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With the participation of ADC "Memorial" and "Bir Duino - Kyrgyzstan"



KYRGYZSTAN

Women and children from Kyrgyzstan affected by migration

An exacerbated vulnerability

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EXECUTIVE SUMMARY

This report is based on qualitative interviews of 34 migrant women and migrants' relatives, as well as interviews with local NGO representatives working with sending communities, women and children victims of abuses, and experts on migration and gender issues. These interviews were carried out during a six-day fact-finding mission in Kyrgyzstan (in the Bishkek and Osh provinces) in March 2016. This report is also based on testimonies of Kyrgyz migrants collected during a fact-finding mission in southern Kazakhstan in March 2016.

Since the mid-2000s, migration processes have affected an increasing number of Kyrgyz citizens. Approximately 50 000 Kyrgyz leave the country every year to work abroad, mainly to Russia and, to a lesser extent, to Kazakhstan. According to various estimates, Kyrgyz migrants make up today some 650 000¹ to 1 000 000² of a total population of 5.836 million in Kyrgyzstan³. Although migratory flows are mainly comprised of young males, feminization has increased. Currently, nearly 40% of Kyrgyz migrants in Russia are women, whereas Tajik and Uzbek women represent respectively less than 20% of the total number of migrants from each country⁴.

Whilst poverty, unemployment and low wages characterize the life of many Kyrgyz, women tend to be more subject to the socio-economic marginalization that compels them to migrate. The main reason women choose to migrate – whether alone or with their husband or another member of their family – is to increase their earnings and to provide financial support to their family. Migration is often considered as the only solution to improve their way of life.

With the feminization of migratory flows, it can be presumed that an increasing number of children migrate with one or both of their parents. Economic necessities may also compel children to migrate unaccompanied. According to the Russian Federal Service on Migration, in 2016, 18% of Kyrgyz documented migrants in Russia are children⁵. Like migrant women, children who have migrated, whether alone or accompanied by their parents or another member of their family, are doubly vulnerable: as children and as individuals affected by migration.

Through the scope of the situation of women and children affected by migration and its consequences, this report aims to highlight the human rights violations faced by Kyrgyz migrants and the members of their family.

1. According to the Joint Report on Migration in Kyrgyzstan (2015) prepared under the supervision of the Kyrgyz State Department on Migration, consular services and diplomatic representations of the Kyrgyz Republic estimate that the number of Kyrgyz citizens living abroad in 2015 was more than 682 557. However, this official figure is believed to be underestimated. State Department on Migration under the supervision of the Kyrgyz government, Joint Report on Migration in Kyrgyzstan, Bishkek, 2015, available at: <http://ssm.gov.kg/info/view/7>. (Государственная служба по Миграции при Правительстве Кыргызской Республики, "Единый Доклад по Миграции. 2015").

2. e.g. Emil Nasritdinov, "Pros and Cons of Migration in Kyrgyzstan", on Academia.edu, viewed on 6 March 2016, available at: www.academia.edu/4371887/Migration_in_Kyrgyzstan_-_Pros_and_Cons.

3. World Bank Data, Kyrgyz Republic, population in 2014, viewed on 5 May 2016, available at: <http://data.worldbank.org/country/kyrgyz-republic>.

4. According to figures published by the Federal Migration Service of the Russian Federation in April 2016, 574 194 Kyrgyz citizens were on the Russian territory, of which 223 073 are women representing nearly 40% of Kyrgyz migrants. Федеральная Миграционная Служба Российской Федерации, "Сведения в отношении иностранных граждан, находящихся на территории Российской Федерации, в половозрастном разрезе (по состоянию на 5 апреля 2016 г.)", Главное Управление По Вопросам Миграции МВД, viewed on 19 April 2016, available at: http://гувм.мвд.рф/about/activity/stats/Statistics/Svedeniya_v_otnoshenii_inostrannih_grazh/item/5850/.

5. According to the statistics on foreign citizens on the territory of the Russian Federation, as of 5 April 2016, 96 669 Kyrgyz citizens living in Russia are 17 years old or under (55 594 male and 40 975 female). Федеральная Миграционная Служба Российской Федерации, "Сведения в отношении иностранных граждан, находящихся на территории Российской Федерации, в половозрастном разрезе (по состоянию на 5 апреля 2016 г.)", Главное Управление По Вопросам Миграции МВД, viewed on 19 April 2016, available at: http://гувм.мвд.рф/about/activity/stats/Statistics/Svedeniya_v_otnoshenii_inostrannih_grazh/item/5850/

The risk of violations of the rights of women and children is particularly high because they present a double vulnerability: as children and women, and as individuals affected by migration. This vulnerability is exacerbated for those who are considered as “undocumented”. Approximately 60% of Kyrgyz migrants do not have all the required documents to comply with current migration rules of countries of destination⁶. Women and children are at particular risk of discrimination; psychological, physical, and sexual violence and abuse; or, labor or sexual exploitation. Further, they may be subjected to exploitative conditions of work, inadequate living conditions, and access to health care – including access to safe sexual and reproductive health services including abortion for women and girls – and justice may be restricted. Undocumented migrants’ children are at particular risk of having no access to education in the countries of destination. Violations of the rights may be committed by law enforcement representatives or non-state actors, including migrants’ employers, male Kyrgyz migrants, or citizens in the country of destination, especially in Russia where there is an increasing anti-migrant and xenophobic climate. Violence committed against Kyrgyz migrant women by Kyrgyz men - whether by a partner or strange countryman - is a worrying trend. Domestic violence is widespread in Kyrgyzstan. In countries of destination, women become even more vulnerable to abuse from their own partner as they are cut off from their family and communities. Difficult living conditions may exacerbate this violence. While an increasing number of unmarried women migrate from Kyrgyzstan, several cases of aggressions of Kyrgyz migrant women involved with non-Kyrgyz men perpetrated by young Kyrgyz men (the so-called “Kyrgyz patriots”) have been reported in Russia since the release of a video of the aggression of a young Kyrgyz woman, Sapargul, in 2012.

Since the accession of Kyrgyzstan to the Eurasian Economic Union (EEU) in August 2015, the procedures for migrants and members of their families to stay and work legally have been simplified, and access to health care and education for children has improved. However, insofar as the majority of Kyrgyz migrants are undocumented, and those who migrate legally often do not have a written employment contract, they cannot benefit from these rights, and therefore remain very vulnerable. Laws, policies, and practices relating to migration in both Kyrgyzstan and the main countries of destination, fail to include a rights-based approach combined with a child- and gender-sensitive perspective.

An estimated 12 to 17% of the Kyrgyz population live abroad. In over a fourth of Kyrgyz households (with the average family consisting of seven members), more than one family member is a migrant⁷. The number of individuals impacted by migration who are left behind in Kyrgyzstan is therefore significant. Migration has contributed to strengthen some practices that violate women’s rights, such as bride kidnappings and polygamy, and the practice of religious marriage without official registration increases the vulnerability of women whose husbands work abroad. Lacking legal protection and financial means, women left behind may face discrimination in the household of their husbands’ parents, and can find themselves in a very precarious situation in case of a divorce. With the feminization of the migratory flows, the number of children left behind has also increased. These children, who can become “invisible”, are often at higher risk of facing restricted access to health care and education, and of being subjected to ill-treatment and sexual violence.

6. Migrants who do not have the totality of the documents required to stay and work legally in the country of destination are considered as “undocumented”. In Russia, those who do not have all the required documents, such as a health insurance or a signed contract, risk being placed on the re-entry ban list. In the Joint Report on Migration in the Kyrgyz Republic, prepared under the supervision of the Kyrgyz Ministry of Labor, Migration, and Youth in 2014, it is surmised that 60% of Kyrgyz migrants are “undocumented”, but it is only an estimation as no official data are available on this issue. Министерство Труда, Миграции и Молодежи Кыргызской Республики, Единый доклад по миграции в Кыргызстане, 2014, available at: <http://ssm.gov.kg/uploads/download/6085ac55f5312eedfe985ed7b374466d.pdf>

7. International Organization for Migration, Mapping on irregular migration in Central Asia, 2014, available at: <http://iom.kg/wp-content/uploads/2015/01/IDFPublicationeng.pdf>; and I. Lukashova, I. Makenbaeva, Impact of the Global Financial Crisis on Labor Migration from Kyrgyzstan to Russia: Qualitative overview and quantitative survey, ILO/ACTED/European Commission, Bishkek, 2009. p.61.

Kyrgyz authorities should take all necessary measures to ensure the protection of the rights of Kyrgyz migrants and members of their families abroad, as well as the protection of the rights of members of migrants' families left behind, and of those whose vulnerability has been exacerbated by the social consequences of the migration process in Kyrgyzstan. The Russian Federation and Kazakhstan should do their utmost to protection the rights of Kyrgyz migrants on their respective territory. FIDH makes a series of recommendations at the end of the report.



Federal Migration Service conducts checks at Novosibirsk market. 2011-02-02.
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INTRODUCTION

In Kyrgyzstan, migration processes are the result of the political and socio-economic situation it has experienced since its independence, and in particular, over the past ten years. Although, it should be noted that, due to the large scale of the phenomenon, migration processes have also, to some extent, impacted the main socio-economic and societal developments in the country. According to the State Migration Service under the supervision of the government of the Kyrgyz Republic, nearly 700 000 Kyrgyz citizens work outside the country⁸ out of a total population of 5.836 million in Kyrgyzstan⁹. Migration experts estimate that the official data is underestimated, and that almost 20% of the Kyrgyz population are migrant workers (up to one million)¹⁰.

