

PHR

**Physicians for
Human Rights**

**ENDING IMPUNITY:
The Use of Forensic Medical Evaluations
to Document Torture and Ill Treatment
in Kyrgyzstan**

A Briefing Paper by
Physicians for Human Rights
October 2012

Physicians for Human Rights

PHR was founded in 1986 on the idea that physicians, scientists, and other health professionals, with their specialized skills, ethical duties, and credible voices, are uniquely positioned to investigate human rights violations and advocate to stop them.

Through a lens of medical and scientific rigor, PHR has conducted pioneering work on the use of tear gas and chemical weapons in Iraq; exhuming mass graves in Bosnia, Rwanda, Iraq, and Afghanistan; mass rape in Sierra Leone and Sudan; assessing genocide in Sudan; the systematic destruction of the health system by Mugabe's regime in Zimbabwe; the torture of detainees in Iraq, Afghanistan, and Guantanamo Bay by the US government; medical participation in US interrogation techniques; and crimes against humanity across Burma.

PHR was a co-recipient of the 1997 Nobel Peace Prize for our leadership on the International Campaign to Ban Landmines.

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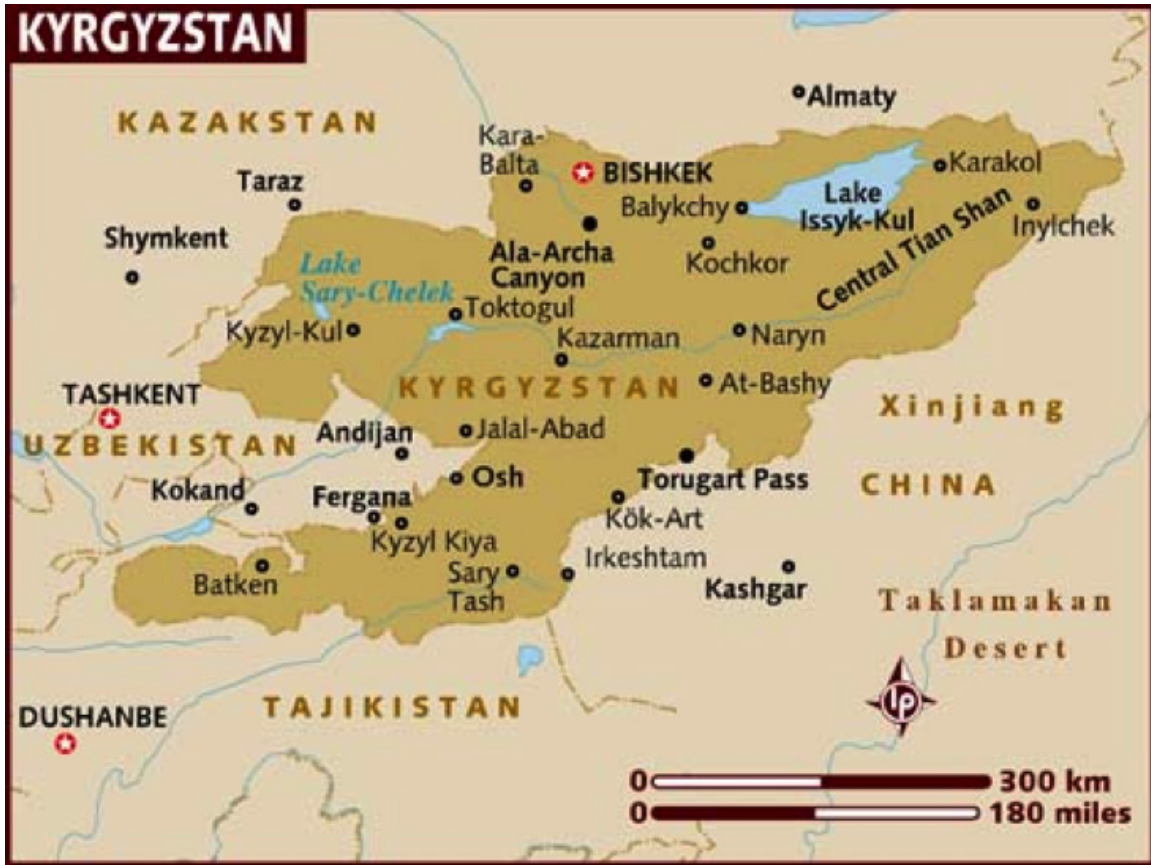
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Purpose

Torture and ill treatment are widespread and systematic in Kyrgyzstan and other Central Asian countries. During the past year, Physicians for Human Rights (PHR) has worked to transform Kyrgyzstan's stated policy of zero tolerance for torture and ill treatment into action. The initiative is intended to serve as model to end impunity for torture in the region as well. The primary goal of PHR's work in Kyrgyzstan is to address the problem of impunity for torture and ill treatment by implementing Istanbul Protocol standards for the effective investigation and documentation of torture and ill treatment.¹ From October 2011 to April 2012, PHR conducted coordinated and sustained forensic medical² documentation, capacity building, and policy reform activities.

PHR Project Overview

PHR has more than 25 years of experience in the medical documentation of torture and ill treatment and led the development of the first international guidelines for medico-legal documentation of torture and ill treatment that are contained in the United Nations' *Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* or Istanbul Protocol (available at: www.ohchr.org/Documents/Publications/training8Rev1en.pdf).

PHR has investigated and documented medical evidence of torture and ill treatment in dozens of countries. In addition, PHR has extensive experience in the implementation of Istanbul Protocol standards for effective medical and legal investigation and documentation of torture and ill treatment, including conducting trainings for medical and legal experts.

PHR's efforts to implement Istanbul Protocol standards in Kyrgyzstan consisted of three primary activities:

- 1) an assessment of torture and ill treatment practices,
- 2) capacity building training for medical and legal experts on the effective investigation and documentation of torture and ill treatment, and
- 3) policy reform activities.

This briefing paper includes a series of comprehensive recommendations based on PHR's analysis of torture and ill treatment practices in Kyrgyzstan, its forensic evaluation of 10 cases, and PHR's current efforts to draft international standards for the effective implementation of Istanbul Protocol standards in collaboration with the UN Office of the High Commissioner for Human Rights (OHCHR).

Summary of Findings

Torture and Ill Treatment Practices

PHR's forensic medical evaluations indicate a pattern of extremely brutal torture methods, including severe beatings that frequently result in head trauma, asphyxiation with gas masks and plastic bags, electric shock, threats of rape and sodomy with truncheons, death threats, and

1. "Torture and ill treatment" in this briefing paper refers to torture and other cruel, inhuman, or degrading treatment or punishment as defined in the UN Convention against Torture: U.N., Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Jan. 23, 1986, 1465 UNT.S. 85, available at: http://www.unhcr.ch/html/menu3/b/h_cat39.htm [hereinafter CAT]
2. The term "forensic medical" refers to physical and/or psychological evidence evaluated or documented for legal purposes.

threats to plant drugs on individuals, among others. The extreme brutality of the police is evidenced by the high frequency of blunt trauma to the head and asphyxiation resulting in traumatic brain injury. Eight of the 10 individuals we examined demonstrated clinical evidence of traumatic brain injury. In PHR's experience, such brutality is typically observed in countries where perpetrators routinely practice torture with impunity and/or the possibility of effective forensic medical documentation of torture and ill treatment is virtually non-existent.

Inadequate Forensic Documentation

None of the individuals whom PHR examined had access to an independent, non-governmental medical evaluator before being evaluated by PHR. Contact with an official, governmental forensic physician was reported in only two cases. An official forensic medical evaluation was conducted in only one case, that of Azimjan Askarov. The prosecutor and a law enforcement official were present during the evaluation and when the evaluator asked, "Who caused your injuries?" the prosecutor responded, "His cell mate." A cursory evaluation conducted by a governmental forensic examiner was inconsistent with Istanbul Protocol standards of medical documentation and failed to explain how a fall to the ground from a standing position could be responsible for multiple contusions and hematomas to the right side of the face, the right forearm, left shoulder, and lumbar (back) area, not to mention a scalp laceration and multiple rib fractures that were noted on a chest x-ray several days before the forensic evaluation. When Askarov later asked for an independent medical evaluation, five police officers and the head of the detention facility came to his cell and told him that if he didn't withdraw his request he would not be alive in the morning.

Only one other individual had contact with an official forensic physician. The forensic physician referred the detainee to an emergency room for acute care of his injuries, but did not conduct a forensic evaluation of the detainee, even after his condition stabilized. On examination by PHR, he was found to have evidence of traumatic brain injury and post-traumatic stress disorder and had undergone surgery for testicular trauma.

Through PHR's interviews with key stakeholders, we learned that, in most cases, forensic medical evaluations are simply not obtained for alleged torture and ill treatment. Official forensic medical doctors in Kyrgyzstan often do not conduct evaluations of alleged victims for fear of reprisals. If conducted, the evaluations are cursory, at best, and do not conform to international Istanbul Protocol standards; the evaluations do not include specific allegations of abuse, any assessment of psychological evidence, or any mention of the possibility of torture in their conclusions, among many other deficiencies. Forensic medical evaluations are typically requested by prosecutors after obvious physical evidence of the alleged abuse has resolved. Also, medical findings of torture and ill treatment are frequently ignored, and sometimes falsified, due to police coercion of medical and forensic personnel. Police are often present during medical evaluations. In addition, evaluations by non-governmental medical experts have been excluded from judicial proceedings on the grounds that such experts are not licensed to provide official forensic opinions.

To date, official Kyrgyz forensic medical experts have received no training on the medical documentation of torture and ill treatment; they do not have basic photographic and other diagnostic equipment; and there are no adequate mental health personnel. Most importantly, forensic medical evaluators in Kyrgyzstan are not functionally independent. They are employed by the same institution as the alleged perpetrators, the Ministry of the Interior. In addition, the objectivity and accuracy of official forensic medical evaluation are further compromised by corruption of medical personnel to provide false information in their reports in exchange for bribes.

PHR's interviews with key stakeholders also aided in identifying many factors that facilitate torture and ill treatment, including:

- Inadequate safeguards during arrest and detention
- Inadequate legal investigations
- Inadequate forensic medical evaluations
- Inadequate police investigations
- Allowing confessions obtained under torture into judicial proceedings, despite their being illegal
- Inadequate sanctions against perpetrators and those who are complicit
- Lack of systematic monitoring of torture and ill treatment practices
- Fear of reprisals
- Inadequate redress for victims of torture and ill treatment
- Corruption of government officials

Though torture and ill treatment are widespread in Kyrgyzstan, victims rarely complain for fear of reprisals and lack of trust in the legal system. Most cases of alleged torture and ill treatment are not investigated or prosecuted. If they are prosecuted, the cases are tried as lesser crimes of "police abuse" or "abuse of power," and perpetrators escape significant punishment. There are virtually no cases of criminal punishment for perpetrators of torture in Kyrgyzstan.

Case of Azimjan Askarov

Askarov's case is emblematic of the problem of torture in Kyrgyzstan. His criminal conviction was based on false confessions obtained under torture, biased and inadequate legal investigations, and false forensic medical evidence. Human rights groups in Kyrgyzstan and abroad have criticized Askarov's trial and sentence. Many believe that he was jailed solely because of his professional activities as a human rights activist, which were focused on prison conditions and police treatment of detainees. We believe that Askarov's guilty verdict is an affront to justice as it makes a farce of Kyrgyzstan's justice system, an individual's right to a fair trial, and the pursuit of justice for torture victims.

Conclusions

Although the government of Kyrgyzstan has taken significant legislative and other steps to address the problem of torture and ill treatment, these human rights violations continue to be widespread and systematic in detention facilities throughout the country. Inadequate legal investigation of crimes in Kyrgyzstan has fostered a legal system that depends on "confessions" obtained through torture and ill treatment. Torture and ill treatment are widespread and systematic in Kyrgyzstan because, in the absence of adequate legal investigation, they are one of the only means of achieving "successful" prosecution of crimes. Police and other law enforcement officials in Kyrgyzstan are able to get away with torture and ill treatment because prosecutors and judges in effect turn a blind eye to evidence of torture in the extraction of confessions. Impunity for torture and ill treatment is the norm in Kyrgyzstan because it sustains the "confession-based" legal system.

Impunity for torture and ill treatment not only undermines the rule of law, it creates a permissive environment within law enforcement for extortion of money in exchange for dropping or mitigating charges.

One of the most effective ways to break the cycle of impunity is through effective medical and legal investigation and documentation of torture and ill treatment. Forensic medical evidence is often one of the most powerful forms of material evidence to corroborate a victim's allegations of abusive treatment. Unfortunately, the capacity to document forensic medical evidence is virtually non-existent in Kyrgyzstan.

In recent years, human rights organizations and lawyers have strengthened their efforts to bring torture perpetrators to justice, but essential medical evidence continues to be lacking. In Kyrgyzstan, those engaged in human rights work in general, including anti-torture work specifically, are largely lawyers; health professionals are essentially unengaged. For this reason, PHR's extensive experience implementing Istanbul Protocol standards for effective forensic medical documentation of torture, as well as motivating health professionals to become involved in the fight against torture, are essential to ending impunity for torture.

Ending torture and ill treatment in Kyrgyzstan is a test of political will—a test that requires an end to the prosecution of crimes on the basis of false confessions under torture and ill treatment, biased and inadequate legal investigations, and the use of false forensic medical evidence to exonerate perpetrators. The resulting legislative, judicial, and administrative mechanisms to end such treatment in Kyrgyzstan must also include provisions for redress and release of victims, such as Azimjan Askarov, who have been convicted of crimes despite NGO allegations of grave due process violations.

The development of democracy and economic prosperity in Kyrgyzstan depends on respect for the rule of law, respect for basic human dignity, and trust between civil society and government. Ending impunity for torture and ill treatment represents enormous challenges to the government of Kyrgyzstan and civil society, but with the political will and a sustained, comprehensive plan of action, progress can be achieved.

Summary of Recommendations

Physicians for Human Rights calls upon the Kyrgyz government to end impunity for torture and ill treatment and restore respect for the rule of law by implementing Istanbul Protocol standards immediately. Furthermore, we seek the immediate release of human rights activist Azimjan Askarov, whose case symbolizes the widespread failure to properly investigate and prosecute torture perpetrators in accordance with Kyrgyzstan's international obligations under the UN Convention against Torture (CAT).

PHR has developed a comprehensive action plan for the effective investigation and documentation of torture and ill treatment in Kyrgyzstan. The plan is based on PHR's analysis of torture practices in Kyrgyzstan as well as our current efforts to draft international guidelines for full implementation of the Istanbul Protocol standards.

The Kyrgyz government must implement the following recommendations in order to demonstrate its will to end torture and ill treatment in Kyrgyzstan. A more detailed list of comprehensive recommendations appears in Appendix I of this briefing paper.

Recognition of Istanbul Protocol Standards

- The Kyrgyz government, through legislative and administrative actions, must officially recognize and institutionalize Istanbul Protocol standards among relevant departments and personnel, including forensic and health services, prosecutors, defense attorneys, judges, law enforcement, and prison and military personnel, including health and mental health professionals and those responsible for detainee health care.

- The Kyrgyz government must ensure the independence (from law enforcement, prosecution and/or military authority) of governmental health professionals who conduct medical evaluations of alleged torture and ill treatment by transferring the forensic medical services division to the Ministry of Health or establishing it as an independent authority.
- The Kyrgyz government must implement the following procedural safeguards for effective medical evaluations:
 - » Medical evaluations of detainees by governmental forensic experts should be conducted in response to official written requests by prosecutors and judges, not law enforcement or security officials or interrogation personnel;
 - » Mandatory medical evaluations must be conducted at the time of detention, upon the detainee's request, before transfers to other places of detention, and upon judicial remand;
 - » All medical evaluations must be conducted within 24 hours of the allegation of torture and/or ill treatment, and detainees must have the right to have evaluations conducted by independent, non-governmental medical experts of their choosing. Informed consent should be obtained from the alleged victim;
 - » Prosecutors must be required to inform detainees of their right to obtain a non-governmental, alternative medical evaluation by qualified health professionals of their choice at any time during their detention;
 - » All forensic evaluators must be allowed to use audio, video, and photographic equipment in their interviews with detainees in all detention facilities;
 - » Medical evaluations by governmental forensic experts should be free of charge; Law enforcement officers should not be allowed in the examination room, except for specific security reasons that should be duly noted in the medical report;
 - » Under no circumstances should a copy of the medical report be transferred to law enforcement officials;
 - » Detainees have the right to review and have a copy of their own medical records and the right to have those records transferred promptly if they are moved to another facility;
 - » If the medical expert finds evidence suggesting torture and/or ill treatment, he or she must report the evidence immediately to the prosecutor and judge; the detainee should not be returned to the place of detention, and instead must be referred for appropriate medical and/or psychological care;
 - » Licensing boards for clinicians, including medical experts and prison and military medical personnel, should link initial and periodic licensing and credentialing to successful training in Istanbul Protocol standards and periodic performance reviews on the effective medical evaluation of torture and ill treatment;
 - » All relevant personnel (including forensic and medical personnel, legal experts, and judges, as well as law enforcement, prison, and military personnel) should receive training on Istanbul Protocol standards;
 - » All forensic evaluators must use an Istanbul Protocol Standard Evaluation Form to assess physical and psychological evidence of torture and ill treatment (see Appendix I).

