

Stenogram

Round-table "Struggle against torture in Kyrgyzstan: Analysis of the situation and joint efforts"

On June 17, 2008, the Bishkek Press Club hosted a round-table on "The struggle against torture in Kyrgyzstan: Analysis of situation and joint efforts," dedicated to the International Day in Support of Torture Victims (June 26). Representatives of government bodies, international and non-government organizations, deputies of the JK and human rights experts participated.

Round-table participants:

Eshmyrza Azimjanov, deputy head of the Main Inspection Department of the Ministry of Internal Affairs, KR.

Saypidin Kamanov, deputy head of the Internal Security Service of the Ministry of Internal Affairs of KR.

Ernst Isaev, the head of the Main Directorate of Administering Punishment (MDAP) of the Ministry of Justice of KR.

Atur Bit Avragim, the department head of the Prosecutor General's Office of KR on the observance of the rights and freedoms of citizens and the underage.

Marat Eshperov, deputy head of the department for supervising criminal procedure and operational-investigative activities of the Prosecutor General's Office of KR.

Ikram Mameshev, the head of the department for monitoring and public affairs of the Ombudsman's apparatus of KR.

Zaynidin Kurmanov, deputy of JK KR.

Dinara Sayakova, Public foundation "Independent human rights group"

Ulugbek Azimov, Public foundation "Independent human rights group"

Nurbek Toktakunov, Public foundation "Independent human rights group"

Nadira Eshmatova, Public foundation "Youth human rights group"

Lyubov Ivanova, private lawyer

Nazgul Turdubekova, Public foundation "League of Child Rights groups"

Aziza Abdirasulova, the human rights center "Kilim Shami"

Abdykerim Ashirov, the human rights center "Citizens against corruption"

Aigul Junushalieva, information-legal center of the resource center for psychological health.

Erlan Alimbaev, Bureau of the UN High Commissioner on Human Rights

Almaz Esengeldiev, Freedom House

Evgenia Samoylova, Freedom House

Sardar Bagishbekov, Public foundation "Voice of Freedom"

Ernst Janaev, Public foundation "Voice of Freedom"

Myrza Karimov, USAID

Urs Zulzer, Swiss military attaché

Gulnura Toralieva, moderator, Institute for Public Policy

Media representatives

Gulnura Toralieva introduced the guests, announced the topic of the round-table and gave the floor to the JK deputy Zaynidin Kurmanov.

Zaynidin Kurmanov: The topic of my presentation is "Problems of the struggle against torture: cultural approaches." The thing is that several large political projects are being realized at the same time in Kyrgyzstan. One of them is the struggle against torture. As you know, we have joined several conventions and made the criminal responsibility for torturing more severe. There is progress, some steps forward. But there is not much to be proud of. How many criminal cases do we have on torturing? There are very few of them and there are serious factors to explain it. Above all, I would like to note that in ancient times, torture was the main form of punishment, and in modern times torture was put away, but in our country the use of torture has been escalating since 1934 when the prosecutor Vyshinskiy justified the doctrine "self-confession is the evidence." Then people were beaten to get their confessions. Therefore, if one looks from the cultural viewpoint, the use of torture is the heritage of the dark ages and Bolshevism. We have to know clearly which part of the heritage we want to get rid of. We do not show the proper consistency in these issues. Even though we know that torture is the heritage of Bolshevism, Bolshevism has been de facto rehabilitated, and it is not disgraceful to be a communist. Everything that was done by communists is considered good. Our committee received a petition to rehabilitate the Communist Party. In this view, I want to say that many of our projects fail because we treat them superficially and thoughtlessly. The struggle against torture is the adherence to another convention. We have joined but started to climb to the other peak. It is hard to see any deep understanding or serious approach. Even though everyone understands very well that torture is a hidden crime, a latent crime; it is difficult to detect and prove. There are sophisticated ways to torture. It is not only an infliction of bodily injuries and maiming, but it can be moral torture, which is hard to detect. How to fight against torture, when cruelty has become the common thing, when human life is not valued? This is our current reality. How to overcome this situation? How to find way out of the habitual cruelty?

A group of sociologists did some research on the social identity of Kyrgyzstan's nationalities in 2007: what unites our people still? A very surprising finding came out. Most of the respondents answered "traditions and customs." Ideology does not unite; the building of a bright future does not unite. But traditions still keep us together. This suggests that tradition may be used as an instrument to influence politicians -- it is highly probable. What do we know from the history of the Kyrgyz regarding the torture? Kyrgyz people did not know at all about tortures. It came from outside. Capital punishment was applied in very rare cases. The severest punishment was exclusion from a tribe. A man was not protected by the tribe, and could be subjected to slavery. It was the most terrible punishment. Even murder was punished by payment of a fee according to Kyrgyz law. This is the national tradition. But nowadays, one can speak perfectly in Kyrgyz, talk about patriotism and boot his countryman in the face. I believe we have to find new cultural basics and new approaches, because this is true not only concerning torture, but also in relation to the process of building the organs of self-government, elections, etc. I think the problem is that our cultural consciousness, our legal and political consciousness is not yet adapted. We do not know what we need to fight against, what our heritage is, what our goals and tasks are. We have lumped everything together and now try to sort it out.

