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## مجلس حقوق الإنسان

الدورة الرابعة عشرة

البند ٣ من جدول الأعمال

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

### تقرير المقررة الخاصة المعنية بالعنف ضد المرأة وأسبابه وعواقبه، رشيدة مانجو\*

إضافة

### البعثة إلى قيرغيزستان\*\*

موجز

يتضمن هذا التقرير استنتاجات المقررة الخاصة المعنية بالعنف ضد المرأة وأسبابه وعواقبه بعد زيارة رسمية قامت بها إلى قيرغيزستان في تشرين الثاني/نوفمبر ٢٠٠٩. ويفحص التقرير أثر وتحديات الانتقال في قيرغيزستان على النساء والبنات ويشمل مناقشة لأشكال العنف الأكثر شيوعاً التي تواجهها المرأة والعوامل التي تزيد من سوء تعرضها للعنف. ويرد أيضاً تقييم وضعته الأطراف الفاعلة الحكومية وغير الحكومية للتعامل مع العنف ضد المرأة.

\* تأخر تقديم هذه الوثيقة.

\*\* يجري تعميم هذا الموجز بجميع اللغات الرسمية، أما التقرير المرفق بهذا الموجز فيجري تعميمه باللغة التي قدم بها وباللغة الروسية فقط.

وقد تمخضت عملية الانتقال إلى الديمقراطية والاقتصاد السوقي عن أثر هائل على شعب قيرغيزستان عموماً والمرأة خصوصاً. ويتضح الأثر غير المتناسب على المرأة من ارتفاع مستويات الفقر بين النساء وتزايد شيوع معدلات العنف ضد المرأة والمظاهر الجديدة لهذا العنف، واتساع الفجوة بين الريف والحضر وارتفاع البطالة وعودة سيطرة السلطة الأبوية والتقاليد وتدهور فرص وصول المرأة إلى الخدمات العامة، بما فيها خدمات الرعاية الاجتماعية والصحية.

وقد اضطلعت حكومة قيرغيزستان بمبادرات هامة أدت إلى بعض الإنجازات الكبيرة لرفع مكانة المرأة. فقد تم في جملة أمور سن تشريعات تعلن مبادئ المساواة بين الجنسين وبرنامج عمل لتحقيق التكافؤ بين الجنسين. وكان تطبيق تدابير خاصة مؤقتة في التشريعات الانتخابية، التي استهدفت وصول النساء إلى ٣٠ في المائة من مقاعد البرلمان، قد أدت إلى زيادة النائبات في البرلمان الوطني من صفر إلى ٢٦,٦ في المائة منذ عام ٢٠٠٥. وبالإضافة إلى ذلك تُولف النساء والبنات اليوم أغلبية الطلبة في مستويات التعليم في المدارس العليا والجامعة.

ويعين هذا التقرير عدداً من التحديات التي تقلص أثر هذه النجاحات على رفع الوضع العام وظروف المعيشة اليومية لمعظم النساء في قيرغيزستان.

## Annex

### **Report of the Special Rapporteur on violence against women, its causes and consequences on her mission to Kyrgyzstan (9–16 November 2009)**

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## I. Introduction

1. From 9 to 16 November 2009, the Special Rapporteur on violence against women, its causes and consequences, carried out an official visit to Kyrgyzstan at the invitation of the Government. During the course of this mission, consultations were held in Bishkek with the Ministries of Labour, Employment and Migration; Education; Health; and Foreign Affairs, as well as the National Agency on Local Self-governance, the Parliamentary Committee on Social Policy, the National Statistical Committee, the Deputy Chairperson of the Supreme Court, the General Prosecutor's Office, the State Commission on Religious Affairs and the Office of the Ombudsman. While in Osh, the Special Rapporteur met with the Deputy Governor of the province, the Vice-Mayor of the city and a member of Parliament. She also met with representatives of civil society organizations, including women's groups, United Nations agencies and the Organization for Security and Co-operation in Europe. The Special Rapporteur had the opportunity to speak with the staff and women survivors of violence at a women's shelter in Bishkek and children and the staff of a child rehabilitation centre for street children in Osh, and to visit the Stepnoe women's prison and Pretrial Detention Facility No. 5 in Osh.

2. This report examines the impact and challenges of transition on women and girls in Kyrgyzstan, followed by a discussion of the most prevalent forms of violence encountered by women and the factors aggravating their vulnerability to violence. An assessment of the response to violence against women by governmental and non-governmental actors will also be provided, together with conclusions and recommendations.

3. The Special Rapporteur would like to thank the Government of Kyrgyzstan, the Regional Office of the Office of the High Commissioner for Human Rights (OHCHR), as well as the United Nations country team in Kyrgyzstan for facilitating the mission. She is especially grateful to the women who shared their experiences with her.

4. The Special Rapporteur looks forward to a fruitful and continued dialogue with the Government and other stakeholders on the implementation of the recommendations.

## II. The challenges of transition

5. Kyrgyzstan gained its independence in 1991 upon the dissolution of the Soviet Union, and embarked on a transition from a command economy to a market economy and democratic system of governance. During this transition the country experienced severe economic difficulties as a result of the loss of Soviet subsidies, depletion of assets and the loss of vast export markets under the Soviet trading bloc. By 1999, poverty had reached a critical level of 55 per cent of the population.<sup>1</sup> The recovery of the economy from the late 1990s, allowed the country to make considerable progress towards achieving macroeconomic stability, with an average growth of gross domestic product (GDP) of around 5.5 per cent a year since 2003, thereby contributing to a decline in poverty rates.<sup>2</sup>

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<sup>1</sup> Nina Bagdasarova et al., National Human Development Report 2005: The influence of civil society on the human development process in Kyrgyzstan (United Nations Development Programme (UNDP), 2005), p. 16.

<sup>2</sup> World Bank, Kyrgyz Republic: Country Brief (December 2009). Available from <http://go.worldbank.org/DH8AS06NL0>.

6. Despite these developments in poverty reduction, Kyrgyzstan continues to figure among the poorest countries in the world, with an estimated 35 per cent of the population living below the poverty line.<sup>3</sup>

7. The country lags behind in a number of social indicators. With a human development index (HDI) of 0.689, Kyrgyzstan was ranked eighty-second in 1992. Over the last few years, this figure has dropped to its current rank of 120th, indicating a consistent downward trend, and pointing to regional and urban/rural disparities and growing inequalities between men and women.<sup>4</sup>

8. Rising inflation in 2007 and 2008, together with global price increases and the economic crisis, have affected the country significantly, including through a decline in trade and remittances.<sup>5</sup> The latter represented 27 per cent of the total GDP in 2007 and continue to contribute significantly to alleviating poverty in the country.<sup>6</sup>

## A. The changing status of women

9. The Government of Kyrgyzstan has undertaken some important initiatives to raise the status of women. Most notably, legislation setting out the principles of gender equality and an agenda for achieving gender parity were passed. The introduction in 2006 of temporary special measures in electoral legislation, which set a target of 30 per cent for women deputies in Parliament, has resulted in an increase of women deputies in the *Jogorku Kenesh* (National Parliament) from 0 to 26.6 per cent since 2005.<sup>7</sup> Women constitute 35 per cent of legislators, senior officials and managers.<sup>8</sup> Furthermore, 8.6 per cent more girls than boys attend school past the ninth grade, and more women than men are now attending university.<sup>9</sup>

10. A number of challenges, however, are undermining the impact of these successes in raising the overall status and day-to-day living conditions for the majority of women in Kyrgyzstan. While some young women have better prospects today, a large percentage of Kyrgyz women continue to be significantly disadvantaged.

## B. Livelihoods and the growing feminization of poverty

11. Both the transition to a market economy and the current poverty ratios in Kyrgyzstan have had a distinct impact on women. Women were granted a number of social guarantees and services during the Soviet era which provided a social safety net, protecting many from the worst effects of poverty. However, the new market economy and social policies reveal in practice a trend towards a deepening feminization of poverty and gender inequality.

