

**ALTERNATIVE REPORT ON THE KYRGYZ REPUBLIC'S
IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE
CHILD AND ITS TWO OPTIONAL PROTOCOLS**

Bishkek 2013

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Executive Summary

Reporting by the Kyrgyz Republic on the implementation of the Convention on the Rights of the Child has been characterized by large intervals between reports to that convention's corresponding Committee. The Kyrgyz Republic's second periodic report was submitted on 28 August, 2002, with delay of one year. The Committee recommended that the Third and Fourth periodic reports be submitted before 6 May, 2010, however this deadline was also missed and by that international commitments of the country have been. Reports will next be reviewed in 2014, which will mean a 13 year gap between reporting periods.

The existing practice of guardianship has its roots in the Soviet era and is characterized by the separation of children from their biological families and relatives and transfer to residential institutions. State and municipal institutions are characterized by overcrowding, lack of personnel, and under-qualified staff. The placement of children in these institutions leads to de-socialization and developmental delay, both physical and psychological. Procedures for international and domestic ad options lack transparency.

State assistance to families in hardship situations is not effective, and many families facing these conditions find support services unavailable. The state spends significantly on residential institutions such as public orphanages and boarding schools, instead of directing these funds to financial support of low-income families. However the government has allocated substantial amount of funding for the participants of 2010 revolution as compensations. In particular, every family of perished person during the revolution has received one million Soms (about 20 800 US\$).

Child labour is used widely in the Kyrgyz Republic, as the economic situation for many families forces children to earn a living working on their own. The Government of the Kyrgyz Republic has not approved a list of jobs which would prohibit the worst forms of child labour, and there is no system for monitoring the use of child labour.

Additionally, the system for protecting children from violence and abuse does not ensure effective proceedings; documents are lost, case review is delayed, children are unable to independently file complaints of acts of violence or other illegal acts, and forensic medical as well as psychological and psychiatric examinations are delayed, which leads to a reduced possibility of holding perpetrators responsible. All of these contribute to continued impunity.

In 2008 in the city of Nookat in the south of Kyrgyzstan there were clashes between the religious adherents and law enforcement. Authorities blamed the Hizb-ut-Takhrir party for organizing this conflict. During the investigation and court process many residents suffered torture and mistreatment. Children of those accused and under investigation were also affected.

In June 2010 in the south of the Kyrgyz Republic, Kyrgyz Republic security forces did not ensure citizen safety, which resulted in an ethnically-motivated conflict. According to the Prosecutor General's office, 15 children were killed in the course of the armed conflict, however according to the Kylym Shamy Human Rights centre, 24 children were killed. Only in one case of the murder of a child was a case opened and prosecuted.

Recently in the Kyrgyz Republic there has been a trend of sending children for care to madrasas, where there is no general education. In these cases, children sometimes stop attending educational institutions altogether. Restricting children's access to general education limits future possibilities to obtain professional training and ensure financial stability. Some residential institutions receive sponsorship from religious organizations, are not oriented to a child's upbringing in terms of ethnic, religious, cultural and linguistic background. Initiatives to introduce religious education lessons should respect the rights of parents to guide their children in the exercise of his or her freedom of thought, conscience, and religion; as well as ensure a diversity of opinion and the right to hold non-religious beliefs.

Introduction

Unfortunately, the Kyrgyz Republic has regularly been delayed in its submissions of periodic reports on human rights to the relevant UN body treaties. The first and second periodic reports on the Convention on the Rights of the Child were presented by the government with delays of 1-2 years each time. The Committee allowed the Kyrgyz Republic to submit its third periodic report on the Convention on the Rights of the Child in one document along with the fourth periodic report by 6 May 2010, one and a half years before the deadline for the fourth report (5 November, 2011). The third and fourth periodic reports, due on 5 November 2006 and 5 November 2011, were presented on 6 June 2012 and will be reviewed in 2014. Unfortunately, ultimately the delay between Kyrgyzstan's report submissions has been long enough that a generation of children has grown up without external supervision of the UN Committee over the observance of the rights of the child.

The issue of the Kyrgyzstan's backlog in submitting periodic reports for all human rights treaties has been raised repeatedly by non-governmental organizations for several years. The change in government in 2010 led to the adoption of resolutions by the state to clear this backlog for periodic reports to UN committees. As a result, the UNDP and OHCHR in Kyrgyzstan have supported the Government of the Kyrgyz Republic to prepare these reports.

The change of power and the tragic events of June 2010 in the south of the country were a call for the respect of human rights and the rule of law¹. The State proved unable to guarantee the safety of all of its citizens and control over subordinate security forces and their weapons. Weapons that were seized from, or even provided by the government were used against the population, most significantly against ethnic minorities (Uzbeks). The conflict greatly affected the situation of children caught up in the conflict zone. The challenge that remains is ensuring the rights of ethnic minorities in Kyrgyzstan. The investigation into the 2010 events has been characterized as lacking fair proceedings in court, and decisions to confiscate property from individuals convicted during the June Events did not take into account the protection of the interests of children or other family members². Issues of protecting vulnerable sectors of the population have been overshadowed by the government's focus on strengthening security, law enforcement, and support for those who participated in the change of regime in 2010.