In my opinion, President Bakiev clearly defines foreign policy positions. He said the words that we have to always remember: "Our foreign policy doctrine is to return home." We have had enough of romantic projects. Once the Japanese said the same when they were building a strong and modern Japan. The Emperor of Japan said: "Yes, we want to see Japan strong and powerful, Japan that is interconnected with railroads. But, we should not forget who we are and where we come from." This is a start of all political processes. Until we understand who we are and where we come from and what has united us, to make steps forward is a mistake. As Valentin Bogatyrev said, our first 17 years are a failure of identification. We did not look for our identity, but we tried to succeed. We wanted to do something good, but the result is as usual.

I think the most outstanding and large project in this view is the establishment of American and Slavic universities, which have prepared thousands of young people who completely exclude torture, violence and cruelty from their minds. If the Law Academy had started to educate new officers who consider violence and cruelty as inhuman phenomena, we would have ended this problem a while ago. New cadres are being prepared, the old generation of officers is being replaced by new, but the latter start using torture as well. As a rule, the officers of the investigative agencies apply beatings. The same was true in Tsarist Russia. In our country, both officers and a generals are engaged in the punchfest.

Gulnura Toralieva: Thank you. Now, I give the floor to our next presenter, Ernst Isaevich Isaev, the head of MDAP of the Ministry of Justice of KR.

Ernst Isaev: The topic of my presentation "MDAP states that in the criminal-executive system of the Kyrgyz Republic there is no place for tortures or brutal treatment of prisoners and arrested citizens." It is not a simple declaration. In our work, we have completely excluded the torture of prisoners and the arrested. It was difficult to come to this point. I was educated during the Stalin barrack system of prisoners' treatment. But we have succeeded in changing our psychology over the past 17 years. As stated by the deputy, the American and Slavic universities have educated a generation of democrats. Unfortunately, we did not have such opportunities. However, in the process of our work we could manage to re-construct our personnel. We have come to the conclusion that the use of torture is not the way to reach our goals. The European Commission on Human Rights investigated all structures that are under my supervision during the period of 2004-2006. They came to the conclusion that at the present time torture is not present in prisons.

However, what is the situation in prisons? I would like to turn your attention to people sentenced to the highest punishment, who are now placed to the category of the sentenced for life. This category must be kept in cells. Here I see representatives of the Prosecutor's Office, and I want to admit that among 181 people 80% were moved into open institutions. It is because we do not have money to build separate cells for them that they are together with other mass of the sentenced. And this is torture. At present, my officers, warrant officers and controllers undergo insults and brutal treatment from this category; these people told me personally that they have nothing to lose; they will not get anything more than the sentence for life. If we do not agree with their conditions, they will kill both personnel and other prisoners. This is torture from the side of the life-sentenced. What to do in this situation? In 1999, the President's Decree on implementation of the penal enforcement legislation of the Kyrgyz Republic was adopted; it envisioned the construction of special institutions for this category of prisoners. However, during 9 years nothing was done in this field.

There are a number of other moments that I want to draw to your attention. We have abolished capital punishment and gave these people a light at the end of the tunnel. But, we all know very well, and they know that they will never reach that light. We have already prevented several attempts by groups to escape. It is not impossible that they will get together tomorrow and will try to organize a mass escape. They are almost not controlled by the authorities. We control the perimeter wall, but within the sub-culture of prisoners we have no control. Control will be feasible only when they are kept in cells for 2-4 people.

Another moment that relates to torture and the brutal treatment of prisoners is the issue of human rights. The Ombudsman's Apparatus and civil society representatives are present here, and I am interested in the following question – why does one talk about prisoners' rights, and pay selective attention? Now, all talk about Kadyrbekov. In my system there are 10 thousand prisoners: why do not they come daily and ask about Ivanov, Jakshymbaev, Jerkimbaeva and others? Recently, some forces within the Ombudsman's Apparatus and the human rights sector try to mix everything with politics. Prisons are necessary for fascists, communists and democrats. Therefore, do not involve the penal enforcement system in the political struggle. In a recent example, a representative of Ombudsman visited the detention center, the head of detention center sincerely revealed the situation at the place, and the talk was confidential. Later, everything was published in newspapers by a journalist who was not even present during the talk. We talk about human rights, let's talk about it more widely. If today, we can provide clothing and bedding for only 20% of prisoners, how can one talk about human rights? If prisoners receive 50% of the food they need, how can we talk about human rights? When this question is raised in the Jogorku Kenesh, it is said the civilian population has the same difficulties. But unlike prisoners, civilians have opportunities. The state cannot improve production lines to let prisoners earn more. Therefore, the state must allocate finances for prisoners that are close to 100%, not like today – 40,3%. In this situation, it is hard to talk about human rights. Even if I wish to very much, I will not be able to observe their rights, since I do not provide enough food, etc. Hence, I am a part of the human rights violation process. But, it is a compelled violation.

