

2022. Notebooks

Update on Events in the Prohibition of Torture Index Countries

Belarus

(prepared by Human Rights Center Viasna, Belarus)

By the early 2022, the sociopolitical situation in Belarus had been shaped by a profound human rights crisis. Started after the August 2020 presidential elections, systematic and blatant repression against supporters of democratic reforms continues.

Key points:

1. The human rights crisis in Belarus has led to an unprecedented number of criminal prosecutions against protesters.
2. The authorities' manifest disregard of the law has resulted in a legal crisis. Torture and ill-treatment of detainees are widespread.
3. Persons arrested on administrative charges are detained in inhuman conditions, without bedding and essentials, in overcrowded cells, where they risk contracting COVID-19 and parasitic diseases.
4. Many detainees get arbitrarily accused of disciplinary offenses and transferred to higher-security prisons, with their sentences extended.
5. Without legal grounds for restricting their publicity of proceedings, many trials are nevertheless closed to the public either officially or effectively (by being held inside prisons or police departments).
6. Lawyers continue to come under attack for practicing their profession, and the already excessive dependence of bar associations on the Ministry of Justice has further increased.

All human rights organizations have been liquidated. A total of more than 700 NGOs have been dissolved or are in the process of dissolution.

7. The end-February 2022 protests against the referendum on changing the Constitution and against the military aggression of the Russian Federation using the Belarusian territory and its military and transport infrastructure, were brutally suppressed by the authorities, and many protesters were tortured.
8. The authorities have not investigated any of the deaths caused by the suppression of protests, torture, and ill-treatment in correctional colonies.¹

Toughening of criminal legislation

In early 2022, an earlier provision was returned to the Criminal Code establishing criminal liability for involvement in the activities of a dissolved political party or non-governmental association, including religious organizations and foundations. The same restriction applies to unregistered organizations and groups. The Law on the Amendment of Codes of 4 January 2022, No. 193-1, aims to ban organizations which are not registered or have been stripped of their registration from public life and thus deny citizens any opportunity to get assistance and support from human rights groups and other civil society actors.

In May, amendments to the Criminal Code came into force which significantly broadened the application of the death penalty by extending it to terrorist crimes with no victims, to preparation of terrorist crimes, and to attempted terrorist crimes. The public is concerned that these provisions could lead to death sentences in cases of victimless offenses and

¹ These include the incidents which occurred in 2020 and 2021, such as the deaths during the 2020 protests and the death of a political prisoner in a correctional colony in 2021.

those based on police provocation or falsification of evidence, which apparently aims generate and maintain an even greater climate of fear in society. (The Law of 13 May 2022, No. 165-Z "On Amending the Criminal Code of the Republic of Belarus.")²

There have been no changes in respect of life imprisonment: "Life imprisonment can be applied as an exceptional measure and an alternative to the death penalty for offenses involving intentional taking of another person's life under aggravating circumstances."

Following the enactment on 5 January 2022 of the legally questionable Law on the Genocide of the Belarusian People, the Criminal Code was amended by article 130-2 (denial of the genocide of the Belarusian people) that can potentially broaden the scope of measures designed to suppress dissent.

Repressive enforcement targeting dissenters

By the early February 2022, a total of 1,832 people had been convicted on criminal charges for expressing disagreement with the authorities, and hundreds had been taken in custody and placed under administrative arrest. As of 15 February 2022, there were more than 1,060 political prisoners in Belarus, and more than 100 people recognized as political prisoners in 2021 had been released. As of 1 June 2022, the country has 1223 political prisoners and growing, with more people facing criminal charges on grounds ranging from insulting an official or Lukashenko to desecration of state symbols to causing damage to property by graffiti to terrorism and high treason.

Systematic and widespread repression is designed to intimidate protesters and dissenters and to prevent civic resistance. Any activity disapproved by the authorities is associated with a high risk of arrest and possibly imprisonment, torture and/or ill-treatment.

Most criminal convictions have been imposed in cases where people exercised their freedom of expression and the right to peaceful assembly.

- More than 700 known convictions for insulting government officials, judges, or Lukashenko; more than 70 known convictions for inciting social discord against police officers and other government agents.
- Some 800 people have been convicted for participation in peaceful gatherings.

As a new practice of Belarusian courts, dozens of people have been convicted for *calls to actions aimed at* undermining the national security, acts of terrorism, creating an extremist organization or participating in one, financing extremism, and others.³ Such charges are often brought against people involved in social media groups, members of NGOs, mass media workers, and against those who call to sanctions against Belarus for human rights violations. Attempting or causing minor damage to property often results in criminal charges for an act of terrorism.

