



Social Organization Kyrgyz Indigo



Anti-Discrimination Centre “Memorial”

Kyrgyz Indigo

Joint Submission to the Human Rights Council

at the 35th Session of the

Universal Periodic Review

(Third cycle, June 2019)

Kyrgyzstan

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## INTRODUCTION

1. Anti-Discrimination Centre (ADC) Memorial and Kyrgyz Indigo made this joint submission in relation to the different aspects of discrimination of vulnerable groups in Kyrgyzstan: the report focuses on discrimination based on ethnicity, migration status, gender, and sexual orientation and gender identity.
2. Anti-Discrimination Centre (ADC) Memorial<sup>1</sup> is a Human Rights NGO defending the rights of vulnerable groups (such as representatives of ethnic minorities and indigenous peoples, migrants, stateless persons, LGBTI and others) in Eastern Europe and Central Asia, through national and international advocacy, strategic litigation and education/information work.
3. The social organization Kyrgyz Indigo (Bishkek) works in the sphere of human rights and advocacy and focuses on the promotion of LGBTI rights not just in Kyrgyzstan, but in Central Asia as a whole. One of its priorities is working to improve the quality of life for LGBTI people in Kyrgyzstan. Kyrgyz Indigo responds immediately to crisis situations involving violations of the rights of LGBTI people and violence or discrimination on the basis of sexual orientation and/or gender identity.

### I. THE UNIVERSAL PERIODIC REVIEW OF KYRGYZSTAN UNDER THE FIRST AND SECOND CYCLE (2010 AND 2015)

4. Being subject to the UPR under the first cycle in 2010, Kyrgyzstan received the following recommendations regarding discrimination<sup>2</sup>:

Review the compliance of its national legislation with provisions of the International Covenant on Civil and Political Rights on non-discrimination, in particular with regard to women and persons of minority ethnicity, sexual orientation or gender identity (Czech Republic); Intensify in practice sanctions in cases of domestic violence, bride kidnapping, forced marriage, polygamy and discrimination against women due to sexual orientation, as well as promote mechanisms of protection that guarantee the rights of victims of domestic violence (Uruguay ); Further protect children's rights - in particular, fully implement the prohibition of child labor and adopt legislation providing for responsibility for the use of child labor (Lithuania); Place emphasis on the rights of women and children in its policies and programs (Afghanistan); Continue to empower women and broaden the scope for their participation in society (Bangladesh); Give special regard to women and children and enhance their enjoyment of human rights and fundamental freedoms (Jordan).

5. Being subject to the UPR under the second cycle in 2015, Kyrgyzstan supported/noted the following recommendations regarding discrimination<sup>3</sup>:

117.24. Take further steps to improve the system of children's rights protection (Kazakhstan); 117.21. Strengthen national procedures for the protection of the rights of socially vulnerable groups of the population, including women, children, persons with disabilities and older persons (Tajikistan); 117.25. Continue strengthening legal mechanisms for the protection of the rights of children (Russian Federation); 117.57. Provide guarantees for children in detention, including by removing the use of solitary confinement and by separating adults and children (Mexico);

Kyrgyzstan received 13 recommendations associated with the situation of ethnic minorities, including regarding the need for the effective investigation and punishment of guilty parties in cases concerning the ethnic conflict of 2010, which took place in South Kyrgyzstan. States called on Kyrgyzstan to end the discrimination and persecution of ethnic minorities by law enforcement authorities and to take additional measures to protect ethnic minorities from discrimination;<sup>4</sup>

Kyrgyzstan also received 17 recommendations associated with sexual orientation and gender identity issues. The states urged Kyrgyzstan to adopt comprehensive anti-discrimination legislation and public policies to protect from

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1 For more information about the work of ADC Memorial, please visit its website [www.adcmemorial.org](http://www.adcmemorial.org)

2 List of all recommendations made to Kyrgyzstan and its responses, may 2010 [https://www.upr-info.org/sites/default/files/document/kyrgyzstan/session\\_8\\_-\\_may\\_2010/recommendationstokyrgyzstan2010.pdf](https://www.upr-info.org/sites/default/files/document/kyrgyzstan/session_8_-_may_2010/recommendationstokyrgyzstan2010.pdf)

3 Find the matrix of recommendations here: <https://lib.ohchr.org/HRBodies/UPR/Documents/Session21/KG/KyrgyzstanMatriceRecommendations.pdf>

4 A/HRC/29/4/Add.1 119.28. noted, A/HRC/29/4 (para. 118) 118.25. noted, A/HRC/29/4 (para. 118) 118.19. noted, A/HRC/29/4 (para. 118) 118.17 noted, A/HRC/29/4 (para. 117) 17.137. Supported, A/HRC/29/4 (para. 117) 117.136 Supported, A/HRC/29/4 (para. 117) 117.131. Supported, A/HRC/29/4 (para. 117) 117.135 Supported, A/HRC/29/4 (para. 117) 117.134 Supported, A/HRC/29/4 (para. 117) 117.133 Supported, A/HRC/29/4 (para. 117) 117.132 Supported, A/HRC/29/4 (para. 117) 117.137 Supported

violence and discrimination based on SOGI and to ensure that homophobic actions (violence, torture, inhuman and degrading treatment of LGBT persons) made by government and non-government actors are investigated promptly and efficiently.