Legal Provisions

- Revise the Criminal Procedure Code to ensure that courts give the same weight to medical evaluations conducted by non-governmental experts as they do to evaluations conducted by governmental experts.

- Revise the Criminal Procedure Code 1) to ensure that detainees and their lawyers or relatives have a right to request an independent, non-governmental medical evaluation, and 2) to clarify that medical testimony in court cases should be permitted based on specific qualifications to evaluate physical and psychological evidence of torture and ill treatment and not merely possession of a license to practice forensic medicine.
- Medical experts must have unrestricted access to relevant evidence, including crime scenes, material evidence, witnesses, and relevant legal documents, including interrogation logs and medical records, and they must follow chain of custody procedures for material medical evidence.
- As part of the Kyrgyz government's measures to prevent torture and ill treatment and to ensure accountability and redress where they have occurred, the government must:
 - » Amend Article 305-1 of the Criminal Code to be consistent with Article 1 of the Convention against Torture, making specific reference to "severe pain and suffering."
 - » Revise the Criminal Code to clearly stipulate that allegations of torture, as defined in the Convention against Torture, cannot be prosecuted under lesser crimes of "abuse of power" (Art. 304), "exceeding power" (Art. 305), "negligence" (Art. 316), or "forced deposition" (Art. 325).
 - » Ensure prompt, effective, independent, and impartial investigations of all allegations of torture.
 - » Ensure that any statement that is established to have been made as a result of torture shall not be invoked as evidence in any legal proceedings, except against a person accused of torture as evidence that the statement was made.
 - » Ensure safeguards for those deprived of their liberty in accordance with Kyrgyzstan's duties under CAT and OPCAT.

Effective Monitoring and Reporting

- In accordance with OPCAT obligations and Istanbul Protocol standards, the Kyrgyz government must establish an independent Monitoring Committee (composed of governmental members of national human rights institutions, and non-governmental members and advisors) to:
 - » Implement training programs on the medical and legal investigation and documentation of torture and ill treatment for forensic and health services, prosecutors, defense attorneys, judges, law enforcement, prison and military personnel, including health and mental health professionals and those responsible for detainee health care;
 - » Assess the quality and accuracy of all medical evaluations of torture and ill treatment;
 - » Review legal proceedings and judicial outcome in torture and ill treatment cases;
 - » Publish periodic public reports of all monitoring activities and recommendations.

Justice for Azimjan Askarov

- The Kyrgyz government must demonstrate its will to end torture by providing justice for Azimjan Askarov. He must be released immediately, given immediate medical treatment from physicians of his choosing, and allowed to pursue legal redress in accordance with Kyrgyzstan's international obligations under CAT. An independent investigation and prosecution of his allegations of torture must commence immediately.

Geography and Ethnic Composition

Kyrgyzstan is a mountainous Central Asian nation with a population of about 5.5 million, of whom ethnic Kyrgyz form about 70 percent; ethnic Uzbeks, 14 percent; and Russians, 10 percent. About 75 percent of the people are Muslim and 20 percent are Russian Orthodox. The capital and largest city, Bishkek, is in the north, where most Russians live. Osh, the second-largest city, is in the south, where most Uzbeks reside.

Political & Judicial Structure

The Kyrgyz Republic has a parliamentary form of government in which power is divided among the president, prime minister, and unicameral parliament.

Although security forces by law are under civilian control, in some regions of the country they tend to operate independently.

The judiciary, while nominally independent as called for in the constitution, in practice is widely perceived to be controlled by the prosecutor's office. Most cases start in local courts and can be appealed to municipal or regional courts and ultimately the Supreme Court. There is no trial by jury, and the presumption of innocence and right to counsel, though embodied in law, often get short shrift. Judges are paid poorly, and many are susceptible to bribes.

Political Conditions

Recent Elections

The Kyrgyz Republic held presidential elections in October 2011, which was the country's first peaceful transfer of power in its 20-year history.³ Almazbek Atambayev, the prime minister under former president Roza Otunbayeva, received more than 60 percent of the vote in a presidential election that was generally considered by independent observers to be transparent and competitive, despite some irregularities.⁴

Ethnic Violence in Southern Kyrgyzstan

Ethnic tensions continue in southern Kyrgyzstan following violent clashes that erupted in June 2010. Ethnic Uzbeks reportedly constituted more than 70 percent of the casualties and 80 percent of those charged with crimes related to the violence.⁵ The central government has failed to hold perpetrators accountable for arbitrary arrest, torture, ill treatment, and extortion against all demographic groups, but particularly against ethnic Uzbeks.⁶ The weakness of central authority also empowered mobs to disrupt trials by attacking defendants, attorneys, witnesses, and judges.⁷

3. US DEPT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2011 – KYRGYZ REPUBLIC 4 (2012), available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186468#wrapper>.

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

International and Regional Legal Standards

Kyrgyzstan is a party to a number of UN human rights treaties prohibiting torture and ill treatment, including the International Covenant on Civil and Political Rights (ICCPR),⁸ in addition to the treaty and protocol prohibiting torture cited above. The country is also a signatory to the Rome Statute of the International Criminal Court (ICC).⁹ Kyrgyzstan, as a participating State in the Organization for Security and Cooperation in Europe (OSCE), has made a number of political commitments in the field of human rights.

National Legal Standards

Though the new Constitution of Kyrgyzstan states that “No one may be subject to torture or to other inhuman, cruel and degrading forms of treatment or punishment,”¹⁰ the Special Rapporteur on Torture has indicated that Kyrgyzstan’s national laws on torture and ill treatment are not consistent with its obligations under the various international instruments to which it is a party, especially CAT.¹¹

Although torture is prohibited in the Kyrgyz Criminal Code, as amended in 2003, it is not consistent with Article 1 of CAT.¹² Article 305-1 of the Criminal Code does not refer to “severe pain.” Torture under Article 305-1 is not clearly distinguished from cruel, inhuman, or degrading treatment or punishment (ill treatment) and is prosecuted under other provisions of the Criminal Code, including “abuse of power,”¹³ “exceeding power,”¹⁴ or “negligence,”¹⁵ or “forced deposition.”¹⁶ In addition, the prosecutor may drop torture charges if the alleged victim withdraws his or her complaint. There have been no criminal convictions for torture in Kyrgyzstan. In the rare instance of a conviction for a lesser crime, such as abuse of power, perpetrators usually receive conditional sentencing as first-time offenders or are released on amnesty.

Failure to draft and implement an anti-torture criminal code provision that complies with CAT, failure to prosecute all acts of torture under the appropriate criminal statute (Article 305-1), and inadequate criminal sanctions in the Kyrgyz Criminal Code have all collectively reinforced the norm of impunity for torture in Kyrgyzstan.

Impunity for Torture and Ill Treatment

A Culture of Impunity

The Kyrgyz legal system’s dependence on torture and ill treatment and the culture of impunity that sustains it have resulted in widespread and systematic human rights violations throughout the country in police stations, pre-trial detention centers, prisons, and other places of detention.

8. Int’l Covenant on Civil and Political Rights, GA Res. 2200A (XXI), UN.GAOR, Supp. No. 16, UN Doc. A/6316 (Dec. 16, 1966).

9. Rome Statute of the Int’l Criminal Court, UN Doc. A/CONF. 183/9* (July 1, 2002).

10. CONSTITUTION art. 22 [Kyrg.].

11. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mission to Kyrgyzstan*, UN Doc. A/HRC/19/61/Add.5 10, 11 (Feb. 21, 2012), available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-61-Add5_en.pdf [hereinafter Special Rapporteur, Kyrgyz Report]; see also HUMAN RIGHTS WATCH, DISTORTED JUSTICE: KYRGYZSTAN’S FLAWED INVESTIGATIONS AND TRIALS OF THE JUNE 2010 VIOLENCE (2010), available at: <http://www.hrw.org/sites/default/files/reports/kyrgyzstan0611webwcover.pdf>.

12. CRIMINAL CODE art. 305-1 (Kyrg.).

13. CRIMINAL CODE art. 304 (Kyrg.).

14. CRIMINAL CODE art. 305 (Kyrg.).

15. CRIMINAL CODE art. 316 (Kyrg.).

16. CRIMINAL CODE art. 325 (Kyrg.).

In September 2011, President Roza Otunbayeva acknowledged that “torture in Kyrgyzstan is a part of culture and everyday life.”¹⁷ According to a 2011 study by Golos Svobody,¹⁸ a Kyrgyz NGO, over 30 percent of detainees interviewed in all 47 temporary detention centers in Kyrgyzstan reported that they had been tortured. However, the offices of the prosecution reported that there were 200 complaints of abuse of power and only 31 complaints of torture in the first half of 2011,¹⁹ and that criminal proceedings were dropped in 18 of the torture cases. Criminal investigations were initiated in 13 cases and 36 individuals were punished with disciplinary measures.²⁰ In July 2012, the Ministry of Interior also reported to the UN Office of the High Commissioner for Human Rights that internal investigations were launched in 286 cases, resulting in 38 officers facing criminal investigation and 47 others being fired from their jobs.²¹ No cases of criminal sanctions of perpetrators were reported. In December 2011, the UN Special Rapporteur on Torture, Juan Méndez, stated that the use of torture to obtain confessions was widespread in Kyrgyzstan and the conditions of detention facilities constituted cruel and inhuman treatment.²²

Consequences of Impunity

Impunity for torture also facilitates predatory practices such as detaining individuals on false charges as a means of extorting money and other valuables from them. Under such circumstances, it is not surprising that victims of torture and ill treatment in Kyrgyzstan rarely press charges against the perpetrators due to a well-founded fear of reprisals and a lack of trust in the judiciary and the legal system. The disparity between the routine use of torture and ill treatment and the extremely limited number of criminal prosecution and sanction for these crimes reflects the magnitude of the challenge of ending such abuses in Kyrgyzstan.

Legal Steps to End Torture

During the past several years, the government of Kyrgyzstan has taken important steps to prevent and stop torture and ill treatment,²³ both of which are prohibited by Kyrgyzstan’s Constitution and Criminal Code.²⁴ Kyrgyzstan has ratified the UN Convention against Torture (CAT)²⁵ and the Optional Protocol to the UN Convention against Torture (OPCAT).²⁶ On June 7, 2012, Kyrgyzstan’s Parliament passed the Law on the National Center for the Prevention of Torture, which would establish a national preventive mechanism (NPM) to prevent torture in detention facilities in accordance with Kyrgyzstan’s obligations as a party to the OPCAT.²⁷ The legislation was the result of four years of concerted efforts by the Ombudsman, the Parliament, the Ministry of Justice, civil society, and the international community. Under OPCAT, the NPM must be authorized to make unannounced visits to detention facilities to monitor conditions and identify signs of torture and ill treatment.²⁸

17. COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2011 – KYRGYZ REPUBLIC, *supra* note 2, at 1.

18. Press Release, Freedom House, Kyrgyz Republic Takes Key Steps to Combat Torture (June 15, 2012), *available at* <http://www.freedomhouse.org/article/kyrgyz-republic-takes-key-steps-combat-torture>.

19. Report of the Special Rapporteur on Torture, *supra* note 11, at 5-6.

20. *Id.*

21. Navi Pillay, UN High Commissioner for Human Rights, Opening Remarks, Press Conference in Bishkek, Kyrgyzstan (July 10, 2010), *available at* <http://reliefweb.int/report/kyrgyzstan/opening-remarks-un-high-commissioner-human-rights-navi-pillay-press-conference>.

22. Report of the Special Rapporteur on Torture, *supra* note 11, at 1.

23. Freedom House, *supra* note 18.

24. CONSTITUTION art. 18 [Kyrg.]; CRIMINAL CODE art. 305-1 (Kyrg).

25. CAT, *supra* note 1.

26. Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, GA Res. A/RES/57/199 (June 22, 2006) [hereinafter OPCAT].

27. On the National Center of the Kyrgyz Republic on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1 (2012) [Kyrg.]; *see also* Freedom House, *supra* note 18.

28. OPCAT, *supra* note 26.

In addition, on June 15, 2012, a Memorandum of Understanding (MoU) was signed between several Kyrgyz government ministries, the Organization for Security and Cooperation in Europe (OSCE) Centre in Bishkek, and 14 Kyrgyz human rights and other organizations, creating a framework for government-civil society cooperation in combating torture.²⁹ The signing of the MoU and the passage of the anti-torture legislation³⁰ represent critical steps in ending torture and ill treatment in Kyrgyzstan, but these measures alone are insufficient because they do not address the primary causes of torture and ill treatment.

The Case of Political Prisoner Azimjan Askarov

Azimjan Askarov, an ethnic Uzbek and the most well-known political prisoner in Kyrgyzstan, has been recognized by Amnesty International as a prisoner of conscience.³¹ For more than 20 years, he has exposed police abuse in southern Kyrgyzstan. As the director of *Vozdukh* (Air), a human rights organization based in that region, he angered authorities by documenting torture and ill treatment, making him a target of the same abuses that he documented.³²

In June 2010, during inter-ethnic violence in southern Jalal-Abad and Osh, more than 400 people, mostly ethnic Uzbeks, were killed.³³ During that time, Askarov documented killings and arson attacks. He was detained on June 15, 2010, in Bazar-Korgon following inter-ethnic clashes in Osh during which an ethnic Kyrgyz police officer died.³⁴ According to NGO reports, Askarov was held in pre-trial detention and tortured at the local police station, the same one where the deceased policeman had been based, instead of being detained at a Ministry of Justice institution as required by Kyrgyz law.³⁵ According to the Committee to Protect Journalists, Askarov was beaten with a gun, a baton, and a water-filled plastic bottle—once to the point of unconsciousness.³⁶

He was not allowed to see his defense attorney in private for approximately two months and had no access to an independent physician to assess his allegations of torture by police.³⁷ His attorney also was attacked on several occasions when he came to the Bazar-Korgon police station,³⁸ and received death threats in the presence of the authorities in August 2010. Any attempt to raise the issue of Askarov's torture during the trial resulted in threats and sometimes physical attacks against defendants and lawyers, even in the courtroom, from a crowd of people identified as relatives of the deceased policeman.³⁹

Askarov was tried on charges including complicity in murder, inciting ethnic hatred, and hostage taking with seven co-defendants and was sentenced on September 15, 2010, to life imprisonment.⁴⁰ An appeals court upheld his sentence in November 2010 and Kyrgyzstan's Supreme Court also did so on December 20, 2011.⁴¹ Askarov continues to be held in solitary confinement under

29. Freedom House, *supra* note 18.

30. Navi Pillay Remarks, *supra* note 21.

31. Amnesty International, Urgent Action: Prisoner of Conscience at Risk in Kyrgyzstan (Aug. 5, 2010), available at: <http://www.amnesty.org/fr/library/asset/EUR58/011/2010/fr/4949e66c-977a-4adf-86dd-04ec3c3b975d/eur580112010en.pdf>.

32. OPEN SOCIETY JUSTICE INITIATIVE, BRIEFING PAPER: RECOMMENDATIONS FOR THE EUROPEAN UNION – KYRGYZSTAN HUMAN RIGHTS DIALOGUE 2012 3 (July 2012).

33. HUMAN RIGHTS WATCH, *supra* note 11, at 1.

34. OPEN SOCIETY JUSTICE INITIATIVE, *supra* note 32, at 4.

35. *Id.*

36. Committee to Protect Journalists, In Kyrgyzstan, Injustice and Torture in Askarov Case (June 12, 2012), <http://cpj.org/reports/2012/06/in-kyrgyzstan-injustice-and-torture-in-askarov-cas.php>.

37. *Id.*

38. *Id.* at 5;

39. *Id.*

40. *Id.* at 4.

41. The Supreme Court shortened the prison term of one of Mr. Askarov's co-defendants, Minura Mamadaliyeva, from 20 years to 11 years.

conditions that are consistent with ill treatment, such as failing to provide medical evaluation and treatment of potentially life-threatening conditions.⁴²

In response to the Supreme Court's decision, Askarov's lawyer, Nurbek Toktakunov, stated that "... the court does not exist in our republic. We do not have courts. And those so-called judges who implement justice are in fact minor bureaucrats, who make decisions looking at the authorities, toeing the line."⁴³

UN High Commissioner for Human Rights Navi Pillay said on December 22, 2012, that it was "particularly alarming that the judges failed to consider the defendants' [co-defendants', as Askarov did not confess to anything, regardless of the torture he suffered] claims that confessions had been extracted under duress." Pillay called on Kyrgyz judges to "ensure that the civil rights of defendants are protected, particularly when there are allegations of torture."⁴⁴

Ambassador Janez Lenarcic, head of the OSCE's Office for Democratic Institutions and Human Rights, released a statement expressing his dismay over the Supreme Court's verdict. Lenarcic said that, "given the serious violations of Askarov's right to a fair trial ... the Supreme Court decision raises grave concerns about the ability or willingness of Kyrgyzstan's judicial system to address shortcomings" in legal proceedings.⁴⁵

In March 2011, a Prague-based NGO, People in Need, awarded its annual Homo Homini prize to Askarov for his courage to continue his human rights documentation work in the face of threats, detention, imprisonment, and physical abuse.⁴⁶

In September 2012, an independent NGO, Committee to Protect Journalists, granted an International Press Freedom Award to Askarov for risking his life and liberty to reveal abuses of power and human rights violations in Kyrgyzstan.⁴⁷

The Istanbul Protocol

The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, commonly known as the Istanbul Protocol, outlines international legal standards on protection against torture and sets out specific guidelines on how effective legal and medical investigations into allegations of torture should be conducted. The Istanbul Protocol was developed by 75 experts in law, health, and human rights from 40 organizations in 15 countries and became an official United Nations document in 1999.

