Kyzylorda under circumstances suggesting that his death may have been caused by injuries sustained through torture. According to Aliev's son, the activist was detained on 5 January 2022 after participating in a small peaceful protest the day before. After not receiving news from his father for several days, he eventually found his body in a morgue on 9 January 2022. Aliev's son described seeing large scars on his father's head, which are also visible on photos of the body. He was told that his father had arrived at the hospital with these injuries from the detention facility, before he passed away. Previously, in July 2020, Aliev had been convicted of involvement in a banned organisation and given a six-month restricted freedom sentence after posting a short video in which he expressed support for the DVK, although the video does not advocate for or endorse violence.⁵²

26-year-old geologist **Yeldos Kaliev** was returning from a birthday party on 10 January 2022 after curfew when he was detained by police officers. Yeldos's brother, Aidos, found out about the detention in the afternoon of 11 January 2022. He went to Semey Police Station to find him but was denied access. Within an hour, two officers came out and said that Yeldos had been detained, that during a search they found a baton and a grenade, and that he “died while resisting”. Aidos told Azattyq journalist Khadisha Akayeva about the signs of torture on his brother's body: “I collected his body. His nose was broken, so were his ribs on the left side, something was stuck into his spine, he had terrible bruises on the back of his leg below the waist, and on his head too”. A medical examination was conducted on the body but Kaliev's family were not allowed to see the official conclusions. A friend of Yeldos Kaliev's commented: “It's brutal to kill a man. How could the law enforcement officials, who took an oath, do this? He had just got married and wanted to have kids.”⁵³

48 https://24.kg/english/246308_Vikram_Ruzakhunov_arrives_in_Kazakhstan_to_participate_in_investigation/

49 <https://www.rferl.org/a/kakazakhstan-kyrgyz-musician-compensation-beating-custody/32166058.html>

50 <https://vlast.kz/novosti/53324-329-del-po-pytkam-vozbuzdeno-posle-anvarskih-sobytij-genprokuror.html>

51 <https://rus.azattyq.org/a/tak-zverski-ubit-cheloveka-chto-izvestno-o-gibeli-zaderzhannyh-v-yanvare-v-semee/31695272.html>

52 For more on this case, see IPHR-KIBHR special update on the January events: <https://www.iphronline.org/kazakhstan-widespread-violations-reported-during-bloody-january.html>

53 <https://rus.azattyq.org/a/tak-zverski-ubit-cheloveka-chto-izvestno-o-gibeli-zaderzhannyh-v-yanvare-v-semee/31695272.html>

The investigation into the circumstances surrounding Yeldos's death was closed after investigators stated that they were unable to identify the suspects.

Zhandos Zhotabayev was detained on 6 January 2022 for "participating in a rally." His brother Erdos recalls that Zhandos was held at the Central Police Department in Semey for two days. On 8 January 2022 Zhandos Zhotabayev was transferred to a temporary detention facility. "No one was allowed in there, not even lawyers. Our parents went to give him warm clothes but the police said that detainees were being fed, that it was warm there ... From 8 to 17 January he was in the temporary detention facility - and that was it, we didn't see him again" - Erdos Zhotabayev told a journalist.

On 17 January 2022 the staff of the temporary detention facility called an ambulance and the paramedics confirmed Zhandos' death. An autopsy report concluded that 11 of Zhandos Zhotabayev's ribs had been broken and fluid was found in both of his lungs. His family was only allowed to see the autopsy report a month later.

In November 2022, Semey Prosecutor's Office (Eastern Kazakhstan) overturned the decision of the Regional Anti-Corruption Agency's to close the investigations into torture allegations of Zhandos Zhotabayev and returned them for further investigation.

On 2 December 2022 the criminal case against Zhandos Zhotabayev was closed (under Article 272 "organisation and participation in mass disorder") and he was posthumously found not guilty. On 5 January 2023 Kazakhstan's Prosecutor General, Berik Asylov, said that the investigation into Zhandos Zhotabayev's death had been concluded and would be sent to court.

3.7 The role of medical institutions as accomplices of police and security forces in cases involving torture and other ill-treatment

According to the NGO Coalition, available information indicates that some representatives of medical institutions served as accomplices of law enforcement and security officials in cases of torture and ill-treatment both by failing to prevent prohibited treatment and by failing to provide adequate assistance to victims of such treatment. Human rights defenders and journalists in Kazakhstan have reported cases of people who were injured during the protests being turned away from state hospitals and detainees not being treated by doctors in police detention as specified by law. However, the vast majority of cases reported involve allegations of patients being mercilessly dragged out of hospitals to be sent to police and pre-trial detention centres from their state hospital beds. In Almaty this was done by members of the Rapid Action Security or police officers, without any visible objections from doctors or other medical personnel. In many cases those who were taken to detention centres from hospitals were subjected to torture and ill-treatment by law enforcement officials. In some cases people were ill-treated while still in intensive-care units before being taken to nearby police department detention centres where they were tortured. According to eye-witness accounts, police officers reportedly stated that they were looking for patients with gunshot injuries in the hospitals, and implied that they had apparently been in the 'front ranks' of protesters.⁵⁴

54 <https://www.bbc.com/russian/features-64121146>

On 5 January 2022, 49 year-old father of two and small business owner, **Rashid Igisinov**,⁵⁵ checked on his store in central Almaty, and then out of curiosity went to see the fire in the mayor's office building on the main square. While there, he was shot in the left upper arm. He initially received first aid at a hospital in Talgar, near Almaty, but had to be admitted to a larger hospital (no.4) in Almaty the following day for an operation. On 8 January, two men in military uniform kicked him awake. In his hospital gown and slippers, with his hands pulled behind his back, they took him to a police van outside, where he saw more than a dozen other wounded male patients. They were taken to Pre-Trial Detention Centre No. 18 in Almaty. When his wife, Gulnara, came to visit him at the hospital and he could not be found, the doctors told her that Igisinov had been taken away by the police and that that was all they knew.