## II. THE INTERNATIONAL OBLIGATIONS OF KYRGYZSTAN

6. Kyrgyzstan is a party to core UN Human Rights treaties having relation to the problem of discrimination: International Covenant on Civil and Political Rights; International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women; Convention on the Rights of the Child; Convention on the Rights of Persons with Disabilities.

## III. OMNIPRESENCE OF DISCRIMINATION BASED ON ETHNICITY<sup>5</sup>

7. Ethnic minorities are distributed unevenly across the territory of Kyrgyzstan depending on region, which determines the specific nature of relations among various ethnic groups. Uzbeks, which make up the largest minority, account for 14.6 percent of the population and are concentrated in the south, where they make up 28 percent of the population. The north of the country (Chuy Oblast) is ethnically diverse and is home to relatively small ethnic communities (the largest are Russians, Dungans, Ahiska (Meskhetian) Turks, Uighurs, Cossacks, and others, while the smallest groups are Caucasian peoples, including Dargins, Lezgians, Avars, and others), Roma, Chinese, and others). The ethnic clashes of 2010 mostly affected South Kyrgyzstan, but the tragic events of Osh also had an impact on the country's northern regions.
8. A number of problems of vital importance are shared by members of various ethnic minorities in Kyrgyzstan. These include xenophobia on the part of the majority, unequal treatment by the police, difficulties finding work, loss of native language and absence of conditions for its study and use, low level of education, and violation of the rights of women and girls due to the patriarchal society. Ethnic stereotypes also impact the situation of minorities.
9. In spite of the time that has passed since the brutal ethnic conflict that took place in South Kyrgyzstan in 2010, the situation of Uzbeks remains complicated. They face biased treatment from both individual citizens and government representatives and lack proper access to justice. Instances of violence and torture during the events and their investigation have still not been examined objectively. In addition, high profile cases have not been given fair trials. For example, Azimjan Askarov, a human rights defender sentenced to life in prison, is still in custody in spite of decisions issued by international bodies and repeated calls for his release from the international community. Numerous cases of the seizure or destruction of land plots (case of Gafurzhan Dadazhanov) and small businesses (cafes, small stores) owned by Uzbeks have not been given objective legal treatment and the victims have never gotten their property back or received compensation. Few Uzbeks work in the legislative and executive branches or in law enforcement. They also encounter difficulties opening and running businesses. The lack of demand for Uzbeks in social life leads vulnerable Uzbek youth to religious radicalization. Most cases of criminal prosecution for extremism concern possession of banned literature; there is a great deal of evidence that these kinds of cases are fabricated. The sharp reduction in instruction in the Uzbek language that occurred after 2010 and the mass shift to teaching in Kyrgyz was especially dramatic for the Uzbek population in South Kyrgyzstan. Now teachers working in Uzbek schools teach in Russian or Kyrgyz, which they do not speak as well as Uzbek, and there are no state programs to provide additional training for them. Because of this, the quality of education in former Uzbek language schools has plummeted. Now Uzbeks in this situation prefer to send their children to schools with Russian language instruction, so the classes there are overcrowded with up to 40 or 50 children. The secondary school graduation exam has not been offered in Uzbek since 2015: Graduates of Uzbek schools must take this exam in Kyrgyz or Russian, since no institutes or universities provide instruction in Uzbek. The government has stated that the mass shift to instruction in Kyrgyz was needed to overcome the isolation of the Uzbek community and ensure its integration into public life. However, drastic changes in education policy are not helping to consolidate society. On the contrary, the Uzbek community has become even more isolated.
10. A large, dense settlement of Mugat people (Lyuli or Central Asian Roma) has been located on the outskirts of Osh in South Kyrgyzstan since the 1940s. This settlement currently has 3,500 to 6,000 residents. Mugats have had problems specific to their group in all former Soviet countries of Central Asia, so it is worth noting positive trends. In terms of education, many children receive school instruction, the school accepts undocumented children, teachers from the Mugat community work at the schools, and several Mugat are being trained as teachers. Mugats also take an active role in public life: Representatives of the community serve in the local Kenesh (administration) and the

