



United Nations Country Team in Kyrgyzstan

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Of Kyrgyzstan**

Second cycle

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Introduction

Since the last review in May 2010, a number of events have marked the human rights situation in Kyrgyzstan. In 2010, the country underwent an unprecedented year of social unrest and violence that led to approximately 100 deaths in Bishkek alone, the ousting of the President, and a shift to a semi-parliamentary political system, making Kyrgyzstan the first Central Asian country to abolish presidential rule. Between 11 and 14 June 2010, inter-ethnic violence broke out in southern Kyrgyzstan, predominantly in the cities of Osh and Jalalabad resulting in a significant number of casualties, property destruction and some 400,000 people, both Kyrgyz and Uzbek, fleeing their homes.¹ These events exacerbated the tensions and mistrust between communities and led to a rise in discriminatory practices against ethnic minorities by police and authorities.

Following these events, Kyrgyzstan made efforts to reform its **constitutional, legislative and institutional framework**, striving to mainstream international human rights principles in legislation, implement recommendations received by UN Human Rights Mechanisms and the first Universal Periodic Review, and achieve the Millennium Development Goals (MDGs). On 27 June 2010, Kyrgyzstan adopted a new Constitution, incorporating significant provisions on human rights, equality and non-discrimination. Section II, “Human Rights and Freedoms”, makes reference to the International Bill of Human Rights and other human rights treaties ratified by Kyrgyzstan. Article 6 of the Constitution stipulates that international human rights treaties to which Kyrgyzstan is a party shall have direct effect and priority over rules of other international treaties.

Following the adoption of the new Constitution, and in line with recommendations received during the first UPR cycle, Kyrgyzstan initiated a process of judicial reform, identifying key laws that needed to be amended in compliance with national and international human rights principles, including the Law on Peaceful Assembly, Law on Freedom of Religion, Law on Access to Information, the Criminal Code, Criminal Procedure, Penal Code, Civil Code, Civil Procedure, Law on State Guaranteed Legal Aid. In August 2012, a Council for the Judicial Reform (CJR) was instituted and in February 2013 six expert working groups (EWGs) were formed by the President and tasked to prepare new drafts of the aforementioned codes. Working groups are expected to present drafts for public discussion in June 2014. It is premature to assess the drafts’ full compliance with the Constitution. Nevertheless, considering the wide scope of reforms and the importance of the laws under revision, the tight deadlines may rush the reform process at the expenses of their quality and compliance with international standards.

In the aftermath of the 2010 events, the Presidential Administration started working on policy documents aimed at strengthening the national policy framework addressing minority rights issues. Two key documents were adopted: the National Strategy on Sustainable Development 2013-2017 (hereinafter called National Strategy) in January 2013 and the Concept on Strengthening the Unity of People and Inter-Ethnic Relations (hereinafter called Concept) in April 2013, establishing a new State Agency for Local Self-Governance and Inter-Ethnic Relations, responsible for improving the inter-ethnic situation in the country and developing a common civic identity.

¹ According to official information by the Kyrgyz Government, 442 persons were killed during the June 2010 violence, 421 victims (95.2%) were identified: 295 (70%) as ethnic Uzbeks, 123 (29.2%) as ethnic Kyrgyz and 3 (0.7%) as belonging to other ethnicities¹. The Independent International Commission of Inquiry into the Events in Southern Kyrgyzstan (KIC) reported about 470 persons killed during the violence and further mentioned that 74% of the deceased were Uzbek, 25% were Kyrgyz, and 1% was of other ethnicities. KIC also mentioned that 67% of the deceased had gunshot wounds (80% Uzbek, 19% Kyrgyz). Based on information gathered by the local NGO *Kylym Shamy* and included in its September 2012 report, 492 persons were killed during the violence and at least 75 victims were not included into the official death toll prepared by the Prosecutor General’s Office.

In 2013, an inter-agency body, the Coordination Council on Human Rights (CCHR), was established by Government Decree to facilitate a coordinated approach on reporting to UN Human Rights Mechanisms and follow-up to their recommendations including through the development of a national strategy in 2015 (after the UPR and reviews by other treaty bodies). The CCHR is chaired by the Vice Prime Minister for National Security, Defense and Law Enforcement, and consists of two Deputy Chairs (Deputy Ministers of Justice and Foreign Affairs) and 15 senior level officials including from the Presidential Administration, Ministries, Supreme Court and the Ombudsman Institute. Civil society is not a member in the work of the CCHR.

Furthermore, Kyrgyzstan continued to strengthen its National Human Rights Institutions (NHRIs), thus partly implementing several recommendations received during the first UPR cycle. In 2012, the Ombudsman was granted status “B” by the International Coordinating Committee (ICC). Currently, revisions to the Law on Ombudsman are being discussed in the Parliament.² In 2012, Kyrgyzstan also established a National Preventive Center in line with the Optional Protocol of the Convention against Torture (OPCAT). Both Institutions however still need to increase their ability to work efficiently and independently, in compliance with their respective mandates.

