

## KYRGYZSTAN

### Joint submission for the Universal Periodic Review (Third Cycle) Contributions for the 35th Session

#### Working Group on UPR – Kyrgyzstan

The Working Group on UPR in Kyrgyzstan was established in April 2019 following national consultations in the regions of Kyrgyzstan and in Bishkek, which were attended by activists, representatives of CSOs with the support of the National Center of the Kyrgyz Republic for the Prevention of Torture, the Ombudsman Institute of the Kyrgyz Republic, Office of the United Nations High Commissioner for Human Rights in Central Asia and UPR-Info.

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The length of the submission (less footnote): 5368 words.

The submission covers the following topics:

- I. **Human rights defenders and freedom of association**
- II. **Right to peaceful assembly**
- III. **Torture, access to justice**
- IV. **Human rights violations in the fight against extremism;**
- V. **Ethnic minorities' rights;**
- VI. **LGBT rights;**
- VII. **Women's rights**
- VIII. **Migration and Child rights**

**Summary.** From 2013 to 2015, a total of **664** recommendations were given by the UN human rights treaty bodies, **584** of them were implemented in various programs, strategies, or partially implemented, and the remaining **80 recommendations were included in the Human Rights Action Plan for 2019 - 2021.**<sup>1</sup> However, the inclusion of recommendations in programs, strategies and action plans is not an implementation of recommendations. Of course, the adoption by the Government of the Kyrgyz Republic of the Human Rights Action Plan for 2019-2021 to implement the recommendations of the national reports on the implementation of the provisions of international legal instruments in the field of human rights by the Kyrgyz Republic and the National Development Strategy of the Kyrgyz Republic for 2018–2040<sup>2</sup> are welcomed, but it is not a direct implementation during the reporting period.

Kyrgyzstan also joined the European Union’s Generalized System of Preferences (“GSP +”) on 27 January, 2016.<sup>3</sup> In addition, the country undertakes to conduct regular monitoring in accordance with the procedures established by the EU in Article 13 of the EU Regulation No. 978/2012.

The failure to implement the recommendations of the second cycle of the Universal Periodic Review (2015) to bring the Law of the Kyrgyz Republic “On the Ombudsman (Akyikatchy) of the Kyrgyz Republic” in line with the Paris Principles is also cause for concern. This recommendation is provided for in paragraph 11.2 of the Human Rights Action Plan for 2019-2021.

#### ***1. Human rights defenders and freedom of association***

1. In recent years, the persecution of human rights organizations and human rights defenders who are actively involved in protecting the civil and political rights of citizens, national minorities, believers and LGBT groups has periodically intensified in Kyrgyzstan<sup>4</sup>.
2. Such vulnerability of NGOs engaged in the protection of human rights and promotion of civil interests, gender issues and advocacy is manifested primarily in the use by the country's government of increasingly severe anti-terrorism legislation and leverage to limit the "political" activities of NGOs, which is sometimes accompanied by pressure on NGO leaders, as well as their family members.<sup>5</sup>
3. Despite the fact that in 2015 the UN adopted the Guidelines against Intimidation or Reprisals (San José guidelines), a negative precedent was created in Kyrgyzstan when the human rights report was recognized as extremist by the secret court decision, the organizations were included in the “List of extremist materials” of the Ministry of Justice of the Kyrgyz Republic, partners were banned from entering the country.<sup>6</sup>
4. In March 2019, the issue of adopting the law “On Foreign Agents” was raised again.

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<sup>1</sup> <http://cbd.minjust.gov.kg/act/view/ru-ru/216902>

<sup>2</sup> The National Development Strategy of the Kyrgyz Republic for 2018–2040 was approved by the Decree No. 221 of the President of the Kyrgyz Republic dated 31 October, 2018.

<sup>3</sup> [https://eeas.europa.eu/delegations/kyrgyz-republic/13073/european-union-grants-gsp-status-kyrgyz-republic\\_en](https://eeas.europa.eu/delegations/kyrgyz-republic/13073/european-union-grants-gsp-status-kyrgyz-republic_en)

<sup>4</sup> <http://www.birduino.kg/en/press/930-kyrgyzstan-situation-of-human-rights-defenders-and-legal-prosecution>

<sup>5</sup> The Tian Shan Policy Center at AUCA with the support of the Civil Partnership Platform "Central Asia on the Move", the HRM "Bir Duino-Kyrgyzstan" and the offices of DCA and ICCO in the Kyrgyz Republic. Analysis of the NCO Development Enabling Environment (Survey and Focus Group Discussions Results). Page 12.