The Istanbul Protocol also outlines minimum standards to ensure the effective investigation and documentation of torture and ill treatment in its Principles on the Effective Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or "Istanbul Principles."

The Istanbul Principles have been recognized by a number of human rights bodies, including the

42. OPEN SOCIETY JUSTICE INITIATIVE, *supra* note 32, at 6.

43. Radio Free Europe Radio Liberty, Kyrgyz Supreme Court Upholds Rights Activist's Life Sentence (Dec. 20, 2011), http://www.rferl.org/content/kyrgyz_supreme_court_upholds_askarov_life_sentence/24428240.html.

44. Radio Free Europe Radio Liberty, UN Rights Chief Decries Kyrgyz Decision To Uphold Activist's Life Sentence (Dec. 22, 2011), http://www.rferl.org/content/un_rights_chief_decries_kyrgyz_decision_to_uphold_activists_life_sentence/24430711.html.

45. Kyrgyz Supreme Court Upholds Rights Activist's Life Sentence, *supra* note 43. People in Need, Human Rights Award Goes to Jailed Activist (Mar. 7, 2011), available at: <http://www.clovekvtisni.cz/index2en.php?sid=404&idArt=1691>.

46. People in Need, Human Rights Award Goes to Jailed Activist (Mar. 7, 2011), available at: <http://www.clovekvtisni.cz/index2en.php?sid=404&idArt=1691>.

47. Committee to Protect Journalists, CPJ honors top international journalists (13 September 2012), available at <https://cpj.org/europe/kyrgyzstan/>.

The legal section of the Istanbul Principles includes the following provisions:

- Prompt, effective, independent investigations
- Empowerment of investigative authority
- Safety of alleged victims and witnesses
- Access to hearings and all relevant information
- Impartial investigations by independent commission
- Prompt, accurate, public written reports
- Strict confidentiality

The medical provisions of the Istanbul Principles provide that:

- Medical evaluations must conform to established Istanbul Protocol standards
- Medical evaluations must be under the control of medical experts, not security personnel
- Medical evaluations must be conducted promptly and written reports must be accurate
- Written reports must include:
 - » Identification of alleged victim and conditions of evaluation
 - » A detailed account of allegations, including torture methods and physical and psychological symptoms
 - » A record of physical and psychological findings
 - » Interpretation of findings, opinions, and recommendations
 - » Identification and signature of the medical expert(s)

According to the Istanbul Protocol, medical evaluations must include detailed assessments and documentation of both physical and psychological evidence by one or more qualified experts. Unfortunately, attorneys and adjudicators in Kyrgyzstan often fail to recognize the critical value and legitimacy of psychological evidence.

Medical experts correlate the degree of consistency between individual allegations of abuse and physical and psychological evidence. They must also provide an opinion on the likelihood of torture and/or ill treatment based on their interpretations of physical and psychological evidence, and they must communicate their findings and opinions to adjudicators.

Istanbul Protocol forensic medical evaluations typically take at least two to four hours to conduct, and medical affidavits may be 10 or 20 pages long. Furthermore, it takes considerable time for clinicians to become proficient in conducting these evaluations.

The Istanbul Protocol also includes guidelines for written reports for evaluations of both physical and psychological evidence (see Appendix I).

It is important to recognize the limitations and potential for misuse of the Istanbul Protocol. Istanbul Protocol guidelines aid medical experts in their efforts to correlate specific allegations of abuse with physical and/or psychological evidence. The absence of medical evidence of torture does not mean it did not take place, however. Many factors may account for the absence of physical and psychological findings, and these factors can be documented in support of specific claims. In some instances, the Istanbul Protocol has been misused to exonerate police in the absence of medical findings of such abuse. Such misuse of the Istanbul Protocol should never be tolerated.

Overview of PHR Project in Kyrgyzstan

PHR's efforts to implement Istanbul Protocol standards in Kyrgyzstan consisted of three primary activities:

- 4) an assessment of torture and ill treatment practices,
- 5) capacity building training for medical and legal experts on the effective investigation and documentation of torture and ill treatment, and
- 6) policy reform activities.

Assessment of Torture and Ill Treatment Practices in Kyrgyzstan

PHR's assessment of torture and ill treatment practices consisted of individual forensic medical evaluations and interviews with key stakeholders, including government officials, NGO representatives, and UN officials. The purpose of the assessment was to document torture and ill treatment practices, to identify barriers to the effective investigation and documentation of such abuses in Kyrgyzstan, and to serve as a foundation for capacity building activities and policy reform recommendations.

*Forensic Medical Evaluations Conducted by PHR*⁴⁸

PHR conducted individual forensic medical evaluations for legal cases in response to requests by attorneys. PHR conducted 10 case evaluations of alleged torture and ill treatment between December 2011 and February 2012. The evaluations were conducted in accordance with Istanbul Protocol standards by Alejandro Moreno MD, MPH, JD; Sondra Crosby, MD; and Stephen N. Xenakis, MD. Collectively, these clinicians have more than 30 years of experience documenting medical evidence of torture and other physical and psychological abuses. Each individual alleging torture provided informed oral consent for the use of anonymous case information in PHR's reporting of torture and ill treatment practices in Kyrgyzstan. One individual, Azimjan Askarov, who is currently serving a life sentence in prison, provided informed oral consent to be identified in this briefing paper.

Forced Confessions

In all cases, PHR's forensic medical evaluators documented physical and/or psychological evidence that was highly consistent with each individual's specific allegations of abuse. In each case, PHR's forensic medical experts have submitted detailed medical affidavits in ongoing legal proceedings. While findings in these cases are not generalizable to all cases of torture and ill treatment in Kyrgyzstan, they do provide critical insight into abusive practices and the need for remedial action. In all cases, the apparent motive for torture and ill treatment by law enforcement officials was to force a "confession" to alleged crimes.

Mr. B, a 22-year-old factory worker, reported to PHR that he was arrested and beaten to the point of unconsciousness. The police threatened to rape him with a truncheon, plant drugs on him, and dispose of his body in a canal if he did not confess to a crime.

48. These evaluations provide critical insight into torture and ill treatment practices in Kyrgyzstan. The evaluations not only benefited the individuals who alleged torture and/or ill treatment; they also served as a means of mentoring future Istanbul Protocol trainers and served as model evaluations for future expert medical testimony in criminal and civil cases in Kyrgyzstan and in Central Asia in general. Such evaluations also provide adjudicators with a reasonable standard for future medical evaluations that are consistent with Istanbul Protocol standards.

Arrest warrants were issued in only two cases. In both cases, the warrants were reportedly issued in conjunction with police planting evidence.

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Mr. N, a 33 year-old man who worked odd jobs, reported that he was detained by police and beaten to the point of unconsciousness. Several men visited his home posing as electricians and reportedly planted some bullets in his home. On the following day, police visited his home with a search warrant and immediately retrieved the bullets there.

None of the detainees had access to independent medical experts. One individual had contact with an official forensic physician. The forensic physician referred the detainee to an emergency room for acute care of the detainee's injuries, but did not conduct a forensic evaluation of the detainee, even after the detainee's condition stabilized. Only one individual (Askarov) received an official governmental forensic evaluation, but it was a cursory examination that was thoroughly inconsistent with international Istanbul Protocol standards. There was no documentation for specific allegations of abuse, no assessment of acute and chronic symptoms, psychological symptoms, or disabilities, no review of relevant medical records, and no comment of the possibility of torture or ill treatment, even though his examination findings suggested torture.

With the exception of Askarov, all of the detainees "confessed" to crimes as demanded by police. They reported doing so in an effort to end the torture they experienced.

Mr. C, a 33-year-old farmer, was arrested on his way to Bishkek to sell potatoes. The police stopped the taxi at a checkpoint and accused him and other passengers in the taxi of transporting drugs, though no drugs were found on him or in his luggage. He was detained for four days and subjected to repeated beatings to the point of unconsciousness. The police also threatened anal rape and to kill him if he did not agree to sign a confession and appear in court. The police subsequently arranged for him to meet with a defense attorney who advised him to sign the confession and pay approximately \$1,000 for her assistance. He signed the confession and paid the attorney. The police reportedly instructed him on how to prepare and use the illegal drugs that he was accused of possessing so that the court could confirm his status as a "user."

PHR Documented a Pattern of Brutal Torture

PHR's forensic medical evaluations indicate a pattern of extremely brutal torture methods, including severe beatings that frequently result in head trauma, asphyxiation with gas masks and plastic bags, electric shock, threats of rape and sodomy with truncheons, death threats, and threats to plant drugs on individuals, among others. The brutality of the police is evidenced by the high frequency of blunt trauma to the head and asphyxiation resulting in traumatic brain injury. Eight of the 10 individuals whom PHR examined demonstrated clinical evidence of traumatic brain injury.

All alleged torture victims were male, with an average age of 35 (range: 22 – 61). All of the men were either employed or studying prior to the alleged torture and/or ill treatment. None of them was able to resume his work or studies after the alleged incidents. Most of the men stated that the alleged torture took place in either the Bishkek or Jalal-Abad areas.

Mr. S, a 28 year-old man, was detained by police and accused of stealing a neighbor's car. He was beaten to the point of unconsciousness and later noted blood in his urine. His back was pierced with needles dipped in acid. Mr. S was given no food or water, though he begged for something to drink. He was not given any medical care for his injuries. He

was forced to write a confession in which he acknowledged killing two people. On the next morning, Mr. S was taken to the "crime scene" and forced to "act out" his confession. He was then taken to the prosecutor's office. He was punched again at the prosecutor's office when he told the prosecutor that his confession was not true, and he was forced to "confess" again.

Mr. S reports that he was kept in detention for approximately 10 months, kept in a cell with six other persons and subjected to constant "psychological pressuring." Conditions during his detention were characterized by little food (almost all his food was provided by his family) and crowded cell conditions requiring cellmates to sleep in turn. A bucket in the cell was used for human waste. In April, 2011, Mr. S was again subjected to severe beatings that resulted in a head concussion and left him unable to walk. He was hospitalized for approximately 20 days. In addition, Mr. S was forced to cut the skin on his own abdomen with a razor blade. A police officer told him that if he did not cut himself, they would do it in a deep and painful manner. After being forced to cut himself, Mr. S was taken to a shower by officers who applied salt to the open wounds, causing intense pain. These wounds took approximately two months to heal; he was not sutured nor did he receive medical care.

Role of Police in Torture

Police officers were reported to be involved in all of the alleged torture incidents. Half of the alleged victims (five of 10 cases) identified the internal affairs/special force police unit as the perpetrators. Other police units incriminated included the local village police (two cases) and traffic police (one case). In all cases, police attempted to obtain confessions through the use of torture and ill treatment. In one instance, the alleged torture and ill treatment were reportedly politically motivated, and in two other cases, ethnic conflict was the apparent cause. The majority of the alleged victims (seven out of 10 cases) suffered the alleged abuse during a single period of detention.

All of the alleged victims were threatened with physical and/or psychological harm, which included death threats and threats of sodomy, the planting of evidence, and threats to family members, including rape. All of the alleged victims reported enduring severe beatings that included punches, kicks, or blows with blunt objects. Two individuals reported suffering *falanga* (beating the soles of the feet). Four individuals reported experiencing asphyxiation with a plastic bag, a gas mask, or a chemical. One individual was shot in the chest by a police officer, suffered life-threatening injuries, and was taken to the emergency room in hemorrhagic shock.

Bruises and loss of consciousness were the most common immediate sequelae (each one reportedly affecting seven alleged victims). Other common immediate sequelae were lacerations and incisions from blunt trauma and sharp objects (four cases). Two of the alleged victims reported experiencing seizures during torture, immediately after head blows or asphyxiation, and three of them reported having gross hematuria (blood in the urine) immediately after suffering repeated blunt trauma to the flanks and back.

Medical Effects Documented

The most common forms of chronic sequelae included traumatic brain injury (eight cases, of which six had cognitive impairment and two had chronic seizures). As to chronic psychological sequelae, six of the alleged victims were found to have post-traumatic stress disorder and major depression. Two individuals with major depression attempted to commit suicide after the alleged torture and/or ill treatment.

Mr. B, a 22 year-old factory worker, was arrested and accused of stealing a computer at work. When he refused to confess to alleged crimes, he was beaten severely, including blows to his head. Mr. B lost consciousness for an unknown period of time. He subsequently experienced marked difficulties with his balance, gait, and memory.

A review of Mr. B's medical records revealed that he received emergency care for a closed brain injury. At the time, he had signs of balance and gait impairment, which to this day persist. A neurologist and an ENT specialist evaluated Mr. B during his hospitalization. Forensic medical examination by PHR revealed physical evidence highly consistent with Mr. B's specific allegations of head trauma. He had persistent symptoms of severe cognitive impairment as seen with the low MOCA score. He also had several scars consistent with laceration and abrasion injuries.

Five of the alleged victims were taken by police for emergency medical care for torture-related injuries. All of these alleged victims were experiencing life-threatening or potentially life-threatening conditions, such as a gunshot wound or seizures after asphyxiation or direct head blows. Nine of the alleged victims have been released from custody and received medical and/or psychological care from non-governmental organizations. One individual, Askarov, is currently serving a life sentence in prison and has significant physical and mental health problems that have not been adequately evaluated and treated.

See Appendix II for case summaries based on detailed medical evaluations of torture and ill treatment by PHR's forensic medical experts. The following case of Azimjan Askarov illustrates many of the practices related to torture in Kyrgyzstan.

PHR's Forensic Medical Evaluation of Azimjan Askarov

Azimjan Askarov is a 61-year-old human rights defender and community activist who is married and has four children. Prior to the incidents here described, Askarov had been working on the documentation of human rights abuses against the Uzbek minority in the Jalal-Abad region. He was arrested following inter-ethnic clashes in Osh in June 2010, during which an ethnic Kyrgyz police officer and 23 civilians died. The violence also resulted in approximately 50 gunshot injuries, and more than 200 houses were burned down.

Askarov is the director of the human rights organization *Vozdukh* (Air), based in southern Kyrgyzstan. In 2001, he was the first human rights defender in Kyrgyzstan to receive permission from state authorities to monitor places of detention. He has documented torture and ill treatment among detainees in Bazar-Korgon and other parts of Jalal-Abad Province and has written critical articles on police abuse and ill treatment.

Askarov was taken to the Bazar-Korgon police station on June 15, 2010, for questioning about the recent violent clashes. He was also asked about his knowledge of weapons distribution. When he denied having any knowledge about the matters, he was beaten nearly to the point of unconsciousness. The police officers reportedly stomped on his hand, neck, and body, causing intense pain and difficulty breathing. Askarov recalled feeling as if darkness had come over him. After some time, police officers took him back to a cell, where he was repeatedly punched. He remembered seeing multiple bruises on his body days later. He also witnessed the torture of his brother and other detainees.

Askarov described additional torture that occurred in the following days. He experienced extensive beatings, forced positioning, and asphyxiation with a plastic bag, which caused him to lose consciousness. The plastic bag had concentrated bleach inside, which increased his pain and

breathing difficulties. The police also threatened to rape his wife and daughter. Askarov also described inhuman detention conditions; he was kept inside a cell of approximately 3.5 x 2 meters that was crowded with other people and had no toilet facilities. He received food only because his family provided it.

Following the severe beatings, Askarov noticed blood in his urine (hematuria) and had difficulty urinating, symptoms that lasted for about a month. He noted a laceration on his scalp, multiple bruises and areas of swelling on his chest, back, arms, and face. He was in such severe pain that his cellmates had to help him stand up and lie down. His health was so precarious that police officers took him to a hospital, where he was admitted for 12 days. PHR's review of Askarov's medical records revealed the following:

Askarov was admitted to Central Hospital within the institution #47 from November 13 to November 25. He recalls having multiple bruises on his body, particularly his chest; difficulty breathing; and pleuritic chest pain (chest pain that increases with deep breathing), and was coughing up blood (all consistent with acute rib fractures). He also had decreased vision in his left eye; severe constipation, with no bowel movement for approximately two weeks; and urinary retention for two days.

The hospital discharge summary made absolutely no mention of any injuries, even though a chest x-ray taken on November 19, 2010, reportedly showed evidence of multiple right-sided rib fractures (rib numbers 3, 4, 5, and 6). A forensic medical evaluation conducted on June 24, 2010, documented multiple contusions on Askarov's chest, arms, and head as follows:

According to him, on June 13, 2010, he was not at the place of ethnic bloodshed. But on June 16 he was arrested and placed into the temporary detention center of district DIA. In that place a young man who was detained with him in one cell hit him in the jaw and pushed, in the result he fell on the cement. He did not go to the hospital.

Complaints: stomach ache, there is an upset of stomach (diarrhea) and he has bruises on his body.

Objective data: during the examination of the body at 4:30 pm on June 17, 2010, a hematoma with size of 4.0 x 2.5 cm was revealed on the right side of the face, there is a blue and red hematoma with size 2.5 x 2.5 cm on the right arm in the forearm area. A hematoma was found also on the left shoulder blade with size 4.5 x 3.5 cm, there is a hematoma with size 3.0 x 2.0 cm in lumbar area. No other visible injuries were found.