Later Rashid Igisinov would recount how the men were taken to cell no.263 on the second floor of the detention centre. There, in the unheated cell in January, they were made to stand until dawn without being allowed to sit, lie down, or speak to one another.

On 9 January, they were taken one by one for interrogation, all returning two or three hours later, with signs of having been beaten. When Igisinov was interrogated, law enforcement officials beat him with truncheons on the head, bare feet until they bled, his fingers, and his bandaged hand - asking him how many men he had brought along with him to the central square on 5 January. The beatings continued, despite Igisinov's repeated insistence that he had nothing to do with the protests. One officer said: "He doesn't understand" and told one of his men to "explain to him". Igisinov was taken to a dark room nearby and told to stand with his hands up, facing the wall. He was beaten on the liver and kidney area from the back. When he was brought back for interrogation he could not speak because of the severe pain in his abdomen and was returned to the cell. As a result of this torture, Igisinov was very ill for several days, vomiting blood, unable to urinate and repeatedly fainting. His cellmates asked the guards to call an ambulance for him, but they refused, saying: "There's still fire in his eyes, he's not gonna die".

On 14 January, critically ill and unable to walk, Igisinov was taken to court, where he signed papers without understanding what they were. He did not complain to the judge about his abuse, fearing repression. When Igisinov was returned to the cell, he felt worse and only then did the guards call an ambulance for him.

During this time Igisinov's wife was searching for him, and asked at the detention centre where he was being held, but officials told her he was not there. At around 3:00 a.m. on 15 January, she received a phone call from an unknown man who told her that Igisinov was at City Hospital no. 4 again and that she should bring him some clothes. When Gulmira went to the hospital in the morning, she saw her husband, who had already undergone surgery, chained to the bed. Unable to talk after the operation, he managed to signal to his wife and the lawyer whom she had brought with her about the torture he experienced. He spent three days in intensive care and underwent further operations on 25 and 31 January 2022. He was then taken back to the detention centre, from where, on 1 February, he was released on house arrest awaiting trial.

Igisinov's lawyer, Nugman Bdanov, believes that the doctors at City Hospital no. 4 were collaborating with the national security police. In their papers the doctors said that Igisinov was discharged after the operation on 7 January, one day before he was in fact forcefully taken away from the hospital by the men in uniform and taken to the detention centre to be tortured. Police papers say that Igisinov's wife herself accompanied him to the police station on 12 January 2022.

When journalists from the news website Orda reached out to City Hospital no.4's administration for an explanation, they were referred to the City Healthcare Department, whose press service referred them to

55 This case description is to be found at <https://orda.kz/bezzhalostno-bili-po-zagipsovannym-rukam-i-golove-antikor-rassleduet-delo-o-pytkah/> and <https://bureau.kz/novosti/almatinecz-o-pytkah-policzejskimi/>. It has also been documented by the Human Rights Alliance documentation task force established after the January events and composed of the leading human rights NGO experts.

the Prosecutor General's office. A few days later, the Head of the Almaty Healthcare Department Nariman Tabynbayev⁵⁶ sent a letter to the editor of Orda saying that "At all times medical workers carry out their professional duties treating different categories of patients. Indeed, the patients who were injured during the January unrest in Almaty received in-house medical assistance in healthcare facilities in the city. Later, some of them were transferred to 155/18 Pre-Trial Detention Centre of Almaty by order of the prosecuting authorities. There, they were kept under observation by the medical staff of the Penitentiary Department of Almaty. When the need of particular or specific medical assistance arose, special crews brought those patients to hospitals for treatment".⁵⁷

Rashid Iginov was charged with the crime of participating in violent public disorder. The charges against him were subsequently dropped as unsubstantiated. Iginov's complaint of torture was registered under part 1 of Article 146 (non-aggravated torture) of the Criminal Code but the case has since been closed and there has been no further progress in bringing those responsible to justice at the time of writing.

There are also cases of medical personnel from other hospitals in Almaty abetting torture related to the January events.

On 5 January 2022 Almaty resident, **Yerkin Abdrashev**, was wounded - he suspects by a flash-bang grenade which exploded next to him. He woke up three days later in the intensive care ward of City Hospital no.7, having almost lost his sight: he could only see dark shadows. The last thing he remembered was being hit in the stomach with a gunstock and people screaming. On 8 January, he recalled that he was taken from the hospital by individuals wearing black uniforms and masks - he himself was wearing only slippers and tights, while people around him were moaning and begging not to be beaten. Abdrashev was put up against a wall with his hands tied behind his back and then thrown into the back of a car where other people were moaning.

They were taken to pre-trial detention centre 155/18, where they were unloaded onto the snow and where security officials beat their legs with truncheons. After a cursory medical examination, they were taken back out into the cold. When Abdrashev began shivering from the cold, a policeman brought a bucket of water and doused him from head to toe. Abdrashev was then dragged inside the building. The police officers reportedly said amongst themselves that if someone had a facial injury, it meant that he was in the front row of the protesters. Officers then reportedly began leading Abdrashev down the corridor, forcing him to turn around and hitting him on the temples with truncheons. He lost his eyesight after the beatings. Abdrashev's family found him on 19 January, two weeks after he was injured. In March 2022, when a criminal investigation was opened by the anti-corruption agency into the torture allegations, he was recognised as a victim of torture, but no perpetrators were identified. Although he claims that his cellmates know his aggressors, the investigation was closed as lacking evidence.

