

Submission for the Universal Periodic Review of Kyrgyzstan June 2019

Long-term human rights concerns have persisted in Kyrgyzstan since President Sooronbai Jeenbekov took office in December 2017. Authorities continue to deny justice to victims of the June 2010 inter-ethnic violence in southern Kyrgyzstan and wrongfully keep human rights defender Azimjon Askarov imprisoned, despite the March 2016 UN Human Rights Committee ruling that he should be released. As authorities have stepped up counter-extremism measures, the overbroad definition of extremism, and breaches of due-process have led to human rights violations. Kyrgyzstan adopted a strengthened domestic violence law in 2017, but impunity for violence against women abuse persists. Although a problematic “foreign agents” bill was rejected in May 2016, civil society has faced other forms of harassment, and several foreign human rights workers and a foreign correspondent have been banned from Kyrgyzstan.

Civil Society

Following its second UPR in 2015, Kyrgyzstan accepted a recommendation to “Take the necessary measures to ensure that human rights defenders and civil society actors can carry out their legitimate work in a safe environment without threats and harassment by State and non-State actors” and noted several recommendations not to adopt the controversial “foreign agents” law.

The Kyrgyz Parliament in May 2016 ultimately rejected the “foreign agents” bill. Yet Kyrgyz authorities have continued to restrict and undermine the right to freedom of association of civil society activists.

In March 2016, the UN Human Rights Committee found that Askarov, sentenced to life in prison in 2010 for his alleged role in the June 2010 events, had been arbitrarily detained, tortured in custody, and denied a fair trial. The Committee called on Kyrgyzstan to immediately release him and quash his conviction. Authorities reopened his trial, but the court upheld his life sentence. Since then, Kyrgyzstan has failed to implement the Committee’s decision, and Askarov, now an elderly, ailing man, remains wrongfully imprisoned.

In early 2018, five respected international, regional, and local human rights organizations (Bir Duino, Memorial, ADC Memorial, the Norwegian Helsinki Committee, and Freedom House) learned that a court ruled to ban two of their reports, finding the reports “extremist.” The court also banned ADC Memorial, a Brussels-based anti-discrimination organization, from carrying out any activities in Kyrgyzstan.

The organizations contested the ruling, and Kyrgyzstan’s Supreme Court in October 2018 overturned the decision, lifting the ban on the reports and on ADC Memorial carrying out its activities. In January 2019, the prosecutor’s office withdrew their complaint against the organizations, but as of this writing, authorities have not formally closed the case, raising concerns that the claim could be brought again.

On March 27, 2019, a day before Russian president Vladimir Putin's planned visit to Bishkek, police detained Nurlan Karymshakov, a civic activist, and his wife, Gulzana Imaeva, while they held up anti-Putin posters outside the Russian Embassy in Bishkek. Following a search of their apartment, and on the basis of a state-ordered linguistic analysis of their posters, authorities opened a criminal investigation on charges of "inciting national enmity." Karymshakov and Imaeva were later released under their own recognizance, but the authorities have yet to close the case.

Over the last several years, authorities have arbitrarily banned several international human rights monitors and a journalist from entering Kyrgyzstan. In December 2015, immigration officials refused to allow Human Rights Watch researcher and country office director Mihra Rittmann to enter the country over an alleged violation of migration laws, but to date have failed to provide information on the rationale for the alleged violation and ban. In July 2017 authorities banned Russian human rights activist Vitaly Ponomarev from re-entering Kyrgyzstan following his participation in a conference outside Bishkek on countering violent extremism. In December 2017, the Agence-France Presse's Central Asia correspondent, Chris Rickleton, was denied entry to Kyrgyzstan by migration officials at the Manas International Airport, in what appears to be yet another arbitrary decision against a foreign national from Kyrgyzstan. As of this writing, all three remain banned from entering Kyrgyzstan.