In the end I want to say once again, there is no torture and there will be no torture. This is one of the most strategic vectors for me in this post. I will cut it short. I think my personnel will support me. Thank you for your attention.

Gulnura Toralieva: Thank you. I would like to give the floor to Ikram Gaparovich Mameshev, who represents the apparatus of Ombudsman of Kyrgyz Republic.

Ikram Mameshev: When we talk about torture, it is necessary to consider the most likely situations when it may be used. For example, at the moment of arresting a suspect. What are the main reasons for that? The Commission of Human Rights, the Ombudsman's Apparatus study them attentively. The findings are as follows: 1. an extremely low level of training of investigators and operative workers. To solve a crime, they go beyond the norms of human communication, and as a result there are beatings, injuries. Another problem is a very unsatisfactory level of equipment for our law enforcement bodies. Last week I visited the Oktyabrskiy ROVD (Regional Department of Internal Affairs) to make an examination. They need about 10 days, and they cannot make it by themselves. The expert service is at the level of the 20s. 2. Weak management control. Seniors ask their subordinates to solve a crime. They do not much attention to how it will be done. Another role is played by lawyers. When a lawyer can participate from the beginning, torture is unlikely to take place. At the same time, there a number of on-call lawyers, who sign any protocol, and consider a non-human approach commonplace.

What are the ways to get out of this situation? First of all, it is necessary to equip our law enforcement bodies with everything they need so that they can work productively. Secondly, it is important to improve the quality of education both of operative workers as well as of investigators. In this view, I would like to thank Aziza Papanovna Abdyrasulova for the enlightening work that she is carrying out with the organs of the internal affairs. The same has to be done at the state level, and it should not be delegated to the civil sector. Some of the departments they can visit, the rest they cannot. Most important is the transparency of actions. Here, one can see a very interesting phenomena. Let's look at the case of Sobol, which is again being sent for re-investigation. The matter is that a man was arrested, being suspected of possessing drugs. He remained there for one and a half days, then was thrown into the streets and taken by the "emergency." The investigation proves that he was beaten. The case is sent to the court, the court returns it to the prosecutor for further investigations, and after removing some unclear information, the case is sent to the court again. Some unknown forces interfere and the judicial decision that there was no

torture is made. Under pressure from the Prosecutor General's Office, the criminal case starts again. It has been ongoing since 2004. Therefore, if we can secure transparency of actions, we can escape such phenomena.

And the last point I want to make is that according to official data, we do not have torture de jure. The Prosecutor's Office at least argues like that because there is a court decision regarding Article 305. Article 305 is about the exceeding of one's competence. It is understandable that it is difficult to prove anything under the Article "Torture." If we can secure the transparency of our judicial system ... The problem is that the courts are unpredictable. If the court's actions are transparent, many mistakes could have been avoided. I do not know how to approach this problem. But these actions somehow must be under the supervision of people. It is important to work out a mechanism.

Gulnura Toralieva: Thank you. The floor now is given to the head of human rights center "Kilim Shami," Aziza Papanovna Adbyrasulova.

Aziza Adbyrasulova: I just came back from Naryn oblast, where we met with representatives of law-enforcement bodies, organs of internal affairs of all Directorates of Internal Affairs and the Main Department of Internal Affairs. Similar meetings were organized in Batken and Chui oblasts.

Of course, torture is a very large topic. I would like to talk about the role of lawyers in defending the victims of torture in the Kyrgyz Republic. As the results of monitoring show, the largest role is played by lawyers. The arrested often have no lawyer from the beginning. As admitted by investigators, this is done intentionally, because lawyers create trouble in the initial questioning. In other words, investigators violate the constitutional right of the arrested to have state defense. Secondly, it must be noted that there are "dark" lawyers, who harm the interests of their defendants. They sign materials even though they were not present, they accompany the arrested to court, where they prove that the arrested has a lawyer de jure, and all moments are considered, but de facto, nothing is considered. I want to address the Minister of Justice, he is the one who must provide human rights protection-the constitutional right. However, monitoring shows that in some rayons, for example, in Leylek or Atbashy, there is only one lawyer for the whole rayon. And if he is busy and far away, then the rights of the arrested and of the investigator are violated, because after 48 hours, he must be charged or released. We have to provide a minimum level of protection.

