



**Human Rights Watch Concerns and
Recommendations on Kyrgyzstan
Submitted to the UN Human Rights Committee in
advance of its Pre-Sessional Review of Kyrgyzstan
April 26, 2013**

This memorandum provides an overview of Human Rights Watch’s principal concerns with respect to the human rights situation in Kyrgyzstan, submitted to the Human Rights Committee (“the Committee”) in advance of its upcoming pre-sessional review of that country. We hope it will inform the Committee’s consideration of the Kyrgyz government’s (“the government”) compliance with the International Covenant on Civil and Political Rights (“the Covenant”). For additional information, please see Human Rights Watch’s country page on Kyrgyzstan: <http://www.hrw.org/europecentral-asia/kyrgyzstan>.

In the 13 years since the Committee’s last review of Kyrgyzstan, the country’s human rights record has fluctuated significantly as the government has twice been overthrown and violent inter-ethnic clashes between the Uzbek minority and Kyrgyz majority communities broke out in southern Kyrgyzstan in 2010, resulting in more than 400 people killed, thousands injured, and over 2,600 homes destroyed. Horrific crimes were committed against both ethnic groups, however ethnic Uzbeks endured the majority of casualties and destroyed homes. In the nearly three years since the outbreak of violence, the Kyrgyz government has failed to adequately address abuses in the south, in particular against ethnic Uzbeks, undermining long-term efforts to promote stability. Despite an uneasy calm in the south today, ethnic Uzbeks have continued to be subjected to arbitrary detention, ill-treatment and torture, and extortion schemes without redress. Investigations and trials into the violence, including that of human rights defender Azimjon Askarov, who was convicted in 2010 on politically-motivated charges and tortured in custody, have been profoundly flawed. Askarov remains wrongfully imprisoned on a life sentence.

Although authorities have adopted new legislation and made reforms to the criminal code to address incompatibilities with international standards on the prevention of torture, ill-treatment and torture remain pervasive in places of detention across Kyrgyzstan, and perpetrators go unpunished. Violence and discrimination against women and lesbian, gay,

bisexual, and transgender persons, as well as vulnerable groups such as sex workers, remain serious concerns. Refugees and asylum seekers fleeing persecution are not afforded full protection in Kyrgyzstan and the government imposes undue restrictions on freedom of speech.

Justice and Accountability for June 2010 Violence (Covenant articles 2, 6, 7, 9, 14, 17)

Dozens of trials related to the June 2010 violence were seriously flawed due to violations of the defendants' rights from the time of detention through to conviction (see: <http://www.hrw.org/reports/2011/06/08/distorted-justice-0>). While investigations into the June 2010 violence have increasingly stagnated, some trials continue and new arrests have taken place as recently as in April 2013. Overall, our research has led us to conclude that the justice process around the June 2010 violence has been skewed to scapegoat ethnic Uzbeks (see, for example, <http://www.hrw.org/news/2012/10/28/kyrgyzstan-skewed-justice-over-2010-conflict>).

In the nearly three years since the violence, scores of mostly ethnic Uzbek defendants have been found guilty and sentenced to prison terms ranging from several years to life, based primarily on confessions that many alleged were coerced under ill-treatment and torture, and in trials in which there were serious violations of defendants' fair trial rights. Human Rights Watch's research from 2010 through 2012 in southern Kyrgyzstan found that the use of torture by law-enforcement officials in their investigations into the June 2010 violence was widespread. We also found that because the investigations disproportionately targeted ethnic Uzbeks, the latter have been at a heightened risk of torture in custody.

In addition, Human Rights Watch has documented multiple instances of police and local officials using the June 2010 events as a basis to extort money from ethnic Uzbeks, threatening to charge them with involvement in the violence unless they pay bribes to secure their release. Many victims of extortion who reported their cases to local human rights organizations declined to pursue official complaints about the bribes, fearing retribution.