Conclusion: The bodily injuries of citizen Azimzhan Kambarovich Askarov, born in 1951, characterized by bruises on the right cheek, right arm, left shoulder, and lower back. These injuries could have occurred 1-2 days prior to examination by an expert in the result of impact of solid objects and fall, such damage could occur as a result of punch and fall. These injuries could cause short-term health problems and are considered to be minor injuries and require no more than 7 days for restore the health.

*Forensic medical expert: Z. Mamatov.
June 24, 2010*

Note: Complete forensic evaluations of physical and/or psychological evidence of torture and ill treatment often take several hours to complete and include a wide range of information (see Appendix I). Askarov reported to Dr. Crosby that the forensic evaluation took about 10 minutes, that the examination consisted only of visual inspection of Askarov's back (even though he had injuries on his scalp, face, arms, anterior (front side) chest wall, and back at the time), and that the prosecutor, Mr. Turajanova, and a law enforcement official were present during the

evaluation. When the evaluator asked, “Who caused your injuries?” the prosecutor responded, “His cell mates.” Askarov confirmed this out of fear of being killed by the police. In fact, when Askarov had previously asked for an independent medical evaluation, five police officers and the head of the detention facility came to his cell and told him that if he didn’t withdraw his request he would not be alive in the morning, and so he did.

Z. Mamatov failed to conduct a forensic evaluation in accordance with international standards; He did not:

- Obtain informed consent to conduct the evaluation.
- Prevent the prosecutor and police officer from being present during the evaluation.
- Obtain a detailed history of alleged events, including detailed descriptions of any objects that allegedly produced each of the injuries noted on the physical examination.
- Inquire about the possibility of loss of consciousness and/or neurological symptoms associated with obvious head trauma, and document the presence or absence of relevant symptoms and findings.
- Ask any questions about Askarov’s mental state or possible psychological symptoms.
- Obtain photographs and/or diagrams of the injuries that he noted on physical examination.
- Review relevant medical records, including a chest x-ray showing evidence of multiple right-sided rib fractures (rib numbers 3, 4, 5, and 6).

Mamatov’s conclusion refers to the “impact of solid objects and fall” as a potential explanation for the injuries documented. Mamatov did not document any contact with “solid objects,” however, other than a concrete floor. The presence of multiple contusions and hematomas on both sides of Askarov’s body is not sufficiently explained by Mamatov’s account of reported injuries. This inconsistency, and the knowledge that a detainee may not complain of torture based on fear of reprisals by police, should have prompted Mamatov to suspect the possibility of torture and/or ill treatment and to conduct a thorough evaluation of possible physical and psychological evidence.

In our opinion, the forensic report of Askarov by Z. Mamatov is inaccurate and misleading, and therefore should be disregarded in any legal proceedings. Mamatov failed to conduct a forensic evaluation in accordance with international standards and his opinion is not consistent with the physical evidence that he documented. The lack of training and independence among governmental forensic evaluators in Kyrgyzstan also may have contributed to Mamatov’s failure to recognize and document medical evidence of torture and ill treatment.

In addition, some of Askarov’s injuries were documented in the photograph at the right, taken by his attorney, Nurbek Toktakunov, on June 23, 2010, two days before Askarov was discharged from the hospital.⁴⁹

The length of Askarov’s 12-day hospital stay is inconsistent with the hospital discharge summary, which fails to mention any of his injuries or to identify any active health problem. He was said to have chronic cholecystitis (gall bladder inflammation) in remission, and chronic bilateral



*Askarov, shown here on June 23, 2010.
Photo: Nurbek Toktakunov*

49. Muzaffar Suleymanov. Committee to Protect Journalists. In Kyrgyzstan, injustice and torture in Askarov case. June 12, 2012. Available at: <http://cpj.org/reports/2012/06/in-kyrgyzstan-injustice-and-torture-in-askarov-cas.php>.

pyelonephritis in remission, based on questionable findings, and was advised to “be health conscious and to take dietary food without fat and fried foods.” Askarov was subsequently transferred to a detention facility, and the acting head of the surgery unit, Captain Mrs. Menkova M. A., signed a medical certificate.

In October 2010, Askarov was transferred to a prison in Bishkek where he wrote the following account of his torture experience:⁵⁰

I said that I have never heard anything about guns. Then police officer Azizbek took me out of the building and handed me over to the officers who were outside. They gave me a bag and told me to gather the garbage.

They took pictures of me on their phone cameras and laughed at me: ‘Now you will serve us!’

I do not know how many people attacked me, but it seemed like they were kicking a football. I fell, someone stepped on my neck and others beat me where they only could. When spume appeared on my lips, someone cried: ‘Stop it, you will kill him!’

I had obeyed an order to stand up, and then they ordered me to sing a song praising the Kyrgyz Republic. Then they took me in the office and officers said me: ‘People believe you: that means that now you will write that so-and-so people have distributed five guns to those-and-those people.’ I refused: how can I write about those things, that I did not even see and know. Someone from the back lashed me with the butt of a pistol; the blood gushed out. The policemen made me wipe up the blood. Then they started to kick me again.

PHR’s evaluation of Askarov revealed that he suffers major depression and has symptoms of post-traumatic stress disorder. He endorsed a number of past and current depressive symptoms, including sadness, anhedonia (a lack of interest in activities that are normally pleasurable), sleep disturbance, fatigue and memory/concentration problems, and a history of suicide attempts, all of which support the diagnosis of a major depressive episode. His symptoms of post-traumatic stress disorder included nightmares and memory difficulties.

PHR’s evaluation of Askarov also showed clinical evidence of traumatic brain injury, as manifested by chronic headaches, memory impairment, decreased visual acuity, balance difficulties, and signs of damage to the third cranial nerve. Askarov’s description of immediate loss of vision following blunt head trauma was also consistent with a possible vitreous hemorrhage and/or retinal detachment. It could also be due to direct optic nerve injury with compression from hemorrhage into the optic nerve sheath and subsequent atrophy.

Askarov’s severe back pain and paresthesias (abnormal tingling sensations) in his legs suggested the possibility of spinal trauma resulting in bilateral nerve root damage. A fracture could not be excluded without the aid of additional diagnostic imaging. Also, his description of the flank injury and hematuria (blood in the urine) is highly consistent with a renal contusion caused by a blunt trauma.

To date, Askarov remains in solitary confinement. PHR’s affidavit will be submitted as evidence as part of the case against the Kyrgyz state in the European Human Rights Court in Strasburg. The Open Society Justice Initiative and Nurbek Toktakunov also are currently serving as co-counsel in preparing a complaint on his behalf to the UN Human Rights Committee.

Askarov’s medical condition has markedly deteriorated since his solitary confinement. His symptoms of neuropathy have progressed to include his upper extremities; he experiences severe cold

50. Masha Lisitsyna. Open Society Justice Initiative. Kyrgyzstan’s Azimjan Askarov: A Birthday in Jail for Human Rights Defender. June 1, 2011. Available at: <http://www.soros.org/voices/kyrgyzstans-azimjan-askarov-birthday-jail-human-rights-defender>.

intolerance; and his pulmonary status has worsened, with increasing shortness of breath. These problems warrant immediate medical attention. Despite PHR's call in January 2012 for immediate medical treatment for Askarov, he has not received any diagnostic evaluation or therapeutic care for his worsening condition.⁵¹ In PHR's opinion, failure to provide such care constitutes a form of ill treatment.

Barriers to Ending Torture

PHR conducted formal and informal interviews with approximately 30 medical and legal experts, including government officials, representatives of international human rights organizations, and representatives of non-governmental organizations, to identify barriers to the effective investigation and documentation of torture and ill treatment and to propose remedial action. The following problems were identified:

Inadequate safeguards during arrest and detention

Kyrgyz law provides that detainees cannot be held for more than 48 hours without a judicial decision. In practice, detainees are not registered at the time of detention and effectively are held incommunicado. Although detainees have the right to legal counsel when arrested and during interrogation, in practice, defense attorneys often do not consult with their clients until after the detainee has been charged and the investigation has been conducted.

Inadequate legal investigations

Legal investigations of torture and ill treatment in Kyrgyzstan lack credibility and are ineffective under current complaints procedures and investigation practices. The very body alleged to have perpetrated the crime handles complaints of torture and ill treatment. According to the Criminal Procedure Code, preliminary inquiries are supposed to be conducted by agency personnel of the same institution (such as police, penitentiaries, pretrial detention centers, military institutions, etc.) where the alleged perpetrators work. If such inquiries are conducted, they routinely conclude that allegations of torture and ill treatment do not warrant criminal investigation. In addition, alleged victims are not allowed to review findings of preliminary inquiries or present evidence on their own behalf.

According to the Criminal Procedure Code of Kyrgyzstan, only prosecutors are responsible for the prosecution of torture and ill treatment, but they lack the authority to conduct searches and seizures and do not have their own criminologists, so they depend on officials for critical material evidence.

Though torture and ill treatment are widespread, victims usually do not report allegations of abuse because of fear of reprisals and lack of trust that the legal system would hold perpetrators accountable.

According to Article 128 of the Criminal Procedure Code,⁵² complaints made by detainees must be forwarded to the relevant addressee immediately or within 24 hours, but, in practice, the registration of crimes committed by police officers is often delayed, resulting in the loss of evidence. In addition, the agency responsible for the collection, analysis, and storage of all crime-related information under the authority of the Ministry of the Interior reportedly lacks transparency and has no external oversight.

51. Open Society Justice Initiative. *Imprisoned Rights Defender in Kyrgyzstan Needs Immediate Medical Treatment*. January 31, 2012. Available at: <http://www.soros.org/initiatives/justice/news/askarov-health-20120130>.

52. Article 128 of the Code of Criminal Procedure.

The Ombudsman's Office may review cases of alleged torture and ill treatment, but it lacks the capacity and the resources to investigate cases. Of 1,270 cases received by the Ombudsman's Office in 2010, only eight involved alleged torture.

Inadequate forensic medical evaluations

The Criminal Procedure Code⁵³ requires compulsory medical evaluations when a suspect is placed in temporary detention and when the detainee or his or her legal counsel or family alleges physical abuse by law enforcement officials. Medical evaluations may also be conducted by medical personnel at health care facilities. In most cases, forensic medical evaluations are simply not obtained. Official forensic medical doctors in Kyrgyzstan often do not conduct evaluations for fear of reprisals. If conducted, the evaluations are cursory at best and do not conform to international Istanbul Protocol standards; the evaluations do not include specific allegations of abuse or any assessment of psychological evidence; and they do not include the possibility of torture in their conclusions, among many other deficiencies. Prosecutors typically request forensic medical evaluations only after obvious physical evidence of the alleged abuse has healed and both medical and legal experts wrongly presume that visible physical injuries are the only form of medical evidence that can be documented. Also, medical and forensic experts frequently ignore and sometimes falsify medical findings of torture and ill treatment by police, who often are present during medical evaluations.

To date, official Kyrgyz forensic medical experts have received no training in the medical documentation of torture and ill treatment; they do not have basic photographic and other diagnostic equipment; and there are not enough mental health personnel. Most importantly, forensic medical evaluators in Kyrgyzstan are not functionally independent. They are employed by the same institution as the alleged perpetrators, the Ministry of the Interior. In addition, many stakeholders reported that the objectivity and accuracy of official forensic medical evaluation are further compromised by corruption of medical personnel, who often falsify their reports in exchange for bribes. In PHR's experience of implementing Istanbul Protocol standards of medical documentation of torture and ill treatment, it is clear that, even with adequate training in the medical documentation of torture, forensic experts disregard and/or falsify medical evidence of torture and ill treatment when forensic institutions are not independent.⁵⁴

According to the Istanbul Protocol, detainees should have the right to obtain alternative, non-governmental medical evaluations by a qualified physician of their own choice during and after detention. In practice, such non-governmental medical experts have been excluded from judicial proceedings on the grounds of not being licensed to provide official forensic opinions. PHR has raised this issue in policy meetings with government officials (see below) and indicated that competent governmental and non-governmental evaluators with adequate qualifications should conduct medical evaluations of torture and ill treatment, whether or not they have a professional license.

Inadequate police investigations

In many cases, police investigations rely almost entirely on the confessions of suspected criminals and police testimony and often do not include basic material evidence such as physical evidence and witness statements that do not support their case. Askarov's case illustrates this problem. He was essentially convicted and sentenced to life imprisonment on the basis of police testimony, while other relevant witness statements and potentially exculpatory testimony were either ignored or precluded because of attacks on potential witnesses.

53. Article 40, part 5, of the Code of Criminal Procedure.

54. Moreno A, Iacopino V. Forensic Documentation of Torture and Ill Treatment: An Assessment of the Implementation Process of the Istanbul Protocol Standards. Physicians for Human Rights. December, 2008. pp. 1-116.

As previously mentioned, police are responsible for preliminary investigations and collecting evidence of alleged crimes, including torture and ill treatment, and they rarely conclude that there is sufficient evidence to pursue an investigation.

In addition, police have not received adequate training in the use of non-coercive interrogation techniques. They continue to rely on confessions obtained through torture and ill treatment. This is, in fact, what the legal system expects from them, as prosecutors and judges turn a blind eye to evidence of torture and ignore or allow the intimidation of witnesses and defense lawyers.

Many stakeholders reported that extortion has eclipsed law enforcement as the primary concern of the police and other law enforcement officials. Police frequently detain people arbitrarily and accuse them of a crime in an attempt to extort money. The norm of impunity for torture and ill treatment has reinforced predatory police abuses.

Inadequate legal defense

According to the Criminal Procedure Code, the state has the obligation to appoint a defense attorney if one is not obtained within 24 hours of an arrest. According to the people interviewed by PHR, state-appointed defense attorneys are poorly trained and do not challenge basic elements of the criminal prosecution. State authorities often appoint defense attorneys, so-called “pocket lawyers,” who serve the interests of the prosecutor rather than their client, and in some cases participate in the beating of their clients. Independent defense attorneys also reported to PHR that they often are not permitted to meet with their clients or review the evidence against them until a few days before their appearance in court.

Allowing confessions obtained under torture into judicial proceedings, though illegal

Though Kyrgyzstan’s Constitution and Criminal Procedure Code bar the use of evidence obtained through torture and ill treatment, such testimony is routinely used as the sole source of evidence by prosecutors to convict suspects, in the absence of such basic legal tools as collection of physical evidence and interviews with material witnesses. Furthermore, prosecutors and judges fail to inquire about the possibility of abuse by law enforcement officials, even when there is obvious evidence of physical abuse. This appears to be the case because the “successful” prosecution of crimes in Kyrgyzstan depends on “confessions” obtained through torture and ill treatment, and impunity for such human rights abuses has become an essential condition to sustain a “confession-based” legal system.

Inadequate sanctions against perpetrators and those who are complicit

Although torture is widespread and systematic in Kyrgyzstan, virtually no perpetrators have received criminal punishment for torture. The people we interviewed indicated that acts of torture are routinely prosecuted as minor offenses under the criminal code such as “abuse of power” and “negligence.” Even in obvious cases of torture that have resulted in death in custody, prosecutors and judges have not demonstrated the courage to act on the facts and evidence before them.

Lack of systematic monitoring of torture and ill treatment practices

There is no effective mechanism for monitoring places of detention, according to the people PHR interviewed. In 2011, 860 surprise visits by the prosecutor’s office reportedly resulted in disciplinary action for three individuals, four notices of improvement and one warning, and the initiation of six criminal cases, but no significant punishment for torture or ill treatment. The Ombudsman’s Office has not been able to conduct regular visits of detention facilities. And monitoring by the UN Special Rapporteur, though very helpful, has been limited. Recently, members of

civil society were granted access to places of detention, but the State Service on the Execution of Punishment often prevents NGO members from accessing detention facilities.

Many people are hopeful that Kyrgyzstan's National Preventive Mechanism established by recent legislation will be effective in its duty to conduct unannounced visits to detention facilities to monitor conditions and identify signs of torture and ill treatment.

Fear of Reprisals

Currently there is no mandatory administrative leave for alleged perpetrators following abuses occurring in pretrial detention. The failure to suspend alleged perpetrators, inadequate protections of alleged victims, and the current norm of impunity all contribute to the pervasive fear of reprisals by law enforcement officials. It is widely believed that most individuals subjected to torture and/or ill treatment do not file complaints because of fear of reprisals and a lack of trust in the legal system to hold perpetrators accountable.

Inadequate redress for victims of torture and ill treatment

In Kyrgyzstan, the Criminal Procedure Code does not provide victims of torture and ill treatment with redress. Civil litigation for compensation of torture is not possible in that country unless perpetrators have been convicted in a criminal case of torture. Also, the government of Kyrgyzstan provides no support for rehabilitation services for victims.

Corruption of government officials

One of the most pervasive and difficult obstacles to ending torture and ill treatment in Kyrgyzstan is the corruption of officials in all aspects of the legal system. A number of individuals whom we interviewed indicated that it is not uncommon for legal and medical professionals to purchase licenses or government positions with the expectation that income from bribes will cover the purchase price. Such practices are reportedly widespread among judges, prosecutors, law enforcement officials, state-appointed defense attorneys, and government forensic experts.

Istanbul Protocol Trainings by PHR

PHR's training activities were designed to increase the capacity of medical and legal experts to effectively investigate and document torture and ill treatment, and subsequently to apply their knowledge to prevent torture and promote accountability and redress. Sustained capacity building among medical experts was undertaken through "training of trainers" activities that included individual mentoring and collaboration in the planning and implementation of Istanbul Protocol training events.

