

HUMAN RIGHTS IN KYRGYZSTAN: SUMMARY OF NGO CONCERNS AND RECOMMENDATIONS

A coalition of 13 Kyrgyz NGOs has prepared a submission to the United Nations Human Rights Council in advance of its examination of Kyrgyzstan under the Universal Periodic Review on 3 May 2010. This document summarizes major concerns and recommendations from the report. For more detailed information, please refer to the full report, at http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/KG/JS2_UPR_KGZ_S08_2010_JointSubmission2.pdf

Many of the problems described in the report are deep-rooted and systemic in character. It will therefore be imperative for the new authorities of Kyrgyzstan to give close attention to them and to make determined efforts to address them.

Freedom of expression and the right to access information

- Independent media are under pressure from authorities, with several independent radio stations having been taken off air and several independent newspapers closed down in the last few years.
- Journalists and civil society activists who express views that are critical of official policies are subject to different forms of intimidation and harassment.
- Critical media and journalists are frequently brought to court for violating the “honor and dignity” of officials (civil cases) or for slander or libel (criminal cases). Only in 2008 more than 50 court cases against media and journalists were reported.
- Since 2006, there have been more than 40 cases where journalists have been violently attacked by unknown perpetrators. In some cases such attacks have resulted in the death of the victims. Investigations into attacks are typically ineffective.
- Human rights defenders are often prevented from carrying out peaceful protest actions against human rights violations and other injustices (see more below).
- Authorities restrict access to information on issues of public interest by failing to make public such information (e.g. election results detailing the outcome for different polling stations or information on the budget of public bodies) or by classifying it as secret even though there are no weighty reasons for doing so.

Key recommendations to the Kyrgyz authorities:

Support and encourage open debate and free exchange of information in Kyrgyzstan;

Decriminalize libel and slander;

Ensure that all attacks on journalists are investigated in a prompt, efficient and transparent manner.

Reconsider the outdated way of classifying information in state bodies and set up a national agency to supervise implementation of legislation on access to information.

Freedom of association and peaceful assembly

- In the last few years, a number of steps have been taken to restrict the right to freedom of association and peaceful assembly.
- Draft amendments to the Law *On Non-Commercial Organizations* introduced in 2009 would grant authorities broad powers to control and intervene in the activities of NGOs and prohibit NGOs from participating in “political” activities. This draft legislation was put forward in a climate of growing suspicion against NGOs involved in efforts to promote democracy and human rights. NGOs have, among others, been depicted as “spies” that seek to “betray” their motherland with support from “the West”. Following vocal protests from local civil society and the international community, the Kyrgyz president recommended that the parliament postpone consideration of the amendments. However, concerns remain that the initiative may resurface.
- Amendments to the Law *On Peaceful Assembly* adopted in 2008 essentially introduced a permission procedure for public meetings and demonstrations, although the Kyrgyz Constitutional Court has ruled that it is not necessary to obtain permission to hold assemblies as long as relevant authorities are notified in advance. These provisions seriously limit the possibility to organize assemblies to voice grievances about political or economic and social conditions. On numerous occasions, peaceful protests have been dispersed and participants arrested and punished with fines or up to 15 days of detention.

Key recommendations to the Kyrgyz authorities:

Protect the right to freedom of association and peaceful assembly and promote an environment in which civil society can operate freely without fear of intimidation and harassment;

Reject the proposed amendments to the Law On Noncommercial Organizations;

Bring the Law On Peaceful Assembly into compliance with the Constitution of Kyrgyzstan and international human rights standards, ensuring the application of a notification procedure for organizing peaceful assemblies.

Torture and ill-treatment

- The practice of torture and ill-treatment remains widespread. Since 2007 human rights activists have recorded more than 300 cases of abuse, more than 90% of which took place in detention facilities managed by the Ministry of Interior.
- The victims of torture and ill-treatment are often individuals who have been arrested and detained unlawfully and denied access to lawyer, as well as contacts to the outside world. In this situation, they are particularly vulnerable to abuse.
- Judges frequently ignore allegations by defendants that they have been subjected to torture and ill-treatment and allegations of abuse are not adequately investigated or punished.

Key recommendations to the Kyrgyz authorities:

Establish an effective national mechanism to prevent torture, in accordance with the Optional Protocol to the Convention against Torture (Kyrgyzstan acceded to this protocol in 2008) and ensure that independent monitoring of closed institutions can be carried out on a systematic basis;

Carry out prompt, effective and thorough investigations of all allegations of torture and ensure that the perpetrators are brought to justice;

Introduce provisions to national legislation to increase penalties for torture.

Prison conditions

- Due to rampant corruption there are insufficient funds for the management of the country's prisons. There is in particular a lack of medical and sanitary facilities, resulting in the spread of diseases and even the death of prisoners.
- There are also problems with respect to the maintenance of order in prisons, with frequent disturbances and outbreaks of violence that jeopardize the safety of prisoners.
- The situation of life-time prisoners remains of major concern. No special facility for such prisoners has been set up since a moratorium on capital punishment was introduced in 1998 (and capital punishment subsequently was abolished in 2007). Some of these prisoners are still being held in small cells of 2*3 meters that lack windows and ventilation. More than 70 out of 204 life-time prisoners have died since 1998.
- Some high-ranking officials have publicly expressed support for reinstating capital punishment.

Key recommendations to the Kyrgyz authorities:

Ensure that the treatment of prisoners is consistent with international minimum standards;

Reaffirm commitment to Kyrgyzstan as a death penalty free country and consider humanizing legislation on life time imprisonment, including by reducing the term after which appeals for amnesty can be made.