Chapter 1. General Principles of the Convention on the Rights of the Child

1.1 The Right to Life, Survival, and Development (art. 3 of the Convention on the Rights of the Child)

- 1.1.1 The Kyrgyz Republic was unable to guarantee children the right to life during the June Events of 2010 in the south of the country. In accordance with the provisions of criminal law of the Kyrgyz Republic, committing a crime against a minor is considered an aggravated offense³.
- 1.1.2 As a result of clashes, more than 400 people were killed and more than 2000 injured. Some residential areas were damaged as well. According to the General Prosecutor's Office, during the 2010 June Events 15 children were killed, however according to the Kylym Shamy Centre For Human Rights Protection, 24 children were killed⁴. Only in one instance of a child's death was a criminal case opened and taken to court.

¹See Concluding Observations of the UN Committee on the Elimination of All Forms of Racial Discrimination on the report of the Kyrgyz Republic, accessed in 2013 - CERD/C/KGZ/CO/5-7, <http://www2.ohchr.org/english/bodies/cerd/cerds82.htm>.

²See Alternative report on the implementation of the Kyrgyz Republic to the Convention on the Elimination of All Forms of Racial Discrimination, submitted by the Open Viewpoint public Foundation (*Otkrytaya Pozitsiya*) in 2013, <http://prava.kloop.kg/?p=1100>.

³See "Compliance with children's rights in post-conflict situation in southern Kyrgyzstan. Report of a study conducted in 2011 in the city of Osh." Children's Rights Defenders' League, Bishkek, 2012

⁴See "The role of government in the period of the 2010 events in Kyrgyzstan," Human Rights Center "Kylym Shamy", 2012, [http://vof.kg/wp-content/uploads/2012/09/Doklad-rol-organov-vlasti_Rylym-shamy.pdf](http://vof.kg/wp-content/uploads/2012/09/Doklad-rol-organov-vlasti-Rylym-shamy.pdf) or at www.osce.org/ru/odhr/94202

Overall, the conflict directly or indirectly affected 400,000 children and resulted in 3,433 children losing one parent, and 3 children losing both parents.

Chapter 2. Civil and Political Rights

2.1 Freedom of Thought, Conscience, and Religion (art. 14 of the Convention on the Rights of the Child)

2.1.2 Religious tolerance and respect for diversity. The number of proponents of different religious beliefs is on the rise in Kyrgyzstan. This has been met with a problem of providing for mutual tolerance and respect for religious diversity, and periodically the foundations of the constitutional system and the principles of a secular state have come into question⁵. Authorities are not always able to protect religious minorities, and the state does not provide equal rights to believers and non-believers.⁶

2.1.2 Along with the growing number of people who profess religious beliefs, those in society who profess atheistic or non-religious beliefs need protection as well.⁷ Societal pressure can on occasion compel both children and adults take part in religious practices.⁸

2.1.3 The Kyrgyz Republic guarantees the possibility of replacing general conscription for alternative service if religious beliefs do not allow for military service. However, laws do not guarantee the replacement of military service for non-religious reasons, such as on the basis of pacifism or another philosophy.

2.1.3.1 Education and religion. In villages, there is a trend of parents not considering secondary education important for girls, and as a result some girls stop going to school at age 12 (grade 6) or after grade 9 (15 years old). This creates a situation in which girls are deprived of the opportunity to receive secondary and higher education which could provide financial stability. On the other hand, in view of the increasing religiosity and increasing number of low socio-economic status families, boys and girls are given to madrassas, with the belief that religious education will allow them to achieve financial well-being from the observance of religious rites (at birth, during weddings, at funerals, at memorials, etc.). Students studying in madrassas do not always get a basic fundamental education, which ultimately deprives them the opportunity in the future to get a college or university education and profession.

⁵During the 2010 Constitutional Conference the term "secular state" was deleted from the constitution.

⁶See "Freedom of Religion and Belief in the Kyrgyz Republic: Overview of the Legislation and Practice", Foundation "Open Position» (Open Viewpoint), <http://prava.kloop.kg/?pg.=949>.

⁷Activists against the ban of the film "I'm gay, I'm a Muslim», <http://www.knews.kg/society/22478/>

⁸Believers in Uzgen Beat Atheist, http://rus.azattyk.org/content/kyrgyzstan_uzgen/24683172.html