Training of Medical and Legal Professionals

In December 2011, PHR conducted a three-day Istanbul Protocol training in Issyk Kul, Kyrgyzstan, for 37 medical and legal experts from Kyrgyzstan, Kazakhstan, and Tajikistan. The overall goal of the training was to provide participants with effective tools for the investigation and documentation of torture and other abuses. The training was organized with support and assistance of Soros Foundation-Kyrgyzstan and the Open Society Justice Initiative, and included participants from Soros Foundation-Kyrgyzstan, Soros Kazakhstan Foundation (SKF), and Open Society Institute-Tajikistan.

Each training initiative that PHR has developed over the past two decades is designed to address country-specific challenges. PHR has already developed extensive regional training materials

that have been translated into Russian and that can be easily adapted to use in trainings elsewhere in Central Asia.⁵⁵

The training included lectures, workshops, open panel discussions, and practical case applications. PHR developed extensive training material, based on PHR's Model Curriculum for the Effective Medical Documentation of Torture and Ill Treatment (see: <http://istanbulprotocolmodelcurriculum.org>) with country-specific adaptations. All materials were translated into Russian. The topics covered in the training included:

- Country-specific practices and challenges
- Review of Istanbul Protocol standards for the effective investigation and documentation of torture and ill treatment
- Interview considerations and history taking
- Overview of torture methods and their physical and psychological consequences
- Roles and responsibilities of physicians and other professionals
- Model interview demonstration
- Interpretation of physical and psychological evidence
- Use of standardized medical evaluation forms
- Role play case evaluations by participants
- Writing up the evidence and testifying in court
- Role play mock court case by participants
- Future challenges and action plan for effective investigation and documentation of torture and ill treatment in Kyrgyzstan

The training benefited individual participants and served as a model for subsequent Istanbul Protocol trainings. In the course of this training, we identified several medical experts who showed interest in participating in additional training to become Istanbul Protocol trainers themselves. These Kyrgyz Istanbul Protocol trainers subsequently participated in individual mentoring activities, including conducting individual case evaluations with the supervision of PHR forensic medical experts, and planning and implementing additional trainings.

In order to assess the outcome of the Istanbul Protocol training, participants completed an evaluation for each day of the three-day training in December. The overall performance of the PHR trainers was rated highly: 4.8 out of a possible 5.0. In addition, we conducted pre- and post-training surveys of health and legal professionals to assess participants' attitudes on the investigation and documentation of torture and ill treatment and the effectiveness of the Istanbul Protocol training in improving participants' capacity to document medical evidence of such abuses. A summary of the findings for health professional participants is included in Appendix III. Briefly, the health professional participants' capacity to effectively document medical (physical and psychological) evidence of torture and ill treatment improved after the training, and they expressed a strong interest in conducting forensic medical evaluations of alleged victims.

Training of Trainers Activities

Once the PHR team identified several Istanbul Protocol trainers, the team invited them to observe

55. In 2008, PHR developed a Model Curriculum on the Effective Medical Documentation of Torture and Ill Treatment based on the United Nation's Istanbul Protocol (see: <http://istanbulprotocolmodelcurriculum.org>). The Model Curriculum was developed to enable health professionals to conduct effective investigations and documentation. It consists of nine Modules and related supporting documents. The Modules include comprehensive guidelines on conducting interviews, performing clinical examinations to detect physical and psychological evidence of torture and ill treatment, writing medical legal affidavits, and testifying in court. This Model Curriculum serves as the basis for PHR's Istanbul Protocol trainings with country-specific adaptations.

and participate in PHR's individual forensic medical evaluations. This ultimately provided Kyrgyz Istanbul Protocol trainers with the chance to conduct a medical/psychological evaluation with the supervision of an experienced international Istanbul Protocol trainer and to have the opportunity for feedback on their evaluations.

PHR's training of trainers activities also included working with Kyrgyz Istanbul Protocol trainers on the implementation of a subsequent three-day Istanbul Protocol training sponsored by the Youth Human Rights Group (YHRG) on February 19-21, 2012. The collaboration provided an opportunity to discuss training format, content, and methods and facilitate the capacity for future Istanbul Protocol trainings. On February 27, 2012, one of the Kyrgyz Istanbul Protocol trainers, Dr. Elena Khalitova, Chief of the Group of Independent Forensic Experts, Youth Human Rights Group, independently conducted a subsequent Istanbul Protocol training with the support of the Organization for Security and Cooperation in Europe (OSCE) Center in Bishkek. Twenty doctors from all closed-type prisons in the country participated in the training (see: <http://www.osce.org/bishkek/88524>).

Policy Reform Activities

Effective implementation of Istanbul Protocol standards for forensic medical evaluations requires comprehensive policy reforms. In addition to PHR's capacity building efforts among non-governmental health and legal professionals, we engaged in several activities to facilitate essential policy reforms, particularly the implementation of Istanbul Protocol standards for the effective investigation and documentation of torture and ill treatment. These activities included commencing a Human Rights Roundtable in Bishkek in February 2012 and developing recommendations for a national plan of action based on parallel efforts establish an Istanbul Protocol Plan of Action.

Human Rights Roundtable

PHR's initial December 2011 Istanbul Protocol training in Kyrgyzstan generated enough interest among government officials and non-governmental representatives to hold a human rights roundtable in Bishkek on February 22, 2012, entitled "The Implementation of the Istanbul Protocol in the Kyrgyz Republic: Challenges and Lessons Learnt" (see Appendix IV). The roundtable was co-sponsored by the Organization for Security and Cooperation in Europe (OSCE) Center in Bishkek, the Office of the High Commissioner for Human Rights (OHCHR) Regional Office for Central Asia (ROCA), and the European Union. Approximately 200 governmental and non-governmental representatives attended the meeting. The roundtable focused specifically on the implementation of the Istanbul Protocol in Kyrgyzstan. Critical outcomes included:

- 1) Recognition of the need to officially recognize and implement a plan of action for the effective investigation and documentation of torture and ill treatment: There was general consensus that Istanbul Protocol standards needed to be included in legislative and procedural reforms to ensure effective investigation and documentation of such abuses.
- 2) Plans to conduct Istanbul Protocol training for official forensic medical experts in Kyrgyzstan: We have met with several official forensic physicians and discussed our mutual interest in conducting future Istanbul Protocol trainings and related activities for all official forensic physicians in Kyrgyzstan in 2012/2013.
- 3) Consensus on the necessary qualifications of medical experts: After considerable debate, there was a general consensus that medical evaluations of torture and ill treatment by both governmental and non-governmental medical experts should be based on adequate qualifications alone, not on professional license. This would enable non-governmental health professionals to serve as medical experts in legal proceedings, from which they have historically been excluded, and require all medical experts to receive training on Istanbul Protocol standards of medical documentation of torture and ill treatment.

As mentioned above, the meeting also led to a subsequent Istanbul Protocol training on February 27, 2012, with the support of the OSCE Centre in Bishkek for the medical staff of penitentiary institutions in Kyrgyzstan.

Istanbul Protocol Plan of Action

In the course of PHR's efforts to implement Istanbul Protocol standards for the effective investigation and documentation of torture and ill treatment in Central Asia, we realized that it would be helpful to consider developing an Istanbul Protocol Plan of Action, a roadmap for government implementation of Istanbul Protocol standards, in collaboration with the UN Office of the High Commissioner for Human Rights (OHCHR). The primary goal of the Istanbul Protocol Plan of Action is to provide guidance to states on the implementation of Istanbul Protocol standards for the effective investigation and documentation of torture and ill treatment.

PHR is leading the effort to develop the Istanbul Protocol Plan of Action in partnership with the International Rehabilitation Council for Torture Victims (IRCT), the Human Rights Foundation of Turkey (HRFT), and REDRESS. The partner organizations met with the UN High Commissioner for Human Rights to discuss the project on February 24, 2012, in Geneva. The High Commissioner expressed her strong support for both the development of the Istanbul Protocol Plan of Action and ongoing Istanbul Protocol implementation efforts in Central Asia and future implementation efforts in other countries and regions (see Appendix III).

Efforts to develop and implement Istanbul Protocol standards in Central Asia have enhanced and will continue to enhance the development of the Istanbul Protocol Plan of Action and subsequent global Istanbul Protocol implementation efforts. Similarly, the development of the Istanbul Protocol Plan of Action has enhanced and will continue to enhance PHR's efforts to provide authoritative and comprehensive recommendations for policy reforms and national plans of action for effective investigation and documentation of torture and ill treatment in Central Asia and in other regions. The policy recommendations included in this PHR briefing paper are informed by current efforts to draft an Istanbul Protocol Plan of Action.

Recommendations

Ending impunity for torture and ill treatment is perhaps the most significant step the government of Kyrgyzstan can take in transforming its policy of "zero tolerance" for torture and ill treatment into a reality. The implementation of Istanbul Protocol standards for the effective legal and medical investigation and documentation of torture and ill treatment must, therefore, begin immediately, be guaranteed in legislation, and be included in a comprehensive national plan of action for torture and ill treatment prevention, accountability, and redress.

Ending torture and ill treatment in Kyrgyzstan is a test of political will—a test that requires an end to the prosecution of crimes on the basis of false confessions under torture and ill treatment, biased and inadequate legal investigations, and the use of false forensic medical evidence to exonerate perpetrators. The political will to end torture and ill treatment in Kyrgyzstan must also include redress and release of victims, such as Azimjan Askarov, who have been convicted of crimes based on biased and inadequate legal investigations and false medical evidence.

Physicians for Human Rights calls upon the Kyrgyz government to demonstrate its will to end impunity for torture and ill treatment and to restore respect for the rule of law by immediately recognizing the Istanbul Protocol standards and releasing Azimjan Askarov from prison. Furthermore, Kyrgyzstan must ensure prompt and impartial prosecution of Askarov's alleged

abusers, and he must be allowed to seek redress, in accordance with Kyrgyzstan's international obligations in the UN Convention against Torture, for the harm he has endured in state custody.

The following recommendations are based on PHR's analysis of torture and ill treatment practices in Kyrgyzstan and are intended to supplement recommendations contained in the draft "Action Plan to Implement Recommendations of the UN Special Rapporteur on Torture, Cruel, Inhuman or Degrading Treatment or Punishment, Based on Findings of His Mission Held on December 5-13, 2011 as well as other UN Human Rights Mechanisms to Prevent and Eliminate Torture."⁵⁶ The recommendations are informed by PHR's current efforts to draft the Istanbul Protocol Plan of Action and include:

- Recognition of Istanbul Protocol standards
- Legal provisions
- Medical provisions
- Monitoring
- Accountability
- Cooperation, coordination, and technical assistance

Recognition of Istanbul Protocol Standards

The Kyrgyz government, through legislative and administrative actions, must officially recognize and institutionalize Istanbul Protocol standards among relevant departments and personnel, including forensic and health services, prosecutors, defense attorneys, judges, and law enforcement, prison, and military personnel, including health and mental health professionals and those responsible for detainee health care.

Legal Provisions

As part of its measures to prevent torture and ill treatment and ensure accountability and redress when they do occur, the Kyrgyz government must:

- Ensure effective criminalization of torture and ill treatment, with penalties commensurate to the gravity of the crime:
 - » Article 305-1 of the Criminal Code must be amended to be consistent with the definition in Article 1 of the Convention against Torture, and specifically to make torture a serious crime with the appropriate maximum punishment.
 - » The Criminal Code should clearly stipulate that allegations of torture, as defined in the UN Convention against Torture, cannot be prosecuted under lesser crimes of "abuse of power" (art. 304), "exceeding power" (art. 305), "negligence" (art. 316), or "forced deposition" (art. 325).
- Ensure prompt, effective, independent, and impartial investigations of all allegations of torture, including access to medical examinations:⁵⁷
 - » The General Prosecutor's Office must investigate promptly and impartially all allegations of torture and ill treatment by security and law enforcement officials of any rank, and must prosecute to the fullest extent of the law, in a court that meets international fair trial standards, any official found responsible for ordering, carrying out, or acquiescing to torture or ill treatment.

56. Mathew Pringle. Association for the Prevention of Torture. May 15, 2012. Action plan to combat torture in Kyrgyzstan. Available at: http://www.apt.ch/index.php?option=com_k2&view=item&id=1221%3AKyrgyzstan&lang=en.

57. "Medical examination" and "medical evaluation" refer to assessments of physical and/or psychological evidence of alleged torture and ill treatment.

- » The General Prosecutor's Office must ensure prompt and independent forensic medical examinations of all detainees who allege that they have been subjected to torture and other abuse, in accordance with Istanbul Protocol standards (see below, Medical Provisions).
- » Revise the Criminal Procedure Code to ensure that prosecutors have the authority to conduct searches and seizures and have access to criminologists and independent, non-governmental forensic medical experts.
- » Preliminary investigations of alleged torture and ill treatment in Kyrgyzstan must be conducted by an independent body, not the same institution housing the alleged perpetrator, as is currently the case. Such preliminary investigations should be transparent and provided to the alleged victim and his/her legal counsel for review. The alleged victim and his/her legal counsel must have an opportunity to present evidence on the alleged victim's behalf.
- Revise the Criminal Procedure Code to ensure that any statement established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made:
 - » Prosecutors and judges should be required to ask detainees about the possibility of physical and psychological abuse by law enforcement officials. In cases where there are signs of physical and/or psychological harm, prosecutors and judges should initiate an investigation, including obtaining a forensic medical evaluation by independent, qualified experts, governmental and non-governmental, to assess both physical and psychological evidence of torture and/or ill treatment.
 - » In all cases of alleged torture and ill treatment, as well as cases of "abuse of power" (art. 304), "exceeding power" (art. 305), "negligence" (art. 316), or "forced deposition" (art. 325), legal proceedings and judicial decisions should be reviewed by an independent commission to assess the possibility of confessions obtained under torture or ill treatment and appropriate legal action, including sanctions against law enforcement officials, prosecutors, and judges.
- Revise the Criminal Procedure Code to ensure that any self-incriminating statements or forced "confessions" made outside the courtroom are inadmissible as evidence.
- The Ministry of the Interior must provide, with effective external oversight, public reports on the registration of crimes committed by police and other law enforcement officials. Delays in the forwarding of complaints of crimes (including torture and ill treatment) to prosecutors (within 24 hours, according to the Criminal Procedure Code) should be investigated and punished with appropriate administrative and criminal sanctions for obstruction of justice.
- Ensure immediate suspension of any official under investigation for ordering, carrying out, or acquiescing to acts of torture or ill treatment.
- Ensure that when allegations of misconduct are made against a police officer or other law enforcement personnel, the unit to which he or she belongs should be immediately excluded from any role in conducting the police investigation of the incident, beyond that of providing witness statements. Authority should immediately be transferred to the prosecutor.
- Revise the Criminal Procedure Code to ensure that courts must give the same weight to evaluations conducted by non-governmental experts as they do to evaluations conducted by government experts.
- Ensure independent, effective, and confidential mechanisms of complaints in all places of detention, including hot line access, particularly to legal counsel and non-governmental medical evaluators, and confidential, secure complaint boxes in all places of detention.

- Ensure safeguards for those deprived of their liberty, including:
 - » Notifying people deprived of their liberty of their rights: Detainees should be informed of their rights orally and in writing in their own language. These rights should also be included on posters and prominently displayed in common areas in detention facilities and in each detention cell. These rights should include:
 - Access to defense counsel, including prior to being officially charged and irrespective of the stage of the legal investigation
 - Contact with attorney and family members or relatives
 - The prohibition of physical and/or psychological harm or threats by law enforcement officials
 - Access to prompt (evaluated within 24 hours of the complaint), independent, qualified medical personnel, both government forensic experts and medical experts of the detainee's choosing
 - » Allowing prompt access to a lawyer of one's choosing: The Criminal Procedure Code should be amended to allow attorneys access to detainees in pre-trial detention at any time. Attorneys must be allowed to use audio, video, and photographic equipment in their interviews with detainees.
 - » Guaranteeing prompt access to a judge *ex officio* in criminal proceedings and the right to habeas corpus in all proceedings. Detainees who are not transferred to judicial custody within 48 hours, as required by law, should be released. Failure of police and other law enforcement officials should be a punishable offense.
 - » Use of officially recognized places of detention and the maintenance of effective and accurate custody records.
 - The Ministry of the Interior must ensure that all detainees are held only in legally sanctioned detention facilities, and that detainees are not held or interrogated by any other authorities outside of those legally authorized to hold and/or interrogate detainees.
 - » Prohibition of incommunicado and indefinite detention:
 - The Criminal Procedure Code should be revised to ensure reliable registration procedures for detainees. All detainees must be taken to official places of detention and immediately registered using tamperproof, time-stamped video and/or photographic equipment. Registration data should be entered into an electronic database with reliable security provisions and access provided to monitoring authorities.
 - » Amending the Criminal Procedure Code to include the detainee's right to a free telephone call with family members or relatives.
 - » Limits on interrogation that are consistent with internationally recognized law enforcement practices.
 - » Standard operating procedures for evaluation and reporting of alleged torture and ill treatment in detention, whether in civil or military settings, must conform to Istanbul Protocol standards.
 - » Abiding by the United Nations Standard Minimum Rules for the Treatment of Prisoners.
 - » Safeguards for special categories of detainees (women, juveniles, elderly people, foreigners, ethnic minorities, LGBT individuals, people who are sick, people with mental health problems or learning disabilities, and other groups or individuals who may be particularly vulnerable during detention).
- Ensure the implementation of a system of mandatory medical evaluations, including an initial medical examination at the time of detention; upon the detainee's request; before transfers to other places of detention; and/or for judicial remand.