When we visit closed institutions, monitoring shows that 92-95% of the arrested do not have a lawyer in fact. De jure they have one, a lawyer accompanies when the charge is given, and an investigator may ask the same person to be present at court, but there is no serious protection, because the defense lawyer did not work on that, did not look for an alibi, witnesses, evidence. It is a serious problem. When we talk about torture and unfair judicial proceedings, we have to start from the matter of protection of the arrested by a lawyer.

In addition, I want to comment on Isaev's point about prisoners. I want to look at this problem from another angle. Mr. Isaev said that there is a threat to the personnel of prisons from prisoners. I accept that there is no higher punishment than a life sentence, and those prisoners have nothing to lose. Another question is that these people are among other prisoners and are a threat to them. We have unofficial information that those sentenced for life are willing to control the common prisoners. Therefore, civil society representatives urge to have those with life sentences separated from the common prisoners according to the international standards.

We have to come to a point where, from the initial moment, the arrested will have a lawyer, a lawyer and investigator should have a similar mandate, they have to have equal conditions for work. Today, a good lawyer depends on an investigator. It is also a big problem.

Gulnura Toralieva: Thank you. Now I want to pass the floor to Abdykerim Ashirovich Ashirov, who is from the human rights center "Citizens against corruption."

Abdykerim Ashirov: On my way to the meeting, I was hoping that the Heads of Ministries that are mentioned in the list would be present. The problem of torture that we are discussing today is being observed mostly in these institutions – the Ministry of the Internal Affairs, GKNB, reception centres, etc.

Human rights are the core of the vitality of civilized countries. Several years ago, the concept of human rights was declared in Kyrgyzstan. It was a political move to focus public attention on the final choice and adherence of Kyrgyzstan to democratic reforms through the observance of human rights. It must be said that we have not realized that move fully, and now we are not aware of that. When the time had come, we understood that it was the right strategic step. Within this period, a number of normative documents were adopted – the institute of Ombudsman, the commission on human rights under the president, the humanization of criminal legislation, criminal responsibility for torture was introduced, prisons have become more accessible to human rights activists. Last year, the Jogorku Kenesh ratified the facultative protocol of the UN Committee against tortures. This protocol has become an integral part of Kyrgyz legislation. Thus, we have the basis to argue that the observance of human rights is becoming one of the major conditions for social relations. Along with that, the idea of human rights of a certain part of society is perceived as not our value but a Western value, and triggers all kinds of reactions among various layers of the population. For this reason, our meeting is very relevant, since the major task, in my view, is to work out proposals and recommendations to prevent torture and fight against it. Unfortunately, I have to declare that there is torture. It must be hidden. It is being used in the system of MDAP. As emphasized by Aziza Papanovna, when there is no torture by MDAP personnel, there is torture among prisoners. And we should not close our eyes on this matter, but improve our efforts.

There is no official system in Kyrgyzstan to register the cases where torture was applied. Within the organs of internal affairs, citizens' complaints on torture are registered as "exceeding of one's competence," "abuse of official position," "infliction of bodily injuries." Therefore, as noted by Zaynidin Karpekovich, this crime remains latent. The Ombudsman and human rights organizations also receive complaints, they have their own registry. But there is no comprehensive picture. As a result, it is hard to say a concrete number of cases where torture was applied in Kyrgyzstan. There is Article 305 in the Criminal Code – "Torture," however, the existence of the article to have a separate crime adopted in 2005, does not encourage the prevention of torture. It is more important to have the right mindset among authorities involved. Zainidin Karpekovich said that it is impossible to prove torture, then is it easier to prove a murder? When something like that is said by a deputy, it may be perceived by organs as an instruction for action. I have studied the court statistics. Since 2003 there is no single criminal case on tortures. This symbolizes the absence of struggle against it. The first reason is that the leadership is not interested in this struggle. The state guarantees the protection of citizens from torture, but in reality the state fails to perform this duty. Therefore, the UN Committee on torture recommends that countries which have joined the convention provide the right to investigate without bias all torture cases, to prosecute individuals who used torture, and provide protection for those who complain about facts of torture. How can we evaluate the actions of our law enforcement agencies in view of requirements of the UN Committee? They hardly react; they hardly investigate, mostly putting the burden of proof on those who complained. It is usually the case that the Prosecutor's Office rejects criminal cases about torture, even when there is information that points to the crime. Here, they refer to the lack of material which proves the guilt of militia representatives. According to the law, the data should not prove one's guilt. The materials for a preliminary investigation must only point to the presence or absence of reasons to start a criminal case. The motivation, according to Article 150, is the presence of sufficient data that points to a crime. If one complains, and he has livid spots and other traces of torture, this is grounds for an investigation.