The charges brought against him for alleged participation in violent public disorder were dropped in 2022 as unsubstantiated.

Sayat Adilbekuly,⁵⁸ a 30-year-old photographer, was shot in the streets of central Almaty on 5 January while trying to find medicine for his one-year-old daughter to ease her teething pain. An ambulance was called for him and he was taken to City Hospital no.7 where he underwent surgery to save his kidney. On 8 January, with a catheter on his side, Adilbekuly, along with other wounded individuals, was forcefully

56 Nariman Tabynbayev was removed from the position of the Head of the Almaty Healthcare Department in June 2022 and became the Doctor-In-Chief of the City Central Clinical Hospital of Almaty.

57 See above

58 Sayat Adilbekuly's case description can be found at <https://rus.azattyq.org/a/32139221.html>. His case was also documented by the Human Rights Alliance documentation task force.

taken from hospital by masked officers of the armed special police force to Almaty 155/18 Pre-Trial Detention Centre. There, the date of his arrest and detention was logged as 12 January. From 10 - 12 January, during his unregistered detention Adilbeyukuly was subjected to severe beatings by masked men, in an attempt to force him to confess. He witnessed other detainees being beaten, doused with boiling water by officials in uniform who demanded they admit to crimes such as raping medical nurses, beheading a police cadet, and attacking state buildings. On 17 January 2022 doctors from City Hospital no.7 visited the pre-trial detention centre facility where Adilbeyukuly was being held and removed the catheter out of his body, without stitching or treating the site, meaning that the wound became infected. On 25 January, Adilbeyukuly was released to house arrest after his relatives spoke out on social media. The next day, he returned to City Hospital no.7 to show a doctor his infected wound, but was told by a doctor that they had received an order "not to treat 'qantarovtsy' ('January people' in Kazakh)." He returned to the hospital again on 28 January 2022 requesting a written medical record of his treatment, and only then did they look at his wound. After this, Adilbeyukuly continued his treatment in private clinics. The charges of 'participation in mass riots' against Adilbeyukuly were dropped in August 2022 for lack of evidence. The investigation into his claims of torture was also closed, allegedly due to lack of evidence.

Nurtas Karaneyev,⁵⁹ a 42-year-old male hairdresser, was wounded on January 5 in the hand and groin area when he was near the main square in Almaty trying to help other wounded protestors. Unconscious, he was taken first to City Hospital no. 5 where he was treated with first aid, but the doctors refused to admit him to that hospital. Karaneyev was then taken by other protestors to City Hospital no. 12 where he underwent emergency surgery that afternoon. One of his testicles was amputated and the other was half-removed. On 8 January, he was in his hospital room, which he shared with another patient, when at 6:00 or 7:00 p.m, 10 armed men, some wearing uniform and others in plain clothes, came in and asked for their names. They struck Karaneyev's neighbour, Amanzhol, (then a wheelchair user), with the barrel of a gun and beat Karaneyev with their fists. They took Karaneyev and Amanzhol down in the lift, where other officers of the Rapid Force Police Force badly beat Amanzhol with their fists and hit Nurtas in the abdomen. Karaneyev and Amanzhol were scared and weakened after their operations, and they did not protest their detention. No one from the medical personnel tried to stop them from being arrested in that way. In the hospital's inner courtyard three police vans were parked and the two men were pushed into one of them, which was overcrowded with other patients. Karaneyev recalls that all of them had recently undergone surgery. The security officials were swearing and yelling at the men, calling them terrorists. Upon arrival at Almaty 155/18 Pre-Trial Detention Centre, the men were pushed down to the ground, they were beaten with truncheons. Altogether, according to Karaneyev, there were between thirty and forty wounded men. Most were not properly clothed, some were in underwear and slippers, and some were reportedly completely naked.

Karaneyev was released from detention on 11 January 2022. In early May 2022, he sent an inquiry to hospital no. 12 (City Central Clinical Hospital) requesting a copy of his medical file from the time when he was there. On 13 May 2022 he received a reply signed by Director U. Medeubekov, which, inter alia, stated that "since your treatment at the City Central Clinical Hospital during the mass unrests [in January 2022] was interrupted due to reasons beyond our control, our Clinic is ready to help you with receiving any further medical assistance that may be needed. You can attend a consultation with a specialist who will issue you with a medical report".

Karaneyev was charged with participation in mass disorders although the charges were later dropped as unsubstantiated. It is not known whether he lodged a complaint about torture or not.

59 Nurtas Karaneyev's case was documented by the Human Rights Alliance documentation task force.

These examples illustrate cases of doctors' acquiescence to the torture of their patients during the January 2022 events, which grossly contradicts numerous international and national legal and ethical obligations. The 2022 revision of the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) specifically emphasizes the role of doctors and its importance during any armed conflicts, be they international or domestic. Citing the Geneva Conventions, the 2022 revision provides that "doctors [shall] not [be required to] denounce people who are sick or wounded" and that "health professionals cannot be compelled to disclose information about their patients in such situations, particularly in situations of armed conflict". The Istanbul Protocol lists four core ethical obligations of health professionals: beneficence, non-maleficence, confidentiality and respect for patient autonomy that "apply equally in times of armed conflict and other emergencies and in times of peace". The UN Principles of Medical Ethics, cited in the Istanbul Protocol, require medical professionals to follow "proper procedural safeguards [...] in order not to expose the prisoner or associated persons to foreseeable risk of harm".