<sup>6</sup> file:///C:/Users/pc/Desktop/УПО/SVOBODA-VYRAZhENIYa-V-CA\_2019-EZhEGODNYY-OTChET-konvertirovan.pdf

On 12 May, 2016, the Parliament of Kyrgyzstan rejected the draft law “On Non-Profit Organizations” in the third reading. Thus, the right to freedom of association was retained and paragraph 25 of the ICCPR was implemented.<sup>7</sup>

In addition to the initiative on adoption of the law “On Foreign Agents”, a draft law on the activities of independent trade unions is also actively promoted in Kyrgyzstan.

5. During these years, lawyers of the human rights defender A.Askarov applied to the main instances to protect his constitutional rights and freedoms. On 21 April, 2016, the UN Human Rights Committee called on Kyrgyzstan to release Azimzhan Askarov and annul the decision to convict him.<sup>8</sup>

Due to his age and state of health, Askarov is a prisoner with special needs, therefore, the HRM “Bir Duino-Kyrgyzstan” appealed to the President of the Kyrgyz Republic, Ombudsman of the Kyrgyz Republic and the State Penal Correction Service regarding this category of convicted.<sup>9</sup>

### **Recommendations:**

- 1) State authorities and their officials should openly condemn such actions and show absolute intolerance towards them. Public authorities are required to be guided in their daily work by the OSCE Guidelines on the Protection of Human Rights Defenders.
- 2) The state must guarantee full respect for the rule of law and the independence of the judiciary. Therefore, it is necessary:
  - To carry out reforms in this respect so that the security of human rights defenders was ensured and not a single violation of the rights of officials and other persons against human rights defenders remained unpunished.
  - To not allow application of politically motivated persecution or any other unreasonable persecution to human rights defenders due to their human rights activities.
- 3) The state should not pursue human rights defenders for cooperation with UN structures, should not conduct secret courts in relation to human rights organizations interacting with the UN and carrying out human rights activities in Kyrgyzstan.
- 4) The state should respect the right to freedom of association in accordance with paragraph 25 of the ICCPR<sup>10</sup>, since on 12 May, 2016, the Kyrgyz Parliament rejected the draft law “On Non-Profit Organizations” in the third reading. Thus, Kyrgyzstan retained the right to freedom of association and showed its political will. Initiatives to enact a law on foreign agents and draft laws relating to the activities of independent trade unions undermine the image of Kyrgyzstan and the conditions for the implementation of the ICCPR Convention within the framework of GSP+ regime of the European Union.

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<sup>7</sup> Article 25 of the ICCPR “The State party should ensure freedom of association in accordance with article 22 of the Covenant and refrain from imposing disproportionate or discriminatory restrictions on the freedom of association”.

<sup>8</sup> <http://rus.azattyq.org/a/27689968.html>

<sup>9</sup> General Assembly resolution 70/175, annex, adopted on 17 December, 2015.

<sup>10</sup> Article 25 of the ICCPR “The State party should ensure freedom of association in accordance with article 22 of the Covenant and refrain from imposing disproportionate or discriminatory restrictions on the freedom of association”.

- 5) It is necessary to implement the decision of the UN Human Rights Committee on the complaint of Azimzhan Askarov, recommendations of the Committee on the Elimination of Racial Discrimination.<sup>11</sup>

## ***II. Right to peaceful assembly***

The right to freedom of peaceful assembly is established in a number of international documents<sup>12</sup>, the obligation of compliance with which was undertaken by the Kyrgyz Republic.

Article 34 of the Constitution of the Kyrgyz Republic guarantees that everyone has the right to freedom of peaceful assembly. No one may be compelled to participate in a meeting. In order to ensure the holding of a peaceful assembly, everyone has the right to submit a notice to the authorities.