Here, I have to note that the law enforcement bodies, as it was before, have the burden of responsibility for the number of cleared cases. This approach affects their work. The abovementioned statistics on the absence of torture gives grounds to say that the trend to overcome impunity for torture has not yet started. There are factors that affect the quality of the struggle against torture. It is known that torture is often used by the militia. According to the law, the check on the investigation is carried out by the Prosecutor's Office of the same rayon, which is the workplace where the militia staff against whom the complaint was given. The Prosecutor's Office closely works with militia on solving the criminal cases and this affects the investigation as well. All this together nullifies the efforts to fight against torture. I will try to enumerate those institutions which use or possibly use of torture. These are the reception centre of the internal affairs organs, adaptation centres and juvenile rehabilitation centres of the MIA, Patrol and Inspection Service, district investigators, juvenile investigators, special task forces, seizure groups, police control rooms, temporary detention facilities, investigation detention facilities of the MDAP, operative-investigative and investigative sub-units. In this list, only the actions of the investigation bodies are regulated by law. The normative documents of operative bodies and provisions of other institutions do not have norms related to human rights protection. It does not contribute to the prevention of torture. Legislators have paid attention for a while to the normative regulation of activities of investigators, judges, and lawyers. But the activities of the searching agencies are not regulated. Practice shows that the personnel of operative-investigative agencies tend to use torture.

It is good that we discuss the problem of torture in this format, using the practical intellectual experience of participants. The roundtable participants have the opportunity to elaborate recommendations which may be reflected in the normative provisions, instructions pertaining to the corresponding bodies, and may help to prevent torture. I believe that in order to change the situation with torture, it is necessary to make amendments and additions to the normative acts; secondly, there should be organizational events. For example, there is the law on "Lawyers' activity," there, we can introduce some additions, so that a lawyer will be involved in the process not from the moment of starting a criminal case, but from the moment a citizen is arrested by the Regional Department of Internal Affairs. There is the Law on "Operative-investigative activities" and there are public and non-public methods of work. It is necessary that citizens will have an opportunity to have a lawyer when the work is publicly performed. These measures will solve many issues. We have to review the provision on reception centers, centers of adaptation and juvenile rehabilitation to secure them from torture. It is necessary to make a joint order of the Prosecutor General and heads of other law-enforcement bodies on the necessity of registering complaints on torture. This registration must be carried out separately, and there should be only one unified registry for the whole country. There should be an order by the Prosecutor General that checking of complaints on torture must be done not by rayon prosecutors, but by their superiors. It is necessary to organize the shift schedule of medical workers in the Rayon Department of Internal Affairs in the evening and night time. It is a matter of organization and finances. It will also help to solve the problem. The extent of responsibility of the department heads and officers for using torture during their shifts must be heightened.

Now, the question of statistics. There are statistics for law-enforcement bodies, signed by the Prosecutor General, MIA, GKNB. We have to review these statistics, because for the most part they are outdated. And my last point. In order to have a situation where statistics will not influence the statistics of bodies, it is necessary to have a separate line - dismissal of torture cases, so that it will not be included in the general scale. Then it will not impact the statistics, and they will not be afraid to investigate, and if there are legal grounds it will stop torture. It will provide an objective picture. Thank you for your attention.

Gulnura Toralieva: Thank you. I propose to have discussions at the second part of our roundtable. I want to remind that today we have representatives of the Prosecutor General. If you have questions, you may ask.

Nurbek Toktakunov: I have two questions to Ernst Isaevich. According to Article 17 of the law on "the custody of the suspected and accused" lawyers can have access when they have a warrant. But, at the detention center, one is not allowed to enter with a warrant; they keep asking permission from the crime investigator or prosecutor to access defendants. There are concrete situations when lawyers were asked to present permission from a crime investigator to meet with defendants. Do you consider these actions lawful? And are you ready to take measures of disciplinary punishment?

Ernst Isaev: Definitely, the actions of my people were not lawful. If a lawyer had a warrant and he was supposed to participate in the case, according to the law he should have met his defendant.

Nurbek Toktakunov: The second question. It relates to your point on the lack of financing from the budget. There is a stage of drafting the budget, and you, as a head of institution should sign the budget. And as you presented, by signing the budget, you, in fact, commit a crime. You are told that there are no funds in the budget. But there is never enough money, it is not because we are poor, but because money flows out through holes. Until an institution head insists on his own budget, the money will never come. The point is that expenses for humane treatment do not depend on the economic condition of a state, unlike the social expenses. There are certain norms from the Ministry of Health on nutrition, and people will have tuberculosis if they lack food. We have hygiene requirements similar to the Danes and Swedes. In other words, these expenses are the given parts of the budget. You need to ask in accordance to norms! At the stage of budget drafting, all possible things have to be done on the basis of law and norms. If the funds are not enough, you can refuse to sign it. I understand that you may risk losing your position. Our organization has recently started to have an interest on the budget process, and we are ready to meet with you and cooperate on this matter. We can help you to justify your requirements in front of the government, which has to approve the final budget. If you are ready to cooperate, our organization is ready to assist you on this matter.