<sup>3</sup> Ibid.

<sup>4</sup> UNDP, Human Development Report 2009 – Overcoming barriers: Human mobility and development (Basingstoke and New York, Palgrave Macmillan, 2009), pp. 172–173; Kevin Watkins et al., Human Development Report 2005 (New York, UNDP, 2005), pp. 219–221.

<sup>5</sup> See Kyrgyzstan: Country Brief.

<sup>6</sup> UNDP and the Administration of the President of the Kyrgyz Republic, “The Second Periodic Progress Report on the Millennium Development Goals in the Kyrgyz Republic, 2009”, p. 10–.

<sup>7</sup> Ibid, p. 15.

<sup>8</sup> Human Development Report 2009, p. 188.

<sup>9</sup> Second Periodic Progress Report, p. 13.

12. Vulnerable rural women, such as divorced, single and low-income women are now the groups facing the most difficult situations of poverty.<sup>10</sup> In rural areas, this is due in part to limited employment opportunities. However, a number of other factors appear to be leading to a feminisation of poverty which is affecting all groups of women.

13. Trends in tertiary education and the job market reflect the growing sexual division of labour, with women accounting for the vast majority of students in the educational sector, vocational training and the humanities. This segregation has resulted in a traditional gender division in the labour market, where women dominate at over 70 per cent in the sectors of education, health care and social services; sectors in which the salaries are 2.5 times lower than salaries in traditional male sectors (e.g. communications and construction).<sup>11</sup> Moreover, even in the traditionally female sectors, women are rarely found at the higher management levels, which offer higher salaries. At present, women working in these sectors are only able to afford 86 per cent of the minimum consumer budget,<sup>12</sup> and cannot be considered economically independent.

14. The gendered nature of care work is also a causal factor in pushing women out of the labour market. Nearly 25 per cent of women have said that housekeeping and care of children and the elderly kept them out of the labour market.<sup>13</sup> Legislation intended to improve the situation of women (e.g. introducing maternity benefits) has in fact acted as a disincentive for employers to hire women,<sup>14</sup> and has also contributed to a declining share in the number of economically active women. While in 1998, 60.4 per cent of women were economically active, by 2007 this rate had dropped to 53.6 per cent, meaning women accounted for 42.2 per cent of the total economically active population.<sup>15</sup> The level of unemployment among women is 1.5 times higher than that of men.<sup>16</sup>

15. As a result, various forms of self-employment (e.g. in a family business) and female labour in the shadow economy are becoming widespread. This “disproportionate participation of women in the unpaid sector”, in areas which have little or no social protection systems, makes them economically and socially vulnerable, thereby increasing their risk of experiencing violence.<sup>17</sup>

### C. Access to public services and social security

16. Besides the current forces of the labour market, insufficient budgetary allocations for social security and lack of access to services are also leading to the deterioration in women’s social condition. Government spending on social assistance has steadily declined from 15.3 per cent in 2003 to 10.5 per cent in 2007.<sup>18</sup> Therefore, persons who rely on the small amount of State benefits live below the poverty line.

<sup>10</sup> Ibid., p. 11.

<sup>11</sup> Ibid., pp. 15–16.

<sup>12</sup> Ibid., p. 16.

<sup>13</sup> World Bank, “Labor Market Dimensions of Poverty Assessment”, Kyrgyz Republic: Poverty Assessment, vol. 2, report No. 40864-KG, 12 September 2007, p. 59.

<sup>14</sup> See Second Periodic Progress Report, p. 16.

<sup>15</sup> UNDP, Human Development Report 2000 (New York and Oxford, Oxford University Press, 2000), p. 260; see also National Statistical Committee of the Kyrgyz Republic, “Women and Men of the Kyrgyz Republic” (2008), p. 80.

<sup>16</sup> Second Periodic Progress Report, p. 16.

<sup>17</sup> Ibid., p. 16.

<sup>18</sup> Ibid., pp. 10-11.

17. This has resulted in a decline in the quality and number of services and benefits available to women. It is estimated that only a quarter of kindergartens which operated in 1990 currently remain open, with a capacity to enroll only 11 per cent of all preschool children.<sup>19</sup> Such drastic cuts in affordable childcare services for women severely limit women's livelihood options, while State welfare and childcare support remain too minimal to rely on.

18. Similarly, the Government has been unable to maintain other services such as health care.

19. The low levels of the State budget allocated to health in general and to maternal health in particular, combined with the deteriorating material conditions of women, have resulted in a dramatic rise in maternal mortality. According to data provided by the Ministry of Health, the maternal mortality rate in 2009 was 69.1 per 100,000 live births,<sup>20</sup> as compared to a rate of 43 in 1988. This places Kyrgyzstan among the countries with the highest maternal mortality rates of the 12 countries of the Commonwealth of Independent States.

20. The reasons for this rise in maternal mortality over the last two decades are related to the deteriorating social conditions of women in the country. High rates of anaemia which in 2009 affected 45.5 per cent of pregnant women<sup>21</sup> are due to poor nutrition and iron deficiency. The high rate of complications during pregnancy, resulting largely from the lack of good-quality prenatal/antenatal care and referral system and a poor system of emergency obstetric care, results in many women dying before reaching the oblast obstetric facilities and in hospitals.<sup>22</sup> Nearly 80 per cent of maternal deaths were registered in rural areas.<sup>23</sup>

21. Women and girls in rural areas in particular are further affected by the deterioration in access to other basic public services, such as running water and public sewerage systems, over the past 18 years.<sup>24</sup>

#### **D. The resurgence of patriarchy and tradition**

22. Particularly in rural areas, in which two thirds of the country's population lives, few employment opportunities exist and women face difficulties in securing an independent livelihood. According to recent reports, chronic poverty and gender discrimination has led to a return to traditionalism and patriarchy where women view and depend on the family as the centre of their life and adopt a position of obedience and submissiveness.<sup>25</sup> A further consequence of the high levels of poverty is that some women have become vulnerable to unregistered early, polygamous and religious marriages.

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<sup>19</sup> Ibid., p. 17.

<sup>20</sup> Data provided on 1 February 2010.

<sup>21</sup> Information provided by the Government on 26 April 2010 referring to data provided by the Republican Medical Information Centre.

<sup>22</sup> See United Nations in the Kyrgyz Republic: Translating Commitments on Gender Equality into Actions (Bishkek, United Nations, 2009), p. 10; Second Periodic Progress Report, p. 20.

<sup>23</sup> Women and Men of the Kyrgyz Republic (2008), p. 33.

<sup>24</sup> See Kyrgyzstan: Country Brief.

<sup>25</sup> See International Crisis Group, "Women and Radicalisation in Kyrgyzstan", Asia Report No. 176 (September 2009), p. 10.

### III. Violence against women

23. Violence against women in Kyrgyzstan is gradually gaining increased visibility and attention. However, the laudable efforts by the Government and civil society to address this problem have been insufficient to reach the majority of the population. Various forms of violence against women such as domestic violence, bride-kidnapping, trafficking, custodial violence, sexual violence and harassment and violence against lesbians, bisexuals and transgender persons remain unreported and unpunished.

24. Marriage practices undermining women's rights, the growing feminization of poverty, economic dependence, social acceptance of certain forms of violence and the resurgence of patriarchal practices are rendering women increasingly vulnerable to violence in the community, abroad and within the home.

#### A. Forms of violence and prevalence

##### 1. Domestic violence

25. During this mission, individuals and organizations working with victims of domestic violence confirmed research findings indicating that domestic violence is widespread and on the rise, and affects women of all social strata.<sup>26</sup> Although disaggregated general statistics are available on crimes committed against women and men, such statistics do not indicate the scale of the problem of domestic violence.