In the previous UPR, Kyrgyzstan received a total of 175 recommendations of which 154 were accepted. The recommendations were mostly about the rights of the child (30), women’s rights (26), and international instruments (24), while others referred to the re-establishment of constitutional order and accountability for the human rights violations committed during 2010 events. While no official assessment on the degree of implementation of 2010 recommendations exists, this input tries to reflect the positive achievements of Kyrgyzstan in improving its human rights compliance, as well as to highlight the specific human rights challenges in the country.

Specific human rights

EQUALITY AND NON-DISCRIMINATION

Discrimination against minorities

During the first UPR cycle, Kyrgyzstan received several recommendations to ensure equality, non-discrimination and participation of minorities in public and political life. Both the Concept and National Strategy, besides placing much emphasis on the advancement of the state language (Kyrgyz) as integral to the society, promote minority representation in state bodies and protect minority languages³ in compliance with international human rights standards.

Nevertheless, significant underrepresentation of national minorities in state institutions is still dominant. While the minority communities represent about 30% of the population, they hold less than 12% of seats in the current Parliament and for an average of 5% of seats in cabinets formed throughout the post-communist period. As of 2012, minority representation in the civil service was about 9%. Minorities were in leadership positions – serving as heads of local self-government (LSGs) – in 6% of municipalities across the country. Women with ethnic minority background (except ethnic Russians) have even more limited representation in the Parliament, law-enforcement and LSG bodies.⁴

² The proposed amendments are in line with Paris Principles.

³ Russian language is considered “official language” and widely spoken in Kyrgyzstan.

⁴ OHCHR Regional Office for Central Asia, research on minority representation in state structures (2012).

The levels of underrepresentation are especially high for the demographically largest ethnic minority group, Uzbeks, who account for 14.3% of population. They are minimally present in Parliament, the civil service, law enforcement, and among the heads of LSGs. Additionally, not a single ethnic Uzbek was appointed as Minister in any of the post-independence cabinets. The limited representation appears especially problematic in light of the attention that the issues of inter-ethnic cooperation and societal integration received in the aftermath of the June 2010 violence. Post-conflict reconstruction and reconciliation seems to proceed with the minimal involvement of ethnic Uzbeks in the work of key state institutions.

In April 2014 the National Program on the Development of the State Language and Improvement of the Language Policy 2014-2020 was adopted, strengthening the recent trend toward increasing the use of the Kyrgyz language in society, civil service, education and media. Examples of this trend are the eight schools in Nookat district (Osh region) that were transferred from Uzbek into Kyrgyz language of instruction. The number of classes in Uzbek has decreased and those in Kyrgyz increased. There is a considerable lack of textbooks in Uzbek, Tajik and to a certain extent Russian. Lessons in Dungan have decreased in recent years from three to one hour per week. Furthermore, based on a Government Decree issued in September 2013, the university admission tests are available only in Kyrgyz and Russian.⁵

Finally, there is practically no media in minority languages other than Russian. Uzbek language TV stations were closed after the 2010 conflict. Kyrgyzstan does not provide funding to the print media in minority languages and there is open public discontent when media broadcast in Uzbek.⁶

Discrimination against women and gender equality

In 2012 an innovative long-term National Strategy for Achieving Gender Equality (2012-2020) and its initial National Action Plan (2012-2014) were adopted. Kyrgyzstan was the first country in Central Asia to adopt in February 2013 a National Action Plan on the implementation of the UN Security Council Resolution 1325 (2013-2014). Both action plans, unlike all previous ones, promote an inter-sectorial approach and the regulatory functional role of state structures. Furthermore, as recommended by CEDAW, Kyrgyzstan implemented special temporary measures in its legislation,⁷ including quotas, to achieve gender equality in areas where women are underrepresented.⁸

Notwithstanding the improved legislative framework and the attempts to implement UPR recommendations related to women's rights, the substantial gap in implementation of national and international commitments to eliminate gender-based discrimination remains wide. Limited women's participation in decision-making and leadership positions, particularly at the local level, the acute need for justice reform to respond to women's rights violations, limited legal and social protection for women in the informal sector, including labor migration and access to key economic resources for rural women, and widespread domestic violence and gender-based violence (GBV) are among the most pressing issues affecting women.

Women are still largely excluded from decision making, particularly at high appointed bodies and at the local level. While women Parliamentarians comprise 22.5% (27 out of 120) of the

⁵ While the Decree officially abolishes the tests in Uzbek language, the Ministry of Education has indicated that candidates interested in taking the test in Uzbek language could still request to do so at the test centres.

⁶ A protest was staged in Jalalabad in February 2013 when Channel 7 broadcasted some programmes in Uzbek.