- Revise the Criminal Procedure Code to include adequate witness protection.
- Ensure the use of legal interrogation techniques and the appropriate use of force in accordance with Code of Conduct for Law Enforcement Officials.⁵⁸
- Ensure that victims of torture have the right to an effective remedy and adequate reparation:
 - » Victims of torture and ill treatment should have effective procedural remedies, both judicial and non-judicial, to protect their right to be free from torture in law and practice and to reparation for torture and ill treatment committed against them, including modification of the criteria used to determine disability to reflect the seriousness of the crime and the diversity and subtleness of the sequelae (physical, psychological, and social).
 - » Guaranteeing that domestic law reflects the different forms of reparation recognized under international law and that the reparations afforded reflect the gravity of the violation(s).
 - » Ensuring that reparations determinations adequately consider the victim's physical and psychological condition and needs.
 - » The government of Kyrgyzstan should provide support to non-governmental rehabilitation services for victims of torture and ill treatment.
- Provide training for legal experts and judges on:
 - » Istanbul Protocol standards, which include relevant provisions of international law
 - » Forensic procedures and techniques, including standards and forms of medical evidence and reliability physical and psychological evidence
 - » Disability determinations
 - » International, regional, and national laws prohibiting torture and ill treatment
 - » Legal ethics and professionalism (including the effect of corruption)
 - » Credibility assessments
 - » Secondary trauma and its potential adverse effects and learn critical management skills
 - » **Note:** Training on the effective legal investigation and documentation of torture and ill treatment should be included in degree programs and periodically thereafter with didactic and practical mentoring components
- Respect for Legal Ethics:
 - » Legal professionals, including those working for law enforcement agencies, must abstain from participating in unlawful interrogation practices and must report to proper authorities if they become aware of other legal professionals' involvement in unlawful interrogation practices;
 - » For the defense lawyer, there are no duties to third parties that supersede the duty to "advocate" for his/her client.

Medical Provisions

- Procedural Safeguards for Effective Medical Evaluations of Alleged Torture and Ill Treatment: The following provisions should be included in Kyrgyz domestic law, regulations, and standard operating procedures for all personnel working with detainees and prisoners, including prosecutors, judges, medical experts, law enforcement officials, and prison and military personnel, particularly health professionals:
 - » Medical evaluations of detainees should be conducted in response to official written requests, not to law enforcement or security officials or interrogation personnel.
 - » Detainees themselves and their lawyers and relatives have a right to request an independent, non-governmental medical evaluation.

58. Code of Conduct for Law Enforcement Officials. Adopted by General Assembly resolution 34/169 of 17 December 1979. Available at: <http://www2.ohchr.org/english/law/pdf/codeofconduct.pdf>.

- » It is mandatory that detainees undergo a preliminary medical examination at the time of detention; upon the detainee's request; and before transfers to other places of detention and/or for judicial remand; and that detainees be referred to medical experts if there is any allegation, medical evidence, or suspicion of torture or ill treatment.
- » The detainee should be taken to a qualified and independent medical expert for examination of possible physical and/or psychological evidence of alleged torture and ill treatment:
 - The Criminal Procedure Code should be revised to clarify that medical testimony in court cases should be based on specific qualifications to evaluate physical and psychological evidence of torture and ill treatment and not merely a license to practice forensic medicine in Kyrgyzstan.
- » All medical evaluations should be conducted within 24 hours of the allegation of torture and/or ill treatment.
- » Medical examinations by governmental forensic experts should be free of charge.
- » Law enforcement officers should be barred from the examination room, except for specific security reasons that should be duly noted in the medical report. Such presence may be legal grounds for disregarding a "negative" medical report.
- » Medico-legal evaluations of detainees alleging torture and ill treatment should include the use of a standardized medical report form that is based on Istanbul Protocol guidelines (see Appendix I).
- » Under no circumstances should a copy of the medical report be transferred to law enforcement officials.
- » Detainees have the right to review and have a copy of their own medical records and the right to have them transferred promptly if the detainee is moved to another facility.
- » If the medical evaluation supports allegations of torture or ill treatment, the detainee should not be returned to the place of detention.
- » Access to a lawyer should be provided before and at the time of the medical examination.
- Independence of Medical Evaluators:
 - » The government of Kyrgyzstan must ensure that health professionals, who conduct medical evaluations of alleged torture and ill treatment, including sexual assault, are independent of law enforcement, prosecution, and/or military authority.
 - Forensic medical services in Kyrgyzstan should be immediately transferred to the Ministry of Health or established as an independent authority rather than remain under the same governmental authority as the police and prison system.
 - » The government of Kyrgyzstan must ensure an individual's right to be evaluated by medical experts of his or her choosing during and after being in custody, including in places of detention that require security clearance, and also ensure that these evaluations are admissible in court and given due consideration.
 - Prosecutors should be required to inform detainees of their right to obtain a non-governmental, alternative medical evaluation by qualified health professionals of their own choice at any time during their detention.
 - » Independent clinical evaluations of alleged torture and ill treatment must be consistent with United Nations standards contained in the Istanbul Protocol.
 - » Clinicians who conduct medical evaluations of detainees should have specific, essential training in the effective medical documentation of torture and ill treatment in accordance with Istanbul Protocol standards.
- Leadership: States must require through legislative and/or administrative action that medical, legal, judicial, law enforcement, prison, and military leaders take active steps to

authorize, implement, monitor, and report on the implementation of Istanbul Protocol standards in accordance with the Istanbul Protocol Plan of Action.

- Access to Relevant Evidence: Medical experts must have unrestricted access to relevant evidence including crime scenes, material evidence, witnesses, and relevant legal documents, including interrogation logs and medical records.
 - » Non-governmental medical experts who are retained by the detainee's legal counsel and who obtain security clearance should have access to classified documents.
 - » Clearance of non-governmental experts must be done in an expeditious manner in order to preserve the right of the alleged torture victim to an evaluation by a medical expert of his/her choosing.
- Use of an Istanbul Protocol Standard Evaluation Form: Governmental forensic medical experts should use a standardized medical evaluation form to assess physical and psychological evidence of torture and ill treatment that is consistent with Istanbul Protocol Guidelines (see Appendix I).
 - » Abridged Istanbul Protocol Evaluation Forms (Istanbul Protocol Checklists) should be used in routine medical evaluations of detainees and interviews with detainees by human rights monitors.
- Procedures for Medical Evaluations of Alleged Torture and Ill Treatment:
 - » Medical experts should conduct medical evaluations within their field of expertise when requested to do so by appropriate authorities.
 - » Evaluations of alleged torture and ill treatment may include an assessment of sexual assault and/or death investigations involving the identification and evaluation of a cadaver of human remains.
 - » Medical experts shall attend any request or consultation ordered by the appropriate authorities and shall assist the courts in any investigation or proceeding, including their physical presence, to testify or explain a report.
 - » Whenever the individual to be evaluated is receiving medical care or has recently received medical or surgical care, medical experts shall gather all information about the hospital admission, including the medical record, that is necessary to determine the nature of the injuries or illness.
 - » Informed consent should be obtained from the alleged victim and should include the purpose of the evaluation, an explanation of the process, how the information will be used, the right to refuse the evaluation, the option to request an evaluation by a medical expert of one's choice, and any limits on the confidentiality of information provided in the evaluation.
 - If the individual to be evaluated is a minor or unable to consent (mentally impaired), the medical expert must obtain consent from whoever has legal guardianship or from an appropriate tribunal. The legal guardian must be present during the evaluation.
 - » Detainees and medical experts should have access to professional interpreters upon request.
 - » If the medical expert finds evidence suggesting torture and/or ill treatment, he/she must report the evidence to the prosecutor and/or judge immediately to offer protection to the alleged victim and take action with a view to holding the perpetrators accountable.
 - » Individuals with medical evidence suggesting torture and/or ill treatment must be referred for appropriate medical and/or psychological care.
 - » The Standard Evaluation Form used by governmental forensic experts should have tamper-proof characteristics (i.e., safety paper, special ink, serial number, hologram, seal and/or emblems) with controlled distribution and tracking of evaluations.

Non-governmental experts cannot be denied access to the Standard Evaluation Form.

- » Copies of the completed Standard Evaluation Form and/or a final medical affidavit/report should be given to the alleged victim or his/her legal representative, the director general of the forensic service,⁵⁹ and appropriate legal counsel as required by law. Under no circumstances can law enforcement agents have access to such reports.
- » All physical lesions must be documented photographically, including areas of alleged injury, even if no lesions are visible, and ideally each lesion and area of alleged injury should be photographed using a clear measuring scale.
 - Governmental and non-governmental forensic experts must be allowed to use audio, video, and photographic equipment in their interviews with detainees in all detention facilities.
- Respect for Medical Ethics:
 - » Medical personnel, including consulting mental health experts, must be prohibited from participating in interrogation practices, regardless of whether they are engaged in clinical and/or non-clinical activities.
 - » Medical personnel, including consulting mental health experts, must report to proper authorities if they become aware of other medical/health professionals' involvement in unlawful interrogation practices.
 - » Ethical duties of medical personnel, including military medical personnel, to individuals alleging torture and ill treatment must conform to international standards.
 - » No duties to third parties supersede the duty to "do no harm," including duties to employers and state officials and any interrogation methods or medical procedures that may amount to torture, that serve to break the will of an individual.
- Resources: Medical experts must have adequate financial and human resources, including professional interpreters, to conduct effective medical evaluations of alleged torture and ill treatment. including qualified personnel/consultants, medical equipment, photographic equipment, access to diagnostic imaging and laboratory tests, and adequate time to conduct their evaluations.
- Capacity Building/Training:
 - » Assessment of Current Practices and Problems: Accurate, needs-based capacity building efforts depend on an accurate initial assessment and subsequent periodic assessments of investigation and documentation practices and problems.
 - » Medical experts should have adequate basic clinical training in pathology, psychology, sexual assault, medical ethics, etc., and in relevant legal and human rights standards and regulations.
 - » All relevant personnel should receive training on the effective medical documentation of torture and ill treatment, including forensic and medical personnel, legal experts and adjudicators, and law enforcement, prison, and military personnel.
 - » Training would benefit from the inclusion of both government representatives and academic representatives and relevant NGO's members, particularly treatment centers for survivors of torture.
 - » International training materials should be based on the Istanbul Protocol (www.ohchr.org/Documents/Publications/training8Rev1en.pdf) and the Istanbul Protocol Model Curriculum (<http://istanbulprotocolmodelcurriculum.org>) and other available training materials.
 - » To achieve comprehensive training of all relevant personnel, consider initial training of trainers with technical assistance, followed by training of all remaining personnel.

59. This does not apply to non-governmental medical experts.

- » Training on the effective medical investigation and documentation of torture and ill treatment, as well as forensic documentation and medical treatment of sexual violence, should ideally occur early in the training of clinicians and at multiple points in time.
- » Training methods may include formal didactic courses, seminars and conferences, modules in clinical courses, online self-assessment courses, and mentorship from experts.
- » Country-specific training materials for medical and legal experts have already been developed and are available from Physicians for Human Rights.
- Chain of Custody Standard of Procedure: Medical experts must follow chain of custody procedures for material medical evidence. Note: Chain of custody is not demonstrated by the sole fact that the evidence was held by law enforcement agents. The chain of custody is demonstrated by the circumstances of how the evidence was obtained (place, date, time, how it was obtained or found, photographic or video record of the first time evidence came into custody), how the evidence was handled and preserved, and who maintained the custody of the evidence at all times.
- Critical Importance of Psychological Evidence: The aim and effect of torture and ill treatment are primarily psychological. A common misconception among medical evaluators, attorneys, and adjudicators is that psychological evidence is of lesser value than “objective” physical evidence. Psychological evidence must be given due consideration in medical evaluations, legal proceedings, and adjudication.
- Sexual Assault: Medical evaluations of alleged sexual assault require special considerations for crime scene investigation, DNA testing, examination of clothing and other materials, diagnostic tests, and the prohibition of any requirement for witnesses of sexual assault to prosecute the alleged crime. Despite the fact that many cases of sexual assault show no or limited physical evidence more than seven days after the assault, a comprehensive physical and mental health evaluation should still be performed, with special attention to behavioral and psychological evidence.
- Legal and Medical Expert Qualifications:
 - » Medical experts, defense attorneys, prosecutors, judges, and human rights advocates must undergo training on the effective investigation and documentation of torture and ill treatment.
 - » When states sponsor Istanbul Protocol trainings, they must not deny non-government legal and medical experts access to such trainings.

Monitoring

- The implementation of Istanbul Protocol standards must include effective monitoring of implementation activities. An independent Monitoring Committee composed of governmental representatives, members of national human rights institutions, and non-governmental members and advisors⁶⁰ should be established with the following responsibilities:
 - » Oversight of the overall process of all investigation and documentation of alleged torture and ill treatment
 - » Development of mechanisms for effective monitoring and evaluation
 - » Recommendations for administrative and professional changes to improve investigation and documentation of torture and ill treatment
 - » Design and implementation of educational and training programs

60. Such as representatives from bar associations, medical associations, forensic specialists associations, psychologists or psychiatrists associations, prison doctors associations, and medical and legal experts in academic institutions.

- » Establishment of a Medical Advisory Committees to:
 - Assess the quality and accuracy of all medical evaluations of torture and ill treatment based on Istanbul Protocol standards
 - Make recommendations for remedial education
 - Advise the Monitoring Committee on professional, scientific, and technical matters
- » Establishment of a Legal Advisory Committee to:
 - Review legal proceedings and judicial outcomes
 - Assess the quality and accuracy of all legal proceedings and judicial outcomes of torture and ill treatment cases
 - Make recommendations for remedial education
 - Advise the Monitoring Committee on legal and judicial matters
 - Review reports from advisory committees
- » Election of advisory committee members.
- » Formulation of legal complaints and/or charges if irregularities are present.
- » Publication of an annual report on the proceeding and findings of the Monitoring Committee.
- » Establish Monitoring Committee Procedures (e.g., frequency of meetings, who runs the committee, quorum, definition of majority, etc.).
- Ensure that Kyrgyzstan’s National Preventive Mechanism and other detention monitoring bodies include adequately trained health professionals to participate in the monitoring visits.
 - » Monitoring visits should include forensic medical evaluations of alleged torture and ill treatment, and any evidence of torture and/or ill treatment should, with the consent of the detainee, be provided to appropriate authorities, including the General Prosecutor’s office.
- Kyrgyzstan’s National Preventive Mechanism should be provided with necessary human and financial resources to carry out all of its functions, including unannounced visits to detention facilities to monitor conditions and identify signs of torture and ill treatment.
- The government must allow and fully support the monitoring of all detention facilities by civil society organizations and international human rights bodies.
- The Ombudsman’s Office should receive additional support to investigate cases of torture and ill treatment.

Accountability

- Establish and enforce a strict policy of zero tolerance for corruption within law enforcement, i.e., immediate firing of officials responsible for accepting bribes, extortion, or obtaining false confessions under torture or ill treatment.
- Reopen proceedings in cases in which the authorities have relied on evidence obtained through torture; on self-incriminating statements or forced “confessions” made outside the court; cases in which allegations of torture were not properly investigated; or cases involving serious violations of defendants’ fair trial rights.
- Issue directives stating that acts of torture and other ill treatment by law enforcement officials will not be tolerated, that reports of torture and ill treatment will be promptly and thoroughly investigated, and that those found responsible will be held accountable.
- Reporting requirements: Independent monitoring committees should include comprehensive annual reporting of progress and problems encountered in the implementation of the Istanbul Protocol standards included in these recommendations.

- Recommendations from independent monitoring committees must be acted upon by empowered authorities, and proper criminal/administrative investigations of misconduct must be conducted and sanctions implemented if misconduct is found.
- Licensing boards and/or state legal bodies should terminate health professionals' and legal professionals' licenses to practice if they are found to be complicit in torture and/or ill treatment.
- Licensing boards for clinicians, including medical experts and prison and military medical personnel, should link initial and periodic licensing/credentialing to successful training in Istanbul Protocol standards and periodic performance reviews on the effective medical evaluation of torture and ill treatment.
- The government of Kyrgyzstan must extend "whistleblower" protections to medical personnel who report findings of alleged torture and ill treatment in their medical evaluations. The government of Kyrgyzstan must also protect any official or private individual who reports a case of alleged torture and ill treatment, and must sanction officials who do not report torture or ill treatment where confidential channels of reporting exist.
- Successful implementation of Istanbul Protocol standards should be assessed in the context of successfully adjudicated cases. This requires periodic judicial review of alleged torture and ill treatment cases.
- Ensure accountability by alleged perpetrators by:
 - » Ensuring that the alleged perpetrators are subject to criminal proceedings if an investigation establishes that an act of torture appears to have been committed;
 - » Enshrining the principle of universal jurisdiction, enabling the investigation and prosecution of torturers irrespective of the place where the torture was committed and the nationality of either the victim or the perpetrator
 - » Making torture an extraditable offence and providing assistance to other national governments seeking to investigate and/or prosecute persons accused of torture.
- Fear of reprisals against legal and medical experts may preclude accurate legal investigations and/or medical evaluations of alleged torture and ill treatment. The government of Kyrgyzstan must, therefore, ensure zero tolerance for torture and ill treatment among its leadership, implementation of a comprehensive national plan of action, and protections for "whistleblowers" and witnesses.
- Multilateral and bilateral assistance to Kyrgyzstan should be conditional on the basis of progressive achievement of Istanbul Protocol standards and the provisions of the national plan of action to combat torture and ill treatment.