In a deeply disturbing pattern, lawyers defending ethnic Uzbeks charged with involvement in the June 2010 violence have been repeatedly harassed and physically attacked by the victims' relatives and supporters, resulting in a hostile and violent environment that has undermined defendants' fair trial rights. Police and soldiers who were present at such trials largely failed to intervene, and judges failed to use the powers at their disposal to maintain order in the courtrooms. In a recent example, during an April 2 Supreme Court hearing in Bishkek, Kyrgyzstan's capital, of a case against an ethnic

Uzbek charged with crimes relating to June 2010 violence, observers in the courtroom repeatedly shouted at and physically assaulted the defendant's lawyers and his mother. Judges and court officials failed to take any measures to stop this violence and harassment or to hold the perpetrators accountable (for more information: <http://www.hrw.org/news/2013/04/04/kyrgyzstan-violence-mars-supreme-court-hearing>; see also: <http://www.hrw.org/news/2011/09/21/kyrgyzstan-violence-courtroom>; <http://www.hrw.org/news/2011/08/03/kyrgyzstan-lawyer-attacked-police-stand>).

- *We encourage the Committee to ask the government what steps it has taken to address concerns about the lack of accountability for the June 2010 interethnic violence and about the trials marred by violations of international fair trial standards, including credible torture allegations that have gone uninvestigated. We also ask the Committee to question the government about the authorities' failure to protect lawyers defending ethnic Uzbek clients from harassment and violence.*

Persecution of Human Rights Defenders and Repression of Civil Society (Covenant articles 7, 9, 10, 14, 17, 19, 21, 22)

Azimjon Askarov, a prominent human rights defender whose work focused on documenting police treatment of detainees, is serving a life sentence following a politically motivated prosecution for alleged involvement in the gruesome killing of a policeman and injuring several officers during mass disturbances in the southern city of Bazar-Kurgan in June 2010. He was convicted after a trial that was marred by serious violations of fair trial standards, credible allegations by Askarov and the other defendants that they were tortured in custody, and violence and threats against the defendants by the victim's relatives. Prosecutorial authorities have refused to open a criminal investigation into the torture allegations. On December 20, 2011, the Supreme Court upheld Askarov's life sentence (see: <http://www.hrw.org/news/2011/12/20/kyrgyzstan-verdict-fails-justice>). In November 2012, having exhausted domestic remedies, Askarov and his lawyers submitted an individual complaint on his case to the Committee. For more information on Askarov's case, see: <http://www.hrw.org/news/2010/06/17/letter-prosecutor-general-ibraev-urging-release-azimjon-askarov>; <http://www.hrw.org/news/2011/08/03/kyrgyzstan-lawyer-attacked-police-stand>; <http://www.hrw.org/news/2010/09/15/kyrgyzstan-free-human-rights-defender-ensure-fair-retrial>).

In 2010 and 2011, some of Kyrgyzstan's most prominent human rights defenders received threats in connection with their investigations into the June violence and its aftermath, including Aziza Abdurasulova of Kylym Shamy, and Tolekan Ismailova of Citizens Against Corruption. Both are leaders of Bishkek-based human rights

organizations. On September 20, 2011, Abdirasulova's son was arbitrarily detained in Bishkek, beaten by plainclothes operatives, and prevented from consulting his lawyer for several hours, actions that Abdirasulova believes were due to her human rights work.

On September 9, 2012, authorities temporarily detained a former consultant for the Office of the UN High Commissioner for Human Rights and Freedom House, at the airport as he was leaving the country, and informed him that he had been banned from Kyrgyzstan and he should not return. Despite repeated requests for explanation from the Kyrgyzstan Embassy in the United States, and from the Ministry of Foreign Affairs and State Committee for National Security, Kyrgyz authorities have not informed him on what grounds he was banned or provided him any official notice (see: <http://www.eurasianet.org/node/66878>).

Approximately two months later, on November 17, 2012 national security agents temporarily detained an analyst from the International Crisis Group (ICG), an international NGO, during a routine research trip to the southern part of Kyrgyzstan, and subjected him to a search and interrogation. The agents confiscated his research and other materials and denied him access to a lawyer. Several days after the analyst was detained, the State Committee on National Security issued a press statement saying that the analyst was under investigation on charges of inciting inter-ethnic discord. In the days and weeks following, security agents summoned for questioning five human rights defenders and others solely for meeting with the analyst during his trip to the south (see: <http://www.crisisgroup.org/en/publication-type/media-releases/2012/europe/kyrgyzstan-crisis-group-condemns-harassment-by-security-service.aspx>).