2.2 Protection from Violence and Abuse (art. 19 of the Convention on the Rights of the Child)

- 2.2.1** Law enforcement does not provide effective protection concerning information in cases of sexual violence (confidentiality of personal life, professional confidentiality).
- 2.2.2** Allegations of torture and ill-treatment are not provided with effective due process (delayed initiation of criminal proceedings, delayed review in court), which allows for the possibility of guilty parties to escape responsibility for their actions. In practice there have been cases where investigators have lost criminal case material, which leads to impunity.⁹ The state prosecutor is obliged by law to uphold the charge, but in practice, as a rule, prosecutors do not effectively defend victims' interests.¹⁰ Law enforcement agency investigators lack the professional skills to work with victims of sexual violence, especially when the victims are children. Regulations concerning the sex of the victim and investigator are not followed. Legislation of the Kyrgyz Republic, in contradiction to international standards, does not stipulate that a child victim of sexual violence and law enforcement and personnel must be of the same sex.
- 2.2.3** In the Kyrgyz Republic there is no procedure for transferring a child into a temporary family or crisis centre when it would be in the best interest of the child, as in cases of domestic violence.¹¹
- 2.2.4** Legislation of the Kyrgyz Republic provides for punishment of sexual assault, sexual relations with a minor and rape. However, the law does allow for the possibility of escaping responsibility for the crimes listed above in cases of reconciliation between parties (parents receive compensation from the accused party) in less serious cases or minor offenses. In these cases the child victim is represented by his or her parents, but the child's interests and views are not necessarily represented. It is critical that Article 28 of the Criminal Procedural Code, part 1, paragraph 12 not be applied in cases where victims are children.
- 2.2.5** Factually in the Kyrgyz Republic there is no possibility for a child to independently appeal to the authorities for protection in the event of a crime committed against a child or the violation of the rights of a child. This is due to the fact that the legal representative(s) of a child between the ages of 14 and 18 are the parents or legal

⁹ From experience of attorneys from the Children's Rights Defenders' League in the Leninskii district police department of Bishkek (Investigator - Aliya Sadykova) and the Leninskii district Prosecutor's Office of Bishkek (loss by investigating prosecutor Ernest Asakeev).

¹⁰ In a criminal case against the accused, Mr. Muratbek Kenzheshcheva (Leninskii District Prosecutor, Bishkek), evaluated events in the case as voluntary sexual intercourse, contrary to the testimony and charges of rape by the affected victims.

¹¹ Material from the General Prosecutor, Oktyabrskii Police Department (UVD), Bishkek

guardian. Thus, legal representatives or individuals who may have committed illegal acts against the child can enter reconciliation contrary to the interests of the child.

- 2.2.6** Suppression and cover-up of problems of violence in public educational facilities, medical facilities and bodies authorized for protecting children is one of the reasons for the increase in violence against children. Often, employees who have publicized problems of violence against children in schools or families are condemned and condemned for disclosing this information. This approach in the educational system makes it difficult to help a child who needs to be protected from all forms of violence, including sexual.
- 2.2.7** Procedures governing the activities of those authorized to protect children from violence and abuse are not effective in implementation. Measures taken to protect a child against from a dangerous situation may take weeks, which may be a threat to his or her health and life.
- 2.2.8** No clear mechanisms exist to identify and protect children who are victims of violence or other wrongful actions. There are no regulations that require the staff of health care, educational, and social protection organizations to conduct systematic recording or reporting of cases of abuse and neglect of children and share information about each case of violence with appropriate authorities in the departments that oversee child protection.

Recommendations:

- 1.** Increase responsibility of law enforcement investigators in terms of confidentiality on the facts of sexual violence.
- 2.** Increase accountability of law enforcement and judicial authorities for losing criminal case materials in instances of violence.
- 3.** Increase accountability in cases of inefficient handling of cases at all stages of investigation and the court process.
- 4.** Improve the professional capacity of law enforcement and judiciary personnel on cases involving children who have suffered from physical or sexual violence.
- 5.** Update national legislation to international standards (Istanbul Protocol) and introduce a provision which stipulates that the person conducting an investigation into a case of sexual violence should be of the same sex as the victim.
- 6.** Amend the Criminal Procedural Code so that child victims of violence and mistreatment may independently appeal to law enforcement and the courts for protection of their rights without a legal representative or person in loco parentis.

7. It is critical to develop a set of regulations to assist children that have experienced or are under threat of health and life, as well as to ensure effective protection of privacy and professional secrecy.
8. Provide crisis centres for children who are victims of violence and mistreatment.
9. Pass regulations requiring the staff of educational, medical, and social protection institutions to conduct systematic recording and reporting of any cases of abuse or neglect to children, as well as requiring that these records be shared with those departments authorized to oversee the protection of children.
10. Amend article 28 of the Criminal Procedural Code to prohibit reconciliation between parties in cases involving children affected by violence and abuse.

2.3. Violence in School and Violence in Public Educational Institutions

- 2.3.1. Both physical and psychological violence exist in schools. Among teachers and students psychological abuse dominates, as well as extortion.¹²
- 2.3.2. Currently there is no plan of action for students facing instances of violence or abuse in an educational organization, nor a mechanism for complaints against school authorities or the authorities that would protect students' interests.
- 2.3.3. There is a general lack of effective infrastructure for child protection which would allow for a response to violence/abuse, provide free and competent psychological, legal, and social assistance to young people in conflict, crime, or hardship, and would carry out comprehensive measures to rehabilitate and reintegrate child victims and child-aggressors.

