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## الجمعية العامة



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الدورة الخامسة والعشرون

البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

### تقرير المقررة الخاصة المعنية ببيع الأطفال واستغلالهم في البغاء وفي المواد الإباحية، نجاة معلا مجيد

إضافة

البعثة إلى قيرغيزستان (15-26 نيسان/أبريل 2013)\*

موجز

تبحث المقررة الخاصة في هذا التقرير مسائل تتعلق ببيع الأطفال واستغلالهم في البغاء وفي المواد الإباحية في قيرغيزستان على ضوء المعايير الدولية لحقوق الإنسان. وتسلط المقررة الخاصة الضوء على المبادرات التشريعية والسياسات والاستراتيجيات الخاصة بحماية الطفل المعتمدة للتصدي لهذه الظواهر فضلاً عن البرامج المتاحة لحماية الأطفال الضحايا والمعرضين للخطر استناداً إلى المعلومات التي حصلت عليها قبل الزيارة وأثناء تلك الزيارة وبعدها. وأخيراً، تقدم المقررة الخاصة توصيات بهدف الإسهام في تعزيز الجهود المبذولة لمكافحة ومنع بيع الأطفال واستغلالهم في البغاء وفي المواد الإباحية ولتحسين حماية الأطفال الضحايا والمعرضين للخطر.

\* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيعمم باللغة التي قدم بها وباللغة الروسية فقط.

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الرجاء إعادة الاستعمال

## Annex

[English and Russian only]

### **Report of the Special Rapporteur on the sale of children, child prostitution and child pornography on her mission to Kyrgyzstan**

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## **I. Introduction**

1. The Special Rapporteur on the sale of children, child prostitution and child pornography, Najat Maalla M'jid, undertook an official visit to Kyrgyzstan from 15 to 26 April 2013, at the invitation of the Government.
2. During the mission, the Special Rapporteur visited Bishkek, Osh, Jalalabad, Karakol and villages in the Ysyk Köl lake region. At the national level, she met with representatives of the ministries of Foreign Affairs; Social Development; Internal Affairs; Justice; Health; Education and Science; Labour, Migration and Youth; Employment; and Culture, Information and Tourism. She also met with representatives of the Supreme Court, the Office of the General Prosecutor, the Office of the Ombudsman and the National Statistical Committee. At the Parliament, she met with the committee on international affairs, the committee on social policy of Parliament, and some individual members. At the district and local levels, she met with representatives of mayor's offices, governor's offices, social, educational and health departments, prosecutors, inspectors of children's affairs, the police, and family and child support departments.
3. During her mission, the Special Rapporteur also visited eight residential institutions for children, both private and public, including child support centres run by the Ministry for Education, rehabilitation centres run by the Ministry of Internal Affairs, a mother and infant home run by the Ministry of Health, a family type home, a centre for street children, and others institutions, including private residences. The Special Rapporteur was particularly grateful to have been able to meet and interact with children and victims in those centres.
4. The Special Rapporteur also met with the United Nations country team and representatives of other international organizations, including the European Union, the Organization for Security and Cooperation in Europe and the World Bank, and other representatives of the international community.
5. The Special Rapporteur expresses her appreciation to the Government for the support it provided in planning and coordinating her visit. She also thanks civil society organizations, the United Nations Children's Fund (UNICEF) and the Office of the United Nations High Commissioner for Human Rights for their valuable assistance and support before, during and after her mission.

## **II. General background**

### **A. Context**

6. Kyrgyzstan gained its independence in 1991 following the dissolution of the Soviet Union, and embarked on a transition to a democratic system of governance. Its population of 5.5 million has a majority of Kyrgyz (72 per cent), while Uzbeks (14.4 per cent) and Russians (6.6 per cent) are the main ethnic and linguistic minorities.
7. Following the collapse of the Soviet Union, Kyrgyzstan endured a severe economic crisis that led to a decrease in the quality and standard of living, and growth in poverty. Furthermore, the outbreak of inter-ethnic violence in June 2010 in the south of the country had a serious impact on the human rights situation in the country. Kyrgyzstan is now one of the poorest countries in the region. Social development indicators, such as infant mortality, chronic child malnutrition and illiteracy, remain below the average for the region, and Kyrgyzstan ranks 125th on the human development index. Children below 14 years of age

are estimated to account for almost 30 per cent of the population, with 43.3 per cent of those children living in poverty and 7.7 per cent in extreme poverty. Child poverty in rural areas is even higher at 46.3 per cent. In the light of the economic situation, one major factor supporting the subsistence of poorer families is the remittances sent by Kyrgyz labour migrants working abroad. It is estimated that between 800,000 and 1.2 million Kyrgyz citizens (some 15 per cent of the country's population) currently work outside Kyrgyzstan, predominately in the Russian Federation and Kazakhstan. Labour migrants are estimated to send home the equivalent of up to 29 per cent of GDP, making Kyrgyzstan the third most remittance-dependent country in the world.

8. Geographically, Kyrgyzstan also faces other challenges. It is located on major narcotics-trafficking routes from Tajikistan and Afghanistan to the Russian Federation and Europe. The United Nations Office on Drugs and Crime (UNODC) noted the importance of Kyrgyzstan for the transit of opiates to the Russian Federation, and the destabilizing effect this had on the country, including fuelling crime and criminal networks.<sup>1</sup> The Special Rapporteur also noted that widespread corruption in the public sector, fostered by low salaries and lack of adequate resources for public servants, remains a key issue.

## **B. International and regional human rights instruments**

9. The Government of Kyrgyzstan has ratified numerous international human rights instruments, many directly relevant to children's rights, including the Convention on the Rights of the Child (accession in 1994) and the Optional Protocols thereto on the involvement of children in armed conflict (2003) and on the sale of children, child prostitution and child pornography (2003). Kyrgyzstan has also ratified the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182) and Minimum Age Convention, 1973 (No. 138).

10. Kyrgyzstan has also ratified the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption of 29 May 1993. In that regard, a decree on the ratification of the Convention was approved by Parliament on 29 June 2012. Kyrgyzstan is also party to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1996), the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2003), and has ratified the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention (2003).

11. Regionally, Kyrgyzstan is also a party to the Agreement on Cooperation in Combating Trafficking in Persons, Human Organs and Tissues (2005) of the Commonwealth of Independent States (CIS), and the CIS Programme of Cooperation in Combating Human Trafficking (2011–2013).

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<sup>1</sup> UNODC, *Opiate flows through Northern Afghanistan and Central Asia: A threat assessment*, May 2012. Available from [http://www.unodc.org/documents/data-and-analysis/Studies/Afghanistan\\_northern\\_route\\_2012\\_web.pdf](http://www.unodc.org/documents/data-and-analysis/Studies/Afghanistan_northern_route_2012_web.pdf).