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<sup>5</sup> More information in the joint report of ADC Memorial and the Human Rights Movement Bir Duino-Kyrgyzstan "On the Kyrgyz Republic's Compliance with the International Convention on the Elimination of All Forms of Racial Discrimination," 2018, <https://adcmemorial.org/www/publications/on-the-kyrgyz-republic-s-compliance-with-the-international-convention-on-the-elimination-of-all-forms-of-racial-discrimination?lang=en>

social organization Lyuli is part of the Assembly of Peoples of Kyrgyzstan. As far as healthcare is concerned, the community has co-financed a health center, which has Mugat people on staff. Finally, residents support themselves by working as seasonal workers in the fields, running their own businesses, and raising livestock. At the same time, this community faces important problems that must be resolved. **A large number of adults and children are undocumented:** Police officers in Osh estimate that no more than 50 percent of adults and children have personal documents (interview, November 2018), but state agencies do not have the exact numbers. **Children do not receive a quality education:** only Mugat children attend the local school, so there is no integration with other children. The Mugats speak a dialect of Tajik, but the school provides instruction in Kyrgyz (in Uzbek until 2010), which presents significant difficulties for children. In addition, the school is intended for 150 students, but now over 500 children attend first through fifth grades in four shifts. Even so, it appears that not all children of school age are enrolled in school. After fifth grade, children transfer to a school in a neighboring settlement, but enrollment drops. For example, in 2016 only 56 Mugat students completed ninth grade. Even fewer receive a full 11-year education, and only a handful go on to university. Finally, the school is poorly equipped: It does not have a computer room, a gym, or a cafeteria, and the classrooms are small and are intended for 15 or 16 people but actually hold up to 25. There is also a problem with textbooks. **Residents have limited access to medical care. Poverty is widespread:** women collect scrap metal and other materials and perform seasonal work in the fields. Men travel to Russia as migrant workers with all the inherent risks, and many are unemployed. Begging is a widespread occupation for women, and begging with children is the only means of existence for some particularly impoverished families. **The lack of land plots** for residential construction and widespread poverty mean that the settlement has makeshift houses that have not been approved by local government and architectural agencies; this creates problems with registration and utilities. Finally, officials do not adequately address **violations of women’s and children’s rights**, including cases of early marriage and polygamy.

11. Romani people who have found their way into Kyrgyzstan from the European part of the Soviet Union over the past decades comprise one of the most stigmatized minorities. Even though there are not many of them in the country, they suffer from problems typical of this minority, including poverty and lack of documents, which make it difficult to access social benefits and education.

#### IV. DISCRIMINATION OF WOMEN AT WORK

12. Along with the common problem of infringement of the rights of women in Kyrgyzstan, which is dictated, among other things, by gender stereotypes and the powerful influence of traditional values and patriarchal views, the matter of work inequality remains pressing. According to Kyrgyzstan’s state report to UN CEDAW<sup>6</sup>, the employment rate of women dropped from 39 percent to 38 percent between 2013 and 2017, while the number of employed men increased. According to data from 2017, women comprised only two-fifths of the economically active population,<sup>7</sup> even though there are equal numbers of men and women of working age<sup>8</sup>. Women continue to be most represented in low-paying sectors: social services and healthcare (83.6 percent), education (80.6 percent), hotels and restaurants (58.4 percent), and manufacturing (47.0 percent). Of the approximately one million people employed in the shadow economy, over half (600,000) are women working in the trade, agricultural, and service industries. There is also a gender pay gap related to low-paying jobs and the underrepresentation of women in management positions. According to data from 2017, the gap was 30 percent on average and reached up to 40 percent in some regions.<sup>9</sup>
13. The government has not taken sufficient measures to overcome gender stereotypes at work and ensure that women have access to all specializations, even though women are clearly not sufficiently involved in all spheres of the economy, including high-paying spheres, one-quarter of women of working age work in the unofficial economy,<sup>10</sup> and the level of labor migration is high. Article 303 of Kyrgyzstan’s Labor Code<sup>11</sup> and Resolution of the Government of the Kyrgyz Republic “On a List of Harmful and (or) Dangerous Industries, Jobs, Professions, and Positions Banned for Women”<sup>12</sup> ban women from holding 446 jobs under the pretext of protecting their reproductive health. Thus, the state shows its “concern about women’s health” while ignoring recommendations from international

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6 Fifth Periodic Report of Kyrgyzstan to UN CEDAW, 2019, pp. 27-28

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fKGZ%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fKGZ%2f5&Lang=en)