Torture used to falsify criminal cases

Due to the legal crisis, no effective procedural safeguards are available for suspects and accused persons. The use of torture – or threat of torture – to obtain evidence is a widespread practice, at least in politically motivated cases.

Defense lawyers are intimidated and bound by the obligation not to disclose the results of preliminary investigations and closed trials. It is very common to have no information whatsoever about the fate of people in custody, since all such information, e. g. whether the detainee was tortured, their current state of health and what exactly they are charged with, is withheld from the detainee's family and the public by the detainee's lawyer fearing criminal charges for disclosure.

Use of torture during arrest and investigation can be reported by the victim's cellmates, transpire during trial, or receive indirect confirmation in propaganda sources affiliated with the Ministry of Internal Affairs (MIA) or KGB.

² Article 59, Part 1, of the Criminal Code: "As an exceptional measure, the death penalty – execution by a firing squad (until the death penalty is abolished) – may be applied for offenses listed in article 124, part 2; article 126, part 3; article 289, part 3; and article 359, part 2, of the Criminal Code, or for aggravated offenses which involve intentional taking of another person's life, or for other particularly grave offenses. According to article 67, part 2, of the Criminal Code, one cannot be sentenced to death for preparation of a crime or for a criminal attempt, except for crimes listed under article 124, part 2; article 126, part 3; article 289, part 3; and article 359, part 3, of the Criminal Code."

³ The Viasna Human Rights Center has been monitoring these trials, see <https://prisoners.spring96.org/ru/table-convicted>

The cases of torture and ill-treatment reported in 2022 include that of Anastasia Kukhareva arrested for participating in peaceful protests; she was beaten during arrest by male police officers for refusing to give them the password to her phone.

Two men charged for participation in a peaceful protest were brutally beaten during arrest. One of them, Alexey Kufko, reported the abuse to the authorities and asked to bring the perpetrators to justice; a medical examination found at least 42 injuries on Kufko, including traces from blows to the head, dislodged teeth, bruises, and 15 marks in the form of long narrow stripes.

Nikita Storozhenko, a former criminal investigator who resigned in protest against the fraudulent election, was arrested on 1 February 2022. A cellmate who saw Storozhenko in the punishment cell of the Okrestina Detention Center, told Viasna that the former investigator looked badly beaten when he was brought in.

Political prisoner Dmitry Podrez, IT specialist and street artist, was convicted in 2022. Viasna learned from his former cellmate that Podrez was beaten and abused during arrest by officers of the MIA Main Directorate for Combating Organized Crime and Corruption (GUBOP). *The following is a verbatim quote from an administrative detainee whose identity is known to Viasna: "They led me out of the van in the same way as they had brought me in – bent in half, facing down. They kept hitting me on the legs while we were walking. They brought me to GUBOP in Revolutsionnaya St. I was dragged rather than walked down the corridor... They were laughing and commenting that there was another "zmagar"⁴ for them to kill. They were saying something, asking me about something. By and large, it was just noise, no information. Most of their speech consisted of profanities and accusations. They made me face the wall, legs wide apart. One of them kept hitting my feet, so I may not bring my legs together in a natural position. While standing like this, I received several blows from behind on the head and in the kidney area. Someone grabbed my shirt from behind and threw me to the floor. They ordered me to roll over to my stomach. Then they started kicking me all over the body, while I was covering my head as best I could. My hands were handcuffed in front. I took many blows on my hands, thereby protecting the head and temples. Then one of them took a stick and started hitting me all over the body: legs, back, butt, arms. They were all laughing, and the one beating me kept saying, 'Life is pain, life is pain. And what else did you expect?' I was screaming in pain. It made the pain easier to bear. But I did not ask them to stop, I did not ask them for anything at all."*

Detention conditions

People arrested on administrative charges are detained in grossly inhuman conditions, often for prolonged periods (one to four months). Detention center staff deliberately make these conditions unbearable both physically and morally: cells are overcrowded, with the number of detainees often exceeding the design capacity multifold; detainees are not issued any bedding (not even a mattress and a pillow) while some beds are made of narrow metal plates welded together, so that trying to sleep on them causes pain. Detainees are often forced to sleep on the floor, benches, or tables.

Sometimes, detainees are not allowed to walk outside or to shower. Confiscating personal hygiene products, such as toothbrushes and toilet paper, and parcels with food and essentials is a common practice.

Detainees arrested for political reasons are often forced to share the living space with unhygienic and asocial cellmates, such as homeless persons who are not cleaned and decontaminated at admission to the detention center and smell bad, spread parasitic infections, and can be mentally unstable.