### **III. Situational analysis**

#### **A. Scope of the sale of children, child prostitution and child pornography**

12. The exact scope of the sale of children, child prostitution and child pornography in Kyrgyzstan is difficult to measure. According to official information and statistics provided by the Prosecutor General's Office, there were few reported cases of child sale and prostitution throughout the country, and no reported cases of child pornography. There were also no reported cases of prosecutions for child sex tourism.

##### **1. Sale of children**

13. Sale of children, in particular for international adoption, has also been an issue of concern. An investigation conducted in 2008 by the Office of the Prosecutor General revealed serious irregularities and corrupt practices in the intercountry adoptive system, noting that, from 2004 to 2008, 235 children had been adopted by international adoptive parents, despite the fact that most of them could have been adopted nationally. Moreover, there were some indications that some children had been intentionally falsely diagnosed as disabled, and court decisions had been rushed through in a matter of days. This situation led to the imposition of a moratorium on the adoptive system in 2009. Furthermore, an investigation ultimately led to 197 criminal prosecutions and the dismissal of many judges and government officials who had been involved in decision-making on the cases investigated. Since the moratorium, efforts have been made by the Government to avoid the situation through the development of new legislation on the issue (see paras. 35–38 below).

##### **2. Child prostitution, sexual abuse and violence**

14. Despite the relative lack of data on the phenomenon of child prostitution, the Special Rapporteur learned, during her mission, of practices warranting serious concern. In particular, the Special Rapporteur was informed of the operation of "saunas", especially in Bishkek. Essentially operating as brothels, the saunas regularly exploit girls as prostitutes. She also learned that minors were exploited as street prostitutes. Street children were particularly at risk of being recruited into prostitution. According to some civil society organizations, as many as 20 per cent of prostitutes working in Bishkek are minors, reportedly both boys and girls.<sup>2</sup>

15. The Special Rapporteur is concerned at the increasing number of cases of child sexual abuse and violence. According to recent official statistics provided by the Ministry of Internal Affairs, the past four years have witnessed an increase in the total number of reported sex crimes committed against minors. Prosecutions under article 133 of the Criminal Code (on sexual abuse against persons known to be under the age of 14 years) rose from eight cases in 2009 to 13 in 2012. Prosecutions pursuant to article 132 of the Criminal Code (on sexual intercourse and other sexual acts with a person under the age of 16 years) also rose from 22 cases in 2009 to 36 cases in 2012. Rape cases increased from 44 cases in 2009 to 82 in 2012. Furthermore, cases of forced marriage with a person under

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<sup>2</sup> ECPAT International, *Global Monitoring status of action against commercial sexual exploitation of children: Kyrgyzstan*, 2nd edition, 2012. Available from [http://resources.ecpat.net/EI/Pdf/A4A\\_II/A4A\\_V2\\_CA\\_KYRGYZSTAN.pdf](http://resources.ecpat.net/EI/Pdf/A4A_II/A4A_V2_CA_KYRGYZSTAN.pdf).

the age of 17, which includes cases of bride kidnapping, rose from seven criminal cases in 2009 to 13 in 2012.

16. In 2011, 278 victims of trafficking – of which no children were identified – were reportedly placed in adaptation centres, with only six criminal cases initiated against traffickers. UNICEF has found that no reliable information on the extent of human trafficking, and particularly on child trafficking, exists in Kyrgyzstan.<sup>3</sup> The Special Rapporteur notes, however, that official data do not necessarily reflect the true scale and scope of the issue in Kyrgyzstan.<sup>4</sup> Such underreporting is also due to the clandestine and underground nature of the phenomena, social taboos and fear of reprisals.

17. Child sex tourism is not yet a dominant industry in Kyrgyzstan; no specific research or data on the crime are currently available. To date, there are no official records of Kyrgyz tourists sexually abusing children in foreign countries. The Special Rapporteur notes, however, that tourism has been identified by the Government as a key area for development and should also be considered an area that requires further attention.

### 3. Child pornography

18. To date, no reports have been received of domestic production of child pornography, although the lack of reports does not necessarily mean that this phenomenon does not exist in the country. As Internet usage continues to expand, the Special Rapporteur notes that combating online child sexual exploitation should become a priority. Recent research indicates that Kyrgyz web users can freely access more than 100 pornographic websites, of which 61 per cent of the sites identified contain images of child abuse.<sup>5</sup> There are currently no deterrence mechanisms in place to prevent access by adults and children to pornographic material with images of exploited children.

## B. Root causes and risk factors

19. The Special Rapporteur observed a number of multidimensional factors that are increasing the vulnerability of children, and in particular girl children, to sale and sexual exploitation.

20. Poverty gravely affects children in Kyrgyzstan, particularly in remote regions. Impoverished families often do not have the resources to care for their children properly, which in turn leads to high rates of school dropout. Although exact estimates of out-of-school children vary greatly according to the source, children living in rural areas and from poor and/or non-Kyrgyz-speaking families are much more likely to be out of school. In addition, street children, children without registration documents, children living with a

<sup>3</sup> UNICEF, *Child Trafficking in Kyrgyzstan*, 2008. Available from [www.un.org/kg/en/publications/article/publications/by-agency/51-United-Nations-Children%E2%80%99s-fund-\(unicef\)/3422-child-trafficking-in-kyrgyzstan](http://www.un.org/kg/en/publications/article/publications/by-agency/51-United-Nations-Children%E2%80%99s-fund-(unicef)/3422-child-trafficking-in-kyrgyzstan).

<sup>4</sup> The lack of statistical data and research on the problem was also highlighted in 2007 by the Committee on the Rights of the Child in its concluding observations on Kyrgyzstan (CRC/C/OPSC/KGZ/CO/1), para. 9.

<sup>5</sup> El-Pikir Centre for the Study of Public Opinion, “Behaviour of children on the Internet and risks of sexual exploitation of children in Kyrgyzstan”, Bishkek, 2011.

disability, children of migrants and children affected by ethnic conflicts are particularly vulnerable to exclusion.<sup>6</sup>

21. The percentage of child labourers in Kyrgyzstan is very high, with more than a quarter of children aged between 5 and 14 years involved in child labour, according to the ILO definition. According to the national definition, child labour rates are even higher, ranging from around one third of children aged between 5 and 11 to more than half of children aged between 12 and 14, and more than 60 per cent of children aged between 15 and 17.

22. In addition, dysfunction in families, such as pervasive alcohol abuse and widespread patterns of domestic violence, contribute significantly to the vulnerability of children.<sup>7</sup> One tragic consequence is when children take to the streets because their home is no longer a safe place.

23. In the context of widespread poverty and the high rates of unemployment, there is a growing trend of migrating parents leaving their children in the care of either their grandparents or relatives for significant periods of time. These guardians are often ill-equipped, economically or emotionally, to tend to the needs of the children left in their care. These children, known as “social orphans”, thus often lose the protection offered by their immediate family and face significant psychological, educational and social challenges, which increase their vulnerability to exploitation.