Thus, the Human Rights Movement “Bir Duino-Kyrgyzstan” appealed to the Bishkek city administration with a notification of the intention to hold a peaceful assembly - a peaceful march on January 20, 2018 with the purpose of protecting the rights of women in Kyrgyzstan. However, the municipal administration recommended "to hold an event - a rally - without holding a march" and in fact limited the right to hold a peaceful assembly in any form. The organization appealed the inaction of the district municipal body in court. Also, human rights activists appealed to the city prosecutor's office with a statement about non-compliance by local government officials with the requirements of the law. As a result, based on the measures and actions taken, the Human Rights Movement “Bir Duino-Kyrgyzstan” achieved the following:

- The court found inaction of the municipal administration illegal.
  - A disciplinary action in the form of a reprimand was applied to the responsible officer of the municipal administration.
  - The prosecutor's office opened an administrative case, according to which the court imposed an administrative fine on the head of the municipal administration for the lack of inadequate control over compliance with the requirements of the law.
6. However, despite the fact that the norms of the current Law “On peaceful assemblies” allow everyone to exercise the right to freedom of peaceful assembly in a sufficient measure, law-enforcement practice shows a number of problems and challenges related to compliance with its provisions. These problems and challenges are as follows:
- Making in absentia by administrative bodies and courts decisions prohibiting or restricting peaceful assemblies;
  - Making decisions on the prohibition or restriction of peaceful assemblies in relation to an unlimited number of persons, indefinite and envisaged in future assemblies;

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<sup>11</sup>[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fKGZ%2fCO%2f8-10&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fKGZ%2fCO%2f8-10&Lang=en)

<sup>12</sup> The Universal Declaration of Human Rights of 1948 (Art. 20.1), the International Covenant on Civil and Political Rights of 1966 (Art. 21), the Convention of the Commonwealth of Independent States (CIS) Regulatory and Fundamental Human Freedoms in 1995 (Art. 12), etc.

7. Absentee bans or restrictions on holding peaceful assemblies in certain territories (central squares and other public places) that do not allow the organizers of meetings to appeal against such decisions subsequently.

**Recommendations:**

- 6) Considering that initiatives to impose restrictions on the holding peaceful assemblies periodically violate the rights guaranteed by the Constitution, come as a rule from state bodies and local self-government bodies, it is necessary to strengthen the role of prosecution bodies in terms of overseeing their compliance with legislation in this area of public relations.  
It is necessary to strengthen the supervision by the prosecution authorities<sup>13</sup> of the observance by the state and local self-government bodies of the legislation on the right to peaceful assembly.
- 7) In order to change the negative practice of unlawful absentee decisions prohibiting or restricting peaceful assemblies by administrative bodies and courts, it is necessary to ensure an objective hearing on each case of violation of the law on the right to peaceful assembly and ensure bringing to court of those who violate the right to freedom of peaceful gatherings and ensure that they are liable under the relevant law.

**III. Torture, access to justice**

On 1 January, 2019, a number of criminal codes entered into force in Kyrgyzstan.<sup>14</sup> Prior to this, one of the major problems in protecting the rights of victims of torture was the refusal to initiate criminal proceedings against law enforcement officers who used torture.

8. However, in accordance with the new criminal law, pre-trial criminal proceedings must be completed no later than 2 months after the person was notified of being suspected of committing a crime. This means that, in spite of the fact that the criminal case is registered in the Unified Register, before the suspects are notified of the crime committed, the cases can be in production for an unlimited time. Therefore, there is a possibility that many torture cases will stay in the production of the relevant law enforcement agencies for years.
9. Criminal cases of torture (Article 143 of the "new" Criminal Code of Kyrgyzstan) are referred to the powers of investigators of national security services, even in the case of torture by employees of the national security services themselves (part 2 of Article 153 of the Criminal Procedural Code of Kyrgyzstan). In addition to the conflict of interest, it becomes difficult to monitor the progress of the investigation due to the closed nature of the institution of national security bodies, the consequences of which may lead to a deterioration of the situation to prevent torture in the country.
10. During the defense, lawyers face the problems of the quality of forensic medical examinations, forensic psychological and psychiatric examinations performed by experts of state bodies. There

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<sup>13</sup> Clause 1 of Article 104 of the Constitution of the Kyrgyz Republic, Clause 1 of Part 1 of Article 3 of the Law of the Kyrgyz Republic of July 17, 2009 No. 224 "On the Prosecutor's Office of the Kyrgyz Republic" Constitution of the Kyrgyz Republic".

<sup>14</sup> <http://cbd.minjust.gov.kg/act/view/ru-ru/111527?cl=ru-ru>

are doubts in the completeness and validity of their conclusions. Therefore, the issue arises regarding the sufficient qualification of state experts and their independence.