Recommendations:

1. It is necessary to develop and adopt a national strategy and program to protect the rights and interests of children which is back by sufficient human, financial, and material resources.
2. Include in the programs on the prevention and eradication of violence from educational institutions in the concept and educational plan of the Ministry of Education and Science.¹³

¹²Data obtained LZPR personnel, supported by UNICEF as part of research to identify the violence in educational institutions of the Kyrgyz Republic. In 2012 3997 respondents were surveyed (students in 5th-11th forms- 2712, their parents – 644, school employees - 641

3. Develop and approve regulations to ensure safety, tolerance, and goodwill in educational institutions as well as regulating the rights and responsibilities of all participants in the education process.
4. Develop, adopt and incorporate state statistical reporting indicators for tracking reports of violence in educational institutions across all departments, classify this data according to the level of violence, their characteristics, and the effectiveness of adaptive measures for children affected by violent acts.
5. Create regional centres for child victims of violence that specialize in free and professional legal, social, and psychological assistance.
6. Create and implement a program of professional development courses for teachers in educational institutions and a special program to prevent and combat violence and neglect in these institutions, teaching principles of restorative justice.

2.4. Protection from Torture and Other types of Cruel, Degrading, or Inhuman Treatment or Punishment (art. 37 of the Convention on the Rights of the Child)

2.4.1 The Case of Nookat and children's rights¹⁴.

On 1 October 2008, police forces in the city of Nookat clashed with the public after authorities banned celebrations for the Eid Orozo religious holiday. At that time the holiday was celebrated elsewhere in the country without restrictions. Authorities blamed the unrest on the Hizbut-Takhrir political party. During the investigation and legal proceedings, defendants and detainees were subjected to torture and mistreatment. Many people were accused of membership in the Hizbut-Takhrir without trial in court. The local government also created a list of families with children listed as Hizbut-Takhrir members. The State National Security Committee directed the Border Protection Service to detain people related (usually sons) to these alleged members (the youngest being 3 years old). Two of the 32 detainees were legal minors and suffered mistreatment, one was tortured with electric shocks. Six of the 32 detained were charged with involvement in juvenile crime (article 156 of the Criminal Code of the KR). One of the two detained women—Zarina Abdikarimova, mother of four—was pregnant at the time and as a result of mistreatment lost her baby. After the change of government in April 2010,

¹³ Educational work program "School without Violence" piloted by PF "LZPR" by order of the Ombudsman of the Kyrgyz Republic, with the financial support of UNICEF in 28 schools in Kyrgyzstan since 2011 to create a safe educational environment and strengthen inter-agency cooperation between government agencies entrusted to protect the rights and interests of children.

¹⁴ Special Rapport on torture and other cruel, inhuman or degrading treatment or punishment on Zaripa Abdykarimova in 2009.

amnesty was granted but the verdicts and illegal actions by the authorities were not taken to court.

Recommendations:

1. Ban the practice of profiling children whose parents are suspected of involvement with banned religious organizations.

2.5. Problems of Forensic Examinations

2.5.1. When courts conduct forensic-medical examinations there are a number of problems:¹⁵

2.5.2. There is a lack of material-technical base oriented towards the needs and psychological characteristics of children. There are also no rooms that are specially equipped for working with children. During examinations of children affected by violence there is no practice of video recording in order to avoid re-traumatisation. There are no forms that have been specially developed for examining children, including juvenile features.

2.5.3. In Kyrgyzstan, there are very few qualified psychologists who can correctly interpret the psychological consequences for victims of violence. Psychological evaluations are conducted on exceptional cases and at the request of the victim. Outside of the capital there is a lack of availability of psychologists, as the majority are in Bishkek. There also exists a low level of professional knowledge by law enforcement agencies about the possibilities of court-psychological evaluations and the ability to formulate questions to an expert psychologist. As a result, the practice of psychological assessment of torture victims has not been developed, which leads to a violation of the victim's right to decent moral compensation.

2.5.4. A monopoly by the Bureau of Forensic Medicine (RBSME) and the lack of alternative, non-governmental expert organizations results in a large volume of work for this state body, which in turn creates backlog and template examinations. Additionally, the psychological pressure of an evaluation of a child by adults may distort evaluation findings.

Recommendations:

1. Develop and implement a special medical examination form for children in accordance with international (Istanbul Protocol, etc.) and national standards for medical evaluation.

¹⁵According to legal aid from lawyers from the Children's Rights Defenders' League.

2. Allot and provide the appropriate equipment for special rooms for examinations of children affected by violence and abuse.
3. Conduct training for forensic experts on international standards for medical examinations in accordance with the Istanbul Protocol Standards.
4. It is critical that children be examined under video recording in accordance with national and international standards.
5. Develop alternative forms of non-governmental forensic examinations and inspections in the KR.
6. Provide training for investigative personnel about the possibilities of involving psychological experts to conduct expert studies in accordance with Istanbul Protocol.
7. Eliminate the practice of delaying forensic examinations.

2.6. The Right to a Family Environment. Adoption (art. 20 of the Convention on the Rights of the Child)

- 2.6.1. The right of children to an identity, including nationality, name and family relations has been grossly violated in the Kyrgyz Republic. On 8 May, 2013, Governmental Decree #263 adopted the rule to exclude the possibility for a child to restore family relationships in the case of abandonment by a child's mother in the maternity ward, with a condition of non-disclosure to relatives about the abandoned child.
- 2.6.2. In the state database of children left without care and available for adoption, there is information about children who have close family desiring to maintain family ties with those children. Children's relatives are not aware of their rights to custody of the children.

