

## **Recommendations for human rights in Kyrgyzstan**

*Presented by the Human Rights Movement 'Bir Duino Kyrgyzstan',  
the Kylym Shamy Public Foundation  
and the 'Adilet Legal Clinic' Public Foundation*

### **I. The need to ratify the Rome Statute of the International Criminal Court**

Having long taken a wait-and-see attitude to the Rome Statute of the International Criminal Court signed on 12 December 1998, Kyrgyzstan announced in January 2015 that it would not ratify it. This decision was politically, not legally, motivated.<sup>1</sup>

- Despite a few attempts to have the Kyrgyzstan legislation comply with international standards in this area, the legal regulatory framework governing war crimes under the Penal Code of the Republic of Kyrgyzstan still has major shortcomings;
- The establishment of responsibility for most of the crimes committed as specified in the Rome Statute is an obligation taken by the RK in respect of international law, pursuant to the other international legal instruments adopted by our state and pursuant to the Constitution of the RK, which allows the enforcement of multilateral international agreements adopted by Kyrgyzstan - and primarily of agreements protecting freedoms and human rights, international humanitarian law and international criminal law;
- This ratification is essential for a comprehensive settlement of the issues of definition and punishment of crimes against peace and security in Kyrgyzstan - which is very timely given that justice was not rendered following the interethnic conflict in the south of Kyrgyzstan in June 2010;
- The ratification of the Rome Statute is a prerequisite for the reform of Kyrgyzstan's judicial system to proceed effectively.

### **II. The need to humanise criminal laws for those sentenced to life imprisonment**

- Repealing the death penalty and replacing it with life imprisonment did not change the repressive nature of the legal practice. The courts impose life sentences as categorically as they imposed death sentences and the number of convictions is on the rise.<sup>2</sup>
- On 1 February 2016, 302 persons were serving a life sentence in Kyrgyzstan. This number increases year over year.<sup>3</sup>
- The conditions of detention of those serving a life sentence contravene the Minimum Standard Rules for the treatment of UN detainees, the fundamental Principles for the treatment of detainees and other international obligations of the Republic of Kyrgyzstan.

<sup>1</sup> [http://www.ngo-at-work.org/icc2006/reports/Country\\_report\\_Kyrgyzstan\\_rus.pdf](http://www.ngo-at-work.org/icc2006/reports/Country_report_Kyrgyzstan_rus.pdf)

<sup>2</sup> <https://iwpr.net/ru/global-voices/kyrgyzstan-otmena-smertnoy-kazni-ne-otmenila>

<sup>3</sup> [https://i-news.kz/news/2016/02/01/8228954-v\\_kyrgyzstane\\_rastet\\_chislo\\_prestupnikov.html](https://i-news.kz/news/2016/02/01/8228954-v_kyrgyzstane_rastet_chislo_prestupnikov.html)

- The detainees do not have adequate access to basic resources (dignified detention conditions, proper nutrition, medical care, sufficient living space, sanitary facilities, social rehabilitation programs, etc.), a fair trial, qualified legal assistance, information and communication with the outside world. Also, safety is not assured in places where there is a lack of freedom, whether for the prison staff, prisoners or visitors.
- Whereas the conditions of detention in prison are inhuman, the maximum sentence could be reduced to 20 years imprisonment, which is a considerable amount of time for an individual and is one third of life expectancy in the Republic of Kyrgyzstan.

### **III. - The situation of human rights defenders**

- Over the last few years we have been witnessing more and more persecution of human rights organisations and defenders in Kyrgyzstan actively involved in protecting the civic and political rights of citizens, ethnic minorities, believers and LGBT groups.
- These pressures and persecutions were unfolding amid strengthening nationalist feelings, emerging radical youth organisations and the increasing influence of Russia due to Kyrgyzstan being a member of the Customs Union and the Eurasian Economic Union. The Parliament is seeking to limit the activities of non-governmental organisations by promoting bills on ‘foreign agents’, the ‘propaganda of homosexuality’ and even on banning unregistered organisations.
- Over the last two years, the GKNB (State Committee for National Security) conducted searches at the premises of at least two human rights organisations. Their documentation and their equipment were confiscated and they were accused of inciting ethnic hatred and extremism. On 27 March 2015, the GKNB conducted illegal searches at the offices of the Och affiliate of the Human Rights Movement ‘Bir Duino Kyrgyzstan’, as well as at the homes of the lawyers Valerian Vakhitov and Khusanbay Saliev. The lawyers and defenders of human rights see in these GKNB actions direct pressure exerted by the state security bodies on independent lawyers and advocates to prevent them from doing their job.
- Since 2014, the Bir Duino organisation, its president Tolekan Ismailova and the members of his family are subject to a continuous smear campaign by the pro-government and pro-Russian media.
- On 14 May 2016, during a solemn ceremony awarding mothers of several families with the ‘Baatyr ene’ prize, held on Mother’s Day, the President of the Republic of Kirghizistan, A. Atambaev, lashed out at human rights activists, Tolékan Ismailova and Aziza Abdirasulova, accusing them of ‘executing the orders of their foreign donors’ and maintaining relationships with opposition groups. On 16 June 2016 the Pervomaisky District Court of Bishkek rejected the complaint filed by Tolékan Ismailova and Aziza Abdirasulova against the President of the Kyrgyzstan Almazbek Atambaev for insulting their honour and their dignity.