⁷ Code of the Kyrgyz Republic "On Elections in the KR", (2007, #100, article 72. paragraph 3); Constitutional Law of the Kyrgyz Republic "On Elections of deputies of local councils (Keneshs)" (2011. # 98. Art. 49, p. 7).

⁸ The CEDAW Concluding Observations of 1999, 2004 and 2008 and MDG Reports of 2010 and 2013 reiterate these gaps.

current Parliament, women have only 13.4% of seats⁹ in the municipal governance bodies, and there are only 7% of women on political positions at municipal level.¹⁰ Decrease in women's political participation, especially at local level, has been observed in the past four years.

Furthermore, the growing traditionalist discourse questions the entire legitimacy of gender equality by portraying it as foreign to the Kyrgyz values. Several Parliamentarians, including a number of female politicians, are leading proponents of these views, creating concerns about the possibility of retracting legislative progress made over the past years. For example, in 2013 legislative changes to limit traveling abroad by young women under the age of 23 were initiated. After massive criticism from civil society, the initiative was withdrawn.

In the first UPR cycle, Kyrgyzstan received three recommendations – all of which were rejected – to establish a specialized body responsible for gender issues and to create an institution to ensure the proper implementation of measures related to gender equality and fighting violence against women. Despite rejecting the recommendations, in May 2012 a National Council on Gender Issues headed by the Vice Prime Minister on Social Affairs was established. However, the Council is not yet fully operational and it has met only three times. Furthermore, Kyrgyzstan still lacks specialized bodies working on women's issues, and the gender policy portfolio has migrated several times between various government structures, without appropriate hand-over and succession. Since 2013, it is held by the Department of Gender Policy of the Ministry of Social Development, which only has six staff.

Similarly, no substantial progress was achieved in allocating sufficient resources towards implementation of UPR recommendations related to gender equality.¹¹ Kyrgyzstan only allocated 10% of required resources for the National Action Plan 2012-2014, mainly in the form of administrative costs of civil servants and both plans were integrated with technical assistance of UN Women. This resulted in a low implementation rate, as only 30% of planned measures have been implemented in 2013.¹² Moreover, while gender equality aspects have been incorporated into the National Sustainable Development Strategy 2013-2017 and the respective government program, there remains a lack of gender responsive planning at sectorial and local levels.

Discrimination based on gender identity and sexual orientation

Discrimination based on gender identity and sexual orientation has been observed in 2014. In January, the Grand Mufti issued a fatwa against same-sex relations following the Human Rights Watch Report on abuses against lesbian, gay, bisexual and transgender (LGBT) in Kyrgyzstan. After that, three members of the Parliament initiated legislative measures to outlaw dissemination of information about LGBT on the grounds that it might create positive attitudes towards non-traditional sexual orientation and undermine moral values of society. Such legislative measures are not in compliance with the Constitution, national laws on non-discrimination and international human rights standards. The mentioned legislative initiatives were coupled by indiscriminate and disproportionate targeting of members and activists of the LGBT community (including sex workers) by state and non-state actors, targeted materials in mass media and public protests against LGBT.

⁹ Data of Central Elections Committee based on the results of November 2012 local elections - <http://www.shailoo.gov.kg/>

¹⁰ "Women and men in the Kyrgyz Republic", Digest of gender-disaggregated statistic, National Statistic Committee, Bishkek, 2013.

¹¹ Despite UPR recommendations to increase human and financial resources for effective application of the law on domestic violence were accepted.

¹² As indicated in the monitoring report by the Ministry of Social development (2013).

Discrimination of people living with HIV/AIDS

In 2012, Kyrgyzstan adopted a National Program on Stabilization of the HIV Epidemic (2012-2016). This program prioritizes the prevention of HIV transmission through injections and sex, nosocomial infection and mother-to-child transmission, and is aimed at ensuring access of vulnerable groups to diagnosis, treatment, care and support, thus addressing discrimination of drug users and people living with HIV/AIDS.¹³ Despite the Program, people living with HIV/AIDS still experience stigma and discrimination and HIV/AIDS related topics remain a social taboo.

Children and young people still have limited access to educational programs on HIV prevention, sexual and reproductive health, despite awareness being a key protection mechanism. As a result, knowledge of young people between 15-24 years old on HIV prevention was 19.5% among women and 24% among men (2012).¹⁴ In light of this, the draft bill introduced to the Parliament in March 2014 aimed at limiting the dissemination of information that could contribute to form a positive attitude about non-traditional sexual orientation is of particular concern. If adopted, this bill would not only stigmatize and discriminate on the basis of sexual orientation, but also hamper the implementation of HIV prevention programs.