The healthcare professionals in Kazakhstan, who - either independently or following orders from national security or other state officials - handed over their patients to imminent torture or ill-treatment, not only violated their professional rules of ethics but also could be considered to have participated in torture. "Participation in torture", according to the Istanbul Protocol, and other legal frameworks, includes "evaluating an individual's capacity to withstand ill-treatment" and "resuscitating individuals for the purposes of further ill-treatment or providing medical treatment immediately before, during or after torture on the instructions of those likely to be responsible for it; providing professional knowledge or individuals' personal health information to torturers". The Tokyo Declaration (adopted by the World Medical Assembly), which is also cited in the Istanbul Protocol, instructs doctors "to insist on being free to act in patients' interests, regardless of other considerations, including the instructions of employers, prison authorities or security forces". Similar principles are prescribed for nurses in the International Council of Nurses (ICN) Code of Ethics for Nurses.

Some doctors in Kazakhstan were brave enough not to allow the security personnel to remove their patients from hospitals and clinics. For example, the actions of doctor Altay Sanzybaevitch Kultumanov, head of the neurosurgical department at Emergency Hospital in the city of Oskemen in Eastern Kazakhstan, in the case of Daulet Mukhazhanov (see section 2.1).⁶⁰

Kazakhstan should conduct effective, impartial and detailed investigations into all allegations of torture, including into the role of healthcare professionals.

3.8 Reprisals against victims of torture who lodged complaints

Notable in the wake of the January events in Kazakhstan is the reluctance of victims of torture and ill-treatment to file official complaints for fear of continued torture or worsening of their situation, such as additional or more harsher charges being initiated against them. In relation to the January events, reports indicate that victims have often come under pressure to keep quiet about torture and ill-treatment in detention. According to these reports, in some cases officials have put pressure on detainees to withdraw their complaints about torture in exchange for not being sentenced to imprisonment or facing lesser punishment. Some victims report feeling insecure and afraid that should they fail to prove that they were tortured they themselves could be at risk of prosecution for false denunciation or knowingly

60 See more on Mukhazhanov's case in 3.6 'Severe damage to health as a result of torture

disseminating false information - both offences which are punishable by prison terms in Kazakhstan.⁶¹ For instance, Sergei Shutov from Atyrau left the country after being tortured, and later learned that a case may have been being prepared against him for “knowingly disseminating false information”, when he spoke out about his treatment at the hands of the authorities. There follow two examples from Kyzylorda and Almaty of retaliation by law enforcement against victims who complained of torture:

Talgat Meshitali, a resident of Kyzylorda, went to hospital on 4 January 2022 because he allegedly injured his hand while repairing a car. After receiving medical treatment he was detained by police on suspicion of participating in the riots. He was first taken to the Kyzylorda Police Department, where he reported that police officers tortured him, including by sticking needles into his open wound, before being held in pre-trial detention. The Kyzylorda Investigative Court later released Meshitali under house arrest due to lack of evidence against him. On 16 February 2022 he took part in a meeting of the public commission to investigate the January events, where he openly stated that he had been subjected to torture by officers of the Kyzylorda Police Department. The next day, his house arrest was changed to detention and he was returned to pre-trial detention. He was subsequently charged with participating in the riots, and also with “use of violence against a representative of the authorities” and “attempted murder” (article 380 of the Criminal Code). However, the police investigation failed to provide photo, video or other evidence of his involvement in the alleged crimes. At the time of writing Talgat Meshitali remains in pre-trial detention.

In Almaty, **Kosai Makhambayev** participated in the protests on 4 and 5 January 2022 and sustained three gunshot wounds. He was first taken to hospital and then, on 8 January, although he could not move on his own, to a detention centre. There he alleges he was beaten, included on the head and on the lower back, stripped naked and left lying on concrete in the January cold. According to Makhambayev, at least three of his cellmates were taken to a special torture chamber and raped. Later, prosecutors came to the detention centre and asked Makhambayev if he intended to write a complaint about torture. He answered that he would. For this, he was ‘punished’. He was taken to the clinic and a patient was put in with him who had an abdominal wound and whose faeces were leaking. The smell of the room made Makhambayev constantly want to vomit. Makhambayev stated “The man couldn’t lie normally or get up and he was not given proper medical treatment but was kept there like a living gas chamber. All those who did not provide the necessary evidence for the investigators were put in with this guy”.