24. The Special Rapporteur is deeply concerned at the lack of sustainable programmes to strengthen families and parenting, and at the lack of social services for children and families at risk, including children of migrants left behind. Services for families, where available, are often underfunded or insufficient. In particular, there is a lack of trained social workers with adequate skills and resources at the local level to identify and assist families and children in need. Only around 12 per cent of children have any access to preschool services.

25. Another key concern of the Special Rapporteur was the high rate of children in institutions. Risk factors within residential institutions include the lack of official registers and documentation of children, lack of monitoring, and lack of trained personnel to identify adequately potential child victims. These gaps make it potentially easier for the sale of children, particularly in view of the high demand for international adoption.

26. Furthermore, early and forced marriage of girl children is still practiced in Kyrgyz society; bride kidnapping still occurs, despite criminal laws forbidding such practices (see para. 41 below). The rate of pregnancy among girls between 10 and 14 years of age is high, most owing to interfamily sexual abuse and lack of access to sexual education.<sup>8</sup>

27. Similarly, despite a lack of reported cases of child sex tourism, the emerging tourism industry of Kyrgyzstan and the global market for sex tourism, the transnational nature of such crimes coupled with the absence of any meaningful control or regulation place the country at high risk of becoming a destination for potential child sex tourist predators. This is compounded by the almost complete absence of measures to ensure child safety online, and the non-involvement and lack of regulation of private Internet service providers and telecom companies.

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<sup>6</sup> UNICEF and UNESCO, *All children in school by 2015: Global initiative on out-of-school children: Kyrgyzstan country study*, September 2012. Available from [www.uis.unesco.org/Education/Documents/OOSCI%20Reports/kyrgyzstan-oosci-report-2012.pdf](http://www.uis.unesco.org/Education/Documents/OOSCI%20Reports/kyrgyzstan-oosci-report-2012.pdf).

<sup>7</sup> See A/HRC/14/22/Add.2, paras. 25–28.

<sup>8</sup> *Ibid.*, paras. 48–50.

28. Overall, the Special Rapporteur noted that, in the light of these combined emerging risk factors and the highly profitable nature of the commercial sexual exploitation of children, children in Kyrgyzstan are increasingly at risk of becoming victims of sale, prostitution and pornography.

## **C. Domestic legal framework**

29. The Special Rapporteur recognizes the important work that the Government of Kyrgyzstan has, within a relatively short period, undertaken to better integrate international human rights standards into the national legal system, by adopting numerous laws, policy frameworks and plans of action relevant to protecting the rights of children. With reference to the child protection system, many positive changes have been instituted since 2010.

### **1. Constitution**

30. The Constitution of 2010 contains specific provisions on children's rights. Article 16 states that the principle of ensuring the best interests of the child is effective in Kyrgyzstan, and article 36 establishes the family as the foundation of society. While care for children, and the education and appropriate living conditions necessary for their development remain the responsibility of the parent or other person (art. 36, para. 3), the State is required to ensure the maintenance, upbringing and education of child orphans and children deprived of parental care. Furthermore, article 36 stipulates that each child has the right to the standard of living necessary for his or her physical, mental, spiritual, moral and social development. The Constitution also explicitly forbids slavery, human trafficking and child labour (art. 23).

### **2. Children's Code**

31. The Children's Code of 2012 is the most important development in recent years in the protection of children's rights in Kyrgyzstan. The new law, a revision of the Children's Code of 2006, developed with the assistance of UNICEF and with the input of civil society organizations, draws heavily on the standards established by the Convention on the Rights of the Child, and is based on key human rights principles, including the best interest of the child and the protection of children from all forms of violence (art. 4). Article 16 of the Code stipulates that the State must provide for the personal security of the child and protect him or her from physical and (or) psychological, sexual violence, cruel, rude or degrading treatment, involvement into criminal activity and commitment of anti-social and other acts.

32. Importantly, the Code stresses the importance of the prevention of the separation of the child from the family and ensuring the right of the child to a family environment, including to live and be raised in a family (arts. 4 and 7). In this regard, the Code creates strong gatekeeping mechanisms to prevent children from being separated from their families when other options can be found. A decision to place a child in an institution must now be taken by a court and used as a last resort (arts. 21 and 36.3.2).

33. Another key achievement of the revised Code is the inclusion of child protection among the competencies of local self-governance bodies. These bodies are best placed and informed about the situation of children and of families within their jurisdiction.

34. Although the Special Rapporteur welcomes the Children's Code as a ground-breaking step towards the protection of children's rights in Kyrgyzstan, she regrets that some of the definitions in the Code do not comply with international legal standards. In particular, she notes that the use, recruiting or offering of a child for prostitution,



production of pornography or pornographic performances is listed as one of the worst forms of child labour rather than an offence in itself. She also remains concerned that article 60 of the Code provides for the secrecy of adoption.

### **3. Legislation regulating adoption practices**

35. Following an investigation conducted in 2008 by the Office of the Prosecutor General, serious irregularities and corrupt practices in intercountry adoption system led to the announcement of a moratorium in 2009.

36. By September 2011, new intercountry adoption legislation was approved by Parliament and the Government of Kyrgyzstan. Key outcomes of the new law include the condition that intercountry adoption only be considered an option when national adoption is unfeasible, and the establishment of an authorized body to regulate all aspects of such adoption, including accreditation of agencies and the development of a national database of potentially adoptable children. Moreover, software for an electronic database on children left without parent care was completed and presented to the Ministry of Social Development, thereby meeting the principles of the Hague Convention. Unfortunately, as at August 2013, the database was still not operational. At the current time, hard copies of documents are collected and kept at the district level.

37. It should also be noted that chapter 8 of the Children's Code puts in place certain safeguards to regulate adoption. The Code stipulates that intercountry adoption is only allowed in cases where it is not possible to place children with families of Kyrgyz citizens, or by their relatives, and establishes clear regulations for cases where intercountry adoption would be allowed (arts. 44 and 66). Furthermore, the Code strictly prohibits the adoption of children for commercial purposes or for financial gain (art. 47). The Criminal Code (arts. 160-1) further specifies in which cases adoption is illegal.

38. In 2012, the Government approved a commission to accredit adoption agencies. The commission, which comprises representatives from the ministries of Social Development, Education and Science, Health, Internal Affairs, Foreign Affairs, the National Security Committee and two local non-governmental organizations, accredited 10 adoption agencies in 2012, thereby signalling the recommencement of intercountry adoption. However, although a relevant regulation stipulated that the commission had the final say in deciding which agencies would receive accreditation, they were changed at the last moment by the Government, leaving the ultimate decision on accreditation to the Minister of Social Development. Since this fundamental change, the new regulation has undergone repeated official anti-corruption examinations by the Parliament's Anti-Corruption Committee and the Ministry of Justice. By August 2013, a new regulation on the accreditation of foreign organizations working in the area of intercountry adoption had been developed and circulated among ministries for their revision and approval.