According to the Kyrgyz Joint Report on Migration, published under the supervision of the State Migration Service, nearly 40%¹¹ of these migrant workers are women. Kyrgyzstan is an exception amongst Central Asian countries of origin. In Tajikistan and Uzbekistan, those who migrate are mainly men, whilst women tend to be left behind with their children. Although both male and female Kyrgyz migrate, migration is not a gender-neutral phenomenon¹². The situation of Kyrgyz female migrants differs from that of males, mainly in terms of the reasons for departure, decision-making processes, the employment sectors into which they tend to migrate, the types of abuse and violations they can be exposed to, and the consequences thereof. According to general recommendations set forth by the UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee): "To understand the specific ways in which women are impacted, female migration should be studied from the perspective of gender inequality, traditional female roles, a gendered labor market, the universal prevalence of gender-based violence, and the worldwide feminization of poverty and labor migration. The integration of a gender perspective is therefore essential to the analysis of the position of female migrants and the development of policies to counter discrimination exploitation and abuse."¹³

Female migrant workers present a double vulnerability: as women and as individuals affected by migration. Through the scope of the situation of women affected by migration and its consequences, this report aims at highlighting the human rights violations faced by Kyrgyz migrants and the members of their family. Despite the lack of available statistics, it can be presumed that feminization of the migratory flows is accompanied by an increase in the number of children who migrate with their mothers or their parents. According to the Russian Federal Service on Migration, in 2016, 18% of Kyrgyz documented migrants in Russia are children¹⁴. Like migrant women, children who have migrated, whether alone or accompanied by their parents or another member of their family, are doubly vulnerable: as children and as individuals affected by migration.

Whilst migration usually involves only a few members of a Kyrgyz family emigrating abroad, so far little attention has been given to the impact of migration processes on those who are left behind,

8. Joint Report on Migration in Kyrgyzstan, 2015, cit., *supra* note 1.

9. World Bank Data, Kyrgyz Republic, population in 2014, cit., *supra* note 3.

10. Emil Nasritdinov, "Pros and Cons of Migration in Kyrgyzstan", cit., *supra* note 2.

11. According to the figures published by the Federal Migration Service of the Russian Federation in April 2016, 574 194 Kyrgyz citizens were on the Russian territory, of which 223 073 were women, that is nearly 40% of migrants., cit., *supra* note 4.

12. CEDAW, General Recommendation 26 on migrant workers, 5 December 2008, CEDAW/C/2009/WP.1/R, para 5, available at: www2.ohchr.org/english/bodies/cedaw/docs/GR_26_on_women_migrant_workers_en.pdf.

13. *Ibid.*

14. According to the statistics on foreign citizens on the territory of the Russian Federation, as of 5 April 2016 96 669 Kyrgyz citizens living in Russia are 17 years old or under (55 594 male and 40 975 female). Федеральная Миграционная Служба Российской Федерации, "Сведения в отношении иностранных граждан, находящихся на территории Российской Федерации, в половозрастном разрезе (по состоянию на 5 апреля 2016 г.)", Главное Управление По Вопросам Миграции МВД, viewed on 19 April 2016, available at: http://гувм.мвд.рф/about/activity/stats/Statistics/Svedeniya_v_otnoshenii_inostrannih_grazhd/item/5850/

mainly women and children. As men have increasingly migrated with their wife for financial reasons, it can be presumed that the number of children left behind has also increased, despite the lack of relevant statistics. With their parents gone, children are at a higher risk of being subjected to violations of their rights. Over the past few years, violence committed against children in Kyrgyzstan has become a public issue with the disclosure of an increasing number of children subjected to violence. Nonetheless, authorities have failed to take concrete measures to protect the children of migrants.

This report aims to analyze the situation of both low-skilled undocumented Kyrgyz women working mostly in Russia and, to a lesser extent, in Kazakhstan, and women and children left behind in their country. It also makes concrete recommendations to increase their protection.

METHODOLOGY

This report was drafted in the framework of an FIDH project on protecting human rights throughout migration processes in Kyrgyzstan and Kazakhstan. It is based on the findings of a six-day fact-finding mission carried out in Kyrgyzstan in March 2016, on testimonies of Kyrgyz migrants collected during a fact-finding mission in southern Kazakhstan in March 2016, on an advocacy mission in Bishkek in May 2016, consultations with key local stakeholders in 2015 and 2016, and desk research.

The international fact-finding mission was composed of two FIDH representatives, Maroussia Ferry, anthropologist and expert on labor migrations (France) and Rosalie Laurent, FIDH project coordinator (France), as well as Mirlan Kubatbekov from FIDH member-organisation the “Human Rights Movement: Bir Duino – Kyrgyzstan”, Sergey Mikheev, a Russian expert on migration from FIDH member-organisation “Anti-Discrimination Centre Memorial” (ADC “Memorial”), and Ramil Nafikov, the representative from a Kyrgyz partner organisation “Mekhr Shavkat”.

INTERVIEWS

During the mission, the delegation met women affected by migration, civil society actors, and independent experts and researchers in Bishkek, Belovodskoe and Sretenka (Chuy province) and, Osh and Aravan (Osh province). Delegates also met with national authorities to discuss the findings of the mission.

The methodology for interviews with women affected by migration was defined during an investigation preparation workshop and through ongoing consultations. In all, 34 women affected by migration were interviewed, all of whom had emigrated to the Russian Federation as undocumented migrants and who were employed in low-skilled and low-paid jobs. Testimonies were also collected during a fact-finding mission on the situation of migrant workers in southern Kazakhstan (Shymkent and Chilik in Enbekshikazakhsky province) in March 2016. Names are pseudonyms and some identifying details have been withheld for the security and privacy of those interviewed.

CHALLENGES

It should be noted that the lack of reliable statistics pertaining to migratory flows from Kyrgyzstan, and especially lack of disaggregated statistics specifically on the movement of women and children at a national and regional levels, makes it difficult to assess the full impact of migration on women and children. Various experts agree that these data underestimate the number of Kyrgyz migrants working abroad, which could be up to one million¹⁵. It is challenging to have a real picture of migratory flows mostly because of: 1) the visa-free regime in post-soviet countries where Kyrgyz migrants tend to work, 2) significant gaps in data recording at border check points, and 3) the majority of Kyrgyz migrant workers are undocumented¹⁶. As a result, statistics from both the Kyrgyz State Migration Service, the Russian Federal Migration Service (FMS), as well as estimations of experts on migration, do not match. For example, although the FSM declared in 2015 that 540 000 Kyrgyz citizens worked in Russia, and the Kyrgyz State Migration Service stated the number to be 520 000, various experts think that in reality this number could be up to 800 000¹⁷. Approximately 60% of Kyrgyz migrants are undocumented. In Russia, those who do not have the required documents to stay and work legally in the country – such as a signed contract, and before August 2015 a valid licence, a health insurance, etc. – are considered to be undocumented.¹⁸

Moreover, it is important to note that issues such as psychological, physical, and sexual abuse, reproductive health or sexual transmitted diseases are particularly sensitive, especially in southern Kyrgyzstan and rural areas where communities are usually more traditional and conservative.

ACKNOWLEDGEMENTS

FIDH thanks representatives of its three member organisations: Anti-Discrimination Centre Memorial (ADC “Memorial”), the Human Rights Movement “Bir Duino - Kyrgyzstan” and the Kazakhstan International Bureau for Human Rights, as well as its partner organisations in Kyrgyzstan “Mekhr Shavkat”, the association “Community Integration” and the Institute for Social and Economic Development Assistance (ISEDA), and in Kazakhstan - the International Legal Initiative, the Association of local communities from the Enbekshikazakh and Sana Sezim for their assistance in the preparation and conduct of the mission.

FIDH thanks especially Mirlan Kubatbekov (“Bir Duino – Kyrgyzstan”) and Ramil Nafikov (“Merkh Shavkat”) for their contribution during the mission and to the FIDH research.

FIDH also thanks all those interviewed during the missions and consulted with throughout the project.¹⁹

15. Emil Nasritdinov, “Pros and Cons of Migration in Kyrgyzstan”, cit., *supra* note 2.

16. Migrants who are considered as undocumented are individuals who do not have the totality of the documents required to stay and work legally in the country of destination.

17. Bakyt Ibraimov, “Kyrgyzstan: migrant workers grapple with Russian language requirement”, Eurasianet.org, 1 February 2013, available at: www.eurasianet.org/node/66491

18. It is estimated that approximately 60% of Kyrgyz migrants are undocumented, but it is only an estimation as no official data are available on this issue. Ministry of Labor, Migration and Youth, Joint Report on Migration in Kyrgyzstan, 2014, Bishkek, 2014, available at: <http://ssm.gov.kg/uploads/download/6085ac55f5312eedfe985ed7b374466d.pdf>. (Министерство Труда, Миграции и Молодежи Кыргызской Республики, Единый доклад по миграции в Кыргызстане, 2014).

19. For the list of civil society representatives, experts, and official representatives met by the mission, see annex 1.