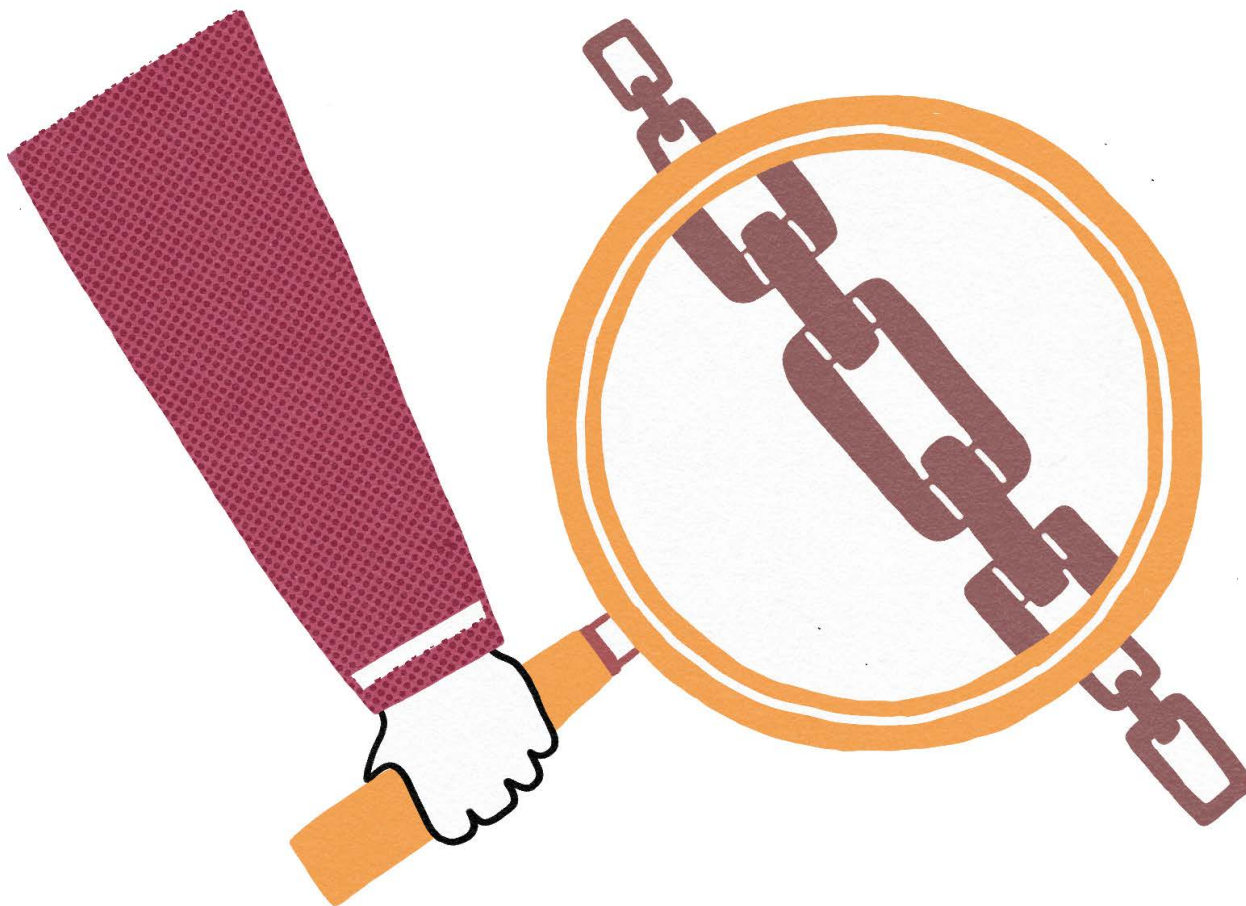
Makhambayev managed to pass his complaint about to torture to his family. On 10 February his mother and lawyer passed the complaint to the Prosecutor, and that evening his detention was changed to house arrest.

However, since then the investigation into his allegations of torture has not progressed. He told the Coalition “They tell us “you’ll never prove anything, they [the alleged torturers] were wearing masks”.

On 2 June, Makhambayev was arrested and detained for 15 days for allegedly organising an unauthorised rally where relatives of those killed and arrested during the January events gathered to hear the Prosecutor’s Office’s response to their demands for a fair and transparent investigation into the January events and for those who had killed protesters and tortured detainees to be brought to justice. Once again transferred to house arrest, at the time of writing, Makhambayev is awaiting trial on charges of participating in “mass riots”.

61 Although the crime of ‘defamation’ is now an administrative offence, the crime of ‘deliberate, false denunciation’ (Article 419 of the Criminal Code) and ‘knowingly disseminating false information’ (Article 274 of the Criminal Code) are both actively used to prosecute victims of torture who lodge complaints against their abusers.

4. One year on: State response to 'Bloody January'



4.1 Failure to effectively and impartially investigate allegations of torture and ill-treatment leads to impunity for perpetrators

Reports of the use of torture against individuals detained in connection with the January protests came to light immediately after internet access was restored in Kazakhstan (between 7-10 January 2022 depending on the region). After initially rejecting all reports of torture as unfounded, the authorities admitted in February 2022 that torture and ill-treatment had been used against some detainees during the unrest. On 3 February 2022 the Foreign Ministry issued a statement saying that “the Republic of Kazakhstan condemns possible cases of disproportionate use of force, illegal detentions, torture and ill-treatment of detainees. [...] Kazakhstan is committed to all its obligations in the field of human rights protection and is ready for an open dialogue and cooperation with international non-governmental organisations.”⁶²

62 <https://ru.sputnik.kz/20220203/kazakhstan-rassleduyut-98-del-o-pytkakh-22498616.html>

On 17 February 2022 President Tokayev announced on national television that he had given “specific instructions to the Ministry of the Interior and the Prosecutor General’s Office [to investigate allegation of torture and ill-treatment]” and that “a public commission has already begun its work [to this end].”⁶³ “The state and law enforcement agencies do not interfere in their activities. I do not interfere either,” the president added. On 3 March 2022 President Tokayev appointed a new Prosecutor General, whom he “instructed to develop proposals aimed at strengthening accountability for inhumane treatment of detainees and prisoners.”⁶⁴ On 16 March 2022 the president went further by saying that “[the government] acknowledged the fact that law enforcement officers used prohibited methods of interrogation, and even torture, against detainees. Such barbaric manifestations of the Middle Ages are contrary to the principles of any progressive society. They are unacceptable for us.” He added that he had ordered all allegations of abuse to be “thoroughly investigated.”⁶⁵

However, despite these pledges, the authorities have failed to thoroughly investigate all allegations of torture and ill-treatment in practice, as evidenced by available statistics.