RIGHT TO LIFE, LIBERTY AND SECURITY

Arbitrary detention, torture and ill-treatment

During the first UPR cycle, several recommendations were made to strengthen safeguards against arbitrary detention, torture and ill-treatment. Nevertheless, these practices continue to be reported although some efforts to prevent and eradicate them were noted. The root causes include low salaries of police officers, systemic corruption, police performance evaluations based on crime detection rates, lack of investigative capacity and complicity in concealing the occurrence of incidents of torture amongst law enforcement agencies.

In 2011, the Prosecutor General adopted three internal directives to strengthen its oversight role in addressing torture and ill-treatment and ensuring accountability for perpetrators. Nevertheless, authorities still fall short of promptly, impartially, and thoroughly investigating allegations and prosecuting perpetrators.¹⁵ To date there have been only two cases of police officers sentenced for torture. These two cases were not related to the 2010 events.¹⁶ In 2013, a Law on Forensic Services was adopted, setting out basic rules for the provision of forensic services in court proceedings to favor reliance on forensic evidence in court over confessions.

In line with several UPR recommendations,¹⁷ in 2012 Kyrgyzstan also established the NPM and finalized the recruitment of its Director and staff in 2014. However, only the budget for staff salaries for 2014 was allocated and it is insufficient to carry out visits and activities in the provinces. Since November 2011, a National Action Plan for Combatting Torture for 2013-2014 is being developed and its finalization is expected mid-2014. Unfortunately, the plan does not

¹³ The 2005 Law on HIV Prevention in the Kyrgyz Republic contains the article on stigma and discrimination and includes measures of responsibility for such actions. The law also includes position for HIV prevention among youth and key population at higher risk.

¹⁴ Demographic and Health Survey 2012.

¹⁵ Report of the UN High Commissioner for Human Rights on technical assistance and cooperation on human rights for Kyrgyzstan, 3 April 2012.

¹⁶ In January 2014, the Ombudsman publicly provided information on the numbers of criminal cases on torture launched: In 2010, 34 cases; in 2011, 54 cases; In 2012, 371 complaints were registered and 31 cases launched (8.3% from the total number of complaints); In 2013, 208 complaints were registered and criminal cases were launched only on 11 occasions (5.3% from the total number of complaints) - five times less than the number of criminal cases launched in 2011, and three times less than in 2010 and 2012. On 17 February 2014, the Prosecutor General's Office confirmed receiving 256 torture complaints, criminal cases were launched on 18 complaints (7%), including 10 (3.9%) that were finalized and sent to the court.

¹⁷ UPR 2010 recommendations No. 15, 20, 21, 23, 24, 25, 50, 53, and 54.

include recommendations made in recent years by UN Treaty Bodies¹⁸ and adequate resources are not allocated for its implementation.

Of concern are also cases of arbitrary detention and apprehension of defendants under the pretext of countering extremism, particularly in the south. This pretext may be adopted as a blanket excuse to arbitrarily detain individuals exercising their right to freedom of expression, assembly, religion and belief. In the context of countering extremism, the law enforcement frequently relies on pre-trial detention in violation of wide range of non-custodial measures, from pre-trial to post-sentencing dispositions. In this context, pre-trial detention is being employed with an increasing frequency and often fails to give consideration to the nature and gravity of the offence and the background of the offender.

Condition of detention

Kyrgyzstan amended its criminal legislation, reducing prison sentences for a range of infractions, leading to a reduction of the prison population from nearly 17,000 detainees in 2004 to approximately 10,000 in 2014. Moreover, the National Prison Reform Strategy 2012-2016 pays particular attention to the development of income generation activities, vocational training and social rehabilitation of prisoners. Kyrgyzstan has also launched a number of drug and alcohol abuse treatment programs for prisoners, as well as tuberculosis treatments and general programs to improve health and sanitations in prisons.

However, conditions of detention remain poor. No new prisons have been built and renovation of living areas and infrastructure in existing places of detention is lagging. The insufficient number, and absence in some provinces, of pre-trial detention centers, contributes to detaining people in police custody beyond the maximum duration prescribed by law.

An increase in the number of prisoners sentenced to life imprisonment¹⁹ (due to the handing down of new life sentences) and held in solitary confinement has also been noted.²⁰ Life sentences without parole (or with after at least 30 years) is excessively punitive and excludes these prisoners from any rehabilitation effort. There is still a limited application of alternative forms of punishment not involving incarceration and parole and probation services to administer such forms of punishment are still absent.²¹

No concrete steps to transform the prison service, including prison health care, from military into social institutions have been made. Despite the establishment of new income generating activities with donor support, the possibilities for prisoners to engage in productive activities and to participate in vocational training and other support programs remain very limited, reducing the prospects for social reintegration. The lack of an effective complaints mechanism for prisoners, the lack of independence of medical staff (who fall under the supervision of the prison administration) and a poor system of recording injuries inflicted on prisoners, hinders effective prevention of torture and other possible violations of prisoners' rights.

