



## Submission on the periodic report of Kyrgyzstan to the United Nations Committee on Economic, Social and Cultural Rights

May 2015

We write in connection with the 55th Session of the Committee on Economic, Social and Cultural Rights and its review of Kyrgyzstan, to highlight areas of concern regarding the government's response to domestic violence and compliance with the Covenant on Economic, Social and Cultural rights. This submission complements our earlier contribution ahead of the pre-sessional review on concerns pertaining to housing in Osh, which remains valid to date.<sup>1</sup>

We were pleased to see that the Committee raised concerns regarding domestic violence in its List of Issues on the second and third periodic reports of Kyrgyzstan.<sup>2</sup> Domestic violence is widespread in Kyrgyzstan, affecting nearly one-third of women and girls ages 15-49.<sup>3</sup> Despite a progressive law on domestic violence, Kyrgyzstan's government is not providing adequate protection, support, and access to justice for survivors. This document summarizes new research by Human Rights Watch on domestic violence in Kyrgyzstan. A report on the issue will be published in July 2015.

### Research background

During research in Kyrgyzstan in November and December 2014 and May 2015, Human Rights Watch interviewed 28 female survivors of domestic violence as well as 65 representatives of law enforcement and the criminal and civil justice system, public and private service providers,

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<sup>1</sup> "Kyrgyzstan: Submission to the UN Committee on Economic, Social, and Cultural Rights," Human Rights Watch submission ahead of its pre-sessional review on Kyrgyzstan, October 20, 2014, <https://www.hrw.org/news/2014/10/20/kyrgyzstan-submission-un-committee-economic-social-and-cultural-rights>.

<sup>2</sup> United Nations Committee on Economic, Social, and Cultural Rights, "List of Issues in Relation to the combined second and third periodic reports of Kyrgyzstan," UN Document E/C.12/KGZ/Q/2-3, para. 22.

<sup>3</sup> National Statistical Committee of the Kyrgyz Republic, Ministry of Health, and ICF International, *Kyrgyz Republic Demographic and Health Survey 2012* (National Statistical Committee of the Kyrgyz Republic, Ministry of Health, and ICF International: Bishkek, Kyrgyz Republic, and Calverton, Maryland, USA: 2013), <https://dhsprogram.com/pubs/pdf/FR283/FR283.pdf> (accessed March 28, 2015), table 14.8., p. 24.

non-governmental organizations (NGOs) and community leaders. Human Rights Watch conducted interviews in Bishkek, Osh, and Naryn city. Additional information was gathered from published sources, including laws, government data, United Nations documents, academic research, and media. Human Rights Watch also met with representatives of the Prosecutor General's office, the Ombudsman for Human Rights, the Ministries of Health and Justice, and representatives of the Ministry of Internal Affairs.

Human Rights Watch's upcoming report, scheduled for July 2015, updates a 2006 Human Rights Watch report on domestic violence and bride kidnapping in Kyrgyzstan. In the intervening years, Kyrgyzstan's government has engaged in law reform and awareness-raising campaigns in attempts to change attitudes towards violence against women and reduce impunity. While Human Rights Watch acknowledges the government of Kyrgyzstan's efforts to address domestic violence – including through the introduction of a domestic violence law in 2003 and the strengthening of penalties for bride kidnapping in 2013 – we remain concerned about gaps in protection, service provision, law enforcement, and judicial response in cases of domestic violence.

This is a critical time to examine Kyrgyzstan's record on domestic violence as the government is actively reviewing a new law developed by experts and government agencies that would overhaul the 2003 Domestic Violence Law. It is vital that any new domestic violence legislation retains those elements of the existing law that ensure protection and redress, while at the same time addresses its weaknesses and incorporates enforcement mechanisms. While the 2003 Domestic Violence Law was ground-breaking, it promised far more than it accomplished.

