

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Supreme Court Hearing Provides Opportunity to Ensure Justice

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(New York) - A review hearing related to last year's protests in southern Kyrgyzstan is a crucial opportunity for the Kyrgyz authorities to investigate the defendants' torture allegations and to ensure justice, Human Rights Watch said today.

The hearing at Kyrgyzstan's Supreme Court is scheduled to start on May 14, 2009. The 32 defendants are accused of organizing last October's demonstration in Nookat, in southern Kyrgyzstan, to protest a government decision not to allow a religious celebration for Eid al-Fitr. After the protest, the police arrested dozens of people, claiming they were Islamic "extremists." During their trial a month later, at the Osh Province Court, many defendants said that they had been tortured and ill-treated in police custody. An independent commission under the ombudsman's office documented many of their accusations.

"The prosecutor's office should have started an investigation into the torture allegations a long time ago," said Holly Cartner, Europe and Central Asia director at Human Rights Watch. "Torture is a common problem in Kyrgyzstan, and the Supreme Court hearing is a chance for the authorities to make clear that the abusers can no longer get away with it."

On November 27, 2008, the Osh Province Court found the defendants guilty of a number of offenses, including "incitement to cause or participate in mass unrest," "separatism," "attempted overthrow of the constitutional order," and "spreading ethnic or religious strife." The defendants were sentenced to prison terms ranging from nine to 20 years, which in Kyrgyzstan is an unusually harsh punishment for a local protest.

A commission established by the Kyrgyz ombudsman documented in a report in February based on interviews with all defendants, their lawyers and relatives and court material that most of the defendants were ill-treated and tortured during their arrest and in pre-trial detention. According to the report, the detainees were thrown into minibuses, where they were beaten with guns and batons, and kicked.

While the detainees were in police custody, law enforcement officials poured hot and cold water on them, beat them on the soles of their feet, and semi-suffocated them using plastic bags or gas masks. Detainees also had to stand in their underwear in a cold room with their feet in water for up to three days, were not allowed to use sanitary facilities, and did not receive needed medical treatment.

A 24-page report by the Russian human rights organization Memorial, published in January 2009, documented similar violations. After the report's publication, its [author was deported from Kyrgyzstan](#) and barred from re-entering.

At their trial, the defendants testified about torture and ill-treatment, but the judge neither urged the prosecutor's office to investigate the allegations nor dismissed the evidence defendants said had been obtained under torture. Under article 19 of the Kyrgyz Criminal Procedural Code, a court can issue a separate opinion (*chastnoe opredelenie*) if procedural norms or legal provisions were violated during the investigation, but the court did not do so. The Supreme Court hearing is a review to determine whether the trial conducted in full accordance with the law.

Kyrgyzstan is a state party to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This requires the Kyrgyz authorities to conduct a prompt and impartial investigation when there are reasonable grounds to believe torture has taken place (article 12), and to bar the admission of any statement made as a result of torture as evidence in any proceeding, except against the person accused of the torture (article 15). Article 305-1 of the Kyrgyz criminal code bans torture. Under article 325 of the criminal code, officials "may be held criminally liable for coercion to testify by means of threats, violence, or blackmailing of a person being questioned or other unlawful acts."

On April 14, 2008, Kyrgyzstan also ratified the Optional Protocol to the Convention against Torture, which stipulates that there should be regular visits to correctional institutions by international experts, as well as the creation of a national prevention mechanism to combat

torture and cruel treatment.

Despite these provisions, torture and ill-treatment of detainees are pervasive in Kyrgyzstan. For example, in 2008, a network of human rights defenders, Golos Svobody (Voice of Freedom), submitted 26 complaints of torture and ill-treatment to the office of the prosecutor general. In response, prosecutors initiated about a dozen inquiries, but either concluded that the other allegations were not confirmed or did not reply. No case was heard by Kyrgyz courts in 2008 under the criminal code article banning torture.

Kyrgyz human rights groups have also criticized the lack of fair-trial standards and the unusually harsh sentences in the Nookat case. The first two trial hearings were closed. According to the reports by the ombudsman's commission and Memorial, several lawyers complained they did not have access to court materials, and relatives were not informed about the detention of their family members.

"The Supreme Court has a chance here to send an important signal to the authorities and law enforcement officials," said Cartner. "It should not allow Nookat to become a synonym for injustice and police arbitrariness."

### **Background on the Nookat events**

In 2008, Nookat residents planned a celebration for Eid al-Fitr to mark the end of Ramadan, a celebration that is common throughout Kyrgyzstan.

The Nookat mayor's office first told residents in late September they could not hold the celebration at the main square, and then designated it to be held at a stadium outside town. But when residents arrived at the stadium for the celebration on October 1, it was closed. The crowd proceeded to the mayor's office to protest.

Accounts vary as to the number of protesters and the conduct of the protest. The authorities have stated that it was a well-organized and violent protest by a thousand followers of Hizb ut-Tahrir, an international Islamic organization that is banned in Kyrgyzstan and several other countries in the region. Local residents say several hundred protesters initially peacefully gathered at the mayor's office. Riot police brought in from Osh dispersed the protest after protesters threw stones at the municipality building.

In the following days, the police arrested several dozen people based on video material and a list of "previously known extremists" compiled by the Nookat district police department. Initially, the defendants were charged with organizing or participating in mass unrest, and the remaining charges were added during the investigation. On October 13, 2008, the State Committee for National Security announced that 32 people were in custody. It also said that the detainees were all members of Hizb ut-Tahrir.

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