¹⁸ The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) 2012, Committee against Torture, Concluding Observations, November 2013; and Human Rights Committee, Concluding Observations, March 2014.

¹⁹ From 139 in 2007 to 257 in 2012.

²⁰ In 2007 the Criminal Code was amended and the death penalty replaced with life imprisonment. After that, 133 people who were on death row had their sentence commuted to life imprisonment. The increase after that is due to the handing down of new life sentences for 6 possible crimes: aggravated murder; child molestation with grave consequences; murder of a state official or public person; murder of a person administering justice or carrying out an investigation; murder of a law enforcement person or military officer; genocide.

²¹ National Strategy for the Development of the Penitentiary System in the Kyrgyz Republic 2012-2016 (Decree #297 of the Government of the Kyrgyz Republic, 15 May 2012).

Violence against women and children

Kyrgyzstan is currently reviewing the 2003 Law on Domestic Violence. In 2012, Article 66 of the Administrative Code was amended to increase punishments for domestic violence.²² Inter-sectorial and multi-sectorial coordination mechanisms to prevent and respond to gender based violence have been created in Bishkek, Osh and Jalalabad under the leadership of Mayors. Furthermore, amendments to Article 154 and 155 of the Criminal Code have increased penalties for bride kidnapping.²³ These amendments are instrumental to protect the rights of girls under age of 17 (age of consent) as well as prevent forced marriages.

Despite several recommendations received during the first UPR cycle to tackle violence against women and children, violence against women, including domestic violence, bride kidnapping, trafficking, early marriages, and polygamy, is still widespread and such crimes often remain unreported. The absence of state-funded services for support and redress to survivors, and psychological pressure and cultural traditions at community level discourage women from filing complaints.

Estimates indicate that up to 10,000 people report cases of domestic violence to various departments of the Ministry of Interior annually.²⁴ According to a 2012 Demographic and Health Survey, one in four ever-married women has been victim of physical violence, 4% have experienced sexual violence and 14% have suffered emotional violence inflicted by their current or most recent husband. Among ever-married women who have experienced physical or sexual violence from a husband, more than half (56%) report they suffered physical injuries. Only 39% of women who have experienced any type of physical or sexual violence sought assistance in response to the physical or sexual violence they experienced.

Furthermore, although the minimum age for marrying is legally established, the implementation of UPR recommendations to promote women's emancipation in all spheres of society is hindered by forced marriages of underage girls through religious ceremonies and weddings often following bride kidnapping. Early and forced marriages are used by some families to better 'protect' girls in the absence of male family members. Early marriage is also used to lessen the financial burden on families as they benefit from bride wealth. Current information about the number of registered marriages by age group cannot be used to analyze trends in early marriages as most of those before and at age 17 are not officially registered.²⁵

Additionally, sex workers continue to suffer extreme stigmatization in all areas of public life and are frequent targets of violence by police and homophobic and hostile attitude by segments of society. Despite the fact that sex work is not criminalized in Kyrgyzstan,²⁶ there have been numerous raids organized by law enforcement bodies during which sex workers were abused, identity cards confiscated, forced testing to STIs performed, and hours-long detention imposed.²⁷

²² From payment of a fine to arrest up to 5 days.

²³ In 2013 changes to the Criminal Code approved by the parliament for the crime of abducting a woman in order to marry her against her will is punishable by up to seven years imprisonment, previously, the punishment was three years (Article 155). In the same year, the amendment has toughened the responsibility for forcing and entering into de facto married relations with a person under 17 years of age which is punishable by up to 10 years imprisonment (Article 154).

²⁴ Guidebook for law enforcement bodies on addressing domestic violence in the Kyrgyz Republic (First Response Department, Ministry of Internal Affairs).

²⁵ 2012 Demographic and Health Survey of Kyrgyzstan: 8% of 20-24 year old women were married by age 18, 33% by age 20. The average age at first marriage is 20.6 for women, while men marry at an average age of 24.5. Less than 1% of women married for the first time before age 15, and 14% married before age 18. The total percentage of registered marriages among women aged 15-49 is 63.8. While the percentage among girls between ages 15 and 19 is 9.6.

²⁶ In 2012 attempts to criminalize sex work were unsuccessfully undertaken.

