



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women

### Inquiry concerning Kyrgyzstan under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

#### Follow-up report submitted by Kyrgyzstan\*

#### I. Introduction

1. The sources allege that Kyrgyzstan has committed grave and systematic violations of rights under the Convention owing to its failure to prevent, protect and assist victims, as well as to prosecute and adequately punish perpetrators, of bride kidnapping in the State party.
2. Kyrgyzstan has some of the best statistics on domestic violence among the countries in the Commonwealth of Independent States.
3. Kyrgyzstan acceded to the Convention on 10 February 1997 and to the Optional Protocol on 22 July 2002.
4. In 2017, the Government supplied information additional to that provided earlier for 2013–2016.
5. Updated information for the period 2017–2019 is provided below.

#### Legal and institutional framework

6. The Ministry of Labour and Social Development has drawn up a national plan of action for achieving gender equality in the Kyrgyz Republic for the period 2018–2020, approved by Government Decision No. 537 of 19 November 2018.
7. In the course of implementing the plan, the Ministry of Labour and Social Development put in place:
  - Government Order No. 485 of 20 October 2017, establishing an interdepartmental working group to prepare draft laws and regulations to implement the Protection and Defence against Domestic Violence Act, which was approved by Government Decision No. 390 of 1 August 2019 on the procedure for the protecting and defending against domestic family violence (which establishes the procedure

\* The present document is being issued without formal editing.



for cooperation among State bodies for detecting domestic violence and providing timely and comprehensive assistance to its victims; and an intervention programme to change the violent behaviour of perpetrators of domestic violence).

- An international annual campaign entitled “16 days of activism against gender violence”. The global campaign begins on 25 November and ends on 10 December. The International Day for the Elimination of Violence against Women is celebrated on 25 November, and International Human Rights Day on 10 December. Joining these dates together draws public attention to the fact that gender-based violence is a violation of human rights.

8. The Ministry of Labour and Social Development, as the key State body engaged in gender issues, has been running campaigns since 2018 in conjunction with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the United Nations Development Programme (UNDP), with financial support from the Swiss Embassy in the Kyrgyz Republic.

9. Model regulations have been drafted on the Committee for the Prevention of Domestic Violence. These set out how the Committee’s membership is formed, what the responsibilities and functions of its members are, and how the Committee’s activities are organized.

10. In the context of the public procurement of social services in 2019, approved by Order No. 28 of the Ministry of Labour and Social Development dated 26 April 2019, assistance and support are provided to the victims of domestic violence and social services are offered to perpetrators in order to prevent incidents of domestic violence.

11. In this context, a competitive tender worth 6,450,000 soms was announced for the benefit of the general public.

12. The Ministry of Internal Affairs reports that, as part of the judicial and legal reforms, the new Criminal Code and Code of Criminal Procedure entered into force on 1 January 2019.

13. In addition, article 124 of the Code of Criminal Procedure establishes another criminal justice measure – the restraining order.

14. A restraining order restricts a suspect or accused person from meeting with victims and other persons in order to protect them.

15. A judge, investigator or authorized official of the body of inquiry has the right to forbid the suspect or accused person to search for, pursue or visit protected persons, to speak to, telephone or otherwise communicate with them, to approach them within 10 meters, and to visit certain places.

16. A restraining order is applied on the basis of a decision of a judge, investigator or authorized official of the body of inquiry at the request of the person subject to protection. The decision should specify the grounds for the application of this measure in criminal proceedings, the type of restraining order and the body of inquiry responsible for monitoring compliance with it. A copy of the restraining order decision is delivered to the suspect or accused person, the protected person and the body of inquiry responsible for monitoring compliance.

17. If a restraining order is violated by a suspect or accused person, one of the types of preventive measures provided for in the Code of Criminal Procedure may be applied.

18. Article 155 of the Criminal Code (violation of legislation on the marriageable age in religious ceremonies) provides for the liability of the parents (or persons in loco parentis) of a person in respect of whom a religious ceremony of marriage has

been performed. Violating legislation on the marriageable age by marrying a minor is punishable by deprivation of liberty under category II (from 2.6 years to 5 years).

19. The Ministry of Health notes the adoption of legislation that obliges educational institutions, teachers, employers, hospitals and social services working with women or children to notify the law enforcement authorities if they have reasonable grounds to believe that an act of bride kidnapping has occurred or may occur.

20. In order to implement Interdepartmental Decree No. 1125 of 11 December 2017, approving the plan for the implementation of Act No. 179 of 17 November 2016 on amendments to certain legislative acts of the Kyrgyz Republic (Family Code), Decree No. 226 of the Ministry of Health of 30 March 2018 was issued on measures to prevent early marriage in the Kyrgyz Republic and the action plan for the implementation of the Act was approved. The heads of health-care organizations and medical universities are obliged to adopt and implement the aforementioned Act and Interdepartmental Decree. Internal instructions and a plan of preventive measures for health-care organization have also been developed and approved in order to implement Family Code standards on the inadmissibility of violating legislation on the marriageable age. The issue of early pregnancy and childbirth (clinical and psychological, medical and social, and legal aspects) has been incorporated into the undergraduate and postgraduate curricula, taking into account the marriageable age in the Kyrgyz Republic.

## **Law enforcement**

21. The Ministry of Internal Affairs schedules annual professional development courses to train internal affairs officers at its Academy. Ten-day training sessions are held throughout the year and a special programme is being developed for each category of trainees, including on the following topics: “Bride abduction as a form of violation of women’s rights”; “Legislative standards on domestic violence”; and “Gender equality, women’s rights, conflict prevention and the risks of violence against women against girls”.

22. In the first half of 2019, a total of 375 employees were trained in 23 categories.

23. Violence prevention committees have also been working under a project of the United Nations Office on Drugs and Crime in the pilot districts of Pervomay, Ala-Buka, Nookat, Jeti-Oguz and Aksy, and in the city of Kara-Suu. Each local authority has approved the composition and work plans of the domestic violence prevention committees: 16 committees have been established; 12 workshops have been held for internal affairs officers, government agencies and local authorities, attended by 283 people; six workshops have been held for members of domestic violence prevention committees, attended by 224 people; and 1,461 people have received information on domestic violence.

24. In 2016, the Ministry of Internal Affairs, through an interdepartmental working group, conducted public monitoring of the application of article 155 of the Criminal Code, which provides criminal liability for forcing a woman to marry or preventing her from marrying. Focus group discussions were held in all provinces of the country with the participation of employees of district and provincial units of the internal affairs agencies. As a result, recommendations were made to improve legislation and law enforcement.

25. A section on gender policy has been posted on the website of the Ministry of Internal Affairs, which contains the main provisions of the Protection and Defence against Domestic Violence Act and information on assistance services. The section also contains a published collection of regulatory acts governing gender and domestic

violence prevention. The same section also includes films (videos) on the prevention of gender and domestic violence and a video on liability for violations of legislation on the marriageable age. In total, more than 15 videos have been posted on the site. Videos were made with topics such as: “Don’t shatter their dreams”; “Parents, watch over your children!”; and “Follow the traffic rules and save your life!”. These clips were broadcast on the nation’s television channels.

26. The Protection and Defence against Domestic Violence Act, which defines the legal framework for preventing and combating domestic violence, measures of social and legal protection and measures to protect “persons affected by violence, is published on the Ministry of Internal Affairs website in the section on gender policy.

27. The Ministry of Health reports that mandatory, periodic and effective capacity-building has been provided to all law enforcement officials, including the judiciary, legislators and forensic experts, for the effective application of articles 154 and 155 of the Criminal Code and gender-sensitive investigations, as well as their role in the prosecution and protection of victims of bride kidnapping.

### **Access to justice**

28. In order to defend the rights of the country’s citizens and protect their legal interests, 20 free legal advice centres have been established for the use of individuals and legal persons. The advice centres are staffed by highly-qualified lawyers who provide free advice to all, irrespective of social status, regarding all issues, including gender equality and women’s leadership.

29. The Ministry of Health reports that forensic investigations are conducted free of charge at the Republican Centre and at the Bureau of Forensic Medicine, pursuant to decisions issued by the judicial investigatory bodies and the prosecutorial authorities. New legislation establishes that, starting in 2019, forensic investigations will also be conducted at the request of citizens, and not only pursuant to decisions issued by judicial investigatory bodies and prosecutorial authorities. In cases of sexual violence, citizens now contact the Bureau of Forensic Medicine independently, without a decision. Forensic investigations are entered in the register of public services, where it is permitted to provide services on a paid basis at the request of citizens.

30. There are problems with a shortage of medical personnel, including forensic doctors, in the regions of the country. Forensic psychiatry is not a specialty in undergraduate and postgraduate medical education. It is planned to add a forensic psychiatry module to the clinical residency in psychiatry included in the undergraduate and postgraduate curricula of medical universities. The Centre for Forensic Psychological and Psychiatric Examinations, attached to the Ministry of Health, consists of nine psychiatrists from academia, who carry out special commission examinations and integrated, complex and repeated psychological and psychiatric examinations on a voluntary basis, i.e. free of charge, in addition to their main work. In total, approximately 3,000 psychological and psychiatric examinations are carried out annually, including some 200 by the Centre.

31. In the regions, psychiatric forensic examinations are carried out by doctors on call at the National Centre for Mental Health in the capital.

32. A mechanism is being established whereby regular medical examinations are systematically provided to all women and girls reporting bride kidnapping, including in order to gather forensic evidence and provide prophylaxis and post-conflict treatment for victims of sexual violence, particularly rape.

33. A clinical protocol has been established for medical personnel to use in cases of sexual assault (by an order of the Ministry of Health dated 10 January 2014). This contains recommendations regarding the conduct of medical examinations, the extent of medical interventions, sexually transmitted disease prophylaxis, including relating to viral hepatitis and HIV/AIDS, the prevention of unwanted pregnancies and post-conflict treatment of victims of sexual violence, particularly rape. The protocol makes detailed recommendations regarding effective interviewing and counselling of victims of sexual violence, the provision of information on State services and the provision of contact details for crisis centres and authorized State entities.

34. Efforts are being made to ensure that evidentiary requirements in cases of bride kidnapping are not overly restrictive, inflexible or influenced by gender stereotypes, such as admitting photographic evidence, signs of violence and medical reports, and informing the judiciary and police of the need to pay due attention to the arguments and testimony of women and girls as parties and witnesses.

### **Equal right to freely choose a spouse and equal rights within marriage and upon its dissolution**

35. The State Registration Service registers marriages in strict accordance with article 14 of the Family Code, in which the marriageable age is set at 18 years.

36. Where there are valid reasons, the executive local government bodies of the location where individuals wish to marry may lower the age of marriage by no more than one year, for both men and women, on the basis of a decision by the local office of the Government Children's Ombudsman.

37. Those responsible for violating the marriageable age requirements in the Family Code are held liable in accordance with national law.

38. Under article 24, chapter 3, of the Civil Status Act, the basis for the State registration of a marriage is a joint declaration by persons entering into marriage.

39. Under article 26, chapter 3, of the Act, persons entering into marriage submit a joint declaration on the conclusion of the marriage, in writing, to the civil registry office. The joint declaration must confirm mutual voluntary consent to the conclusion of the marriage, as well as the absence of circumstances preventing the conclusion of the marriage.

40. Articles 154 and 155, section 2, of the 1997 version of the Criminal Code criminalized the act of "abducting a person under the age of 17 years in order to enter into a de facto marital relationship" and "abducting a woman for the purpose of entering into marriage with her against her will".

41. The current Criminal Code, which entered into force on 1 January 2019, has established a separate article entitled "Abduction of a person for the purpose of marriage" (article 175 of the Criminal Code). Article 175 (1) establishes punishment in the form of deprivation of liberty from 5 to 7.6 years under category III, while article 175 (2), which concerns persons who have not reached the age of majority entering into a de facto marital relationship or entering into or marriage against their will, establishes punishment in the form of deprivation of liberty from 7.6 to 10 years with a fine under category IV. If the fine is not paid within two years, the person will be found guilty under another article.

