IHF FOCUS: elections; freedom of the media; torture, ill-treatment and police misconduct; conditions in prisons and detention facilities; right to life (death penalty); rights of the child; rights of persons with mental disabilities; trafficking in human beings.

The year 2005 was a year of "revolution" in Kyrgyzstan. Following the February/March flawed parliamentary elections and public uproar in their wake, Kyrgyzstan had the opportunity to embark on genuinely democratic reforms. Kyrgyz citizens were looking forward to large-scale changes in political, economic, and social life changes that would secure them fundamental human rights and provide protection against abuse. Yet, by the end of the year, not much had changed. The many hopes for quick improvements were left in the shadow of the political demagogy and failures of the "revolution" were revealed. While the June election was a clear improvement to the March one, many hopes for more democratic changes remained to be fulfilled.

The authoritarian rule of President Akaev ended when the president fled the country after angry mobs stormed the presidential building on 24 March, and resigned from his post soon after that. The new government of President Bakiyev, however, appeared to be slow to introduce genuine democratic changes. It failed to enter into dialogue with local civil society on guestions of immediate concern, such as how to improve the situation of the most vulnerable groups, and neglected to take efficient measures against widespread corruption. Bribery or the exploitation of right connections continued to be the only way to secure important positions at all levels of administration, including in universities. The spread of crime and corruption in all sectors of society was also demonstrated in the attempt of Ryspek Akmatbaev, head of a criminal organization, to have Felix Kulov, the prime minister, dismissed for alleged involvement in the death of Akmatbaev's brother. It was the first time in Kyrgyz history that a leader of a criminal organization was interviewed on state-run mass media (TV KOORT), and featured Ryspek Akmatbaev's statment that "people should respect not only the government, but criminals as well." Prior to this occasion, Akmatbaev had only appeared on TV as a wanted person. This sudden transformation gave rise to concerns about the influence of organized crime in the highest political ranks in Kyrgyzstan.

Several members of parliament were killed, including Bayaman Erkinbaev, Tynychbek Akmatbaev, and Tabaldy Saralbaldiev, in disputes over property or power issues. In none of these cases were the perpetrators caught and brought to justice.

Most problems related to human rights remained unchanged and there were even some setbacks. For example, the head of the public prosecutor's office, Mr. Kongantiev, proposed that a "moratorium" be imposed on public meetings because, among other things, such events were believed to hinder the working process of the government.

The new president and government pledged to promote media freedom and some steps were taken to that effect. Despite this, pressure from the political leadership on media outlets increased again toward the end of 2005 and the government appeared to be reluctant to guarantee the full freedom it had promised. A wave of incidents of intimidation against editors and journalists occurred, with perpetrators suspected to have links to organized crime.

Torture and ill-treatment remained serious problems and, despite moratorium, individuals continued to be sentenced to death. Death row prisoners were held in utterly deplorable conditions.

^{*} Based on a report by the Kyrgyz Committee for Human Rights (KCHR, IHF member) to the IHF, with the exception of the section on the rights of persons with disabilities, which was provided by the Mental Disability Advocacy Centre (MDAC, IHF cooperation organization).

Children were one of the vulnerable groups that suffered most: in many rural areas, only about 10% of families sent their children to school, others were needed as a work force at home. Many worked in cotton and tobacco fields or in industry in deplorable conditions. Young offenders faced disproportionate sentences and their right to a due process was seriously violated. Infant and mother mortality rates were on the rise.

Another vulnerable group was made up of those with mental disabilities and mental illnesses. Kyrgyzstan continued to rely largely on institutional care in their treatment. While legal provisions were in place to provide for independent advocacy services for people in psychiatric hospitals, their implementation was only seriously addressed by NGOs and in one hospital setting.

Legal provisions were adopted to fight human trafficking and between August and end of 2005, seven cases against traffickers were under investigation and four of them had been submitted to courts. Nevertheless, trafficking flourished and both law enforcement officials and courts appeared to be reluctant to take rigorous measures against it.

