

Kyrgyz Violence Trials Must Deliver Justice

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Proceedings to date marred by bias and intimidation.

Kyrgyzstan is now the scene of not one but two separate judicial processes arising from unrest earlier in the year. Both are taking place with an unprecedented degree of openness, yet there are serious concerns that the trials are politically loaded and that justice is not being administered in a fair, unbiased manner.

Since mid-November, the capital Bishkek has been the scene of a highly publicised trial of members of former president Kurmanbek Bakiev's administration, accused of ordering police action that caused the deaths of at least 70 people during anti-government protests in April. The uprising ended with Bakiev being swept from power. (Reporting on casualties at the time included **Kyrgyz Mourn Uprising Victims** and **Riot Deaths Spark Kyrgyz Turmoil.**)

On a separate legal track, 152 criminal cases are in train in southern Kyrgyzstan in connection with the outbreak of ethnic violence in and around Osh and Jalalabad that left more than 400 people dead, according to official figures. (IWPR covered these events extensively, for example in **Renewed Unrest in South Kyrgyzstan** and **South Kyrgyzstan Slides Out of Control.**)

Finally, five individuals have been on trial since September, accused of attacking homes and property in the village of Mayevka in April, shortly after Bakiev was removed from office. Five people died in this attempt to seize land in this settlement close to Bishkek that is home to Meskhetian Turks, Russians and Kyrgyz. A verdict is expected in mid-December. (See **Kyrgyz Leaders Struggle With Land Wars.**)

All these trials are important in that they stem from key events that have shaken Kyrgyzstan to its heart this year. But the location, timing and conduct of the proceedings, and the way they are being covered in the media, create serious concerns that the national leadership is using them for its own ends

On the positive side, the court proceedings have been open and accessible to the public. Trials relating to the unrest in southern Kyrgyzstan are being held in situ in local courtrooms, while Bakiev's associates are being tried in the Palace of Sports, chosen as the biggest venue in the country. An explosion on November 30 last month, however, has led to plans to switch this trial venue. (See **Blast in Kyrgyz Capital Raises Tensions.**)

Such transparency and accessibility has to be welcomed as a sign of how far Kyrgyzstan has come since becoming independent in 1991. This contrasts markedly with the aftermath of the 1990 ethnic conflict in Osh, when proceedings were conducted strictly behind closed doors at the Supreme Court.

So from one perspective, holding open judicial examinations that are clearly in the public interest can be seen as an attempt to abandon stage-managed political trials.

But there are also indications that the reverse might be true – the authorities may wish to create a distraction to channel the popular anger that has built up over months of turbulence, instability, and disappointment that the hopes vested in the post-Bakiev administration have come to nothing.

That impression is made all the stronger by the interruptions and intimidation that have marred trial proceedings. We have seen frequent and aggressive interruptions by relatives of those killed in April and other members of the public, shouted threats at defendants and their lawyers, ethnic slurs directed at non-Kyrgyz defendants, and calls for harsh punishment, even lynching. Neither judges nor the police officers deployed to provide security have acted resolutely enough to curb such behaviour.

Although it is understandable that revisiting such traumatic events will be highly emotive, there is a clear line between public accessibility and active disruption, and it is incumbent on the authorities to ensure order and security at trials.

The attempt to gloss over the ethnic aspect of the June violence is worrying. Right groups like the New York-based Human Rights Watch point out that the majority of defendants are Uzbeks. Meanwhile, most of the police force in the south are Kyrgyz. (IWPR interviewed a Human Rights Watch representative in **Kyrgyz Unrest Trials Show Bias, Discrimination.**)

Human Rights Watch quotes prosecutors as saying in August that of the 243 people in detention, 29 were ethnic Kyrgyz, and more than 200 were Uzbek. In a speech in November, President Roza Otunbaeva said 100 Uzbeks and nine Kyrgyz had been convicted to date in Osh region, and 30 Uzbeks and 22 Kyrgyz in Jalalabad.

Yet government officials continue to assert that there has been no ethnic bias during the investigative and prosecution phases.

"There has been no discrimination against the Uzbek community in judicial proceedings in the south of Kyrgyzstan," Otunbaeva said.

There must be grave concern that due process has not been observed in trials and sentencing. Failure to ensure this could be storing up trouble for the future. Yet the issue is being ignored at political level and is not being reported in the media.

Thousands of people took part in the disturbances of April and June, but only dozens have been brought before the courts. And they are only the alleged direct participants, while those who coordinated and incited acts of violence have got off scot-free.

The flawed conduct of these historic proceedings suggests that the political elite and state institutions of Kyrgyzstan are incapable of delivering justice and holding perpetrators to account.

It may well be that by keeping a lid on the more difficult aspects of these cases, the authorities are trying to avoid resolute action such as imposing law and order in the south, and tackling nationalist sentiment.

At the same time, the conduct of these trials has led to mounting unhappiness among some influential groups associated with the defendants, who served under Bakiev.

In the Bishkek trial, most defendants are former members either of the now dismantled presidential security service or of the elite Alfa force, part of the National Security Service. Certain southern politicians previously associated with the Bakiev administration are also unhappy with the process.

There were always risks to prosecuting representatives of such powerful forces, but doing so in a manner that is not seen to deliver justice will do little more than alienate some in the police services.

All in all, it is hardly surprising that some people in Kyrgyzstan view the process as a series of show-trials devoid of justice.

This presents grave risks – respect for human rights and due process may be devalued, public confidence in the police and courts may decline, and populist politics may be encouraged, leading to further ethnic conflict and mob justice. That, of course, is the worst-case scenario.

Holding these historic trials in the public view is thus inadequate if the intention is to uphold human rights, judicial independence and the fair administration of justice. The rule of law must be paramount, the rights of every citizen must be protected, and courts must be seen to be independent actors capable of delivering fair verdicts.

Unless this is achieved, Kyrgyzstan's new constitution and the parliamentary system it is supposed to generate, and in which the public has such high hopes, will fail to produce major changes for the better.

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