Detention centers refuse to maintain a comfortable temperature in cells or provide access to natural ventilation and lighting but keep the lights on instead. Searches are frequent, with officers deliberately scattering detainees' personal belongings all over the floor; roll calls are also common, including at nighttime. There have been reports of staff pouring bleach on cell floor, causing breathing problems in detainees forced to clean it up.

The staff of detention centers say openly that they are doing all these things by order of their superiors. All appeals against blatantly unlawful acts of detention center officers are dismissed by prosecutors and MIA.

Cells were kept overcrowded even at the peak of COVID-19. In 2021, human rights defenders documented at least two deaths of detainees after their release, both from COVID-19 complications.

⁴"Zmagar" means is a fighter in Belarusian, a term used in a pejorative sense by loyalists nicknamed "zastabil" (those in favor of stability) and "yabatka" (after the "YaBatka" presidential propaganda campaign).

The following is a typical story told by a former detainee who was sentenced to 15 days of administrative arrest in January 2022:

There are 19 detainees in a cell designed for two. "It is the so-called 'control cell' where at least 16 people must be held. The day before my release, there were 19 of us there. We slept on the floor, some placed shoes underneath the head, some slept on the bench or on the table, a couple of people slept under the beds, two persons slept with their heads inside bedside lockers, but almost no one slept on the iron beds – we called them 'grills', and they were extremely uncomfortable to sleep on... Our cell was lucky to have toothbrushes left by those who were held there before us; some of us had toothpaste, but most brushed the teeth with charcoal. Soap and toilet paper were not normally available, and we had to ask for them every day. But some guards, thankfully, brought us tar soap twice. Once tar soap was available, most of us hurried to wash with it; I used it to wash my hair. We washed ourselves over the toilet bowl by pouring warm water from a bottle. We had enough bottles, but in some other cells, bottles were not readily available ...

One [female] guard had a sort of a kink for dumping our belongings from bedside lockers all over the floor and shoving the trash can into the toilet bowl. Our cell was always a mess after her visits."⁵

A man was arrested and placed in a cell designed for six but holding 16 detainees. At first, the cell had mattresses, but guards told the detainees to take them out. These detainees were arrested at lunchtime and were not given any food until the next morning. On the first night, all detainees were bitten by bedbugs. The man had been held in this cell for three days pending trial, which then sentenced him to administrative detention.

The man served his detention term at Okrestina. His first cell was designed for four but held 16 detainees.

"The indoor temperature was around 30 degrees Celsius, with condensate flowing down the walls. The windows and the food slot were closed. During the day, we were given just two portions for 16 persons. We were told that the others were supposed to be transferred to Zhodino, therefore no meals were available for them."

There were 32 to 40 people in a cell. One day, guards poured bleach on the cell floor. A few days later, the man was transferred to a cell designed for six but holding 32, and later to a cell for eight holding 40 detainees.

"There was one malicious employee who deliberately knocked over plates, so food dropped to the floor. We were forbidden from making checkers and chess out of bread – they said bread was sacred. Then I was transferred to an eight-bed cell. There were about 40 people there. We slept on the floor, on benches, on the table, on and under the racks, spreading our clothes to lie on them. We addressed each other by first names – it was impossible to remember all the last names. They placed [unsanitary] homeless people in all cells. One day they led us out for a morning inspection and poured a bucket of bleach on the cell floor."

"They fed us cereals most of the time: groats, oatmeal, millet, barley. With these, they gave us patties of minced liver, fish or meat, which were mostly made of bread with a slight trace of meat. Sometimes they gave us fish. There was tea for breakfast, kisel or kompot for lunch. They did not give us anything to drink for dinner. Tap water stunk terribly of chlorine."

"A nurse will dispense the medicines which your relatives bring you, but that is all. Do not expect any other assistance. No masks are issued, and officers wear balaclavas. I fell ill two days before my release, but without a fever. I am not sure whether it was COVID-19."⁶

Arbitrary disciplinary punishments

⁵Documented by Viasna in February 2022.

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Those convicted for protesting are put on a record as prone to extremism and other destructive activity. From that moment on, such inmates face additional burdens and restrictions. They can be subjected to disciplinary penalties either arbitrarily or for minor infractions, often for alleged failure to obey an order. Penalties add up to a poor disciplinary record giving the prison administration formal grounds to toughen the inmate's prison conditions and sometimes to extend their prison term for "malicious disobedience."