Ernst Isaev: When I talked about the neglect, I meant that those sentenced for life need a separate place. As for the budget, - we definitely try to defend it. But, when the budget on ministries and agencies including the MDAP is adopted, no one asks our opinion. We are informed about the result only, and we do not have an influence on the final amount.

Nurbek Toktakunov: I guess, they do not go far from your draft budget, which was agreed by the Ministry of Finance. Of course, there will be some differences, but anyway the primary limits are defined by the Ministry of Finance. I am talking about this stage.

Ernst Isaev: The Ministry of Finance and people who adopt the law on the budget think that a prisoner in the Kyrgyz Republic can use soap only once a month, and it is enough to have only one pair of underpants for two years. The budget of our system without investments is 1 028 251 000 soms. We struggled to have 7 million which the Ministry of Finance tried to allocate to the re-construction of schools damaged by the earthquake in the south. The MDAP system always suffers from social, political and economic turmoil.

The MDAP system will cooperate with all sectors, including civil society and human rights organizations. This cooperation must be very constructive, but not narrowly-oriented. Usually, they concentrate on one issue and start widely discussing it; right after the appointment, I was forced to find excuses in front of the mass media regarding the case of Kadyrbekov. Everyone tries to reach him... the image of Ministry of Justice and MDAP is worsening.

Ms. Abdyrasulova said that there are mutual steps towards each other. It is important to make constructive steps.

Nurbek Toktakunov: the draft budget for 2009 is not yet signed...

Nuriana Kartanbaeva: I would like to address my question to representatives of the Prosecutor's Office and MIA, since these are two key ministries which play a leading role in the struggle against torture. My personal opinion is that there is still torture, because it is not punished. What limits us in bringing the quality ones to responsibility? What kind of policy is there at the ministry level to solve the problem, and what kind of measures are being undertaken?

Marat Eshperov: I want to say that in the process of investigating facts on the use of torture, there are no limitations for institutions of internal affairs and prosecutors. There may be circumstances which make it impossible to proceed with investigations. First of all, when the victim comes forward with a complaint, and then after a while they rescind their accusation. According to our criminal-procedure legislation, many crimes belong to the category of public accusation, and a case is initiated only with the complaint of a victim. In case of the repudiation of an accusation, these cases are subject to dismissal. Secondly, the victims sometimes, come very late, and we think that it is already impossible to gather evidence to prove the fact of torture. Besides the accusation of the victim, there have to be traces of beating, etc. For example, in Naryn there was a case when a man died but relatives didn't make a complaint. There are cases which do not depend on the investigating bodies. I agree with the previous speakers that the personnel have a low level of professionalism, a low level of consciousness of the law, and an absence of skills to solve a case by legal means.

Abdykerim Ashirov talked about statistics, which are also a factor. Civil society pays lots of attention to these facts. We plan to summarize all these facts of two years. To generalize facts, identify reasons, study them, and work out proposals, this is what we can do, and possibly, together with civil society representatives to introduce some change in the legislation. Such events we plan to conduct.

Eshmyrza Azimjanov: I want to continue Marat's idea on limitations to bringing to responsibility those torturing officials. It is necessary to make corrections to the legislation, in particular, to the law on "Torture." Torture relates to the crime of officials, it is assumed that only officials use torture. Do you think that individuals cannot use tortures? We have to think about this question. It is our duty to take it to the court. According to the data of the information-analytical center of the Kyrgyz Republic, today there are no facts on torture relating to citizens. This is because torture is considered a crime of officials. Today we heard statements that our personnel have a low level of professionalism. I think if one is an expert in his/her field, one will use torture. Here, many things depend on the individual's personality. If a staff member can behave with respect to his counterpart, then there will be no violation of the law. Moreover, the protection of human rights is provided in law. In case of finding such facts, they are addressed by the Agency of Internal Security -- they gather materials and make a decision. There are lines of trust. The rights of suspects and the accused are provided for in the criminal procedure legislation, the rights and duties of crime investigators are given there as well. As for the ideas stated today, I will inform my superiors about them, and I hope that this event will make our struggle against torture more effective.