### **4. Criminal laws addressing the sale, trafficking, sexual abuse and exploitation of children**

39. Laws on the sale of children, child trafficking, child prostitution and child pornography, and other sexual crimes against children, are largely regulated by the Criminal Code, which was amended most recently in July 2013 to include provisions on child trafficking, rape, violent acts of a sexual nature and involvement in prostitution.

*(a) Sale of children*

40. The Criminal Code considers the sale of persons a form of trafficking, and carries a term of imprisonment of five to eight years. Where the same act involves a juvenile, the sentence increases to eight to 15 years of imprisonment, with property seizure (art. 124).

41. Forced and underage marriage and bride kidnapping are illegal under Kyrgyz law. Article 154 of the Criminal Code states that forced marriage with a person under the age of consent (17 years) is a criminal offence, punishable by a fine of 100 to 500 estimate indicators<sup>9</sup> or by correctional work for up to two years or up to five years of imprisonment. If the victim is under 16, the penalty increases. If a marriage is the result of a kidnapping, a sentence of three to seven years of imprisonment is envisaged.

*(b) Child prostitution*

42. The Criminal Law considers forced prostitution a form of unlawful exploitation that constitutes trafficking punishable by five to eight years of imprisonment. Where the crime is committed against a juvenile, the sentence increases to eight to 15 years of imprisonment, with property seizure (art. 124).

43. The act of forcibly involving someone in prostitution by means of violence or the threat of its use, blackmail, destroying or damaging property or by means of fraud is punishable by a fine equivalent to 500 to 1,000 estimate indicators or by detention for a term of up to three years. The recent amendments now provide for acts involving a young child in prostitution to be punishable by 10 to 15 years of imprisonment (art. 260). One important limitation to the provision is the requirement of forcible involvement, involving violence or a threat of violence, blackmail, destroying or damaging property, or fraud. Cases where prosecutors are unable to prove the forcible nature of involvement are not prosecuted. It was reported that cases under this provision were only prosecuted where child victims or their parents asked for an investigation.

44. Article 157 also stipulates that the involvement of a juvenile in “the commission of anti-social actions, which includes prostitution and sexual acts committed by persons over 18 years old, are subject to a sentence of one to three years of detention or up to three years of imprisonment. The sentence can be extended for up to five years if the acts are committed with the use or threat of physical violence.

45. The Criminal Code further stipulates that the organization or maintenance of premises for the purpose of prostitution is punishable by a fine equivalent to 100 to 300 estimate indicators or by detention for a term from two to five years, with confiscation of property (art. 262).

46. The Government recently considered amending the Administrative Liability Code to make prostitution an administrative offence, punishable by fines of up to 1,500 soms (\$30) and imprisonment of up to 15 days for repeat offences within a year. The law applied regardless of the age of the “offender”, thereby penalizing child victims of prostitution. On 18 February 2013, the proposed amendment was withdrawn; the Special Rapporteur learned, however, that the proposal might in fact be tabled again in future. She emphasizes that children should never be convicted of any offence of prostitution, as they are always victims of sexual exploitation.

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<sup>9</sup> The estimate indicator is based on the minimum statutory monthly pay.

(c) *Child pornography*

47. Article 262 of the Criminal Code provides that production of pornographic materials for the purpose of sale, distribution and advertising is punishable by a fine equivalent to 200 to 300 estimate indicators or by detention of up to two years.

48. The Criminal Code also states that the involvement of a juvenile in acts connected with the production of materials or objects of a pornographic character committed by a person over 18 years is punishable by a term of imprisonment of five to eight years. The same act, if committed with the use or threat of physical violence, carries a maximum sentence of 10 years; and if committed against a minor, 15 years.

49. Article 133 states that the commission of lecherous acts (indecent assault) without violence against a juvenile is punishable by one to three years of imprisonment. The same offence committed against a young child is punishable by five years of imprisonment and a prohibition on holding any pedagogical position for up to three years. The Special Rapporteur noted that, although no definition of lecherous act is provided in the Criminal Code, legal commentary has noted that it may include such acts as sexual intercourse in the presence of a juvenile, showing a juvenile pornographic images or touching a juvenile's genitals.

50. The Special Rapporteur noted that child pornography is not specifically defined in the law, and no offences are envisaged for computer-related use, access to or simple possession of child pornography.

(d) *Child trafficking*

51. Article 124 of the Criminal Code is, as mentioned above, a broad provision that establishes that trafficking, including recruiting, transport, harbouring, reception, transfer, purchase or sale of a person or any another unlawful transaction, whether with or without that person's consent, involving the use of force, blackmail, fraud, deception or kidnapping for the purpose of further exploitation or other interests is punishable by a term of imprisonment of five to eight years, with or without the seizure of property. The sentence may be extended to up to 15 years with property seizure if the acts are committed against a juvenile or minor.

52. In November 2011, the national Law on Preventing and Countering Human Trafficking was amended. This amended law focuses on providing assistance to victims of trafficking. If a victim of human trafficking is a child, child protection services are to be informed immediately (art. 27).

53. The Special Rapporteur also learned that the Parliament of Kyrgyzstan had recently been considering a new proposal that would prevent women under the age of 22 from migrating abroad without parental consent and thereby from potentially becoming victims of abuse and trafficking. Although the proposal was ostensibly tabled to protect vulnerable young women from the risk of abuse, including trafficking, the Special Rapporteur notes that, while it is important to take precautionary measures, any proposal made must be proportionate and reasonable, and not infringe on the human rights of these women.

(e) *Other laws concerning child sexual abuse*

54. The Criminal Code contains many articles (129, 130, 132, 133) related to child sexual violence, abuse and assault. However, the Special Rapporteur highlights that despite the fact that many of these offences exist de jure, a number of procedural loopholes have contributed to the failure to effectively prosecute these crimes. The definition of a young child as a girl child in the Code is problematic, given that boys also may be victims of rape.

The Special Rapporteur also noted with concern that the offender's subjective belief is relevant to age determination; thus, the court only applies the penalty according to the age that the offender believes the victim to have been.

55. To date, a large proportion of the cases of sexual abuse against minors have been reconciled under procedural loopholes owing to pervasive taboos with regard to child sexual exploitation, which has led parents to prefer monetary reconciliation of the case to avoid going to court. To a large degree, the recent amendments to the Criminal Code, which has increased sentences to over five years for a number of key provisions regarding the abuse of children, will ensure that this mechanism is no longer used to avoid the prosecution of perpetrators. Other obstacles to prosecution, however, remain (see paras. 71–76 below).

#### **D. Institutional framework**

56. Kyrgyzstan has a fragmented child protection system that includes several State structures at the central and local levels. Since 2010, the Government has, with the support of UNICEF and civil society organizations, implemented many positive changes to child protection institutions and the policy framework.

57. In April 2011, the Ministry of Social Protection (subsequently renamed the Ministry of Social Development) was designated as the authorized body on all child protection issues. The Ministry in turn created the Department on Development of Social Services for Children and Families (subsequently renamed the Child Protection Department). The Ministry retains responsibility for three psycho-neurological residential institutions for severely disabled children. It also retains responsibility for overseeing intercountry adoption, which was formerly under the purview of the Ministry of Education.