I. KYRGYZSTAN, A COUNTRY SHAPED BY EMIGRATION

In over a fourth of Kyrgyz households (with the average family consisting of seven members), more than one family member is a migrant²⁰.

“In Kyrgyzstan, everybody has relatives and friends in the migration process. It concerns everyone.”

Mission interview, March 2016.

1. KYRGYZSTAN: A COUNTRY OF DEPARTURE

Kyrgyzstan is mainly a country of departure. According to the International Organization for Migration (IOM), “for each person arriving in the country, have 3.8 people left”²¹. Since its independence, the net migration rate has been negative. In 2014, officially 11 685 Kyrgyz citizens left the country, while 3 928 foreign nationals immigrated to Kyrgyzstan²².

The different waves of emigration from Kyrgyzstan

The political and economic reforms of the Soviet system initiated by Mikhail Gorbachev in the 1980s included the abolition of controls throughout what the then Union of Soviet Socialist Republics (U.S.S.R), which resulted in unprecedented causes and opportunities for migration. 1989 was the first year of the so-called “great migration” from Kyrgyzstan, which can be divided into three phases.

The first wave of migrants leaving Kyrgyzstan were Russians, Ukrainians, Germans, and Tatars. People left mostly because of the socio-economic crisis triggered by the collapse of the USSR, and the exacerbation of inter-ethnic tensions between ethnic Uzbek and Kyrgyz inhabitants in southern Kyrgyzstan. Kyrgyzstan is a multi-ethnic and multicultural country composed mainly of ethnic Kyrgyz, but also of ethnic Uzbeks, Tajiks, Kazakhs, Tatars, Russians, Germans and Ukrainians.

The second wave of migrants consisted of traders who benefited from the opening of borders and the transit location of Kyrgyzstan by buying small-scale manufactured products in China or Turkey, then selling them in Kazakhstan and Russia. Susan Thieme, former visiting researcher at the American University of Central Asia, and expert on migration and gender issues, explained in 2008 that, “women were the first ones to travel back and forth between (those countries) and Kyrgyzstan to start this petty trade (...) to make a living for their families”²³. Due to the regulation of this sector reducing the profitability of this trade (products are now transported by lorry), there are fewer and fewer “*chelnoki*” as these migrants were called.

20. International Organization of Migration, Mapping on irregular migration in Central Asia, 2014, available at: <http://iom.kg/wp-content/uploads/2015/01/IDFPublicationeng.pdf>; and I. Lukashova, I. Makenbaeva, Impact of the Global Financial Crisis on Labor Migration from Kyrgyzstan to Russia: Qualitative overview and quantitative survey, ILO/ACTED/European Commission, Bishkek, 2009. p.61.

21. International Organization of Migration, Mapping on irregular migration in Central Asia, 2014, available at: <http://iom.kg/wp-content/uploads/2015/01/IDFPublicationeng.pdf>

22. State Migration Service under the supervision of the Government of the Kyrgyz Republic, “Migration 1991-2014”, official website of the State Department, viewed on 10 April 2016, available at: <http://ssm.gov.kg/content/view/7>. (Государственная Служба по Миграции при Правительстве Кыргызской Республики, “Миграция 1991-2014”).

23. Suzan Thieme, “Living in Transition: How Kyrgyz women juggle their different roles in a multi-local setting”, Gender, Technology and Development, 12(3), 2008, 325-345, available at: https://auca.kg/uploads/Migration_Database/Thieme_2008_GTD~12-3-03.pdf.

Since the early 2000s, an increasing number of Kyrgyz have left the country to seek better opportunities. This third wave of migrants is characterized by ethnic Kyrgyz migration. 2006 was a turning point: since then the majority of Kyrgyz migrants have been ethnic Kyrgyz, and not Russian-speaking ones²⁴. According to a survey by the Kyrgyz National Institute of Strategic Studies, in 2013, 97.2% of the migrants were ethnic Kyrgyz²⁵.

Current migratory flows from Kyrgyzstan directed mainly to Russia and Kazakhstan

The Kyrgyz State Migration Service estimates that approximately 50 000 Kyrgyz leave the country to work abroad every year. According to its 2015 statistics, roughly 520 000 worked in the Russian Federation, 80 000 in Kazakhstan, 14 000 in South Korea, 14 000 in Turkey, whilst 30 000 emigrated to either the United States, Europe, or South-East Asia. In other words, nearly 80% of Kyrgyz migrants work in Russian and 15% in Kazakhstan. As such, 95% of Kyrgyz migrants are working in countries which are both members of the Eurasian Economic Union (EEU)²⁶ where there are preferences and simplification of legislation on stay and employment of migrants from fellow member countries (see below, II.2.).

Migrants' profiles: prevalence of young migrants from southern Kyrgyzstan employed in low-skilled jobs

Most Kyrgyz migrants come from southern Kyrgyzstan: 35% of the 700 000 Kyrgyz who work abroad are from the Batken province, 28% are from the Djalal-Abad region, and 22% are from Osh²⁷.

It is estimated that 75% of Kyrgyz migrants are under the age of 35²⁸. In 2013, the Kyrgyz National Institute of Strategic Studies²⁹ concluded that more than half of the migrants interviewed had completed secondary education (52.2%), and bit more than a third had completed higher education (36.7%). Only a mere 12.8% of the respondents are currently working in Russia in the area of employment in which they had been trained. In 2014, the IOM stated that migrants gave the following reasons for not working in their specialities: the "refusal by employers to hire them on the basis of qualifications acquired in Kyrgyzstan" and the "lack of interest on the part of employers in the specialities and qualifications of migrant workers".³⁰ Since the accession of Kyrgyzstan to the Eurasian Economic Union, Kyrgyz diplomas are recognized in Russia, Kazakhstan and other member countries.

Construction is the most common area of employment for migrants. To a lesser extent, migrants also work in markets, in service industries, and in the cotton and vegetable fields in southern Kazakhstan. Women migrants are particularly employed in the service, catering, and clothing manufacturing industries, as well as in private households as domestic workers (See below II.1.). A few years ago, Kyrgyz migrants were massively employed in the tobacco fields in southern Kazakhstan, where a range of serious human rights violations were denounced by Human Rights

24. Mapping on irregular migration in Central Asia, cit., *supra* note 21.

25. National Institute for Strategic Studies Kyrgyz Republic, Development of the Concept on Migration Policy of the Kyrgyz Republic, Bishkek, 2013, available at: https://www.auca.kg/uploads/Migration_Database/Publications/18_migrac_report.pdf (Национальный институт стратегических исследований Кыргызской Республики, Разработка Концепции миграционной политики Кыргызской Республики, Бишкек, 2013)

26. The Eurasian Economic Union (EEU) created in 2014 brought together Russia, Kazakhstan, Belarus, Armenia and Kyrgyzstan since 12 August 2014.

27. Joint Report on Migration in Kyrgyzstan, 2015, cit., *supra* note 1.

28. "Living in Transition: How Kyrgyz women juggle their different roles in a multi-local setting", cit., *supra* note 23.

29. Development of the Concept on Migration Policy of the Kyrgyz Republic, cit., *supra* note 25.

30. Mapping on irregular migration in Central Asia, cit., *supra* note 21.

Watch³¹. Since the publication of the report in 2010, Philip Morris declared that it has implemented a series of measures in cooperation with local NGOs to protect workers' rights. However, as only a few tobacco fields remain in Kazakhstan (for different economic reasons), very few migrants still work in tobacco fields and benefit from these measures.

Very few migrants use the services of employment agencies. According to statistics presented in the 2015 Joint Report on Migration³², only 11 560 Kyrgyz citizens submitted applications to the Employment Centre (under the supervision of the former Ministry of Labor, Migration, and Youth - now the State Migration Service) to find a job abroad. Of those, 1 572 were employed. As it is presumed that approximately 50 000 Kyrgyz citizens leave the country every year, roughly 3% of those who left in 2015 found a job abroad through the Employment Centre.³³ More than 80% of Kyrgyz migrants manage to find jobs with the help of relatives, friends, or acquaintances, who are temporarily or permanently working and living in countries of destination, especially in Russia and Kazakhstan.

Various migratory projects: two-thirds of migrants work year-round, one-third are seasonal employees

The purposes of migration and accompanying tenure of stay of Kyrgyz migrants can be very different, notably due to administrative, economic, and social constraints. According to a survey by the Kyrgyz National Institute of Strategic Studies in 2013, two-thirds of migrants work all year and one-third are seasonal³⁴. In reality, most migrants do not know how long they will be away when they leave Kyrgyzstan. Some stay several years abroad to earn enough money in accordance with the expectations of their home community. Because of various factors – including non-payment of wages, wage reduction, corruption, extortion, theft (see below II.2.) – some prefer to stay longer rather than taking the risk to come back to their communities and being seen as “losers”.³⁵

For administrative reasons, temporary migration may become permanent. It is estimated that approximately 500 000 Kyrgyz were granted Russian citizenship over the past few years. Between 2003 and 2009, it was a widespread trend among Kyrgyz migrants to become Russian citizens in order to legally work in Russia³⁶. Indeed, obtaining Russian citizenship was often easier than getting the required authorization to work as a foreign national. Since 2009, the procedures have become increasingly complex and, since the effective entry of the Kyrgyz Republic into the EEU in August 2015, Kyrgyz migrants no longer need authorization to work.