Electoral rights

- Numerous violations of electoral rights have been observed during recent elections.
- The 2009 presidential elections took place in an unequal playing field. The incumbent misused administrative resources to gain advantage and opposition candidates were obstructed in carrying out their campaigns. Two opposition candidates were prevented from running.
- Shortly prior to the presidential elections, a number of amendments were introduced to the Kyrgyz Election Code, which made it more difficult for opposition candidates to run and reduced

safeguards against voting abuse. Among others, these amendments tightened requirements on the support needed to register as a candidate and removed provisions on inking voters' fingers, an important safeguard against multiple voting.

- Different problems were reported on voting day of the presidential elections, including interference with the work of electoral commissions by authorities, hindrance of the work of election observers and irregularities in the tabulation of voting results.

Key recommendations to the Kyrgyz authorities:

Following recommendations made by the OSCE, bring legislation on the conduct of elections into compliance with international electoral standards;

Ensure that coming elections are conducted in accordance with national legislation and international human rights standards on free and fair elections.

The rights of children

- Authorities continue to rely heavily on state guardianship and institutionalization when dealing with orphans and children from problematic social backgrounds. Despite pledges made, no effective measures have been taken to develop and make use of alternative schemes to support the care of such children in family environments.
- The treatment of children in state institutions is of concern. Due to lack of funds or misuse of funds, children are often not adequately fed, resulting in malnutrition. There is also an acute lack of hygienic items and clothing. The use violence against children in institutions is common.
- The majority of juvenile delinquents who are 14 or older are sentenced to prison. Hardly any alternative forms of punishment are used.
- Child labor remains a problem, with some children engaged in dangerous and hazardous forms of labor. For example, every day, some 1,500 children search for and collect silicon for resale at a dump site of a former uranium mine outside the village of Orlovka in the Chui oblast. They do not wear any masks, gloves or other protective clothing and many of them suffer from serious health problems.

Key recommendations to the Kyrgyz authorities:

Draft a national program on de-institutionalization of orphans and social orphans and develop alternative forms of family care and guardianship;

Adopt effective measures to prevent, detect and investigate cases of abuse in children's institutions;

Provide for alternative forms of punishment to deprivation of liberty for juvenile delinquents;

Isolate radio-active dump sites and similar hazardous areas and rehabilitate children who have been engaged in dangerous work in such areas and provide social assistance to their families.

The rights of women

- The representation of women at high levels of executive power remains low. Only 19 out of 90 members of parliament are women (21%), while the current government only has three female members.
- Women are overrepresented in low-paid sectors of the economy.
- Many marriages are conducted in accordance with Islamic traditions without any official state registration. This increases the vulnerability of women.
- There are also concerns of child brides and bride kidnapping, as well as domestic violence against women.

Key recommendations to the Kyrgyz authorities:

Take measures to implement the Millennium Development Goals on gender equality, as well as recommendations made by the Committee on the Elimination of Discrimination against Women;

Organize wide-scale information campaigns to inform about the rights of women and to combat gender stereotypes.

The rights of ethnic and religious minorities

- Kyrgyz legislation does not contain any exact definition of the term “discrimination” and does not provide for any effective mechanisms for protecting individuals against discrimination, intolerance and enmity for ethnic or religious reasons.
- A new Law *On Religion* adopted in 2008 introduced a requirement that religious communities have at least 200 members in order to register with the authorities, a requirement that is difficult to meet for small minority religious communities. This law also established cumbersome financial reporting obligations for religious groups and banned the distribution of religious material in public places.

Key recommendations to the Kyrgyz authorities:

Draft legislation against discrimination on the basis of UN model legislation;

Revoke provisions of the Law on Religion that restrict the right to freedom of religion in ways that are inconsistent with international human rights standards.

The rights of refugees

- Kyrgyzstan does not meet its obligations under the UN Refugee Convention and its Protocol or under national refugee law.
- Asylum seekers are often denied access to the process of applying for refugee status, and in 2008-2009, less than 2% of all registered applicants were granted refugee status.
- Cases where asylum seekers are extradited or “disappear” continue to be reported. In the framework of counter-terrorism cooperation with Uzbekistan, several individuals recognized as refugees have been extradited to this country in recent years, in violation of the *non-refoulement* principle.

Key recommendations to the Kyrgyz authorities:

Ensure that asylum seekers enjoy access to a fair asylum procedure and that they can legally stay in the country until their status has been decided upon;

Strictly comply with the non refoulement principle.

Freedom of movement

- Existing provisions on residency registration limit the freedom of movement of citizens as they tie the enjoyment of various social benefits to the place of registration. Citizens who change their place of residence within the country are required to obtain temporary registration, but it is basically impossible to get such registration. As a result, those who move cannot receive pensions and use social and health services at their new place of residence. They also experience difficulties in enrolling their children in school.

Key recommendation to the Kyrgyz authorities:

Ensure that citizens can enjoy access to social benefits at their place of residence, rather than their place of registration.

The following Kyrgyz NGOs participated in the preparation of the report:

The Youth Human Rights Defense Group; The *Kylym Shamy* Human Rights Center; The Open Position Foundation; The Media Representative Institute; The Coalition for Democracy and Civil Society; The Adilet Legal Clinic; The Citizens against Corruption Foundation; The Agency of Social Technologies; The NGO Network for Children; The Center of Public Technologies; The Voice of Freedom Foundation; The Independent Human Rights Group; and the Association of Civil Society Support Centers.

This summary was prepared by the International Partnership for Human Rights (IPHR) as part of a project to assist and empower local NGOs from Central Asia and other parts of the former Soviet Union to reach out to and engage the international community in their struggle for human rights.