42. In addition, the State Commission on Religious Affairs has drafted a bill amending the Freedom of Religion and Religious Organizations Act so that clergymen who conduct religious marriage ceremonies involving minors are held criminally

liable under national law. The bill has now gone through the relevant approval procedure and will be submitted to the Government for consideration.

### **Victim support**

43. The Ministry of Internal Affairs is carrying out comprehensive work to prevent the abduction of women against their will for the purpose of marriage. In 2017 and 2018, the Ministry of Internal Affairs held training workshops in all regions of the country, under a joint project of UNDP and the Centre for Research of Democratic Processes, to step up preventive efforts against gender-based violence and bride kidnapping. As a result, 527 internal affairs officers were trained, including district police commissioners, juvenile affairs inspectors and staff at call centres and investigation units (certificates were issued).

44. The Ministry of Labour and Social Development is working to prevent and combat violence against women.

45. The Protection and Defence against Domestic Violence Act reconsiders definitions and expands the concept of “domestic violence” to encompass both economic violence and the threat of violence. The range of law enforcement authorities has been expanded; the responsibilities of the body responsible for the coordination and interaction of actors involved in the protection and promotion of domestic violence have been defined; the duties and responsibilities of State bodies and local authorities have been delineated; and the persons entitled to apply for protection orders to the internal affairs authorities, and to the courts for the imposition of certain restrictions on perpetrators of violence, have been identified. The Act provides for the right of victims of domestic violence to be placed in a State or municipal shelter for safe temporary residence, and for perpetrators of domestic violence to be required by a court order to undergo an intervention programme.

46. The Association of Crisis Centres in the Kyrgyz Republic includes 12 crisis centres that provide medical, psychological and legal assistance and work in the following areas:

- Confidential hotline activities (24 hours a day)
- Temporary social housing services (shelters)
- Educational and outreach activities (training courses, workshops, press conferences, round tables and events)
- Small programmes
- Project activities
- Public relations activities

47. In accordance with the State Social Procurement Act and the regulations on the procedure for holding competitive tenders for social programmes (projects), approved by Government Decision No. 814 of 15 December 2017 on the public procurement of social services, such social programmes and projects are funded only by the Ministry of Labour and Social Development. Since 2009, the Ministry has been supporting social projects contracted out to non-governmental organizations for the benefit of socially vulnerable persons. The Ministry has allocated 4,000,220,000 soms for State social procurement.

48. However, the Ministry of Finance has indicated that the development and adoption of a programme to provide affordable housing for victims of bride kidnapping and their children has been made difficult by the significant national budget shortage. For that reason, help to provide victims with affordable housing,

child care, education and other basic services for victims of bride kidnapping and their children must be funded by damages paid by the perpetrators of violence against women and children.

49. Since 2015, the Ministry of Labour and Social Development has operated a confidential telephone line (number 111), to provide child victims of violence with psychological assistance.

50. In 2017, as part of the information campaign “16 days without violence”, workshops and round tables on the consequences of all forms of violence were held in all provincial districts and cities.

### **Prevention and awareness-raising**

51. In this connection, it should be noted that media coverage of the harm caused by, and the illegal nature of, bride kidnapping and early marriage, has increased substantially. A public awareness-raising campaign and innovative forms of work with young people have made it possible to mobilize individuals who do not wish to accept such negative practices, thanks to broad public impact.

52. Given that higher education institutions have been granted academic freedom to define the content of education within the framework of State standards, curricula are developed by teachers and approved by higher education institutions. Special courses, elective courses and special subjects are taught in the departments of law, social work, political science, social work, psychology and pedagogy, constitutional law and gender policy, and gender policy and human rights. In this context, thematic sections on violence against women have been developed and included in the course programmes.

53. The Ministry of Education and Science also reports that the teaching of social studies and moral education in general schools includes information and awareness-raising with a human rights focus, and including the issue of violence against women.