2. PUSH AND PULL FACTORS OF EXTERNAL LABOR MIGRATION

The current wave of migration from Kyrgyzstan is mainly directed to Russia and, to a lesser extent, to Kazakhstan. Both countries are close to Kyrgyzstan and apply a visa-free regime for Kyrgyz citizens (as well as for Uzbek and Tajik citizens). The number of Kyrgyz emigrating every year has

31. Human Rights Watch, “Hellish Work”: Exploitation of Migrant Tobacco Workers in Kazakhstan, Report 2010, available at: www.hrw.org/sites/default/files/reports/kazakhstan0710webwcover_1.pdf

32. Joint Report on Migration in Kyrgyzstan, 2015, cit., *supra* note 1.

33. *Ibid.*

34. Development of the Concept on Migration Policy of the Kyrgyz Republic, cit., *supra* note 25.

35. Emil Nasritdinov, “Pros and Cons of Migration in Kyrgyzstan”, cit., *supra* note 2.

36. Zamira Kojobaeva, “Citizenship. One passport is good, two is better”, Radio Azattyq (Kyrgyz service of Radio Free Europe/Radio Liberty), 16 February 2016, viewed on 10 April 2016, available at: <http://rus.azattyk.org/content/article/27554775.html>. (Замира Кожобаева, “Гражданство. Один паспорт хорошо, а два лучше”, Радио Азаттык, 16 Февраля 2016)

decreased since 2009, when the Russian and Kazakh economies began to be affected by the global economic crisis. However, migration has continued despite the significant further deterioration of the economies of both countries since 2014, and despite the very difficult living conditions and numerous rights violations that occur in both countries.

A difficult socio-economic situation

Sharp increase in the poverty rate

In 1991, the collapse of the USSR triggered in-depth political, economic, and social reconstruction in Kyrgyzstan.³⁷ The transition from a socialist structure with a centrally planned economy to a market economy, along with the deconstruction of the complex system of production interdependent upon its different republics, resulted in the destruction of the Kyrgyz economy. This led to a sharp increase in the unemployment rate and, consequently, in the poverty rate.

According to the World Bank, up to 42.2% of the population lived on less than US\$ 1.90 a day in 2000 (at 2011 international prices), and an “increasing number of people [were] being forced to diversify their sources of income through migration”³⁸. This is particularly true for Kyrgyz citizens who lived in the densely populated southern part of the country (in the fertile Ferghana Valley, in the provinces of Osh, Batken, and Djalal-Abad).

A majority of migrants support their families by sending them a part of their earnings (“remittances”). Experts showed how the poverty level is “negatively correlated with migration outflow. (...) Increase in remittance income helped the Kyrgyz Republic to minimize the poverty level and its trade balance deficit, and impacted the exchange rate of its national currency to the dollar. The migratory mobility of the population became a reciprocal defense mechanism of the population in adapting towards a new stage of socio-economic transformation.”³⁹ In 2011, Kyrgyzstan ranked 12th among top remittance receiving countries, with remittances accounting for 15% of its gross domestic product (GDP)⁴⁰. In 2015, it ranked second, with remittances accounting for 30% of its GDP. Although extreme poverty (living on less than US\$ 1.90 a day) decreased with migrants’ support (from 42.2% of the population in 2000 to 2.9% in 2012) nearly a third of the Kyrgyz population still live below the national poverty line⁴¹.

Kyrgyzstan is a remote country with neither oil or gas reserves, unlike its Russian, Uzbek and Kazakh neighbors. Despite remittances, the State has failed to develop either its economy or the labor market since its independence. Unemployment and low wages are still the major push factors of current migratory flows. The International Labor Organization (ILO)⁴² estimates that the 2014 unemployment rate was 8.1%. However, this number is most likely underestimated as some studies

37. “Living in Transition: How Kyrgyz women juggle their different roles in a multi-local setting”, cit., *supra* note 23.

38. *Ibid.*

39. Nurlan Atabaev, Gulnaz Atabaeva and Damira Baigonushova, “Economic growth and remittances inflow: empirical evidence from Kyrgyz Republic”, *Eurasian Journal of Business and Economics*, 2014, 7(14), pp. 61-70. available at: www.ejbe.org/EJBE2014Vol07No14p061ATABAEV-ATABAEVA-BAIGONUSHOVA.pdf

40. The World Bank, *Migration and remittances Fact Book*, 2011, 2nd edition, available at: <http://siteresources.worldbank.org/INTLAC/Resources/Factbook2011-Ebook.pdf>

41. In 2014, 30.6% of the population was living under the national poverty line; in 2012, 38%. The World Bank, *World DataBank, World Development Indicators, Kyrgyz Republic*, page viewed on 11 April 2016, available at: <http://databank.worldbank.org/data/reports.aspx?source=2&country=KGZ&series=&period=>

42. International Labor Organization, *Statistics and Database, Kyrgyzstan*. Page viewed on 11 April 2016, available at: www.ilo.org/ilostat/faces/help_home/data_by_country/country-details?country=KGZ&locale=en&_afLoop=123080268685981#%40%3Flocale%3Den%26_afrLoop%3D123080268685981%26country%3DKGZ%26_adf.ctrl-state%3D18pmkh1wki_4

suggest that it could have been as high as 70% in the southern part of the country.⁴³ Youth – who make up 30% of the total population – are particularly affected by unemployment. More than 40% of people unemployed are under the age of 28, and 70 000 young people enter the labor market every year⁴⁴. Many high school pupils plan to go to Russia as soon as they graduate⁴⁵. Migration is seen as a solution to economic challenges, and has become an accepted part of people's lives inasmuch as it is often considered by young Kyrgyz to be an "initiation" into adult life, that it is an opportunity which will eventually allow them to make enough money to build a house, buy cattle, and get married. Consequently, migration is perceived as one of the principal means for social advancement.

Migratory flows are mainly organized through acquaintances who are already living in the countries of destination, and organized migration channels are very scarce. The significant presence of Kyrgyz migrants in Russia (particularly in Moscow) and in Kazakhstan foster emigration to these countries.

Internal migration: a first solution

It is important to note that internal migration may, at first, be solution to the economic difficulties faced by Kyrgyz citizens, but then it become a push factor to external migration if the initial move did not solve the economic problems. There are four main trends: "from rural to urban areas; from remote mountainous areas to valleys; from the periphery to administrative and economic centres; and, more generally, from the South to the North."⁴⁶ Over the past 20 years, one in every three Kyrgyz citizens has changed their domestic residence at least once,⁴⁷ which means that migration processes are familiar to most of the Kyrgyz. Among the women interviewed by the FIDH mission in Ak-Jar, a new suburb, or "*novostroika*"⁴⁸, of the Kyrgyz capital Bishkek, 60% of inhabitants came from southern Kyrgyzstan to find a job. The six women interviewed in Ak-Jar have decided to emigrate to Russia to find a job as they were unable to do so in Bishkek. According to them, this is a common pattern in the "*novostroika*".

Better salaries in Russia and Kazakhstan

At the same time, the growing labor market and higher earning possibilities in Russia and Kazakhstan have fostered and attracted migrants from Kyrgyzstan, as well as from Tajikistan and Uzbekistan. In 2000, Russia experienced a labor shortage due to a sharp growth of its economy, whereas Kazakhstan became the region's economic "powerhouse" thanks to its oil and natural gas reserves. Both countries offer migrants from Central Asia the possibility to earn higher incomes. According to the people interviewed during the investigation mission, a "good" salary in Russia

43. Madeleine Reeves, "Going to town: exploring the micro-dynamics of labor migration from southern Kyrgyzstan", National Identity in Eurasia II: Migrancy and Diaspora in Eurasia, Wolfson College, Oxford, 10 – 12 July 2009.

44. Joint Report on Migration in Kyrgyzstan, 2015, cit., *supra* note 1.

45. Taalaibek Kurmanaliev, coordinator of the platform "Central Asia on the Move" and Mirlan Kubatbekov (Bir Duino - Kyrgyzstan), interview held in November 2015.

46. Aida Aaly Alymbaeva (Max Plank Institute for Social Anthropology), Keneshbek Almakuchukov (Bishkek Academy of Finance and Economics), Emil Nasritdinov, Ruslan Rakhimov, and Bermet Zhu-makadyr kyzy (American University of Central Asia), "Debating Internal Migrations in Kyrgyzstan", Voices from Central Asia, Elliott School of International Affairs, The George Washington University, No. 9, February 2013, available at: https://www.academia.edu/2899739/on_Internal_migration_in_Kyrgyzstan

47. Paul Fryer, Emil Nasritdinov, Elmira Saltybadieva "Moving toward the brink? Migration in the Kyrgyz Republic", Central Asian Affairs 1 (2014), 171-198, available at: www.academia.edu/8660829/Moving_towards_the_brink_Migration_in_the_Kyrgyz_Republic.

48. Over the past few years new settlements called "*novostroika*" in Russian have appeared on the outskirts of Bishkek. In the context of a mass urban migration, and due to a lack of available accommodation in the capital, internal migrants have grabbed plots of lands without official authorization, and, despite of the efforts of several NGOs to obtain legal status for the communities of these areas for them to possibly have access to state services, some remain illegal. Their inhabitants are mostly internal migrants from the southern regions or Naryn region who came to Bishkek with the hope to find better living conditions.

was estimated to be between 40 000 and 50 000 rubles per month (roughly 500-623 euros in April 2016⁴⁹). However, this salary is available to men who work on construction sites. A women can expect to only earn a maximum of 30 000 rubles per month (roughly 370 euros in April 2016). By comparison, the average monthly salary per employee in Kyrgyzstan in 2015 was between 230 and 370 euros⁵⁰.