11. The quality of torture allegations verification is very low. Examining the materials on the refusal of the criminal case they do not investigate the exact time of arrival at the building of the law enforcement agency, the time spent in the investigator's office, access to a lawyer from the moment of arrival. They do not take a colored photograph of injuries. When appealing about the refusal to initiate a criminal case by an investigator, the prosecutor, despite obvious violations of the law, opposes sending the case for an additional check.
12. It should be noted that the institute for the exclusion of inadmissible evidence does not function, however, it should be an effective tool in combating falsification of evidence, including those obtained through the use of torture. For example, explanatory notes received without the participation of lawyers; testimony of close relatives obtained by force. As the analysis of all the complaints of victims of torture showed, the prosecution authorities refused to initiate criminal proceedings, despite the fact that they and their lawyers presented convincing evidence. During 2018 we managed to initiate 2 criminal cases against law enforcement officers.
13. A big problem in terms of access to fair justice is delaying litigation, which can last for several years. For example, revealed a major violation of the right of victims of torture to participate in court proceedings. E.g., Mr. A.A., who was detained on 20 January, 2015, only in January 2019 for the first time was able to attend the court personally to testify against employees who used torture.
14. Safety (physical, material, procedural) of witnesses, victims, lawyers In law enforcement practice due to the lack of effective measures to ensure security, many victims abandoned their stated requirements or changed their testimony. For example, T.A. refused from his application, having received threats of spreading defamatory information about members of his family. Lawyers of high-profile precedent torture cases involving initiation of criminal cases against officials, may receive threats, blackmail in their address, searches are conducted (searches of the office of Bir Duino-Kyrgyzstan and at the homes of lawyers).
15. The new Criminal Code of the Kyrgyz Republic, which entered into force on 1 January, 2019, excluded article 146-2, which provides for criminal liability for obstructing the activities of the NCPT of the Kyrgyz Republic. This provision has been translated into the Code of Offenses of the Kyrgyz Republic.<sup>15</sup>

During the four years of work of the NCPT, 46 facts of impeding were recorded, of which three facts were prosecuted (in 2014, 2015 and 2017). Despite legislative strengthening of the prohibition of obstruction and interference with the activities of the NCPT of the Kyrgyz Republic, in practice such violations continue.

16. Despite the fact that financing of the NCPT of the Kyrgyz Republic<sup>16</sup> remains at the same level, it should be noted that due to the increased workload and shortage of staff, there is a lack of funding, which impedes timely and effective response to cases of reported torture.

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<sup>15</sup> <http://cbd.minjust.gov.kg/act/view/ru-ru/111529?cl=ru-ru> Enacted by the Law of the Kyrgyz Republic dd 24 January, 2017, No. 10 from 1 January, 2019

<sup>16</sup> The National Center of the Kyrgyz Republic for the Prevention of Torture and other cruel, inhuman or degrading treatment or punishment

17. In the course of all the years of the National Center's activities, the prosecution authorities initiated criminal proceedings on only 28 reports of torture and ill-treatment, which is 3% of the total number of communications sent by the National Center.

Due to lack of pre-trial detention centers (SIZOs) in the country's regions (Batken, Jalal-Abad and Talas oblasts), defendants and convicts are held in the TDF in violation of national legislation and international standards. For example, 71.3% of a contingent of 10 TDFs in the Jalal-Abad oblast should have been detained in the SIZO of the penal system of the KR (State Penal Correction Service of the KR). Besides that, most of the correctional colonies were built in the middle of the last century, for example, the detention center in Osh was built in 1913.

#### **Recommendations:**

- 8) To ensure the effectiveness of investigations, it is necessary to specify certain periods in the Criminal Procedure Code of the Kyrgyz Republic<sup>17</sup> when investigating cases of torture from the moment of their registration. As a result, lawyers in protecting victims of torture are faced with the problem of timely and effective investigation, which is a requirement of Part 1 of Article 2 of the Convention against Torture.
- 9) In order to avoid conflicts of interest and to ensure effective investigation of torture, the state should assign the jurisdiction of torture cases to the General Prosecutor's Office.
- 10) The state should provide legal and physical protection to experts and medical professionals who are involved in the mechanism for investigating allegations of torture, because quality forensic, forensic psychological and psychiatric expertise, protection of experts and medical personnel are essential components of the requirement for effective measures to prevent acts of torture (Article 2 of the Convention against Torture). Provide equal status to independent and private experts along with state forensic scientists.
- 11) To strengthen procuratorial oversight of all allegations of torture
- 12) The state should ensure the protection of the physical and personal integrity of victims of torture during pre-trial activities and court sessions, as well as medical professionals and forensic experts who are involved in the procedures for investigating torture cases.
- 13) The state should provide protection to participants in proceedings on torture. Namely, witnesses, victims, lawyers involved in human rights activities should not be subjected to intimidation or repression, threats to deprive them of their right to practice as lawyers for their efforts to protect human rights or protect human rights defenders. They must be effectively protected from pressure from government or other entities.
- 14) The state should ensure unimpeded access of NPMs to closed institutions, in particular, to revise the article on liability for obstruction of NCTP activities in the Criminal Code of the Kyrgyz Republic.
- 15) The state should provide timely and sufficient funding for the NPM to ensure its proper functioning and full independence.
- 16) Ensuring the prompt and effective investigation of allegations of torture and other ill-treatment, as well as bringing to justice the perpetrators of such acts and their punishment in accordance with the standards provided for by international standards (in accordance with Part 1 of Article 2, Part 2 of Article 4 of the Convention against torture).