For example, in the Karakol children's home, the B. brothers have an older sister of legal age, and the child K.V. has an older brother who would like to formally adopt. The fact that these children are registered in the state database of residential institutions and relatives was only discovered in December 2011. Social Welfare of Karakol appealed in a letter to the Ministry of Social Development of the KR to removal of these names from the state database, but presently the B. brothers and K.V. remain in the files. At the Irada emergency centre at the Mayor's office in Karakol is the child P.K., included in the national database as available for adoption. Due to the fact that this child has an of age adult sister, the Department of Social Welfare appealed to the Ministry of Social Development in 2011 to have P.K.'s name removed from the database. However, to date

the child remains in the database.

In general, it should be noted that the parliamentary working group, together with experts from the KR Government database of these children that are left without care and available for adoption lacks a centralized information system. Instead of data base there is a note book where the employees of the Ministry of Social Development have written: “List of personal data of children without parental care.” Numbering in the list of the actual number of children is full of corrections with no marks of final approval of amendments or deletions. Individual columns in the register which should indicate the presence of relatives or the possibility of adoption by citizens of the Kyrgyz Republic are blank for nearly all children. Evidently there is a lack of any type of activity aimed at creating a family environment for children such as tracing their family or finding potential adoptive parents or guardians. Within the register accounting for personal data of children without parental care, available for adoption, and diagnoses are not revised.¹⁶

Also of note is the experience of one lawyer, Elena Gavrilova: at a hearing in the final stages of adoption proceedings it became clear that the child in question could not be adopted because his parents had not relinquished their parental rights.

- 2.6.3.** In violation of part 2 of article 46 of the “On Children” codex of the Ministry of Social development there is no documented information about citizens seeking children to adopt.

At the same time, national adoption procedures are excessively bureaucratized, corrupt, and force candidates to either refuse adoption or pay for a speedy resolution of the issue, as the legislation does not specify the term during which the competent authority must arrange for the preparation of documents to the court authorities. There was a case where, due to the failure to make a payment, an individual was unable to formalize an adoption for 3 years.

- 2.6.4.** The procedure for international adoptions is also believed to be corrupt, which is why in 2009 a moratorium was put in place on this type of adoption. In 2013, a number of officials from the Ministry of Social Development and the Supreme Court were involved in allowing international adoptions and accused of taking bribes for accreditation of international adoption agencies. According to a decision by the Supreme Court, the

¹⁶ Investigation into "determining the health of children enrolled in the state database on children available for adoption, as well as their medical and social status" by deputies and a lawyer from the “Bir-Duino-Kyrgyzstan” Human Rights Center.

Minister of Social Development of the Kyrgyz Republic R. Sabirov was sentenced to 5 years with a confiscation of property for corruption on the cases of international adoption.

- 2.6.5.** Children’s residential care institutions fall into different jurisdictions. Most are part of the Ministry of Education and Science or the Ministry of Social Development, but three fall under the Ministry of Health. Activities in these residential institutions are not geared to the needs of the child or aimed at creating conditions close to the family environment, nor do they focus on restoring family links for better healthcare for children. Between the above ministries there is no effective communication, meaning that institutions under the Ministry of Social Development are not provided with modern treatment regimens, medical protocols, or relevant orders from the Ministry of Health. Residential homes under the Ministry of Education and Science and Ministry of Health do not provide social services aimed at restoring family links nor socialization wards.
- 2.6.6.** Low monthly benefits to low-income families for one child (464 som per month, about \$10), and social benefits for disabled children (3,000 som per month) often force families to send children to grow up in residential institutions. There each pupil costs from 4 to 11 thousand Som per month (about \$145-230), of which about 30-40% goes directly to the child and the rest to staff and facility maintenance.¹⁷ Life quality of children in the families could be improved if the government would reallocate funding from residential institutions to low-income families.

Recommendations:

- 1.** To the Government of the Kyrgyz Republic on regulations for the transfer of children without parental care to adoption by citizens of the Kyrgyz Republic as well as foreign citizens, in Government Declaration #521 from 27 August 2011 delete the following: “(except in cases of abandonment by the child’s mother in the maternity ward, with conditions of non-disclosure to the family about the abandonment of the child)”.
- 2.** Carry out a full inventory of all the data in the state database of children without parental care—register, applications, profiles, and medical records of children at all levels: the central and regional offices of the Ministry of Social Development, and residential homes and institutions, regardless of their supervising body and bring into concurrence with Kyrgyz Republic State Decree #125 from 2 March 2010.
- 3.** Install software to work with the existing state database of children without parental care.