Despite the recent and on-going economic crises in both Russia and Kazakhstan, demand for a cheap low-skilled labor force remains. In addition, even though salaries are lower than they were before the beginning of the economic crisis in July 2014, according to official statistics of the Russian Federal Service of Migration, Kyrgyz migrants seem to be ready to stay, whereas many Uzbeks and Tajiks leave Russia. Between July 2013 and the end of 2015, the number of Kyrgyz migrant workers diminished “only” by 11%, whereas the numbers of Uzbek and Tajik migrants decreased by 23.4% and 20% respectively⁵¹. As a result, according to the National Bank of the Kyrgyz Republic the amount of remittances sent to Kyrgyzstan decreased by 27% between 2014 and 2015.⁵²

Anara, Belovodskoe (Chuy province): *“My husband left in February 2016 to Russia because we need money to finish building the house and the cowshed for the cattle. But today the salary is no longer good. If it keeps going on like that, he will come back in April. He will only stay if he finds a job with a better salary.”*⁵³

Gulmira, Sretenka (Chuy province): *“My husband came back, then he left again. Since last October, he has not sent any money. (...) He cannot find a job. Before he earned 35000 rubles per month [440 euros at the time in 2016] selling advertising space. His brother told him that he could find a job with a better salary on a construction site. So my husband left his former job to work there for two months but did not receive any salary. As he does not have steady employment, he does not have all the required documents to extend his registration, so I know that he will be on the re-entry ban list. But here there are no prospects. All the family asked him to stay there...”*⁵⁴

Political instability, inter-ethnic conflicts and human rights violations

Although the main causes of emigration are economically-related, the political instability of Kyrgyzstan (two major uprisings in 2005 and 2010 which led to the overthrow of the government), as well as several ethnic clashes during the last two decades, have also contributed to migration.

Tulip revolution, April 2010 Revolution and ethnic clashes in Osh and Djalal-Abad in June 2010

In 1990, Askar Akayev was chosen by the Supreme Soviet to become the President of the Soviet Republic of Kyrgyzstan. After the collapse of the USSR, he was elected as the President of the Kyrgyz Republic. In 2005, he was forced to resign because of a wave of unrest, which transformed

49. Equivalent values of rubbles or Kyrgyz soms are given in euros for the corresponding period. In 2010, before the deterioration of the Russian economy, 50 000 rubles was equal to 890 euros. Monthly accounting rate of the euro of the European commission. available at: http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/index_fr.cfm

50. Joint Report on Migration in Kyrgyzstan, 2015, cit., *supra* note 1.

51. Central Asian news service, “Number of migrants from Uzbekistan, Tajikistan and Kyrgyzstan in Russia have decreased by one million”, CA-news, 12 November 2015, viewed on 12 April 2016, available at: <http://www1.ca-news.org/news:1169456>. (Центральноазиатская новостная служба, «Число мигрантов из Узбекистана, Таджикистана и Кыргызстана в России снизилось на 1 млн.», CA-news, 12 ноября 2015).

52. “Migrants’ remittances decreased by 28% in 10 months”, tazabek.kg, 4 December 2015, viewed on 12 April 2016 available at: <http://www.tazabek.kg/news:399606> («Денежные переводы мигрантов за 10 месяцев сократились на 28 % », tazabek.kg, 4 декабря 2015).

53. Interview with FIDH mission, Belovodskoe, 1 March 2016.

54. Interview with FIDH mission, Sretenka, 1 March 2016.

into a nationwide series of demonstrations known as the “Tulip Revolution”, took place following irregularities during the parliamentary election. Subsequently, in July 2005, Kurmanbek Bakiyev became President with 88% of the vote. The Organization for Security and Co-operation in Europe (OSCE) stated the election was a “tangible change on the road to democratization (...) Since then, the country has been marked by serious instability (it has modified its constitution three times (...) and by President Bakiyev’s growing bid for control⁵⁵.” In 2009, the autocratic drift of the latter became obvious with the appointment of his youngest son as the head of Central Agency for Development in October 2009. A year later, a demonstration on 6 April 2010 in Talas against government corruption and an increase in the cost of living spread from northern Kyrgyzstan to the capital Bishkek, sweeping President Bakiyev from power. 87 persons were killed and 600 wounded in bloody clashes with police in the capital⁵⁶.

Two months after the April Revolution, in June 2010, ethnic Uzbek and Kyrgyz violently clashed in the southern regions of Osh and Jalal-Abad. According to various estimations, between 600 and 2 000 people were killed, and thousands wounded. As a result, hundreds of thousands of civilians had to leave their homes. The Kyrgyz authorities failed to provide them with protection, and much needed food, medical care, and shelter⁵⁷ and instead carried out violent mop-up operations from 21 to 23 June 2010, mainly against Uzbek minority. Following these bloody clashes, the Kyrgyz authorities filed charges against many of Uzbeks for allegedly participating in the unrest. For example, ethnic Uzbek human rights defender Azimjan Askarov was condemned in September 2010 to life imprisonment on false accusations. In April 2016, the United Nations Human Rights Committee (OHCHR) urged the Kyrgyz authorities to release him⁵⁸. In this hostile atmosphere, marked by shortcomings in the country’s legal and judicial framework, and widespread impunity, many ethnic Uzbeki have decided to leave for Kazakhstan or Russia for security reasons following the inter-ethnic conflict in Osh. In the alternative report submitted to the UN Committee on the Protection of the Rights of all Migrant workers and Members of their Families in March 2015 by ADC Memorial, jointly with the Human Rights Movement: Bir Duino – Kyrgyzstan⁵⁹, an ethnic Uzbek who witnessed the inter-ethnic clashes described the situation of those who fled to Uzbekistan - but had found themselves trapped as Uzbek authorities forcibly returned them all to Kyrgyzstan. He also explained that *“ethnic Uzbeks who fled the bloody clashes could not come back to their home afterwards, as ethnic Kyrgyz occupied them and did not want to give them back.”* Many Uzbeks who left Kyrgyzstan for security reasons went to Russia, where most worked irregularly. Ethnic Uzbek migrant workers who left the country after 2010 are de facto “hidden refugees” in Russia.⁶⁰ Most of them do not seek asylum due to the fear of being handing over to the Kyrgyz authorities, as many of them are on international wanted lists for their allegedly participation in the clashes. According to this report, there are many “cases where judges and the prosecutor’s office uphold the extradition ruling and ignore the threat of torture and ill-treatment that these people will face when they are returned to their country”.

55. OSCE/ODIHR Election Observation Mission, Final report, Presidential Election. 10 July 2010. Kyrgyz Republic, Warsaw, Poland, 7 November 2010, available at: www.osce.org/odihr/elections/17661?download=true.

56. FIDH, Kyrgyzstan (2010-2011), Situation of human rights defenders updated as of May 2011, viewed on April 11 2016, available at: www.fidh.org/en/region/europe-central-asia/kyrgyzstan/KYRGYZSTAN-2010-2011

57. FIDH, “A weak State, political instability, the civil society caught up in the turmoil”, 4 October 2010, available at: www.fidh.org/en/region/europe-central-asia/kyrgyzstan/Kyrgyzstan-A-weak-state-political

58. United Nations Human Rights Office of the High Commissioner, “Release Azimjan Askarov and quash his conviction, UN human rights experts urge Kyrgyzstan”, Geneva, Switzerland, 21 April 2016. available at: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19853&LangID=E#sthash.e4csPS2z.dpuf

59. Anti-Discrimination Centre Memorial and the Human Rights Movement “Bir Duino - Kyrgyzstan”, Alternative report submitted to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, March 2015, available at: http://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/KGZ/INT_CMW_NGO_KGZ_19875_E.pdf

60. *Ibid.*

A current alarming human rights situation

A constitutional referendum was held by the interim government in 2010, following the Bakiyev regime overthrow. It transformed the Kyrgyz political system from a presidential regime to that of a parliamentary system, which limits the power of the President, and strengthens those of the Parliament and the prime minister. However, despite democratic progress, the human rights situation in the country keeps raising concerns. In 2011, the presidential election was marred by “significant irregularities” reported by the OSCE observation mission⁶¹, and impunity remains for the perpetrators of crimes in connection with bloody clashes in April 2010 in Bishkek, and in southern Kyrgyzstan in June 2010. Uzbek minorities continue to be discriminated against, threatened, attacked, subjected to arbitrary arrests, unfair proceedings, and torture. More generally, the judicial system is marked by shortcomings and corruption, and it fails to fight effectively against widespread impunity, including for crimes perpetrated by law enforcement officials.

While the country has joined the EEU (see below II.2.), the latitude for freedom of association, freedom of expression, and freedom of peaceful assembly has seemed to shrink. Several laws were largely inspired by Russian laws⁶². These include, notably, the law introducing the “foreign agents” designation for NGOs receiving foreign funding⁶³ and one criminalizing the so-called “promotion” of equal rights for lesbian, gay, bisexual, transgender or intersex (LGBTI), adopted in 2012 and 2013 respectively. Even though the Kyrgyz Parliament finally rejected the bill on foreign non-profit organizations on 12 May 2016⁶⁴, the situation for Kyrgyz civil society (which had been considered so far as one of the strongest in Central Asia), remains alarming. After an investigation and advocacy mission in September 2015, representatives from the Observatory for the protection of human rights defenders (a joint program of OMCT and FIDH) expressed concerns over the increased pressure faced by human rights defenders⁶⁵, who have been subjected to pressure, threats, and defamation. They presented their conclusions to the authorities in Bishkek in June 2016.