58. Other ministries play an important role in child care. The Ministry of Health is responsible for three infant homes, although it does not have any clear operational protocols for the early detection of child sexual exploitation or abuse. The Ministry of Education manages the largest number of residential institutions (see paras. 81–89 below).

59. The Ministry of Internal Affairs is responsible for the centres for the adaptation and rehabilitation of children. It also oversees all aspects of public security, including policing and juvenile justice. Within the Ministry at the local level, an inspector for the affairs of minors has been designated, while operations officers investigate all cases regarding minors, including cases where crimes are committed either by or against juveniles. The Special Rapporteur noted that a unit in the Ministry is mandated to deal with cybercrimes; she was, however, informed that the unit still has little expertise in detecting child pornography, and does not play a role in the oversight and regulation of the use of the Internet.

60. The Ministry of Justice plays a leading role in the development of legislation, as well as in the protection of children's rights and the provision of guaranteed legal assistance. An important development in this regard is a new law passed in 2011, which guarantees legal assistance in criminal cases involving low-income and juvenile offenders. The Special Rapporteur commended the establishment of a working group that is currently drafting new legislation and revising the Crime Code, Crime Procedural Code and Crime Executive Code in order to bring legislation in compliance with international standards and norms in the area of human rights.

61. The relatively new Ministry of Youth, Labour, Migration and Employment is the body authorized to address issues of human trafficking and child labour, and also deals with

the consequences of external migration. The Ministry is responsible for the implementation of the human trafficking control programme (2013–2016). The goal of the programme is to ensure planned and coordinated operation of government agencies and to strengthen cooperation with international and non-governmental organizations in the field of trafficking. The Special Rapporteur notes that, while this is the third such programme to have been implemented, there has been very little evaluation and follow-up on the previous two. Regarding labour, the Ministry is also aware of the large number of children working in streets and markets, and is responsible for the implementation of the State programme of action to eliminate the worst forms of child labour. Regarding its mandate on youth, the Ministry focuses predominately on job placement for young people; to date, it appears not to have tackled the issue of child exploitation.

62. The Ombudsman reviews complaints and monitors human rights in Kyrgyzstan, including the right to unimpeded access to closed institutions. The Ombudsman may also make direct legislative proposals, accept complaints directly from victims and lodge cases against authorities. The Special Rapporteur notes, however, that there is a low level of awareness of the existence of the office among the broader population. Moreover, owing to a lack of child-sensitive complaint mechanisms, the Office of the Ombudsman has to date received very few complaints from child victims. One encouraging development was the establishment, in November 2012, of a small unit specifically tasked with tackling children's rights issues. At one stage, the post of Ombudsman for children was proposed, but the idea was rejected; the post of Deputy Ombudsman for Children was however established. The Special Rapporteur notes that, in mid-2013, the Office of the Ombudsman was plagued by allegations of corruption, and the Ombudsman was dismissed by Parliament in June 2013. She also notes that it is vital to ensure that the Office of the Ombudsman is not only fully independent of State institutions, but also transparent.

63. The Office of the Prosecutor General, which oversees the prosecution of criminal cases against perpetrators of crimes against children, also plays a very important monitoring role for public institutions by ensuring that they adequately protect children in accordance with their specific mandates. While the Special Rapporteur learned much about this monitoring role, she urges the Prosecutor General to pay equal attention to its role in the criminal prosecution of perpetrators of offences against children.

64. Overall, while the Special Rapporteur is pleased to note the numerous institutions and ministries involved in child rights, she expresses concern at the multiplicity of institutions and policies, which may contribute to an overlap of mandates and, in particular, at the lack of coordination between these institutions at the local and central levels. Of further concern are the frequent structural changes within ministries and the unclear division of responsibilities. The Special Rapporteur notes, however, that the issue of multiplicity of mandates and lack of coordination between ministries has now been somewhat mitigated by the mandate given to the Ministry of Social Development to take the lead in children's issues across the board. Nevertheless, she remains concerned that the limited budget and relatively weak political position of the Ministry, compared with other ministries, may further delay and inhibit the implementation of commitments on child rights and weaken the status of the institutional mechanisms promoting those rights across government. The Special Rapporteur noted that there is a pervasive lack of monitoring of and follow-up on policies and programmes within the ministries. Coupled with an acute shortage of financial and human resources and a high turnover of staff across all ministries concerned with children's rights, the institutional framework regarding child rights remains fragile.

## **E. Policies and programmes to address the sale of children, child prostitution and child pornography**

### **1. Policies on child protection**

65. The Special Rapporteur acknowledges the efforts made by the authorities to address the situation of vulnerable children by establishing new policies for the protection and promotion of their rights.

66. On 13 December 2011, the Government approved the Strategy for the Development of Social Protection (2012–2014) of the people of the Kyrgyz Republic. The new policy involves a number of activities aimed at the social protection of children and families in difficulty, including the prevention of homelessness, institutionalization and neglect, and the rehabilitation of children in conflict with the law. The Special Rapporteur hopes that the strategy will overcome some of the shortcomings of the 2011 Social Protection Strategy, which aimed to provide financial help to children in low-income families, but reportedly failed to reach all families in need and, in particular, was not effective in delivering social assistance to low-income families.

67. Other relevant policies and strategies include the Inter-agency Plan on Child Protection and Social Services (2009–2011), the State programme of action for the elimination of the worst forms of child labour (2008–2011), the National Sustainable Development Strategy (2013–2017), the Strategy for Development of Social Protection 2012–2014 and a national programme on the juvenile justice system reform, which is expected to be approved by the end of 2013. Moreover, individual ministries have their own specific policies, including in the fields of health, education and justice, that have an impact on various aspects of child protection.

68. More recent plans relevant to the issues examined by the Special Rapporteur include the human trafficking control programme (2013–2016) (see para. 61 above) and the inter-agency plan for optimizing the management and financing of residential institutions (2012–2014) (see para. 89 below).

69. The Special Rapporteur notes that emphasis should be placed on the implementation of the above-mentioned initiatives through funding, training and awareness-raising to ensure that they lead to meaningful change on the ground for children. She also noted the lack of effective monitoring of past and current policies and programmes, despite the inclusion of the principle of monitoring and evaluation in most policies. This lack of periodic review of achievements and obstacles on the basis of clear indicators and accountability precludes any meaningful assessment of the impact of policies and their effect on child protection.

70. The overall child protection system is characterized by an acute shortage of financial and human resources. In particular, the high turnover of staff within government agencies, at both the local and national levels, has a severe impact on the State's ability to effectively implement its programmes and policies. Moreover, the lack of resources has hampered the ability of public institutions to protect the rights of Kyrgyz children. Furthermore, the Special Rapporteur noted a lack of follow-up monitoring and evaluation of current programmes and policies.