26. Official figures emanating from other sources indicate that approximately 8,000-10,000 emergency calls regarding family crises are registered with the Ministry of Internal Affairs annually, and 40-50 victims of domestic violence are hospitalized at the Bishkek City Hospital every month.<sup>27</sup> According to one study, one in four women interviewed had suffered physical violence in the home. Furthermore, approximately 40 per cent had been denied the right to work outside the home or to seek an education, thereby having had their freedom of movement and other fundamental rights violated.<sup>28</sup> The same study also notes some of the corollary effects of domestic violence: approximately 70 per cent of women convicted of murdering their husbands or other family members were the victims of a longstanding pattern of physical abuse or forced economic dependence.<sup>29</sup> During the Special Rapporteur's visit to the Stepnoe women's prison, a staff member of the State Penal Service working in the prison explained such acts of murder as follows: "traditionally, women should not reveal their problems within the family, so they wait until they cannot stand it anymore."<sup>30</sup>

<sup>26</sup> See Anara Moldoshev, "Violence against Women in Kyrgyzstan: Baseline Assessment" (United Nations Population Fund (UNFPA), 2008), p. 7; see also Human Rights Watch, *Reconciled to Violence: State failure to stop domestic abuse and abduction of women in Kyrgyzstan*, vol. 18, No. 9 (New York, Human Rights Watch, 2006), pp. 20-21.

<sup>27</sup> United Nations in the Kyrgyz Republic, p. 16, referring to the Fact Sheets, 'On the Implementation of the Law of the Kyrgyz Republic' and 'On Social-Legal Protection from Domestic Violence', Bishkek, 17 June 2008.

<sup>28</sup> *Violence against Women in Kyrgyzstan*, p. 8.

<sup>29</sup> *Ibid.*, p. 8. According to information provided by the Government on 26 April 2010, women convicted under article 97 of the Criminal Code make up approximately 37 per cent of women serving their sentence in penitentiary institutions.

<sup>30</sup> Interview at Stepnoe Women's Prison, 11 November 2009.



27. At a societal level, violence within the family and between intimate partners is not generally perceived as a crime or a problem warranting legal intervention. According to one survey, 38 per cent of women between 15 and 49 years of age believe that a husband has the right to beat his wife in various situations – which include leaving the home without permission, disagreeing with the husband, refusing to have sex, burning the food or taking inadequate care of the children.<sup>31</sup>

28. Some studies indicate that certain groups of women are more likely to be the victims of domestic violence. These groups include women aged between 25 and 44 years, women with no children and women with three children or more.<sup>32</sup> During the mission, other vulnerable categories of women also came to light, such as elderly women and young, economically dependent women living with their in-laws where their husbands have migrated.

## 2. Bride-kidnapping

29. The term bride-kidnapping refers to the “act of taking a woman or girl against her will through deception or force and using physical or psychological coercion to force her to marry one of her abductors”.<sup>33</sup> The kidnapping is usually performed by a group of men, who can either be men known to the victim or complete strangers. The woman is then taken to the home of the intended groom, where his female relatives exercise different forms of physical and psychological coercion to get her to “agree” to the marriage, usually indicated by allowing the women to place a marriage scarf on her head. The process can last for hours or days, depending on her level of resistance. During this period, her abductor may rape her, often to shame her into agreeing to the marriage rather than facing disgrace at home.

30. During the mission, some interviewees dismissed this practice of “bride-kidnapping” as an inoffensive tradition that is either purely symbolic or a way to avoid family objections to the couple’s wish to marry. This perception is strengthened by the fact that the same term is used for both involuntary kidnappings and those which are purely symbolic and consensual imitations of a kidnapping based on tradition. The cultural dimension and the misunderstandings surrounding this phenomenon have impeded efforts to recognize, combat and punish genuine cases of bride-kidnapping.

31. Although Kyrgyzstan is recognized as the country with the highest prevalence of bride-kidnappings,<sup>34</sup> existing data on the extent of this practice varies considerably. Government statistics in 2007 on abductions in general recorded 7 kidnappings of women and girls and 31 cases of compulsion to marriage, a related crime.<sup>35</sup> This represents a significant increase from the previous year’s statistics of 4 and 7 cases, respectively. However, studies estimate that the actual number is much higher. One study estimated that 30 per cent of all marriages are the result of bride-kidnapping, while others have found that in certain areas, predominately at the village level, the prevalence may be as high as 80 per cent.<sup>36</sup> According to the data collected over a period of eight years by the Association of Crisis Centres, they receive an average of 250 reported cases of bride-kidnapping a year.<sup>37</sup>

<sup>31</sup> National Statistical Committee of the Kyrgyz Republic and UNICEF, Monitoring the situation of children and women: Multiple Indicator Cluster Survey – Kyrgyz Republic, 2006, final report (Bishkek, United Nations Children’s Fund (UNICEF), 2007), p. 66.

<sup>32</sup> Violence against Women in Kyrgyzstan, p. 8.

<sup>33</sup> Reconciled to Violence, p. 86.

<sup>34</sup> UNFPA, Bride Kidnapping: an information note, Bishkek, undated, pp. 1 and 3.

<sup>35</sup> Women and Men of the Kyrgyz Republic (2008), p. 113.

<sup>36</sup> Reconciled to Violence, pp. 89-91; Bride Kidnapping, p. 2.

<sup>37</sup> Violence against Women in Kyrgyzstan, p. 7.

32. Interviews reveal that high levels of poverty have been linked to the phenomena of bride-kidnapping. Men or families unable to afford the expenses associated with a wedding or the dowry given to the bride may conspire to kidnap a suitable woman instead. More rarely, the bride's own family may conspire in the abduction in order to keep her from marrying a man they do not approve of or to receive a bride price from the groom's parents. Other factors perpetuating this practice include the light penalties imposed for this crime and the fact that there is little or no social stigma attached to abduction among many sections of the population, who view it as an assertion of one's cultural identity and male authority over women. The man's family also benefits from such a marriage since his new bride is expected to take over household duties. Moreover, the girl's parents will often refuse to accept their daughter back and ultimately accept the marriage in order to avoid the shame of having a "tainted" daughter.<sup>38</sup>

### 3. Trafficking and exploitation

33. Trafficking of women and children for sexual exploitation and forced labour became increasingly common during the country's transition period and continues to be a problem today. According to Government data, women and children are most commonly exported to United Arab Emirates, Turkey, China and South Korea,<sup>39</sup> although other countries including the Russian Federation, Kazakhstan and Saudi Arabia are also trafficking destinations.

34. While there are no reliable statistics specifically on incidences of human trafficking, data is derived from figures provided by different agencies, Government bodies, non-governmental organizations (NGOs) and also from statistics on other related crimes (e.g., exploitation, illegal border crossing and smuggling of humans). From 2004 to 2006, the International Organization for Migration (IOM) reported 309 persons as having been returned from slavery, including labour migrants and victims of sexual exploitation, who were most likely also the victims of trafficking.<sup>40</sup> Documented calls to the State trafficking hotline service and NGO records identified approximately 400 victims of trafficking over a one year period in 2006-2007. A Government report further noted that 98 per cent of trafficking victims are women and girls, the majority of whom are between 15 and 30 years of age.<sup>41</sup>

35. Young woman and girls in Kyrgyzstan are often deceived by false offers of employment, either in large cities such as Bishkek or abroad. One young woman interviewed during the mission, described how she went to the market in Bishkek to seek employment only to be lured to a house in the outskirts of the city under the pretence of securing a job as a nanny. She was locked up for months and forced to have sex with clients brought to the house. After becoming pregnant, she was finally able to escape with another girl who was similarly imprisoned. She was living in a shelter with her infant baby and said she would not go to the police for fear of retaliation from her kidnappers and was even afraid to walk the streets of the city for fear they may recognize her. Some experts have argued that internal trafficking of young girls is more common than cross-border trafficking.<sup>42</sup> Adolescent girls can be especially vulnerable to forced employment as

<sup>38</sup> Reconciled to Violence, pp. 110–112.

<sup>39</sup> Violence against Women in Kyrgyzstan, p. 9.