Aziza Abdyrasulova: Concerning the case in Naryn. The case is in the Prosecutor's Office, we have to go to exhumation and be empowered to do that. It is because this murder took place in the building of the Rayon Department of Internal Affairs. An unconscious man was taken away from the building of RDIA. And here the willingness or non-willingness of relatives does not play a role. Moreover, the Prosecutor General's office knows about the amount received by relatives – 300 thousand soms. It is a public case and has continued for

1, 5 years. And only an exhumation will show what happened in reality. What prevents the Prosecutor's Office from exhuming the body?

Marat Eshperov: I want to continue the thought that all changes were directed at humanization of legislation. If before the exhumation could happen only with the resolution of an investigator, according to the current law, in order to make an exhumation, it is necessary to have the court's permission. When I talked about exhumation, I meant the case of Vzdudnikov. His relatives did not consent, and the court referred to this fact, and refused to issue permission. Without such permission, an investigator cannot exhume him.

Lyubov Ivanova: I have a question for Mr. Isaev. It was pointed out many times that torture in closed places is used only at the initial stage of an investigation, i.e. at the time of arrival to RDIA. There are serious violations of procedure; arrest protocols are not written. Also there is an excuse not to allow a lawyer, who has no idea that his client was arrested and taken to the RDIA. I was surprised by the words of MIA representative that operative workers and investigators are educated people, who know the legislation and do not allow violations. When there is no good will from their superiors, how can we talk about the struggle against torture? I will mention not a private but common case, operative workers make big eyes after being told that a lawyer must be invited from the moment of arrest and exclaim: "Have you read too many books? Or watched movies?" Therefore, there is a reason to think and start working from the initial stages, so that they know the legal procedure and the necessity of inviting a lawyer. And here is my question to Mr. Isaev. You said that the report of the European Commission found that up to 2006 there were no incidents of torture in your system. Are you aware of the incident where special forces, OMON, improved methods of clearing juvenile prisons? There are proven facts that staff who visited prisons started humiliating people who were under investigation. It was during period between of 2005-2006. What was the reaction of MDAP on this matter?

Ernst Isaev: Unfortunately, the year 2005 is a very sad one with respect of all parameters for our system and generally for our state. From January till October 2005 the juvenile colony had 6 riots. Until today the ramifications of those disorders are not yet regulated. Only recently, when a group of parliamentarians headed by Alisher Mamasaliev visited these places, they saw the destroyed rooms. During the disorders, the special forces of MDAP OMEGA entered these places to pacify the underaged. There were no complaints about torture at that moment. As for the arrested, physical force was used to transfer them from one room to another. I want to add that in 2005 we repaired the detention centre three times; the juveniles almost completely destroyed the centre. After my appointment, I visited all special institutions of the Kyrgyz Republic, organized a general meeting with all prisoners, and as an officer, I promised that these special forces will never enter prisons. I have enough energy and means of non-violent character to influence this special contingent of people, and all problems will be solved by peaceful means.

Marat Eshperov: Unfortunately, whatever is stated by statistics, there was torture. They will continue to exist for a while. It is the easiest way to get information, the easiest way to solve a crime. In the beginning, torture is used to detect real crimes. They caught a suspect, there is no evidences, and by means of torture they obtain evidence and the case proceeds to the court. The soul of the operative who uses torture is very calm and his superior's soul is calm. From the very beginning, there is an uncensorious attitude to torture. Then, they try to hide holes in the activities of law-enforcement bodies. Then, some repressions start. Everyone understands that. Here, we can see a direct proportion to the professionalism of the staff. One may solve a crime by means of torture or a bit of heroin. But one can also do it through continuous and routine investigative activities. The old-fashioned professional investigators will not allow me to lie, it is daily work. A young investigator does not need it. He has physical power, and he can obtain information. Therefore, why hide that there is torture? When you say that there is no torture, you, in fact, claim that you have very professional operatives, who are able to solve crimes without torture. Why not admit that there is a problem with cadres? No need to be ashamed of it. When we accept that, then the real struggle will start. I only ask state representatives to

accept it at least for their own sake. No one has a guarantee not to be imprisoned or tortured. Ishenbay Kadyrbekov could not have imagined that he would be there. Each of us may happen to be in his suit. Therefore, by helping to civil society in the struggle against torture, you help yourselves.

Abdykerim Ashirov: What is the difference between torture used by enforcement bodies before and now? Before, they tortured only the most violent criminals. Of course, it did not justify their actions. But, today torture is used against everyone. This is the difference. Now, concerning the professional attitude. The thing is that before we had professional criminals. Nowadays, as a result of the socio-economic situation the number of people who commit crimes become wider. It is almost impossible to solve a crime by the old methods. However, the cadres are educated with the old program. Today, more intellectual skills are needed. As noted by Mr. Eshperov, in fact, there are those who complain and then withdraw the complaint. The reason is that most of them see the bureaucratic difficulties in proceeding with complaints; secondly they are influenced by those who tortured them. Hence, they see that it is hard to prove the truth, and they withdraw. There are cases where the complaint is late and there are no traces of violence. This is because until there are traces, a lawyer is not allowed to meet with the victim. Also, a victim may be terrified and afraid to get involved, and does not write at all. This is the real picture. But the number of people who withdraw is much less. The only thing is to carry out actions in a timely manner.