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<sup>17</sup> <http://cbd.minjust.gov.kg/act/view/ru-ru/111530>

- 17) Taking measures to further improve the conditions of detention and prevent ill-treatment in state penitentiaries in accordance with international minimum standards of the Mandela Rules; in particular, to build detention facilities in the regions of the country where there are no such facilities.

#### **IV. Human rights violations in the fight against extremism**

As of June 2018, 540 people (of whom 95% are men) are serving a prison or suspended sentence for crimes of a terrorist or extremist nature.<sup>18</sup>

18. According to Article 13 of the Law of the Kyrgyz Republic No. 150 dd 17 August, 2005 "On Countering Extremist Activities", informational materials are recognized as extremist by the **court** at the district where they were found and distributed, or at the location of the organization that carried out the production of such materials, on the basis of the submission of the prosecutor who declared the materials extremist. A copy of the court decision on the recognition of information materials as extremist that has entered into legal force is sent to the executive authority in the field of justice.
19. In accordance with Article 29, Part 2 of the Constitution of the Kyrgyz Republic, everyone has the right to confidentiality of correspondence, telephone and other negotiations, postal, telegraph, electronic and other communications. Restriction of these rights is allowed only in accordance with the law and solely **on the basis of a judicial act**. In all criminal cases, in which BDK lawyers participated, regarding storing extremist materials in electronic accounts and e-mails on the Internet, these materials were seized by agents of the state **without a judicial act**.
20. Human rights activists and lawyers criticize the quality of the execution of expert examinations, which became the main documents in the accusation and conviction of citizens regarding possession and distribution of religious materials of extremist content. Conducting religious expertise was transferred to the Center of forensic examinations.
21. Article 315 of the Criminal Code of Kyrgyzstan "Production and distribution of extremist materials" has a significant difference from the old Code, and a component - storage for the purpose of distribution - has been added here. In April 2019, the Supreme Court dismissed the case of I.P. in connection with the decriminalization of the act, since according to the new Criminal Code of the Kyrgyz Republic, possession of extremist material is a crime only if there is a distribution goal.

#### **Recommendations:**

- 18) Strict compliance with the Article 13 of the Law of the Kyrgyz Republic No. 150 dd 17 August, 2005 "On Counteracting Extremist Activities", when information materials are recognized as extremist by the **court** at the district where they were found and distributed, or at the location of the organization that carried out the production of such materials, based on the submission of the prosecutor who stated the requirements on the recognition of materials extremist.
- 19) Strict observance of Article 29, Part 2 of the Constitution of the Kyrgyz Republic, on ensuring the right to privacy of correspondence, telephone and other negotiations, postal, telegraph,

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<sup>18</sup> According to the report of Human Right Watch, referencing data from the State Penitentiary Service

electronic and other communications. Restriction of these rights is allowed only in accordance with the law and solely **on the basis of a judicial act**.

- 20) Ensure the competence of experts and develop forensic expertise in conducting expert examinations in extremist cases
- 21) To abolish (repeal) the article providing for criminal punishment for the storage and distribution of religious extremist materials within the framework of humanization, decriminalization and depenalization of criminal legislation.

## **V. *Ethnic minorities' rights***

In 2019, the Government of the Kyrgyz Republic adopted an Inter-Agency Action Plan for 2019–2022 on the implementation of the recommendations of the UN Committee on the Elimination of Racial Discrimination (CERD)<sup>19</sup>.