### **2. Investigation and prosecution**

71. The Special Rapporteur noted that official statistics did not reflect the scale of the issue, given that cases of abuse are not systematically reported, investigated or prosecuted. While a number of cultural factors play a role, such low levels of reporting are also partly

due to the failure of the State to investigate adequately and prosecute cases and to assist victims.

72. With regard to the exploitation of children in saunas, the use of such establishments as de facto brothels and the presence of minors working there are apparently public knowledge. The authorities, however, reportedly turn a blind eye to these facts, given that they allow the saunas to continue to operate and fail to conduct any meaningful inspections to investigate allegations of child sexual exploitation.

73. Moreover, labour inspections, which should be supervised by the Ministry of Labour, do not appear to be carried out on a regular basis and are not focused on child sexual exploitation in places of known concern. The Special Rapporteur was informed by the Ministry itself that when inspections are carried out, the establishments are informed beforehand as a matter of protocol and in order not to disrupt business, a procedure that effectively defeats the purpose of inspections by allowing employers and exploiters to remove any children and conceal any exploitative practices. The Special Rapporteur moreover learned that, since the restructuring of the Ministry of Labour in 2013, labour inspectors are no longer employed or mandated to conduct inspections, thereby leaving a serious gap in the monitoring processes. Furthermore, despite the allegations made by civil society organizations of cases of abuse in residential schools, no labour or even general inspections of institutions are carried out at regular intervals.

74. Even when cases are detected, victims often face the challenge of how to proceed to prosecution. The decision to prosecute may be left to family members or, if the child victim resides in a residential institution, to its director. Families and institutions do not always have the knowledge or capacity to commence legal proceedings, and may also face practical challenges: funding is not readily available for legal representation for child victims and there is no easily accessible pool of experienced lawyers, owing to the poor degree of legal expertise in this field and a lack of publicly funded lawyers. Prosecution also involves the additional hurdle of overcoming social stigma, given that parents and family members are often reluctant to publicize cases revealing sexual abuse.

75. The Special Rapporteur learned that, even when cases of child exploitation are brought to the attention of the authorities, child victims are often not adequately protected during the interrogation and preparation process. In particular, she observed the total absence of a child-sensitive methodology for dealing with cases involving child victims of sexual abuse. Children are interrogated by police officers and give their statements in the same way as adults, in public areas of police stations, with little regard for their privacy or specific needs. Few, if any, opportunities exist for girl victims to give their testimony of their experiences with policewomen or other female professionals in a secure, reassuring setting. There is also a lack of awareness in the judiciary and police forces about the nature of sexual abuse, as shown by the widespread perception that victims are somehow to blame, and the punitive approach often taken to child victims. Court processes involving children do not provide any safeguards, and children are often forced to sit next to the perpetrator in court. Such practices contribute to the re-victimization of the child. In this regard, the Special Rapporteur encourages the current reform on the juvenile justice system as well as the adoption of the National Program for the Development of Justice for Children.

76. Another major challenge is the deep-rooted corruption and impunity among law enforcement officers. The Special Rapporteur learned of reports of serious and endemic corruption of police officers, who allegedly participate themselves in the exploitation of children for sexual purposes. She also heard numerous allegations of police officers exploiting girls for sex, both in saunas and on the street. These officers allegedly abuse the girls sexually and physically, then often steal their earnings as a “fine” for committing the “crime” of sex work. Other practices involve detaining girls in the police station for the alleged crime of prostitution, then releasing them only after the performance of sexual acts.

One particularly abhorrent practice reported was that of police asking prostitutes, including child victims of prostitution, for free sexual services as *subotnik*, a Soviet-era practice of volunteer community service, in exchange for not being arrested for prostitution. This practice allegedly takes place even when officers are aware that the girls are underage. The Special Rapporteur notes, however, that under Kyrgyz law, sex work is currently neither a crime nor an administrative offence;<sup>10</sup> the “fines” threatened by the police for alleged prostitution are thus actually bribes.<sup>11</sup> The threat of or actual detention of girls for alleged prostitution is thus a corrupt practice entrenched in the intrinsic power and impunity of the police and lack of awareness of the law on the part of victims, including children.

### 3. Assistance and care for child victims

77. Specific steps have been taken to improve assistance and care for child victims. To date, one hotline for children has been established by the Bishkek Child Protection Centre with the support of UNICEF. The Special Rapporteur was pleased to note that the hotline is now fully financed by the Office of the Mayor of Bishkek, and hopes that the initiative can be replicated throughout the country.

78. Moreover, as a result of the Children’s Code (see paras. 31–34 above), family and child support departments and commissions for children’s affairs have been established at the district level: the departments are responsible for developing individual plans for children in difficulty. In 2012, 11,000 such plans were reportedly developed. The commissions are composed of legal representatives, including from the Office of the Prosecutor General, the police and education, health and social protection authorities. Non-governmental and other organizations may be seconded to the commissions. Their main function is to approve the individual plans developed by the departments, and monitor their implementation.

79. At the sub-district level (*ayil okmotu*), a single (or several in larger municipalities) leading specialist on social issues is responsible for the identification, assessment and provision of support for families and children in difficulty. The specialist is responsible for several villages and, as stipulated in the Children’s Code, reports to the head of the municipality and the local parliament. The specialist is also required to provide assistance to family and child support and social protection departments at the district level. The lack of sub-district representation, limited staff and the lack of transportation, however, make the implementation of statutory duties difficult for family and child support departments, particularly with regard to vulnerable children in remote areas. Individual case management is often weak. Moreover, the capacity of departments to provide comprehensive and sustainable care, regular follow-up for children and support to families remains insufficient.

80. Overall, while developments in the assistance and services for child victims are significant, it is essential that such assistance and services be made readily available to all children without discrimination, and provide for child-sensitive counselling and reporting mechanisms. The Special Rapporteur therefore urges the Government to scale up the use of hotlines and strengthen referral systems at the local level.

<sup>10</sup> The Government recently considered an amendment to the Administrative Liability Code making prostitution punishable by a fine of up to 1,500 soms (\$30) and imprisonment for up to 15 days for repeat offences within the same year. On 18 February 2013, however, the amendment was withdrawn.

<sup>11</sup> See Sex Workers’ Rights Advocacy Network, *Arrest the Violence: Human rights violations against sex workers in Central and Eastern Europe and Central Asia*, November 2009. Available from [www.opensocietyfoundations.org/sites/default/files/arrest-violence-20091217.pdf](http://www.opensocietyfoundations.org/sites/default/files/arrest-violence-20091217.pdf).



#### 4. Residential institutions

81. During her visit, the Special Rapporteur visited a number of public (managed by the ministries of Education and Science, Health and Social Development, and Internal Affairs) and private residential institutions.<sup>12</sup>

82. The Special Rapporteur noted that care conditions in the residential facilities varied. The most common infrastructural problems encountered were due to the absence or poor conditions of washing and sanitary facilities. Moreover, almost all the residential institutions visited suffered from a lack of resources, which have an impact on their ability to provide children with adequate facilities and the services that they require.