<sup>40</sup> Shadow Report to CEDAW, p. 65.

<sup>41</sup> UNICEF, "Child Trafficking in Kyrgyzstan" (UNICEF, 2008), p. 13.

<sup>42</sup> See *ibid.*, p. 16.

commercial sex workers in urban areas, with the majority of the girls involved coming from rural areas.<sup>43</sup>

36. Another young woman interviewed during the mission recounted how she had been convinced by a friend to travel to Saudi Arabia to find a job. Upon arrival, she had her passport taken, was beaten and locked up at a hotel where she was forced to prostitute herself by the persons who met her upon her arrival. The owner of the hotel eventually helped her escape. She had a child and lived with him for some time before he also began beating her. She was able to secure assistance to leave Saudi Arabia with her baby and is currently living in a shelter.

#### 4. Attacks against lesbians, bisexuals and transgender persons

37. A high level of societal homophobia, discrimination and violence against lesbian, bisexual and transgender people exists in Kyrgyzstan, according to organizations working in this sector. One study indicates that 23 per cent of lesbian and bisexual women have had forced sexual contacts; 35 per cent believe that their sexual orientation or identity creates problems for them and society; and 56 per cent have had their families try to force them to change their sexual identity or orientation.<sup>44</sup> They face discrimination in employment and in society. They report that the media has increased intolerance towards them with the homophobic tone of their press reports and issues relevant to them – including human rights violations – are generally overlooked by the Government and civil society. They are particularly concerned by discriminatory provisions in the Kyrgyz Criminal Code and the discriminatory implementation of other laws and policies. Transgender persons also note difficulties in legally changing their gender in official identity papers.

38. Many people within this category are compelled to move from rural to urban areas and break off ties with their family and communities, because of the pressure or violence they have experienced. In a meeting with the Special Rapporteur, interlocutors shared accounts of incidents of having been subjected to widespread discrimination and violence including brutal gang rapes, “curative” rapes and family violence owing to their sexual orientation and gender identity.

#### 5. State violence in custody

39. Abuse and torture while in police custody and detention facilities in Kyrgyzstan are not uncommon according to many interlocutors interviewed during the mission.<sup>45</sup> The time of highest risk of ill-treatment is immediately after arrest and during the investigation period, when investigating authorities are seeking a confession. According to official Government figures, there were 55 official complaints (6 from women) of human rights violations by law enforcement officials while in police custody (IVS) or in pretrial detention facilities (SIZO) in 2009, as compared to 28 in 2005.<sup>46</sup> While this represents an

<sup>43</sup> Violence against Women in Kyrgyzstan, p. 9.

<sup>44</sup> LABRYS, “Shadow Report: Discrimination and violence against lesbian and bisexual women, and transgender people in the Kyrgyz Republic” (2008), pp. 3–6.

<sup>45</sup> See the joint universal periodic review submission No. 4 by Golos Svobody, the Spravedlivost, the Advocacy Center on Human Rights, which reports that since March 2007 the Network of Human Rights Defenders had received over 200 reported cases of torture and ill treatment, 92 per cent of which were allegedly committed by the police. Available at [http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/KG/JS4\\_GS\\_UPR\\_KGZ\\_S08\\_2010\\_TheGolosSvobody.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/KG/JS4_GS_UPR_KGZ_S08_2010_TheGolosSvobody.pdf). See also A/HRC/WG.6/8/KGZ/3, in particular paras. 16, 17 and 28.

<sup>46</sup> Figures provided by First Deputy General Prosecutor in letter No. 8-4, dated 4 February 2010, to OHCHR.

increase, the real figures are estimated to be considerably higher. The Government has stressed, however, that in fact the increase in the number of complaints received is the result of the efforts made by State authorities on this issue and of reforms by the Ministry of Internal Affairs intended to improve transparency and cooperation with civil society.<sup>47</sup> Despite these efforts, challenges remain with regard to implementation and effective remedies to be provided to victims. Beating is the most common form of violence which is alleged, but other forms of violence against women by State authorities were also mentioned during the mission, including burning with cigarettes, beating of the feet, isolation, death threats and sexual violence. In addition, cases of extortion and coercion have also been reported, whereby women arrested were forced under threat of physical violence, to provide money or sign over property titles. People, who have been abused by police after their arrest, report that they had no opportunity to make a complaint during their detention and that the detention was often prolonged to allow sufficient time for the injuries to heal and for the scars to fade. Organizations and several women victims provided accounts during the mission of extortion and bribery while in police custody, as well as being chained to a radiator, having a gun held to their head, beatings and burns.

40. According to the Office of the Ombudsman, in one incident alone, 32 persons were arrested during the mass riots in Nookat on 1 October 2008 and were beaten and tortured. One pregnant woman was shaved twice, forced to hold a heavy object for long periods, had her fingers beaten and was placed in a cold cell filled with water and bleach, which resulted in a miscarriage on 12 November 2008. A review of the results of formal complaints brought against law enforcement officials reveals that criminal proceedings against them are seldom initiated, the majority of such proceedings are subsequently thrown out and that disciplinary measures are rare (three in 2009). According to this same Government review, one criminal procedure under article 305-1 (torture) of the Criminal Code brought in 2007 was closed, one case from 2008 is currently under judicial review and one case brought in 2009 is under investigation.<sup>48</sup>

41. The Government has paid insufficient attention to this issue and failed to develop either a comprehensive strategy or proper standards of investigation into such cases. The lack of convictions and the absence of mechanisms providing guarantees against retaliation and enabling complaints to be lodged at an earlier stage, i.e., during pretrial detention or custody, thus perpetuate a climate of impunity. Moreover, during the mission the Special Rapporteur also received reports that judges frequently ignore allegations of torture, considering them simply a means by the accused of escaping a conviction.

## 6. Sexual harassment and sexual violence

42. Sexual violence, including sexual harassment in the workplace, is still largely unacknowledged as a significant problem in Kyrgyzstan, even though statistics indicate that the ratio of crimes of a sexual nature, as a proportion of the overall number of crimes against women, is increasing.<sup>49</sup> There were approximately 4,210 crimes against women and adolescent girls officially registered in 2007, of which 283 were reported rapes and other violent actions of a sexual nature.<sup>50</sup>

<sup>47</sup> For example, the Government noted in its comments to this report provided on 26 April 2010, the creation of a civilian body (which includes representatives of civil society) by the Ministry of Internal Affairs in 2009, mandated to monitor police activities and to independently collect complaints of human rights violations by members of the police force.

<sup>48</sup> Figures provided by First Deputy General Prosecutor in letter No. 8-4, dated 4 February 2010, to OHCHR.

<sup>49</sup> Women and Men in the Kyrgyz Republic (2008), p. 113.

<sup>50</sup> *Ibid.*, p. 113.

43. Public awareness of sexual violence as a crime continues to be very low. According to a survey by the National Statistical Committee, 35 per cent of urban women and 25 per cent of rural women indicated that they did not believe sexual abuse to be a crime. Of the women who had experienced sexual abuse, most said it happened at home, near their place of residence or at work (in the latter case, for 12 per cent of urban women). Perpetrators, according to the survey, were a spouse or partner in an overwhelmingly proportion of cases (81 per cent) or a former spouse or boyfriend (11 per cent), with colleagues, relatives or strangers being rarely mentioned (3 per cent).<sup>51</sup>

44. The Committee on the Elimination of Discrimination against Women has expressed concern about the lack of detailed information on sexual violence against women in the report of the State party and requested information on whether there is a plan to review existing laws in relation to this, as well as what efforts the Government is undertaking to eliminate sexual harassment in the workplace.<sup>52</sup>

## **B. Aggravating factors**

45. A number of factors in Kyrgyz society are contributing to significantly increasing women's vulnerability to violence. These include a resurfacing of "traditional" and patriarchal practices and structures and negative marriage practices which are threatening to undermine the status and rights of women. At the same time, the feminization of poverty and deteriorating social conditions make it increasingly difficult for women to both avoid and leave violent situations.