1. Not knowing of the Kyrgyz State language becomes a stigma, causes hate speech and even hate crimes. At the same time, conditions have not been created for the quality teaching of the Kyrgyz language to children and adults, as well as conditions for learning and using the native languages of ethnic minorities.
2. Representatives of ethnic minorities often don't feel "needed" in Kyrgyzstan and don't see their future in the country that does not ensure genuine equality of all citizens, does not adequately counteract cases of discrimination. This is one of the reasons for the mass labor migration and emigration of ethnic minorities from Kyrgyzstan. The result of such frustration is religious radicalization among others, and in the fight against so-called extremism, the police and the judiciary often use ethnic profiling.
3. Justice for victims of the interethnic conflict has not been restored. In a number of high-profile cases related to the events of 2010, Kyrgyzstan did not comply with the decisions of international bodies.
4. Ethnic minorities are extremely sensitive to the mass shift of schools to teaching in the Kyrgyz language, restrictions on learning their mother tongue in schools and the use of the Uzbek language in public spheres, abolition of the opportunity to pass the state exams in Uzbek. There is a practice of persecution and discrimination of ethnic minorities and peaceful religious supporters by the police under the pretext of combating violent extremism and providing registration to peaceful religious groups.
5. There is still a lack of gender and ethnic representation in the public service and decision-making structures. Ethnic minorities continue to be substantially underrepresented in public life, including the civil service, law enforcement agencies and judicial institutions, as well as in political life.

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<sup>19</sup>Recommendations [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fKGZ%2fCO%2f8-10&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fKGZ%2fCO%2f8-10&Lang=en) were made by the Committee after consideration of the state report <http://cbd.minjust.gov.kg/act/view/ru-ru/216544> of Kyrgyzstan, as well as alternative reports of civil society, including the joint report of the ADC "Memorial" and the NGO "Human Rights Movement Bir Duino Kyrgyzstan. <https://adcmemorial.org/www/publications/o-soblyudenii-kyrgyzskoy-respublikoy-mezhdunarodnoy-konventsii-o-likvidatsii-vseh-form-rasovoy-diskriminatsii>

6. The problems of violations of the rights of children and women in closed ethnic communities remain without attention and due reaction of state bodies: early marriages, domestic violence, imposition of religious education to the detriment of compulsory secular education.

**Recommendations:**

- 1) Monitoring implementation of the Plan for overcoming stigmatization and negative stereotypes regarding ethnic groups to curb hate speech in the media and by officials.
- 2) Stop harassment and discrimination of ethnic minorities and peaceful religious supporters by the police under the pretext of combating violent extremism and provide registration to peaceful religious groups.
- 3) Effective investigation of allegations of torture, ill-treatment, seizure of property in the south of the country in 2010, and restoration of justice in these cases, which means, inter alia, effective investigation, punishment of perpetrators and payment of compensation.
- 4) Ensure teaching ethnic groups in their mother tongue and creation of conditions for the peaceful and harmonious coexistence of the peoples of multinational Kyrgyzstan.
- 5) Adapt guidelines for recruitment of law enforcement officers and civil servants in order to guarantee proportional representation of ethnic minorities and increase the representation of women.
- 6) The State should pay attention to the problems of violations of the rights of children and women in closed ethnic communities: early marriages, domestic violence, the imposition of religious education to the detriment of compulsory secular education.

**VI. LGBT rights**

22. According to the Urgent Community Response Group (UCRG), during 2016-2018 187 urgent appeals of discrimination and violence towards LGBT people, and 87 requests for legal advice were received. The UCRG team responded urgently to all appeals, as well as a lawyer, street lawyers and women-lawyers of the organization.
23. Despite the constant efforts of non-governmental, international and state structures to increase the credibility of the law enforcement agencies, the trend of illegal practices on the part of individual police officers continues.<sup>20</sup>

Militiamen are not afraid to commit illegal actions against LGBT people, as they believe that they will not be able to address anyone, fearing a subsequent outing.<sup>21</sup>

Police officers remain the main violators of the rights of LGBT people in Kyrgyzstan. From 2016 to 2018 35 cases related to violence by law enforcement agencies were documented. Most cases involve blackmailing, threats and extortion.

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<sup>20</sup> <http://indigo.kg/wp-content/uploads/2016/04/Oni-skazali-tak-vam-i-nado-HRV.pdf>

<sup>21</sup> Outing - disclosure, public disclosure of information about a person's sexual orientation or gender identity without their consent.