61. OSCE/ODIHR Election Observation Mission, Final report, Presidential Election. 30 October 2011. Kyrgyz Republic , Warsaw, Poland, 10 January 2012, available at : www.osce.org/odihr/elections/86926?download=true.

62. The Federal Law N.121-FZ introducing amendments to certain legislative acts of the Russian Federation regarding the regulation of activities of non-commercial organizations performing the function of “Foreign Agents” was adopted on 13 July 2012, available at : <http://rg.ru/2012/07/23/nko-dok.html> (Федеральный закон от 20 июля 2012 г. N 121-ФЗ “О внесении изменений в отдельные законодательные акты Российской Федерации в части регулирования деятельности некоммерческих организаций, выполняющих функции иностранного агента”); Amendments to article 5 of the Russian Federal Law no. 436-FZ of 2010-12-23 “On Protection of Children from Information Harmful to Their Health and Development”, and to other legislative acts “for the Purpose of Protecting Children from Information Advocating for a Denial of Traditional Family Values” banning “propaganda of non-traditional sexual relations”, were adopted in June 2013, available at: <http://asozd2.duma.gov.ru/main.nsf/%28SpravkaNew%29?OpenAgent&RN=44554-6&02>. (О внесении изменений в статью 5 Федерального закона «О защите детей от информации, причиняющей вред их здоровью и развитию» и отдельные законодательные акты Российской Федерации в целях защиты детей от информации, пропагандирующей отрицание традиционных семейных ценностей).

63. World Organization Against Torture (OMCT), “Kyrgyzstan: Parliament must reject discriminatory bill targeting NGOs”, Paris-Geneva, 13 April 2016, available at: <http://www.omct.org/human-rights-defenders/urgent-interventions/kyrgyzstan/2016/04/d23709/>

64. AkiPress, “Parliament of Kyrgyzstan rejects bill on foreign non-profit organizations”, 12 May 2016, available at: <http://www.akipress.com/news:576990/>

65. FIDH-OMCT, “Kyrgyzstan at a Crossroads: Shrink or Widen the Scene for Human Rights Defenders”, 8 June 2016, available at: www.fidh.org/en/issues/human-rights-defenders/kyrgyzstan-at-a-crossroads-shrink-or-widen-the-scene-for-human-rights.

II. WOMEN AFFECTED BY MIGRATION – A SITUATION OF DOUBLE VULNERABILITY

The CEDAW Committee stated that migrant women may be classified into various categories relating to the push factors, the aims of the migration, the vulnerability to risk and abuse, and their legal status in the country of destination. It distinguishes amongst the following categories of women migrant workers, which can overlap:

- Women migrant workers who migrate independently;
- Women migrant workers who join their spouses or other members of their families who are also migrant workers;
- Undocumented women migrant workers who may also fall into one of the above categories. Migrants considered as undocumented are individuals who do not have the totality of the documents required to stay and work legally in the country of destination. In Russia, those who do not have all the required documents are at risk of being placed on the re-entry ban list (see below II.2).

There is an additional category, quite distinct: women who remain in the country of origin, and whose partner has decided to migrate⁶⁶.

While migration can be a means for women's economic empowerment, it can also place their rights at risk. Women affected by migration are in a situation of double vulnerability: both as women and as individuals affected by migration. In 1995, the Beijing Platform for Action acknowledged that movements of people have "profound consequences on family structures and well-being, and have unequal consequences for women and men, including, in many cases, the sexual exploitation of women" and that "migration and consequent changes in family structure have placed additional burdens on women, especially those who provide for several dependents"⁶⁷.

The decision-making process leading to the departure is particularly complex for women as it takes into account a lot of different parameters (especially for those who leave alone), such as professional opportunities in countries of destination, presence of relatives/acquaintances in countries of destination, security matters, family situation, and child care, and their reputation in their home community. Because of their migration experience, women might be stigmatized within their community upon return. Additionally, in case of an unsuccessful migration experience, women migrants are more at risk to lose their social status in their sending communities than are migrant men. Women who emigrated alone and are willing to get married upon return may face difficulties in some conservative sending communities, where the question of "honor" is crucial⁶⁸. This risk is particularly high in rural parts of Kyrgyzstan. It is feared that women living in the country of destination, and away from the socially strong "control" of their sending communities, have had sexual relations and thus have lost their "honor", as well as the honor of their family and community.

66. General Recommendation 26 on migrant workers, cit., *supra* note 12, para 4.

67. Beijing Platform for Action, Fourth World Conference on Women, 1995, available at: www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf

68. Interview with Emil Nasritdinov on 5 March 2016 at the American University of Central Asia, in Bishkek, Kyrgyzstan.

1. FEMINIZATION OF MIGRATORY FLOWS FROM KYRGYZSTAN

There has been a significant feminization of migratory flows from Central Asia. Currently, nearly 40% of Kyrgyz migrants in Russia are women, whereas Tajik and Uzbek women represent less than 20% of the total number of migrants from each country⁶⁹. Although migration impacts all women in Kyrgyzstan, women between 20 and 40 years are particularly affected. They can be vocationally qualified, or non-qualified; single or married; from conservative sending communities; or from more liberal ones.

Looking for better economic and social opportunities

The trend of women emigrating from Kyrgyzstan is not new. In the 1990s, women engaged in the small-scale trade of manufactured goods across the borders⁷⁰. As many Kyrgyz women worked in agriculture or in the social and health sectors under the USSR, they were often the first to lose their jobs after its collapse. During the fact-finding mission, a Kyrgyz migrant woman interviewed in Kazakhstan explained how she convinced her husband at the end of the 1990s to move with their children to southern Kazakhstan (Enbekshikazakhsky province) where they could work in the fields, earn a higher income than they could in Kyrgyzstan, and provide better living conditions for their children. Over the past few years, the number of women Kyrgyz migrant workers has increased.

Although various factors influence a woman's choice to migrate, most do so seeking better opportunities. According to researcher Emil Nasritdinov⁷¹ from the American University of Central Asia (Bishkek), 57% of Kyrgyz migrant men who are married emigrate with their wives; and 90% of women who accompanied their husband in Russia are also migrant workers. Women are increasingly associated with migration as a joint family venture that seeks better financial opportunities. As such, they are becoming more active in defining a migration project, and can even lead it:

Nurgul, Belovodskoe (Chuy province): *"We went to Russia to have a better life, and for the future of our children. I believe that we decided to leave together, but I think that, in general, the woman is the instigator!"*⁷²

Gulkhair, Sretenka (Chuy province): *"In Kyrgyzstan, I worked on a farm, but with two children it was difficult, and I thought that our children should have the possibility of receiving a higher education. That is why we decided to leave for Russia. It was me who wanted to leave! Then I discussed it with my husband and he agreed. We left the children with my mother-in-law and we left"*⁷³.

Sometimes it is decided that the woman will be the one who emigrates while the man will stay at home, as women may "be perceived as more reliable and better remitters"⁷⁴.

69. According to the figures published by the Federal Migration Service of the Russian Federation, in April 2016, 574 194 Kyrgyz citizens were on the Russian territory. Among them, 223 073 are women, that is nearly 40% of migrants. Федеральная Миграционная Служба Российской Федерации, "Сведения в отношении иностранных граждан, находящихся на территории Российской Федерации, в половозрастном разрезе (по состоянию на 5 апреля 2016 г.)", Главное Управление По Вопросам Миграции МВД, viewed on 19 April, available at: http://гувм.мвд.рф/about/activity/stats/Statistics/Svedeniya_v_otnoshenii_inostrannih_grazh/item/5850/

70. See above I.1. about "chelnoki",

71. Interview conducted on 5 March 2016 at the American University of Central Asia, Bishkek, Kyrgyzstan.

72. Interview with FIDH mission, Belovodskoe, 1 March 2016.

73. Interview with FIDH mission, Sretenka, 1 March 2016.

74. "Living in Transition: How Kyrgyz women juggle their different roles in a multi-local setting", cit., *supra* note 23.

Many women migrate independently, whether married or not. According to Russian studies used in the Kyrgyz Joint Report in 2014⁷⁵, 48% of women migrant were “independent workers” (who comes alone, not accompanied by their husband if married). Of these women, 82% were married to someone who remained in Kyrgyzstan⁷⁶. In northern Kyrgyzstan and urban areas, it is well accepted that women migrate independently, while other in rural areas and southern Kyrgyzstan may face disapproval from members of their communities.