83. Although the Special Rapporteur met with children in institutions who were victims of sexual abuse and exploitation, she regrettably observed a widespread lack of early detection in the institutions, often involving the absence of detection mechanisms and reporting facilities, as well as a lack of training for staff members to recognize abuse indicators. She also noted a lack of readily available psychosocial follow-up mechanisms for child victims actually identified.

84. Although the Special Rapporteur did learn of allegations of abuses against children in institutions, she observed a general lack of oversight and independent monitoring of possible abuse in the facilities themselves. She was also concerned at the insufficient separation of girls' and boys' living quarters in many institutions, and the lack of child-friendly complaint mechanisms. She was also informed of reports that certain institutions sent children out to work during the day to earn money for the institutions, which is a clear violation of children's rights.

85. The Special Rapporteur is pleased to note that the Children's Code now requires a court order for the placement of a child in a residential institution. Proper implementation of this provision will, it is hoped, drastically reduce the number of children in institutions.

86. The Special Rapporteur also observed that patterns of institutionalization of children, entrenched during the Soviet period, are still evident throughout the country. She was informed that the number of children deprived of parental care and children with disabilities in institutions for children rose in Kyrgyzstan between 2005 and 2010.

87. The Special Rapporteur is concerned that residential institutions are funded according to their capacity, which creates a financial incentive to keep them full. Furthermore, given the meagre cash transfers to poverty-targeted families to assist with supporting children and the lack of alternative support mechanisms, families unable to care for their children often take their children to institutions with the aim of securing better education and regular meals for them. Indeed, recent research by UNICEF Kyrgyzstan indicates that 94 per cent of children living in residential institutions in Kyrgyzstan are not orphans of both parents, but have been placed there because their families cannot afford to keep them.<sup>13</sup> Moreover, some residents in institutions are street children who have been rounded up.

88. The number of non-governmental private residential institutions has grown in recent years. The Special Rapporteur observed that no evaluation of these institutions is actually

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<sup>12</sup> The Child Support Centre for Child Victims of Abuse and Violence, the Rehabilitation and Adaptation Centre for Homeless and Street Children, the Oktyabrskoe Residential Institution (Oktyabrskoe village), the Osh Rehabilitation and Adaptation Centre, the Osh Infant Home and Mother and Baby House, the Irada Crisis Centre for Children in Difficulty, the Meerim Bulagy Shelter and the Hachida Shelter.

<sup>13</sup> UNICEF, *Situation assessment of children in the Kyrgyz Republic*, 2011, p. 30. Available from [http://www.unicef.org/kyrgyzstan/Situation\\_analysis\\_ENG.pdf](http://www.unicef.org/kyrgyzstan/Situation_analysis_ENG.pdf).

carried out, despite the provisions of the 2012 Children's Code regarding accreditation of facilities serving children in difficult living conditions. There appears to be no comprehensive list of all institutions currently registered. Furthermore, owing to a lack of disaggregated data and of regular inspections of private institutions, the number of children residing in institutions is unclear. The Special Rapporteur noted a lack of consistency in the categorization of institutions, and therefore the urgent need to ensure that all institutions are properly categorized and registered.

89. In the light of the above-mentioned challenges, in 2011, a study supported by UNICEF was conducted to analyse the situation of residential institutions throughout the country. The analysis subsequently served as a basis for an inter-agency plan on optimizing the management and financing of residential institutions, adopted by the Government on 7 December 2012. In accordance with the plan, the Ministry of Social Development developed a database on all institutions and their accreditation status. Minimum standards of care for all residential institutions, both public and private, were developed and approved by governmental decree No. 691 on 9 October 2012. Although the Special Rapporteur welcomes this development, she notes the need for regular independent monitoring to ensure full compliance, in both public and private institutions. In this regard, she welcomes the law adopted on 12 July 2013 establishing the National Centre for the Prevention of Torture, which allows for visits to all closed institutions, including residential institutions.

## **5. Prevention, capacity-building and awareness-raising**

90. Special Rapporteur was informed of various training and capacity-building initiatives on children's rights offered to stakeholders in both governmental and non-governmental institutions. She did, however, observe an overarching lack of awareness and understanding of the phenomenon of child sexual exploitation. In particular, she noted the need to change the perception of child victims of sexual exploitation, to viewing them as victims rather than adopting a punitive approach to prostitution. She therefore encourages the organization of further training initiatives tailored to address a wide range of children's rights issues, such as sexual tourism, online pornography and cybercrime involving children, thereby meeting the specific needs of professionals dealing with child victims and witnesses, such as teachers, police officers, judges, prosecutors and health and social workers.

91. Specifically with regard to child pornography, the Special Rapporteur observed that all authorities with whom she met had an insufficient awareness of child sexual exploitation online. A complete lack of control over Internet service providers, ready access to information and communications technologies by all users, including children, weak control mechanisms in high-risk areas, such as cyber cafes, and the lack of awareness and expertise on the issue among government officials, including within policing and justice services, all contribute to this phenomenon escaping the scrutiny of the authorities. Furthermore, the Special Rapporteur noted that mechanisms to protect children from pornography have not yet been sufficiently developed in Kyrgyzstan; for example there is currently no legal means to detect and block pornography sites. In this regard, the Special Rapporteur welcomes the establishment of a parliamentary working group to study legislation on Internet regulation, and looks forward to its recommendations.

## **6. Child participation**

92. The Special Rapporteur noted that the active participation of children is not mainstreamed and effective in institutions and in initiatives that concern them, and that few child-led initiatives actually exist. For example, although there is a Deputy Ombudsman for Children, access by children to the Office of the Ombudsman is difficult and could benefit from more local offices and resources.

93. The Special Rapporteur therefore notes the need for greater, systematic participation of children in policies and programmes affecting them. She recalls that child participation entails the right of each child to express his or her views and to have those views taken into consideration in all matters that concern that child's life, with the objective of influencing decision-making and achieving change. Children are not simply victims, or vulnerable to becoming victims; they can and should take part actively in finding solutions, and must therefore be empowered to fight for their own protection and that of their peers.

## **7. Corporate social responsibility and transnational cooperation**

### *(a) Involvement of the private sector*

94. With regard to the Internet, the Special Rapporteur is concerned that private companies, including Internet service providers, mobile phone operators and search engines, have not adopted any codes of conduct or self-regulating mechanisms and do not have the legal obligation to report violations, block access to sites or retain material for a specific period of time for the purposes of investigation and legal proceedings. In a similar way, the tourism and travel industry has not adopted the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

95. The Special Rapporteur is also concerned that the media are not involved in developing awareness-raising programmes regarding the promotion of children's rights and their safety on line. The participation of the private sector through public/private partnerships is lacking.