24. There are frequent cases when police officers are inactive when someone is committing or preparing illegal actions against LGBT people. Two employees of the NGO “Kyrgyz Indigo” filed an application against the leaders of the organization “Kyrk Choro” because of threats to their personal security. The police refused to initiate a criminal case due to the lack of corpus delicti, despite the fact that one of the representatives of “Kyrk Choro” stated that he would commit the terrorist attack on 1 May.<sup>22</sup>

#### **Recommendations:**

- 22) Adoption of anti-discrimination legislation of the Kyrgyz Republic to protect the rights and freedoms of various groups of society;
- 23) Conduct a fair and objective trial and investigation of all cases of assault, violence, blackmailing by radical groups, police officers and homophobes/transphobes against LGBT people and activists;
- 24) The state should stop such actions and bring to justice the patriotic and other organizations whose actions are aimed at discrediting and disrupting the activities of LGBTI organizations.

#### **VII. Women’s rights**

25. As part of the implementation of the National Strategy for the Achievement of Gender Equality until 2020, approved by the GovKR Resolution No. 443 dated June 27, 2012, in order to reduce discrimination and violence against women, the GovKR every three years develops a plan (NPA), which was adopted for the period 2012-2014, 2015-2017, 2018-2020<sup>23</sup>).
26. To reduce and eradicate acts of violence against women and children in the Kyrgyz Republic, the Law “On guarding and protection against family violence” was adopted on October 3, 2017 No. 63. In implementation of the Law of the Kyrgyz Republic on Guarding and Protection adopted on April 27, 2017 from family violence ” forms of protection order were approved by the GovKR Resolution, as well as the departmental act of the Ministry of Internal Affairs approved the Instruction on the organization of the activities of the Department of Internal Affairs of the Kyrgyz Republic to guard and protect against family violence.
27. LSGBs do not have sufficient financial and human resources to fully perform their assigned functions of guarding and protecting against family violence, including preventive measures.
28. Despite the higher level of education of women, the number of women –members of local keneshes (governments) decreases with each election and reached a record low level in the entire history of Kyrgyzstan - less than 10%. The number of women MPs of the Jogorku Kenesh is 15%, which is 2 times less than the minimum 30% of the gender quota stipulated in the Electoral Code of the Kyrgyz Republic. The women –members of the local kenesh (local governments) and PM of the Zhogorku Kenesh (raised the issue of “squeezing and intimidating” women candidates for PMs during elections and political activities. They received threats and intimidations from their rivals and male family members who insisted that women withdraw from the race.
29. In April 2019, amendments to the Criminal Code of the Republic entered into force, now for bride kidnapping without the girl’s consent is punished with imprisonment for 10 years and a fine of \$ 3 thousand. Amendments entered into force relatively recently, in April 2019. According to the Ministry of Internal Affairs of the Kyrgyz Republic, which it voiced in 2018, over the past five years, 895 people turned to the authorities with a statement related to the abduction of brides, but in

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<sup>22</sup> <https://www.currenttime.tv/amp/bishkek-anti-lgbt-protests/29819834.html>

<sup>23</sup> Currently, the NAP 2018-2020 approved by the GovKR Resolution of November 19, 2018 No. 537

727 cases, criminal cases were not initiated. Only 168 cases were investigated in the framework of the criminal cases.<sup>24</sup>.

### **Recommendations:**

- 25) Monitoring and evaluation of the National Strategy on Gender Equality (2012-2020) and the Action Plan for the Equal Participation of Women in Decision-Making Bodies and Their Role in Peacebuilding, Prevention and Resolution of Conflicts, and Protection of Women and Girls from Violence.
- 26) Monitoring and evaluation of the implementation of the law “On Guarding and Protection from Family Violence” and the adoption of the Resolution of the Government of the Kyrgyz Republic “On the procedure for the guarding and protection from family violence”.
- 27) Provide LSGBs (local governments) with sufficient financial and human resources to fully perform their assigned functions of guarding and protecting against family violence, including preventive measures.
- 28) Take measures to increase the representation of women in representative bodies of power (in the local kenesh and the Jogorku Kenesh (the Parliament) of the Kyrgyz Republic), as well as in law enforcement agencies, to ensure the safety of women during elections and after.
- 29) Ensure access to fair justice and security at all stages of the trial (regarding) women and girls subjected to sexual violence, introduce amendments to the regulations so that all cases of sexual violence against women are referred to women prosecutors using the experience of Kazakhstan;
- 30) Eliminate everywhere all harmful practices, such as child and forced marriages; all forms of discrimination against all women and girls in the public and private spheres, including trafficking in humans, sexual and other forms of exploitation.