The feminization of migratory flows is linked to feminization of poverty. In the aftermath of the second revolution and the Osh inter-ethnic conflict, poverty in Kyrgyzstan “rose to 38% in 2012, with an increasing proportion of the poor being female”⁷⁷. Some women decided to go work abroad alone because of their precarious economic and financial situation. In a patriarchal and traditional family structure, once married, women stay at home (often with their husband’s family) whilst their husbands work abroad. If their husband divorces them, these women may find themselves in a very difficult situation, especially if they have to leave their in-laws’ home, are left with children, or if their husband refuses to pay any alimony. This is particularly true for those who concluded only a religious marriage, as such a marriage is unregistered. As such, it is very difficult for women to succeed in compelling their former husband to provide financial contribution (see below, II.3.). In addition, women interviewed by the FIDH mission in Osh emphasized the lack of interest from the law enforcement representatives on these issues.

Story of Ikbol’s daughter (from Osh): “In 2013, we gave Nurgul, our daughter, away in marriage. She was sixteen. The marriage was unofficial, without registration [it is a religious marriage called “nikah”]. After her marriage, Nurgul moved in with her husband. A few months later, she had a baby, which was also not registered. Two and a half years later, Nurgul and her mother-in-law began arguing about the fact that Nurgul did not recognize the authority of her mother-in-law. After this disagreement, Nurgul’s mother-in-law pushed her son to divorce Nurgul and sent her back to our home. When we worked in Russia, and Nurgul was alone at home, her former mother-in-law asked Nurgul to take her son with her. Nurgul found herself alone with a very young child without any financial resources, as she had never worked before and did not have any savings. In addition, her former husband refused to provide her with financial support. As her marriage was unregistered and her son did not receive birth certificate when he was born, she could not legally obtain alimony. She is now getting prepared to go to Russia to earn money.”⁷⁸

Beyond better economic opportunities, the women interviewed by the fact-finding mission highlighted the social incentives of migration. In a study carried out in 2006, Suzan Thieme, researcher on migration and gender issues, also noted that “women (in their role of wives) prefer to accompany their husbands, concerned that their unattended husbands might fancy alcohol, or might get married a second time”⁷⁹ (see below II.3. polygamy practices linked to migration phenomenon). Another factor that affects the decision-making process of future migrant women is the traditional family structure: the youngest son has to stay with his parents in the family house, which he will inherit after their deaths. As a result, only the elder sons and daughters have the possibility to emigrate with their families.

75. Joint Report on Migration in Kyrgyzstan, 2014, cit., *supra* note 18.

76. *Ibid.*

77. United Nations Development Programme, UNDP in the Kyrgyz Republic, About Kyrgyzstan, viewed on 8 April 2016, available at: www.kg.undp.org/content/kyrgyzstan/en/home/countryinfo.html

78. Interview with FIDH mission, Osh, 2 March 2016.

79. “Living in transition: how Kyrgyz women juggle their different roles in a multi-local setting”, cit., *supra* note 23.

Independent women can also be motivated to emigrate by desiring emancipation from conservative and patriarchal communities and traditions. This could be particularly true in southern Kyrgyzstan where women are subject to the authority of a male relative most of the time. As the number of bride kidnappings (see below II.3 on bride kidnappings)⁸⁰ has increased over the past few years in Kyrgyzstan⁸¹, some parents support their daughters leaving the country. In general, migration can be an option for Kyrgyz women who do not want to get married, want to avoid marriage, and/or want to extend unmarried life before marriage⁸².

A growing demand for shop and service workers in Russia and Kazakhstan

Since the 2000s, and the growth of the Russian and Kazakh economies, there has been a growing demand for shop and service workers. According to the Kyrgyz National Institute of Strategic Studies (2013)⁸³, the most common areas for employment for women are jobs in services, catering, clothing manufacturing, and in private households as domestic workers. Women who work in the fields are often accompanied by their husband for seasonal migration. In such cases, children may often come with their parents. Conversely, women who work in private households are often young unmarried women. Depending on the sectors of activity, their family status, and their sending communities, the duration of their migrant status varies: from a month up to a few years. Like most qualified male migrants, qualified female migrants usually start in low-skilled jobs.

2. VIOLATIONS OF THE RIGHTS OF MIGRANT WOMEN

Like their male counterparts, Kyrgyz female migrants tend to be employed in the shadow economy, without regular status, and in low-skilled jobs, even though some are qualified for professional positions. Although men and women are often employed in different sectors, both are at high risk of abuse, exploitation, ill-treatment, and violence both in the Russian Federation and in Kazakhstan. However, for women, the risk is even higher. "Ignorance of the language, the fact that they are cut off from their families and environment, and in most cases, are in a precarious financial situation, and, for those with irregular status, the fear of deportation, all serve to make women more vulnerable to these violations throughout the migration process".⁸⁴

International law on migration

Kyrgyzstan, Kazakhstan, and Russia are parties to core international human rights treaties, including the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of the Child.

80. Bride kidnapping: marriage by abduction of the woman.

81. "The Human Rights Movement: Bir Duino – Kyrgyzstan", Analysis of early marriage and early maternity in Kyrgyzstan, supported by the Norwegian Helsinki Committee, Bishkek, 2013. available at: www.ohchr.org/Documents/Issues/Women/WRGS/ForcedMarriage/NGO/HumanRightMovement1.pdf

82. "Living in Transition: How Kyrgyz Women Juggle their Different Roles in a Multi-local Setting", cit., *supra* note 23.

83. Development of the Concept on Migration Policy of the Kyrgyz Republic, cit., *supra* note 25.

84. Report of the Special Rapporteur, Ms. Gabriela Rodríguez Pizarro, submitted pursuant to Commission on Human Rights resolution 2004/53, 2004, available at: <https://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/100/50/PDF/G0510050.pdf>

Kyrgyzstan ratified the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. This Convention binds countries to actively protect the rights of migrant workers, collect information about any problem that arise, analyse this information, and respond to all violations. The United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW or “UN Committee on Migrant Workers”) regretted “the lack of information on the various criteria required to evaluate the effective implementation of the Convention, in particular with regard to migrant women, unaccompanied migrant children, and migrant workers both in and from the State party” in its 2015 Concluding Observations on Kyrgyzstan. The main countries where Kyrgyz migrant workers work – Russia and Kazakhstan – are not parties to this Convention.

Kyrgyzstan, Kazakhstan, and Russia have ratified the eight core Conventions of the International Labor Organization⁸⁵; however, Kyrgyzstan did not ratify the ILO Migration Workers (Supplementary Provisions) Convention 1975 (No 143); the ILO Private Employment Agencies Convention, 1997 (No 181); or the ILO Domestic Workers Convention, 2011 (No 189).⁸⁶

Kyrgyzstan, Kazakhstan, and Russia are States Parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (also known as the Palermo Protocol).

Kyrgyz legislation on external migration

For more than 10 years, Kyrgyzstan has undertaken various steps to address issues raised by external labor migration. In 2004, a Concept on State Migration Policy and a Program of Measures on its implementation, were first set up before the adoption the State Program on Regulating Migration Processes for 2007-2010. In its framework, the Law “On external labor migration” was adopted in 2006. It is considered as the main national legal instrument pertaining to external migrants. The Law defines a migrant worker as “an individual with a legitimate status who is engaged in labor activities in a country of which s/he is not a citizen”⁸⁷. The UN Committee on Migrant Workers noted in its 2015 Concluding Observations that this definition is not in line with the Convention on the Protection of the Rights of All Migrant Workers and Members of their families, as “it includes only migrant workers who are documented or in a regular situation”, whereas more than 60% of Kyrgyz citizens working abroad are not documented, and the majority of Kyrgyz migrants who face violations of their rights have an irregular status. The State Migration Service under the supervision of the Government of the Kyrgyz Republic is currently working on the Concept on State Migration Policy until 2030.

85. These conventions are the following: C029 - Forced Labor Convention, 1930 (No. 29) C087 - Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) C098 - Right to Organize and Collective Bargaining Convention, 1949 (No. 98), C100 - Equal Remuneration Convention, 1951 (No. 100), C105 - Abolition of Forced Labor Convention, 1957 (No. 105), C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111), C138 - Minimum Age Convention, 1973 (No. 138) and C182 - Worst Forms of Child Labor Convention, 1999 (No. 182)

86. International Labor Migration, Normlex Home, Ratifications by country, Kyrgyzstan, available at: www.ilo.org/dyn/normlex/en/f?p=1000:11200:0:NO:11200:P11200_COUNTRY_ID:103529 (accessed on 11 May 2016).

87. Article 18 of the Law of the Kyrgyz Republic “On external labor migration” of 13 January 2006.

Pre-departure: absence of adequate preparation

According to the different testimonies the fact-finding mission gathered, there is a lack of access to clear, credible, and reliable information regarding the rights of migrant workers and members of their families, which may lead to a greater vulnerability. This applies both in their relationship to employers in the countries of destination, and with the police, especially in Russia where there is a continuous and strong anti-migrant climate, particularly against migrants from Central Asia.

Most women who decide to emigrate take this decision on the basis of the information they have received through relatives, friends, or acquaintances. It is not unusual for migrants from one village in Kyrgyzstan to go to the same place in Russia or in Kazakhstan. More than half of Kyrgyz migrants working on the Russian territory are in Moscow and its suburbs. None of the interviewees had received information from either local authorities, the State Migration Service, or the Ministry of Foreign Affairs before leaving. As such, they were not provided with any information regarding their employment, labor laws, health insurance, education for their children in destination countries, or access to justice mechanisms for rights violations in countries of transit and destination. They did not think to get such information beforehand. Future migrants mostly get information through migrants who had return to Kyrgyzstan, or from the Kyrgyz diaspora in Russia and in Kazakhstan.