### **1. Resurfacing of traditions, patriarchal practices and gender stereotypes**

46. Gender stereotypes promoting the subordinate roles of women in the family and in communities and the revival of discriminatory traditions and customs appear to be gaining increasing support among many sections of the population. While, for some, this is supported by religious beliefs, others view some of these traditions as part of a unique Kyrgyz culture and use them in the articulation of a national identity. These factors together with the lack of awareness-raising campaigns among the population about the harmful consequences of gender-based violence and discrimination, including in marriage practices, has reduced the effectiveness of legal measures for the prevention and prosecution of family violence.

### **2. Marriage practices**

47. While precise data remains elusive, many experts believe that marriage practices such as early and forced marriage, polygamy and unregistered marriages are on the rise. These discriminatory practices undermine the rights and economic position of women and girls and are closely tied to the prevalence of domestic violence. Despite the existence of legal prohibitions against child marriage, forced marriages and polygamy, they have continued to be practiced without systematic monitoring or punishment.<sup>53</sup>

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<sup>51</sup> National Statistical Committee of the Kyrgyz Republic, *Women and Men in the Kyrgyz Republic* (2007), p. 130.

<sup>52</sup> See list of issues and questions with regard to the consideration of periodic reports (CEDAW/C/KGZ/Q/3), para. 9.

<sup>53</sup> *Violence against Women in Kyrgyzstan*, p. 7.

### 3. Early and forced marriage

48. The minimum legal age of marriage in Kyrgyzstan is 18, although in certain circumstances, local State bodies may authorize a marriage if a girl has reached 16 years of age.<sup>54</sup> Approximately 12.2 per cent of women in the country get married before their eighteenth birthday, with early marriage being more common in rural areas and among the poorest households (16.5 per cent, as compared to 9.1 per cent in the richest ones).<sup>55</sup>

49. Official Government statistics also reveal a sustained increase in birth rates among women in the 15–17 age group since 2005, as well as a steady increase in the number of births to women who are officially unmarried. According to official statistics, approximately one third of children in Kyrgyzstan are born into marriages which are not officially registered,<sup>56</sup> possibly indicating an increase in early religious marriages, which are not recognized under Kyrgyz law.

50. The phenomenon of early marriage in the country is often attributed to rising unemployment and poverty, as well as the resurfacing of patriarchal traditions and religious conservatism. Others contend that the lack of state effort on the issue, and more specifically the lack of a clear public awareness strategy to overcome patriarchal stereotypes is the primary reason for the increase in this practice.

### 4. Polygamy

51. According to a UNICEF survey data, approximately 1.7 per cent of respondents of fertile age (15–49 years) stated that they were in a polygamous marriage or union, with location and income levels being key determining factors. Polygamous marriages were registered more often in the Batken (3.6 per cent) and Chui (3.1 per cent) regions and among the richer strata of the population.<sup>57</sup> Despite the fact that polygamy is illegal, there are reports that the practice is flourishing in other regions as well, particularly in the southern regions of Osh and Jalal-Abad.

52. Moreover, while some find polygamy to be most pervasive among the wealthier strata of the population, other experts see the rampant poverty, especially female poverty, as a major factor in the rise of the practice. Poor women may agree to become a second or third wife and forgo the formal rights of marriage if the husband is able to support them, while first wives will usually agree to their husband taking subsequent wives from fear that he will divorce them otherwise. Heavy labour migration of Kyrgyz men has also resulted in polygamous relations, as married men may enter into extramarital relations, get married and establish a new family while abroad.

### 5. Unregistered marriages

53. Under Kyrgyz law, only properly registered civil marriages are legally recognized. Common law and religious marriages do not benefit from any legal status or the rights and protections provided to persons who are legally married. Women's organizations and Government officials express concern about the rate of unregistered marriages, both monogamous and polygamous. While some attribute this to a rise in the influence of religion in society, other factors must be taken into consideration, such the feminization of

<sup>54</sup> See Family Code of the Kyrgyz Republic, art. 14, para. 2.

<sup>55</sup> Monitoring the situation of children and women, pp. 64–65; shadow report to CEDAW, p. 56.

<sup>56</sup> Second Periodic Progress Report, p. 16; Women and Men in the Kyrgyz Republic (2008), p. 51.

<sup>57</sup> Monitoring the situation of children and women, p. 65.

poverty and the possible motivation for the husband and his family to deny the wife matrimonial property rights.

54. State officials with whom the Special Rapporteur met recognized the practice of unregistered marriage practices, generally celebrated as Islamic wedding ceremonies, as a growing problem in Kyrgyzstan, and were envisaging possible legislative reforms to address it.

## **IV. Responses to violence against women**

55. This section focuses on the legal and policy frameworks, existing practices and community-based response mechanisms currently in place to address women's rights and violence against women. The section also highlights existing gaps in laws and practices.

### **A. Legal and policy framework**

56. The Government of Kyrgyzstan has ratified numerous international human rights instruments,<sup>58</sup> including the Convention on the Elimination of All Forms of Discrimination against Women, on which it has already reported three times. Within a relatively short period, and in particular since 2002, the Government has taken steps to integrate these international standards into the national legal system by adopting numerous laws, policy frameworks and action plans which seek to further the advancement of women and have the potential to provide comprehensive human rights protection to women and girls.

57. Among others, the Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women, first passed in 2003 and revised in 2008, establishes the framework for achieving gender equality. It is complemented by the National Plan of Action for Achieving Gender Equality (2002-2006 and 2007-2010), which is a part of the country development strategy. A significant achievement was the adoption of temporary special measures which establish the target of 30 per cent of women among parliamentary deputies. Other human rights initiatives also seek to promote gender equality and empowerment, such as the National Programme on Human Rights (2002-2010) which prescribes a number of practical measures to eliminate gender inequality.

58. The adoption in 2003 of the Law on Social and Legal Protection from Domestic Violence represents a practical step towards defining and addressing violence in the family. The law defines "family violence" as "any deliberate action of one member of a family against another, if that action infringes legal rights and freedoms of the family member, causes him/her physical or psychological suffering and moral loss or poses a threat for physical or personal development of a minor member of the family" (art. 1). The law provides for a number of remedies for victims of family violence, including filing a complaint, obtaining a protection order, and addressing the local court of elders (*Aksakals*). It further specifies that victims have the right to such services as transportation to a medical institution for care, accommodation in a safe place and information on personal safety and legal aid.

59. Provisions relating to the possibility of obtaining an interim or court protection order are especially noteworthy. An interim protection order, valid for a period of up to 15 days,

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<sup>58</sup> Kyrgyzstan has ratified over 50 international human rights instruments; instruments which are an integral part of Kyrgyz law as per the Constitution (arts. 12, para. 3, 17, para. 1 and 18). See <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>.

can be issued by a local law enforcement officer to a person who has committed or threatened to commit an act of family violence. Among others, this order prohibits the perpetrator from committing any acts of violence or having contact with the victim and obliges him to pay for related medical treatment. In addition, victims may apply for a court protection order, which can be issued for a longer period of between one and six months and lead to administrative or criminal proceedings if violated.<sup>59</sup>

60. Despite the existence of a law on domestic violence, the Criminal Code of Kyrgyzstan itself does not specify domestic violence as a category of crime and does not provide for a specific penalty. Rather, domestic violence is addressed through provisions relating to crimes involving the infliction of violence contained in the Criminal Code or the Administrative Code. Relevant crimes include, *inter alia*: “inflicting physical or psychological suffering through systematic beatings or through other violent means” (three to seven years’ imprisonment); and “purposeful infliction of light damage to health having resulted in a short-term health disorder or in a minor permanent loss of the ability to work” (six months’ to one year’s imprisonment).<sup>60</sup> Marital rape is not specifically included as a criminal offence in the Criminal Code. The Kyrgyz Administrative Code also contains a specific provision on domestic violence which provides for an administrative penalty, *i.e.*, a fine, in cases where the abuse does not justify criminal proceedings.<sup>61</sup>

61. At the time of the visit by the Special Rapporteur, reforms to the Law on Social and Legal Protection from Domestic Violence were being considered, including possible changes aiming to refine and expand the definition of family violence and render protection orders more operational.