7 National Statistical Committee of the Kyrgyz Republic, employment statistics, <http://www.stat.kg/ru/statistics/zanyatost/>

8 National Statistical Committee of the Kyrgyz Republic, gender statistics, <http://www.stat.kg/ru/statistics/gendernaya-statistika/>

9 Ibid.

10 Statistics of the population of Kyrgyzstan, UN Department of Economic and Social Affairs: Population Division, <https://countrymeters.info/ru/Kyrgyzstan>

11 Labor Code of the Kyrgyz Republic of August 4, 2004 No. 106 (with amendments and additions as of June 26, 2018),

[https://online.zakon.kz/Document/?doc\\_id=30296269](https://online.zakon.kz/Document/?doc_id=30296269)

12 Fifth Periodic Report of Kyrgyzstan to UN CEDAW, 2019, para. 100

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fKGZ%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fKGZ%2f5&Lang=en)

bodies concerning the need to stop this excessive protection of reproductive health<sup>13</sup> that result in discrimination against women in the workforce. While welcoming the government's intention to review this list of banned professions, the authors of this report insist that this list should not be curtailed, but canceled entirely and that the corresponding amendments should be made to the Labor Code (cancellation of Article 303).

## V. DISCRIMINATION AGAINST LABOR MIGRANTS WORKING ABROAD; POOR SITUATION OF WORKING MIGRANTS' CHILDREN

14. According to official statistics, almost one out of every four Kyrgyz citizens of working age is in labor migration<sup>14</sup> (actual numbers may be higher). The largest number of Kyrgyz migrants work in Russia and Kazakhstan (640,000 and 35,000, respectively, according to 2018 data<sup>15</sup>). However, migrants face a number of difficulties during regular migration and in cases when they do not have the required migration documents.
15. Kyrgyz citizens are subjected to discrimination in both countries and have been the victims of hate speech and racist attacks in Russia. The strict migration policies of receiving countries have triggered the development of anti-migrant attitudes in society and among members of the government. Labor migrants from Kyrgyzstan suffer from anti-migration raids<sup>16</sup> and special operations to expel migrants for minor violations.<sup>17</sup> There have also been egregious cases of forced labor.<sup>18</sup> It is also particularly difficult for migrants to rent housing. Most migrants and their family members do not receive medical care, and their children do not attend school or daycare, which means that they are deprived of an education and frequently must stay alone at home while their parents work.
16. Women and minors in labor migration are in the most vulnerable position. Approximately 30 to 45 percent of migrant workers are women who leave with their families or on their own. Women in migration often become the victims of gender-based violence and almost never seek medical care, even during pregnancy, labor, and the postpartum period. When they return from migration, they face problems in Kyrgyzstan: They have trouble finding jobs, can be exploited by relatives, and may even be rejected by their own families.<sup>19</sup>
17. Children under 18 often leave for labor migration both on their own and with their relatives, sacrificing their education in favor of earning money. Minor migrants work at markets and construction sites and in agriculture, while girls aged 12 to 16 are frequently sent to work as nannies. Child labor is sometimes used with the agreement of parents and the child's salary is sent directly to the family.
18. Children who remain in Kyrgyzstan while their parents are in labor migration (according to UNICEF, at least 11 percent of children in Kyrgyzstan have one parent in migration, while five percent have both parents in migration),<sup>20</sup> are in a difficult situation. Without parental care, minors frequently stop attending school and may be subjected to violence (physical, psychological, sexual), including from their relatives, and attempt suicide.
19. Even though the receiving countries are mainly responsible for the problem of discrimination of migrant workers from Kyrgyzstan, it must also be acknowledged that the Kyrgyz government does not do enough to actively protect the rights of its citizens working abroad. Children in migration and children left at home without parental care are in need of more effective measures of protection. The authors of this report welcome the introduction of the position of children's rights ombudsman in June 2019.

## VI. DISCRIMINATION OF MINORS IN TRANSIT INSTITUTIONS<sup>21</sup>

20. Minors involved in the migration process out of Kyrgyzstan generally end up in transit institutions of the receiving countries (Russia and Kazakhstan). Even though the return of minors (aged three to 18) to Kyrgyzstan is assigned to the body corresponding to the Ministry of Labor and Social Development, the process is handled by agencies of Ministry of Foreign Affairs, the Ministry of Health and Population Registration, and the transit institution—the

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13 More information on the CEDAW decision on an individual complaint here: <https://adcmemorial.org/www/11416.html?lang=en>

14 State Migration Service of the Government of the Kyrgyz Republic, Useful information → Statistics, <http://ssm.gov.kg/полезная-информация/статистика/>  
State Migration Service of the Government of the Kyrgyz Republic, Useful information → Consolidated Report on Migration – 2015, <http://ssm.gov.kg/полезная-информация/единый-доклад-по-миграции-2014/>

