

ALTERNATIVE NGO REPORT

to the United Nations Committee on the Rights of the Child

**in relation to the examination of the
Second periodic report by the Kyrgyz Republic**

**on the implementation of the
UN Convention on the Rights of the Child**

APRIL 2004

BACKGROUND AND ACKNOWLEDGMENT

The current report assesses the children's rights situation in the Kyrgyz Republic and identifies the changes that occurred since 2000, when the Concluding Observations of the United Nations Committee on the Rights of the Child were adopted in relation to the examination of the Initial Report of the Kyrgyz Republic on the implementation of the UN Convention on the Rights of the Child (CRC).

The report was prepared by the NGO "Youth Human Rights Group". The following organizations provided their input and participated in the discussion of the report:

Aigle (Bishkek)
Centre for the Protection of Children (Bishkek)
Independent Human Rights Group (Bishkek)
Jalalabat Regional Human Rights Organization "Spravedlivost" (Jalalabat)
Jalalabat Foundation for Legal Education "Youth Group" (Jalalabat)
Mental Health and Society (Bishkek)
Youth Human Rights Group (Bishkek)

The information in the present report is primarily based on the practical experience of the organizations listed above, and on the data collected through the research activities. Information from the reports and interviews with other NGOs from different regions of the Kyrgyz Republic, interviews with children (including children in different institutions), information from teachers, defense lawyers, international organizations and governmental officials was also used (with corresponding references).

In the southern province of Jalalabat, round tables were held by the Jalalabat Foundation for Legal Education "Youth Group" with different local communities, NGOs, and young people who discussed the government report to the CRC Committee and collected information for the present report.

We would like to thank all NGO members, legal professionals, teachers and young people who cooperated in collecting information and discussing the report. We would also like to thank the Secretariat of National Program "New Generation" for its openness and all other governmental agencies which also agreed to have a meeting with us on the implementation on the Convention on the Rights of the Child in Kyrgyz Republic.

Special thanks to Tzili Mor from the American Bar Association CEELI (Bishkek) for providing suggestions and to everybody else who committed their time for helping with editing the report and provided comments to it.

INTRODUCTION

Since the last review of the Kyrgyz Republic in 2000, the situation of human rights, particularly of children's rights, has worsened in the Kyrgyz Republic in a number of areas. A major human rights crisis transpired during the Aksy events of March 2002, when six people were killed¹ and numerous wounded (including children) by law enforcement bodies during a peaceful demonstration in the southern region of the Kyrgyz Republic.

The arrest in January 2002 of a popular parliament deputy, Azimbek Beknazarov generated public outrage and international protest. The charges against Beknazarov stemmed from his alleged failure to investigate a murder in 1995, when he worked as a prosecutor in Jalal Abad province. Opposition activists believed his arrest was motivated by the government's interest in silencing Beknazarov's criticism of the decision to cede land to China which had been the subject of contention between the two states for years. The demonstrations in Aksy took place on March 17-18, 2002. Protesters demanded the release of Beknazarov. According to eyewitnesses, police and security forces opened fire on the unarmed crowd of hundreds to halt the demonstration, without first allowing sufficient time for those gathered to disperse. The Ministry of Internal Affairs claimed that demonstrators initiated the violence by throwing stones, and originally said that no charges would be brought against the officers. The use of live ammunition on unarmed civilians was explained as being due to a lack of supply of rubber bullets.²

The constitutional referendum, held in 2003, proved once again the lack of genuine political will to improve the human rights situation. The new version of the Constitution incorporates many provisions that may have a negative impact on the state of human rights. No input was solicited or considered from children or children's rights advocates. In general, public discussions and input were ultimately ignored and the President named a "group of experts" to re-draft all of the amendments. There were many reports that the referendum results were falsified, and numerous NGO activists received threats after protesting against the referendum.

One of the main problems in the Kyrgyz Republic is the lack of efficient enforcement mechanisms. Although the legislation guarantees protection of human rights, the laws are not implemented. Another commonly occurring problem is that often existing laws contradict human rights standards and/or conflict with each other. Although the Kyrgyz Republic ratified almost all of the main human rights instruments, in practice, it fails to implement them. Children's ability to protect their rights is extremely limited because of the lack of enforcement mechanisms accessible to children.

The judiciary is not independent and is known to be corrupt.³ The general public distrusts the judiciary. In 2003, activities by four organizations were officially banned by the Supreme Court which determined that they were terrorist groups. Among them was the Islamic movement, Hizb'ut Tahrir. The executive branch is supreme. Corruption infiltrates all levels and branches of government.

Torture is widespread, and there is not only a general public mistrust but a fear of law enforcement. Children are targeted by police officers, and often are subjected to torture. The police know that the children are more afraid than the adults, and that children's families would do everything possible to get them out of the reach of the police by paying bribes. In 2003, as a result of extreme pressure by NGOs and international organizations, the Criminal Code was amended to include a definition of torture as a punishable act.

Freedom of expression is constantly violated. Attempts to influence independent media sources are rampant and overt, both journalists and media establishments are sued and forced to pay excessively high fines. There have also been cases of harassment of journalists and their children.⁴ One journalist was found dead in 2003.⁵ The government also makes the process of registering NGOs arduous and often blocks peaceful assemblies. No effort was made to simplify the procedures for creating youth and children's organisations.

GENERAL IMPLEMENTATION MEASURES

As a positive step, the government adopted a National Program and Plan of Action on the realization of Children's Rights, "New Generation." The realization of "New generation" has been plagued by numerous financial and administrative problems. However, the fact that such Plan of Action was adopted and the establishment of a Secretariat entrusted to monitor the implementation of the Plan of Action represent a first step towards respect of the CRC in the Kyrgyz Republic.

Other positive steps taken by the Kyrgyz Republic are related to the accession to the international treaties. The law on the ratification of the ILO Convention #182 was signed on December 30, 2003 while the law on accession to both Optional Protocols to CRC was signed on July 12, 2002. On April 15, 2003, the Kyrgyz Republic ratified the UN Protocol to Prevent Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the Convention Against Transnational Organized Crime.

The new Family Code was adopted in August 2003. Although its implementation is a positive step and the code contains some progressive provisions, it also contains provisions that do not conform to the standards of the CRC. For a discussion of such provisions see the section on *ADOPTION*, below.

The Ombudsman Office, established by law in 2002, has a special department devoted to children's rights.

The Kyrgyz Republic still faces severe problems related to the implementation of the CRC. The government often declares that the reason for non-compliance with the CRC is the economic conditions of the country. The economic situation negatively affects implementation of children's rights, but it is not the only cause of the overall disregard of the CRC in the Kyrgyz Republic. This situation is due to different causes including lack of political will, lack of understanding of principles of the CRC, a declarative approach to children's rights, and a high level of corruption.

Issues of concern include the following:

After the 2003 reforms, Article 12 of the Constitution related to the norms of international law was amended. The part identifying international norms as directly applicable in the Kyrgyz Republic was removed. In the current version, international law is only defined as “part of national legislation.”⁶

There are no known examples of use of the CRC in national courts. Interviews with judges of local courts and defense lawyers illustrate that they are unaware of the CRC and of its potential to be used in the court cases.

A Plenum (full judicial panel) of the Supreme Court adopted on April 2, 2003 Resolution # 6 on Judicial Practice related to the crimes committed by minors⁷ (hereinafter, “Resolution on Judicial Practice”). In this Resolution, the Plenum points out that, “while examining cases of this category, courts do not pay attention to respect of the rights of the child as defined by international norms”.

The Resolution on Judicial Practice instructs the courts to use the CRC, the Beijing Rules⁸ and the Law on Defense and Protection of Minors Rights while examining cases. However, the Resolution fails to specify any further details on how these instruments can be practically invoked in courts. Moreover, these requirements are not observed by courts.

The new Law “On Supreme Court and Local Courts” was adopted on July 18, 2003. The Law does not contain any reference to the need for specialization of judges in regard to cases involving minors. The Regulation on Judicial Practice *recommends* assigning cases involving minors to the chairpersons of the courts. Since the Regulation is not a normative document, it is not generally implemented in practice.

Many issues arise in connection with the new version of the Kyrgyz Constitution. The part of the constitution related to human rights was completely changed. Despite some positive changes (e.g. broader list of proclaimed rights) the description of rights does not conform to international standards of human rights. For instance, the limitation clauses to rights do not state that the limitations “shall be necessary in a democratic society.”

There are many examples of contradictions between national laws and international standards, including the CRC. One of the most evident examples is that the decision on pre-trial detention is made by prosecutors, not judges, and that prosecutors are the ones who issue the arrest and search warrants. The new version of the Constitution failed to solve this problem. The regulations adopted by the government and the instructions of different ministries and departments often contradict constitutional and international norms and laws. The Law on Defense and Protection of Minors’ Rights was no more than a declaration, and no examples of its use for the benefit of children are known.

No comprehensive review of domestic legislation and related administrative guidance in relation to the CRC was undertaken. Instead, a dangerous initiative took place during the reporting period - the Draft of Code on Children (hereinafter “draft Code”). The draft Code merely assembles various provisions from different regulations and instructions which taken together are inconsistent and require detailed review themselves. The draft Code also contains several new and troublesome regulations, such as a clause that would penalize a woman who refuses to take a contraceptive prescribed by a doctor. Another problematic clause would require foreign adoptive parents of a Kyrgyz child (in an international adoption) to reimburse the local budget for all expenses related to the duration of the stay of a child in an institution prior to the adoption. This draft was sent by the Ministry of Justice for comments on December 18, 2003. To date, no further action has been taken. However, if parliament passes this draft, it could lead to new human rights violations as it contradicts international human rights law and the Constitution of the Kyrgyz Republic.

There is a lack of interdepartmental coordination on children’s issues. The secretariat of the “New Generation” program fulfills a coordination role but it is not sufficient. The State Commission for Family, Women and Youth Affairs was re-structured so that it no longer deals with issues of children and young people.⁹

State bodies dealing with children are in urgent need of reform. Some of the main agencies that need to be completely reformed are governmental/local Commissions on Minors' Affairs. The mandate of these agencies, inherited from the Soviet Union, includes pooling and coordinating efforts of state bodies and social organizations to prevent child neglect and juvenile delinquency and ensure protection of children's rights. However, these agencies in reality play a more punitive role and do not provide in practice any support for children and families in difficult situations. Both NGOs¹⁰ and UNICEF¹¹ stress the need for restructuring of these Commissions.

Inspectorates of Minors' Affairs (under the Ministry of Interior) also require urgent reform. UNICEF points out a need to find a reasonable balance between the social-worker function and the law-enforcement function of the Inspectorates.¹² Currently, the inspectorates have the tendency to impose punitive measures on children and families rather than help disadvantaged families. These inspectorates merely register children and families, often stigmatizing them.

"Children's budgets" are not developed. The "New Generation" program secretariat pointed out its 2004 initiative creating project-based budgets through the competition of social projects. The aim of these projects is to be included in the official budgets of the ministries. Only the Ministry of Labour and Social Protection agreed to hold such a competition and include the projects in its budget.

A lack of disaggregated data by age and sex persists. No changes occurred during the review period. Official statistics are lacking on many issues. Existing statistics do not correspond to reality, and often the data of different ministries and departments on the same issue do not match. Pilot initiatives of gathering alternative statistical data by NGOs and the Secretariat of the "New Generation" program showed a considerable gap between official data and data collected during their research. As a general rule, official data shows lower figures on problematic issues such as number of school dropouts or number of working children.

Governmental bodies try to restrict the access of information to civil society. For example, the Penitentiary Department (GUIN) refused releasing data on the mortality rate in juvenile prison claiming that this information is secret.¹³

The government continued to undermine efforts by NGOs monitoring human rights and the CRC. In 2003, the Ministry of Education refused a request by the Youth Human Rights Group (YHRG) to access the correction school for at-risk children.¹⁴ The group was required to have Ministry representatives who "would act as a legal representatives of children." This was a strange argument. The Department of Interior refused access to "Spravedlivost", a well-known human rights NGO based in southern province of Jalalabat, to Temporary Detention Facilities where arrested persons (both children and adults) are held. In July 2003, the YHRG filed a request with the Ministry of Justice to conduct a human rights monitoring in a prison for juveniles, but to date (April 2004) no official decision was made by the ministry despite repeated requests. These are just some examples. The government proclaims human rights as a basis of national policy, but in practice it makes no real effort to implement these claims.

The new Family Code ensures the right to file complaints to court by individuals over the age of 14. There are also possibilities for children to file complaints with custodial and guardianship departments of local state administration, though there are no known cases of this happening. These are also mere formal solutions, but no positive measures have been adopted by the state in order to ensure implementation of these provisions.

Dissemination of the information on the CRC, text of the governmental report and the Concluding observations.

The State report in Russian language was made available through the Kyrgyz legislation computer databases. But access to those databases is quite expensive; a very limited number of people can afford their subscription fee. No public discussion was held on the State Report, nor was the report widely distributed. Neither NGOs nor governmental officials nor children themselves are aware of the report. Even representatives of local Commissions on Minors' Affairs informed the YHRG that they did not see the report and did not know that it was prepared.

When the YHRG sent an official request to the Prime-Minister asking for a copy of the report, it was referred to the governmental Commission on Minors' Affairs, which informed YHRG by telephone in an aggressive and humiliating manner that it should provide a copy of its alternative report to the government and only then would the government consider releasing the state report. Comments were made that "NGOs exist for the State and not the State for NGOs." No official written answer has yet to be obtained from the Prime-Minister although 30 days (maximum period established by law for state officials to provide answers for the requests of information) passed. An invitation to meet with the deputy Prime-Minister was received during the same telephone call, but when YHRG asked for a written invitation, it was cancelled.

Dissemination of the CRC occurs primarily through NGOs and international organizations. Initiatives by the government include ad-hoc awareness-raising actions, but there is no comprehensive policy that would consider a long-term approach to raising awareness about the CRC.

An overall lack of understanding of children's rights persists throughout the Kyrgyz Republic. The only initiative for professional training was reported by the Ministry of Labour and Social Protection. This initiative was aimed at social workers and would include some information about the rights of the child. There are no other known CRC trainings for state officials. Some training for teachers is conducted by NGOs but State programs are lacking in this field.

POSSIBLE QUESTIONS TO THE GOVERNMENT FOR THE LIST OF ISSUES

It would be helpful to ask the government of the Kyrgyz Republic to:

- Provide concrete examples (names and details of cases) of when the Convention was brought in courts (and used as a reference in a court verdict/decision) if such cases exist;*
- Provide concrete examples of cases when the CRC was used by prosecutors and other state bodies as a ground for complaints/cases to the courts;*
- Provide information on how the Resolution on Judicial Practice of the Plenum of Supreme Court is implemented, e.g. provide concrete references of cases involving minors which were considered by the chairperson of the courts.*

Recommendations:

- Adopt detailed guidelines for courts on using the CRC and other international human rights instruments;*
- Provide in-depth training for judges, prosecutors and defense lawyers in cooperation with national and/or international organizations on the CRC and its implementation in the domestic legal system;*
- Carry out a comprehensive review of all domestic legislation and related administrative guidance on the subject for conformity with the CRC and other international human rights standards;*
- Refrain from adopting the Child Code, unless a legislative review is conducted and shortcomings of current legislation and practice are identified and remedied;*
- Urgently re-structure the Commissions on Minors Affairs and the Inspectorates on Minors' Affairs and orient them towards providing practical support to disadvantaged children and families;*
- Increase monitoring efforts of the implementation of the CRC by all relevant state actors;*
- Encourage monitoring of the implementation of the CRC by NGOs. Special attention should be paid to the access of NGOs to the following institutions: Temporary Detention Facilities of the Ministry of Interior, Pre-Trial Detention Centers (SIZO) of the Ministry of Justice, prisons and other detention facilities, special correctional schools, psychiatric hospitals, and orphanages;*
- Gather disaggregated data on different aspects of children's lives. Ensure public access to the information related to the situation of children, including children in detention. If necessary, revise relevant by-laws;*
- Ensure the effectiveness and accessibility of complaint mechanisms that children can use in order to protect their rights and that can also be used by children's rights advocates.*

DEFINITION OF THE CHILD

The Law on Defense and Protection of Minors' Rights defines the age of minors as under 18 years of age, in accordance with the Convention. But numerous legislative acts contain differing definitions for the cutoff age for a "child" or "minor."