Parliament is also considering amendments to the Criminal Code and Criminal Procedure Code. These have the potential to strengthen the existing legislative framework on domestic violence.

### **Summary of Research Findings:**

In interviews with survivors of domestic violence, service providers, police, judges, community leaders, and representatives of state agencies, Human Rights Watch found that domestic violence remains a grave concern in Kyrgyzstan, and that multiple barriers hinder survivors from seeking help or accessing justice.

Human Rights Watch documented cases of severe physical and psychological domestic abuse, sometimes with long-lasting consequences. All of the women experienced ongoing abuse; for most of them, this included episodes of violence between 2012 and 2015. Women told Human Rights Watch about instances in which perpetrators pounded their heads against walls and

pavement; broke their jaws; caused concussions and skull fractures; stabbed them; beat them with rolling pins, metal kitchenware and other objects; locked them outside in extreme cold without shoes or appropriate clothing; beat them while pregnant to the point of miscarriage; chased them with knives and spades; attempted to choke or suffocate them; threatened to kill them; spit in their mouths; and verbally humiliated them at their workplaces. Several women also told Human Rights Watch that they were forced into marriage, sometimes through abduction, or were married before the legal age of 18. In many cases, women told Human Rights Watch that they experienced domestic abuse for years, almost always at the hands of husbands or partners, but also by in-laws and, in one case, a brother. Some of the women suffer from long-term physical or psychological distress as a result of domestic violence.

Survivors of domestic violence in Kyrgyzstan face a daunting array of barriers to seeking assistance, protection, and justice. Social barriers include pressure to keep the family together at all costs, stigma and shame, economic dependence, vulnerability and isolation—especially among those in unregistered marriages—and fear of reprisals by abusers. Other obstacles include lack of services for survivors of domestic violence, particularly shelters, and inaction or hostility on the part of law enforcement and courts. In multiple ways, Kyrgyzstan is failing to implement its own 2003 law on domestic violence, as well as to meet its binding international human rights obligations.

Women and girls in Kyrgyzstan suffer high rates of domestic violence, yet few cases are reported and even fewer are prosecuted. Those that do reach courts are frequently considered administrative offenses, not crimes, and thus face lighter penalties. Even among administrative cases, few perpetrators are convicted of domestic violence; most face penalties for offenses such as “minor hooliganism,” or “disorderly conduct.”

Not all police, judges, and state service providers ignore their responsibilities with respect to domestic violence. Some police told Human Rights Watch that they regularly take domestic violence complaints and issue temporary protection orders. Some survivors said that judges helped them obtain a divorce or access alimony from abusive husbands. However, many survivors told Human Rights Watch that, even in cases of ongoing abuse that resulted in physical injuries, police refused to file domestic violence complaints, failed to investigate complaints, or encouraged them to withdraw complaints. They also said that police failed to inform them about protection orders and to adequately enforce protection orders when they were issued. Only one of the survivors Human Rights Watch interviewed received a court protection order; others were told that their cases did not qualify for court protection. In some cases, survivors said that police or judges blamed them for the abuse they suffered or encouraged them to reconcile with abusive husbands or partners. Police and members of

*aksakals* courts (community elders courts) told Human Rights Watch that police refer cases of domestic violence involving physical injuries to *aksakals* courts in violation of legal requirements for prosecutorial permission prior to such referrals.

Ministry of Health and Ministry of Internal Affairs officials have introduced guidelines on domestic violence response and data collection, but such guidelines do not adequately reflect international standards on working with survivors of domestic violence. Training of police, judges, prosecutors, and health care personnel has not been systematic or comprehensive. Service provision for survivors of domestic violence, including shelter, psychosocial care, and facilitation of access to justice, lies almost entirely in the hands of non-governmental organizations, most of which receive no state support. Many survivors told Human Rights Watch that they withstood domestic violence for years due to social pressure, fear of shame and stigma, and feeling that they had nowhere else to go. Human Rights Watch also found that health care providers reported cases of domestic violence to police without survivors' consent, which conflicts with recommendations of the World Health Organization and may deter women from seeking care.