On April 17, 2013, Kyrgyzstan's parliament reviewed a draft bill entitled "On Fighting against the Legalization (Laundering) of Criminal Revenue and Financing Terrorist or Extremist Activity," developed by the State Financial Intelligence Service. According to the International Center for Not-for-Profit Law (ICNL), which issued an analysis of the draft legislation in April 2013, the law, if adopted, would impose burdensome and restrictive reporting obligations on non-commercial organizations, including to the National Security Agency, the Financial Intelligence Service, and law enforcement bodies, and would authorize a new state body to unduly "monitor and control" the activities of non-commercial organizations. On April 23, following an outcry by non-governmental and international organizations, a working group, which includes members of civil society, was established to review the draft legislation and provide recommendations for how to amend the law to bring it in line with Kyrgyzstan's international commitments.

- *We encourage the Committee to ask the government to clarify on what basis it continues to keep Azimjon Askarov in prison in light of grave concerns that his prosecution was politically motivated, and what steps it has taken to address concerns about the unfair proceedings leading to his conviction, including the credible allegations of torture. We further ask the Committee to question the government about the incidents of harassment and detention of human rights defenders highlighted above, and about the compatibility of the above-described draft legislation with Kyrgyzstan’s obligations under article 22 of the Covenant.*

Torture and Ill-treatment (Covenant articles 2, 7, 10, 14)

The UN special rapporteur on torture visited Kyrgyzstan in December 2011 and found that “the use of torture and ill-treatment to extract confessions remains widespread” and that “general conditions in most places of detention visited amount to inhuman and degrading treatment.” His visit prompted the Kyrgyz government to implement some reforms, including adopting a national torture prevention mechanism and amending the criminal code to bring the definition of torture in line with international standards. Yet to date, torture persists as a widespread problem and impunity for torture and ill-treatment is pervasive.

In particular and as mentioned above, concerning torture allegations in the context of the investigation into the June 2010 violence, Human Rights Watch has found that because these investigations disproportionately targeted ethnic Uzbeks, the latter have been at heightened risk of torture in custody. In the course of our research, Human Rights Watch received credible information about the use of torture in more than 70 cases relating to the June 2010 violence. The main methods of ill-treatment include prolonged, severe beatings, suffocation with gas masks or plastic bags put on detainees’ heads, being burned with cigarettes, and being strangled with a strap.

Prosecutorial authorities rarely open criminal cases against law enforcement agents. Yet even in the rare instances they do, investigations and trials are delayed or stalled. A telling example is the criminal case against four Bazar-Kurgan police officers following the August 2011 death of Usmonzhon Kholmiraev, an ethnic Uzbek, who had been detained on charges relating to the June 2010 violence, and who died from internal bleeding several days after he was released, apparently from injuries he sustained from beatings in custody (see: <http://www.hrw.org/news/2011/08/11/kyrgyzstan-death-follows-police-torture>). The case has been subjected to repeated delays, and more than 18 months later, no one has been held accountable for Kholmiraev’s death.

- *Human Rights Watch encourages the Committee to ask the government what mechanisms are in place to ensure that when defendants allege ill-treatment or*

torture, authorities immediately conduct effective investigations, that no evidence obtained through prohibited ill-treatment is allowed to be used in court except against those who used torture, and that defendants who have been subjected to ill-treatment have an effective remedy. We also ask the Committee to question the government about what practical steps it is taking to tackle the problem of widespread impunity for torture in Kyrgyzstan.

Repression of Media and Speech Freedoms (Covenant article 19)

Until former President Kurmanbek Bakiev was ousted from power in April 2010, journalists worked in an increasingly repressive media environment and some journalists faced violence and harassment in retribution for their work. The climate for media and speech freedoms has improved since then, although some serious restrictions on media and speech freedoms persist, and two independent Osh-based Uzbek language television stations, Mezon TV and Osh TV, were shut down in the aftermath of the June 2010 events and their owners were tried *in absentia* and found guilty of “inciting ethnic hatred.”