In 2022, political prisoners Tikhon Osipov, Nikita Yemelyanov, Ruslan Okostko and Polina Sharendo-Panasiuk were sentenced to additional terms of imprisonment, and Yevgeny Afnagel, Yuri Belko, Alexander Nurdinov, Igor Bukas, Yuri Chudinovich, Yevgeny Kokhanovsky and others were transferred from a penitentiary colony to a prison (thus toughening their detention conditions).

Closed trials

Cases tried in closed court sessions include those of Sophia Sapega arrested after her Ryanair flight was forcibly diverted to Minsk, Marfa Rabkova, volunteer service coordinator of Viasna HRC, Andrei Chepyuk, Viasna volunteer, and eight other political prisoners – activists of the anarchist movement.

On 6 June 2022, a closed trial of BelaPAN News Agency employees started. The defendants are political prisoners Andrei Alexandrov, Irina Zlobina, Dmitry Novozhilov and Irina Levshina. Alexandrov and Zlobina are accused of helping to pay fines and cover the costs of detention and legal fees for at least 260 protesters charged with administrative offenses. In addition, Alexandrov, Novozhilov and Levshina are charged with setting up "an extremist group" of BelaPAN employees.

Closed trials prevent the parties from publicly making their case, challenging the prosecution's position and the legality of the judicial act, and citing procedural documents and written statements. Closed trials also deny political prisoners, as well as other defendants, the possibility to expose publicly the ill-treatment they have suffered in custody and comment on the way certain pieces of evidence have been obtained. It is noteworthy that according to the Criminal Procedure Code, courts must always consider complaints against the use/extension of pre-trial detention in a closed session.

Pressure on defense lawyers

Since the August 2020 presidential election, more than 50 lawyers in Belarus have lost the right to practice their profession for voicing their opinions, attending peaceful assemblies, and defending the victims of politically motivated persecution. Some lawyers were expelled from their bar associations following complaints from law enforcement agencies, courts, and the Ministry of Justice. Some others were failed at exams to renew their qualification by the Ministry of Justice qualification board. A few dozen others abandoned their practice voluntarily due to the unfavorable political climate, pressure on the legal profession, and the overall legal crisis in the country.

The defense lawyers' subordinate position is stipulated in the Law on the Legal Profession and Practice that grants extensive powers to the Ministry of Justice.

Regulation of legal practice

Belarus has a multi-stage system of access to the legal profession.

At the first stage, an applicant must be eligible for legal internship. A candidate is recommended for internship by the board of the local bar association based on internship slots available at the Republic Bar Association, legal advice bureaus, or the Ministry of Justice. The candidate intern must be approved by the Ministry of Justice.

Having completed their internship, a candidate can apply for a bar qualification exam to the Qualification Commission for Legal Practice in the Republic of Belarus, affiliated with the Ministry of Justice. The Commission consists of senior Ministry of Justice officials, judges, law enforcement officers, and prosecutors. A candidate may be granted or denied permission to take the bar exam.

If permission is granted, the candidate takes a written and oral exam before the Qualification Commission. The content, requirements and procedures for the bar exam are determined by the Ministry of Justice rather than the Republic Bar Association. Having passed the qualification exam, a candidate is granted the status of

a lawyer and becomes a member of the local bar association. By law, a lawyer in Belarus can practice only as part of a legal advice bureau.

The absence of a free and independent legal profession in Belarus undermines effective prevention and suppression of torture and ill-treatment.

On 21 April 2022, lawyer Maria Kolesova-Gudilina failed her exam before the Ministry of Justice Qualification Commission, and on 10 May 2022, she reported having lost her license to practice as a lawyer. Kolesova-Gudilina was known for defending political prisoners, such as Eduard Palchys, Yevgeny Yushkevich, and others. On the same day, lawyer Igor Kostyuk was denied a renewal of his license by the Qualification Commission, citing "insufficient qualification." Kostyuk had on many occasions defended political prisoners, such as Pavel Peskov – the first to be convicted for participation in the August 2020 protests.

On 26 January 2022, the Qualification Commission decided that lawyer Alexander Filanovich should not be allowed to practice – once again, due to "insufficient qualification." Filanovich defended political prisoner Sophia Sapega.

Lawyers have been subjected to ill-treatment. One example is lawyer Alexey Nesterenko who was severely beaten during arrest. According to his cellmate,

"As far as I know, Alexey was brutally treated during arrest. They were beaten, and all equipment in their apartment was smashed [by the arresting officers]. He was black and blue all over, with bruises on his legs and lower back, and a black eye."

The reasons for his arrest and charges against the lawyer are unknown. The Qualification Commission stripped Nesterenko of his license on 24 February 2022.

These and other similar cases mean that detainees are denied adequate access to legal assistance.