Elections

During the last parliamentary election of President Akaev's era in February and March 2005, numerous irregularities were recorded. They included: abuse of administrative resources to campaign for candidates loyal to the government and the president; interference by local authorities, law enforcement agents and other unauthorized persons in the election process; forgery of ballot papers, ballot stuffing and multiple voting; manipulation of voter lists; obstruction of campaigning of opposition candidates, etc.¹

The July presidential election, however, marked "tangible progress" toward bet-

ter compliance with OSCE commitments and other international standards for democratic elections. While acknowledging this, the OSCE/ODIHR maintained that further progress was necessary. Improvements were documented particularly during the pre-election period and the conduct of voting, although the quality of the election day process deteriorated somewhat during the counting of votes. The OSCE/ODIHR stated that fundamental civil and political rights, such as freedom of expression and freedom of assembly were generally respected throughout the election process, and that the authorities undertook commensurate actions discouraging the use of administrative resources on behalf of the incumbent party.2

Local monitors were, however, less positive about the elections and pointed out a series of irregularities. The Kyrgyz Committee for Human Rights (KCHR) expressed serious doubt about the officially reported final voter turnout of approximately 88%, pointing out that the majority of Kyrgyz migrants both inside and outside of the country were unable to vote due either to legislative barriers or because they did not have the necessary documentation. The KCHR estimated that there were about one million Kyrgyz migrants in the Russian Federation of whom only a few were able to vote. In addition, several observers and opposition candidates reported pressure by local authorities on voters, seriously out-dated voter lists, abuse of administrative resources, ballot stuffing, and multiple voting.3

Freedom of the Media

In the run-up to the February/March parliamentary election, the former government of President Akaev did its best to obstruct independent broadcasting and reporting, and tried to hinder the opposition from carrying out their election campaign. In the week before the first round of voting

on 27 February: authorities cut off electricity to the country's only independent printing house; government officials obstructed sources of independent news; independent and opposition websites experienced technical difficulties; several journalists were injured when police tried to break up the escalating protests; looters attacked TV crews; and officials at Kyrgyz National University in Bishkek prevented students from getting copies of the opposition newspaper MSN. State media was virtually silent on the unrest until its final escalation.⁴

Following the "revolution" and change of government, providing for media independence was one of the priority issues on the new administration's agenda and even included a new state broadcast law that would ensure its independence.5 Media reform commissions were established, and included members from media training organizations such as Internews and the Bishkek-based press freedom group Journalists' Public Association. These commissions started planning reform of the state broadcaster KTR, drafting a new media law that would provide for privatization of some state media outlets. There was criticism, however, that reforms in the media field did not move swiftly enough.6

- ◆ Authorities imposed media restrictions in May during a diplomatic crisis with Uzbekistan, when several hundred antigovernment protesters fled the country in the wake of the Adijan incident⁷ to escape persecution by Uzbek security forces. Among other things, journalists were prevented from interviewing refugees.⁸
- ◆ KOORT public educational radio and television went off the air in late October after its staff had gone on strike to protest pressure from managers to praise the Bakiyev government.⁹

Towards the end of year, there was a wave of threats and intimidation, including raids on media premises by criminal

groups and attacks on editorial offices. The perpetrators remained unidentified. While the former president's close circles were still in control of many media outlets, President Bakiyev was attempting to extend his influence by making the state a majority shareholder in broadcast groups. The state continued to hold a majority of shares in most press groups and appeared unprepared to make any concessions. ¹⁰

◆ The privately-owned and leading independent TV channel "Pyramid TV" was bought in December by a mysterious company called "Invest-Media." The station was thus passed from Aidar Akayev, the son of the former president, and his company "Areopag" to an unknown company, whose one proprietor had the same name as a relative of the former president's wife. Two days later, a gang of about 20 people raided the station's offices, cut off the electricity, blocking entrances to the building and destroying doors and windows."

Torture, Ill-Treatment and Police Misconduct¹²

Kyrgyzstan is party to the UN Convention against Torture and the International Convention on Civil and Political Rights, both of which prohibit torture. In 2003, a provision was added to the Kyrgyz criminal code to ban torture (article 305-1).