62. Marriage practices such as under-age and forced marriage, polygamy and bride-kidnapping are illegal under Kyrgyz law. According to article 155 of the Criminal Code, forcing a woman to marry or to continue a marriage or kidnapping her in order to marry without her consent is punishable by a fine of 100–200 times the measurement indicators or imprisonment for the period of up to 3 years.<sup>62</sup> Article 154 of the Criminal Code also envisages criminal liability for *de facto* marriage with a person under the minimum legal age of marriage, forcing this person into marriage and kidnapping a person under 16 years of age with the purpose of establishing a *de facto* marriage. Polygamous marriages and bigamy are punishable by a prison sentence of up to 2 years under article 153 of the Criminal Code. Persons such as religious clerics or staff of registry offices who knowingly formalize such a marriage are also criminally liable. Enforcement and prosecution for polygamy is very rare, however, in Kyrgyzstan. At the time of the Special Rapporteur’s visit, officials – who were also concerned by these marriage practices – stated that they would be considering a number of reforms to address these problems, including requiring that a civil marriage be performed before any religious marriage is undertaken.

63. On 9 August 2003, amendments to the Criminal Code, and particularly to article 124 on trafficking in human beings, brought the law into line with international standards, including the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, to which Kyrgyzstan is a State party. The country has also ratified the Protocol against the Smuggling of Migrants by Land, Sea and Air. Other provisions in the Criminal Code are also relevant to trafficking, including provisions on child trafficking, rape, violent

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<sup>59</sup> Law on Social and Legal Protection from Domestic Violence (2003), arts. 21–27.

<sup>60</sup> Criminal Code of the Kyrgyz Republic, arts. 111 and 112.

<sup>61</sup> Reconciled to Violence, p. 39, referring to article 66-3 of the Administrative Code.

<sup>62</sup> *Ibid.*, pp. 119–120.



acts of a sexual nature and involvement in the prostitution business.<sup>63</sup> The Law on Preventing and Combating Human Trafficking, No. 55 (of March 17, 2005) details measures for the prevention of human trafficking and specifies the assistance to be provided to victims. The Children's Code of the Kyrgyz Republic also provides for the criminal liability of persons guilty of involving children in trafficking in human beings, child prostitution and child pornography (art. 25).

## B. Institutional framework

64. National women's machinery was established in 1996 in the form of the National Commission on Family and Women Affairs. However, since its inception, the national women's machinery has undergone a significant number of changes. A tendency towards political marginalization and the lack of sufficient resources have affected its capacity to work effectively towards realizing the country's gender goals and commitments.

65. The National Commission was subsequently abolished in 1999 and replaced by the National Council on Women, Family and Gender Development under the President of the Republic, with its own Secretariat. This Secretariat was in turn dismissed in 2007 and its functions assigned to the Social and Gender Development Division of the Economic and Social Development Department attached to the Office of the President of Kyrgyzstan. In addition to its broader responsibilities, this Division assumed responsibility for gender-related issues, as well overseeing the implementation of the National Action Plan for Gender Development (2002–2006 and 2007–2010).

66. In practice, each ministry and agency is responsible, through a designated gender focal point,<sup>64</sup> for elaborating sectoral plans for achieving gender equality. This strategy has not been considered successful, however, since gender focal points have lacked decision-making authority or the capacity to influence the agenda of their institutions. Other impediments include insufficient institutional capacity, the absence of a specific gender entity in the Government which could facilitate coordination and the limited cooperation between the national gender machinery and civil society organizations and gender experts.

67. In December 2007, the Parliamentary Committee for Physical Education, Sport, Youth and Gender Policy, was established by Parliament, with responsibility for gender analysis of draft laws and the organization of parliamentary hearings on gender-related issues.

68. The latest changes to the structure of the national women's machinery were being undertaken at the time of this visit. Under the new structure, gender equality and youth issues have come under the responsibility of the Ministry of Labour, Employment and Migration. Simultaneously, the Parliamentary Committee on Social Policy has also replaced the Parliamentary Committee for Physical Education, Sport, Youth and Gender

<sup>63</sup> Criminal Code, arts. 124, 129–130 and 260.

<sup>64</sup> According to information provided by the Government subsequent to the mission, on 26 April 2010, an exception to this was the creation by the Ministry of Internal Affairs of a gender commission in order to better coordinate its work on domestic violence and gender equality issues. In 2009, the Government carried out a functional review of all ministries and agencies on gender issues, which among other things, stressed the efforts made over the last two years by the Ministry of Internal Affairs. See "Functional Review of the national institutional mechanism to implement the gender policy in the Kyrgyz Republic". Available from <http://www.un.org.kg/ru/publications/publications/article/publications/un-agencies/50-united-nations-development-programme-in-kyrgyzstan/4020-functional-review-of-the-national-gender-mechanism-in-the-kyrgyz-republic>.

Policy. An encouraging development was the establishment of a small unit within the Office of the Ombudsman specifically tasked with tackling gender equality and domestic violence issues and complaints addressed to that office.

69. In the light of the very recent nature of these structural changes, the exact division of responsibilities was still unclear at the time of this visit. Nonetheless, there is concern that these frequent structural changes and the decision to subsume gender issues into the broad mandates of large Government structures may further delay implementation of gender commitments and weaken the status of the institutional mechanisms promoting gender equality. This could be remedied by adopting a twin-track approach which could ensure mainstreaming of gender issues, while also benefiting from the focus and expertise of a specialized structure dedicated to gender issues.

70. In 2008, the Committee on the Elimination of Discrimination against Women recommended that the Government urgently establish a body specifically responsible for gender issues, which would be provided with a clearly defined mandate and sufficient resources in order to be able to develop, coordinate and draw accountability from all ministries.<sup>65</sup> This would further be consistent with Kyrgyz law, which also requires the establishment of a State gender policy body invested with a clear sphere of responsibilities and authority.<sup>66</sup>

### C. Reporting and prosecution of violence

71. During the mission, interviewees stated that violence against women and girls is underreported. Some of the reasons which make it difficult for women to reveal domestic abuse and seek help include: convention, which dictates that domestic problems should not be revealed to the outside world; economic dependency; fear of retaliatory violence by their partner; the lack of sufficient support services and legal clinics; and a low level of awareness of their rights. Those who have been kidnapped for the purpose of marriage fear stigmatization and rejection by their families should they elect to report the kidnapping instead of marrying the perpetrator. Victims of trafficking will often fear the police rather than seek their help, as they may have been forced into illegal activities, and fear retaliation by traffickers and those conspiring with them.

72. Police practices create significant obstacles to the reporting and prosecution of violence against women. These include the frequent bias of police officers towards reconciliation of the couple, police inaction based on the belief that it is a private matter or the assumption that the woman will ultimately withdraw her complaint, and a tendency to apply administrative fines or short detention periods, even in cases that would warrant criminal prosecution. Moreover, experts believe that acts of domestic violence are often classified by police as incidences of “minor hooliganism”, or “disorderly conduct”, which means that appropriate protection is not provided and the real figures on domestic violence are distorted.<sup>67</sup>

73. Women’s low level of confidence in the police and discomfort with undertaking legal action for these types of crimes means that they often prefer to rely on their families, village elders (*Aksakals*) or women’s crisis centres to resolve the issue or provide temporary assistance. According to a Government study, women victims of violence have expressed overall dissatisfaction with how the police handled their cases. The majority of women, 65 per

<sup>65</sup> CEDAW/C/KGZ/CO/3, paras. 25–26.

<sup>66</sup> Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women, art. 26.