54. The Ministry has developed and approved model instructions on the procedure for cooperation among the participants in the educational process – staff, pupils and parents (or legal representatives) – to prevent violence in general education establishments.

55. These instructions define the rules, mechanisms and procedure for cooperation among the participants in the educational process – staff, pupils and parents (or legal representatives) – when instances of violence are detected in general education establishments.

56. In the area of reproductive health, the Ministry has developed a “healthy lifestyle” curriculum for grades 6 to 11, which was approved by a ministerial order approving the basic curricula of general education establishments in the Kyrgyz Republic.

57. “Healthy lifestyle” teaching materials and a work programme were developed and approved by the academic council of Arabaev Kyrgyz State University. From 2018 to 2019 these were introduced into the core component of “life safety” training for trainee teachers and in teacher training courses on methods for conducting classes on healthy lifestyles and HIV prevention. A “healthy lifestyle” thematic module was designed to take into account vocational guidance for students and future functional responsibilities in general education schools. An understanding of psychophysiological characteristics of children and adolescents will allow teachers to choose appropriate methods to educate and train the younger generation, both during teacher training and future professional activities.

58. As part of this programme, a series of training workshops were held from 2018 to 2019 to train 295 school and university teachers on healthy lifestyles and HIV prevention using interactive methodologies and information technologies.

59. This helped to raise the level of knowledge and awareness of participants on definitions and terminology related to life skills, HIV infection, stigma and discrimination, and to develop skills and abilities to conduct healthy lifestyle classes with pupils in grades 6 to 11, as well as a tolerant attitude to people living with HIV.

60. Targeted seminars on “gender-sensitivity training and education” for teachers and heads of general education establishments are being systematically held at several higher education institutions (Bishkek Humanities University, Kyrgyz National University, Kyrgyz Russian Slavic University, American University of Central Asia, Talas State University and others).

61. The Kyrgyz Academy of Education has developed and incorporated 72 hours of thematic courses on gender matters as part of the professional development of teachers at various levels.

## **Data collection**

### **Ministry of Health data**

62. The system for collecting statistics on those seeking medical assistance because of violence covers all State health-care facilities and crisis centres to which victims might turn. In order to record primary data in health-care organizations and crisis centres, there is a unified journal for the registration of persons who have complained about violence (annex 9 of the Practical Guide) and there are instructions for completing the journal (annex 10 of the Practical Guide). The instructions specify that the register should be kept by specialists in admitting departments, doctors at family health centres, family medical practitioners, paramedics and nurses at midwifery units, doctors or paramedics at urgent care centres or departments or doctors at forensic offices or departments. The register should be used to record all individuals who have visited health-care facilities as a result of violence.

63. The register is a single, unified source for the judiciary, law enforcement agencies and crisis centres to which information should be transmitted. The information in the register make it possible to report cases of violence, and to provide a breakdown by type of violence. Statistical medical reporting on violence includes the number of requests to health-care organizations, including physical, sexual and psychological violence, and provides a gender and age profile of the patients.

64. Although the medical statistical reports do not identify violence resulting from bride kidnapping, account is taken of the setting in which the violence was suffered, including family (or domestic) violence.

65. The National Statistical Committee provides the following statistical data:

	<i>Crimes, total cases</i>					<i>Identified perpetrators</i>				
	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>
Crimes against the family and minors. Including for:	392	396	423	278	133	286	294	333	215	174
Coercion into de facto marital relations with a person under the age of 17 years (article 154):	9	3	7	7	3	12	2	10	5	3
Forcing a woman into marriage, kidnapping a woman for marriage or preventing a woman from entering into marriage (article 155):	33	23	25	31	35	32	53	49	52	78
Violation of legislation on the marriageable age in religious ceremonious (art. 155-1)	–	–	–	–	20					32
Inciting minors to commit offences (art. 156)	79	103	95	123	18	3	5	3	1	1
Non-payment of child support (art. 162)	254	260	284	107	39	237	231	267	156	47

*Source:* Ministry of Internal Affairs of the Kyrgyz Republic, General Prosecutor's Office of the Kyrgyz Republic.