As of late December 2022, the investigations into 104 of the 190 torture complaints, which were registered by the NGO Coalition in connection with the January events and subsequently passed on to the authorities, had been closed because of the alleged lack of evidence of crime or the alleged exhaustion of leads. According to monitoring by KIBHR and the Coalition, the cases which were closed include: 33 cases (from 33) from Taraz; 31 (from 46) from Almaty; 11 (from 11) from Kyzylorda (where plea bargains were reached with the suspects); six each from Shymkent, Ekibastuz and Uralsk; five from Aktobe; three from Kostanay; and one case each from Ust-Kamenogorsk, Semey and Karaganda.

The exact, overall numbers of torture complaints received by the authorities in relation to the January events and the investigations opened into such allegations are not known as comprehensive statistics have not been made public and only selective - and partly contradictory - information has been shared publicly by representatives of the authorities.

On 14 March 2022, when speaking at a parliamentary assembly, the General Prosecutor stated that 301 complaints about “unlawful methods of interrogation” had been registered and that 243 criminal cases on “torture and abuse of power” had been opened based on these complaints, with 234 of the cases being under investigation by the Anti-Corruption Agency and 9 by special prosecutors.⁶⁶ Later, on 12 July 2022 the Anti-Corruption Agency, the state body with main responsibility for investigating allegations of torture, stated that it was investigating 177 cases of torture and ill-treatment against detainees in relation to the January unrest and that the investigations into another 171 cases had been finished.⁶⁷ The same day, the Ministry of Justice announced that 137 of those cases had been closed as unsubstantiated.⁶⁸ The Minister of Interior Marat Akhmetzhanov claimed that “the majority of applicants (96.3 per

63 https://tengrinews.kz/kazakhstan_news/prezident-tokaev-otvetil-na-vopros-o-pytkah-zaderjannyih-462219/

64 <https://ru.sputnik.kz/20220303/tokaev-nuzhno-na-kornyu-ustranit-takie-srednevekove-yavleniya-kak-pytki-23261748.html>

65 <https://akorda.kz/ru/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana-1623953>

66 <https://vlast.kz/novosti/49115-do-234-vyroslo-cislo-ugolovnyh-del-po-faktam-pytok-zaderzannyh-posle-anvarskih-sobytij.html>

67 <https://vlast.kz/novosti/50756-po-pytkam-v-svazi-s-anvarskimi-sobytiyami-rassleduet-177-ugolovnyh-del-bektenov.html>

68 https://www.inform.kz/kz/zhana-kazakstanda-eskishe-oilyayty-n-policyley-bolmaytynyna-senimdimin-marat-ahmetzhanovpen-suhbat_a3953649

cent) do not name specific persons. In general, complaints about the use of force by the police are not substantiated.”⁶⁹

According to information from the Ministry of Interior made public on 27 October 2022, criminal cases on torture had been opened against 17 police officers and 12 security officials.⁷⁰

In November 2022, Human Rights Commissioner Elvira Azimova stated that in the cases of torture investigations in relation to January 2022 that never reached court, “It’s not that the allegations of torture are not true. It’s that, if the cases were closed, it means that there isn’t sufficient evidence.”⁷¹

Most recently, on 5 January 2023, when speaking at a parliamentary session concerning an inquiry into the January events, General Prosecutor Berik Asylov stated that a total of 329 criminal cases on torture had been opened in relation to the January events, with special prosecutors investigating cases involving 34 law enforcement and security officials.⁷² The same day, the head of the Anti-Corruption Agency, Olzhas Bektenov, provided a different figure, saying that his agency had investigated 432 complaints concerning unlawful actions by law enforcement officers in connection with the January events. Bektenov also stated that 347 cases had been closed due to the alleged lack of a crime. He claimed that complaints about torture “in most cases were filed in order to avoid criminal liability for unlawful actions”.⁷³

Lawyers representing victims of torture have identified the reluctance of officials overseeing investigations into torture to accept victims’ statements as sufficient proof of torture as a major barrier to justice. As Yerkin Abdrashev, [whose case is described above] told Current Time TV: *“Many of us have independently confirmed the names, titles and places of work of the police officers who tortured us. But despite this, the number of cases linked with torture continues to shrink... over half of the cases have been closed. It doesn’t suit the authorities [to continue the investigations]”*.

Another victim of torture, activist Sergei Shutov, who is currently in exile, described on Instagram 9 January 2023 his frustration at the slow and ineffective pace of investigations of torture complaints: He reports that law enforcement officials rang him and asked “which “republic” I was in... in answer to my question *“why do you need to know, you’ve already reclassified [all torture cases as excessive use of authority] and closed them?”*. He answered that the first criminal case had been opened. This is after 20 complaints and over 700 victims in Atyrau. Anticor [the Anti-Corruption Agency responsible for investigation of torture complaints] did not even write back to victims, just verbally communicated their decisions”.

International law (the Istanbul Protocol and treaty body jurisprudence) is clear that in reviews of torture allegations, the burden of proof clearly falls on the alleged perpetrator of torture, rather than on the victim. It is thus not incumbent on the victim to be able to recall the names of their abusers. If the victim of alleged torture provides sufficient evidence to indicate that torture has occurred, it is the duty of the state to prove that it has not.