<sup>67</sup> Reconciled to Violence, p. 40.

cent, were displeased because the police did not find or arrest the perpetrator (41.7 per cent), did not demonstrate interest in the case or failed to report on the investigation.<sup>68</sup>

74. These practices and the lack of sufficient police training on relevant legislation and the nature of violence against women result in a failure to register and investigate complaints, take meaningful protective measures (e.g. protection orders) and support prosecutions for such crimes. Practical problems relating to the lack of printed forms used to issue protection orders also means that some police are not aware of and do not have access to these orders in their day-to-day work.<sup>69</sup>

75. The number of protection orders issued annually varies considerably. There is a notable increase in usage as indicated in statistics: 95 were issued within the first four months of 2008, as compared to a total of 62 in 2004.<sup>70</sup> According to information received from the Ministry of Internal Affairs subsequent to the mission, there has been an even greater increase in the number of protection orders issued by district police in 2008–2009 and relevant departments in all districts were issued with the necessary forms for this purpose. The Ministry further highlighted other notable efforts undertaken during 2008–2010, including training of staff of the Ministry, the production of guidelines and informational notes for the police as well as the general population, participation in parliamentary hearings devoted to the implementation of the Law on Social and Legal Protection from Domestic Violence and the conduct of an independent monitoring of the implementation of that law.<sup>71</sup> While these initiatives are indeed encouraging, they require sustained implementation over time, as well as more outreach to both the police and the general population so as to address negative practices and a general lack of information. Despite a rise in the numbers of temporary orders issued, many believe that, in the context of the large number of cases of domestic violence in Kyrgyzstan, the figures are still very low.

76. Judicial hearings of cases of domestic violence are also rare.<sup>72</sup> The reluctance of women to approach the courts in domestic violence cases was explained to the Special Rapporteur by a State official in the General Prosecutor's office, who believed that women, particularly in rural areas, still found it psychologically difficult to have recourse to the courts, especially if children are involved. They may also be economically dependent on their husband and lack the resources to undertake legal proceedings.

77. While coercion and abduction for the purposes of forced marriage is illegal, the light penalties imposed and the reluctance of victims, families and authorities to report and prosecute acts of bride-kidnapping, has resulted in widespread impunity for this crime. It is estimated that the majority of women victims do not refer the case to law enforcement bodies or other State bodies. Moreover, when there is a report, law enforcement authorities are often reluctant to investigate and prosecute cases of bride-kidnapping and often wait to see whether the complainants change their mind.<sup>73</sup>

78. In 2006 and 2007, judicial authorities received 67 criminal cases brought under article 124 (on human trafficking) of the Criminal Code, 23 indictments were issued (all resulting in convictions), 1 criminal case was discontinued and 37 cases were returned to

<sup>68</sup> Women and Men in the Kyrgyz Republic (2007), p. 133.

<sup>69</sup> Human Rights Watch, Memorandum: Domestic Violence in Kyrgyzstan, September 2008, pp. 19–20.

<sup>70</sup> *Ibid.*, p. 18, referring to figures in the fact sheet of the Parliamentary Committee on Youth, Gender Politics, Gymnastics and Sports, June 2008.

<sup>71</sup> Additional information provided by the Government to the Special Rapporteur subsequent to the mission on 26 April 2010.

<sup>72</sup> Violence against Women in Kyrgyzstan, p. 8.

<sup>73</sup> Memorandum: Domestic Violence in Kyrgyzstan, p. 5.

the prosecutor. By the end of the above reporting period, there were 6 incomplete cases and a total of 29 completed cases.<sup>74</sup> Many cases of human trafficking, however, do not reach the courts, while others are allegedly reclassified as lesser crimes such as “fraud”. Many victims turn instead to crisis centres. Of the 368 persons to whom SEZIM, a crisis centre in Bishkek, provided shelter, 128 were trafficking victims.<sup>75</sup>

79. A department to combat human trafficking and crimes involving foreign citizens was created within the General Directorate for Criminal Investigations of the Ministry of Internal Affairs in May 2004.<sup>76</sup> Discussions with the Ministry of Labour, Employment and Migration confirmed that figures on trafficking are difficult to ascertain, indicating that reports on trafficking are primarily based on complaints and investigations undertaken, information collected by IOM, and figures provided by crisis centres. It was further highlighted that approximately 60 per cent of Kyrgyz labour migrants abroad (of whom there are estimated to be half a million) are currently women, some of whom are potentially also victims of trafficking for labour or sexual exploitation. As such, the Ministry has undertaken preventive work, cooperated with international organizations on this issue and established bilateral agreements with Governments of destination countries such as Kazakhstan. A national hotline for victims of trafficking has also been set up with eight regional networks, where victims can seek help and make a complaint.

#### D. Support services

80. According to a Government survey, 85 per cent of women were not aware of the existence of specialized institutions such as crisis centres and shelters which could provide them with information, support and temporary shelter.<sup>77</sup> There are no State-run crisis centres or shelters for women victims of violence in Kyrgyzstan, despite the fact that the legislation on family violence provides for the establishment of such centres.<sup>78</sup>

81. There are a total of eight crisis centres in the country, mainly supported by international organizations, although a few, such as the SEZIM crisis centre, receive some limited State assistance which provides them with the use of a building and utilities. These centres are underfunded and rely mainly on international funds which are typically for short-term activities rather than operating expenses. Despite their meagre resources, according to Government statistics, the number of women referred to these crisis centres has been steadily increasing, from 2,072 in 2004 to 3,731 in 2007.<sup>79</sup>

#### E. Community mechanisms

82. Rather than reporting domestic violence cases to the police, many women turn to *Aksakals*, courts of community elders which function as a community justice system and are more accessible to rural populations in particular. According to Government statistics, 451 women were referred to *Aksakal* courts in 2007.<sup>80</sup> While Kyrgyz law provides that some domestic disputes may be handled by *Aksakal* courts,<sup>81</sup> many believe that police refer

<sup>74</sup> Information provided by the Government to the Special Rapporteur on 26 April 2010.

<sup>75</sup> SEZIM factsheet, 2009, referring to figures for 1998–2008.

<sup>76</sup> CEDAW/C/KGZ/3, 2007, para. 177.

<sup>77</sup> Women and Men in the Kyrgyz Republic (2007), p. 133.

<sup>78</sup> Law on Social and Legal Protection from Domestic Violence, arts. 14 and 17.

<sup>79</sup> Women and Men in the Kyrgyz Republic (2008), p. 114.

<sup>80</sup> *Ibid.*, p. 114.

<sup>81</sup> Law on Social and Legal Protection from Domestic Violence.

to this mechanism too often and inappropriately, including when the cases should more properly be investigated as a criminal matter. Article 15 of the Law on Aksakal Courts grants elders jurisdiction to hear cases related to family conflicts of a civil nature, reprimand the perpetrator and impose compensation for damages and a fine. They may hear cases addressed to them by individuals, the courts and the procuracy, as well as by the police – but only if latter have been authorized to do so by the procuracy. In practice, it appears that police frequently do not observe this requirement and refer the case to *Aksakals* upon receiving the complaint.<sup>82</sup>

83. This raises concerns that cases of violence against women which potentially fall under the scope of the Criminal Code are brought instead to a community dispute mechanism whose task is to promote reconciliation, often at the expense of the woman's wellbeing and which cannot issue protection orders, detain or imprison the abuser. This reconciliation role played by *Aksakal* courts is praised by some Government and non-governmental organizations, who view saving the marriage as the priority. In addition to domestic conflicts, *Aksakal* courts also address land and property issues, another area of concern to rural women.<sup>83</sup>

## F. Statistics and data

84. The Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women (2008) provides for the collection of gender-disaggregated statistics,<sup>84</sup> as does the National Plan of Action for Achieving Gender Equality (2007–2010), which calls for the development of a gender evidence base and related statistical information.<sup>85</sup> Since 2000, the National Statistical Committee has produced an annual compilation of gender disaggregated statistics entitled “Women and Men in the Kyrgyz Republic”. While this is a useful tool, including for assessing progress on the Millennium Development Goals, statistics pertaining to violence against women are insufficient.