For example, the assistance to families with children with disabilities is given only up to the moment when children reach the age of 16 years.¹⁵ Most state social benefits for children are paid only to children who are under 16 years of age. This is the situation in regard to, for example, the benefits for children from low-

income families, children with disabilities, and children living with HIV or AIDS. The benefits are used to help supplement the loss of the breadwinner in the family, but only for children up to 16 years of age, though exceptions are made for students (up to 21 years old).

Children with intellectual disabilities are kept in special institutions up to 15 years old and then transferred to general psychiatric hospitals. There are reports of cases when 14-15 year old children are placed in adult hospitals for an indeterminate time period as “voluntary” patients since they are too old to remain in the state residential institutions for children with disabilities.¹⁶

According to the Code on Administrative Responsibility, a child who is 16 years old can be subject to administrative penalty. The minimum age of criminal liability is defined as 14 years of age. The list of 23 *corpus delicti* states that children as young as 14 years old are liable not only for grave crimes, such as murder or forceful rape, but also for other often non-violent crimes, such as theft, car theft, stealing livestock, and illegal manufacture, purchase and storage of narcotic and psychotropic substances.

According to the Criminal Code, the *only type of punishment* that may be applied to minors aged 14 to 16 years old *is deprivation of liberty (including conditional imprisonment)*. Minors aged 16 years and up may be subject to other types of punishment (fines, triple damages¹⁷ (troynoi ayip), and short-term detention up to 3 months).

A number of clauses of the Criminal Procedure Code exclude protection of minors between the ages of 16 to 18 years old, and sometimes even as young as 14 years old. For example, a requirement to invite a pedagogue to be present during the interrogation of a minor witness or victim is guaranteed only for children up to 14 years old. In the similar situation of minors aged 14-16, it is under the discretionary competence of the investigator to decide if it is necessary to invite a pedagogue. Minors older than 16 years are excluded from this protection. The presence of psychologist/pedagogue is provided by law only for children up to 16 years old (after 16 it is allowed only if a minor is defined as having intellectual disabilities).

Recommendations

- *Legislation or policy for persons under 18 should be consistent with the definition contained in the Law on the Protection of Minors’ Rights, and to take greater efforts to enforce minimum-age requirements;*
- *Legally ban the transfer of children into adult psychiatric hospitals;*
- *Pay special attention to the problem of the deprivation of the liberty in correctional special schools for children as young as 11 year-old children;*
- *Ensure that different social benefits (e.g. for children with disabilities) are paid to children up to at least 18 years of age;*
- *Adopt necessary amendments to the Criminal Procedure Code to ensure the equal protection of minors up to 18 years of age;*
- *Urgently revise criminal legislation to ensure that during interrogations, minors of all ages benefit from the presence of a psychologist, a pedagogue, or an adult who has an interest in the wellbeing of the child and/or is trusted by the child, as well as the mandatory presence of a lawyer.*

GENERAL PRINCIPLES

THE RIGHT TO NON-DISCRIMINATION

Discriminatory practices continue to exist in the Kyrgyz Republic.

There have been some positive developments regarding the system of residence registration. The laws on “Internal Migration” and “External Migration” were adopted in 2002. Although they better correspond to international standards than previous normative acts, they still contain shortcomings.

There remains the obligation of registering one’s place of residence or temporary residence with the Ministry of Interior, although the procedure was considerably simplified. However, several internal migrants face practical problems in getting temporary registration while their children suffer from discrimination. Without the residence registration (permanent or temporary) a child is not accepted at school and has problems with access to medical care.

The Law on Citizenship still contains a discriminatory provision - a child born from a Kyrgyz mother and foreign father cannot obtain Kyrgyz citizenship.

Children living in institutions continue to be one of the most discriminated groups. Children who come out of institutional care also suffer discrimination. The situation of children living in less socio-economically developed regions, rural areas, and with poor families did not improve. The 1998 social security law mentioned in the Concluding Observations of the CRC Committee remains in force, providing social allowances only to citizens.

Other categories of children that are victims of discrimination regarding the possibilities of enjoyment of their rights include:

Children and families registered within Inspectorates on Minors' Affairs (police) as "in need of supervision;" street and working children; children and young people with intellectual disabilities and other children with special needs; and children living with HIV/AIDS. Children from alcohol and drug dependant families are often subject to discrimination (for example, it is presumed that if the parents are drugs/alcohol users it is bad for the child to stay with them and better to send him/her to an institution).

Women, including young girls, are victims of discrimination, exacerbated by stereotypical and sexist attitudes that persist in the society. The issue of bride kidnapping¹⁹ is still not sufficiently addressed. Governmental bodies deny the existence of this problem in practice, and authorities do not conduct any studies on the scope of forced marriages. Primarily international researchers study this issue. One such study, based on 1,322 marriages, provides evidence that as many as one-half of ethnic Kyrgyz marriages were the result of kidnapping, and that as many as two-thirds of these kidnap-marriages were non-consensual (against the will of women). The number of bride kidnapping is growing.²⁰ The influence of these practices on underage girls has not been studied in the Kyrgyz Republic.

BEST INTEREST OF THE CHILD

The principle of the 'best interest of the child' is invoked only as a declaratory statement.

The most evident example of how this principle is not respected is the excessive institutionalisation of children. UNICEF points out that in the Kyrgyz Republic "institutional care generally appears to be the first option in family support rather than last resort."²¹ Large state-run orphanages still prevail throughout the Kyrgyz Republic. Children are sent to these orphanages without previous consideration of other options. Orphanages function more as educational institutions and do not provide children with necessary life skills.

Examination of children's cases by the Commissions on Minors Affairs shows complete disrespect of the principle of 'best interest of the child.' These commissions are administrative bodies in the local administration that review all cases related to minors except those considered by the courts. According to international standards (e.g. Beijing Rules), any body considering cases of minors should follow "appropriate legal procedure" and guarantees to ensure a fair trial. The Commissions do not fulfil either of these requirements. The consideration of a minor's case lasts for an average of 10-15 minutes; commissions do not verify the documents presented by the police. They also make their decisions in an extremely arbitrary manner. These commissions have the authority to send minors between the ages of 11-14 years to a so-called special correctional school for at-risk children — a facility that may be classified as one in which minors are deprived their liberty according to international norms. There is only one special school in the whole country. Children are sent far away from their families and place of habitual residence. Often children are sent there because their parents either cannot or do not want to support them. Children may be sent to that school for not regularly attending school. The 'interests of the child' are not examined by the commissions.²²

In violation of the Beijing Rules, there is extensive media coverage of juvenile delinquencies cases in the Kyrgyz Republic. Newspapers publish the full names and often pictures of young people, which are provided by law-enforcement bodies.

No individual approach is adopted by the courts. Cases of minors are examined in between the cases of adults and judges treat the children in the same manner. For instance, the Supreme Court examines up to 30 cases a day. Given such a workload, it is unrealistic to expect enough attention will be paid to the best interest of the child while considering the cases.

Long sentences for minors are harmful for their future. According to the staff of the juvenile prison, maximum term imprisonment should not exceed 7 years. Currently, the maximum term of imprisonment for minors in the Kyrgyz Republic is 15 years. Deprivation of liberty is the most widely used punishment by courts, even for petty crimes like theft. According to the 2002 statistics of the juvenile prison: 32 children were sentenced to 1-3 years of imprisonment; 37 to more than 3-5 years; 61 to more than 5-10 years; and 7 children sentenced to more than 10 years²³. Taking into account that the absolute majority (80-90%) of children in prison are there because they committed theft, this pattern of sentencing illustrates that the criminal justice system does not take into account the principle of the ‘best interest of the child.’

RIGHT TO LIFE, SURVIVAL AND DEVELOPMENT

The suicide rate among children is quite high. According to data of Ministry of Interior, 480 suicides were registered in the Kyrgyz Republic in 2003, and 49 (11%) of them were by children and adolescents. In 2002, a 7 year old girl is reported to have committed suicide.

No attention is paid by the state to ensure the right to life, survival and development of children working/living in the streets.

Many children with disabilities (both intellectual and physical) are “sentenced” to spend their lives in institutions where they are not provided appropriate programs necessary for development but are just assured basic living needs.

During the past 3 years, 3 children (and 8 adults) were killed by landmines placed by Uzbekistan along the Kyrgyz-Uzbek border. The Kyrgyz government has addressed the problem of landmines with Uzbekistan, but not to any successful conclusion. Uzbekistan refuses to remove the mines or even put up signs warning people about them.

RESPECT FOR THE VIEWS OF THE CHILD

The Kyrgyz Republic is characterized by an overall disrespect to the ‘view of the child.’ Even when the law allows for the participation of the child (e.g. in court hearings), no appropriate procedures exist that would enable children to freely express themselves and make their opinions known.

The ‘opinion of the child’ is not consulted when a decision is being made to place him/her in an institution.

The Mental Disability Advocacy Center (Budapest), which conducted research in the Kyrgyz Republic in 2003, reports cases of children aged 15 years and older who are admitted to adult psychiatric hospitals on a “voluntary” basis. However, the commitment to the hospital was based on what the family wanted, not the child’s wishes or needs. The law²⁵ provides for the consent of the parents or another legal representative regarding the placement in psychiatric institutions of children under age 15 and children up to the age of 15, who are recognized as incapable. But in practice, institutions require only parental consent. Even being “voluntary” patients, children cannot leave the institution unless their families will take them back. There have been cases reported of a 14-year-old girl who was kept in a psychiatric hospital for an additional 14 years because she had no family. Her desire to leave the institution was not considered.

Hearings of cases of children by the Commissions on Minors’ Affairs are characterized by disrespect for children’s views, failing to allow children to speak freely. These hearings are often held in a hostile environment for a child.

The issue of the effectiveness of school government structures in schools and institutions remains a concern. In most cases the bodies of school government where children participate do not have the competence to take part in the decisions that would have serious impact on the functioning of a school/institution.

No awareness-raising campaigns have been conducted by the state structures to increase the role that children can play in their families/schools/institutions/and other decision making forums .

Recommendations:

- Amend the Law on Citizenship (article 14 in particular) in order to abolish discrimination against children born to a Kyrgyz mother married to a foreigner;
- Amend legislation on social security to avoid discrimination against children of non-nationals;
- Revise the state policies regarding orphans, abandoned children, and children from disadvantage families to ensure that placing them in institutions is used only in exceptional cases; Support the development of family-based alternatives and adopt measures for family support;
- Revise the procedures on placing children in institutions to ensure that children's views are taken into account;
- Revise the programs of current institutions to ensure that children gain basic life skills and that conditions are closer to a family environment;
- Develop necessary programs to eliminate practices leading to gender discrimination;
- Develop special procedures to accommodate to children's views during courts hearing and examinations of cases by other state bodies (e.g. Commissions on Minors' Affairs) to ensure that it is done in a child-friendly environment and accounts for the best interest of the child;
- Ensure that the consent of the child is required for placement in a psychiatric hospital, and that children who are classified as voluntarily committed (not detained) to psychiatric hospitals can leave them at any time;
- Start the restructuring of Commissions on Minors' Affairs and urgently transfer the authority from the commissions to the courts over decisions concerning the placement of children in special correctional schools;
- Reform of special correctional school for at risk children²⁶ into a more open institution that would respond to the best interest of child;
- Revise criminal legislation to ensure that the best interest of the child is respected and the length of possible sentences on deprivation of liberty is considerably shortened. Ensure that the best interests of the child are taken into account by the courts when making decision on every individual case involving minors;
- Conduct a study on the children's governments practices in schools and institutions and identify the best practices and shortcomings in different institutions, work on developing models of children's governments. .

CIVIL RIGHTS AND FREEDOMS

BIRTH REGISTRATION

The issue of timely birth registration remains problematic in the Kyrgyz Republic. Access to relevant agencies represents a problem to many parents in rural areas. It is extremely difficult for parents lacking their own documentation, especially in the case of migrants who need to return to their previous place of residence in order to restore their own documents to register their children. No efforts were taken by the State to create mobile registration offices and other registration units that would be more accessible for all.

The official price for the birth certificate is 25 soms (US\$0.60), but there have been cases when parents were asked for 150-300 soms (US\$3.60-4.80). In order to replace a lost passport, parents need to have an official confirmation of their place of residence, which is difficult for internal migrants due to the high transportation cost, long bureaucratic procedures and in some cases - lack of residence registration.

Children born at home are often not registered. In these cases, children do not have a medical certificate (a document which confirms the fact of birth), and it is more difficult to get a birth certificates for them. State authorities do not conduct adequate research, and no exact data is known²⁷.

Although the problems of registering refugee children was solved (see below, the section on *REFUGEE CHILDREN*), the problem of children of asylum-seekers remains.

NAME AND NATIONALITY

A passport is required to travel inside and outside the country. Some groups face problems in getting passports: children living in institutions (orphanages), individuals released from juvenile prisons, children of internal migrants and low-income families, street children, children living in shelters, and children with disabilities who are transferred from child to adult institutions. These problems are mostly due to the children lacking money to pay the passport fees and an absence of a permanent residence address, which is mandatory to obtain a passport.

In 2003 a new problem appeared. As the Kyrgyz Republic was preparing to change the type of personal documentation (by introducing national identity cards and new passports) from mid-2003 to the time of preparation of the report, there have been no new passports available in the country. As pre-existing passports are no longer being produced and new ones are yet to be introduced, the departments of interior are currently not accepting applications for passports and are not issuing or replacing passports. Only in special circumstances can one get a passport, but only from a very limited stock.

FREEDOM OF EXPRESSION

The lack of understanding of the rights of the child and patriarchal traditions of Kyrgyz Republic society do not allow children to exercise their right to expression within the scope provided by the CRC.

Legislation in this field does not exclude children from the right to freedom of expression, but at the same time it does not contain any provisions that specifically, explicitly protect children's right to free expression.

Children are not informed about their rights to freedom of expression and often prefer to not express their opinion in school or other institutions for fear that it will be not well received and they might be punished for it. Schools and institutions lack rules that would encourage children to express themselves and participate more actively in decision-making.

As freedom of expression and media is constantly violated in the Kyrgyz Republic, children as well as other people in the country cannot get the information to engage in informed discussions about political and social issues of concern.

FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

No efforts were made to raise awareness on religious freedom of children. Changing the religion of young people is considered negative by most communities, and such attitude is often encouraged by local authorities.

The Program "New Generation" does not contain references to the freedom of thought, conscience and religion and no action has been undertaken by governmental agencies to promote and protect this right.

Some cases of pressure against Muslim children are known in the south of the Kyrgyz Republic. The Kyrgyz Republic is predominantly Muslim, yet these cases represent a general "fight against religious extremism" waged by the government that has resulted in numerous human rights violations. There are known cases of teachers telling children not to perform daily prayers, even at home, and forbidding their pupils from attending lessons wearing the *hijabs*, a headscarf traditionally worn by Muslim women.

The department of education in Osh required the deputy directors of all schools to collect by November 2003 complete data on children who are attending places of worship (in most cases – mosques) and to provide the names of the heads of local communities where these children reside.²⁸

FREEDOM OF ASSOCIATION AND PEACEFUL ASSEMBLY

Only legally capable adults can create non-governmental organizations (NGO) (or as officially called, "non-commercial organisations") in the Kyrgyz Republic. This requirement limits children's right to association. Since 18 years is the age at which a person is considered fully legally capable, children cannot themselves create an organization. This issue was brought to the attention of the Kyrgyz government by the CRC Committee in 2000, but no actions were taken to change the situation.