69 https://www.inform.kz/kz/zhana-kazakstanda-eskiske-oilyaytyn-policeyler-bolmaytynyna-senimdimin-maratahmetzhanovpen-suhbat_a3953649

70 <https://www.currenttime.tv/a/senat-kazahstana-odobril-zakonoproekt-ob-amnistii-zaderzhannyh-v-hode-yanvarskih-protestov/32103821.html>

71 <https://www.currenttime.tv/a/vashi-pokazaniya-goloslovnnye-nichem-ne-dokazyvayutsya-v-kazahstane-zakryty-80-del-o-pytkah-silovikami-uchastnikov-yanvarskih-sobytyy-/32115778.html>

72 <https://rus.azattyq.org/a/32209456.html>

73 https://www.inform.kz/ru/kantar-347-del-v-otnoshenii-policeyskih-prekrascheno-iz-za-otsutstviya-sostava-prestupleniya_a4020104

The staggeringly high rate of closures of investigations into allegations of torture and ill-treatment in relation to January 2022 by the investigating authorities clearly shows that the Kazakhstani authorities have failed to carry out official investigations in an effective, transparent or independent manner in line with the country's international obligations.

During the Kazakhstani government's internal investigation into the large-scale violence of the January events, human rights groups have called consistently for the need to hold effective, independent investigations involving both national and international experts.

However, to date, Kazakhstani authorities have refused to take this step and have rejected proposals for an international and independent investigation. For example, when asked about the possibility of such an initiative in April 2022, the Deputy Minister of Foreign Affairs of Kazakhstan, Roman Vassilenko, said "there is no such thing as an independent investigation which can be recognised by Kazakhstan's legislation or can be acted upon by Kazakhstan's courts".⁷⁴

The lack of effective investigations and an effective strategy to deliver justice inevitably leads to impunity for the perpetrators of torture, as seen in the limited number of cases involving law enforcement officers charged with using torture against individuals detained during and after these events that have made it to court. At the time of writing, one trial in Almaty and one in Taldykorgan are ongoing, while a third has been postponed to late January 2023. These cases involve only around 30 torture victims in total.⁷⁵

There are also concerns about the manner in which the legal proceedings have been carried out in these cases. In particular, as documented by monitors from KIBHR and the NGO Coalition, the trial in Taldykorgan has been riddled with procedural violations and fallen short of fair trial standards (see below).

In Taldykorgan, five state officials (three police investigators, one local police officer and one cadet) have been charged with torture (Article 146 of the Criminal Code) in relation to their treatment of individuals detained during the January protests. Twenty-four individuals, including three minors, were recognized as victims of torture which occurred in the Almaty Regional Police Department in Taldykorgan following the January unrest. However, a series of procedural violations, reports of re-traumatisation of victims during the hearings, and the fact that both the police officers on trial and their relatives were allowed to intimidate, threaten and even openly attempt to negotiate with the families of victims and the victims themselves outside the courtroom had a negative impact on the impartiality of the trial.

*Throughout the trial victims of torture have been made to bear the burden of proof despite the strong material evidence that they were tortured. Additionally, many victims were dismayed to find that some of their abusers were not standing trial at all. For example, on 9 September 2022 **Arman Tenizbaev**, who was detained on 8 January 2022, testified in the Taldykorgan trial that three police officers had tortured him including by burning him with an iron in the days that followed his detention, but that only one of the three police officers was standing trial. Additionally, on 15 September 2022, Dauren Aitov, who was detained on 10 January 2022, testified in detail about being tortured by law enforcement officials in the days that followed his detention – including being burnt by an iron by one police officer while five other law enforcement officers held him down. However, only one of Dauren Aitov's abusers was on trial.*

74 <https://www.euractiv.com/section/central-asia/news/meaningful-investigation-of-kazakhstans-january-unrest-is-key-eu-says/>

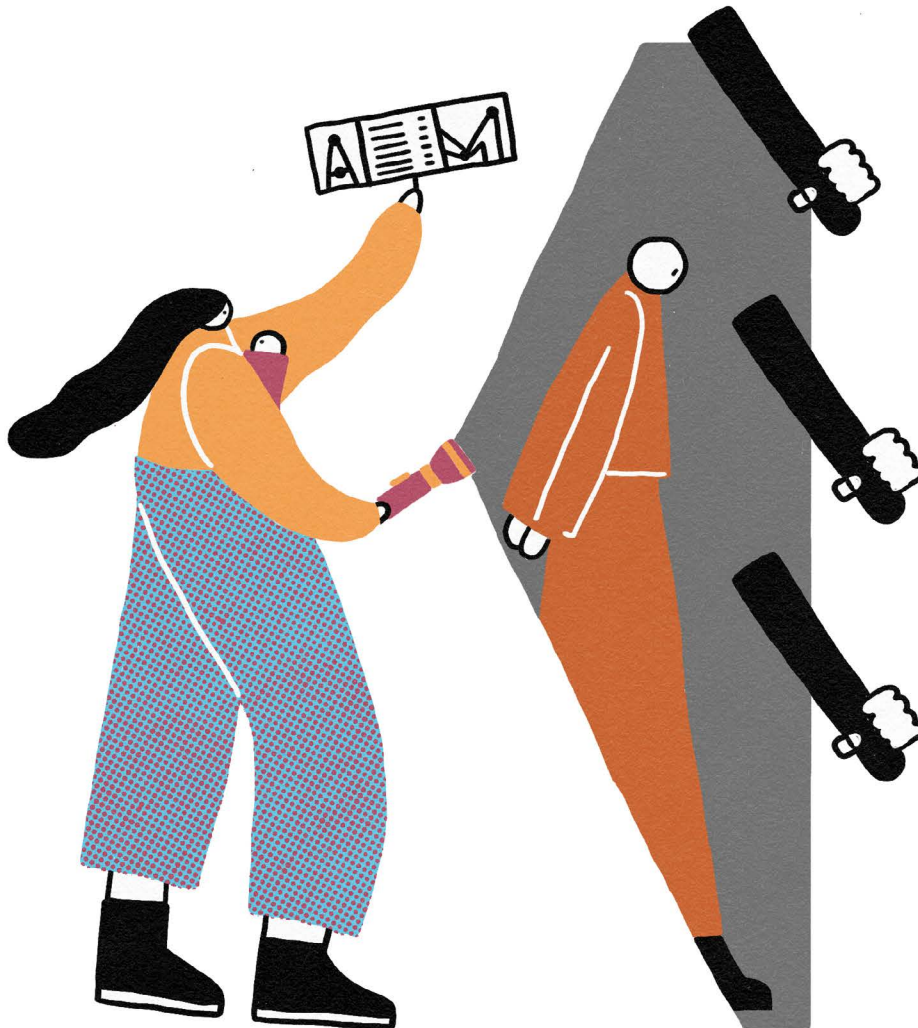
75 <https://rus.azattyq.org/a/32209456.html>