Coordination, Cooperation, and Technical Assistance

- The government of Kyrgyzstan should coordinate the implementation of Istanbul Protocol standards activities in cooperation with the technical assistance of multilateral institutions such as the United Nations, particularly the Office of the High Commissioner for Human Rights, the UN Special Rapporteur on Torture, the UN Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; regional human rights bodies such as the Committee for the Prevention of Torture, Organization for Security and Cooperation in Europe, among others; experienced non-governmental organizations, and other states.
- States should provide foreign assistance for implementation of the Istanbul Protocol Plan standards on the basis of support for development, rule of law, security, cooperation, democratization, and nation building, particularly in emerging democracies and in the aftermath of longstanding torture and ill treatment practices.

Implementing Conditions

- The effective implementation of Istanbul Protocol standards are interdependent and indivisible and require progressive and comprehensive implementation without retrogression.
- The effective implementation of Istanbul Protocol standards requires:
 - » Transparency, accountability, and effective representation, including by governmental, non-governmental, United Nations, and other multilateral organizations;
 - » Adequate financial and human resources for progressive and substantive achievement without retrogression;
 - » Cooperation between international, national, United Nations and other multilateral organizations, non-governmental organizations, and members of civil society;
 - » Generating and maintaining political will and commitment at the national level in all relevant government agencies to eradicate torture, including commitment from actors within institutions such as police, medical services, judiciary, prisons, and governmental departments.

Release of Azimjan Askarov

PHR calls upon the government of Kyrgyzstan to demonstrate its will to end torture in providing justice for Askarov in the form of: 1) immediate release on the basis of improper legal and judicial proceedings and false forensic medical evidence, 2) immediate medical treatment and access to physicians of his choosing, 3) impartial and independent prosecution of his allegations of torture in accordance with international standards, and 4) pursuit of legal redress in accordance with Kyrgyzstan's international obligations under CAT.

Guidelines For Medical Evaluations of Torture and Ill-Treatment *(see Istanbul Protocol, Annex IV)*

I. Case Information

Date of Evaluation:	Exam. Requested By (Name/Position):
Case ID/Report #:	Duration of Evaluation: ____ Hours, ____ Minutes
Subject's Given Name:	Birth Date: _____ ; Birth Place: _____
Subject's Family Name	Gender: female / male
Reason for Exam	Subject's ID#:
Clinician's Name:	Interpreter Yes/No: Name:
Informed Consent: Yes/No	If "No," Provide Reason:
Subject Accompanied By (Name/Position):	
Person(s) Present During Examination (Name/Position):	
Subject Restrained During Exam: Yes/No; If "Yes," How/Why?	
Medical Report Transferred to (Name/Position/ID#):	
Transfer Date:	Transfer Time:
Medical Evaluation/Investigation Conducted without Restriction <i>(For Subjects in Custody)</i> : Yes/No	
Provide Details of Any Restrictions:	

II. Clinician's Qualifications *(For Judicial Testimonies)*

- 1) Medical Education and Clinical Training
- 2) Psychological/Psychiatric Training
- 3) Experience in Documenting Evidence of Torture and Ill-treatment
- 4) Regional Human Rights Expertise Relevant to the Investigation
- 5) Relevant Publications, Presentations and Training Courses
- 6) Provide *Curriculum Vitae*

III. Statement Regarding Veracity of Testimony *(For Judicial Testimonies)*:

For example: "I personally know the facts recited below, except as to those stated on information and belief, which I believe to be true. I would be prepared to testify to the above statements based on my personal knowledge and belief."

IV. Background Information:

- General Information: (age, occupation, education, family composition, etc.)
- Past Medical History
- Review of Prior Medical Evaluations of Torture and Ill-treatment:
- Psychosocial History Pre-Arrest

V. Allegations of Torture and Ill-treatment:

- Summary of Detention(s) and Abuse
- Circumstances of Arrest and Detention

- Initial and Subsequent Places of Detention: (chronology, transportation, and detention conditions)
- Narrative Account of Ill-treatment of Torture: (in each place of detention)
- Review of Torture Methods

VI. Physical Symptoms and Disabilities:

- Describe the development of acute and chronic symptoms and disabilities and the subsequent healing processes.
 - » Acute Symptoms and Disabilities
 - » Chronic Symptoms and Disabilities

VII. Physical Examination

- General Appearance
- Skin
- Face/Head
- Eyes/Ears/Nose/Throat
- Oral Cavity/Teeth
- Chest/Abdomen (including vital signs)
- Genitourinary System
- Musculoskeletal System
- Nervous System (Central and Peripheral)

VIII. Psychological History/Examination:

- Methods of Assessment
- Current Psychological Complaints
- Post-Torture History
- Pre-Torture History
- Past Psychological/Psychiatric History
- Substance Use and Abuse History
- Mental Status Examination
- Assessment of Social Functioning
- [Psychological Testing]
- [Neuropsychological]

IX. Photographs

X. Diagnostic Test Results (see Appendix I for indications and limitations)

XI. Consultations

XII. Interpretation of Findings

- Physical Evidence:
 - a. Correlate the degree of consistency between the history of acute and chronic physical symptoms and disabilities with allegations of abuse.
 - b. Correlate the degree of consistency between physical examination findings and allegations of abuse. (Note: the absence of physical findings does not exclude the possibility that that torture or ill-treatment was inflicted.)

- c. Correlate the degree of consistency between examination findings of the individual with knowledge of torture methods and their common after-effects used in a particular region.
- Psychological Evidence:
 - a. Correlate the degree of consistency between the psychological findings and the alleged report of torture.
 - b. Provide an assessment of whether the psychological findings are expected or typical reactions to extreme stress within the cultural and social context of the individual.
 - c. Indicate the status of the individual in the fluctuating course of trauma-related mental disorders over time; i.e. what is the time frame in relation to the torture events and where in the course of recovery is the individual?
 - d. Identify any coexisting stressors impinging on the individual (e.g. ongoing persecution, forced migration, exile, loss of family and social role, etc.) and the impact these may have on the individual.
 - e. Mention physical conditions that may contribute to the clinical picture, especially with regard to possible evidence of head injury sustained during torture and/or detention.

XIII. Conclusions and Recommendations:

- 1) Statement of opinion on the consistency between all sources of evidence cited above (physical and psychological findings, historical information, photographic findings, diagnostic test results, knowledge of regional practices of torture, consultation reports, etc.) and allegations of torture and ill-treatment.
- 2) Reiterate the symptoms and/or disabilities that the individual continues to suffer as a result of the alleged abuse.
- 3) Provide any recommendations for further evaluation and/or care for the individual.

XIV. Statement of Truthfulness *(For Judicial Testimonies):*

For example, "I declare under penalty of perjury, pursuant to the laws of (XX country), that the foregoing is true and correct and that this affidavit was executed on X/X/X at (City), (State or Province)."

XV. Statement of Restrictions on the Medical Evaluation/Investigation

(For Subjects in Custody):

For example, "The undersigned clinician(s) personally certify that they were allowed to work freely and independently, and permitted to speak with and examine (the subject) in private, without any restriction or reservation, and without any form of coercion being used by the detaining authorities;" or alternatively: "The undersigned clinician(s) had to carry out his/her/ their evaluation/investigation with the following restrictions:..."

XVI. Clinician's Signature, Date, Place

XVII. Relevant Annexes:

e.g. Clinician's *Curriculum Vitae*, Anatomical Drawings for Identification of Torture and Ill-treatment, Photographs, Consultations, and Diagnostic Test Results, among others.

Forensic Medical Evaluations Conducted by PHR

The following case summaries are based on detailed medical evaluations of torture and ill treatment by PHR's forensic medical experts:

CASE 1

Mr. A is a 44 year-old finance student from Osh who reported that he never had problems with the authorities prior to the incidents he reported. In June, 2010, Mr. A returned to his village while waiting to take the final exams to graduate from his university. Several days later, an ethnic conflict broke out in his province. Law enforcement agents (some dressed as civilians and others wearing police uniforms) arrested him at home. He was not presented with an arrest warrant. He was handcuffed and forced into a car. Outside of his village, the policemen stopped the car and forced him out of the car. The officers proceeded to beat him. Two police officers held him by the arms while the others proceeded to kick and punch him. He was taken to the GOUD (the internal affairs unit) in Jalal-Abad. At this police station he was questioned and asked to identify people from a list. He was threatened, beaten, and punched again. He was told he would be sodomized with a truncheon if he did not cooperate with them. His head was covered with a plastic bag and with a gas mask. He also endured electric shocks. He lost consciousness a couple of times. After being subjected to an entire night of abuse, the following morning he signed a confession. He was then transferred to a jail to await trial. While at the jail, he received threats not to say anything about the abuse he endured while at the GOUD.

A review of Mr. A's medical records indicates that he was admitted to a hospital with acute symptoms and physical findings of blunt force trauma. At the hospital he was diagnosed with head injury and bruises. He underwent an evaluation of the head injury that included an MRI of the head, a Doppler ultrasound of the carotid arteries, and an electroencephalogram. The PHR forensic medical evaluation revealed physical and psychological evidence that was highly consistent with Mr. A's specific allegations of abuse. In addition to physical scars consistent with laceration injuries, Mr. A was found to have a low Montreal Cognitive Assessment Test (MOCA) score,⁶¹ indicating a significant cognitive impairment secondary to traumatic brain injury. Mr. A also suffers from major depression based on diagnostic criteria of the DSM-IV TR.⁶² His symptoms included anhedonia (a lack of interest in activities that are normally pleasurable), blaming himself for the things that happened to him, sadness, loneliness, and excessive worrying. He is currently receiving psychological care from a rehabilitation center for victims of torture in Bishkek. Mr. A has not been able to graduate from the university nor was he able to secure a job.

The criminal case against Mr. A still is pending. PHR's forensic report will be submitted as evidence to support his allegation that his confession was obtained under torture.

CASE 2

Mr. J is a 40 year-old truck driver who is married and has five children. He reported having no problems with the authorities prior to the following incident. In May 2009, police officers from the traffic and road police (ROVD) unit (three in civilian clothes and one in uniform) came to Mr. J's house at around 11:30 pm and accused him of a hit-and-run accident in which a person died.

61. The Montreal Cognitive Assessment Test is a standardized instrument used to detect cognitive impairment. A score below 26 correlates with cognitive impairment.

62. The Diagnostic and Statistical Manual of Mental Disorders (Fourth Edition), or DSM IV TR is the standard classification of mental disorders used by mental health professionals in the United States. It used for patient diagnosis and treatment, and is important for collecting and communicating accurate public health statistics.

He was taken to the ROVD police station and held for three days. His family went to visit, but police denied having him in custody. On the third day, the police officers beat him. He was hit in the head and immediately lost consciousness and control of his bladder. The reported head trauma and subsequent symptoms of a postictal (post seizure) state of confusion suggests that he experienced a trauma-related seizure. The police took him to a forensic doctor who said that Mr. J needed emergency care. He was transferred to a hospital in Jalal-Abad for three days. The police then removed him from the hospital even after the treating physician advised against it. The medical personnel at the prison infirmary said that he needed a higher level of care, so the police took him back to the same acute care hospital. Mr. J also described suffering gross hematuria (blood in the urine) for about three days.

The PHR forensic medical evaluation revealed physical and psychological evidence that was highly consistent with Mr. J's specific allegations of abuse. Mr. J had scars consistent with lacerations from blunt force trauma. There was also clinical evidence of cognitive impairment most likely secondary to traumatic brain injury based on a low MOCA score. Mr. J's psychological evaluation also revealed generalized anxiety, major depression and PTSD, according to the diagnostic criteria of the DSM IV TR. PHR referred the client for further neuropsychological evaluation to assess the extent of the cognitive impairment. He is currently receiving psychological care from a rehabilitation center for victims of torture in Bishkek. PHR's report will be used as evidence to support his allegation that his confession was obtained under torture. Mr. J has not been able to work again since the ordeal described above.

CASE 3

Mr. B is a 22 year-old factory worker. He is single and lives with his mother and siblings. He was arrested by five police officers from his village who accused him of stealing a computer from his workplace. Mr. B later heard that a neighbor was pressured by one of the police officers to falsely accuse him of the robbery.

Mr. B was reportedly forced into a police car. During the ride, he was beaten by police officers. He also endured beatings at the police station while being interrogated. The police threatened to rape him with a truncheon, plant drugs on him, and to dispose his body in the in a canal if he did not cooperate. He was then taken to the regional police headquarters where he was ordered to sign a document. When he refused he was beaten severely, including blows to his head. Mr. B lost consciousness for an unknown period of time. After the head injury, he experienced marked difficulties with his balance, gait, and memory. When he was finally released from police custody, an officer told him that he should not say anything about the abuse he endured while in detention.

A review of Mr. B's medical records revealed that he received emergency care for a closed brain injury. At the time, he had signs of balance and gait impairment, which to this day persist. A neurologist and an ENT specialist evaluated Mr. B during his hospitalization. Forensic medical examination by PHR revealed physical evidence highly consistent with Mr. B's specific allegations of head trauma. He had persistent symptoms of severe cognitive impairment as seen with the low MOCA score. He also had several scars consistent with laceration and abrasion injuries. Mr. B did not exhibit symptoms of PTSD, depression or anxiety. Mr. B currently receives services from a rehabilitation center for victims of torture in Bishkek. PHR's forensic report will be used in support of his complaint submitted before a United Nations body. Mr. B remains unemployed since suffering the abuse by police.

Mr. I is a 40 year-old construction worker and married father of two teenage children. He reports never having problems with the authorities prior to the events described below.

One evening in April, 2011, some neighbors informed Mr. I that his brother (who had been drinking alcohol) had a car accident nearby. His brother had damaged the private car of a police officer. When Mr. I arrived at the scene of the accident, police officers from the road and traffic department were already present. They were asking for much more money than the repair would have cost. The police officers reportedly turned violent when Mr. I and his brother refused to pay the money. The police officer who owned the car also showed up and demanded money. When Mr. I and his brother refused to pay, the police officer shot Mr. I in the chest.

Mr. I received emergency medical care that included surgery. He was initially admitted to the intensive care unit and was hospitalized for a total of 21 days. Several police officers and the relatives of the police officer who fired the shot came to the hospital and attempted to coerce Mr. I into not filing a formal complaint against the officer involved. He also received direct threats and was told to accept a minor monetary compensation from the police officer involved. Mr. I refused.

On examination, Mr. I was found to have scars consistent with an entry and exit wound near the left shoulder. There are also signs of a left brachial plexus injury with muscle atrophy, decreased sensation, and absent deep tendon reflexes. These findings are highly consistent with Mr. I's allegations of receiving a gunshot wound to the left shoulder. In addition, Mr. I had symptoms and findings consistent with major depression and PTSD according to the DSM IV TR. A review of Mr. I's medical record confirmed his hospitalization for a gunshot wound to the left upper chest resulting in a vascular injury that had to be emergently repaired and a permanent brachial plexus (nerves in the armpit that supply the upper limb) injury. PHR referred Mr. I to both a physician and a psychologist for treatment of his symptoms. In addition, PHR's affidavit will be used in support of Mr. I's claim of torture and as part of his criminal defense.

CASE 5

Mr. N is a 33 year-old man who is married and has three children. He worked various jobs prior to being detained, but has been unemployed ever since being released under house arrest.

Mr. N was arrested the day after he had hung political posters in the streets of Bishkek. Prior to the arrest, Mr. N had been arrested for public intoxication and disorderly conduct. He was arrested and beaten at his home by police in plain clothes on July 7, 2005. His home was searched without a warrant and he was subsequently taken to a local police station, interrogated, and beaten. He was denied access to legal counsel and accused of being a provocateur and threatening public safety. Mr. N reported being beaten with police batons, and punched and kicked all over his body, including his head and genitals, and losing consciousness. He was also forced to stand for prolonged periods of time with his legs spread apart and knees bent. On several occasions police threatened to rape him with a police baton if he did not sign a confession. He refused and was released on the third day of detention after his parents and an attorney were able to gain access to him. On the day of his release, he had photographs taken of his injuries. He visited a government forensic physician, who refused to examine him after learning that Mr. N's injuries occurred while in police custody, and instead advised him to go to a hospital. Mr. N went to a hospital where he was diagnosed with "blood clots" in his testicles and underwent surgery.

In February, 2011, several men visited his home posing as electricians and reportedly planted some bullets. On the following day, police visited his home with a search warrant and immediately retrieved the bullets there. Mr. N was detained for four months, but refused to sign a confession.

He went on a hunger strike and, following a visit by Red Cross/Red Crescent workers, was released under house arrest.

He continues to suffer physical injuries from the physical abuse he alleged. Review of photographs taken immediately after detention and physical examination at the time of the interview demonstrated physical evidence of acute and chronic injuries that are highly consistent with Mr. N's allegations of abuse, including acute contusions, abrasions, and lacerations. He apparently underwent surgery for a likely varicocele and may have had a testicular or scrotal hematoma related to genital trauma.

On examination by PHR, Mr. N was found to have neurological symptoms and findings (cognitive impairment; memory problems; vertigo; problems with balance; tinnitus, (ringing in the ear); sensory abnormalities; and an abnormal electroencephalogram) that are highly consistent with a post-concussion syndrome — a sequelae of non-penetrating traumatic brain injury. Mr. N also had a low MOCA score. All the clinical evidence in Mr. N's case is highly consistent with significant cognitive dysfunction secondary to the traumatic brain injury.