15 Ibid.

16 Report of FIDH, ADC Memorial, and the International Legal Initiative ILI: "Invisible and exploited in Kazakhstan: the plight of Kyrgyz migrant workers and members of their families, 2018, pg. 12, [https://adcmemorial.org/wp-content/uploads/kyrgyz\\_migrant\\_workers\\_in\\_kazakhstan.pdf](https://adcmemorial.org/wp-content/uploads/kyrgyz_migrant_workers_in_kazakhstan.pdf)

17 Ibid. pg.16

18 Ibid., pg.12. Information relating to Russia: ADC Memorial archives.

19 Ibid.

20 Ibid.

21 More information can be found in ADC Memorial's report "Migrant Children in CIS Countries: Lack of Adequate Legal Norms Regulating Cooperation Between Involved Countries, 2018, pg. 18, [https://adcmemorial.org/wp-content/uploads/Transit\\_ENG.pdf](https://adcmemorial.org/wp-content/uploads/Transit_ENG.pdf)

Juvenile Delinquency Prevention Center, which is officially part of the Ministry of Internal Affairs system. The transit of children under the age of three is handled by the Ministry of Labor and Social Development.<sup>22</sup>

21. Minors are held at this center for three to 48 hours, but in practice staff attempts to transfer them to their parents as quickly as possible within three hours. While we welcome the reform of children's reception centers in Kyrgyzstan and the transfer of responsibility for the process of moving and delivering children from law enforcement bodies, we cannot ignore the problem that minors face extended stays in the Ministry of Internal Affairs systems of other countries (children are held behind bars and deprived of their liberty, Kyrgyz officials must cooperate with members of law enforcement instead of qualified specialists in the education and healthcare systems, children do not have access to a quality education or conditions for development during their extended stays in transit institutions).
22. The Chisinau Agreement: the Agreement of Cooperation of States-Members of the Commonwealth of Independent States on the Return of Minors to their State of Residence (2002)<sup>23</sup> is the main document regulating the movement of minors between former Soviet countries and establishing procedures for their repatriation. This document can no longer operate effectively due to the reform of transit institutions in several countries and overall changes in the political landscape of the region. This uncoordinated system of transit institutions means that children left in another country without parental support and care cannot be quickly returned to their country of origin and must remain in transit institutions for an extended period with no access to a quality education or healthy development.

## VII. DISCRIMINATION BASED ON SEXUAL ORIENTATION OR GENDER IDENTITY (SOGI):

### 1. Vulnerability of LGBTI People in Kyrgyzstan

23. Kyrgyzstan does not have any laws providing protection against hate crimes on the basis of SOGI. LGBTI people have become the victims of violence from society and their families as a result of the influence of a patriarchal society combined with deeply-rooted traditional stereotypes. During its annual monitoring in 2018, Kyrgyz Indigo documented 24 hate crimes on the basis of SOGI. Thirteen were committed by police officers and five by homophobic people not acquainted with the victims (this included the beating of a transgender woman who "did not follow" the generally accepted dress code and the pepper spray attack of two young men near a retail center because of their feminine gait).
24. A consequence of homophobia is attempted suicide. In 2018, Kyrgyz Indigo documented one attempted suicide related to a family's refusal to accept SOGI and two attempted suicides caused by homophobia and hatred of HIV-positive people.

### 2. Persecution of LGBTI People by Law Enforcement Bodies

25. Many LGBTI people face persecution from law enforcement officers. Thirty-five cases of police violence were documented from 2016 to 2018. Most of these cases were connected with blackmail, threats, and extortion. Few cases of physical violence have been recorded, but these cases involved particular cruelty. Kyrgyz Indigo knows of three cases where police officers organized sham meetings online to arrest and blackmail gay men under the threat of outing them. In four cases, police officers illegally entered private property.
26. LGBTI people do not trust law enforcement officers or staff members at judicial agencies and rarely appeal for help protecting their rights. This can be explained not just by the hate crimes mentioned above, but also by a number of other causes, including the risk of outing, blackmail, and extortion, the lack of effective investigations, and the lack of adequate punishment for people guilty of hate crimes on the basis of SOGI (most complaints are still classified as hooliganism or under other articles). A rare example of an appeal for protection was the case of five gay men who were the victims of a homophobic group of three people. These men filed a statement with the police that noted their orientation as a cause of the attack. During the trial, the investigator repeatedly insulted and demeaned these men, but complaints about her were not granted by the court.