¹⁷Report on the monitoring of budgeting boarding schools KR "The right to a family environment" - 2012, conducted by the Child Rights Defenders’ League public Foundation

4. Maintain records of documentation about citizens seeking to adopt children to grow up in their families.
5. Require the state database to revise case decisions not less than once per year and promptly update children's medical and social status information.
6. Bring all laws governing domestic and international adoption and guardianship of the Kyrgyz Republic into line with UN Conventions on the Rights of the Child and Convention on the Protection of Children and eliminate all corrupt factors and the possibility of the sale of children, ultimately improving adoption mechanisms.
7. Designate the necessary financial resources to support families with children in hardship situations, and increase the allowances for social services for them.
8. Create alternative forms of providing social services in residential institutions for children and families in hardship situations (day-care or temporary stay centres, crisis centres, rehabilitation centres, etc.).
9. Change the system of financing social services that address the needs of children in difficult situations. Add financing to social services rather than infrastructure and its provision.
10. Introduce a system of early detection and social support for children and families in hardship situations at the local level.

2.7 Protection from Economic Exploitation (art. 32 of the Convention on the Rights of the Child)

2.7.1 When children are employed they are often vulnerable, their employer take advantage of lack of effective protection measures, as well as unawareness among children and their parents about their rights. Often an employer will not enter into an employment contract with children which results in children not getting paid for work performed. As a rule, children who get a job before the minimum age¹⁸ established by law are from low-income families. Poverty and a lack of effective control by the state draw children from their families. There is no legislative definition of the worst forms of labour for children under 18 years old and a consequence the ban on such forms of labor. Also there is no inter-institutional interaction on prophylactics of child labour because the Coordination Council on Child Labour issues is not working. Right for education and healthcare services of the children involved in child labour are violated. Another big problem is that many working children do not have Birth Certificates.

Recommendations:

¹⁸ Minimum age for employment is 16 years old according to Labor Code of KR.

1. Renew the work of Coordination Council on Child Labor Issues under the Government of the;
2. Adopt the list of dangerous forms of child labor;
3. Strengthen the control and monitoring over the prevention of worst forms of child labor;
4. Take measures on provision of access to education and healthcare services for working children;
5. Increase responsibility of the Ministry of Social Development of the KR on duly provision of Certificates of Birth for working children.

Chapter 3. Economic, Social, and Cultural Rights

3.1 The Right to Health (art. 6 of the Convention on the Rights of the Child)

- 3.1.1** The right to health and adequate medical care is established in many of the official documents passed at the national level in the Kyrgyz Republic: the constitution, the Children's Code, the Law on Healthcare, and other subordinate legislation. National health programs have declared improving health services for orphans and children left without parental care, including those in children's residential institutions (hereafter CRI), a priority.
- 3.1.2** Children who end up in CRI often have poor general performance, infectious diseases and delayed physical, mental, and social development. In the future the health of these children can be marked in a separate category, having suffered an adverse premorbid background, high risk disease conditions, etc.
- 3.1.3** Research conducted by a team of specialist doctors in 2013¹⁹ showed that when children stay in CRI they have higher mortality rates, which is one of the reasons for the large number of residents with a lag in physical and psychological development, as well as an increase in incidence of chronic diseases. Thus, health care and care for the health of children in CRI should be provided at a high level, taking into account the physiological and psychological characteristics of juveniles.
- 3.1.4** Presently the most acute is the problem of health care and tertiary healthcare in CRI. If the child has no one to collect the necessary documents following a surgery, often follow-up treatment depends on the willingness of the medical staff or institution administration. Other issues may include transportation costs and drug selection/needs.

¹⁹ Investigation into "Determining the health of children enrolled in the state database on children available for adoption, as well as their medical and social status" by Deputies and medical experts (pediatrician, neurologist, psychiatrist, venereal diseases expert), with technical support from UNICEF

In one Chui residential institution a girl was denied a type of specialized rehabilitative care, as the doctor at the facility did not consider it relevant to the genetic disease. In another institution in Jalal-Abad, a boy with a chest deformation was treated with cauterization by a local folk healer.

- 3.1.5.** In CRI specialized medical care is often inaccessible for children with different types of health problems. This is due to the lack of specialists in rural regions, the need for appropriate diagnostic equipment, and transportation costs and the allocation of institution staff to accompany the child during the examination or hospitalization. Concerning dental care, tooth removal is one of the few services provided due to unavailability or high cost of filling material. Laboratory and diagnostic study is not always available, and in some institutions it is only done in the case of child complaints or emergency. Preventive healthcare exams are almost never performed by specialists; in one institution a single paediatrician signed for all medical examinations. Additionally, there is no regular review for children in CRI.
- 3.1.6** The selection of medicines available is limited to a small amount of funding per child, as allocated by the state. This leads to old treatments that do not meet Ministry of Health-approved clinical protocols and principles of evidence-based medicine. Almost always if there is a choice between an expensive and cheap drug treatment the deciding factor will not be effectiveness and safety but rather the drug's purchase price.
- 3.1.7** Almost 80% of CRI are under the jurisdiction of the Ministry of Social Development. As a result, doctors in these institutions are isolated from the rest of the medical community of the KR. The Ministry of Social Development does not conduct training and does not follow up on its physicians' certifications, as well as failing to provide modern clinical protocols and consistently updated medical information.
- 3.1.8** Thus, if a doctor works only in a children's residential institution, he or she is deprived of much of the latest in medicine. Some doctors work part time in local clinics where they can learn modern practices and updates from the Ministry of Health, but this in turn takes away from their physical presence at the CRI and children there may remain without healthcare and quality treatment.