The adoption of article 305-1 did not change bad practices though. The KCHR has documented cases of torture, ill-treatment and other illegal methods by the militia since 1996, with the number increasing each year. The methods used include the employment electric shock and beating with plastic bottles filled with water so as not to leave marks of torture.

 On 8 June, members of the Kara Daria, Jalalabat and Suzak Departments of Internal Affairs (DIA) arrested U. Kasymbekov in the village of Donbulak (Ozgon region). He and his friend, Shaiiev Muhtar, were taken to the Karadaria militia station where Kasymbekov was beaten up, interrogated and pressured to confess to having stolen horses. He was then unlawfully taken to the Pahta Abad region in the territory of Uzbekistan where he was interrogated and held in a room with about 20 unidentified individuals who asked Kasymbekov to confess to stealing the horses in Kara Dariya under the threat that Uzbek officials would otherwise imprison them as terrorists. After that Kasymbekov was taken back to Kyrgyzstan for court proceedings without having access to a lawyer. Giving in to the torture, he finally "confessed" and received a prison sentence. He suffered serious injuries and psychological damage.

 In a similar case, Myktybek Alybaev died of his injuries immediately after his release from police custody in the Sokuluk region on 27 July, after having been pressured to confess a horse theft. As his sister and brother-in-law visited him at the police station, Alymaev begged them to bribe the police officers to release him and claimed that they had beaten him up. Alybaev was released after the bribe was paid. On the day after his release he collapsed and was taken to hospital where the doctors declared him dead and established a liver damage. No investigation into his death was carried out, despite evidence that he had been seriously beaten at the hands of the police.

On 26 August 2005, Deputy Interior Minister Shekoz Mirzakarimov stated at a press conference that by that date in 2005, 43 militia officers had been charged with abuse, and their number in the past two years had been over 100. Despite this, none of them were charged for "torture" under article 305-1 but for "abuse of professional position," for which lenient punishments were given. Prosecutors were also reluctant to bring charges for police abuse in general, as a result of which most

cases were only investigated by police themselves, not by an independent body.

The wide-spread impunity for police abuse resulted in general mistrust and fear toward law enforcement officials, and only few people filing complaints about torture, ill-treatment or other police misconduct: most peopled feared reprisals or had no trust that courts would deal adequately with such cases.

Conditions in Prisons and Detention Facilities

Conditions in Kyrgyz prisons and colonies were generally so poor that they were not suitable for holding individuals. The inhuman conditions led to revolts in colonies, to mass disorders, and bloodshed.

In prison colonies, most prisoners suffered from tuberculosis, whose spread was accelerated by extremely bad sanitary conditions. Prisoners' meals were insufficient and did not secure the necessary nutrition.

On 10 August, special troops carried out an operation in the investigation prison no. 3 in the city of Karakol, apparently to put an end to organized exchange and transfer of food products, cell phones, clothes, alcohol, and drugs among prisoners. Some 20 convicts and ten pre-trial detainees fell victim to massive violence by the troops. The disciplinary operation and orchestrated violence that was planned by the prison leadership lasted for five hours. During this violent and chaotic intervention, the inmates were stripped of their personal belongings, forced to take off their clothes, and were beaten and kicked. The victims suffered serious iniuries such as broken bones and head traumas, and some tried to cut their veins. One prisoner was hospitalized.

Right to Life

Death Penalty

A moratorium on executions was first introduced in 1998 and has subsequently been extended several times, most recently in January 2006. Death sentences continued to be pronounced but were not implemented. As of July 2005, 127 people remained on death row, and were reportedly held in utterly deplorable conditions.

In March 2004, the then president, Akaev signed into law amendments to articles of the criminal code, which served to commute the sentence on a number of crimes. As a result, in 2005, the death penalty could only be handed down for murder, rape of a minor and genocide. The Kyrgyz ombudsman recommended that further steps be taken to commute death penalties into life sentences.