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22 ADC Memorial report "Migrant Children in CIS Countries: Lack of Adequate Legal Norms Regulating Cooperation Between Involved Countries, 2018, pg. 18, [https://adcmemorial.org/wp-content/uploads/Transit\\_ENG.pdf](https://adcmemorial.org/wp-content/uploads/Transit_ENG.pdf)

23 The Chisinau Agreement: the Agreement of Cooperation of States-Members of the Commonwealth of Independent States on the Return of Minors to their State of Residence (2002), <http://www.cis.minsk.by/page.php?id=1462>

27. In many cases, the police take no action when a crime against LGBTI people is being committed or publicly planned.<sup>24</sup> For example, when a gay woman filed a complaint with the police against unknown people who recorded a video of her in the park and then tried to extort money from her under the threat of outing her, officers did not take any steps to search for the criminals, but instead outed the victim themselves. On April 14, 2018, the journalist Karachach reported that she was planning to visit an LGBT club with a large number of members of Kyrk-Choro<sup>25</sup> to beat the clientele and force the club to close. These kinds of open threats by members of the media have not been properly dealt with by officers. On May 1, 2019, police officers were present during an attack against LGBTI activists, but did not get involved, in spite of requests for help in the face of violence.<sup>26</sup> The criminals were not arrested, even though one of them did not even try to flee the scene of the crime. Moreover, the prosecutor's office, which was sent the complaint about the event, transferred it to the Central Internal Affairs Department, whose director was the chief officer responsible for order at public events. The Ethics Committee obligated him to protect the rights of citizens being attacked, but no court investigation into the police officers' failures to act was ever opened.

### 3. Violation of the Right of LGBTI People to Peaceful Assembly and Homophobic Rhetoric from Authorities Representatives

28. Police officers have forced demonstrators to put away their rainbow flags during every annual peaceful march for equality from 2016 to 2019. In March 2019, the mayor of Bishkek tried to ban this march, explaining that banned LGBTI organizations were participating. Public disclosure of this in the media forced the mayor to change his position and permit the march, but LGBTI flags were still not allowed. During the march, the organizer kept receiving phone calls from government officials who threatened her and told her to remove all LGBTI symbols.
29. After the march, LGBTI people and activists faced threats, attacks, and calls for violence against them. Head of the local office of the State Committee for National Security Nurlan Duyshekeyev announced that the Committee had conducted work to “minimize the number of participants” in the march.<sup>27</sup>
30. In 2016, an amendment permitting marriage only between a man and a woman was made to the Kyrgyz Constitution. This amendment did nothing to fundamentally change the law (the Civil Code already contained this definition), but it was, but it was declarative in nature and was specifically adopted to prevent same-sex marriage.

### 6. Hate Speech and Calls for Violence on the Basis of SOGI in Print and Online Media

31. The Kyrgyz print and online media audiences are sensitive about LGBTI topics. Discussions often contain hate speech and calls to violence. The first obvious wave of homophobic publications in print and online media was connected with the initiation and discussion of the “anti-gay” law<sup>28</sup> in 2014. After this, an increase in the level of hate speech against LGBTI people was observed in print and online publications. By the end of 2016, LGBTI topics were triggering four percent of all hate speech.<sup>29</sup>
32. According to monitoring conducted by Article 19,<sup>30</sup> half of the materials from Kyrgyz media outlets analyzed in 2016 to 2017 (48 of 95) contained hate speech against LGBTI people. At the same time, there are no laws banning hate speech, including on the grounds of SOGI.

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24 “‘My prevratimsya v Geystan.’ Deputaty i natsionalisty Kyrgyzstana obsuzhdayut vykhod geyev na massovuyu aktsiyu,” [We will turn into Gay-stan. Deputies and nationalists are discussing the participation of gays in public action] *Nastoyashcheye vremya*, March 2019, <https://www.currenttime.tv/amp/bishkek-anti-lgbt-protests/29819834.html>

25 A radical social organization that attacks sex workers, LGBTI people, and ethnic Chinese.

26 “Predstaviteli ‘Kyrk Choro’ zakidali yaytsami taksi, gde nakhodilis’ chleny dvizheniya ‘8-365,’” [Representatives of Kyrk Choro threw eggs to the taxi of 8-365 Movement members] *Kaktus media*, May 2019,

27 “GKNB zayavil, shto ne dopustil provedeniya 8 marta massovogo marsha,” [GKNB stated that it has not allowed the demonstration on 8 of March] *Radio Azattyk*, March 2019, [https://kaktus.media/doc/390895\\_predstaviteli\\_kyrk\\_choro\\_zakidali\\_iaycami\\_taksi\\_gde\\_nahodilis\\_chleny\\_dvjzheniya\\_8365.html](https://kaktus.media/doc/390895_predstaviteli_kyrk_choro_zakidali_iaycami_taksi_gde_nahodilis_chleny_dvjzheniya_8365.html)<https://rus.azattyk.org/a/29818622.html>