85. Evidence-based policies and programmes to address the prevailing forms of violence against women and girls in Kyrgyzstan require more detailed statistics, notably with regard to domestic violence. The absence of this category of crime in statistics on crimes against women and children and in police reporting methodologies impedes both efforts to ascertain the extent of the problem and information which would support improved responses and strategies to address the issue. Statistics on referrals to crisis centres, *Aksakal* courts and other institutions could be further strengthened by details on who provides the referral, the number of referrals by police officers and the type of case concerned. Statistics on various forms of trafficking in humans, both internal and abroad, are necessary in order to ensure better diagnosis and response to this problem.

86. The Special Rapporteur commends the Government for the survey it conducted in the form of an opinion poll on women's current status in society, gender equality and violence against women, which appeared in the 2007 edition of *Women and Men in the Kyrgyz Republic* and encourages further efforts in this regard.

<sup>82</sup> Reconciled to Violence, pp. 64–65.

<sup>83</sup> UNIFEM, *Informal Courts in Kyrgyzstan: UNIFEM experience*, 2009.

<sup>84</sup> Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women (2008), arts. 2, 5, 6, 8 and 29.

<sup>85</sup> Matrix of Measures for the National Plan of Action to Achieve Gender Equality in the Kyrgyz Republic 2007–2010, unofficial English translation.

## V. Conclusions and recommendations

87. The Government of Kyrgyzstan has secured formal legal achievements in the areas of gender equality, protection from domestic violence and political representation, in the context of difficult social and economic challenges faced by the country since its independence. However, these formal commitments have not translated into practical actions and improvements in the lives of the majority of women. The deteriorating social condition of women is evident in a deepening feminization of poverty, sharp declines in the participation of women in the formal labour market and poor access to public services.

88. Insufficient social welfare provisions have further eroded women's economic and social position, resulting in increasingly inferior negotiating positions within society and in the family. This is reflected in the rise of marriage practices such as bride-kidnapping, polygamous unions, early marriage and the rise in unregistered religious marriages, which undermine the rights of women and increase their vulnerability to all forms of violence. Their access to justice and protection is impeded by limited numbers of shelters, legal aid services and awareness of their rights, as well as by economic dependency and the reluctance by law enforcement structures and society at large to recognize numerous forms of violence as crimes requiring serious attention.

89. Patriarchal articulations of a national and cultural identity and a reported rise in the influence of religious conservatism further undermine the position of women in Kyrgyz society. In addition, the marginalization of the national women's machinery and the lack of budgetary allocations and concrete measures to implement gender-related commitments have all impeded efforts to advance gender equality and eliminate violence against women.

90. In light of the above, the Special Rapporteur would like to make the following recommendations to the Government of Kyrgyzstan.

91. Women's empowerment and gender equality:

- Establish an independent State body specifically responsible for women's rights and gender equality issues. This body should be invested with a clear mandate, authority and sufficient resources and able to develop national gender policies, undertake coordination activities and solicit accountability from all ministries. Policy development and monitoring should be its core responsibilities, while implementation remains the separate responsibility of other bodies.
- Provide clear terms of reference on women's rights and gender equality issues for the new Parliamentary Committee on Social Policy, including a strong advocacy and monitoring role as regards the gender dimensions of policies and legislation.
- Support the new gender unit within the Office of the Ombudsman with sufficient resources to conduct education, advocacy and legal and research work.
- Use the media to promote public awareness campaigns on women's human rights, violence against women and gender stereotypes.
- Undertake a gender analysis of school books and curriculums at the primary and high-school levels, with a view to eliminating gender stereotypes and promoting gender equality and non-violence. Relevant teacher training should be provided.

- Consider the establishment of positive temporary measures to encourage increased participation of women in local political and decision-making structures, including the local *Aksakal* courts.
  - Develop a new National Action Plan for Gender Development which takes into account the body of information available on the status of women, including the situation of rural women. Effective mechanisms to ensure accountability in the implementation of the plan should be instituted.
  - Establish a sustainable mechanism for the systematic gender analysis of legislation and programmes, as required under Kyrgyz legislation.
  - Examine and adopt measures to address the different factors impeding women's position and opportunities in the labour market, including that of rural women.
  - Make specific budgetary commitments towards the implementation of programmes related to gender equality, the socio-economic position of women and violence against women and girls.
92. Elimination of violence against women and girls:
- Treat violence against women as a criminal offence and investigate and prosecute cases within the formal justice system.
  - Establish specialized female law enforcement units, including in rural areas.
  - Develop mechanisms, both legal and social, to combat internal trafficking and sexual exploitation of women and girls.
  - Commit sustainable State support to women and girls' crisis centres, including in areas currently not serviced.
  - Establish information and assistance centres for women and girls at risk who have moved from rural to urban centres.
  - Establish effective monitoring systems of decisions by *Aksakal* courts, a policy of strengthened cooperation and engagement with them and promote female participation.
  - Support awareness-raising campaigns on domestic violence and women's rights which specifically target community leaders and local populations.
  - Undertake reforms with regard to temporary and court protection orders and adopt practical measures to facilitate their implementation.
  - Take measures to ensure the protection of women who are victims of discrimination and violence on account of their sexual orientation or gender identity, and simplify procedures for changing the sexual identity of transgender persons in their identity cards.
  - Implement a comprehensive strategy to address abuse, torture and extortion while in police custody and detention, including: a complaint procedure that can be activated any time upon arrest; investigation procedures which meet international standards of impartiality, thoroughness and efficiency; and training to accompany a zero-tolerance policy.
  - Support the establishment of legal aid clinics, including in rural areas, which provide free legal services for women in need.

- Allow for a defence based on a prior history of being a victim of domestic violence as a mitigating factor in the sentencing of women who have killed their partners and/or other family members.

93. **Marriage practices:**

- Amend legislation to set a uniform minimum legal age for marriage at 18 for both women and men, in line with international standards.
- Impose as a legal requirement, subject to specific sanctions, that religious marriages may only be performed where proof of a civil marriage has been made available and promote awareness-raising among religious leaders and communities on this issue.
- Undertake research on the prevalence of unregistered marriages and its consequences for women and children, and consider the adoption of regulations to protect their legal and property rights both during the de facto union and upon its dissolution.
- Raise the penalty for polygamy and cooperate with Kyrgyz migrant-receiving countries in taking measures to prevent polygamous marriages across borders.
- Increase the criminal penalty for bride abduction and coercion into marriage, withdraw the possibility of imposing only a fine and provide stringent penalties for conspiracy and aiding and abetting in this crime.
- Undertake awareness-raising campaigns, including through the media, on forced bride-kidnapping, early marriage, polygamy and unregistered marriages.

94. **Statistics and research:**

- Set up procedures enabling the compilation of statistics on domestic violence, including through the classification of domestic violence as a separate crime in police and prosecution records.
- Particularly in respect of rural women, undertake comprehensive research and compile statistics on violence against women, including economic and occupational indicators, access to public services and reproductive health.
- Gather data on the prevalence and types of abuses faced by girls under 18.
- Conduct a study on human trafficking patterns and dynamics, both internal and abroad, to gather statistics and information on the methods of trafficking networks, better monitor the situation of migrant women and identify and prevent trafficking and exploitative situations.
- Support research on the prevalence and forms of sexual violence, including sexual harassment in the workplace, with a view to formulating appropriate responses.

95. **Cooperation with relevant international organizations and donor agencies:**

The Special Rapporteur acknowledges the support provided to date by international organizations and donor agencies in the promotion of gender equality and encourages them to continue working with the Government of Kyrgyzstan in order to ensure a sustainable gender action plan and concrete Government strategies and measures to eliminate all forms of violence against women, its causes and consequences.