In 2011 and 2012, several journalists reported that they were physically or verbally attacked while carrying out their work. In the run-up to the presidential election in 2011, the Central Election Committee denied accreditation to online news agencies, significantly limiting their campaign coverage (see: <http://www.hrw.org/news/2011/08/04/kyrgyzstan-online-news-agencies-denied-accreditation>). In July 2011, libel was decriminalized, although “insult” and “insult of public officials” remain criminal offenses.

In May 2011, the Kyrgyz parliament adopted a resolution barring Kyrgyzstan Inquiry Commission Chair Kimmo Kiljunen from entering the country, alleging he had provided partial information about the June 2010 violence. The following month, in June 2011, parliament adopted another resolution instructing government agencies to “take measures to block the site Ferghana.ru,” an independent Central Asian news website, after its critical reporting on the June 2010 events (see: <http://www.hrw.org/news/2011/06/21/kyrgyzstan-don-t-stifle-dissent>). In February 2012, state-controlled KyrgyzTelecom began to enforce the resolution blocking the Ferghana.ru website, although the site could still be accessed through some other providers. After Ferghana.ru filed suit, in April 2013, the Government Media Agency issued a letter stating that the previous letter they had sent to providers following the adoption of the above-mentioned resolution to block Ferghana.ru only had “a recommendatory-referential character.” Ferghana.ru reported that only after receipt of this letter did all internet providers in Kyrgyzstan, including KyrgyzTelecom, unblock the site.

In September 2012 Kyrgyz General Prosecutor's office ordered the One World film festival organizers to refrain from screening a documentary film entitled 'I am Gay and Muslim' (see: <http://www.hrw.org/news/2012/10/04/kyrgyzstan-film-ban-violates-free-speech>.) The Kyrgyz State Committee on Religious Affairs assessed the content of the film and determined it to be "extremist," "offensive to Muslims," and "inciting interreligious hatred." Human rights defender Toleskan Ismailova, one of the festival organizers, received threats from religious groups and was ridiculed in the media for allowing the film to be included in festival program. After authorities officially banned the documentary film in September 2012, organizers of the film festival filed a suit against the State Committee on National Security. The case is ongoing.

- ***Human Rights Watch encourages the Committee to question the government about the compatibility of "insult" and "insult of public officials" being criminal offenses with the Covenant, measures taken to protect journalists and investigate attacks against them, and the authorities' move to ban the documentary 'I am Gay and Muslim.'***

Gender-based Violence (Covenant articles 2, 3, 7, 17, 23, 26)

Domestic violence and abduction for forced marriage (bride-kidnapping) are pervasive forms of violence against women in Kyrgyzstan. In 2006, Human Rights Watch documented how perpetrators of domestic violence variously beat, strangle, and rape their wives, and that groups of men kidnap women and girls for forced marriage through physical force or deception, and how along with their families, they exert psychological, and sometimes physical, pressure to coerce the young woman to consent to marry (see: <http://www.hrw.org/reports/2006/09/26/reconciled-violence>).

Despite growing awareness of this issue and February 2013 legislative amendments increasing the maximum jail sentence for bride kidnapping from three to seven years (to ten years if the girl is under 17 years of age), Kyrgyz authorities have not effectively addressed long-standing problems of gender-based violence, which continues to date, largely with impunity. In a rare exception, a court in September 2012 sentenced Shaimbek Aimanakunov to six years in prison on a conviction for incitement to suicide, rape, and forced marriage. A nineteen-year-old university student Aimanakunov had kidnapped, raped, and forcibly married hung herself two days after her abduction.

- ***We urge the Committee to ask the government to detail any efforts it has undertaken to combat domestic violence and abduction and the impunity with which these violations occur.***

Discrimination and Violence on the Basis of Sexual Orientation and Gender Identity (Covenant articles 2, 7, 9, 17, 26)

International and local NGOs have documented how lesbian, gay, bisexual and transgender people in Kyrgyzstan face violence from both state and non-state actors. Between 2006 and 2008, for example, Human Rights Watch documented over a dozen cases of family violence against lesbian and bisexual women and transgender men including house arrests, beating and psychological abuse (see: <http://www.hrw.org/reports/2008/10/06/these-everyday-humiliations-0>). In 2010, the UN special rapporteur on violence against women concluded that “[v]arious 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.”