Mr. N's psychological assessment revealed post-traumatic stress disorder using the diagnostic criteria of the DSM-IV TR. His symptoms include nightmares, reliving experiences, hypervigilance, intrusive recollections, difficulty recalling some aspects of the trauma, and avoidance behaviors, among others. He is currently receiving psychological care from a rehabilitation center for victims of torture in Bishkek. PHR's affidavit will be entered as evidence to support his allegations of torture and ill treatment.

CASE 6

Mr. C is a 33 year-old farmer who was arrested on his way to Bishkek to sell potatoes. He is married and has two children.

Mr. C was arrested by two police officers of Balykchi City Department of Internal Affairs (GOUD). He took a taxi from Issik-kul to Bishkek to sell potatoes. The police stopped the taxi at a checkpoint. The officers accused him and the other passengers in the taxi of transporting drugs, though he reports that no drugs were found on him or in his luggage. He was detained for four days and subjected to repeated beatings on the back of his head with rifle butts, batons, and fists. He describes "seeing stars" and feeling very confused and disoriented. He also suffered beatings to the stomach, legs, and soles of his feet (*falanga*) that were very painful. As a result of the beatings, he experienced severe headaches throughout his detention. The police threatened anal rape and to kill him during this time. He was thrown to the floor and beat unconscious when he refused to sign the confession. The police arranged for him to meet with a female defense lawyer who advised him to sign the confession, and said he would be released if he paid 5000 som (approximately \$US 1,060) for her assistance. He acquired the money from his family and paid accordingly.

The police reportedly threatened to kill him if he did not agree to sign a confession and appear in court. The police also instructed him on how to prepare and use the illegal drugs that he was accused of possessing so that the court could confirm his status as a "user." After the court appearance, Mr. C returned to the village with his family. He feared telling his family about the beatings and abusive treatment.

Mr. C's examination by PHR clinicians demonstrated signs and symptoms of mild traumatic brain injury and post-concussive syndrome. His symptoms and decline in general state of health have interfered with his ability to work. He is also experiencing post-traumatic stress disorder and mood disorder as demonstrated by his low mood, jitteriness, intolerance of loud noises, nightmares, and changes in family and social life. Mr. C remains unemployed since the incidents

described above. His condition has not improved despite receiving psychiatric and psychological treatment and counseling from a rehabilitation center for victims of torture in Bishkek. His conditions will likely persist for many years and may require continuing treatment and supportive interventions. The PHR forensic evaluation will be submitted to support a civil case for reparation and compensation.

CASE 7

Mr. S is a 28 year-old man who was arrested at his home in July, 2010, in Jalal-Abad. Shortly after Mr. S returned home, two men in civilian clothes came to his door and asked about occupants in the next apartment. The men requested that he go to the police department for further questioning. When Mr. S asked for the men's identification, his hands were reportedly bent behind his back. He was forcefully pulled out of his apartment and punched in the kidneys and the chest. He was taken to the police department where about 10 men surrounded him while his hands remained handcuffed behind his back.

Mr. S was kicked and punched many times. After the severe beating, he noted blood in his urine for about two weeks. He reported that a gas mask was placed on his head several times, and each time he lost consciousness for an unknown period of time. He was also forced to eat hot peppers.

Mr. S recalls being questioned about "his crime" and was asked about his neighbor's car. During the assault, he reports that he sustained bruises to his trunk, chest, arms, elbows, back, neck, legs, and knees. He also describes receiving scratches on his face while his head was on the floor and he was pushed or kicked with a boot.

Mr. S reports that his upper back was pierced with needles dipped in acid, causing a burning sensation and bleeding. Mr. S was given no food or water, and begged for something to drink. He slept on a concrete floor. He reports he was not given any medical care for his injuries. After enduring the abuse described above, he was forced to write a confession in which he acknowledged killing two people.

The next morning, Mr. S was taken to the "crime scene" and forced to "act out" his confession. He was then taken to the prosecutor's office. He was punched again at the prosecutor's office when he told the prosecutor that his confession was not true, and he was forced to acquiesce. Mr. S reports that he was kept in detention for approximately 10 months, kept in a cell with 6 other persons and subjected to constant "psychological pressuring."

In April, 2011, Mr. S was again subjected to severe beatings that resulted in a head concussion and left him unable to walk. He was hospitalized for approximately 20 days. In addition, Mr. S was forced to cut the skin on his own abdomen with a razor blade. A police officer told him that if he did not cut himself, they would do it in a deep and painful manner. After being forced to cut himself Mr. S was taken to a shower by officers who applied salt to the open wounds, causing intense pain. These wounds took approximately two months to heal; he was not sutured nor did he receive medical care.

Prior to his release in May, 2011, Mr. S also endured beating on the soles of his feet (*falanga*) with a baton. His feet became swollen and he couldn't walk for approximately two weeks. He still feels occasional pain in both feet. He was also beaten with blows to the head resulting in loss of consciousness on several occasions.

Conditions during his detention were characterized by little food (almost all his food was provided by his family) and crowded cell conditions requiring cellmates to sleep in turn. A bucket in

the cell was used for human waste.

PHR's evaluation of Mr. S revealed that he suffers from major depression and symptoms of PTSD and somatization.⁶³ Mr. S also had post-concussive syndrome due to traumatic brain injury as evidenced by his chronic headache, memory impairment, and hearing loss, among other symptoms. He reported chronic back and neck pain following the beatings. His hematuria (blood in the urine) following beatings to his back was likely the result of renal (kidney) contusion. He was also found to have scars that corroborated his allegations of abuse. PHR's affidavit will be entered as evidence to support his allegations of torture and ill treatment.

CASE 8

Mr. R is a 28 year-old law student who reported being assaulted by police and government officials in November, 2011, in Tyup Village.

Mr. R was stopped by police on the highway while riding his motorcycle. He was taken to a police station and was accused of murdering one of his close friends. During the interrogation, he was threatened and forced to see gruesome photos of his friend's death. While the interrogation was being conducted, Mr. R was subjected to repeated punches and kicks. Police officers also placed a plastic bag over his head multiple times and as a result he suffered several episodes of loss of consciousness. He remained in detention for about a month.

When an attorney hired by his family went to the police station, police officers placed tape over Mr. R's mouth and forced him out of the building through a window to prevent him from meeting with the attorney.

While in detention, Mr. R was also beaten in the face with a gun butt, resulting in lacerations and loss of consciousness. In addition to suffering traumatic brain injury, he sustained two broken ribs, a nasal fracture that later required surgical repair, and multiple bruises. Chest pain from the rib fractures lasted for about a month.

PHR's evaluation of Mr. R revealed evidence of traumatic brain injury and concussion. He also suffers from major depression and post-traumatic stress disorder. All of these conditions create great morbidity and disability, and as a result, Mr. R has not been able to resume his law studies or obtain a job. PHR's affidavit will be entered as evidence to support his allegations of torture and ill treatment.

CASE 9

Mr. Z is a 27 year-old single man who works odd jobs. Police officers twice seized him and accused him of drug possession because he once had an active heroin addiction. When he was detained in 2010, he was beaten with truncheons on the back, legs, arms, and feet, which resulted in painful bruising and swelling. His feet became so swollen he was unable to walk for two weeks. He was beaten on the head and suffered loss of consciousness. Electric shocks were applied to his arms, legs, and stomach. At the time of his arrest, he was on maintenance methadone for heroin addiction and suffered symptoms of withdrawal when police officers refused to make the medication available to him. Under the threat of more physical and psychological abuse, Mr. Z was forced to confess in 35 criminal cases.

During his second detention in November, 2011, Mr. Z was beaten with truncheons and asphyxiated with a plastic bag. He was also kicked in the jaw, causing a fracture, and subsequently had to take food through a straw for approximately a month.

63. Somatization refers to the conversion of a mental state, such as depression or anxiety, into physical symptoms.

PHR's evaluation of Mr. Z revealed clinical evidence of traumatic brain injury as manifested by headaches and memory loss, among other symptoms. On physical examination, he also had signs of a healed mandible (jaw) fracture. Mr. Z continues to have lower back pain. His psychological evaluation revealed symptoms of post-traumatic stress disorder, including nightmares, intrusive thoughts, and avoidance of places that remind him of the arrest. He was also found to have major depression, with a history of prior suicide attempts. He continues to have occasional thoughts of self-harm, low mood, low energy level, and difficulty with concentration. The PHR forensic medical affidavit will be entered as evidence to support his allegations of torture and ill treatment.

Appendix III

Pre- and Post-Training Surveys of Health and Legal Professionals Summary of Findings

Physicians for Human Rights, Istanbul Protocol Training IssykKul, Kyrgyzstan, December 1-4, 2011

The primary goal of the Pre- and Post-Training Surveys of health and legal professionals was to assess participants' attitudes on the investigation and documentation of torture and ill treatment and the effectiveness of the Istanbul Protocol training in improving participants' capacity to document medical evidence of torture and ill treatment.

We surveyed 37 health and legal professionals who participated in a training program in Kyrgyzstan. The training took place in IssykKul, Kyrgyzstan between December 1 and 4, 2011. The surveys were developed from a previous set of PHR surveys used in other countries and were translated into Russian. The surveys were self-administered and anonymous and PHR's Ethics Review Board approved the study.

The survey findings demonstrated that the three-day Istanbul Protocol training program improved the capacity of medical and legal professionals to investigate and document torture and ill treatment. For example, health professionals reported increased capacity to document the following components of a forensic medical evaluation:

Forensic Medical Evaluation of Torture & Ill Treatment
Background information
Pre-arrest psychosocial history
Trauma history
Physical examination
Photographic documentation
Psychological assessment
Mental status examination
Assessment of social functioning
Psychological questionnaires

Credibility assessments
Interpretation of physical evidence
Interpretation of historical evidence
Interpretation of psychological evidence
Conclusions and recommendations
Earn trust of alleged victim
Manage alleged victim's emotional reactions
Manage your own emotional reaction
Writing forensic reports
Testifying in court

All of the health professional participants reported support for the following strategies to improve forensic medical documentation of torture and ill treatment:

Strategies to Improve Forensic Medical Documentation of Torture and Ill Treatment
Use of standardized forensic forms
Videotaping and photographic equipment
Access to medical records
Access to previous forensic evaluations/reports
Establishing a database of cases to observe patterns
Truth commission reports

Nearly all of the health professional participants reported that they were moderately or highly interested in conducting forensic medical evaluations of torture and ill treatment and only several expressed concern about the effects of conducting such evaluations or their current workload or the extent to which they would be affected by secondary trauma (emotional reactions to the trauma) or their ability to manage their secondary trauma.⁶⁴ These attitudes likely represent a self-selection bias of highly motivated participants.

64. Interestingly, all but one of the participants indicated that they would benefit from external help to manage their own stress from secondary traumatization.

Press Release:**OSCE facilitates discussion on prevention of torture in Kyrgyzstan**

(see: <http://www.osce.org/bishkek/88305>)

BISHKEK, 22 February 2012 – The implementation of the Istanbul Protocol standards for the effective investigation and documentation of torture and ill treatment in Kyrgyzstan was the focus of a roundtable discussion organized today by the OSCE Centre in Bishkek in co-operation with the UN OHCHR Regional Office for Central Asia, the Soros Foundation and the US-based NGO Physicians for Human Rights.

Government officials from line ministries, the Prosecutor General, the Supreme Court, the Presidential administration, members of Parliament and representatives of civil society and international organizations discussed salient challenges, including how to prevent torture through effective investigation and documentation.



L-r: Ombudsman Tursunbek Akun, the Acting Head of the OSCE Centre in Bishkek Anders Troedsson, and the Head of the EU Delegation Ambassador Chantal Heberrecht, at the opening of a roundtable discussion, organized by the OSCE Centre in Bishkek, 22 February 2012. (OSCE/Sintija Smite)

Anders Troedsson, the Acting Head of the OSCE Centre in Bishkek, said: “Today’s roundtable is an important occasion to continue our dialogue on national efforts to prevent torture. While the adoption of a National Preventive Mechanism under the UN Optional Protocol to the Convention against Torture is pending in the Parliament, the OSCE Centre in Bishkek has promoted closer co-operation between civil society and the office of the Ombudsman, a co-operation that resulted in a joint report rich in recommendations that are now awaiting implementation. In 2012, the Centre plans to expand this partnership to a number of crucial actors within the government with a view to working out concrete efforts in the fight against torture.”

Ombudsman Tursunbek Akun said: “The establishment of a National Preventive Mechanism in Kyrgyzstan is a very urgent matter. Only when all places of detention and closed institutions will be open to independent monitoring we will be in a position to talk about effective prevention of torture. We hope that the Parliament will soon adopt the law establishing the National Preventive Mechanism, also considering that it was discussed in a number of public hearings and that it already received excellent feedback from national and international experts”.

Vincent Iacopino, Senior Medical Adviser at Physicians for Human Rights, said: “Physicians for Human Rights is honored to participate in this important opportunity to transform Kyrgyzstan’s commitment of ‘zero tolerance’ for torture into action. Our collective efforts to implement Istanbul Protocol standards for the effective investigation and documentation of torture and ill treatment are essential for torture prevention, accountability and redress and represent a critical step in respecting the rule of law in Kyrgyzstan”.

Co-awarded the Nobel Peace Prize in 1997, Physicians for Human Rights led the drafting of the Istanbul Protocol which was officially endorsed by the UN in 1999. The Protocol is a set of international guidelines for the documentation of torture and its consequences.

Meeting on the Development of the Istanbul Protocol Plan of Action Statement by the UN High Commissioner for Human Rights

Ms. Navanethem Pillay
8:40 – 8:50 a.m., 24 February 2012

I am very pleased to be here amongst friends and colleagues at this expert gathering, which I am sure judging by action-oriented, your programme will be productive. I am a firm and committed believer of implementation. During my time as a judge and also in my position of High Commissioner I have seen many legal instruments – international, regional and national. I have also seen how they are often little understood which has the consequence of poor implementation.

Torture is something which is unacceptable, abhorrent from a legal perspective, and its prohibition is absolute and non-derogable. I have an obligation, not only as High Commissioner, but also as a person who believes strongly in the respect for the dignity and humanity of others, to condemn the practice of torture and cruel, inhuman, and degrading treatment.

The Istanbul Protocol is a multi-stakeholder process that brings together a number of groups of individuals to prevent torture, ensure accountability, and provide redress. I commend the organisations which have partnered to bring about this event: Physicians for Human Rights, the International Council for the Rehabilitation of Torture Victims; the Human Rights Foundation of Turkey; and Redress for convening this meeting. The medical experts, human rights practitioners, legal experts and other stakeholders who came together to push forward the Protocol had the common conviction that no one should be the subject of torture, cruel, inhuman or degrading treatment.

Today the realization of the total eradication of torture remains elusive. Authoritarian, despotic, and most regrettably, democratic systems practise torture. So where does this bring us? Should we despair? Indeed not.

Your proposal for concrete, clearly defined, and well understood guidelines to assist States, non-State actors, national human rights institutions, and civil society in implementing the Protocol are required. You are experts in this area but let me advance a few thoughts for you to reflect on during your deliberations.

Despite a world where the role of States is perhaps diminishing, without their commitment on crucial issues such as the eradication of torture, cruel, inhuman, and degrading treatment, implementation will not exist. My Office will do its very best to take your important work to the country level. We will also support you at the international and regional levels as you seek to gain consensus among States on the need for the guidelines.

There is clearly a responsibility for all and this is where the synergy of forces you bring collectively is crucial. Legal professionals need to understand their obligations and the fact that they cannot bring individuals before the courts where their confessions or other evidence has been gained as a result of torture. Medical practitioners, including forensics experts, can assist in diagnosis of torture and cruel, unusual, and degrading treatment if they are equipped with knowledge and provided with education about their own responsibilities and obligations. In accordance with the ethical standards enshrined in the oath common to all medical professionals, they must desist from engaging or assisting in practices prohibited under the Convention against Torture.

Government officials, parliamentarians, judges, lawyers, security, and other officials need to clearly understand that they are accountable for their actions and also for their non-action in preventing torture, cruel, inhuman, and degrading treatment. When they speak out it is important that there are effective mechanisms to ensure their protection against reprisal and sanction.

Independent monitoring mechanisms such as national preventive mechanisms, national human rights institutions, ombudsmen institutions, including those of the police and places of detention, are critical for the implementation of any instrument. Such institutions need to be robust, well-resourced — in terms of personnel and financially — credible, and of course, independent.

Within the United Nations we are making progress. Torture, cruel, inhuman, or degrading treatment are not issues that can be shied away from. My Office, but also independent mechanisms such as the Special Rapporteur on Torture and other special procedures, and the Committee against Torture, and the Subcommittee on Prevention of Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment are key. My colleagues within other UN agencies and those who head the United Nations country teams also often engage on these issues.

We can do more. I therefore commit, with my colleagues present here and those working on this important issue within my Office, to work with you to see how your initiative can best be taken forward. I am pragmatic. What I wish to see is implementation. Your multi-stakeholder roadmap for the eradication of torture, cruel, inhuman, and degrading treatment is part of my commitment to see effective implementation for international human rights standards.

I warmly thank you for your invitation and wish you well as you take this important process forward.

Thank you.