Dismantling of civil society and human rights groups

Public monitoring commissions (PMC) are non-governmental bodies authorized to visit prisons and other closed institutions. By law, only PMCs and their members are allowed to exercise public control over prison conditions. The PMC system consists of the national-level Republic PMC associated with the Ministry of Justice, regional-level PMCs, and the Minsk city PMC.

The dissolution of more than 700 non-governmental organizations, including all human rights groups, and other repressive measures such as searches and intrusive inspections, had adverse implications for PMCs.

Thus, Oleg Gulak, chairman of the Belarusian Helsinki Committee, was removed from the Republic PMC, and human rights activist Boris Bukhel was expelled from the Mogilev regional PMC. Currently, none of the country's eight PMCs has human rights defenders among its members.

After the recent amendments to the Criminal Code, participation in an unregistered NGO makes one criminally liable. As a result, **many organizations had to change their modes of operation, and a large part of their members left Belarus, fearing criminal prosecution.**

Seven members of Viasna Human Rights Center are in custody; two of them have been sentenced to prison terms. This situation precludes any independent human rights activity, including efforts to counter torture and ill-treatment, and rules out any cooperation between civil society actors and government in monitoring the rights of prisoners and detainees.

Protests against Belarus being drawn into the military conflict between Russia and Ukraine

By the end of February 2022, public discord caused by the constitutional referendum tainted with massive fraud and lacking substantial public support for the government, was further aggravated by opposition to Belarus being drawn into Russia's so-called "special military operation" against Ukraine. The ruling regime in Belarus, in disregard of good-neighborly relations with Ukraine and international treaties, created an advantage for Russian troops by providing a short route to the Ukrainian capital from the Belarusian territory.

On 28 February 2022, anti-war protests were held at railway stations in Minsk and some other cities of Belarus. In total, more than 70 people were arrested on that day. One of them was a young woman who was then held at the Okrestina detention center for 72 hours. She told Viasna HRC about another woman detainee being brutally beaten by a guard and about men and women being held together in an overcrowded cell, with 35 men in a cell designed for five. The women arrested on 27 February 2022 were given food only on March 1st.

"We asked for toilet paper and to open the food slot. In response, we heard: 'You get what you fight for', and profanity. A conflict began between the detainees and the officer. I was able to drag one woman away [from the conflict], because it was clear what kind of man [the officer] was. There was another woman whom [the officer] Vrublevsky led outside of the cell and banged her head against the wall."

Former detainees reported ill-treatment by officers at the detention center in Zhodino: "First, they forced us to stand still for an hour, maybe an hour and a half, before bedtime. The next day they made us hold a semi-squat position, hands behind the head. The next time an officer came into the cell and did not like the way a detainee answered his question, so he led that guy to the shower room. When the guy came back, he said that they'd placed him against a wall and slapped him on the body and face. There were no visible traces or injuries. The next day, they did the same to another detainee. Another time, they led three young guys out of the cell and forced them to do push-ups on the floor, hitting them every now and then. But the three of them could still walk when they came back. It appeared that [the officers] did it to intimidate us. In the evenings, they demanded that we keep quiet. They would come into the cell, chose a victim (usually one of the long-haired young guys), led him to the shower room – without closing the door – and beat him there. Everyone could hear the sounds of beating and many of us trembled."

The end-February 2022 protests were brutally suppressed by the authorities who used cruelty and torture. After the February 27 events, the Ministry of Internal Affairs reported more than 800 arrests, most of them leading to sentences such as administrative detention. The protests on 27 and 28 February 2022 were suppressed with the same degree of cruelty as in August 2020, and detention centers tortured detainees to penalize them for protesting.

Failure to investigate cases of death and torture

The authorities failed to investigate the deaths resulting from the suppression of protests (Gennady Shutov, Alexander Taraikovskiy, Alexander Vikhor, Roman Bondarenko) and that of political prisoner Vitold Ashurok in the penitentiary. No investigations were opened into reports of torture and ill-treatment.

Impunity inevitably leads to new incidents of torture and cruel, inhuman, degrading treatment. As before, courts fail to order investigations of torture complaints made during trials.

The Belarusian authorities deliberately act to deepen the human rights crisis and to suppress any public activity not only to strengthen and maintain their own power but also to create conditions for Russian troops' presence in Belarus and for the use of Belarusian territory as a springboard for military operations.

The situation with human rights, including the prohibition of torture and other forms of ill-treatment, has significantly deteriorated and shows no tendency towards improvement such as any scaling down of repression, let alone any support of initiatives and mechanisms to prevent torture.