### **VIII. Migration and Child rights**

30. In addition to the economic effect, labor migration has numerous social consequences. The need to send part of the family abroad is associated with complex intra-family dynamics and the risks of losing family ties; children are subject to violence and abuse. In Kyrgyzstan, more than 277 thousand children are left unattended by their parents due to labor migration<sup>25</sup>. For 2 months of 2019, 45 thousand children were identified - these are children of migrants, one of the parents migrated to Russia, Kazakhstan, Turkey, in 2018 65 thousand children left unattended were identified.
31. The vulnerability of girls and women in labor migration is due to: the risk of violation of rights in the labor market: disagreement to enter into an employment contract, non-compliance with the contract - non-payment of wages, under-pay, degrading working conditions and treatment, violence, exploitation, slavery; limited access of labor migrants and their children to services -

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<sup>24</sup> [https://rus.azattyk.org/a/kyrgyzstan\\_un\\_bride\\_kidnapping/29499656.html/](https://rus.azattyk.org/a/kyrgyzstan_un_bride_kidnapping/29499656.html/)

<sup>25</sup> Results of the Multi-Indicator Cluster Survey (MICS) on the situation of children and women in Kyrgyzstan, conducted by the National Statistical Committee of Kyrgyzstan and UNICEF  
[https://24.kg/obschestvo/117962\\_vkyirgyzstane\\_277\\_tyisyach\\_detey\\_ostalis\\_bez\\_prismotra\\_roditeley\\_izza\\_migratsii/?fbclid=IwAR2AGITRROYzD8FSP\\_YKR0TMNRwT\\_LGjiURP4UJryHPUJqwuGuTR4OB0XNWw](https://24.kg/obschestvo/117962_vkyirgyzstane_277_tyisyach_detey_ostalis_bez_prismotra_roditeley_izza_migratsii/?fbclid=IwAR2AGITRROYzD8FSP_YKR0TMNRwT_LGjiURP4UJryHPUJqwuGuTR4OB0XNWw)

medical, educational, justice and safe housing; separation from children, separation from family members and deportation.

32. A kind of “adaptation strategy” of migrant families to the disloyalty of the Russian (Federation) environment to family migration is the “Bakchi Kyz” Institute. Bakchy girls are often represented in families among Kyrgyz migrants. Since the enrollment of small children in state and municipal nurseries and kindergartens is impossible due to the lack of places, and the enrollment of children in private gardens is not affordable for migrant families, the spouses who leave the family decide to bring a minor nanny from their homeland<sup>26</sup>.
33. Legally working children are not defined by a separate definition, nor is their status is defined. Such children are classified as children in difficult life situation. The Children's Code identifies the worst forms of child labor. According to the State Ecological and Technical Inspection, in 2017, 163 children involved in child labor were identified in Kyrgyzstan. In 2016, there were 150 such cases. At the end of 2018, according to the Ministry of Labor, the number of working children in the republic was 213 children. According to the Ministry of Internal Affairs, in 2018, 593 working children<sup>27</sup> were identified in the republic. The data varies, which shows that there are no clear statistics on working children in the country.
34. Migrants, especially those who stay outside Kyrgyzstan for an extended period of time, are less integrated into Kyrgyz society and remain outside the social security system at home. To strengthen their status in host countries, many people decide to change their citizenship.

#### **Recommendations:**

- 31) To protect migrant children, it is necessary to develop a mechanism to identify children of external migrant workers in order to prevent cases of ill-treatment and sexual violence. In some countries, the provision of temporary guardianship of children during the absence of parents is an effective measure.
- 32) Development of system programs for protection and support of migrants and their family members at the state level. Assistance in creating pre-departure (pre-migration) training centers for migrant workers in order to provide legal, informational, social support to migrants and their adaptation in countries of destination, the need to ratify by the Kyrgyz Republic the ILO Protocol to Convention No. 29, which requires governments to take new measures to combat forced labor in all its forms.
- 33) Eliminate completely child labor practices and ensure that all children have access to free and compulsory education.
- 34) Develop programs at the state level for the integration of migrants and their families in Kyrgyzstan and ensure access to the social security system.
- 35) Strengthening of interdepartmental interaction of state structures for the protection of the rights of migrants and their families.

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<sup>26</sup> <http://www.iom.kz/images/FullReport.pdf>

<sup>27</sup> <https://kg.akipress.org/news:1540678>