### *(b) International and regional cooperation*

96. The sale and sexual exploitation of children have become increasingly international phenomena owing to the development of information technologies, trafficking networks, tourism and migration. Kyrgyzstan must therefore enhance its bilateral and multilateral cooperation to address these crimes, particularly with regard to extraterritorial jurisdiction, extradition, the exchange of information among law enforcement authorities, mutual legal assistance and the seizure and confiscation of proceeds relating to cases described in the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

## **IV. Conclusions and recommendations**

### **A. Conclusions**

97. **The Special Rapporteur recognizes the fact that the Government has taken significant steps to introduce new laws, most notably the Children's Code, and other policies to strengthen the protection of children from sale, prostitution and pornography and, of children's rights in general.**

98. **The Government is, however, struggling to ensure a sustained impact on the lives of vulnerable children owing to the unknown extent of the sale of children, child prostitution and child pornography in the country. Existing policies on child rights are weak and are also limited by the lack of resources and a failure to implement adequate monitoring and evaluation systems not only of legislative and institutional policies and programmes but also for institutions working with children.**

99. Kyrgyzstan must continue to work towards the implementation of all the range of instruments and strategies at its disposal to ensure a comprehensive national child protection strategy centred on children's rights, in coordination with the Strategy for the Development of Social Protection and the new national programme on justice for children currently being developed.

## **B. Recommendations**

100. For the Government of Kyrgyzstan to consolidate its achievements, overcome the remaining challenges and ensure the effective protection of all children without discrimination, in compliance with international standards, the Special Rapporteur recommends the actions described below, and stands ready to offer her full cooperation and assistance in their implementation.

101. The Special Rapporteur recommends that the Government of Kyrgyzstan develop a protective and effective legal framework:

(a) To pursue the full harmonization of domestic laws with ratified international instruments;

(b) To ensure child-friendly justice procedures that provide child victims with specific and prompt protection and assistance that prevent further hardship and trauma and take into account the views and special needs and vulnerabilities of children during judicial processes;

(c) To implement a child-sensitive approach to justice by providing child victims with free legal assistance, thereby ensuring the safety and protection of child victims;

(d) To strengthen the investigation and prosecution of crimes committed against children;

(e) To provide those charged with implementing legislation with adequate training and appropriate logistical support;

(f) To carry out awareness-raising initiatives on laws, in particular with a view to break down taboos about child victims of sexual crimes;

(g) To take decisive action to fight corruption and impunity.

102. The Special Rapporteur further recommends that the Government ensure better detection and comprehensive care of child victims or children at risk, by:

(a) Establishing child-sensitive complaint mechanisms that guarantee the protection and safety of children by strengthening access to well publicized hotlines and child-sensitive support centres;

(b) Improving monitoring of places where child sexual exploitation may potentially occur;

(c) Improving child safety online by blocking access to pornographic websites and implementing awareness-raising programmes;

(d) Developing and providing appropriate training to all persons working with children, and standardizing practices by developing protocols and guidelines to ensure that all persons working with child victims operate within a rights-based framework that prioritizes the best interests of the child;

(e) Strengthening the family and child support department at the local level, including by providing a larger and more sustainable budget for the recruitment of social workers, increasing the number of inspectors of children's affairs, and improving the training of teachers in schools. These positions should be accompanied by clear job descriptions, and include ongoing training in areas of key competences. For individuals and agencies working with children at the local level, the Government should make an effort to lighten the bureaucratic workload and focus on more direct and sustainable work with children, families and communities.

103. The Government should furthermore promote strong preventive measures to protect vulnerable children by:

(a) Investing and developing family strengthening programmes for both parents and relatives of children, including by ensuring greater economic support and empowerment, psychosocial support and parenting to families at risk;

(b) Promoting protective social perceptions and norms, through media outreach, and community-based programmes, in particular with regard to early and forced marriage, domestic violence and child labour;

(c) Providing communities with information, thereby helping to break down taboos about child victims of sexual crimes and sexual offences against children in general;

(d) Providing online programmes on sex education, reproductive health and child safety.

104. The Government should also provide alternatives to the institutionalization of children by:

(a) Establishing clear categories and norms for shelters, and ensuring that all residential institutions are properly registered;

(b) Implementing the inter-agency plan on optimizing the management and financing of residential institutions (2012–2014), including by providing an adequate budget and, in particular, ensuring the development and monitoring of minimum standards of care for all residential centres, both public and private;

(c) Ensuring ready access to social services for families and children living in difficult circumstances with the aim of ensuring that children remain in familiar surroundings, preventing further psychological trauma and preserving child-parent relationships;

(d) Favouring family- or community-based environments, including foster families and other caregivers, and incorporating family support and counselling over institutional or residential care;

(e) Registering all institutions, which must be required to provide monthly reports on the children, and detailed information on their care and transfer;

(f) Creating an independent monitoring and supervision system for the above-mentioned centres, assessing the degree of compliance with standards of children's rights.

105. The Special Rapporteur also recommends that the Government develop a reliable and standardized information system by:

(a) Strengthening the national statistics committee and training local actors to collect data on child victims and children at risk;

(b) Establishing a standardized, computerized and centralized information-gathering system capable of disaggregating data by sex, age, type of violation and measures taken, as well as harmonizing data collection and processing methods;

(c) Conducting surveys to ensure better understanding and knowledge of the evolution of risk factors and trends in the sale and sexual exploitation of children.

106. The Government should also promote effective child participation by:

(a) Expanding child-friendly spaces and mechanisms for the exchange of information and for consultations;

(b) Ensuring the systematic participation of child in the design of and follow-up activities to programmes and strategies relating to their rights;

(c) Promoting, with the participation of children, sustainable education and awareness-raising campaigns in schools and communities, including rural and remote communities, by all forms of media, information and communication technologies, including social networking tools.

107. The Special Rapporteur recommends that the Government implement regular monitoring and assessment by:

(a) Strengthening the Office of the Ombudsman at the central and district levels with a view to making it more accessible to children, and facilitating its capacity to conduct independent monitoring;

(b) Establishing child protection indicators to follow up policies and measure their impact on the situation of children's rights;

(c) Developing effective accountability mechanisms through the effective regulation and monitoring of child protection standards at all levels.

108. The Government should in addition promote corporate social responsibility by:

(a) Involving Internet service providers and telecommunication companies in the protection of children against online sexual exploitation, by restricting access to harmful or illegal content by filtering, blocking and monitoring programmes; providing tools that allow parents and caregivers to control the content of users; providing children and their parents with information and user-friendly tools; ending the use of the Internet and new technologies for the grooming of children; reporting offending content to police; and establishing accessible telephone or web-based hotlines;

(b) Encouraging tourism and travel agencies to adopt the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

109. Lastly, the Special Rapporteur recommends that the Government of Kyrgyzstan:

(a) Strengthen transnational cooperation among law enforcement and justice agencies by sharing information relating to the detection of crimes, the identification of child victims and the prosecution of offenders;

(b) Strengthen institutional capacities and implement effective child protection systems through the ongoing technical and logistical assistance of United Nations agencies and the international community.