28 Report Norwegian Institute of International Affairs, OSCE-academy “LGBT in Kyrgyzstan: from anti-gay propaganda bill to hate crime?”, <http://www.osce-academy.net/upload/file/35brief.pdf>

29 «Yazyk vrazhdy v SMI, Internet, i publichnom diskurse – 2015,” [Hate speech in the media, in the Internet, in public discourse] *School of Peacemaking and Media Technology in Central Asia*, December 2015, <http://www.ca-mediators.net/ru/issledovaniya/216-rezyume-issledovaniya-yazyk-vrazhdy-v-smi-internete-i-publichnom-diskurse-2015.html>

30 Report by Article 19 “Challenging hate: Monitoring anti-LGBT “hate speech” and responses to it in Belarus, Kyrgyzstan, Moldova, Russia and Ukraine,” 2018 [https://www.article19.org/wp-content/uploads/2018/03/LGBT-Hate-Speech-Report-Central-Asia\\_March2018.pdf](https://www.article19.org/wp-content/uploads/2018/03/LGBT-Hate-Speech-Report-Central-Asia_March2018.pdf)

- 33.** A new upsurge in calls to violence was noted after the march of March 9, 2019, which included LGBTI participants. A Jogorku Kenesh deputy called for violence against LGBTI people,<sup>31</sup> while members of the Kyrk-Choro movement threatened<sup>32</sup> the activist Mira Tokusheva on live TV, warning that they “know her address and that she would be better off leaving the country soon.” The School of Peacemaking and Media Technology in Central Asia gave coverage of the march negative marks.<sup>33</sup> Experts believe that the media introduced unfounded parallels between the march for equal rights for women and “gay parades” using pejorative tropes about LGBTI people, transmitting conflict-generating stereotypes, and provoking intolerance (“this march will deal a blow to Kyrgyzstan’s reputation,” “a march with the participation of gays, lesbians, transgender people, and other unclean elements violating the peace,” “the people were incensed by the presence of LGBTI people,” “pro-Western NGOs with homosexual tricks,” and so forth).
- 34.** The most intensive homophobic rhetoric is being produced by pro-government television stations and print publications (according to the Basic Media Assessment for 2018<sup>34</sup>). Every year, media outlets like *Delo №*, *Kaygul TV*, and *NewTV.kg* publicly out LGBTI people in violation of the inviolability of private life. Transgender women are their most frequent victims: After public outings, several attacks against transgender women were reported where the aggressors recognized them from published videos. These attacks forced several transgender women to flee the country. At the same time, the media (including the conservative outlets *Super-info* and *Gezitter*) have not been held accountable for homophobic rhetoric and the consequences of their publications.

#### 4. Employment Discrimination of LGBTI People

- 35.** In spite of the ban on discrimination enshrined in the Kyrgyz Labor Code, SOGI or HIV-positive status (which results in double discrimination against members of the LGBTI community) have become grounds for firing or refusal to hire. Kyrgyz Indigo knows of a case where a transgender man was fired in 2018 for revealing his gender identity. When hiring for the position of cashier/salesperson in May 2018, an employer requested a certificate from the National AIDS Center about HIV infection. After an appeal (with the assistance of Kyrgyz Indigo) to the State Agency for Antimonopoly Regulation, the employer removed this discriminatory paragraph. But one year later, this employer announced that he would not hire HIV-positive people and also listed HIV infection as a counterindication for receiving massage services.

#### 5. Intersectional Discrimination of LGBTI People

- 36.** The vulnerability of LGBTI people increases if they belong to other vulnerable groups (women, ethnic minorities, sex workers, HIV-positive people).
- 37.** Over three months of 2018, there were more than 15 cases of extortion and threats against gay people made by police officers in Osh. Because they feared being outed to their relatives, the victims were forced to pay bribes to the police officers. To do this, they had to borrow money or sell valuable items. Victims of Uzbek origin were subjected to greater discrimination, and officers demanded larger bribes from them.
- 38.** In 2019, LGBTI participants in a peaceful march were subjected to threats and attacks because of their SOGI.
- 39.** In 2018, Kyrgyz Indigo recorded 10 cases of violence and extortion in relation to transgender women and sex workers committed by law enforcement officers, clients, unknown people, and relatives. The police justified raids to uncover sex workers by saying there had been complaints from neighbors, but the neighbors learned of the sex workers from police officers and wrote complaints at their request.