Prisoners on death row were held in investigation isolation facilities in the same conditions as other prisoners. Although the law prescribed that they be held in single cells, in practice they were accommodated in group cells due to overcrowding.

Rights of the Child

The Kyrgyz Republic ratified the International Convention on the Rights of the Child in 1994 and acceded in 2003 to its optional protocol on the Involvement of Children in Armed Conflict, as well as to the optional protocols on the Sale of Children, Child Prostitution and Child Pornography. Under Kyrgyz legislation, international instruments ratified by the Kyrgyzstan become integral parts of Kyrgyz legislation and should be observed in a similar manner as other laws - this has, however, not been the general practice.

A UN regional advisory meeting for the countries of Europe and Central Asia on violence on children that took place in Ljubljana, Slovenia, on 5-6 July, concluded that Kyrgyzstan had ignored infringements on the rights of the child including domestic violence, as well as violence in orphanages and schools.

Among the main problems children faced in Kyrgyzstan were the lack of educa-

tional opportunities, the failure of a significant number of children to attend school for various reasons (particularly in order to contribute to family subsistence), inappropriate treatment of young offenders and suspects, the high level of child mortality, and poor medical care for children.

Access to Education

Children were frequently deprived of educational opportunities due to the lack of schools. Many schools have been destroyed in the past few years as a result of fires (usually due to poor security measures), and many of the schools that existed in 2005 were in deplorable condition and were thus unsuitable for providing regular and professional instruction. Former prime minister, N. Tanaev, had noted already at a 2004 session of the Legislative Assembly (Jogorku Kenesh) that 210 schools would need to be rebuilt in order to meet the country's basic educational needs. This task was not, however, accomplished.¹³

◆ In summer 205, school no. 40 "T. Satylganov" burned down in the village of Kyzyltuu (Nooken area, Jalalabad region). ¹⁴ The school was designed for 120 pupils, but was in reality attended by 350 children because there were no other schools in the nearby area — a situation that was similar in almost a third of country schools. In 2003, two schools burned down in the villages of Ojtal and Kanlorgon (Karakuldja area, the Osh region) but they were not rebuilt by the end of 2005 and hundreds of pupils in the Osh area began the school year 2005/6 in tents.

Moreover, schools were generally poorly equipped, did not have textbooks and suffered from a serious lack of teachers. At the beginning of the academic year 2005-2006, 3,500 teachers vacancies remained to be filled. One of the main reasons for the lack of teachers was the fact that one generation of teachers was retiring while the younger generation of teachers

hesitated to take up jobs outside of the capital and other main centers because of low salaries and living conditions in rural areas. The government-supported project to send 300 teachers to rural areas in 2005 did not go as planned, despite additional remuneration offered to young teachers.

In addition, financially vulnerable families (especially in rural areas) could not afford to send their children to school either because they needed workforce at home or could not pay the fees required by many schools to be able to provide instruction - despite the fact that primary and secondary education was officially free of charge. As a result, media sources estimated that in rural areas only 10% of families sent their children to school.¹⁵

Young Offenders

Another area of concern was the subjecting of young offenders to punishments that are incompatible with both national and international legal standards for child protection. The Kyrgyz law "On the Protection of Minors" prohibits the use of physical or psychological pressure during interrogation and for the purpose of giving testimonies in courts. Moreover, by law, interrogation of a child is not allowed to last more than two hours without a break and no longer than four hours per day in especially complicated cases. A legal representative or a lawyer must be present at each interrogation of a minor. However, Kyrgyz legislation fails to provide for clear sanctions for violations of these legal provisions, which has resulted in abusive practices by the police officers, that include routinely failing to inform parents about the arrest of their children, interrogating children in the absence of their parents or a lawyer and exerting unacceptable and undue pressure on them.

Numerous cases of police abuse of minors were reported, and ranged from reports of psychological pressure to the brutal beating of children with the aim of extracting "confessions," on the basis of which a criminal case could be opened. This unacceptable method was used by police officers to improve their crime detection rates without fear of being disciplined and brought to justice. Most such cases never reached a court of law and in those that did, the punishments given were merely symbolic.