Almaz Esengeldiev: I want to share my observations. Recently, we conducted training in the Militia Academy. It is interesting that all the students of the Militia school said that without torture it is impossible to investigate crimes. The junior classes still have some doubts about torture. However, the senior classes say: we understand the whole situation; we know that it is illegal, but it is impossible to investigate cases without torture. Students of the law faculties of other universities approach it in a completely different way. They discuss some points, and think that it is illegal, they are interested in investigations on torture cases, and they analyze problems. Maybe, in this case, it is better to liquidate this academy? It turns out that the Academy of MIA prepares the same type of lawyers, but they are also torturers?

Marat Eshperov: I will dare not to agree with you. How can students argue that it is impossible to investigate without torture? The success of an investigation depends on primary materials. Definitely, a criminal case depends on how effectively materials were collected by investigators. An investigator, taking into account his competence, decides to start investigating a crime or not. But, you have not explained yet why senior classes have such an opinion.

Almaz Esengeldiev: I guess that senior classes go on internships. If junior courses do not have internships, the senior classes make conclusions based on the practice.

Eshmyrza Azimjanov: Of course, it is just a guess. While investigating criminal cases, we try not to make any violations. Yes, sometimes, there is torture. But we use very serious administrative measures against such staff members. Among 100 employees, about 10% will have problems. Our task is to fight against them, make them follow our rules. On June 29 we plan to conduct a forum for young researchers, we will raise the same questions, since our young crime investigators are our future. We do not deny that we have problems but we have to work on that and struggle against such phenomena.

Aziza Abdirasulova: I would like to address my question to representatives of the Prosecutor's Office and MIA. Human rights activists approached the city Prosecutor's Office of Jalalabat concerning Mulajanov -- several tortures were used against Mulajanov. The prosecutor on supervision came twice, but he was not allowed to see him. Did you bring someone to responsibility? The institute of Ombudsman tried to become involved and addressed the head of the Department of Internal Affairs. He was told that Mulajanov was sent to the prison of Osh city, but he was not there, later he was found in the prison of the National Security Agency. How can an individual who is under investigation happen to be

there? What kind of bodily injuries did he have? I wanted to show a particular example on how you cooperate with each other, you hide a man; do not allow access to him.

We talk about torture in an abstract way. But it is our everyday job. I have hundreds of such like Mulajanov. I just brought one example. What is the role of the Prosecutor's Office, of NSA and MIA? I just want to understand it clearly.

Marat Eshperov: I will answer. I want to inform our audience that Mulajanov is a member of the religious extremist party "Hisb-ut-Tahrir," and according to the decision of the Supreme Court, the activities of this party in the territory of our republic is prohibited. Mulajanov is accused of committing murder. He was convicted. I think that in case of questionable evidence, the court would not have sanctioned his arrest. As for the fact that a prosecutor was not allowed in...After the check-up, it became clear that representatives of the human rights organization addressed the Prosecutor's Office in Jalalabat city with the information that in the temporary detention facility Mulajanov was being tortured. Together with these representatives, the deputy prosecutor went there. Since the representatives of the organization "Justice" are not participants in the investigative process, and not his relatives, they were not allowed to meet him. The deputy prosecutor found out that Mulajanov is registered at the Department of Internal Affairs of Jalalabat oblast, and did not enter the temporary detention facility. In other words, the prosecutor decided not to enter. Mulajanov refused to undergo the registration of bodily injuries. I am informing you about the results of our check-up, which was done by the prosecutor's office of Jalalabat oblast.

Gulnura Toralieva: I guess it is time to end the discussion of this question; I give the floor to Ernst Isaev.

Ernst Isaev: I do not have torture in the criminal-procedure system at all. There are crimes in the system, but those crimes are detected without the application of physical violence. If you want to cooperate further, you will see it in practice. Even though there is no violence towards prisoners from the side of my personnel, there is torture among the prisoners. It is the state's problem, because I do not know whether there is another state like ours where only 40% of the facilities function.

It seems to me that the materials produced by this roundtable will have the character of a recommendation. I want to add one note to include: I require as soon as possible 60 million soms to have those sentenced for life separated from others. I mentioned several times in the media that the life sentenced control the whole infrastructure, and they will expand their control. The prison sub-culture may be turned against the state anytime.

Gulnura Toralieva: I thank all participants of the roundtable, who contributed to our discussion for a comprehensive analysis of the situation. I think that this roundtable will be a stimulus to joint efforts in struggling against torture.