²⁷ 1) Research of Shakh Aiyim: http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/KGZ/INT_CAT_NGO_KGZ_15547_E.pdf , pp 55-57 and 80-81; 2) HIV Prevention Report Card for Sex Workers, Kyrgyzstan – IPPF/SWAN/UNFPA – 2013 at www.ippfen.org/sites/default/files/HIV%20RepCard%20SW_Kyrgyzstan_FINAL%20WEB_ENG.PDF , chapter 5 is all about violence. Besides

Finally, according to a survey carried out by UNICEF in 2009, child abuse and neglect remain widespread in Kyrgyzstan. Of 2,132 children surveyed, 72.7% reported experiencing violence, abuse and/or neglect in the family. School violence and racketeering have also been identified as one of the key causes for increased violence among youth throughout the country, and often leads to suicide of students. In a research conducted in 2010, 30% of schoolchildren reported that violence was widespread in their schools.²⁸

ADMINISTRATION OF JUSTICE, IMPUNITY AND RULE OF LAW

Kyrgyzstan has not taken significant steps to address the root causes of the 2010 inter-ethnic conflict and a comprehensive transitional justice initiative has yet to be launched. Despite several recommendations were made during the first UPR cycle to strengthen the rule of law and fight impunity, a culture of impunity for violent actions and a lack of accountability for human rights violations committed during and after June 2010 remain serious concerns and threaten the peaceful coexistence of ethnic communities and long-term stability of the country.

Kyrgyzstan has so far failed to investigate fully, effectively and without discrimination human rights violations committed during and in the aftermath of the 2010 conflict, including allegations of torture and ill-treatment, serious breaches of fair trial standards during court proceedings, attacks on lawyers defending ethnic Uzbeks and discrimination in access to justice based on ethnicity.²⁹ When judicial proceedings have taken place, these were marred with allegations of irregularities of fair trial standards including limitation in the access of defendants to legal counsel, the court's tolerating direct or indirect influence, pressure or intimidation on defendants and intrusion by the public. Cases of courtroom violence against defendants and defense counsels continue to be recorded to date and undermine fair trial rights, the overall functioning of the justice system, and the citizen's trust in the Government.³⁰

The lack of fairness and impartiality of the investigations also questions the legitimacy of the exercise itself. According to official records, ethnic Uzbeks represent the vast majority of those arrested, charged and detained for crimes related to the June 2010 violence.³¹ In February 2013, the local NGO *Kylым Shamy* publicized an off-line database of court decisions relating to the June 2010 violence. To that date, the database had gathered 108 verdicts: 96 from Osh city and region, 12 from Jalalabad region. These verdicts relate to 194 defendants: 148 from Osh, 46 from Jalalabad. The 59 convictions included 109 defendants sentenced for murder: 100 (91.74%) convictions against ethnic Uzbeks, eight (7.34%) against ethnic Kyrgyz, and one (0.92%) against ethnic Uighur. These figures stand in strident contrast with the fact that, whilst both Kyrgyz and Uzbek committed serious acts of violence during June 2010, the conclusions of both the national and international commissions into the events found that the Uzbek population bore the brunt of the violence.

there are media demonizing sex-workers, talking about moral and values, claiming that sex workers are the source of the infectious diseases: <http://www.nswp.org/sites/nswp.org/files/Regional%20Europe.pdf>, page 11: http://www.vb.kg/doc/258192_ministr_zdravoohranenija_prizvala_zanimatsia_seksom_doma.html. There is also a trend to organize actions to fight against the sex work <http://bpost.kg/news/v-bishkeke-proshla-akciya-prostituticiya-eto-korrupciya>.

²⁸ http://www.unicef.org/kyrgyzstan/Child_abuse_and_neglect_report_Robin_Final.pdf

²⁹ Prosecutor General's Office as of 30 August 2013: 238 crimes were detected and cases investigated (4.6% from the total number of registered/launched cases): Murder – 78 cases (15.3%); Destruction or damage of property – 49 cases (2%); Theft, robbery, plunder and other related crimes against property – 95 cases (4.4%); Kidnapping and hostage taking – 21 cases (56.7%).

³⁰ Report of the UN High Commissioner for Human Rights on technical assistance and cooperation on human rights for Kyrgyzstan, 3 April 2012.

³¹ Prosecutor General's Office as of 30 August 2013: 238 individuals were charged with crimes related with the violence: Murder – 105 individuals, including 97 (92.4%) ethnic Uzbeks, seven (6.7%) ethnic Kyrgyz, one (0.96%) other ethnicity. Destruction or damage of property – 17 individuals, including 13 (76.5%) ethnic Uzbeks, two (11.8%) ethnic Kyrgyz and two (11.8%) other ethnicities; Theft, robbery, plunder and other related crimes against property – 101 individuals, including 60 ethnic Kyrgyz, 37 ethnic Uzbeks, four other ethnicities. Kidnapping and hostage taking – 15 individuals, including 14 ethnic Uzbeks and one other ethnicity.

FUNDAMENTAL FREEDOMS

Freedom of association

In Kyrgyzstan there is space for human rights activists and non-governmental organizations to operate. However, the Government and Parliamentarians recently made several attempts to tighten control over civil society by proposing draft legislation encroaching on freedom of association, speech and assembly, including the draft law on “money laundering”, the “treason law” and the “law on foreign agents”. All these attempts might suggest a progressively shrinking democratic space in Kyrgyzstan and prompted strong reactions from civil society, human rights activists and the international community. Similarly, on 16 April 2014, the Parliament approved in the third hearing a Law on criminal liability for deliberately disseminating false information about a crime in the mass media. If entered into force, the draft law may limit the freedom of speech and expression and prevent journalists from reporting allegations and undertaking their investigations.