The treatment of imprisoned juvenile delinquents was also a cause of serious concern. The conditions in facilities holding young offenders were characterized by the shortage of food. Colonies for minors were allocated only 50% of the average per capita funds of other penitentiaries, which amounted to 8 soms (about EUR 0.16) in many penitentiaries. This meant that young inmates as a rule did not have meat, milk, vegetables or fruits in their diets. leading to malnutrition. Malnutrition. the lack of right medication, intolerable sanitary conditions, the shortage of warm clothes and footwear, and general overcrowding all contributed to a degradation of the inmates' health causing anemia and skin diseases and facilitating the spread of infectious diseases such as tuberculosis. What is more, an overcrowding in sick wards meant that inmates with infectious diseases were held in normal wards together with other inmates. The separation of girls serving prison sentences from adult women prison population was not respected and young girls were not offered education as Kyrgyzstan did not have a separate facility for young female offenders.

The worst problem, however, was the completely disproportional sentences handed down to juveniles: for example, in many cases children were imprisoned for the theft of a loaf of bread or a bottle of yodka. or similar "crimes."

 On 1 September, a peaceful protest broke out in a colony for minors in the village of Voznesenovka. Fifty young inmates climbed to the roofs, protesting the inhuman conditions in the colony. According to the assistant Kyrgyz Ombudsman, Sadyk-Sher-Niyaz, the protest was suppressed with force by a Justice Ministry special group. Nine minors, identified as the instigators of the protest, were transferred to the investigatory facility no. 1 in Bishkek and no. 50 in the village of Alga and held together with adult women prisoners. Neither the parents of the children nor their lawyers were informed about the transfer. Soon after that, one of the minors fled the investigatory insulator no. 50, and members of the special troops beat other three minors as intimidation. The minors reacted by sewing up their mouths and inflicting injuries on their bodies. The beating of the children also triggered protests by the adult inmates. Kyrgyz Ombudsman Tursunbaj Bakir uulu expressed concern that such incidents had already happened before and pointed out that these kinds of protests were staged mainly because Kyrgyz authorities had failed to bring to justice abusive authorities and to improve prison conditions.16

Infant Mortality and Medical Care of Children

The statistics published by the Ministry of Health in September 2005 indicated that the infant death rate has increased dramatically in 2004 and no improvement took place in the course of 2005. In some regions, the infant death rate was over 25%. Boy infants died almost twice as often as girls.

More than half of all women who died at childbirth were those who gave birth in rural hospitals. The low standard of living and the poor conditions in hospitals and maternity clinics were the main reasons for the increasing maternal death rates, but some deaths were a result of negligence on the part of medical personnel. International donor organizations

have taken over the responsibility for providing first aid to the Bishkek maternity hospital no. 1.¹⁷

Concern has been expressed that the catastrophic situation with growing death rates of newborns can even lead to a demographic crisis in Kyrgyzstan. In addition, the bodies of the dead babies were found in garbage containers, manholes, and similar places, and children have increasingly fallen victim to trafficking, in some cases by their own parents.

Child Labor

In 2005, about 200,000 children of school age did not attend school. It was estimated that 700 to 5,500 children were living in the streets of Bishkek, most of them having arrived to the capital from rural areas, initially to support themselves and their families. Most of them found odd jobs at city markets, but many ended up as beggars or working with organized crime, which offered more money for less heavy work. The police took them for regular "preventive conversations," which had little effect and usually saw the children returning to the streets.

The reasons for children leaving their homes were manifold: in some cases their parents simply turned them out to the street, in others they escaped alcoholism and violence in the family. The system of child labor was supported by the fact that child labor was cheaper than legal adult labor and employers found children easier to deal with.

Child labor was used also in cotton and tobacco fields and in the processing of cotton and tobacco, factories, and collieries. Children's working conditions were usually totally unacceptable, causing them both physical and mental damage. The consequences were underestimated by employers and parents alike. The poorest of all families were dependant on the work of all family members in the absence of a state-subsidized social network.