Recommendations

- Release Azimjon Askarov and fulfill in full the March 2016 decision of the Human Rights Committee regarding his case;
- Cease harassment of critical civil society activists, drop the criminal investigation against Nurlan Karymshakov and Gulzana Imaeva, and formally close the case against Bir Duino and other human rights groups;
- Allow banned foreign human rights workers and journalists, including Human Rights Watch's Kyrgyzstan researcher Mihra Rittmann, Vitaliy Ponomarev of the Russian human rights organization, Memorial, and AFP's Chris Rickleton, to enter Kyrgyzstan and continue their work without undue interference.

Freedom of Expression and Media Freedoms

During its previous UPR, Kyrgyzstan supported a recommendation to "Guarantee freedom of expression, association and peaceful assembly for journalists, activists, human rights defenders..." and noted a recommendation to "Ensure freedom of expression online and offline, including guaranteeing freedom of the press and decriminalizing all defamation in the Penal Code."

In March 2017, the prosecutor general, acting on behalf of former President Almazbek Atambaev, brought defamation lawsuits against human rights defender Cholpon Djakupova and the media outlet Zanoza.kg and two of its journalists, Dina Maslova and Narynbek Iidinov (pen name Naryn Ayip), alleging their words or publications discredited the former president's honor and dignity and spread false information. Courts ruled in the then-president's favor and awarded crippling multi-million som damages. The rulings were upheld on appeal.

In a separate defamation case, a court in October 2017 awarded then-presidential candidate Sooronbai Jeenbekov 10 million som (US\$143,000) against news portal 24.kg and Kabay Karabekov, a journalist and former member of parliament. Although Kyrgyzstan's current and former presidents ultimately withdrew their respective claims, the defamation decisions stand, imposing a worrying precedent.

Also in 2017, criminal charges of "illegal receipt of commercial secrets" and "disclosing secret commercial information" were brought against freelance journalist Elnura Alkanova

after the Moscow-based Ferghana News, an independent news website, published her investigative reports on alleged corruption in the sale of government-owned prime real estate. After months of investigations, the prosecutor in April 2018 dropped the charges.

In recent years, authorities have also acted to limit freedom of peaceful assembly. On several occasions in 2017, courts in Bishkek granted orders for weeks-long bans on public assemblies in Bishkek, on the grounds of ensuring public order. In mid-March 2017, five protest participants were detained during a peaceful march to support freedom of speech. In August that year an activist who staged a single person protest during a ban was detained. He was later released.

Recommendations

- Ensure that journalists and media outlets can operate without interference or retaliation by the authorities;
- Cease targeting journalists and human rights defenders with unfounded defamation lawsuits, and establish a cap on civil defamation awards;
- Allow peaceful protest and end the arbitrary detention of people attempting to exercise their right to freedom of peaceful assembly.

Access to Justice following the June 2010 Violence

Following its second UPR in 2015, Kyrgyzstan accepted a recommendation to “Strengthen the investigation and punishment of human rights violations related to the 2010 ethnic conflict” and noted a recommendation to “Transparently investigate allegations of ill-treatment committed by law enforcement officers during and after the June 2010 events and take clear steps to combat the arbitrary detentions and torture of detainees, especially of the ethnic Uzbek population in the southern regions.”

Yet, nine years after the June 2010 interethnic violence, victims continue to be denied justice. Ethnic Uzbeks were disproportionately affected by violence, which left more than 400 dead and destroyed thousands of homes, and was followed by numerous cases of arbitrary detention, ill-treatment, and torture. In the years since Kyrgyzstan’s last UPR, Kyrgyz authorities still have not taken any meaningful action to address the abuses endured by the Uzbek community during the violence or to review torture-tainted convictions delivered after the clashes.

Recommendations

- Conduct an independent review of June 2010-related legal proceedings that were marred by torture tainted confessions, hostility, and attacks in the courtrooms.

Women’s Rights

In its last UPR in 2015, Kyrgyzstan accepted over a dozen recommendations regarding the protection of women from gender-based violence, including to “Take steps to ensure that laws on gender equality and domestic violence are enforced effectively,” “Combat violence against women,” and “introduce more effective policies to combat child forced marriage.”