A study conducted by a team of doctors into the health of children at different CRIs in 2013 revealed the following problems²⁰:

²⁰ Investigation into "Determining the health of children enrolled in the state database on children available for adoption, as well as their medical and social status" by Deputies and medical experts (pediatrician, neurologist, psychiatrist, venereal diseases expert), with technical support from UNICEF.

- a) Diagnoses established at the time of admission of children do not get revised in correspondence with the child's actual health, and do not meet the International Classification of Diseases, 10th Revision (ICD-10).
- b) In many CRIs²¹ doctors noted difficulty of access to or lack of clinical and laboratory examinations, consultations, and specialized medical care within the institutions, as well as in the surrounding areas;
- c) A lack of nursing staff in mental institutions and the specialized children's home in the city of Bishkek, as result of low wages and high workload
- d) 42 of 83 children examined have disability status;
- e) Rehabilitation programs are not designed for children, and children do not receive rehabilitation consistent with their diagnoses;
- f) An investigation into medical records and death records of children found no autopsies. Post-mortem diagnosis is made on clinical grounds.
- g) A diagnosis of "congenital syphilis" is automatically set for all children whose mothers were ill with the disease during pregnancy, although the disease is not always transmitted to the child. After an appropriate follow within a year, the diagnosis should be reconsidered. Children live with a "congenital syphilis" diagnosis even if blood tests do not confirm the disease's presence. The same is found in the documents of children with cleft lips, referred to as "hare-lip". In one case the diagnosis had not been corrected after the defect was removed. Mention of this disease in a medical file reduces the chances of a child being adopted both nationally and internationally.

Recommendations:

To the Ministry of Social Development of the Kyrgyz Republic:

1. When conducting a medical examination for disability status, provide for mandatory rehabilitation programs and ensure control over their implementation in institutions for children deprived of guardian ship.

To the Ministries of Social Development, Health, and Education and Science:

1. Mandate that an autopsy be conducted upon the death of a child in an institution which includes the document number, cause of death/post-mortem diagnosis, following the international classification of diseases 10th revision.
2. Develop and consolidate annual support for specialized health-care specialists and a laboratory-instrumental examination for children in residential institutions and

²¹ In particular in the Pokrovskii neuropsychiatric orphanage and the orphanage in Sulyukta.

- orphanages run by the Ministry of Social Development of the Kyrgyz Republic and the Ministry of Education and Science.
3. Provide timely medical examination of children for disabilities.
 4. Ensure the timely passage of specialization and training for medical personnel in institutions for children deprived of guardianship.
 5. Introduce and develop alternative forms of funding for services for children with a “voucher” system.
 6. Create alternative forms of residential institutions for children—day care centres, temporary stay centres, etc.

To Children’s Residential Institution Administrations

1. Ensure transparency in medicine procurement for CRIs.
2. Ensure the timely specialization and training for medical personnel.
3. Observe procedures established to manage medical staff workload.

3.2 Social Assistance (art. 26, 27 of the Convention on the Rights of the Child)

3.2.1 The Government of the Kyrgyz Republic designates compensation for victim-participants to the amount of 1 million som (around \$21,000), as well as another category of victim-participants which receives 3700 som (\$77). At the same time, the current government infringes on the right to decent life standard of low-income families by not providing enough social benefits. On 1 March 2013, the monthly allowance for a child from a needy family was 463.7 som per month, accounting for 12.5% of the minimum subsistence level for children (3697.79 som). Thus, the benefit is so low that it does not even cover the family’s expenses for that child’s diet. In comparison, the compensation rate for able-bodied KR citizens such as soldier peacekeepers is 6000 som—also received by Parliamentary deputies, businessmen, and individuals involved in political duties. Monetary compensation for benefits is financed from social assistance budget.

3.2.3. Currently there is a problem of a failure to ensure confidentiality in providing the monthly social benefit (MSB) to children and others with AIDS. Stigmatization of HIV-infected children with AIDS exists as well as prejudice against them receiving social benefits. According to the AIDS (*SPID*) public foundation, to date the country has reported 326 with an HIV infection or AIDS, of which only 211 (65%) receive the MSB. Parents of the remaining 35% do not apply to receive the monthly social benefit.

Recommendations:

1. Increase the benefits to children from low-income families up to the extreme poverty level.

2. Provide for a single category of children with disabilities within KR regulations for the payment of social benefits, without singling out people AIDS or children with cerebral palsy.
3. Expand the practice of social benefits payment for children with disabilities through the banking system rather than through mail.