During the first court hearings in Taldykorgan, journalists and media representatives were not able to cover the hearings properly as there was not enough room in the small courtroom and although they were allowed to watch the proceedings on a screen installed in a nearby room, they were able to understand very little of what was being said due to the poor quality image and sound.

From January 2023 prosecutors will be responsible for investigating all cases of torture, instead of the Anti-Corruption Agency and the police which were previously responsible for investigating such cases. It remains to be seen whether this will result in any improvements in the effectiveness of investigations.

The progress made on bringing those suspected of committing acts of torture and other ill-treatment during the January 2022 events will demonstrate the government's political will to implement their international and domestic commitments on human rights and to deliver justice for those who suffered death, torture, injury and loss during 'Bloody January'.

5. Recommendations



Based on the information presented in this report, and in accordance with Kazakhstan's international human rights obligations, we would like to make the following recommendations to the authorities of Kazakhstan:

- Demonstrate their commitment to preventing and eradicating torture in practice by adopting effective measures to this end, in line with the UN CAT, the ICCPR, and recommendations received by Kazakhstan by the treaty bodies reviewing the implementation of these conventions, as well as in the framework of the Universal Periodic Review.
- Undertake prompt, thorough, independent and impartial investigations into all allegations of torture or other ill-treatment during the January events, with the input of recognised independent international experts as well as experts from Kazakhstani civil society, and ensure that they are conducted in a transparent way and that the conclusions are made public, in particular:
 - To re-examine the cases in which investigations were suspended or terminated;
 - To provide necessary social and legal assistance to the victims of torture, whose cases are being investigated and to ensure that the burden of proof lies on the suspects and the governmental bodies
 - To ensure thorough and effective investigations of the cases of civilian death in the result of disproportionate use of force and deaths in the result of torture, and provide public information about the results of these investigations
 - To provide reliable and coherent public information about the progress of investigations of torture allegations
- Ensure that alleged perpetrators of torture and ill-treatment are duly prosecuted in a fair trial, including persons in position of command responsible for torturing and cases of deaths in custody as results of torture, physical or psychological ill-treatment and wilful negligence, and, if found guilty, punished in accordance with the gravity of their acts.
- Ensure that during court hearings, victims of torture are provided at all times with adequate and appropriate safety and security measures, and that the trials are held in a manner that is sensitive to the victims' situations and avoid re-traumatisation.
- Ensure that amnesties and pardons are not applied to the perpetrators of torture and ill-treatment, as well as to those who committed murder of peaceful protesters, with or without intent;
- Provide effective remedy, redress and rehabilitation to the victims of torture and ill-treatment and to their families.
- Ensure that relevant national institutions such as the Human Rights Commissioner (Ombudsman) and the National Preventive Mechanism are independent and impartial, and take necessary measures to enable the effective functioning of these institutions and their key role in preventing and ensuring accountability for torture.
- Ensure, in both law and practice, the complete prohibition of torture, ill-treatment and other degrading treatment, and provide appropriate training to all public officials, including law enforcement, to ensure they are aware of the prohibition and the consequences of the use of torture.
- Investigate the cases of medical professionals' alleged involvement in torture and ill-treatment and ensure all medical professionals are aware of the doctors' role in the prevention of torture.

- In line with the ICCPR and UN Declaration on Human Rights Defenders, ensure that everyone, individually and in association with others, particularly activists, civil society and human rights defenders, has the right to freedom of expression, and to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels in a safe and enabling environment without fear of reprisals.
- Ensure, in law and in practice, that those who responsibly report torture are not prosecuted for knowingly disseminating false information or for intentionally reporting a fake crime should their allegations fail to be confirmed.
- In accordance with the UN Convention on the Rights of the Child (UNCRC) , article 39, take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of torture or any other form of cruel, inhuman or degrading treatment or punishment.
- In line with the UN Convention on the Elimination of Discrimination Against Women (CEDAW) and the Istanbul Convention, ensure women are protected from any forms of violence including sexual and gender based violence, and in case of abuse ensure that victims benefit from protection and effective remedies, including access to medical, legal services and psychosocial counselling.
- In line with the UN Convention on the Rights of Persons with Disabilities (UNCRPD), take all necessary measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment, and provide victims with adequate and specific to the needs of the individual remedies in case of abuse.