In 2017, Kyrgyzstan adopted a strengthened domestic violence law that mandates police and judicial response to domestic violence and guarantees greater legal protections for victims. Amendments to criminal legislation that went into effect in January 2019 strengthen sanctions for abduction for marriage, forced marriage, or interference with an individual’s intent to marry.

However, impunity for domestic violence persists and abduction for marriage, or so-called “bride kidnapping,” remains a widespread problem, with abductors often acting with impunity.

Kyrgyz law prohibits abduction for marriage, forced marriage, and most marriage below the age of 18. Despite additional criminal sanctions introduced in 2016 for those who conduct or facilitate religious marriages of children, such marriages – which typically are not registered with the state and frequently used in cases of forced marriage – reportedly continue to be performed.

Inadequate enforcement of protection orders in cases of domestic abuse limits their effectiveness, as does uneven enforcement of laws to address bride kidnapping and child and forced marriage. Service providers and lawyers said police and judges often dissuade victims from filing complaints, and pressure them to reconcile with their abusers and withdraw complaints. There is scarce government support for services for survivors of abuse.

In a widely-reported case in May 2018, 20-year-old Burulai Turdaaly kyzy was stabbed to death in a police station by a man who had kidnapped her for marriage. Twenty-three law enforcement officers were sanctioned, including five who were fired. Prosecutors charged the perpetrator and an accomplice with “forcing a woman to marry,” and brought an additional murder charge against the perpetrator. In December 2018, Turdaaly kyzy’s abductor was sentenced to 20 years in prison and his accomplice to seven years.

Recommendations

- Take concrete measures to prevent, investigate, punish, and ensure accountability and access to justice for all crimes of violence against women and girls, including abduction for marriage and child or forced marriage;
- Ensure availability of adequate shelter, psychosocial, legal, and other services for survivors of domestic violence, including in rural areas;
- Designate the authorized body to oversee coordination and implementation of domestic violence prevention and protection measures, as mandated by the Family Violence Law, and allocate it sufficient human and financial resources to perform this role effectively;
- Ensure full implementation of the Family Violence Law and other legislation on violence against women and girls;
- Monitor responses by law enforcement and judicial bodies to complaints of domestic violence and early and forced marriage, including the issuing and enforcement of protection orders and prosecution of cases;
- Undertake widespread education and awareness-raising campaigns on domestic violence, bride-kidnapping, and early marriage.

Human Rights Abuses in the Context of Counterterrorism

During its last UPR, Kyrgyzstan accepted a recommendation to “Cease harassment and discrimination by police of members of ethnic minorities and peaceful religious adherents under the pretext of combating violent extremism” and noted another recommendation to “amend legislation in order to narrow down the criminal offences of ‘extremist activities.’”

In recent years, Kyrgyz officials have prosecuted hundreds of people for “storage” of vaguely defined “extremist” material under Article 299-2 of the former Criminal Code, a provision that allowed convictions for mere possession of banned videos, pamphlets, and books. Those found guilty, often in proceedings that flout international fair-trial standards, were sentenced to three to 10 years in prison even if they did not use or intend to use the material to incite violence. As of late 2018, several hundred other suspects were awaiting trial on the charge.

Suspects have alleged they have been subjected to additional abuses, including planting of evidence or beatings to extract confessions. Several suspects and their lawyers have

alleged that the police also forced them to pay bribes in exchange for dropping unfounded charges.

Although Criminal Code amendments which took effect in January 2019 narrowed the scope of Article 299-2 (now Article 315) by requiring that storing extremist material must be “for the purpose of dissemination” to be considered a criminal offence, amendments do not address the overbroad definition of “extremism,” which has facilitated unjust convictions. Nor do the reforms automatically retroactively apply to individuals already serving prison sentences solely for possession of “extremist” material.

While Kyrgyz officials deny that the government targets suspects based on ethnicity, both suspects and human rights defenders who work on extremism and terrorism cases consider that authorities target ethnic Uzbeks and Islamic fundamentalists. A 2016 Supreme Court study found that the majority of people arrested for terrorism and extremism offenses are ethnic Uzbeks.