Rights of Persons with Mental Disabilities¹⁸

Kyrgyzstan continued to rely largely on institutional care for people with mental disabilities. Lack of community-based services combined with high levels of institutionalization resulted in an inadequate standard of living for people with mental disabilities, and frequent violations of basic human rights. Common examples of mistreatment in Kyrgyz institutional settings included lack of food, inadequate facilities, abusive physical restraint methods, rude treatment by staff, involuntary detention and lack of information about diagnosis and treatment.¹⁹

Despite the 1999 Law on Psychiatric Care, which requires the state to establish independent advocacy services for people in psychiatric hospitals,20 implementation of advocacy services has only been addressed seriously by NGOs and in one hospital setting. Since November 2004, the Kyrgyz NGO Mental Health and Society (MHS) has been operating an independent advocacy service for patients in the Republican Mental Health Center, a large psychiatric hospital in Bishkek, MHS is the first independent advocacy service in a psychiatric hospital in Central Asia that handles patient grievances, documents rights abuses and provides legal representation, and has contributed to the respect of the rights of people detained in this hospital.

On 16 February 2005, the Kyrgyz Ombudsman signed a memorandum with MHS, which emphasizes the importance of the human rights protection of people in Kyrgyz psychiatric institutions and encourages the government to improve implementation of the 1999 Kyrgyz Law on Psychiatric Care. Since the adoption of this law, however, there has been a visible lack of political will for the government to support the creation of the required advocacy service.

On 27 April, an agreement was signed between MHS and the Minister of Health, which declares that the ministry has responsibility to carry out the functions of the advocacy service according to article 38 of the 1999 Kyrgyz Law on Psychiatric Care. However, the minister did not issue an order for reinforcement of the agreement and the general director of the Republican Mental Health Center did not sign a contract allowing the advocacy center to continue using the space but instead filed a lawsuit to have the rooms cleared.

The Interdistrict Court passed a judgment on 8 November 2005, obliging the government to implement article 38 of the 1999 law. After the formation of a new government on 18 November, the new minister of health, Shaylobek Niyazov, visited the advocacy center and supported MHS's request to continue their work in the hospital. However, negotiations with the hospital's general director regarding an appropriate contract for cooperation were still ongoing in January 2006.

Trafficking in Human Beings

In August 2005, important amendments were made to the criminal code and the code of administrative responsibility, providing strict punishments for human trafficking. At the same time, a special department was established in the Ministry of Internal Affairs to fight human trafficking. Between August and the end of 2005, seven cases against traffickers were under investigation and four of them had been submitted to courts, but no rulings were pronounced by the end of the year.

Kyrgyzstan was, for the most part, a country from which trafficking victims were sourced. Most victims of trafficking were young women with a very low level of knowledge both about the existing dangers and their own rights under law. The National Statistics Commission criticized the border guards for easily allowing Kyrgyz citizens to cross the border with counterfeit passports. The commission stated that in late 2005 an estimated 100

or more Kyrgyz citizens were held in camps for illegal migrants in Shardzha and Dubai (in the United Arab Emirates).

Kyrgyz courts frequently failed to take cases of trafficking seriously. In some cases courts failed to convict traffickers despite overwhelming evidence - often a result of bribes paid by the defendants.

Moreover, Kyrgyz law did not provide due protection to victims of trafficking and in most cases they ended up being treated as criminals due to traveling with forged passports for example. As a result, victims of trafficking feared that after escaping from their "owners" they would end up being prosecuted under the criminal code.

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- ¹⁹ Information provided by Kyrgyz NGO "Mental Health and Society" in the progress report "Provision of an independent advocacy service at the Republican Mental Health Centre (RMHC), Bishkek, Kyrgyzstan" (for the period November 1, 2004 – October 30, 2005).
- ²⁰ Section 38 of this law requires the state to establish an independent advocacy service for people in psychiatric hospitals.