Freedom of religion

Attempts to limit freedom of religion and discriminate persons on the basis of their faith have been monitored, in contradiction with the recommendation received during the first UPR cycle. In February 2014, an influential politician initiated public discussions on draft Law on the State Support to Traditional Religions. The draft law acknowledges Islam and Orthodox Christianity as “traditional religions” and recognizes the Spiritual Directorate of Muslims (muftiyat) and the Russian Orthodox Church of Kyrgyzstan as “traditional religious organizations that are integral part of the historical, cultural and spiritual heritage of the peoples of Kyrgyzstan”. The draft law foresees providing financial support to the traditional religious organizations from the state and local budgets, registering persons as Muslims, Christians, atheists or followers of other religion and payment by followers of Islam and Christianity monthly “voluntary contributions” to the traditional religious organizations. The draft law poses risks of discriminating persons on the basis of their faith or religion, coercing individuals to determine and indicate their religious identity, forcing them to pay contributions to the religious organizations, and establishing state control over the religion and believers.

In February 2014, the President signed a Decree calling for a review of the Concept Paper on State Policy in the Sphere of Religion of the Kyrgyz Republic from 6 May 2006. Following the Presidential Decree, efforts to track down alleged banned extremist or religious literature has been significantly intensified. The State Committee for National Security initiated a number of trials to increase the list of religious organizations and communities banned in Kyrgyzstan. As already reported, cases relating to charges of religious extremism often fall short of substantive body of evidence and the pretext of combating extremism may be adopted in a discriminatory manner to target individuals for exercising their right to freedom of religion.

REFUGEES, ASYLUM-SEEKERS, STATELESS PERSONS

In March 2012, Kyrgyzstan amended the national Refugee Law. Amendments reiterated the non-discrimination principle, introduced the definition of “*sur place*” refugees, improved the definition of “asylum-seeker”, extended asylum-seekers documents for the full time of consideration of their refugee claims, including appeal stage, and introduced additional guarantees against *refoulement* and torture, in line with 2010 UPR recommendations.

At the beginning of 2014, there were 269 asylum-seekers in Kyrgyzstan awaiting decisions on their applications submitted to the state’s authorities. While Kyrgyz legislation does not contain provisions on temporary or subsidiary asylum status, it does contain provisions for recognition of persons who cannot return to their country due to war. Nevertheless, in 2013, Kyrgyzstan rejected refugee status to eight applicants from Syria.

Access to registration of asylum-seekers and refugee status determination (RSD) procedures is hindered for applicants of certain nationality/country of origin. For example, asylum-seekers from China (ethnic Uighurs) are denied access to the state registration and RSD procedures while refugee status applications from nationals of Uzbekistan are registered but are not further processed for the RSD.

National laws foresee that only recognized 1951 Convention refugees have the right to lawful employment. Kyrgyzstan does not provide allowance for persons applying for refugee status, and UNHCR provides limited assistance to the most vulnerable applicants. The Citizenship Law provides for reduced length of residency in Kyrgyzstan for recognized refugees to apply for the citizenship (3 years for refugee as compared to 5 years for any other alien). However, refugees face difficulties in the procedures of consideration of applications for naturalization, such as lengthy time of consideration and bureaucratic procedure. In 2013, only nine refugees were naturalized, as compared to 17 in 2011 and 29 in 2012.

Stateless and undocumented persons have limited access to job opportunities, medical and social services. The legislation does not prevent certain situations of statelessness from occurring in the earlier stage. For example, children of stateless parents who do not have legal status as permanent residents in Kyrgyzstan may not be entitled to nationality at birth even though they were born in the country. Statelessness is being addressed through implementation of the National Action Plan on the Prevention and Reduction of Statelessness in the Kyrgyz Republic which, inter alia, recommends enhanced activities towards Kyrgyzstan's accession to the 1954 Convention on the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Health

Kyrgyzstan received only one recommendation on health during the first UPR cycle. However, the country strived to achieve MDG 5 on improving maternal health. While health services for pregnant women are included in the State Guarantee Benefit Package and women are guaranteed free-of charges health services during pregnancy and in post-partum period, maternal mortality is still high in the country. For the last decade, the maternal mortality ratio fluctuated in a range that is much higher than the national indicator set for 2015.³² Early marriages and early pregnancies are quite prevalent, putting young women at risk of maternal mortality and morbidity. Emergency obstetric care is unsatisfactory and there are no unified approaches of providing assistance to pregnant women with severe forms of complications during pregnancy and delivery.