Recommendations

- Amend national Law No. 150 on Countering Extremist Activity of 2005 to narrow overly broad or vague definitions of extremism and extremist acts such as “affronts to national dignity” and “hooliganism”;
- Review all the convictions of prisoners found guilty solely on the charge of possession of “extremist” material with a view to vacating convictions in cases involving possession of material classified as extremist that do not involve use or intent to use such material to incite or commit violent acts;
- Ensure that all those suspected, detained, prosecuted, or imprisoned on terrorism or extremism charges are afforded their full rights at all stages of criminal investigation, prosecution, trial and, if applicable, sentencing and in jail;
- Conduct impartial and thorough investigations into all allegations of evidence planting, extortion, torture, and other ill-treatment of suspects.

Torture

During its last UPR, Kyrgyzstan accepted multiple recommendations to address the problem of torture, including to “Ensure that allegations of torture and other ill-treatment are investigated promptly and effectively and that the perpetrators of these acts are prosecuted and punished according to the standards required by international norms.”

Yet, impunity for ill-treatment including torture remains the norm, with criminal cases into allegations of ill-treatment or torture rare, and investigations and trials delayed or ineffective. Human Rights Watch found that the law enforcement officials physically abused or otherwise mistreated suspects held on charges of possessing extremist material. Human Rights Watch documented how law enforcement officials put plastic bags over suspects heads to coerce a confession and subjected them to beatings and other forms of humiliation while in detention.

Recommendations

- Immediately enforce a zero-tolerance policy for torture and other ill-treatment in detention;
- Investigate, in a thorough, impartial, and timely manner, all torture allegations against law enforcement officials, regardless of rank and whether the victim or family has filed a formal complaint, and prosecute to the fullest extent of the law any official found responsible for ordering, carrying out, or acquiescing to torture or ill-treatment;
- Hold to account, including where appropriate through criminal prosecutions, those responsible for torture and other acts of ill-treatment as well as other serious abuses and violations of individual’s rights;

- Ensure prompt and independent forensic medical examinations of detainees who allege that they have been subjected to torture and other ill-treatment.

Sexual Orientation and Gender Identity

During its previous UPR, Kyrgyzstan accepted recommendations to adhere to international standards on non-discrimination, and to “promote policies to prevent discrimination based on sexual orientation and gender identity.” Kyrgyzstan also noted several recommendations to withdraw an anti-gay propaganda bill.

Since Kyrgyzstan was last reviewed under the UPR, lesbian, gay, bisexual, and transgender (LGBT) rights groups reported that LGBT people face harassment and discrimination by state and non-state actors. In August 2018, following a local newspaper’s publication of a photograph of four Kyrgyz LGBT activists participating in a pride parade in Europe, the activists received anonymous death threats and were subject to online hate speech. The activists reported the threats to the State National Security Committee; an investigation is underway.

In September 2017, several days before a peaceful public gathering planned by a Bishkek-based LGBT rights group, five law enforcement officers arrived unannounced at their offices threatening members not to hold the gathering. Fearing for the safety of the participants, the group cancelled the event.

In May 2016, after Kyrgyzstan’s parliament twice voted overwhelmingly in favor of adopting an anti-LGBT bill, which would ban “propaganda of nontraditional sexual relations,” and which appears aimed at silencing anyone seeking to openly share information about same-sex relations in Kyrgyzstan, a parliamentary committee returned the bill for a repeat second reading, where it then stalled. Since then, consideration of the anti-LGBT bill remains stalled in parliament.

Recommendations

- Cease harassment, discrimination, and ill-treatment of LGBT people in Kyrgyzstan, and ensure their rights are fully protected in law;
- Withdraw the draft anti-LGBT “propaganda” bill and make clear that such a law is incompatible with a rights-respecting democracy.

International Justice

During its last UPR, Kyrgyzstan noted a recommendation to “Ratify and fully align its national legislation with all the obligations under the Rome Statute of ICC.” Unfortunately, since then, Kyrgyzstan has not taken any steps toward ratifying the convention.

Recommendations

- Ratify the Rome Statute and implement the statute in national legislation, including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes before its national courts in accordance with international law.