3.3 Children in Armed Conflict (art. 39 of the Convention on the Rights of the Child)

The Conflict in the South of Kyrgyzstan in 2010²²

- 3.3.1 The right to life. As a result of clashes, more than 400 people were killed and more than 200 injured. Some residential areas were damaged as well. According to the General Prosecutor's Office, during the 2010 June Events 15 children were killed, however according to the Kylum Shamy Centre For Human Rights Protection, 24 children were killed²³. Only in one instance of the death of a child was a criminal case opened and taken to court. Overall, the conflict directly or indirectly affected 400,000 children and resulted in 3,433 children losing one parent, and 3 children losing both parents.
- 3.3.2 Protection from unlawful acts and trafficking. Post-conflict conditions in the south have exacerbated the already low economic situation for many affected families. Parents of minors have been forced to go to work in neighbouring countries. Neglect of minors creates a serious risk for crimes committed against children such as child labour, involvement in prostitution, sexual slavery, and the selling and recruiting of children.
- 3.3.3 Health care. Children and their parents that were victims in the 2010 conflict areas have shown a strong demand for psychological help, and many are in need of long-term psychological rehabilitation. Because of the lack of professional psychological services, many are at risk of poor health or a worsening of post-traumatic stress disorder, which can lead to increased mortality and deterioration of the economic situation for many families.
- 3.3.4. Access to information. During investigation it was revealed that there is a special significance of the need for access to information and legal services. In the majority of cases the Ministry of Health did not inform citizens about the possibility of accessing psychological services.
- 3.3.5. Social Assistance and Access to Education. Investigation results²⁴ showed that there is a lack of a sustainable system for supporting families and children in hardship conditions. This is a gross violation of a child's right to benefit from social assistance

²²See report entitled: "Compliance with children's rights in post-conflict situation in southern Kyrgyzstan. Report of a study conducted in 2011 in the city of Osh. "Children's Rights Defenders' League", Bishkek, 2012

²³See "The role of government in the period of the 2010 events in Kyrgyzstan," Human Rights Center "Kylum Shamy", 2012, [http://vof.kg/wp-content/uploads/2012/09/Doklad-rol-organov-vlasti_Rylym-shamy.pdf](http://vof.kg/wp-content/uploads/2012/09/Doklad-rol-organov-vlasti-Rylym-shamy.pdf) or at www.osce.org/ru/odihr/94202

²⁴ See report entitled: "Compliance with children's rights in post-conflict situation in southern Kyrgyzstan. Report of a study conducted in 2011 in the city of Osh. "Children's Rights Defenders' League", Bishkek, 2012

- 3.3.6.** There has been a fragmentation of education, healthcare, social protection, and security at the local level. In the absence of established mechanisms for constructive interaction between different departments of the central and local government, as well as poor coordination with local authorities, it is clear that more effective measures for cooperation, coordination, coherence, and active support of the non-governmental sector are needed. Social support for children from low-income families is at a very low level, which exacerbates existing problems in these families.
- 3.3.7.** The Right to Education, Recreation, and Development. The Ministry of Education and Science and the mayor of Osh do not exercise effective control over observance of the rights of children in educational institutions in the city of Osh, which has led to gross violations of the right of children to access education (violations include illegal collection of funds in schools, lack of textbooks, lack of teachers for some disciplines, distance of schools from students' homes, and unethical behaviour from teachers).
- 3.3.8.** Children in public schools lack the opportunity to effectively and positively learn Kyrgyz language.
- 3.3.9.** Respondents rated safety overall as not very high, which could support a feeling of alarm and lower motivation to do well in school, especially if students get to school on foot or by public transportation.
- 3.3.10.** Children have practically no possibility to fulfil their right to recreation and development. The lack of kindergartens and playgrounds for preschool aged children is large problem as many parents are busy restoring houses burned during the June Events, which does not allow them to fully take care of their young children. Organized recreation for children can increase the level and quality of their communication, reduce anxiety, develop confidence, and help restore a child's mental health.

Recommendations:

1. Take all necessary steps to investigate crimes and hold those responsible for the deaths of the 15 children who died during the 2010 June Events in the South of Kyrgyzstan.
2. Expedite the implementation of the full range of transitional justice measures to investigate all deaths of children, as well as to restore confidence in the state as a guarantor of security and prevent the recurrence of violence in the future.
3. Create a wide network of psycho-social assistance.
4. Organize a children's helpline to provide initial legal consultations.
5. Considering the needs of vulnerable segments of the population, extend the social assistance strategy adopted for 2012-2014 until 2017.
6. The Ministry of Social Development and the Ministry of Internal Affairs as well as their authorized agencies in the field need to prevent human trafficking and illegal acts against children. Also conduct an extensive awareness campaign on child rights among students, teachers and parents. Conduct a comprehensive public awareness campaign on children's rights among pupils, teachers, and parents. Conduct systematic monitoring of compliance

with the right to access to education and the right to access to psychological support in all schools in the city of Osh and the municipality.

7. Take special measures against illegal collection of money in schools, especially for particularly vulnerable children who are forced to work because of unemployed parents or adults rebuilding destroyed homes.
8. Consider the possibility of informing school teachers about the signs of psychological trauma to children and other anxiety disorders, methods of self-help, and mutual assistance.
9. Design a curriculum for general education institutions on effective learning of Kyrgyz language.