The NGO registration procedure is quite difficult and expensive. A professional lawyer is needed to write the NGO charter; the Ministry of Justice often looks for some small irregularities in the registration documents in order to suspend registration time. By law, registration should not take more than 30 days, but in practice it often last for about 6 months. No special simplified procedure exists for independent children's and youth organisations.

On January 28, 2003, amendments to the “Law on the Registration of the Legal Entities” (1997) placed additional restrictions on NGOs. According to the new amendments, branches of NGO should also be registered; the organizations should provide information about their location (e.g. rental agreement).

As for the freedom of assembly, a law passed in 2003 regulating demonstrations and other public actions is quite controversial. The Constitution requires “notice” of assembly (i.e. organizers need to inform state bodies about planned assemblies), but the 2003 law uses both “notice” and “permission” and *de facto* requires that “permission” be obtained from local governments to hold assemblies. The law fails to define a process for the responsibility of an administrative body to accept applications for demonstrations in a timely manner. This gap creates a potential for arbitrary refusal of applications for permission to hold assemblies. Local authorities may refuse to accept applications in an attempt to impede demonstrations.

The most flagrant case of violation of the right to peaceful assembly involves the March 2002 events, when the police opened fire on a peaceful demonstration, killing 6 people and wounding others in the southern region of Aksy. For more detail, see the *INTRODUCTION* section, above. According to the NGO “Pravo I Ludi” based in Aksy, at least 5 children are known to suffer from this event. Two (Baimatov and Kutmanov) were wounded by the gun shots; three others (Apsamatov, Ziatdinov, Orozbaev) were severely beaten by the police. All of the officials charged with responsibility for the Aksy events were acquitted.

Educational institutions discourage young people from participating in public events unless they are organized by the government. Cases are known when students received warning from schools/universities administration to not take part in events such as demonstrations related to political issues.

It is very difficult for children from institutions such as orphanages and correctional schools to take part in organizations outside the institution or to create their own groups as their life is strictly regulated by the administration of the institution.

PROTECTION OF PRIVACY

Privacy is not in practice recognized as a right of the child and often is not taken seriously by adults, including by administration of institutions and parents. There is no training/public awareness-raising on this right.

A large number of violations of privacy rights are occurring in different institutions. In orphanages, for example, the bedrooms of children are often locked during the day, and children have no access to them except at night. Children do not have their own closets where they could store their personal things; dressers are routinely searched. Correspondence is subject to unofficial censorship. In one orphanage, it is strictly prohibited for children to wear earrings and to have haircuts deemed “inappropriate.”

Personal searches at home are often conducted by the police in violation of existing criminal procedural laws (prior permissions are not obtained and search reports are not timely written down). There is a widespread problem of police officers not obtaining warrants for searches, but entering the apartment/house, taking some objects and filling out reports of “found and seized”²⁹ and arguing that the action does not constitute a “search.” Courts usually follow the arguments of the police and the practice of the unlawful searches continues.

Contradictory to international norm, the warrant to search is issued by the prosecutor and not judge.

In the juvenile prison, official censorship exists, and all incoming and outgoing letters are read by the administration.

ACCESS TO APPROPRIATE INFORMATION

The right to access official information is often violated. The Law does not provide sufficient information regarding what type of information may be deemed a “state secret.”³⁰ State bodies are reluctant to provide information to the public and try to decline as much requests for information as possible. There is no special procedure that would encourage children to request the information from the government; it is not even being discussed as a possibility. Theoretically there is no age limit for access to information. No official information is provided in child-friendly format.

Children and young people in psychiatric hospitals are not informed about their diagnosis and are not asked for their consent for treatment.

Access to children's newspapers is very limited. In the whole country seven children's newspapers and one magazine are registered, five are in Kyrgyz,³¹ two in Russian³² and one is bilingual.³³ Most of them are not published regularly. In the moment of the writing the report, none of these newspapers was available in the press-kiosks in Bishkek.

In 2003, the Ministry of Education recalled 30,000 copies of health education textbooks following complaints from parents. The book "Healthy Lifestyles" was withdrawn after it had been in use for three years. Only two of the book's chapters deal with sex education. The Ministry of Education has acted on demands that sex education be replaced by lessons in morality. Since, no sexual education exists in the Kyrgyz Republic's schools, there is a huge need for such books since traditionally oriented parents do not discuss sex-related issues with the children.

There are many gaps in the access to information in institutions. Monitoring of all orphanages in the Kyrgyz Republic has shown that none of the children were informed about the charters of institutions, and some did not even know that such charters exist. No clear information is provided about the responsibilities and limitation of authority of administrators and educators.

During arrest and interrogation by the police, children are often not informed of their rights, and this leads to numerous human rights violations. Information about the rights of the arrested/accused child is not provided to him/her in written form, and no posters/brochures with child-friendly description of their rights exist. At the outset of court hearings, judges explain the rights of the accused but in most cases it is done very quickly and many children do not understand the legal language used by the judge. During the hearings of cases involving children by the Commissions on Minors' Affairs, neither rights nor procedural rules are explained at all.

Children do not have sufficient information about the mechanisms of protection of their rights.

PROTECTION FROM TORTURE, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

One of the achievements during the reporting period was the amendment to the Criminal Code, which became effective on November 15, 2003. The amendment contained a definition of torture that is similar to the one specified in Article 1 of the UN Convention against Torture. However, it lacks some serious substantive elements; for instance, there is no reference to pressure exerted against a third person.

Torture is still widespread and is a major human rights concern. Children and young people are often subjects of torture and cruel treatment. According to the interviews taken in juvenile prison, about 75% of the minors in prison reported that they were beaten and threatened during the pre-trial stage, approximately 20% admitted being threatened, and only 5% stated that they were not subject to torture. A majority of those subjected to physical abuse said it occurred during the first couple of days following their arrest. These percentages may not accurately reflect the gravity or the frequency of this type of treatment as some of the minors may not have felt comfortable sharing their experiences regarding the pre-trial stage.³⁴

Physical abuse and threats are used by the police in order to force children to confess and also to take responsibility for crimes they did not commit. The majority of torture cases take place when a child is kept in police custody, in the Temporary Detention Facilities of the Ministry of Interior.³⁵ To get a meeting with family members, those arrested need to get permission from the investigator. Incommunicado detentions are very common in the Kyrgyz Republic, and the first few days after an arrest create an ideal condition for torture. None of the children in detention said that they had a lawyer immediately after their arrest. Most of the suspects see a lawyer at the moment of or after the charges are formally lodged. Many of the young people reported that they met with a lawyer only twice, at the beginning of the investigation and in court. They remarked that the attitude of lawyers was very formal. In some cases, the lawyers were present only during the court hours and never had private conversations with the accused children. It should be also

acknowledged that often the legal consultation provided by defence lawyers is of low quality, especially in lower paid cases.

Existing complaint procedures are lengthy and inefficient. Children and their parents are afraid to complain to the prosecutor or other bodies fearing police retribution (and increased cruelty). Most often, prosecutors and high-level Ministry of Interior officials deny any allegations and state that torture has not been proven in any cases.

If an accused testifies during a court hearing that torture was used by law enforcement officers to force a confession of guilt, the judge will only request the testimony of said police officer. The officer officially denies the use of force and the court hearing continues. Defence lawyers and human rights organisations contend that such practice is widespread and that there have been no proper investigations of allegations of torture.³⁶

Current detention conditions may qualify as inhumane and degrading treatment. The worst conditions are in the Temporary Detention Facilities (police custody) (IVS) where, by law, people cannot spend more than 72 hours. For example, in the IVS facilities in Jalalabad province,³⁷ there is no pre-trial detention center (CIZO), and children are kept in police custody together with adults sometimes as long as a year. In most IVS, there is no special cell for minors, and the children are kept in the same cell as adults. Cells are overcrowded, have insufficient lighting, no ventilation, and no heating. In one IVS there were no beds to sleep on, and all detainees must sleep on the floor. In another facility, 51 persons were held in a cell with 16 sleeping places. Relatives are responsible for bringing food to the detainees. Arrested persons report that they are beaten if they attempt to complain.³⁸

Street and working children are a particular target for the police to extort money from them. These children are arrested for “loitering” and often beaten by the police. NGOs working with these target groups report cases when children were arrested for loitering in front of their parents regardless of parents’ protests.

Children in psychiatric hospitals are victims of physical restraints. The Mental Disability Advocacy Centre (MDAC), documented a case of a 14-year-old girl with intellectual disabilities in Chim-Korgon hospital (one of the biggest institutions in the Kyrgyz Republic) who had been tied by her wrists and ankles to a bed for a month.

The forms of restraint used in psychiatric facilities are disrespectful and inhumane. People are sometimes restrained to their beds for several days at time. According to the chief psychiatrist of one ward at Chim-Korgon psychiatric hospital, such patients occasionally urinated and defecated while still in their bed, thereby soiling the mattress. In order to prevent the further waste of scant resources such as mattresses, these patients were not supplied with a new mattress and were tied directly to their iron bed frames so that they could expel waste into a bedpan placed on the floor. When MDAC researchers discussed this occurrence with the head psychiatrist of the ward, she tearfully explained that she knew that this was “wrong” but that she did not know what else to do. She did not have enough staff to appropriately supervise patients and therefore had to resort to restraining patients for long periods of time. Such restraints were most frequently applied to patients with senile dementia and intellectual disabilities.³⁹ The same restraint measures apply to children as well as to adults.

It is extremely difficult for children who are detained in psychiatric hospitals to bring a complaint of inhumane treatment to a responsible body such as an ombudsman or prosecutor office. The Law of 1999⁴⁰ requires the government to establish an independent body entrusted with monitoring psychiatric institutions. However, this body has yet to be created.

Punishments used in different institutions such as orphanages and special correctional schools are often plagued by degrading treatment. The lack of a clear definition of rules and punishments has resulted in a system of misunderstanding and chaos. In the orphanages visited during the monitoring⁴¹ carried out by the YHRG in 2001-2003 the following punishments were reported to be used: beating, whipping with a belt, forcing to walk on the knees, hitting the back of the head, deprivation of food if late for a meal, forcing to seat on the chair of “disgrace” during school meetings, where the child should admit his/her mistakes and ask for forgiveness. Manual labour is used as punishment in all institutions: cleaning grounds, toilets, cleaning

up after animals, and washing floors. In one institution, some children were confined to a bed for an entire day; while in another, children were locked in a storeroom with confining doors.

Collective punishments are often used; if one child is disobedient, the whole class would be punished. The children remarked that often they could be punished for disagreeing with the educator. The same situation has been reported in all the orphanages. With no effective complaint procedures, children have no possibility to complain about cruel treatment, and no measures are taken to protect children in institutions.⁴²

Recommendations:

- Undertake a national survey on the issue of birth registration of children born at home;
- Ensure that all children are provided with birth certificates, especially in cases of homebirth, low-income families and families living in remote rural areas;
- Ensure prompt and effective procedures for receiving/replacing passports by citizens; lack of new passports should not be grounds for refusing passports;
- Simplify the procedures and waive fees for passport applications by children in institutional care;
- Include the freedom of religion in the National Plan of Action for Children's Rights, "New Generation" and adopt the necessary measures for the protection of this right;
- Stop the discrimination of Muslim children in the south of the country;
- Create mechanisms to encourage children to express themselves, especially in institutions, medical establishments, schools and courts;
- Review the legislation to remove legislative obstacles to creating organizations by children themselves;
- Investigate the Aksy events and ensure that guilty officials are brought to court and punished, and children victims of these events receive proper compensation;
- Promote civil rights and liberties in all types of institutions in the Kyrgyz Republic, abolish unlawful censorship, revise the daily schedule so that it will respect the children's right to privacy;
- Stop the practice of warrantless (illegal) searches by the police, adopt necessary legislative changes and ensure that courts investigate all cases of warrantless (illegal) searches; and that warrants are issued by judges and not prosecutors;
- Re-introduce health education to schools, either revise or replace the "Healthy Lifestyles" textbooks and ensure that children receive accurate and unbiased information about health/sex related issues in schools;
- Ensure access to information through informational leaflets and posters in police and in institutions.
- Undertake efforts to increase awareness by children in institutions of their rights, the bylaws of the institution, and the rights and the limitations of authority of administrators and other personnel;
- Change the performance criteria for police work to ensure that they do not use torture in order to achieve higher rates of confession;
- Ensure that every testimony received from a child during a trial which indicates use of torture during the pre-trial stage is properly investigated;
- Ensure access to a lawyer and contact with families at all stages of criminal investigation, especially when restrictions on liberty are applied in any form.
- Ensure that children are kept separately from adults at all stages, including at the Temporary Detention Facilities of the Ministry of Interior (IVS);
- Improve the sanitary conditions in Temporary Detention Facilities and other incarceration places and ensure the possibility of monitoring by civil society;
- Urgently address the inappropriate use of restraints in psychiatric hospitals and establish guidelines for the use of restraints in psychiatric hospitals;
- Revise and control the punishments used in different institutions;
- Create effective complaint procedures for violations of the civil and political rights of children.

FAMILY ENVIRONMENT AND ALTERNATIVE CARE

PARENTAL GUIDANCE / PARENTAL RESPONSIBILITIES

According to the legislation of the Kyrgyz Republic, parents have the responsibilities for the up-bringing of their children. In case of disadvantaged families, the State does not provide effective support to families to ensure that the rights of children are being respected. No counseling or educational activities are being led by State bodies. Work is mostly carried out in relation to "anti-social" behavior of children or parents.

Many parents are in very difficult economic situations, and if they do not properly fulfill their responsibilities (if for instance their children do not attend school) they are subject to punishment by state bodies. The reasons for the non-fulfillment of parental responsibilities are not taken into account by the state bodies. A number of cases are known in which the State has imposed a fine on parents due to the fact that their children did not go to school and have to work instead, as there is no money in the family. Such approach is very formal and inefficient and merely imposes additional burdens on families without resolving their problems. The laws do not specifically identify what behavior constitutes “non-fulfillment of parental responsibilities,” which leads state bodies (e.g. the Commissions on Minors’ Affairs) to punish parents in an arbitrary manner. Often the mere fact that parents are dependant on alcohol or narcotic substances provides grounds for the ruling that they cannot continue raising their children.

The report published by UNICEF underlines that the Kyrgyz Republic’s legislation and policy are characterized by a system of sanctions and corrective measures applied *against* children and families.⁴³

The Government report mentions that “social passports” are issued to disadvantaged families and a database (which contains information on source and level of income, and the number of children) is used to identify the needs of the family as a measure of support. This is a new initiative which has been plagued by many problems in its implementation. For one, the financial support of international donors and sustainability remains an issue of concern. There is also lack of resources to create a necessary database on families. The support is very low and limited by basic financial support - families who have less than 140 som⁴⁴ (about US\$3.33) per family member per month receive allowances that cover the gap between their income and that amount. No additional support (financial or consultative/educational) is provided to such families.

SEPARATION FROM PARENTS

Although the principle that the child should not be separate from his/her parents is reflected in national policy, the practice in the country continues to largely emphasize institutional care. Only about 25% of children in institutional care do not have parents; others are so-called “social orphans.”⁴⁵ One existing pilot project, based in one pre-school orphanage, aims to return children to their families with the help of international donors. The State does not undertake sufficient efforts to ensure that children are not separated from their parents.

When placed in an institution, a child’s opinion is not taken into account. Decision of placing a child in an institution is often made by local state administrations and is not subject to judicial review. The procedures of appealing decisions in courts are not developed enough and children (and their parents) are not informed of such possibilities.

Children in institutions have limited contact with their parents. The State does not adopt measures to encourage such contacts. In orphanages, educators may be present during meetings of child with their parents.

Deprivation of parental rights is still one of the main sanctions used in cases in which parents do not fulfill their responsibilities towards their children.

ILLICIT TRANSFER AND NON-RETURN

According to the IOM study, every year a minimum of approximately 4,000 women from the Kyrgyz Republic become victims of trafficking, and children constitute about 10% of all trafficked persons. There have been some cases where 10-year-old girls from remote villages were trafficked. The main destination “markets” for women are in the United Arab Emirates, Turkey, Russia, South Korea, and some countries in Western Europe. Widespread corruption in law-enforcement simplifies trafficking. False passports are easily acquired; women are trafficked using these falsified documents and their age is changed.⁴⁶

There are numerous cases of the trafficking of Kyrgyz citizens, especially from south of the country, to Kazakhstan. These individuals are forced to work on tobacco plantations.

There is a legislative and policy basis for combating trafficking.⁴⁷ There are some programs run by NGOs and international organizations. There are no known efficient programs run by the government. Trafficking involves a large network of traffickers and law enforcement bodies.

CHILDREN DEPRIVED OF FAMILY ENVIRONMENT

Few alternatives to the institutional care exist. Family type homes that could replace large state institutions are not encouraged in practice. There were no new homes created during the reporting period. There are still only twelve family homes for orphans and abandoned children in the whole country.

It is a positive step that the new Family Code introduced a new type of care - foster families. According to the Code (article 158) the government shall adopt a Regulation on Foster Families that would regulate the questions regarding the creation of foster families. At the moment of preparation of this report, such regulation was not yet been adopted, and thus, no legal procedure for foster families has yet to be promulgated. No foster families are known in the Kyrgyz Republic.

Despite the recommendations of the CRC Committee, the situation in orphanages has not improved. No training programs are provided for the staff at the institutions. There are no regular assessments of the situation of children in institutions. Living conditions have not been improving. The State only finances salaries of personnel and covers food expenses. The buildings of all institutions are in need of heavy repair. The heating systems, electricity and natural lighting in the rooms are also deficient. Six out of nine existing orphanages had minimal to no heating. The institutions lack sufficient supplies of footwear and shoes become worn out or are quickly outgrown.

Ten to fifteen children live in one room in institutions. They have no space for privacy live in very different conditions than a family environment. No efforts are being made to create more private space for children (e.g. divide the rooms into the smaller ones with fewer children in each).

In all the institutions, the possibilities for developing interpersonal skills, learning how society works outside the institutions, are limited and cause serious problems. Far away from cities and with little access to vehicles, children are unable to participate in cultural events and do not have much exposure to public and social infrastructure. Children in institutional care have limited contact with peers from outside of the institutions. The daily schedule of institutions involves internal tasks; this approach contributes to the isolation of children from outside world. Children do not develop practical life skills to enable them to live outside of the institutions, i.e. cooking and shopping in stores and markets.

Children do not receive help after they leave the institutions. Children who come out of institutional care are sent to technical schools. The choice of technical school rests on whether the child will be provided with a room in a dormitory, a minimal scholarship (about US\$2-3 a month) and a free meal. Only two main technical schools provide this kind of care for children. Boys can specialize in vocational training that might include working as a plasterer, house painter, welder, gas welder, etc. Girls are generally sent to specialize in "sewing footwear," a skill that has virtually no value in the Kyrgyz Republic.

The local administrations do not help such children find housing. On the contrary, cases are known when children are sent to orphanages and meanwhile the apartments owned by their families, where the children lived before and have the right to reclaim (as when apartments were inherited), were illegally privatized and sold by relatives or by the state bodies themselves. According to the legislation, guardianship bodies in the local administration are responsible for ensuring that the interests of the child are respected in cases related to the selling of the houses/apartments. However, these bodies do not fulfill their responsibilities.

The practice of keeping children with disabilities in institutions did not change during the reporting period. This is one of the more acute problems in the Kyrgyz Republic.

Regarding children in the justice system, their contacts with families are extremely limited by law. The general rule is for a meeting once a month. In cases of accused children in pre-trial detention, the meeting with their family may take place only with the permission of the investigator. There are known cases of extorting bribes for permits to meet with family during the pre-trial stage. This is common practice, especially outside of the capital.⁴⁸

ADOPTION

Despite the recommendations of the CRC Committee, the secrecy of adoption was not abolished and the right of the adopted child to know his/her biological parents is not respected. The new Family Code of 2003 did not change the corresponding provisions.

The Family Code allows changes to the first and last names of an adopted child, and in most cases adoptive parents change the name of children. In addition, article 141 of the Family Code provides for possible change to the date and place of the birth of the child. The date of the birth may be changed only in relation to children under 1 year.

The Family Code does not provide enough guarantees for the protection of birth parents' rights. It contains a provision that allows for the adoption of a child without the consent of his/her parents, where the parents are recognized as legally incapable persons (due, for example, to mental disability).

The practice exists when upon placement of children in institutional care, parents are encouraged to sign documents agreeing to give up their children for adoption. Although this is not a mandatory requirement, the use of such practices does not comply with the CRC requirements.

UNICEF⁴⁹ points out that in the Kyrgyz Republic the needs of the prospective adoptive parents are often favored over the rights of the birth parents and the best interests of the child. Among other problems related to adoption, there is a need to ensure that adoptions are legally permanent. Current practice of revocation or cancellation of adoption undermines the principle of permanency. There are not sufficient efforts to ensure that only children without parents are given to adoption; this leads to a number of cancellations and revocation of adoptions. It is concerning that an adoption can be cancelled for no other reason than the disability or disease of a child with special needs.

ABUSE AND NEGLECT, INCLUDING PHYSICAL AND PSYCHOLOGICAL RECOVERY AND SOCIAL REINTEGRATION

As a positive step, the Law on protection from violence⁵⁰ was adopted in 2003. Under Article 1, the definitions of domestic violence, physical, psychological and sexual abuse etc apply to any member of the family, which also includes family members by way of "adoption, guardianship and trusteeship... wardship arrangements for up-brining children in a family." It also defines domestic violence in a way that can be characterized as child neglect and abuse, and it introduces new measures such as "temporary restraining orders." To date, no cases of use of this law are known.

Abuse and neglect in families continue to be a serious problem in the Kyrgyz Republic. Beating children at home is seen as a normal and acceptable disciplinary measure. The government does not organize informational campaigns or educational activities that address this problem. Governmental structures (prosecutors, Commission of Minors' Affairs, Inspectorates on Minors' Affairs) deal only with "extreme" incidents and do not carry out prevention activities.

Existing complaint procedures (e.g. appeal to the Commissions on Minors Affairs) are not effective. Children do not address these commissions.⁵¹ Commissions have only one paid officer (secretary of the commission) who often works part time. The chairperson of the commission is usually also a deputy head of the local administration and devotes very limited time to the work of the commission. Even if a child wants to address the commission, it is often difficult to find out to whom he/she should apply and the working hours of that person. Commissions work closely with law enforcement bodies who more often deal with cases of children breaking the law rather than of children who need help. Children who reach the age 14 years may apply to the courts, though there are no known cases of this happening. This is partly due to the complicated court procedures and mechanisms which are not easily accessible to children.

The situation in institutions is more complicated. Unacceptable disciplinary methods and punishments are used in the orphanages. The prosecutors' offices conduct insufficiently short visits which are often very formal. Children are afraid to report cases of abuse. Also, many children do not know that they should not be beaten and that punishment should not be humiliating. As the situation in institutions rarely changes, they

think this kind of punishment is a rule and there is nothing to complain about. Without a clear definition of authority and clear complaint procedures, there is an increased likelihood of abuse.

Abuse in institutions continues to go unpunished. In one rare case - in March 2004, the General Prosecutor's office in Bishkek started to examine an abuse case regarding children who were severely beaten by educators in a special correctional school in Belovodkoe village. This case was opened following a letter from one of the local villagers as the children themselves lack the ability to bring a formal complaint, and all of their letters are checked by the school administration. The investigation is now ongoing, and the educators have been charged with violating Article 161 of the Criminal Code on "failure to fulfill obligations on the up-bringing of a minor." It is not clear yet if the responsible educators will indeed be punished.

There is a specific type of abuse that happens in all prisons, including juvenile prison. According to research done in 2003 by OASIS Foundation, in each prison, about 4.5-6% of the total number of prisoners belong to a discriminated group (they have been raped for violating the rules of the criminal world and stigmatized to their life, people belonging to this group are not necessarily homosexuals.) Many rights of people belonging to said discriminated group are violated with silent consent of or even support by the administration. These prisoners are often denied beds, and prohibited to enter the common rooms. They are subject to abuse (often rape) by other prisoners. The problems which this stigmatized group faces in prisons have never before been officially addressed in the Kyrgyz Republic, as they were considered "rules of a criminal world." Yet these "rules" are semi-officially functioning in state institutions. OASIS's research revealed that that the institutions' administration does not try to change the situation.⁵² The juvenile prison is not excluded from this situation. According to the data collected by the YHRG during interviews with imprisoned children, in juvenile prison about 5% of children belong to discriminated group, they live in the corridor of the building, eat separately and allegedly are subject to abuse by other children with the silent consent of the administration.⁵³

Street and working children are very vulnerable to abuse and live and work in unsafe conditions. An ILO study reveals that 37% of interviewed working children have been abused. Police beat the children, and extort money and goods from them, and sometimes the children are raped.⁵⁴ Almost every child living in the street has been abused.

The government has no rehabilitation program for children who are victims of violence.

Recommendations:

- *Adopt necessary legislative amendments to guarantee the right of adopted children to know their biological parents;*
- *Revise State policies toward parents who do not fulfill their responsibilities. Support of disadvantaged families should replace an existing punitive approach towards such families; Ensure the support for fair trials by examining every state body cases of parents who do not fulfill their obligations;*
- *Establish a process of judicial approval for all non-biological adoptions and of placing children in the institutions;*
- *Ensure the permanency of adoptions and review the procedures of revocations or cancellations of the adoption so that they happen only in exceptional cases;*
- *Psychological support services should be developed to enable biological parents and their children to remain together;*
- *Adopt necessary changes to the Family Code of 2003 to ensure respect for the rights of birth parents and the best interests of the child;*
- *Ensure that the use of alcohol/toxic substances by parents is not considered a determinative reason to take the children away from them;*
- *Guarantee effective complaint procedures in all institutions, including orphanages, psychiatric hospitals, special school, and juvenile prisons;*
- *Encourage contact of children in institutional care with their families;*
- *Support in practice the creation of new family type homes that could substitute large state-run institutions;*
- *Adopt a Regulation on Foster Families and support their establishment in practice;*

- *Improve the living conditions in institutions, in particular, by offering more opportunities for developing social skills, creating living conditions similar to a family environment, changing the daily schedule, “personalize” different areas of institutions, providing the institutions with heat and electricity;*
- *Address the problem of discriminated group in prisons.*

BASIC HEALTH AND WELFARE

CHILDREN WITH DISABILITIES¹

The practice of institutionalizing children with disabilities continued during the reporting period, and access to services such as rehabilitation and education remained limited and severely strained. There were no changes in the government strategies for addressing early childhood care of children with disabilities.

The government does not undertake awareness campaigns which focus on prevention, inclusive education, family care, and the promotion of the rights of children with disabilities. Different NGO centers for children with disabilities reported that the government does not necessarily place obstacles to their work, but neither does it offer any support to the NGOs. In addition to numerous financial problems, NGO centers have problems of lack of cooperation from state medical institutions. For example, centers reported difficulties in accessing the services of psychiatrists. All psychiatrists are employed by government hospitals. They do not come to the centres for disabled children. At the same time, staff of the centres do not want to send children to psychiatric hospitals for fear that their situation may worsen in the hospital environment.

Monitoring conducted by NGO “Shoola-Kol”⁵⁵ in Issyk-Kul province showed that 42% of children with disabilities do not go to schools in this region (98 of 233 interviewed.) Out of this number, almost half of families tried unsuccessfully to educate their children. Only two out of 42 investigated schools organize at-home education.

Another monitoring run by NGOs in the south of the country (Aksy rayon) showed that about 70% of children with disabilities do not receive education, and many parents did not even know that their children have the right to education and that teachers should teach children at home if they cannot go to school.

State bodies lack proper statistics related to the children with disabilities. The monitoring of Shoola-Kol showed that in many towns and districts, the number of children with disabilities provided by health departments is different than the number provided by the social assistance department. The difference of data of between the two sources reached 20%.⁵⁶

Integrated learning is limited to pilot projects. The practice of sending children with learning disabilities, or behavioral disorders to isolated special schools continues. Doctors go to the schools and are required to assess mental capacities of children who do not achieve good results in their studies. A case is known in Bishkek when a teacher sent 11 children from her class for medical examination, suggesting that all 11 had intellectual disabilities. In fact, none of them had intellectual disabilities.

According to the opinion of medical and educational professionals, criteria for defining intellectual disability are quite high in the Kyrgyz Republic. Many of the children who are sent to special schools could study in general schools. The argument for sending them to a separate school/ or creating a separate class for children with intellectual disabilities within general schools is that in such classes they would get more individual approach. Overcrowded general classes do not allow teachers to work efficiently with children with special needs. This situation leads to strong stigmatization of children.

Children with disabilities receive small, insufficient allowances. Only 300 soms (US\$7.10) are given per year for medicine. No support is provided to families in order to encourage them to keep their children with disabilities at home rather than send them to special schools.

¹ The NGO “Association of parents and children with disabilities” (Bishkek) and the NGO “Juventus” provided the information for this chapter.

There is little access for people with disabilities to different buildings, and transportation is a serious problem.

In the sphere of mental health, large institutions prevail. Contrary to the international standards and recommendations of different international and national organizations, there is still much centralization. MDAC⁵⁷ expressed concern about the merging of a children's psychiatric facility in Ivanovka village with the Republican Mental Health Center (RMHC), the largest psychiatric institution in the Kyrgyz Republic. The little funding that the government has allocated for mental health care has been concentrated primarily at the RMHC. Rooms in RMHC contain approximately 14 to 16 beds, allowing minimal room for patient movement, no guarantee of privacy, and no room for personal belongings. Staff on each of the wards reported that all of the wards were operating well beyond their designated capacity. MDAC emphasizes that in some cases, the conditions of care have been so poor that the inadequate conditions have caused the patients to suffer serious and irreparable harm. As for medication, all of the patients that were interviewed about psychotropic medications stated that they were receiving the same regimen regardless of their individual diagnosis. Even patients with intellectual disabilities are treated in a manner indistinguishable from the rest of the adult psychiatric population. The treatment is not individualized. In another hospital (Chim-Korgon), there were several young people for whom no educational facilities were being provided.

HEALTH AND HEALTH CARE SERVICES

Children health and access to health services remain a serious concern in the Kyrgyz Republic. There has been no improvement in access to quality medical services for children who are from rural regions, facilities are distant, and with insufficient personnel and medication.

HIV is spreading. Officially, on May 1, 2004 543 HIV/AIDS cases were registered in the Kyrgyz Republic, and over half of the infections are among people aged under 30 years. Experts believe that the actual number of HIV/AIDS cases could be "dozens" of times upper.⁵⁸ Different issues of concern arise about the issue of HIV including the procedures for testing. There are reports that despite official guarantees of anonymity of testing, the state bodies register all infected persons, violating these persons' right to privacy due to a lack of adequate protection of this information.

Official figures show that there are about nearly 1,000 teenage pregnancies every year. Doctors report that many of these births are accompanied by medical complications, endangering the lives of young mothers and their babies.

The recycling, waste collection, and disposal of waste in urban areas are serious environmental issues as well the lack of access to safe water and adequate sanitation in rural areas. One sixth of the population does not have access to safe drinking water. UNDP data from 2001 (the situation has not changed since) reported that in general only 31% of population in the Kyrgyz Republic had access to canalisation, 67% of urban inhabitants and 12% of rural inhabitants. More than 75% of families do not have adequate sanitary conditions.

State institutions, including orphanages, do not ensure access to medical care and respect for sanitary norms. In one orphanage, water was delivered once every two days, and the shortage of water has caused sanitation problems. In another case, the water was often turned off and children could not wash their hands before eating. Many children complained about stomach problems. As for vaccinations, orphanages provided children with the most necessary vaccinations, but rules on early testing for tuberculosis are often breached.

The health of working children is a big concern. An ILO study reveals that working children are suffering from internal diseases (kidney, bladder, stomach), infectious diseases, cold, nervous system problems, tuberculosis, asthma, lung disease, illness and injuries of the legs and hands, heart diseases, wasting, and venereal diseases. Some of them became diseased are directly linked to the type of work that children do. First-aid facilities are not available. More than 96.6% of the children have to pay for their own medical treatment at work.⁵⁹ No efforts are being made to improve the working conditions of children or facilitate their access to medical help. Only by getting help from NGOs can such children access medical services.

Spread of tuberculosis in prison is a critical problem. Boys in juvenile prison receive basic medical care on-site. In cases of serious diseases they should be transferred to hospital in another (adult) prison, where they are kept together with adults. However, there is a certain reluctance by prison personnel to transfer boys to hospitals even when their health conditions seriously deteriorate.

There is a specific problem related to health rights in Mailuu-Suu where uranium mines have been exploited by the Soviet authorities from 1946 to 1967. There are 23 dumps on the territory of the former mine which contain 1.9 million m³ of radioactive waste (according to the standards of the time); this waste was generally untouched between 1966 and 1973. Now they are in acute danger of being washed into and contaminating the Syr-Darya river basin. This represents a serious danger not only for the Kyrgyz Republic, but for the entire Fergana valley. At the local level, public awareness of the threat remains alarmingly low. Citizens of the Mailuu-Suu region continue to walk freely among the dangerous, contaminated and poorly marked sites. People have appropriated land on these sites for grazing for their livestock or use the radioactive earth for building materials for their homes.⁶⁰

Some rate of some diseases has dramatically increases. During six months in 2003, in the south of the Kyrgyz Republic, 1,170 cases of brucellosis were registered compared to 270 during the same period in 2002. Every fifth person suffering from this disease is a child.

A disastrous cyanide spill in Barkaun village in 1998 was caused by the mining company, Kumtor Operating Company (KOC), a subsidiary of Canadian mining company Cameco. Following the spill there was a high numbers of fatalities, massive temporary resettlement, and losses of habitual life style for the inhabitants of the village. Upon reviewing the Barskaun sodium cyanide spill, the government and non-government experts disagreed significantly. The former concluded that the consequences of the emergency have been adequately addressed, while the latter disagreed and suggested organizing a full scale monitoring (within, at least 3 years period) before jumping to any optimistic conclusion. No adequate compensation was made to victims, the process of receiving help is not transparent and villagers accuse local authorities of embezzlement of public funds and compensation money. Cases of persecution of local activists by the authorities are known.⁶¹

The Kyrgyz Republic has been facing a reduction in the number of hospitals beds, unavailability of medical service, and the dismantling of affordable medical care. World Bank projects require that the building of new medical facilities (even if the government receives foreign aid to do so) cannot be authorized without consultation from the World Bank. This “optimization” has already led to the closure of many hospitals and medical centres, and the law-enforcement and fiscal bodies now occupy these buildings. The government does not consider alternatives such as free lease of hospital buildings for self-supporting or self-employed medical professionals.⁶²

RIGHT TO AN ADEQUATE STANDARD OF LIVING

Children living/working in the streets⁶³.

The number of children living/working in the streets has been growing. The number is estimated at about 2,000 children in Bishkek, the capital city, alone. The government does not adequately address this issue. Children are taken from the streets, registered by the Inspectorates on Minors Affairs, held in detention for several days, but then end up once again in the streets. Most of these children live in an environment where none of their rights are protected. They are subject to physical, sexual and emotional violence. The governmental reforms on social and family support and the privatization of child educational and medical institutions have contributed to the further deterioration of this situation.

Research from the Center for the Protection of Children is based on information from about 1,439 children over four years.⁶⁴ It showed that among street children, those aged 10-15 comprised the largest age group. The main reasons for being in the street (68-81% of children indicated these during the different years) include financial problems in family, alcohol dependence in the families, abuse, and abandonment by parents. Children reported that the largest problem while in the streets was finding a safe place to live. About 74-83.1% of the children quit school, but more than 80% of them wanted to study. As for the families (153 families were studied) of the children living/working on the streets, a majority of them live in houses without canalization or heating, and 31.4% live in the equivalent of a barn. Within their housing these families have an average of 1.2 rooms, with an average of 4.4 person per room. Families were asked what specific items

they can always afford, sometimes afford, and never afford. As for the items they could never afford, 31% of families mentioned adequate food; 79% - warm clothing; 89% - clothes for school; 61% - shoes; 93% - school expenses, 98%- transportation costs, 59% - soap, toothpaste; 99% -books, newspapers; 92% - medical services; 59%- medicine; 100% - vacations; and 99%-toys and games.

NGOs working with street children report that children are not accepted to schools. The staff of the shelter in each case has to advocate on behalf of the child, and go to the different state bodies to get the child accepted into school. The same situation exists regarding access to medical care – without support from shelters staff children are not accepted to hospitals. Lack of proper documentation of children and parents remain a serious problem. Nutrition is provided only by NGOs--the biggest program is operated by an NGO called “Center for Protection of Children,” that provide nutrition for 300-400 children a year in two largest markets in Bishkek.

Problems of internal migrants, forced evictions.

There are numerous problems facing internal migrants living around Bishkek, the capital city, in unofficial buildings. The current estimation is that there are about 200,000-300,000 people living in such buildings without access to basic facilities, electricity, water, heat (infrastructure) and with extremely poor sanitary conditions. They are often harassed by law enforcement bodies as their residences are unofficial.

A recent problem in the Kyrgyz Republic is the forced evictions of internal migrants from buildings that they unlawfully occupy. Following a September 30, 2003 decision by the Bishkek Leninky district court, on March 30, 2004, 64 families in Bishkek were evicted by the police from an unfinished dormitory used for workers at a meat-packing factory. According to the testimonies of squatters, they learned about the court decision only on March 26, 2004 when the police and administration of the factory came and told them to leave the dormitory within two days. Families of internal migrants (mostly working as traders in a market in Bishkek) started to occupy the dormitory in 1999. Administration of the meat-packing factory did not react to these facts at the time. Families lived in this building for almost five years. About 265 people (among them 97 children) were ejected to the street and had to set up a makeshift camp in the courtyard, with only plastic sheets and rags for shelter. The court decision was made without their participation; they were not informed about the court hearing and could not defend themselves. They presented an appeal to the court asking it to review the case with their participation, but due to the lack of legal knowledge they chose a wrong legal procedure and their complaint was not accepted. During the eviction, police were brutal toward women and children, and some of them fell down stairs as tall as 1.5 m high and received injuries. It is the first case of mass forced evictions and represents a dangerous trend that might be used again towards other squatters living in the capital of the country.

Recommendations:

- The health care reform and concentration of resources should not lead to limitation on basic medical care access;*
- Children shall not be kept together with adults in psychiatric hospitals and shall be provided with educational and rehabilitation services;*
- Undertake more efforts for prevention of HIV/AIDS and ensure confidentiality of data about and protection from discrimination of children living with HIV/AIDS;*
- Undertake more efforts to ensure that young people with disabilities are not transferred from one institution to another, but are provided with treatment and educational facilities preferably not far from the place of residence;*
- Undertake more efforts for supporting NGO-run centres for children with disabilities;*
- Mental health care should be de-institutionalized to the maximum extent possible. The discharge from hospitals as well as blocking of all admissions to long-stay in institutions can lead to introduction of a network of community based alternatives;*
- Ensure that treatment of each child in psychiatric hospitals and institutions for children with disabilities is aimed at preservation their autonomy and personal development; ensure active participation of children and their parent(s) in the choice of treatment;*
- Children and their parents who are victims of the Barkaun cyanide spill should be encouraged to participate in all social and environmental rehabilitation initiatives. The government should assist the victims in obtaining fair compensation for damage;*

- Forced evictions should follow the procedures and international standards to prevent situations in which children are thrown to the streets. Ensure the effective measures of protecting rights in cases of evictions (e.g. representation of interests of defendants in trial and effective and accessible appeal procedures.)*
- Urgently raise awareness of the local population about the hazards of the Mailuu-Suu uranium mines and undertake necessary measures to prevent further harm to children's health;*
- There is an urgent need to ensure the possibilities for education of street and working children; adopt programs of family support aimed at preventing children from running away from their families; all programs should be developed and run with the participation of children themselves.*
- More efforts should be undertaken to return children who are living/working in the streets to their families;*
- There should be more services that children living/working on the streets can utilize in cases of abuse.*

EDUCATION, LEISURE AND CULTURAL ACTIVITIES

RIGHT AND AIMS OF EDUCATION

The situation regarding the right to education continues to deteriorate. Access to education and the quality of education, including infrastructure, teaching quality, and curriculum standards are of concern. Meanwhile, drop-out rates, class repetition, and absenteeism rates in primary and secondary school are increasing.

No efforts have been made by the state to increase pre-school enrolment. Participation of parents and communities in school governance is very limited and often formal.

Human rights standards, including those contained in the CRC, have not been introduced into the school curriculum. Some of textbook on civic education published by local NGOs and international organizations⁶⁵ contain information on human rights. Civic education classes are conducted only in 9-11 grade. No civic education and/or child classes conducted for younger children with exception of some unofficial initiatives of schools and NGOs.⁶⁶

Both the Constitution and the Law on Education were amended in 2003. Both still provide for free mandatory education (mandatory education is to the grade 9). General secondary education (10-11 grades) is not mandatory, but should still be free according to the legislation. According to the Constitution (article 32), the right to education is guaranteed to all the citizens of the Kyrgyz Republic.

In practice, however, education is not free. All schools request parents to pay for textbooks and for school repairs and renovation, and demand a monthly fee. Children are also expected to provide "gifts" for their directors and teachers. A 2002 study by the Foundation for Legal Education (in Jalalabat province) on the right to free education showed that fees are collected in all the schools. If a child cannot pay the fee or bring money for gifts, he/she is often humiliated. This may affect his/her educational results. This problem was cited as a major reason for not going to school.

According to a UNDP report on macroeconomics of poverty alleviation (2002), the unofficial fee for education in urban secondary schools is ranges from US\$3 – 20 a month, compared with the average salary rate of about US\$25-35 a month.

Cases were reported in Issyk-Kul province of children who were requested by school administration to pay a "fine" of 5 soms (US\$0.12) for each day of absence from school. More and more schools have introduced a one-time "enrolment fee" that is supposedly voluntary, but is mandatory in practice. In Bishkek, this fee ranges from about 2,000-3,000 soms (US\$47-71). This fee creates obstacles for children to access the education institute.

Certain discriminatory practices in education exist against certain groups. For example, there is no school for girls serving time in the women's prison (where girls are kept); internal migrants with no residence registration; children in care (education is mandatory only up to the 9th grade, and it is very difficult for children in orphanages to get 11th grade education necessary to enter a university); children with disabilities; children with some intellectual disabilities are generally put in separate classes or in a separate school (a lifelong stigma); children from low income families; children living and working in the streets. There are also problems related to education in minorities' languages.

High drop-out rates of children are attributed to lack of money to pay the various school-related fees, lack of transportation to schools in some remote areas, mistreatment of children in schools, the high incidence of child diseases and a low quality of education.

The real drop out rate is hidden, as governmental statistics do not reflect the real figures. Official figures show enrolment of about 95% of children. There is no comprehensive study that would indicate a real number of children not going to school. But different pilot studies show that this number is much larger than the official figures. For example, pilot research run by the “New Generation” program identified that 18 children from one school in Naryn city do not go to school; official figures show 183 children for the entire Naryn province. In Naryn province there are 142 schools, and so the figure of 183 is unrealistic. State reports claim that 127 children do not attend schools in Bishkek city. In contrast, the ILO survey of working children revealed that out of 344 working children interviewed in Bishkek, 181 were not attending school.⁶⁷ All of these examples show that the number of children not attending school is considerably under-estimated by the government.

A study by Save the Children (UK) and the Center for Public Opinion Studies and Forecasting found that “children aged 7 to 11 that do not attend school II” in Jalalabat and Osh provinces in 2003-2004. According to the results of the study, the only state agencies dealing with the problem of children not going to schools are the schools themselves. The local administration sees its role only as tightening control over schools. Only two heads of the local administration said that that it is their job to ensure that there is electricity and heating in schools and financial aid is provided to low-income families. The study notes that the efforts of state agencies at rural levels to solve the problem of children not attending school are not coordinated, and are often conducted as ad-hoc actions with a very formal approach. There are different family, personal, and school-related reasons for children not attending schools.⁶⁸ Parents noted lack of pre-school facilities. The study was targeted only to children who should go to primary school, but it also shows the trends in access to education. The situation of accessing education by older children is worse.

When children were asked during the Save the Children study what should be done to help them to get back to school, they gave the following answers: 20%- more clothes, shoes and medicine; 20% - have textbooks including exercise textbooks, be free of charge and cancel school fees; 14% - better health care; 10% - less household responsibilities; 6% - nothing could help them; 5% - greater parental attention; 5% - more money; 3% - freedom from beatings and humiliation; 3% - just said in generally “create conditions” and did not specify.

Working children are among those who do not attend school. The ILO research⁶⁹ has shown that 42.6 % of interviewed children⁷⁰ do not attend school. The main reason is that many have moved, but other reasons include lack of money, time, and humiliating treatment in the schools.

The research of Centre for the Protection of Children⁷¹ showed that 74% to 83.1% of interviewed children living and working in the streets quit school. With different results for different years, about 53% of them quit school because they said that it was too expensive, about 50.8% quit because they needed work; about 42% - quit because their families moved; about 19% (but decreasing over the last years) quit because they said that they hated school, about 4% quit because they said that they became ill.

Recommendations:

- Create more comfortable conditions in schools for children from low-income families, ensure that they are not humiliated by teachers and are not required to pay “voluntary” fees;
- Collect objective statistics on the number of children not attending to school;
- Local administration, especially in rural areas shall provide more support for ensuring that schools have at a minimum, heating, and electricity;
- More coordination between schools and other state bodies (not punitive but supportive and prevention approaches);
- Create more alternative flexible educational facilities and opportunities for working children;
- Allocate greater resources to improve the quality of education, curricula should be revised to better correspond to the present reality.

SPECIAL MEASURES OF PROTECTION

ASYLUM SEEKING AND REFUGEE CHILDREN

The asylum policy was reviewed and the Kyrgyz Republic took a real step forward concerning refugee policies. However, some practical problems remain.

The Law on Refugees was adopted in March 2002. In 2003 the Government adopted a procedural regulation on the treatment of refugee cases. In the opinion of UNHCR, both documents correspond to international standards. One of the 2002 Law's positive advancements is that a claim for refugee status is registered even if the documents proving one's identity are lacking.

The adoption of the Law in 2002 effectively abolished the three-day deadline for filing refugee status claims along with the safe third country rule. At present, a person who submits a claim also receives a document confirming that his/her case is treated by the Migration department and he/she has the right to remain in the Kyrgyz Republic. According to the information provided by UNHCR in the Kyrgyz Republic, this innovation considerably decreased the abuse of refugees by the policemen.

However, the refugee documentation (both registration confirmation and refugee certificate) is provided only to the head of households. Children generally have to make photocopies of their parents' documents. In practice, there are less known harassment cases by the police as they got "used" to that kind of documentation.

There remains a discriminatory practice regarding the asylum seekers from the ethnic group Uighur from China. For political reasons, the Migration Department does not even register their claims for refugee status. They only get protection through UNHCR.

Today, individuals with refugee status may obtain birth certificates. Children of asylum seekers (who already submitted their claim for refugee status but do not have the decision yet) cannot receive birth certificates.

The situation regarding birth certificates for refugees was an example of a deteriorating refugee situation. Refugees were getting birth certificates for their children until June 6, 1999, when the Ministry of Justice issued Letter # 03-7/2461 which prohibits the issuance of birth certificates to refugees. Only a medical certificate issued by a hospital was given to refugees, which only confirms the fact of birth, often excluding names of both parents. The international community and local NGOs made a big effort to restore the situation to its pre-1999 status. In a significant legal development, according to the UNHCR Office in the Kyrgyz Republic, the Ministry of Justice's Order # 50 of March 31, 2003 provided for the issuance of birth certificates for refugee children. UNCHR and other international agencies repeatedly appealed to the government to provide official birth certificates to refugee children. A local NGO in Osh, Fund for Legal and Economic Reform, has also successfully litigated this issue.

There were no substantive public education campaigns to inform asylum-seekers, especially those newly arrived, about asylum procedures. However, the government has improved its procedures and training for border guards on the asylum issue.

Rejected refugee claimants who are denied refugee documentation remains to be a problem, resulting in legal and practical complications. According to the Civil Procedure Code, a person can contest a decision made about the violations of his/her rights and freedoms within 3 months period after the decision has been issued. But the Law on Refugees provides only a one-month period of legal stay in the Kyrgyz Republic for submitting the appeal to court or leaving the territory. Although there were no cases of deportation of rejected claimants, their situation is very difficult. As a rule they have to pay a bribe to law enforcement officials checking their documents.

There are no known cases of unaccompanied minor asylum seekers and refugees presently in the Kyrgyz Republic.

Recommendations:

-Adopt necessary changes in legislation and practice in order to ensure that rejected claimants have the ability to stay legally in the territory of the Kyrgyz Republic for three months in order to file a complain to the court as provided by the Civil Procedure Code.

-Abolish discriminatory practices of not registering requests for refugee status from Uighur asylum seekers.

-Ensure that newborn children of asylum seekers without refugee status are provided birth certificates.

ECONOMIC EXPLOITATION

The situation of child labour continues to deteriorate. The scale of its use is not known as the government did not conduct surveys to study this phenomenon.

A 2001 ILO initial study on child labour revealed that children in the Kyrgyz Republic work in four main occupational sectors: agriculture, heavy industry, manual labour, and housework and service. The ILO report points out that the official statistical data⁷² does not reflect the reality and that the quantitative scope of child labour in the Kyrgyz Republic had not been taken into consideration. Today, children as young as 5 must take care of their families and look after themselves. Child labour is cheap and in most cases not regulated by any agreements with employers. The main occupations of children include selling goods (32.4%), transportation, loading and unloading goods (13.7%), collection (aluminum, bottles) (8.5%), ancillary worker (11%), begging (7.5%), cleaning and repairing shoes (6.8%), car-washing (6%), crop/field work (4.7%), prostitution (2.5%), and other (6.8%). In the south of the Kyrgyz Republic, a significant number of children is involved in the production of bricks.⁷³ Health professionals are concerned over potential back, belly and cardiovascular problems that children might suffer; ruptures, rheumatisms, along with various catarrhal diseases remain the main diseases for young mud brick workers.⁷⁴

The ILO report also highlights the problem of children used as domestic help/ servants. In most cases these children are sent by their parents to their relatives' families in urban areas where they clean houses, launder, cook meals, set tables, chop wood, work in gardens, and baby-sit. This work is not regulated. About 25.5% of children work full-time, 62.8% work less than 8 hours a day, and only 6.4% work only when they are not studying. In these cases children live together with their employers and are completely dependent on them. Only 26.6% of interviewed children servants said that they see their parents every day. 21.3% see the parents only up to four times a year.⁷⁵ The problems of these children are even more hidden.

In 2004, the Ministry of Labour and Social Protection created a Coordination Council on Child Labour. There is one paid employee in the ministry entrusted to carry out the work of the council. The Secretariat of the "New Generation" program along with other government bodies addresses this question as well as other children's rights problems. These efforts are not sufficient to address such a complicated issue as child labour is.

Child labour is becoming a norm in the Kyrgyz Republic. The government does not run educational/awareness campaigns about preventing the proliferation of child labour nor are there campaigns that sensitize the general public on this issue. Moreover, state institutions use child labour themselves.

Numerous violations of children's rights are related to the use of forced child labour by state institutions. All children in institutional care are required to work for the institution. In principle, such work should be limited to cleaning their rooms, and maybe working in the institution's private fields (but voluntarily and in accordance with state legislation). In fact, no specific provisions exist that regulate children working in institutions. This lack of control gives institutions the opportunity to force children to work all-day in fields for the profit of institutions. There have been reports exposing this practice in some orphanages and special schools for children (in Belovodskoe village). Such work is not controlled; children work long hours and are punished if they refuse to work.

Another violation of the children's rights is the use of forced child labour by schools. Although forced labour is prohibited, the soviet tradition persists in using child labour during harvest season (September-October, sometimes May.) Though this practice is no longer official, the Ministry of Education is aware of it and takes no effective steps to eliminate it. Schools misinterpret the Regulation of the Ministry on "fifth work semester" (*5-ia trudovaia chetvert*) that provides for acquiring work skills but is unclear and leaves room

for abuse. Instead of “acquiring professional skills,” children are sent to harvest cotton, beets, potatoes and other agricultural products in privately owned fields. An owner signs a contract with the school and the income generated by the children’s labour is paid directly to the school. Children do not receive payment for their work; moreover, they are required to provide their own meals and pay for their transport to the field. There have been reports that in some schools children have to pay “fines” up to 10 soms (US\$0.24) a day for not going to the field. No classes are offered during the working hours. The use of forced child labour is widespread in rural areas, however the magnitude is unknown. Comprehensive strategies to end the practice nationally are lacking and there is no will to pursue said action.⁷⁶

People detained in psychiatric hospitals, including children, are forced to work without respect for standard work conditions. It is seen as “work therapy,” but in fact hospital administrations just use them as unpaid labourers. According to the legislation of the Kyrgyz Republic, patients should be paid directly for their “production work,” but it is not the case. Patients are compelled to work for no payment in the homes of hospital directors and in the hospitals.⁷⁷

Forced labour of Kyrgyz citizens (many of whom are children) is used in Kazakhstan on tobacco plantations. Many Kyrgyz citizens go to Kazakhstan with hopes of earning money, but end up in conditions of virtual slavery. On November 11, 2003, the Kyrgyz ombudsman Tursunbai Bakir uulu declared that about 4,400 migrant workers from the Kyrgyz Republic are registered in different provinces of Kazakhstan and there are numerous cases of human rights abuses: child labour is used, pregnant women are forced to work under the same conditions as everybody else, and plantations owners’ beat the workers.

Recommendations:

- Urgently improve labour conditions of children and eradicate the worst forms of child labour;
- Conduct a national survey of working children; Conduct awareness-raising campaigns related to child labour, including use of children as servants, in different regions of the Kyrgyz Republic, with particular emphasis on rural areas;
- Allocate more resources to resolve the problem of child labour;
- Urgently eliminate the practice of forced labour by state institutions:
 - The Ministry of Education shall amend its regulations to conform with with the labour legislation of the Kyrgyz Republic to ensure that children are not forced to work without pay and only for the benefit of the school; this regulation shall be widely publicized among schools’ administrations, children and parents. Special attention shall be paid to schools in rural areas;
- All responsible ministries (Ministry of Education, Ministry of Labour and Social Protection, Ministry of Health) shall adopt regulation on the use of child labour in different institutions to conform with domestic legislation and international commitments of the Kyrgyz Republic;
- In particular, the standards of “therapy by work” in psychiatric hospitals shall be clarified in order to avoid the misuse of this term which allows to the exploitation of patients. The legislation of the Kyrgyz Republic (e.g. that “production work shall be remunerated”) should be respected;
- The Kyrgyz Republic should more effectively cooperate with Kazakhstan on the resolution of the problems of Kyrgyz migrants in Kazakhstan and establish easily accessible mechanisms for complaints and the protection of migrant workers’ rights.

DRUG ABUSE

The use and traffic of illicit drugs, alcohol abuse, and high rates of tobacco use are widespread among persons under 18 years. Real statistics of the number of children using drugs are not known, but many pilot studies and articles show that the number is growing. Almost all street children use different toxic substances.

According to the State Centre on Narcotics⁷⁸ under the Ministry of Health, no national survey on the nature and extent of substance abuse was conducted in past by health authorities, and no plans exist to undertake such a study.

The State program on combating the spread of drug dependence and illicit trafficking of drugs mentioned in the State report was adopted in 2001. Children did not take part in the developing of the Program. The Program's Plan of Action only superficially addresses the problem of drug use by children.

On November 15, 2002, the Ministry of Education and Ministry of Health adopted instructions on identifying at-risk children in schools,⁷⁹ and on drug-testing of children. According to these instructions, teachers bear the responsibility for identifying those children who might use drugs at least once, including their names on the lists of so called "at-risk groups," and ensuring that they pass a medical examination. Although the instructions mention that such drug-testing should be voluntary, the actual wording of the instructions make it clear that the examination will be mandatory. This can lead to discrimination of children.

Rehabilitation services are lacking in the country. There is a department for prevention of toxic dependence of youth, under the Centre of Narcotics in Bishkek and also one in Osh. Recently, this Bishkek department opened one ward for children with toxic dependence with a capacity for 3 persons only. This ward is opened as an experiment to study this problem and does not receive funding from the Ministry of Health.

There is no medical professional specialized in the treatment of toxic dependencies of children and no medical facilities for it.

Recommendations:

- Create medical consultations and other facilities that would provide services to children with toxic dependencies. It is very important that such services shall be accessible to every child. A problem of providing medical help without parental consent shall be regulated. For such services, clear guidelines should be established on what services can be provided without the consent of the parents and what would require consent from parents and guardians. All services should be child-friendly and have personnel trained in working with children.

SEXUAL EXPLOITATION AND SEXUAL ABUSE

No measures have been taken to combat the commercial sexual exploitation of children. This phenomena was not well studied, and no strategy of action exists to eliminate such practices. To date, the Kyrgyz Republic has failed to implement any of the relevant recommendations contained in the 2000 Concluding Observation of the CRC Committee.

The ILO study revealed that 2.5% of working children are involved in prostitution. Moreover, 46.7% of interviewed children involved in prostitution reported that they have sexually transmissible infections and infectious diseases.⁸⁰

The only study that was undertaken in this area during the review period was the journalist's investigation conducted in four Central Asian countries by the Institute for War and Peace Reporting (IWPR).⁸¹ This investigation has shown that child prostitutes may not be openly visible in the Central Asia republics, but they operate in discreet clubs, private homes converted into brothels, and on street corners. IWPR discovered that teenage girls are bought and sold as commodities, and in some cases shipped off to become sex slaves in the Gulf states. A high premium is placed on virginity, but the average price for sex with a minor ranged between US\$1 and 10. Some of the worst cases involve parents selling their own daughters for financial gain or out of sheer desperation. The girls are usually between 11 and 16 years old, although many start even earlier. Some boys are also involved.

The commercial sexual exploitation of children is difficult to combat, as the law enforcement bodies' are officially linked in many cases to criminal networks providing such services and who themselves use the services of underage sex workers.

The IWPR investigation provides an example of a 16-year-old girl in Kyzyl-Kiya town in the south of the Kyrgyz Republic, who described how her regular clients include police officers and local officials who employ her when important visitors are in town. She mentioned judges and prosecutors amongst her and her friends' clients. An IOM Study also reports a case of a 12-year-old girl who said that she did not think it was dangerous for her to offer her "services" because most of her clients were in the police.⁸²

In the Kyrgyz Republic, IWPR was told that pimps were especially interested in girls from poor or broken homes, because there was less likelihood anyone would kick or fight back, even if their daughter was taken out of the country. In some cases, the pimps pay the family a retainer to keep quiet. Children from orphanages are at a high risk of going into prostitution. With few opportunities available, they become easy prey for pimps. It is very easy to recruit, enslave, and sell an orphan. It is unlikely that relatives will ever look for them, and few care about these children.

During the monitoring of orphanages conducted by the YHRG, it became clearer that many girls end up in prostitution after institutional care.

While the problem was not as widespread as underage female prostitution, he knew of several boys aged between 12 and 16 who were involved. The boys are sometimes drawn into blackmail schemes and the police uses tactic to set up big businessmen or government officials by introducing them to those boys. The boys have to cooperate with the police after they get caught committing some minor crime, such as stealing or using drugs⁸³.

The IWPR investigation states that enforcing the laws as they stand remains a challenge for the region's police forces. Police lack the resources to deal with the problem – and alarmingly, a proportion of them are involved in taking kickbacks.

Lieutenant-Colonel Musuralieva said to IWPR that the challenge is not catching the criminals, but getting a prosecution through the courts successfully when the criminals may have friends in high places. According to Musuralieva, who works as the head of Inspectorates for Minors Affairs, it is likely that pimps get backing from some high-ranking [police] officers.

NGOs in the Kyrgyz Republic allege that corrupt police officers allow prostitution to continue because of the kickbacks that they receive. Brothels are allowed to operate with impunity, and pimps pay the police regular protection money.

Recommendations:

- *Urgently address the issue of corruption in law-enforcement bodies to create a basis for combating the commercial sexual exploitation of children;*
- *Undertake measures to protect and support children after institutional care to avoid their recruitment to the commercial sex industry;*
- *Increase public awareness to prevent the involvement of children in the sex industry, including child-friendly campaigns, with a focus on rural areas and institutions.*

ADMINISTRATION OF JUVENILE JUSTICE

There were no changes to the judicial system as related to minors. Recommendations of the CRC Committee were not realized.

Juvenile offenders are still not dealt with separately under the justice system; there are no special procedures or specially trained personnel. One of few positive elements of the new version of the Constitution is that it now allows for the creation of specialized courts. Thus, one of the obstacles to the creation of juvenile or family court system was abolished. There is a recommendation from the Supreme Court to assign the cases of minors to chairpersons of courts, but it has not been respected in practice. For more details, please see the section, above on *GENERAL MEASURES OF IMPLEMENTATION*. The CRC is not included in the curriculum of the Judicial Training Centre, which oversees the (optional) continuing education of judges.

The law itself violates international norms. According to the Constitution and the Criminal Procedure Code, the power to make a decision regarding pre-trial detention is given to prosecutors. Prosecutors are required to play two incompatible roles; they are both responsible for accusing the individual and to administering the laws regarding the individual's detention. Although an appeal against the decision of a prosecutor may be filed in court, this mechanism does not adhere to international standards.

Pre-trial detention is widely used (as shown by statistics provided in the state report to the CRC committee). In many cases pre-trial detention was ordered based solely on the gravity of the child's offence, without any examination of other grounds (such as the likelihood that s/he will escape from the investigator, commit another crime). In cases when the family does not have a place of permanent residence (internal migrants), pre-trial detention is ordered even for petty crimes because of the risk that the child may escape.

There is no clause in the Criminal Procedure Code that would provide for the presence of parents, guardians and/or pedagogue during the interrogation of witnesses/victims who are minors. There is widespread practice of police calling a person as a witness, changing his/her status to a suspect right after the first interrogation, and often detaining that person.

The Criminal Code itself contains severe violations of the CRC. According to the Criminal Code the **only punishment** that a person aged of 14 and 15 years old can receive is deprivation of liberty (including conditional deprivation of liberty). All other types of punishment (fine, triple payment of damages and "short term detention") are applied only to those children who are at least 16 years old.

The choices of punishment are very limited, and the deprivation of liberty is the most commonly used. Long sentences not corresponding to the principle of proportionality are widely used. The criminal justice system is extremely cruel towards minors. Children can be sentenced to up to 15 years of imprisonment. Theft is deemed a serious crime, and the court considers whether or not the child is a first-time offender when deciding his/her sentence. Theft (of food, cigarettes, electronic equipment, etc.) is the most common crime for which children are deprived of liberty and imprisoned. In 2003 the number of children in detention centres convicted for murder was less than 1% and for rape about 1.5%. Currently, in the juvenile prison there are 192 children. The average term of imprisonment for theft is about 5-6 years. Children receive very long sentences for car theft.

T, now 19 years old was sentenced to 11 (!) years of imprisonment for car theft, and his younger brother was sentenced to 10 years for the same crime. In another case, boys aged 19, 17 and 16 beat a driver and stole his car. The oldest claimed he was the only guilty one and was sentenced to 7-years imprisonment. The younger children asked for a second chance but were sentenced to 6 and 5 years, respectively.

Short term detention (which is called "arrest" in Russian) as a punishment is not applied due to the lack of "arrest homes," but its existence in law and potential for application to minors raises concerns. According to the legislation, this punishment might be given to a person who committed petty crimes. The idea is to put this person in detention for a short term period (up to 3 months in case of minors) in conditions that are similar to a prison, with the most severe regimen. During this "arrest," meetings with family are officially prohibited (only lawyers can have access to the accused), and no telephone calls or banderoles, or education are allowed.

The judicial process does not correspond to the fair trial standards. The actual hearings are drawn out, lasting on average 2-3 weeks per case. The overall judicial process is often much longer. According to defence lawyers, a fairly uncomplicated case might be prolonged for a year. Complicated cases might continue for 2 to 4 years, and most often the accused spends this time in detention.

A case of a 14-year-old boy dragged on for about 4 years, the same evidence was presented in different court levels. He was convicted by one court and acquitted in the next court. He was finally acquitted in 2003 on "lack of evidence." The boy needlessly spent about 2 years in pre-trial detention and in prison.

One of the greatest problems in the judicial process persists from Soviet times - the practice of requiring additional investigation (*dosledovanie*). The procedure itself violates the principle of the presumption of innocence and finality of judgement. If the hearing on a case has already started and a judge does not find enough evidence to convict the person, the judge can order an additional investigation. There are no restrictions on this additional investigation. According to official data of the Judicial Department under the Ministry of Justice, in 2002, 77 cases in relation to 81 minors were sent for additional investigation; in 2003, there were 83 cases in relation to 101 minors.

Generally, all parents who have the means, attempt to pay bribes to the police officer/prosecutor or judge even if they believe their children are innocent. Accused persons know they'll be convicted and, therefore try to avoid the likely results of the hearing, by acting pre-emptively.

The law provides the right to defence. However, there are numerous problems both in the statutes and in practice. The obstacles to this right are associated with access to a lawyer (legal representation), and to free legal aid for low-income people as guaranteed by the Constitution.

Defence lawyers report numerous problems in defending their clients. Police officers often arrest people and force them to sign a paper waiving legal representation. Arrests are most common during the night, weekends or on holidays when defence lawyers' offices are closed. Private lawyers can become involved in the cases on their own volition. However, defence lawyers who are members of the lawyers' association (formerly a governmental organization) are required to obtain an "order" (document) from said organization in order to represent and confer with the accused. This stipulation limits the access of an accused to legal consultation since the office (of the association) is closed in the evenings and on the weekends. Police also fail to notify parents about the arrest of a child.

The law provides the right to access a lawyer at the moment the person is brought to the police station (in the case of an arrested person) or at the start of the first interrogation (questioning) of a suspect. The law identifies that in case of minors, a defence lawyer shall be present. But, in practice police officers can circumvent the law by arresting a person and driving him around for hours in a car and not bringing him to the police station. They can also use a non-procedural document: they force a person to write an explanatory note (ob'iasnitelnaia) specifying what /she has "committed" the crime. If the person later complains that s/he had no lawyer, the police state that it was not an interrogation. Such explanatory notes are not regulated by legislation. Contrary to formal interrogation minutes, police officers do not sign their name on explanatory notes. It is also very difficult to establish the circumstances surrounding the note.

A defence lawyer has no right to order a medical consultation; only a police interrogator possesses such a right. A defence lawyer has to give the formal request for medical attention to the interrogator, who makes the decision. As evidence of abuse disappears with time, coupled with the inability of defence lawyers to order an immediate medical examination, it is much harder to prove cases of torture.

According to NGO "Spravedlivost", in Jalalabat province there are obstacles for defence lawyers to enter Temporary Detention Facilities (IVS). First, the interrogator has to sign that s/he agrees to the visit by the defence lawyer, and then the head of the IVS issues a permission. This practice was inherited from soviet times and even though it contradicts current laws, it is still widely used in various regions.

The law also provides for free legal aid for low-income people. On May 24, 2003 the government adopted for the first time a regulation on the payment for lawyers to low-income people. The previous regulation was adopted in 1990, before the Kyrgyz Republic's independence. According to this new regulation, a person who has official confirmation from local authorities that s/he is a of low-income (which means a monthly family income of no more than 624 soms, about US\$15 per person) is allowed to receive free legal aid. Additionally, in order for a defence lawyer to be reimbursed for such work, s/he needs to present to the Ministry of Justice the documents from an investigator (police) or a judge specifying the number of hours spent helping the client.

Officially, hearings can be held in Kyrgyz or the Russian language. The quality of legal translation into Kyrgyz language is not good in most cases, and courts often use "volunteer translators" rather than professional interpreters. In some cases court hearings are held in Kyrgyz, although the accused are Russian speakers and vice versa.

The judiciary itself is in very poor condition. A June 2003 assessment of the Kyrgyz judiciary by the American Bar Association (ABA/CEELI) states that it remains under the firm control of the executive, with the President having the unabridged power to determine the number of judges in the country, the location of their posting, and their salary level. He may also remove them from office largely at will (a power that he has only rarely exercised, but that has a chilling effect on the independence of judges). The ABA/CEELI review identified many areas of the non-compliance between the Kyrgyz judiciary and international

standards, such as the appointment of lower court judges based on an oral “attestation” process which lacks transparency and objectivity; special appeal taken by prosecutors in criminal matters which in essence re-open closed cases and undercut the concept of finality of judicial decisions. The judiciary has very little opportunity to influence the amount of money allocated to it. The budget is administrated by the Judicial Department under the Ministry of Justice; salaries of judges are insufficient to support families. Courts do not provide a respectable environment for the dispensation of justice, for example, the cages in which the criminal defendants are kept during the trials (and children are no exception to this rule, according to YHRG research) add to the oppressive environment. The Constitution and the law do provide for judicial immunity, by using forced resignations and the transfer of judges to less desirable districts. Judges can be and are punished for their actions taken in their official capacity. Statistics (more than 98% conviction rate each year between 1998 and 2002) indicate that the courts generally follow the lead of prosecutors. Moreover, the prosecutors influencing courts in several ways, such as a letter of concern (chastnoe predstavlenie) placed in the judge’s file stating that the judge misjudged a case and special appeals (supervisions). No meaningful process exist under which other judges, lawyers, and the public may register complaints regarding judicial conduct.⁸⁴

Children suffer the same as adults from the current situation of judiciary. According to data of Judicial Department of the Ministry of Justice,⁸⁵ in 2002, 1,035 minors were convicted and 4 acquitted; in 2003, 967 minors were convicted and only 1 acquitted.

The conditions in detention do not meet minimum international standards. Conditions in police custody and pre-trial detention centres are especially dismal. State law allows a person to be kept for up to one year in pre-trial detention, preceding the court hearing. Children and adults are subject to the same pre-trial detention periods. The period of time a child is deprived of his/her liberty is not regulated during the court proceedings. In practice many children have spent more than a year in pre-trial detention in inhumane conditions. Cells are overcrowded with poor hygiene conditions. Even though there is a separate pre-trial detention centre for minors, many minors in the provinces are kept together with adults during the pre-trial stage.

The laws limiting the number of individuals placed in certain prisons (kolonias – camp-style institutions) are not respected. There has been no change in the situation of young girls who are kept with adult women, as there is no institution for female minors. Currently, 12 girls are kept in the women’s prison. Imprisoned girls do not receive an education as there is no school on the premises. All the penitentiaries constantly lack soap and other personal hygiene items, and food is not sufficient.

Work on psychological and social rehabilitation is very formal. There is no professional psychologist in the juvenile prison. The position of psychologist is occupied by an educational specialist (*Methodist*) of the institutions who at the same time works as a librarian and has no training background in children’s psychology.

Due to the lack of Pre-Trial Detention Centers in the south of the country (just one Center in Osh for 3 provinces) people under investigation are kept in the Temporary Detention Facilities of the Ministry of Interior (IVS) for all the length of the pre-trial detention. Conditions in IVS are far worse than those in the other institutions. For more detail, please see the section above on *PROTECTION FROM TORTURE, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT*.

Drugs are accessible (as they are unlawfully sold by staff) in all the penitentiary institutions, including juvenile and women’s prisons.

Another problem is the examination of children’s cases by administrative bodies - Commissions on Minor Affairs (KDN). The consideration of a case involving a minor should meet the requirement of “appropriate legal procedure.” The procedure is arbitrary, and commissions do not verify the facts and make decisions based on presumptions that the child committed all acts of which s/he is accused. Members of the commission represent different state institutions, and an absolute majority of them do not have a legal background and/or knowledge of child psychology.

The Commissions on Minors' Affairs have the authority to send minors aged 11-14 to a so called "special correctional school" that according to international norms represents an extreme deprivation of liberty. According to the Regulation on Commissions on Minors' Affairs a defence lawyer shall be present while the Commission considers sending a child to a "special school." According to the monitoring conducted by YHRG, until recently, no defence attorneys had participated in these Commission meetings.

In 2004, for the first time YHRG has invited a defence lawyer to represent one child during a Commission on Minors' Affairs in Bishkek. The Chairperson of the Commission did not allow sufficient time for the lawyer to speak and asked the lawyer "to hurry up." At the end of the Commission meeting the chairperson requested that the lawyer pay the child's bail as she was protecting him and should "bear the responsibilities." All possible procedural rights guarantees were violated by this administrative body.

A child who is sent to the special school is registered with the Inspectorates of Minors' Affairs. Children of alcoholic or drug dependent parents can also be registered with the Inspectorates. This registration places a social stigma on both the children and parents, as drug and alcoholic parents, as well as, children who have spent time in special schools are negatively viewed by society. The special school is officially for children who have committed misdemeanours. Therefore, remanding children who are there for reasons other than attending school essentially, gives these children the reputation of being criminals. According to UNICEF, out of 399 families registered with the Inspectorates, 359 have a monthly income below the extreme line of poverty (about US\$11 per person per month in 2001).⁸⁶ Therefore, registration with the Inspectorates, in addition to the already marginalized social status of these people, creates further hardship.

The police conduct special investigations to find children who are working, living in the streets, or not attending school. These children are placed in "Centres for Adaptation and Rehabilitation of Children" (there are two such centres in the country, in Bishkek and Osh). They are in actuality police centres with conditions similar to pre-trial detention centres for adults. Children can be kept there for as long as 30 days, and at times the Commissions on Minor's Affairs can prolong their term for another 15 days. Again, the Commissions on minors' Affairs, an arm of the executive branch, has the power to *de facto* restrict the liberty of minors without any control by the judiciary.

In one case defence lawyers of YHRG tried to complain about a decision to place a child in a Centre for Adaptation and Rehabilitation. The local district court refused to accept the complaint, and directed the lawyer to Bishkek city court (usually acting as the court of the second instance). The Bishkek city court also refused to consider the complaint. Only after a request for a court's answer in written form was a defence lawyer given a document stating that the district court (where the complaint was initially presented and refused) should consider the case. All of these procedures lasted about 7 days; the child's right to be heard immediately by the judge was violated. There is no judicial control over such institutions and no actual ability to go to court if the child or the parents request it.

There are no facilities for the physical and psychological recovery and social reintegration of juvenile offenders.

Recommendations

- Revise the justice system dealing with cases involving minors and undertake a range of actions including amendments to the legislation, development of practices, training for personnel to take children out of general justice system and create a separate juvenile justice system;
- Create separate juvenile or family courts or adopt a specialization of judges within the regular courts;
- Re-structure the Commissions on Minors Affairs' in a body that would provide support for children and families in need, removing all punitive functions from the commissions' mandate.
- Immediately transfer to the courts the competence of sending children to special correctional schools and to centers of rehabilitation and adaptation of minors;
- Reform special correctional schools into open and semi-open institutions to function in accordance with international standards;
- Ensure the respect for basic rights immediately after the arrest and to right to habeas corpus in relation to children who are put in Center for Rehabilitation and Adaptation of Children and to special schools;

- Amend the legislation to ensure that the decision on pre-trial detention is made by a judge and not a prosecutor;
- Ensure that pre-trial detention is used only in exceptional cases:
 - › the gravity of crime a child is accused of cannot be the only reason for applying pre-trial detention;
 - › other measures should be considered first and the reasoning why they can/cannot be applied is described in written form by the investigator, prosecutor and judge;
- Ensure access to a lawyer at all stages and eliminate all obstacles in regulations and practice when a defense lawyer's actions depends on the decision of an investigator;
- Urgently improve conditions in pre-trial detention, including Temporary Detention Facilities (IVS) of the Ministry of Interior; ensure that the terms of pre-trial detention are respected, are as short as possible, and that children are separated from adults at all stages.

Before the separate juvenile or family courts are created:

- Ensure efficient, regular monitoring of implementation of recommendations⁸⁷ in relation to the examination of cases involving minors by the Supreme Court and local courts;
- Adopt necessary changes to the criminal procedure code to ensure that representatives of the child (parents, pedagogue) can be present during any interrogation of a minor independently of his/her status (as witness, accused, victim);
- Urgently revise the list of possible punishments applied to minors and introduce other possibilities of punishment (except the deprivation of liberty) in relation to children aged 14 and 15 years old;
- Exclude "arrest" (short term detention) as a punishment that may be applied to minors. Or, change the substance of "arrest" and ensure that the basic rights such as contact to outside world are respected;
- Revise the criminal legislation and humanize it; urgently shorten the term of imprisonment for minors, especially in case of theft and car theft;
- Ensure the respect of the principles of fair trial aiming for reasonable time and of finality of court decisions;
- Ensure the respect of Criminal procedural legislation, and abolish practices of taking explanatory notes (ob'iasnitelnaia) before the first interrogation;
- Change the court room environment, including not placing accused children in a cage during court hearings.
- Ensure the access of children to quality translation services at all stages of examination of a case if needed.

In relation to justice system as whole in Kyrgyz Republic:

- Revise the process for screening judicial candidates. The methodology should be enshrined in law and not provided by presidential decree or regulations. The testing should be written, with blind grading and provided on an annual (not ad hoc) basis.⁸⁸ The CRC should be included in the tests.
- While some procedural means of re-opening cases need to be maintained to correct a miscarriage of justice (e.g. on the discovery of exculpatory evidence), the Kyrgyz Republic should abolish the special form of appealing closed cases and instead should more carefully supervise the work of lower level prosecutors.⁸⁹
- The practice of additional investigation (dosledovanie) should be abolished as it violates the principle of presumption of innocence;
- Encourage public control over all places of restriction/deprivation of liberty and efficient complaint mechanisms.

MINORITIES

In some areas of the country - ethnic minorities as Uzbeks, Tajiks, Russians, and Uighur community face problems due to the political influence of China on Kyrgyz authorities.

According to the study conducted by Soros-Kyrgyz Republic Foundation, most of the representatives of ethnic groups in the Kyrgyz Republic would like to provide their children with education in their mother tongue. In the country the problem of language is complicated due to the fact that many representatives of different ethnic groups do not know the state (Kyrgyz) language. Only 14% of interviewed said that their children speak Kyrgyz, 40% speak Russian, and 25% speak Uzbek. There is an interest by these people to learn Kyrgyz, Uzbek and Russian languages.⁹⁰

The Russian language is an official language according to the Constitution. But State policy is leaning more and more toward replacing the Russian language with Kyrgyz. On April 2, 2004 a law stipulating that all

state officials must speak Kyrgyz was adopted. This rising support for the adoption of a mono-language political environment raises very serious concern amongst Russians and other Russian-speaking minorities. The state has not engaged in positive measures (such as offering free Kyrgyz language classes) to promote the national adoption of the Kyrgyz language. The government leans more toward a formal adoption of the Kyrgyz language without providing sufficient support for minorities to continue to include them in society.

There are minor disputes between Uzbeks and Kyrgyz in the south of the republic. The Uzbek situation is complicated, as they have been promised aid from the Uzbek government (e.g. school manuals). However, the educational system in the two countries is completely different. For example, Uzbekistan now uses the Latin alphabet; ethnic Uzbeks in Kyrgyz Republic continue to use Cyrillic letters. The Kyrgyz Republic does not publish manuals or textbooks in the Uzbek language. In June 2003, Uzbek leaders in Jalalabat (a province along the Kyrgyz-Uzbek border) adopted an eleven-point programme that calls for the government to guarantee their basic rights. Five points concern cultural issues, including the call to provide Uzbek-language textbooks in Cyrillic alphabet as well as to provide more Uzbek-language television programmes. In general, the Oxford Analytica East Europe Daily on November 4, 2003 stated that the relations between the two main ethnic groups (Kyrgyz and Uzbeks) in southern Kyrgyz Republic are being shaped to a considerable extent by the policies of Bishkek and Tashkent.

Recommendation:

- Ensure the respect of the children belonging to different ethnic groups to get education in their native language and publish educational materials on different languages used in schools.

¹ Five people were killed during the demonstration and one person died later from the injuries. Different reports of international organizations describe it as either “six people were killed” or “at least five people were killed.”

² Human Rights Watch, report on Kyrgyzstan, 2003.

³ See, among others, ABA/CEELI Judicial Reform Index for Kyrgyz Republic, June 2003.

⁴ On April 24, 2004 Chingiz Sydykov, the 21-year-old son of Zamira Sydykova, a former political prisoner and Respublica’s editor-in-chief, was attacked. On January 27, 2002 two unidentified assailants attacked Aleksandra Chernik, a journalist and the daughter of Rina Prizhivoit, chief political editor of the Bishkek-based newspaper, Moya Stolitsa.

⁵ Ernis Nazarov, a journalist, was found dead on September 15, 2003 in the southern state of Osh.

⁶ In the previous version of the Constitution, Article 12 (3) stated that: “Ratified by the Kyrgyz Republic interstate treaties and other norms of the international law are a component of and directly applicable part of the legislation of the Kyrgyz Republic.” The new version of the Constitution (after the referendum of 2003) states that: “Entered into force following legal norms, international treaties and agreement in which the Kyrgyz Republic participates, and also generally recognized principles and norms of international law are a component part of the legislation of the Kyrgyz Republic.”

⁷ The official name in Russian is “Postanovlenie Plenuma Verhovnogo Suda Kyrgyzskoi Respubliki ot 2.04.2003 # 6 “O sudebnoi praktike po delam o prestupleniakh nesovershennoletnih.”

⁸ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules).

⁹ According to Regulation # 213, of April 8, 2002, in February 2002 a National Council on the Affairs of Women, Family and Gender Development was created instead. The Council moved to the government house and according to different NGOs is not any more accessible to them and does not cooperate with civil society.

¹⁰ See Youth Human Rights Group, “Human Rights in the activities of the Commissions on Minors Affairs,” 2004.

¹¹ See UNICEF, “The Problems of Child Protection and Care in the Kyrgyz Republic: A Research Study,” Bishkek 2002, page 95.

¹² See *Ibid.* page 96.

¹³ Letter from the Penitentiary Department (Glavnoe upravlenie ispolnenia nakazanii) of the Ministry of Justice, # 10/2-1103 of April 5, 2004

¹⁴ The official name in Russian is “Specialnaia shkola dlia detei, nuzhdaushihsia v osobykh usloviakh vospitania.”

¹⁵ In its Concluding Observations, the CRC Committee raised concerns about Decisions No. 263 of May 2, 1997 and No. 150 of April 8, 1996, relating to disability assistance paid to families for disabled children who are up to 16 years old. These two Decisions were abolished, but the new Decision of May 15, 1998 amended numerous times (the last time on April 17, 2003) still provides for the assistance of families with children with disabilities only up to 16 years of age.

¹⁶ See Mental Disability Advocacy Center (Budapest), “Mental Health Law of the Kyrgyz Republic and its Implementation”, 2004.

¹⁷ Damages equal to three times the actual damage.

¹⁸ See Youth Human Rights Group, “Human Rights in the activities of the Commissions on Minors’ Affairs”, 2004.

¹⁹ Russ L, Kleinbach in the research defines Bride kidnapping (*ala kachuu*) as the act of abducting a woman to marry her and includes actions ranging from consensual marriage to kidnapping, rape and forced marriage. Russ L, Kleinbach, Ph.D, “Frequency of Non-Consensual Bride Kidnapping in the Kyrgyz Republic,” International Journal of Central Asian Studies, Vol. 8, 2003.

²⁰ *Ibid.*

²¹ See UNICEF, “The Problems of Child Protection and Care in Kyrgyz Republic: A Research Study,” Bishkek 2002, page 93.

²² For additional information, see Youth Human Rights Group, “Human Rights in the activities of the Commissions on Minors’ Affairs,” 2004.

²³ Data from the research conducted by NGO “Aige” in the juvenile prison, 2003

²⁵ The Law of the Kyrgyz Republic “On Psychiatric Care and Guaranteeing the Rights of Persons Receiving Such Care,” 1999.

²⁶ In Russian: Specialnaia shkola dlia detei, nuzhdaushihsia v osobykh usloviakh vospitania

²⁷ Child care practitioners give an unofficial estimation of the number of children without registration (7,000), based on different pilot studies and everyday work with disadvantaged families.

²⁸ YHRG interviews with teachers in Osh province, March 2004.

²⁹ The official name of the document in Russian is “protocol obnaruzhenia i iz’iatiia.”

³⁰ For example, the number of cases prosecuted for sexual crimes against minors was requested by YHRG to be sent to the Special Rapporteur on the Sale of Children, Child Pornography and Child Prostitution. This information was refused, and it is absolutely unclear why such data should be classified a “state secret.”

³¹ The newspapers, “Kun Chubak”, “Jetkinchek”, “Chabakalei door,” the magazine “Baichechekei”, and the newspaper “Ai-Cholpon,” which is published in Osh province (south of the Kyrgyz Republic).

³² “Karamelka” and “Piramidka” are published in Bishkek.

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- ³³ Ai-Danek newspaper.
- ³⁴ Research conducted in 2002 by the NGO “Aigle” and the YHRG.
- ³⁵ In Russian it is: “Isoliatory vremennogo sodержania – IVS.”
- ³⁶ Information from the practice of the Legal Aid Center of the Youth Human Rights Group and from defense lawyers.
- ³⁷ Data from monitoring by the NGO Spravedlivost conducted in 2002.
- ³⁸ See Spravedlivost (Jalalabat Regional Human Rights Organization), “Human Rights in the IVS – Temporary detention facilities,” 2002.
- ³⁹ See Mental Disability Advocacy Center (Budapest), “Mental Health Law of the Kyrgyz Republic and its Implementation,” 2004.
- ⁴⁰ The Law of the Kyrgyz Republic “On Psychiatric Care and Guaranteeing the Rights of Persons Receiving Such Care,” 1999.
- ⁴¹ YHRG & Foundation of Legal Education (Jalalabat), “Monitoring Human Rights in orphanages and boarding schools for abandoned children in the Kyrgyz Republic,” Bishkek, 2003.
- ⁴² *Ibid.*
- ⁴³ See UNICEF, “The Problems of Child Protection and Care in Kyrgyz Republic: A Research Study,” Bishkek 2002, page 93.
- ⁴⁴ Calculated from the lowest (minimum) poverty line estimates.
- ⁴⁵ “Out of 1250 children living in all (9) orphanages and boarding schools for abandoned children no more than 25% were orphans.” YHRG & Foundation of Legal Education (Jalalabat) “Monitoring Human Rights in orphanages and boarding schools for abandoned children in the Kyrgyz Republic”, Bishkek, 2003.
- ⁴⁶ International Organization for Migration, “Trafficking in women and children from the Kyrgyz Republic”, capacity building in migration management programme, November 2000.
- ⁴⁷ Criminal Code (article 124) prohibits human trafficking. On April 15, 2003 (Law # 74) Kyrgyz Republic ratified the United Nations Convention against Transnational Organised Crime and the Additional Protocol on Human Trafficking and Additional Protocol on Illicit Traffic in Migrants. The program of measures to combat illicit human trafficking in the Kyrgyz Republic for 2002-2005 was adopted by Presidential Decree #94 on April, 21, 2002. The National Council under the President was established at the same time.
- ⁴⁸ For example, according to research by the Regional Human Rights Organization, “Spravedlivost,” such cases are common practice in Jalalabat province.
- ⁴⁹ See UNICEF, “The Problems of Child Protection and Care in Kyrgyz Republic. A Research Study,” Bishkek 2002, pages 193, 194, 215.
- ⁵⁰ Zakon O socialno-pravovoi zashite ot nasilia v sem’e, entered into force on April 4, 2003
- ⁵¹ See YHRG, “Human Rights in the activities of the Commissions on Minors’ Affairs,” 2004. In none of the visited Commissions was ANY case of appeal by a child reported.
- ⁵² See “Oasis” Foundation, “Monitoring of the situation of the sexual minorities in the penitentiary institutions of the Kyrgyz Republic,” 2003.
- ⁵³ Interviews conducted by YHRG and the Kyrgyz Republic Ombudsman office, in February 2004.
- ⁵⁴ See ILO/IPEC, Child Labour in the Kyrgyz Republic, 2001, page 26.
- ⁵⁵ NGO “Shoola-Kol”, Right to Education of Children with Disabilities, Bokonbaevo, 2003.
- ⁵⁶ For example, in the town of Balykchi, the department of social assistance registered 205 children with disabilities, and the health department, 153 cases; in Karakol city, the department of social assistance reported 181 cases and the health department, 122 children.
- ⁵⁷ See Mental Disability Advocacy Center (Budapest), “Mental Health Law of the Kyrgyz Republic and its Implementation,” 2004.
- ⁵⁸ Radio Free Europe/Radio Liberty, Newsline vol. 8, # 87, May 10, 2004 quoting the Health Ministry
- ⁵⁹ See ILO/IPEC, Child Labour in the Kyrgyz Republic, 2001.
- ⁶⁰ Data from OSCE Center press release in Bishkek.
- ⁶¹ See Bureau on Human Rights and Rule of Law, Information related to the Second Periodic Report on CEDAW, 2003.
- ⁶² *Ibid.*
- ⁶³ See Center for the Protection of Children, “The situation of street children and their families in the Kyrgyz Republic,” August 2002.
- ⁶⁴ The 1,439 children surveyed consisted of 105 children in 1998, 563 in 1999, 356 in 2000 and 395 in 2001.
- ⁶⁵ Textbooks have been published by the Institute for Regional Studies, International Foundation for Election Systems, Street Law. The published International Committee of the Red Cross textbook mostly covers humanitarian law.
- ⁶⁶ Some schools use the manuals developed by YHRG for 7-9 years olds and 12-14 year olds in the curriculum or the training materials produced in other countries. The number of such schools is limited.
- ⁶⁷ ILO/IPEC, Child Labour in the Kyrgyz Republic, 2001, page 40.
- ⁶⁸ The Save the Children study showed that among family reasons for not attending schools, 26% is due to lack of shoes and clothes, 20% for lack of stationery, and 20% are unable to pay for school fee. About 60% of families in the studied area live in such dire poverty that they cannot afford to pay even the minimal school fees of 10-50 soms (up to US\$1). Among the school-related reasons, 62% were due to lack of heating in the schools, 11% due to humiliation by classmates, and 8% due to difficult and uninteresting school curricula.

⁶⁹ ILO/IPEC, *Child Labour in the Kyrgyz Republic*, 2001, page 8.

⁷⁰ About 693 working children were interviewed.

⁷¹ Center for the Protection of Children, "The situation of street children and their families in the Kyrgyz Republic," August 2002.

⁷² For example, according to 1999 official data, 575 working children are reported throughout the country. According to the working group on human resources report, the number of children living and working on the streets ranged from 5,000 to 7,000. ILO/IPEC, *Child Labour in the Kyrgyz Republic*, 2001, page 5.

⁷³ See ILO/IPEC, *Child Labour in the Kyrgyz Republic*, 2001.

⁷⁴ IRIN, *The Kyrgyz Republic: Focus on Child Labour*, October 2003.

⁷⁵ See ILO/IPEC, *Child Labour in the Kyrgyz Republic*, 2001.

⁷⁶ In some cases human rights organizations receive complaints from parents (in 2003, the Youth Human Rights Group received 2 such complaints), they address the Ministry of Education and the ministry takes steps to end the use of forced labour in that particular school, but it does not address the overall problem.

⁷⁷ See NGO "Mental Health and Society" & Youth Human Rights Group monitoring on different aspects of human rights in psychiatric hospitals in 2001 (Living Conditions), 2002 (Access to Information), 2003 (Involuntary Placement); and Mental Disability Advocacy Center (Budapest), "Mental Health Law of the Kyrgyz Republic and its Implementation," 2004.

⁷⁸ In Russian: Respublikanskii tseñtr narkologii

⁷⁹ Instructia o poriadke formirovania "grupp riska" v obrazovatelnyh uchrezhdeniah Kyrgyzskoi Respubliki, adopted by Decree of Ministry of Health and Ministry of Education #468/662/1 of November 15, 2002

⁸⁰ See ILO/IPEC, *Child Labour in the Kyrgyz Republic*, 2001.

⁸¹ Ulugbek Babakulov et al, Institute for War and Peace Reporting, *Lost children of Central Asia*, January 19, 2004.

⁸² IOM, "Trafficking in women and children from the Kyrgyz Republic," capacity building in migration management programme, November 2000.

⁸³ IWPR's interview with Vladimir Tiupin of Oasis foundation

⁸⁴ See ABA/CEELI, *Judicial Reform Index for Kyrgyz Republic*, June 2003.

⁸⁵ Letter by the Judicial Department, signed by deputy director Masybaev, in response to a request by YHRG.

⁸⁶ See UNICEF, "The Problems of Child Protection and Care in Kyrgyz Republic. A Research Study," Bishkek 2002.

⁸⁷ In Russian, "Postanovlenie Plenuma Verhovnogo Suda Kyrgyzskoi Respubliki ot 2.04.2003 # 6 O sudebnoi praktike po delam o prestupleniah nesovershennoletnih"

⁸⁸ This recommendation was given by ABA/CEELI in *Judicial Reform Index for Kyrgyz Republic*, June 2003, page 8

⁸⁹ *Ibid.* page 14.

⁹⁰ Soros-Kyrgyz Republic Foundation. Conclusions of the results of the operational project "Defining approaches to the raising activism and civic position of ethnic groups in the framework of common development of Kyrgyz Republic," Bishkek, 2002.

⁹¹ Soros-Kyrgyz Republic Foundation. Conclusions of the results of the operational project "Defining approaches to the raising activism and civic position of ethnic groups in the framework of common development of Kyrgyz Republic," Bishkek, 2002.