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**31** “‘Est’ dostoyne parni?’ Vyskazyvaniya deputata ob LGBT vyzvali resonans,” [Are there good guys? The deputy’s words about LGBT caused a resonance] *Radio Azattyk*, March 2019, <https://rus.azattyk.org/a/29818937.html>

**32** “‘My znaem vashi adresa.’ Lider Kyrk Choro v pryamom efire ugrozhal feministkam,” [We know your addresses. The leader of Kyrk Choro threatened feminists in live bdoabcast] *Kaktus media*, March 2019, [https://kaktus.media/doc/388150\\_my\\_znaem\\_vashi\\_adresa\\_lider\\_kyrk\\_choro\\_v\\_pryamom\\_efire\\_ygrozhal\\_feministkam\\_video.html](https://kaktus.media/doc/388150_my_znaem_vashi_adresa_lider_kyrk_choro_v_pryamom_efire_ygrozhal_feministkam_video.html)

**33** “Ritorika nenavisti i nesbalansirovannoe osveshchenie: reaktsiya media na marsh za ravnnye prava v Bishkeke,” [Hate Speech and Disbalanced Coverage: media reaction on the March for Equal Rights] *School of Peacemaking and Media Technology in Central Asia*, March 2019, [http://www.ca-mediators.net/ru/ru\\_news/5302-ritorika-nenavisti-i-nesbalansirovannoe-osveshchenie-reakciya-media-na-marsh-za-ravnnye-prava-v-bishkeke.html](http://www.ca-mediators.net/ru/ru_news/5302-ritorika-nenavisti-i-nesbalansirovannoe-osveshchenie-reakciya-media-na-marsh-za-ravnnye-prava-v-bishkeke.html)

**34** Annual Report on Media Monitoring, *Kyrgyz Indigo*, 2019, [http://indigo.kg/wp-content/uploads/2019/04/GODOVOY-OTCHET-O-MONITORINGE-SMI-V-KONTEKSTE-LGBTIK\\_final.pdf](http://indigo.kg/wp-content/uploads/2019/04/GODOVOY-OTCHET-O-MONITORINGE-SMI-V-KONTEKSTE-LGBTIK_final.pdf)



## VIII.RECOMMENDATIONS

- Adopt comprehensive anti-discrimination legislation that defines all forms of discrimination in accordance with international standards.
- Guarantee women equal access to work; cancel the list of professions banned for women and exclude the corresponding Article 303 from the Labor Code.
- In ethnically diverse regions and localities, monitor recruitment practices at public institutions with an aim to prevent discrimination on the basis of ethnicity. Stop ethnic profiling that results in the arbitrary arrest of members of ethnic minorities. Protect members of ethnic minorities from all forms of discrimination in education, employment, and social services, and from hate speech, including in the media.
- Promote the study of the native languages of ethnic minorities in schools, support the publication of literature, the operation of internet resources, and the broadcasting of television and radio programs in minority languages or about the languages and cultures of ethnic minorities.
- Adopt and implement a state program of comprehensive support for Mugat and Roma people aimed at overcoming structural discrimination that includes positive measures for documentation and the exercise of the right to housing, a high-quality education, employment, and access to medical and social assistance.
- Replace the outdated Chisinau Agreement with new bilateral agreements on the repatriation of children with account for the most current UN standards on the rights of the child,<sup>35</sup> particularly in countries that receive a large number of migrants from Kyrgyzstan (Russia, Kazakhstan). Transfer all procedures related to the return of minor migrants to Kyrgyzstan to the jurisdiction of civil (educational and social) institutions.
- Ensure the effective protection of the rights of Kyrgyz citizens working abroad. Promote ratification of the International Convention on the Rights of all Migrant Workers and Members of their Families by the main receiving countries of migrant workers from Kyrgyzstan (the Russian Federation and the Republic of Kazakhstan).
- Introduce legal guarantees of LGBTI rights: specify “homophobia” and “transphobia” as aggravating circumstances in the Criminal Code (part 1 of Article 75); explicitly outline in the Article 9 of the Labor Code that employment discrimination on the basis of SOGI is illegal.
- In conjunction with LGBTI organizations, develop and implement systematic trainings for law enforcement officers and judges with the view to guaranteeing the unbiased processing of all reports regardless of the applicants’ SOGI.
- Introduce an effective system for monitoring and prosecuting officials for public expressions of intolerance and homophobia and for their use of hate speech in relation to LGBTI people.
- Guarantee a fair investigation of crimes against LGBTI people (attacks, violence, bribery) by state and non-state actors.

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<sup>35</sup> Joint General Comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, CMW/C/GC/3/CRC/C/GC/22; Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, CMW/C/GC/4/CRC/C/GC/23