### **IV. The proposal for amending the Constitution of the Republic of Kyrgyzstan**

- On 29 July 2016, several MPs of the Zhogorku Kengesh (C. Tursunbekov, I. Omurkulov, O. Babanov, K. Isaev, B. Torobaev, A. Sulaymanov and others) filed a bill titled ‘Holding a referendum (for universal suffrage) on the *Republic of Kyrgyzstan Act* relative to the introduction of amendments to the Constitution of the Republic of Kyrgyzstan’. The proposed amendments are anti-democratic in nature and violate the principle of the separation and balance of powers, which will eventually lead to the usurpation of power and the end of an independent judicial system. The purpose of these amendments is to proclaim that the supreme values of the state are not the rights and freedoms of the citizens, but the independence, state sovereignty and national interests of the Republic of Kyrgyzstan and its territorial integrity. Moreover, the adoption of these amendments could lead to other negative effects that will only come to light once the changes have been implemented. It must be emphasised that the MPs who initiated this bill are in breach of the moratorium on amendments to the Constitution of the Republic of Kyrgyzstan, in effect until 2020.

## **V. The situation of the rights of migrant workers**

- During the period 1999-2015, there were approximately 500,000 migrants within the Kyrgyzstan borders, ie some 30 to 40,000 per year.
- The primary problem that most of these internal migrants face is the lack of official registration and as such, they have the greatest difficulties in accessing health and education services, benefiting from social assistance, receiving their retirement benefits and obtaining employment in the public service
- The children of internal migrants are one of the most vulnerable categories of children. Given that they are not officially registered in the locality where they reside de facto, they do not have access to guaranteed state education, health and social services.
- Officially, the total number of migrant workers from the Republic of Kyrgyzstan residing in the Russian Federation or in the Republic of Kazakhstan is about 640,000 persons.<sup>4</sup> The real number largely exceeds the statistics published by the host countries: it would actually be about 1 million persons.
- Female migrants are particularly exposed to the risk of sexual violence; and they are practically deprived of any opportunity to obtain timely qualified legal assistance.
- The migrant workers from Kyrgyzstan are highly exposed to the risk of slave labour and are subject to human trafficking.
- Kyrgyzstan's membership in the Eurasian Economic Union and the Customs Union has not improved the legal status of migrants.

### **For the attention of 39<sup>th</sup> Congress, Johannesburg, 23-27 August 2016**

Advocacy for the ratification of the Rome Statute of the International Criminal Court by Kyrgyzstan to try the perpetrators of the majority of crimes covered by the Rome Statute.

Advocacy for the humanisation of the criminal laws in the Republic of Kyrgyzstan and review of the opportunity to reduce to a fixed term the sentence of the vulnerable group that comprise those sentenced to life imprisonment, including those convicted following the June 2010 events.

The implementation of the UN, OSCE and EU Guideline Principles for human rights defenders and their families to ensure the safety of defenders and broaden the political sphere within which the NGOs evolve.

Intensifying the efforts of civil society and the media to oppose the adoption of the amendments to the Constitution of the RK.

Simplify the system for obtaining passports and the registration system on the place of residence by incorporating a registration voucher into the passport of each RK citizen .

Encourage the host countries to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and to incorporate these international standards into their legislation.

Create within the Republic of Kyrgyzstan a system for preparing migrant workers, before their departure, for their life in the host countries: legislative information on the host countries, hiring conditions, pension payments, health insurance and health care.

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<sup>4</sup>According to the migration figures of the Russian Federation Federal Services, 539,000 citizens of the Republic of Kyrgyzstan were on Russian Federation soil on 20 February 2013. According to the Ministry of the Interior of Kazakhstan, 103,001 citizens of the Republic of Kyrgyzstan would have been registered as temporary residents of Kazakhstan in 2012.

To promote the development of trade unions in Kyrgyzstan and in receiving countries