Family planning services are also inadequate, and so is sexual education for students, adolescents and young people, contributing to pregnancy and childbirth at early age. No mechanisms are in place to provide free contraceptives, and some populations like rural and populations at higher risk to HIV, especially women, are often excluded by medical services related to family planning. Related concerns are the growing number of abortions, which are often performed improperly.

On a positive note, Kyrgyzstan succeeded in approving integrated “Healthy Life Style (HLS)” curricula in the vocational education system. The HLS curricula provide adolescents and youth with knowledge and skills to protect themselves from Sexually Transmissible Infections and HIV, prevent unwanted pregnancy and promote their sexual and reproductive rights. However,

³² Preliminary maternal mortality rate for 2013 is 39 per 100,000. Official data from the Ministry of Health of Kyrgyzstan.

groups particularly exposed to HIV infection, including sex workers and drug addicts, have limited access to sexual and reproductive health services.

Education

Despite slight improvements in basic education enrolment (from 85% to 87.8% in 2004-2011) and maintained high literacy rate (99.2%),³³ the quality and relevance of education remains a concern. The high enrolment rates continue to mask striking inequalities in levels of educational attainment and outcomes. The traditional factors of marginalization in education are gender, urban/rural residence, disability, income, language and minority status. In the 2012-2020 education reform, the Government wants to align the teaching and content to the needs and interests of students and society. However, this is just the beginning of a long process. So far, educational reforms have not addressed the issue of ownership, ensuring that Ministry of Education and Science and other local actors are an integral part of the reforms and should be placed as leaders. Due to capacity limitations and high turnover, educational institutions are unable to effectively own, sustain, continue and make use of the outputs (initiatives, policies, software, studies) supplied under donor-supported projects.

Social and child protection

According to the National Statistical Committee, in 2012 44.5% of children in Kyrgyzstan were living and growing in poverty. The impact of the only social protection program, the Monthly Benefit for Low-Income Families with Children on child poverty has been limited due to insufficient funding. The average size of the benefit is only 12% of the Minimum Subsistence Level guaranteed by the Constitution. Furthermore, Kyrgyzstan relies on residential institutional care of children in violation of their right to family environment. A research commissioned by UNICEF in 2012 found that at least 10,908 children lived in at least 117 institutions. Of these, 90% had at least one or both living parents. This reliance on institutions is largely the result of a lack of family support services. An additional concern is the proliferation of private residential institutions, which are unaccounted and not monitored by the authorities.³⁴

Adequate housing

No recommendations on adequate housing were made to Kyrgyzstan during the first UPR cycle. The realization of the right to adequate housing remains a widespread concern affecting a large portion of the population, in particular vulnerable groups (poor, migrants, displaced, elderly, women single heads of household) and minority communities. Although mandates of state bodies and ministries directly responsible for housing and land management are defined, the lack of coordination prevents the successful implementation of existing laws, programs and policies. The lack of adequate consultation and participation of local residents in urban redevelopments involving property and land expropriation, as well as forced evictions remain an important issue, particularly in Osh, compounded by inadequate procedures for determining compensation to affected residents.³⁵

In 2013, Kyrgyzstan enacted a new Housing Code that enshrines basic principles as public participation, access to information, security of tenure, non-discrimination, and the right to compensation. However, it fails to incorporate a comprehensive definition of the right to adequate housing in line with international standards and adequately provide for protection of all the different aspects of this right. It also fails to create a commitment for the Government to ensure with immediate effect the guarantee of the minimum core obligations of the right, including that everyone has access to basic shelter, in particular, the poor and homeless. On a

³³ National Statistical Committee, Children of Kyrgyzstan Statistical Bulletin, 2012.

³⁴ http://www.unicef.org/kyrgyzstan/ANALYSIS_OF_THE_SITUATION.pdf

³⁵ OHCHR ROCA, Study on the realization of the right to adequate housing, April 2014.

positive note, in May 2014 the Parliament approved on second hearing a draft Law that declassifies city master plans, eliminates corruption in urban development and prevents further attempts to classify urban planning documentation.

Development and environmental issues

Kyrgyzstan's National Sustainable Development Strategy 2013-2017 was approved by Presidential Decree in January 2013, declaring, among others, the establishment of a sustainable system of environmental protection, control and monitoring and natural resources management for informed decision-making. Moreover, a 2012 Government Resolution established the Coordination Committee on Climate Change to provide leadership and coordination for the national implementation of obligations under UN Framework Convention on Climate Change. The Committee consists of representatives of 20 ministries and agencies. Nevertheless, due to Kyrgyzstan's inadequate environmental information management and monitoring system, the interpretation, implementation, and enforcement of policy, legislation, and regulation remain weak. While greater than hundred laws and regulations exists in Kyrgyzstan, there is no clarity in the system of relations in environmental field, which leads to evolving environmental conflicts between investors and local communities, preventing foreign investments to extractive and other industries, and limits full implementation of activities related to environmental protection and management.