In failing to enforce its laws, the government of Kyrgyzstan has left women and girls facing domestic abuse without a safety net. This is a pivotal moment for Kyrgyzstan to update its legal framework and implement effective systems to stop domestic violence and hold perpetrators to account. Until it does so, the government of Kyrgyzstan continues to put the lives of women and girls at risk.

Human Rights Watch's forthcoming report on domestic violence contains detailed recommendations to individual ministries and other bodies of the government of Kyrgyzstan, as well as international agencies and donors. Key recommendations are below.

### **Suggested Questions for the Committee**

Human Rights Watch encourages the Committee on Economic, Social and Cultural Rights to ask the government of Kyrgyzstan the following questions with regards to preventing and responding to domestic violence:

- Please detail measures that the government of Kyrgyzstan is taking to ensure that all survivors of domestic violence have access to essential services, including shelter/housing, health and psychosocial services, and legal assistance, in both urban and rural areas.
- Please describe specific measures that the government of Kyrgyzstan is taking to ensure adequate and appropriate response to cases of domestic violence by law

enforcement officers and judicial authorities, including registration, investigation and prosecution of domestic violence claims. Please include measures being taken to combat attitudes and behaviour among police and judges that include victim-blaming, stigmatization of survivors, pressuring survivors to withdraw complaints or reconcile with abusers, and prioritization of maintaining the family over the well-being and security of survivors.

### **Key Recommendations**

Human Rights Watch recommends that the government of Kyrgyzstan:

- Establish or appoint a specific government body responsible for coordination of all policies and measures related to domestic violence.
- Amend the Criminal Code to make clear that all articles relevant to domestic violence apply to members of the family, extended family, spouses and partners, former spouses and partners, and in-laws, regardless of whether the perpetrator and victim are cohabiting or have ever cohabited. Ensure that domestic violence legislation retains the right of survivors of domestic violence to obtain temporary protection orders and longer-term protection by decision of the court, and that both forms of protection include the option of requiring the perpetrator to vacate a shared residence.
- Amend Ministry of Internal Affairs Order No. 844 to include broader protocols on police response to domestic violence in accordance with United Nations Office on Drugs and Crime (UNODC) standards.
- Design and implement a mandatory core curriculum on domestic violence response at the police training institute in accordance with the above protocols and UNODC standards. Such training should also be included in mandatory retraining and qualification courses for police.
- Design and implement a mandatory core curriculum for training of prosecutors on domestic violence response in accordance with national and international laws and UNODC standards. Train judges on national domestic violence legislation and international obligations, and on domestic violence response.
- Ensure availability of adequate shelter, psychosocial, and other services for survivors of domestic violence, including in rural areas. Ensure availability of shelters accommodating women with children, women with disabilities, and women in marginalized groups, including lesbian, bisexual and transgender individuals.
- Amend the Practical Guidelines on Effective Documentation of Violence, Torture, and Other Cruel, Inhuman or Degrading Treatment and Punishment (Practical Guidelines) to clarify, in line with World Health Organization (WHO) clinical and policy guidelines, that medical personnel should not report cases of actual or suspected domestic violence to

police or share case information (including with family members) without the express consent of adult survivors.

- Ensure implementation of the amended Practical Guidelines and training of all medical personnel on these guidelines, including those at rural and small health facilities.
- Amend the Family Code to eliminate waiting periods for divorce in cases of domestic violence, regardless of the age of the plaintiff's or defendant's children.
- Amend the Law on *Aksakals* Courts to clarify under what circumstances cases of domestic violence can be referred to *aksakals* courts. Definition of such circumstances should exclude cases of a criminal nature or involving any form of physical injury and should prioritize survivors' right to access to justice and means of redress under the official court system.
- Join the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence.