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## **Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1**

### **Kyrgyzstan\***

The present report is a summary of 15 stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

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\* The present document was not edited before being sent to United Nations translation services.

## **I. Background and framework**

### **A. Scope of international obligations**

1. World Coalition against the Death Penalty (WCADP) and Amnesty International (AI) urged Kyrgyzstan to ratify the Second Optional Protocol to International Covenant on Civil and Political Rights (ICCPR-OP2).<sup>2</sup> Joint Submission 5 (JS5) urged Kyrgyzstan to ratify the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol at the earliest opportunity.<sup>3</sup> AI recommended the ratification all outstanding human rights treaties, particularly the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP2) aiming at the abolition of the death penalty and the International Convention for the Protection of All Persons from Enforced Disappearance (CED).<sup>4</sup> AI also recommended the ratification of the Rome Statute of the International Criminal Court and the enactment of implementing legislation.<sup>5</sup>

### **B. Institutional and human rights infrastructure**

2. AI noted that Kyrgyzstan had cooperated and consulted with civil society and international organizations in its establishment of a national preventive mechanism to carry out independent and unannounced visits to all places where persons may be deprived of their liberty.<sup>6</sup> Joint Submission 4 (JS4) noted that despite the ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT), the access of the independent monitors to the detention locations in Kyrgyzstan was rare, sporadic and at full discretion of the law-enforcement bodies. JS4 further noted that in October 2009, a new body of civil oversight over law-enforcement was established. It remained to be seen whether this body would be allowed to operate effectively and have access to all detention facilities.<sup>7</sup> JS4 recommended ensuring effective monitoring of detentions; establishing an effective mechanism for monitoring prison and detention centres, including investigation cells of the Committee for National Security and temporary detention facilities of the Ministry of Internal Affairs; and establishing an effective national preventive mechanism under OP-CAT.<sup>8</sup>

3. AI noted that public monitoring commissions have been established under the authority of the Ministry of Internal Affairs to encourage civilian oversight of the police.<sup>9</sup>

4. Joint Submission 2 (JS2) recommended that the activities of the Commission on children's affairs, regarding decisions on the placement of children under 14 years of age in the Belovodsk special school for male juvenile offenders, be regulated at the legislative level and comply with the United Nations Minimum Standards on the Administration of Juvenile Justice.<sup>10</sup>

5. JS2 recommended setting up a national agency supervising implementation of legislation on access to information (a National Commissioner on access to information) in accordance with the Paris Principles.<sup>11</sup>

6. Human Rights Watch (HRW) recommended reinstating the Secretariat of the National Council on Women, Family, and Gender Development or establishing another governmental coordination body or agency dealing with gender issues, including domestic violence, and giving it adequate authority, mandate and resources to ensure the enforcement of relevant laws.<sup>12</sup>

## **II. Promotion and protection of human rights on the ground**

### **A. Cooperation with human rights mechanisms**

#### **Cooperation with special procedures**

7. JS2 recommended issuing an open invitation to all Special Procedures.<sup>13</sup>

### **B. Implementation of international human rights obligations**

#### **1. Equality and non-discrimination**

8. Joint Submission 1 (JS1) recommended that Kyrgyzstan take all necessary measures to challenge social norms that discriminate women; raising awareness and implementing existing legal norms.<sup>14</sup>

9. JS2 recommended the fulfilment of the MDG goals and the recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW) as a benchmark in prioritizing gender policies; prohibiting the promotion of discriminating traditional and religious views in the mass media; and holding wide-scale information campaigns aimed at overcoming gender stereotypes.<sup>15</sup>

10. HRW noted that lesbian women experience discrimination as a result of their sexual orientation or gender identity, including in the form of violent physical assaults.<sup>16</sup> It also noted that lesbians, bi-sexual women, and transgender men face violence, rape, psychological abuse, confinement and stigmatization. HRW recommended that Kyrgyzstan publicly reaffirm that all people have the right to live free from discrimination and violence based on their sexual identity, and that any acts to the contrary are illegal and will be prosecuted.<sup>17</sup>

11. JS1 noted that despite the decriminalization of sex between men in 1998, police continued to detain and harass gay men. JS1 recommended that Kyrgyzstan take all necessary measures to prevent and provide protection from all forms of violence and harassment related to sexual orientation and gender identity.<sup>18</sup>

12. JS1 noted the existence of early arranged and non-consensual marriages including polygamy.<sup>19</sup> JS1 recommended state programmes to raise awareness about the impact of early marriages, forced marriages and polygamy on families, women's health and society in general.<sup>20</sup>

13. JS5 noted that Kyrgyz law does not contain any provisions to protect from discrimination people who use or are dependent on drugs. According to JS5, people who use drugs are prohibited from certain kinds of employment, in which mandatory drug testing is imposed as part of the recruitment process.<sup>21</sup>

#### **2. Right to life, liberty and security of the person**

14. WCADP noted that Kyrgyzstan had not carried out any executions since 1998. The death penalty was abolished in the Penal Code in June 2007.<sup>22</sup> AI recalled that in 2007, President signed a new law replacing the death penalty with life imprisonment.<sup>23</sup> Kyrgyzstan also showed its involvement against capital punishment by voting in favour of the 2007 and 2008 resolutions of the United Nations General Assembly for a moratorium on the use of the death penalty.<sup>24</sup> According to JS2, decision-making authorities in the Government have raised the question of reinstating capital punishment and on September 23, 2009 during a session of the Security Council of KR which examined measures against

religious extremism, some high-ranking officials stated they would support the return of capital punishment.<sup>25</sup>

15. JS1 noted that, in some ethnic minority communities and among ethnic Kyrgyz in rural areas, gender-selective abortion is practised, as male children are valued more than female children.<sup>26</sup>

16. Joint Submission 4 (JS4) noted that Kyrgyzstan criminalized torture in 2003. JS4 also noted that torture was classified as a “minor crime” under the law with punishment not corresponding to the gravity of the offence.<sup>27</sup> JS4 made reference to reports received since March 2007 from victims and their relatives of more than 200 cases of torture and cruel treatment, 92 per cent of them allegedly committed by the police.<sup>28</sup> Joint Submission 3 (JS3) stated that torture had also been applied to persons who had some mental disabilities.<sup>29</sup>

17. AI noted that torture and other ill-treatment remained widespread and is practised with impunity. According to AI, beatings by law enforcement officers appear to continue to be routine. According to AI, human rights defenders have also reported deaths in custody as a result of torture.<sup>30</sup> AI recommended that the State condemn the use of torture and other ill-treatment and ensure prompt, impartial and comprehensive investigations of all complaints of torture or cruel, inhuman or degrading treatment or punishment of any person subjected to any form of arrest, detention or imprisonment, as well as when there are reasonable grounds to believe that torture or ill-treatment has occurred even if no complaint was made.<sup>31</sup> Front Line (FL) called upon the Government to ensure that all human rights defenders in Kyrgyzstan are free to carry out their legitimate human rights activities without fear of reprisals or restrictions.<sup>32</sup> FL also called upon Kyrgyzstan to guarantee the physical and psychological integrity of all human rights defenders in prisons and ensure that they are not tortured or ill-treated.<sup>33</sup>

18. JS1 noted the lack of implementation of the legislation related to gender equality and domestic violence.<sup>34</sup> In this regard, JS5 noted the absence of national mechanisms to ensure follow-up; insufficient resources allocated for implementation; insufficient and inconsistent statistics; poor knowledge and training of law enforcement bodies on domestic violence; and the frequent failure to enforce protective orders by the judiciary or the police.<sup>35</sup>

19. JS5 noted that domestic violence is under-reported because of a culture of silence and the failure of officials and society to acknowledge its gravity.<sup>36</sup> JS1 expressed concerns that women perceived violence from their spouses as their destiny and put up with the situation.<sup>37</sup> The Global Initiative to End All Corporal Punishment of Children (GIEACPC) noted a UNICEF study that 38 per cent of girls and women aged 15-49 believed that a husband or partner was justified in hitting or beating his wife under certain circumstances.<sup>38</sup>

20. JS1 noted that many families of lesbian, gay, bisexual and transgender people (LGBT) react with negativity, pressure and sometimes violence when they find out about their family member’s sexuality. Dozens of cases of domestic violence, including beating, humiliation, house arrest, restricted movement and curative rape against LGBTs had been documented.<sup>39</sup> JS1 noted reports of law enforcement bodies’ raiding LGBT organizations.<sup>40</sup>

21. According to JS1, sexual violence remains a taboo in Kyrgyzstan. Services for survivors of sexual abuse and violence are limited and information about them is not available publicly. There is no reliable data on the numbers of women and men who experienced sexual violence. Rape often occurs during “bride kidnapping”, when a young woman is brought to the house of her future husband and assumed to be his wife if she is not able to leave the house.<sup>41</sup> JS2 recommended harsher punishments for bride kidnapping and the provision of legal, health and social aid to victims of violence.<sup>42</sup> JS1 also recommended the investigation of cases of sexual violence; provision of training to law enforcement agencies, judges, medical specialists, social workers about addressing sexual

violence; and provision of assistance to victims and raising awareness among the general public about sexual violence.<sup>43</sup>

22. JS1 further noted that over half of the sex workers in the country do not have IDs and are constantly harassed by the police.<sup>44</sup> JS1 recommended simplifying the process of obtaining government-issued identity documents; involving sex workers in developing policies that affect their lives; investigating cases of police violence against sex workers; and duly punishing those responsible and ensuring that no further violence occurs.<sup>45</sup>

23. GIEACPC noted that corporal punishment of children was lawful in the home, in schools and in the penal system.<sup>46</sup> Corporal punishment was unlawful in residential institutions, but there was no explicit prohibition of corporal punishment in foster care and other alternative care settings.<sup>47</sup> GIEACPC recommended the urgent introduction of legislation prohibiting all corporal punishment of children in the family home and all other settings.<sup>48</sup>

24. JS2 noted that since the abolition of capital punishment several persons sentenced to life imprisonment were being housed in 2m x 3m unventilated basement cells. JS2 recommended reviewing life imprisonment cases and looking at humanizing the legislation in terms of lowering the term after which appeals for amnesty can be made and substituting life imprisonment with fixed term sentences.<sup>49</sup> JS5 also noted that the majority of people in custody must buy food or rely on parcels from family or friends outside as well as the substandard health care, manifested in such as inadequate access to medical equipment and medicines, hot water, bedding or pillows. Joint Submission 5 (JS5) expressed concerns that health care workers providing care to people in prisons are under the authority of the penitentiary administration, noting that this relationship with the penitentiary system can negatively affect their professional independence. JS5 recommended that responsibility for health care in the penitentiary system be transferred to the Ministry of Health.<sup>50</sup> JS5 further noted that in pre-trial detention facilities, access to health care workers was even more inadequate.<sup>51</sup>

25. According to JS2, female juveniles are being detained with adult female prisoners in institutions for convicted women.<sup>52</sup> JS2 recommended providing minimum standards of maintaining prisoners in compliance with the international obligations.<sup>53</sup> According to JS5, certain categories of prisoners, for instance prisoners with tuberculosis, venereal disease or HIV-infection, are prohibited from being transferred without an escort or from being temporarily outside prison without authorization. In addition, these prisoners are not allowed to take short-term leave from prison in emergency personal circumstances.<sup>54</sup> JS5 noted reports that about 35 per cent of prisoners use drugs while in prisons.<sup>55</sup> According to JS5, HIV, tuberculosis and viral hepatitis in prison are grave concerns.<sup>56</sup>

### **3. Administration of justice, including impunity and the rule of law**

26. AI stated that corruption in law enforcement and the judiciary was believed to significantly contribute to a climate of impunity.<sup>57</sup>

27. JS4 raised concerns about the lack of accountability for deaths in custody<sup>58</sup> and recommended preventing and duly investigating all cases of death in custody in accordance with international standards.<sup>59</sup>

28. According to JS4, although Kyrgyz law prohibits the use of evidence obtained under torture, in most cases courts in Kyrgyzstan do not comply with this requirement. The law also states that a confession alone cannot be the basis for criminal prosecution. However, the police often try to obtain a self-incriminating statement and/or a confession. The courts encourage this practice by giving undue weight to confessions when evaluating evidence.<sup>60</sup> Charges are generally brought not for torture, but for other crimes of less gravity, such as negligence. Kyrgyz law does not allow victims of torture to obtain redress from a civil

court until a criminal court has convicted the perpetrators of torture. JS4 also noted that, since the criminalization of torture in 2003, no victim of torture had received monetary compensation.<sup>61</sup> JS4 recommended that Kyrgyzstan establish an effective and independent mechanism for investigating complaints of torture in compliance with the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).<sup>62</sup>

29. AI recommended that Kyrgyzstan establish a fully resourced independent agency to investigate all allegations of human rights violations by officers of all law enforcement agencies or by persons acting on the orders, the knowledge or complicity, of such agencies. It also recommended that this agency has effective access to remand and court hearings, investigations and other relevant processes, and is mandated to carry out detailed reviews of past investigations.<sup>63</sup>

30. JS2 noted that the majority of juvenile offenders were sentenced to jail upon reaching the age of 14.<sup>64</sup> JS2 recommended setting out alternative forms of punishment to the deprivation of liberty for juvenile offenders in the national legislation.<sup>65</sup>

#### **4. Right to privacy, marriage and family life (adjust the title, if relevant)**

31. JS5 noted that under the current law, disclosing medical secrets without a patient's consent was allowed in certain circumstances, which exceed legitimate limitations on the right to privacy. JS5 recommended such exceptions be eliminated or narrowed.<sup>66</sup>

32. JS5 also noted that Kyrgyz law authorized police to request a person undergo drug testing involuntarily in various circumstances.<sup>67</sup> Furthermore, JS5 noted that, under Kyrgyz law, the names of persons using drugs and/or are dependent on them were included in a narcotics registry for between one to three years and that health care workers must share confidential information about patients receiving drug dependence treatment upon official request.<sup>68</sup>

33. JS2 noted that there was no effective and transparent management system of institutions for orphans and homeless children in Kyrgyzstan, and no private child adoption institutions.<sup>69</sup> JS2 further noted that the living conditions and treatment of children in state institutions did not comply with national legal standards: children suffered from malnutrition since there were insufficient funds for their food or it was spent inefficiently. There was also an acute lack of hygienic items, clothes and shoes.<sup>70</sup>

#### **5. Freedom of movement**

34. According to JS2, the existing burdensome provisions on registration prevent people who change their place of residence within the country from exercising their social rights. JS2 stated that it is impossible to receive pensions and social benefits and use social and health services outside the area where people are registered. It is also difficult for children to be enrolled in school. According to JS2, citizens changing their place of residence in the country are obliged to get temporary registration.<sup>71</sup>

#### **6. Freedom of religion or belief, expression, association and peaceful assembly and right to participate in public and political life**

35. According to the Institute on Religion and Public Policy (IRPP), Kyrgyzstan provides a legal foundation for the exercise of certain religious freedoms. Yet in practice, there is considerable harassment of religious groups by the Government, and religious groups are required to go through a lengthy registration process.<sup>72</sup> ECLJ noted that SARA (State Agency for Religious Affairs) regularly monitored religious services, taking photographs and asking questions.<sup>73</sup>

36. The European Centre for Law and Justice (ECLJ) noted that the Law on freedom of conscience and religious organizations”, which bans non-government sanctioned proselytizing, forbids Kyrgyz citizens to convert to a different faith. The Law makes it illegal to distribute religious literature outside places of worship and private religious schools.<sup>74</sup>

37. Forum18 noted that local authorities have routinely denied non-Muslims the possibility to be buried in a non-Muslim way.<sup>75</sup> According to Forum18, the authorities have compelled foreign missionaries to leave the country or have denied them permission to extend visas.<sup>76</sup> BF noted a newly proposed Law on Religious Education and Educational Institutions, which would create new restrictions on institutions that provide religious education.<sup>77</sup>

38. JC noted that the desire of the government to combat extremism had caused discrimination and persecution against Islamic groups, including the banned Islamist party Hizb-ut-Tahrir.<sup>78</sup> According to IRPP, in recent years, the Government’s concern at Islamist groups has grown, resulting in the banning of certain political groups and the persecution of members of those groups.<sup>79</sup> AI noted that a national programme of action to combat the “spread of religious extremism” was launched in January 2008 and appeared to be targeting members of the banned Islamist party Hizb-ut-Tahrir.<sup>80</sup> AI recommended that Kyrgyzstan ensure respect for the human rights of religious believers so that they are able to carry out their peaceful activities without harassment and threats of detention, imprisonment and other human rights violations; and guarantee the freedom of individuals or communities, in public or in private, to manifest religion or belief in teaching, practice, worship, and observance.<sup>81</sup>

39. According to JC, many attempts have been made to silence journalists seeking to create a public broadcaster other than the state run media.<sup>82</sup> AI noted that attacks were often carried out by unidentified or masked individuals who stab, beat or shoot the journalists, in some cases wounding them fatally. While the authorities have condemned these attacks and ordered investigations into them, they deny that the attacks were linked to the journalists’ professional activities.<sup>83</sup> HRW also noted that violence and harassment of journalists in Kyrgyzstan increased significantly in the run-up to the July 2009 presidential elections.<sup>84</sup>

40. JS2 noted that journalists were subject to criminal prosecution and in 2008 more than 50 court cases against the mass media and journalists were initiated.<sup>85</sup> According to JS2, in most cases (95 per cent), the mass media and journalists are pursued under the Protecting the Honor and Dignity of a Citizen and Business Reputation of a Legal Entity article of the Civil Code or prosecuted under articles of the Criminal Code of the KR for libel and slander.<sup>86</sup> JS2 recommended excluding the provision on prosecuting journalists for libel from the Criminal Code of the Kyrgyz Republic; and that the authorities speedily, efficiently and openly investigate cases of attacks on journalists.<sup>87</sup>

41. According to AI, in August 2008, the President signed new legislation that gives local authorities powers to refuse permission for demonstrations on an extensive number of grounds.<sup>88</sup> AI noted that, over the last four years, an increasing number of restrictions had been placed on the right to freedom of assembly, including by limiting the locations in the capital Bishkek where demonstrations may be held. Demonstrations organized by human rights defenders had been dispersed by police and state security officers. On those occasions, demonstrators had been detained, and in some instances reportedly experienced excessive use of force by the security forces. Dozens of protesters had been charged with and convicted of public order offences for organizing or participating in peaceful demonstrations.<sup>89</sup> According to FL, arbitrary detention of participants to peaceful gatherings is systematic. The repression of peaceful demonstrations has especially escalated during the presidential campaign in the summer of 2009.<sup>90</sup>

42. FL noted that authorities had banned several foreign human rights defenders working on human rights violations committed in Kyrgyzstan from entering the national territory.<sup>91</sup>

43. L expressed concern at the deterioration of the situation of human rights defenders. In June 2008, the amendments of the 2002 Law "On the Right of Citizens to Hold Peaceful Assemblies" restricted freedom of assembly by establishing a licensing regime for public assemblies. These amendments directly contradicted two rulings by the Constitutional Court.<sup>92</sup>

44. JS2 noted that in February 2009 the draft law on amending the Law on Non-Commercial Organizations that restricts the activities of NGOs was initiated by deputies of the Jogorku Kenesh (Parliament of the Kyrgyz Republic). The draft law grants the State authorities supervisory powers and also prohibits the participation of non-commercial organizations in political activity.<sup>93</sup>

45. JS2 recommended bringing the normative-legal base relating to elections into compliance with the international electoral standards; and that the Central Electoral Commission should ensure that the election process complies with the national legislation and accepted international obligations.<sup>94</sup>

46. JS2 stated that there was no mechanism to ensure real access to public information.<sup>95</sup> According to JS2, state bodies do not fulfill their obligations to publicize information relating to the public interest. For example, the official results of the referendum and the parliamentary elections of 2007, with data from district polling stations, were not published.<sup>96</sup> Moreover, there is no procedure to provide for public access to sessions of state bodies.<sup>97</sup>

47. JS2 noted that the representation of women at high levels of executive power was inadequate.<sup>98</sup>

## **7 Right to work and to just and favourable conditions of work**

48. According to JS5, the Government has approved mandatory HIV testing as a condition of employment by adopting a list that restricts people from working in certain trades or occupations based on HIV-positive status.<sup>99</sup> JS5 recommended amending the law "on HIV/AIDS" to prohibit mandatory HIV testing as an employment requirement.<sup>100</sup>

49. JS2 noted that the worst forms of child labour still exist, such as work in abandoned coal mines and on radioactive tailing dumps. According to JS2, minors work without masks, gloves and protective breathing apparatus.<sup>101</sup> JS2 recommended undertaking immediate measures to protect and isolate ore tailings dumps, deserted mines and radioactive waste tips from children, rehabilitate children involved in this work and provide social assistance to the families of these children.<sup>102</sup>

## **8. Right to social security and to an adequate standard of living**

50. HRW noted that Kyrgyzstan's low consumption of morphine and other opioid medicines as reported annually to the International Narcotics Control Board, indicated limited availability of medicine for pain treatment.<sup>103</sup> HRW recommended that the Government examine the reasons for inadequate consumption of opioid medicines for pain treatment and develop a plan of action to improve access to such medicine.<sup>104</sup>

51. According to JS5, free health care services and medications are provided only within the context of emergency medical care or under obligatory medical insurance. Furthermore, certain health care services are provided on the basis of co-payment by patient (e.g., drug dependence treatment), further limiting the economic availability of health care to poor and marginalised groups of people.<sup>105</sup>

52. JS1 noted that LGBT people were unlikely to address their health concerns fearing discrimination, disclosure and prejudice from the medical specialists.<sup>106</sup> JS1 recommended including most recent research and information about sexual orientation and gender identity in medical universities' curriculum; implementing training programmes to address medical and other health agent's prejudices against LGBT patients; and ensuring LGBT people's access to quality health services.<sup>107</sup>

53. JS1 noted that women who give birth outside of marriage feared being disowned by their families and would rather have an unsafe abortion than let their family know and ask for support.<sup>108</sup>

54. JS1 recommended investigating the situation of women's access to healthcare in the sphere of sexual and reproductive health; implementing strategies to promote access to sexual and reproductive health facilities and awareness-raising campaigns to increase adolescents and women's consultations; and working with religious and other communities.<sup>109</sup>

55. JS1 recommended inter alia training law enforcement bodies, medical specialists and civil registry clerks on gender identity issues to ensure access to quality services for transgender people.<sup>110</sup>

56. JS1 noted that voluntary counselling for persons living with HIV/AIDS and appropriate quality testing for HIV remained inaccessible.<sup>111</sup> JS5 recommended that the Ministry of Health act on this front based on the *International Guidelines on HIV/AIDS and Human Rights*, issued by the Office of the UN High Commissioner for Human Rights and UNAIDS.<sup>112</sup>

## 9. Right to education

57. JS2 noted that school curricula and textbooks did not reflect the cultural diversity of society<sup>113</sup>, and recommended the development of ethnic and religious tolerance by including the cultural diversity of Kyrgyzstan in educational programmes.<sup>114</sup>

## 10. Migrants, refugees and asylum-seekers

58. According to JS2, the number of recognized refugees among people seeking asylum in the country was less than 2 per cent in 2008. In 2009 only four people were granted refugee status, less than 1 per cent of total applicants.<sup>115</sup> JS2 also noted that people seeking asylum still disappeared and were extradited: the problem of refugees was solved by moving them out of Kyrgyzstan to other countries.<sup>116</sup>

59. AI noted that dozens refugees and asylum-seekers from a neighbouring country had been forcibly and secretly returned during the period under review. Refugees were not protected effectively and continued to be at risk of *refoulement* or abductions by the security services of the neighbouring country, sometimes in cooperation with their Kyrgyzstani counterparts. AI also noted reports that Kyrgyzstani security officers had detained asylum-seekers and sold them back to the border guards of that neighbouring country.<sup>117</sup> AI recommended respecting the principle of *non-refoulement* and its obligations under customary international law, the 1951 Refugee Convention, ICCPR and CAT to ensure that no one is expelled, returned or extradited to a country or territory, where they would be at risk of serious human rights violations. It also recommended full respect the right to seek asylum and ensure that all those seeking international protection in Kyrgyzstan, including in particular refugees and asylum-seekers from that neighbouring country, get access to fair and transparent asylum procedures, with the right of appeal, and that they are provided protection in accordance with the Refugee Convention, including access to durable solutions.<sup>118</sup>

60. According to JS5, foreign citizens and stateless persons are required to undergo an HIV test after their arrival, and are subject to administrative deportation from Kyrgyzstan in the case of refusing or failing to undergo testing despite the *International Guidelines on HIV/AIDS and Human Rights* explicitly recommending against mandatory HIV testing of foreigners.<sup>119</sup>

#### **11. Human rights and counter-terrorism**

61. AI noted that the fight against terrorism and other threats to national security was frequently referred to by the authorities as crucial to securing national and regional stability. However, acting in the interests of national security was the justification given for targeting minority groups and those with perceived links to terrorist organizations. According to AI, banned Islamic groups and Islamist parties, other religious minorities, and asylum-seekers from neighbouring countries are among those particularly targeted. AI noted reports that members or suspected members of banned Islamist parties, such as Hizb-ut-Tahrir, targeted in counter-terrorism operations, had been subjected to torture or other ill-treatment, arbitrary and incommunicado detention, as well as unfair trial. In, particular 32 people (including women and minors) accused in the context of the so-called “Nookat events” of being members of Hizb-ut-Tahrir were subject to these acts.<sup>120</sup> AI recommended that Kyrgyzstan ensure that all measures to protect national security are carried out in accordance with international human rights law, including the prohibition of arbitrary detention and torture or other ill-treatment.<sup>121</sup> HRW recommends reopening proceedings related to the “Nookat events” to investigate torture allegations, hold perpetrators accountable, and remove from evidence any testimony found to have been coerced under torture<sup>122</sup>.

### **III. Achievements, best practices, challenges and constraints**

62. As required under OP-CAT, Kyrgyzstan has cooperated and consulted with civil society and international organizations in the establishment of a national preventive mechanism to carry out independent and unannounced monitoring of all places of deprivation of liberty. Public monitoring commissions are also being set up under the Ministry of Internal Affairs to encourage civilian oversight of the police<sup>123</sup>.

### **IV. Key national priorities, initiatives and commitments**

N/A

### **V. Capacity-building and technical assistance**

N/A

## Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org). (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council).

*Civil society*

AI	Amnesty International*, London, United Kingdom;
Becket Fund	Becket Fund for Religious Society, Washington D. C., USA;
ECLJ	European Centre for Law and Justice, Strasbourg, France;
FL	Front Line, Dublin, Ireland;
Forum 18	Forum 18 News Service;
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London, United Kingdom;
HRW	Human Rights Watch*, New York, USA;
IRPP	Institute on Religion and Public Policy, Washington D. C., USA;
JC	Jubilee Campaign*, Surrey, United Kingdom;
JS1	Joint submission by LGBT Organisation Labrys, Kyrgyzstan and Sexual Rights Initiative;
JS2	Joint Submission by NGOs: “Youth human rights defense group” Public Foundation; “Kylym shamy” Human Rights Center; “Open position” Public Foundation; Media Representative Institute; “Coalition for democracy and civil society” Public Foundation; “Adilet” Legal Clinic; “Citizens against corruption” Public Foundation; Agency of Social technologies; NGO Network for Children; Center of Public Technologies; “Voice of Freedom” Public Foundation; Independent Human rights group; Association of Civil Society Support Centers; Bishkek, Kyrgyzstan;
JS3	Joint Submission by Human Rights Centre “Kylym Shamy,” Open Viewpoint Public Foundation, and Coalition for Democracy and Civil Society;
JS4	Joint Submission by Golos Svobody, Spravedlivost, Advocacy Centre on Human Rights;
JS5	Joint Submission by Canadian HIV/AIDS Legal Network, Public charitable Foundation “Brune,” Hungarian Civil Liberties Union, International Drug Policy Consortium, International Harm Reduction Association, New Zealand Drug Foundation, Transform Drug Policy Foundation, Brazilian Drug Policy Association “Psicotropicus”, Soros Foundation-Kyrgyzstan, Thai AIDS Treatment Action Group, and Viva Rio;
WCADP	World Coalition Against The Death Penalty, Chatillon, France.

<sup>2</sup> WCADP Para. 4. See also AI p. 6.

<sup>3</sup> JS5 Para. 33.

<sup>4</sup> AI p. 6.

<sup>5</sup> AI p. 6.

<sup>6</sup> AI p. 5.

<sup>7</sup> JS4 p. 3.

<sup>8</sup> JS4 p. 5.

<sup>9</sup> AI p. 5.

<sup>10</sup> JS2 Para. 9.4. Original wording from the source was “Juvenile delinquents”.

<sup>11</sup> JS2 Para. 1.3.

<sup>12</sup> HRW p. 6.

<sup>13</sup> JS2 Para. 11.4.

<sup>14</sup> JS1 para. 4.

<sup>15</sup> JS2 Para. 10.1, Paras. 10.3-10.4.

<sup>16</sup> HRW p. 4.

<sup>17</sup> HRW p. 6.

<sup>18</sup> JS1 Para. 13.

<sup>19</sup> JS1 Para. 1.

<sup>20</sup> JS1 Para. 23. See also JS2 Para. 41.

<sup>21</sup> JS5 Para. 20.

<sup>22</sup> WCADP Para. 1.

- 23 AI p. 6.  
24 WCADP Para. 2.  
25 JS2 Para. 47.  
26 JS1 Para. 6.  
27 JS4 p. 2.  
28 JS4 p. 2.  
29 JS3 Para. 20.  
30 AI p. 3. See also JS4 p. 1.  
31 AI p. 6.  
32 AI p.6.  
33 FL p. 3.  
34 JS1 Para.1.  
35 JS5 Para. 32. See also HRW pp. 3-4 and 6, JS5 Para. 32.  
36 JS5 Para. 32.  
37 JS1 Para. 5.  
38 GIEACPC para. 1.2.  
39 JS1 para. 9, and paras. 14-16.  
40 JS1 para. 12, see submission for cases cited.  
41 JS1 para. 26. See also JC p. 3.  
42 JS2 para. 10.2.  
43 JS1 para. 27.  
44 JS1 para. 24.  
45 JS1 para. 25.  
46 GIEACPC paras.1.1 and 1.3.  
47 GIEACPC para. 1.4.  
48 GIEACPC p. 1.  
49 JS2 para. 11.2.  
50 JS5, para 25.  
51 JS5 para. 24. See also JS2 paras.43 and 45.  
52 JS2 para. 44.  
53 JS2 para. 11.1.  
54 JS5 para. 27.  
55 JS5 para. 22.  
56 JS5 para. 23.  
57 AI p. 3.  
58 JS4 p. 3.  
59 JS4 p. 5.  
60 JS4 p. 4.  
61 JS4 pp. 1 and 3.  
62 JS4 pp. 1-4. See also JS2 para. 22, AI pp. 3 and 6, HRW p. 5.  
63 AI p. 6. See also JS4 p. 1 and JS2 Para. 6.1.  
64 JS2 para. 37.  
65 JS2 para. 9.5.  
66 JS5 para. 8.  
67 JS5 para. 16.  
68 JS5 para. 17.  
69 JS2 para. 33.  
70 JS2 para. 3.5. See also JS2 para. 9.2.  
71 JS2 paras.13-14.  
72 IRPP para. 1. See also Forum18 para 3 and HRW p. 4.  
73 ECLJ p. 5 and Forum18.  
74 ECLJ p. 3 See also BF, para. 2.4, See also Forum18.  
75 Forum18 paras.18-19.  
76 Forum18 para. 17.  
77 BF para. 2.6. See also Forum18 paras.14–15.  
78 JC p. 1.

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- 79 IRPP para. 1.  
80 AI p. 5.  
81 AI p. 7 and BF.  
82 JC p. 2.  
83 AI p. 4. See also JS2 para. 7.  
84 HRW p. 2.  
85 JS2 para. 8.  
86 JS2 para. 9.  
87 JS2 paras.2.1-2.2.  
88 AI p. 3.  
89 AI p. 3. See also JS2 para. 12.  
90 FL p. 2.  
91 FL p. 1.  
92 JC p. 2.  
93 JS2 para. 4.  
94 JS2 paras.5.1-5.2.  
95 JS2 para. 1.  
96 JS2 para. 4.  
97 JS2 para. 6.  
98 JS2 para. 39.  
99 JS5 para. 10.  
100 JS5 para. 11.  
101 JS2 para. 38.  
102 JS2 para. 9.6.  
103 HRW pp.4-5.  
104 HRW p. 6.  
105 JS5 para. 4.  
106 JS1 para. 19.  
107 JS1 para. 20.  
108 JS1 para. 7.  
109 JS1 para. 8.  
110 JS1 para. 18.  
111 JS1 para. 28.  
112 JS5 para. 5.  
113 JS2 para. 25.  
114 JS2 para. 7.2.  
115 JS2 para. 29.  
116 JS2 paras.30 and 32.  
117 AI p. 5.  
118 AI p. 7. See also JS2 para. 8.2.  
119 JS5 para. 9.  
120 AI p. 4.  
121 AI p. 6.  
122 HRW, p. 5.  
123 AI, p. 5.
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