The Kyrgyz government pledged in 2010 to address discrimination based on sexual orientation and gender identity after accepting two Universal Periodic Review (UPR) recommendations. Yet to date, the government has not taken action to implement these recommendations.

Instead, in 2012 alone, LGBT groups in Kyrgyzstan documented over 50 cases of discrimination against and/or rights violations of individuals based on their sexual orientation and/or gender identity, including arbitrary arrest by police, and sexual and physical assault. Human Rights Watch found that gay and bisexual men are especially at risk of extortion schemes, blackmail, and physical and sexual violence by law enforcement agents. In October 2010, for example, Mikhail Kudryashov, 22, was detained by the Financial Police for allegedly disseminating gay films. While in detention, Kudryashov was beaten with bottles and hangers, received sexual threats and was forced to undress. When he declined to write a “confession” dictated to him by the police, an officer stuck a pen into his hand.

- *We encourage the Committee to ask the government to provide information on concrete measures it has taken to address discrimination on the basis of sexual orientation and gender identity, and to detail remedies available to lesbian, gay, bisexual and transgender people who face violence and discrimination by their families, police officers and/or street gangs.*

Forced Extraditions of Refugees and Asylum Seekers (Covenant article 2, 6, 7, 9)

The Kyrgyz government’s efforts to host refugees and asylum seekers have been marred by the government’s failure to fully implement its obligations under international and national law regarding the protection of asylum seekers and refugees from Uzbekistan. Between 2005 and 2007, in the two years immediately following the Andijan massacre in

neighboring Uzbekistan, the Kyrgyz government returned more than a dozen refugees and asylum seekers to Uzbekistan, while at least five other Uzbek asylum seekers disappeared from Kyrgyzstan during that period. In 2008, another disappearance and at least one forced return of Uzbek asylum seekers also took place (see: <http://www.hrw.org/news/2008/12/09/letter-president-bakiev-ensuring-refugee-rights>; <http://www.hrw.org/en/news/2006/08/24/kyrgyzstan-uzbeks-disappear-while-seeking-asylum>). Furthermore, Kyrgyzstan has failed to investigate and hold accountable those officials who have been complicit in such forced returns and extraditions.

In its first decision on Kyrgyzstan (*Maksudov et al. v. Kyrgyzstan*), issued in July 2008, on the extradition of four Uzbek refugees to Uzbekistan in August 2006, the Committee ruled that Kyrgyzstan had breached the rights to personal liberty, freedom from torture, and right to life. The decision stressed the obligations of Kyrgyz authorities to refrain from returning individuals wanted by Uzbekistan's government taking into account the great risk of torture there.

Yet, even in recent months, Kyrgyz authorities have sought to extradite Uzbek nationals or have failed to protect refugees from disappearance, despite Kyrgyzstan's international obligations not to return individuals to countries where they face a clear risk of torture. For example, in November 2012, the Prosecutor General's office issued an extradition order for Khabibullo Sulaimanov, after Uzbekistan requested his extradition. His case is ongoing (see: <http://www.hrw.org/news/2013/02/04/kyrgyzstan-stop-extradition-uzbekistan>). On February 18, Shukhrat Musin, a UNHCR refugee awaiting third country resettlement, disappeared from Bishkek (see: <http://www.hrw.org/news/2013/02/25/kyrgyzstan-locate-missing-uzbek-refugee>). His whereabouts remain unknown, but persons close to him fear he may have been forcibly returned to Uzbekistan.

- ***We encourage the Committee to question the government on any steps it has taken to investigate over a dozen forced returns to Uzbekistan and hold perpetrators accountable, and to detail the measures in place to prevent such future violations of the Covenant, specifically with regard to Khabibullo Sulaimanov and Shukhrat Musin. We also ask the Committee to question the government specifically about the fate of Shukhrat Musin.***