In Russia, where more than 80% of Kyrgyz migrants go, the national legislation relating to migrants has changed so many times over the past few years that it is difficult for migrants to keep track. For example, in 2014, the adoption of amendments on the Law on entries into and exits from the Russian territory set up the system of “blacklist” (“the re-entry ban list”). On 1 January 2015, the patent system was introduced, and as of 12 August 2015, Kyrgyz citizens can work without permits or patents, but when entering Russian territory, have to state that “work” is the main reason for their visit, and they must complete registration and sign an employment contract within 30 days (see box below). Ignorance of these changes often add to the confusion, and therefore to the vulnerability of those who go to Russia.

Major recent legislative changes of the Russian policy on Migration

In January 2014, the Russian Federation adopted amendments on the Federal Law on “Entry and Exit from the Russian Federation”, which stipulated that migrants who violate migration regulations could be expelled and forbidden to re-enter the Russian territory for three, five, or ten years. Those who are convicted twice for an administrative fault will also be included on the re-entry ban list carried out by the Russian Federal Migration Service (FMS), its regional departments and the State Border Guard Service. Various Russian institutions can include foreign nationals on this list: the Federal Security Service, the Ministry of Internal Affairs, the State Border Guard Service, the Ministry of Foreign Affairs, the Ministry of Justice, etc.”

The law, “On the Legal Situation of Foreign Nationals in the Russian Federation”, was also amended in January 2014. According to the change, migrants - including migrants’ children - who don’t have a work permit or a licence (called a patent. See below.) that grants them the right to stay in Russia for a year, can stay for a maximum period of 90 days out of a possible 180. Before 2014, foreign nationals could leave Russia at the end of 90 days and re-enter immediately for 90 days to remain legally in Russia. This new legislation compelled migrants to leave Russia for three months before being authorized to legally re-enter the Russian territory or to remain there illegally. However, since the accession of Kyrgyzstan to the EEU in August 2015, family members of migrant workers are allowed to stay as long as the migrant workers have a labor contract.

On 1 January 2015, another change was introduced into the Federal Law “On the Legal Situation of Foreign Nationals”. Quotas and work permits no longer apply to migrant workers from countries with a visa-free regime, including Kyrgyzstan, and a unified licensing system was introduced. When migrant workers from countries with a visa-free regime enter the Russian territory and indicate on their migration card “work” as their purpose of visit, they have 30 days to get a patent which allows migrant workers to work for both individuals and legal entities for one year. This patent can be extended once for one year. In order to obtain one migrant workers must provide a clean criminal record, an attestation that they have been registered, a non-mandatory health insurance, and must pay a fixed monthly payment. ADC “Memorial” and “Bir Duino- Kyrgyzstan” underlined that the cost of a license, set by regions of the Russian Federation, can be very high: the cost “has increased from 1 200 rubles in regions to 3 000 rubles in Saint Petersburg (roughly 21 and 25 euros in 2015) and 4 000 rubles (roughly 70 euros in 2015) in Moscow, the two cities that attract the most migrants”⁸⁸. Since the accession of Kyrgyzstan to the EEU in August 2015, Kyrgyz migrants do not need to obtain either a patent or a work permit. Like Russian nationals, they only have to sign a contract to be authorized to work on the Russian territory.

The Eurasian Economic Union (EEU)

The Eurasian Economic Union (EEU) brings together the Russian Federation, Belarus, Armenia, Kazakhstan, and, since 12 August 2015, the Kyrgyz Republic. Many experts believe that Kyrgyzstan’s accession to the EEU was not in the interest of the country. The agreement, mainly in favor of Russia during a time of economic crisis, is however often presented as profitable for Kyrgyz migrants by establishing preferences for them, meanwhile the Russian legislation is becoming increasingly stricter for other migrants. The accession of Kyrgyzstan to the EEU provides Kyrgyz citizens with the same conditions to access the labor market in Russia and Kazakhstan as the citizens of those countries. They are considered as “workers” (“трудящиеся”) and have the same rights as citizens of Russia and Kazakhstan as far as employment, health care, and education are concerned. Should “work” be officially stated as the aim of their visit while entering the country, they are allowed to complete registration within 30 days instead of 5 days (as it is required for migrants from other countries within the visa-free regime) and “only” have to conclude a contract to stay and work legally in Russia and Kazakhstan (without work permits or patents).

The majority of migrants leave Kyrgyzstan without knowing where they will work and live. They just go to Russia or Kazakhstan and hope to get a job in the country through the contacts they have in the diaspora. Others leave when they have been informed by the diaspora in a destination country that there is a specific job available.

Mira, Sretenka (Chuy province): “We did not know anybody in Russia, we were just told that it was possible to work there. We sold our cattle, and with this money we bought train tickets. One person in our village, whom we did not know well, met us at the Moscow station and put us on a bus, telling us “you are going to Taldom, there is a fish processing plant where you can work.” It was located four hours from Moscow. There we met a Kyrgyz and we asked him for work.”⁸⁹

There is a serious and persistent lack of information concerning the Russian re-entry ban list. The Russian authorities do not always provide accurate or updated information. Further, it is unclear how migrants can check to see if they are on this list, and if so, for how long, and how can they request to be excluded from this list.

88. Alternative report submitted to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, cit., *supra* note 59.

89. Interview with FIDH mission, Sretenka, 1 March 2016.

Aiperi, Ak-Jar (Chuy province): *"I came back here (Ak-Jar) in September, I was expelled from Russia. My biggest problem is to have been "deported" and blacklisted. I want to return to Russia to work. Here I cannot work ... Now, I do not know at all what will happen, for how long I will remain on the re-entry ban list. I went to all the services here but nobody answers me!"*⁹⁰

The crucial issue of the re-entry ban list

This issue of the re-entry ban list, or "black list", has become crucial for Kyrgyz authorities as a "delegalization movement" occurred in 2015 between January and August throughout the long Kyrgyzstan's accession process to join the EEU. During more than eight months, an increasing number of Kyrgyz migrants became undocumented due to misinformation and disinformation⁹¹. An agreement between Kyrgyzstan and the Russian Federation set up a mechanism that allowed Kyrgyz migrants, who were included on the "blacklist" by the Russian Federal Migration Service to submit an application to be removed from it. Additionally, an "amnesty" was conducted from June to November 2015 with the possibility for Kyrgyz migrants to legalize their situation by exiting the Russian Federation before directly re-entering the country. Between June and November 2015, nearly 30 000 Kyrgyz could benefit from this amnesty and legalize their status.⁹²

Kyrgyz migrant workers included on the re-entry ban list by the Russian Federal Migration Service for three years for minor administrative offences can send a request to be excluded from the list to the information centre of the Kyrgyz State Migration Service 18 months after their inclusion. This request is then sent to the regional department of the Russian Federal Migration Service. Examination of the request takes four or five months, on average. In case migrants have been included on the list (no matter by whom), and consider that it is unfounded, they can challenge this decision through the Kyrgyz information centre. In case they are students or have health problems requiring care provided for only in Russia, or have family members who have the Russian nationality, they have also the possibility to request to be excluded from the list. The lack of information thereabout compel migrants to emigrate illegally. During an interview in November 2015 in Bishkek, one representative of the Centre of Support for International Protection, a Kyrgyz NGO based in Osh working on external migration issues, reported to FIDH that in numerous cases, Kyrgyz citizens included on the re-entry ban list changed their names on their passports in order to be allowed to enter the Russian territory⁹³.

Under article 33 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Kyrgyzstan has the obligation to inform migrant workers and members of their families of the conditions of their admission; their rights and obligations under the law; the practice of the State of employment; and such other matters as will enable them to comply with administrative or other formalities in that State. Kyrgyzstan shall take all measures it deems appropriate to disseminate this information or to ensure it is provided by others⁹⁴.

90. Interview with FIDH mission, Ak-Jar, 29 February 2016.

91. According to Kyrgyz media, the Kyrgyz Republic joined the EEU many times between January and August (on 1 January, 20 May, and 21 May, etc.) 2016 and every time some migrants stopped to buy patent. According to the Kyrgyz NGO centre for Support of International Assistance, the Migration centre of Sakharov in Moscow stopped in May delivering patents to Kyrgyz migrants.

92. Aynura Shaykeeva, "Migrants are worrying: they cannot be excluded from the re-entry ban list", *Gezitter.org*, 13 November 2015, available at: www.gezitter.org/society/45271_migranti_muchayutsya_ne_mogut_vyyti_iz_chernogo_spiska/ (Айнұра Шайкеева, "Мигранты мучаются, не могут выйти из черного списка", *Gezitter.org*, 13 ноября 2015)

93. Interview conducted on 9 November 2015 in Bishkek.

94. Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families to States Parties, General Comment No. 1 on migrant domestic workers, 23 February 2011, CMW/C/GC/1, §28, available at: www2.ohchr.org/english/bodies/cmw/cmw_migrant_domestic_workers.htm

Risk of extortion and exploitation in countries of transit

Currently, migrants heading to Russia use different means of transport: most of them go to Moscow or Saint Petersburg by train or plane, and some, depending upon the destination, travel by bus through Kazakhstan. Travel by bus is the most dangerous because of the harsh climate in Kazakhstan (in case of a breakdown, people may freeze to death or get lost in the Kazakh steppes) and the poor condition of the roads. Further, crossing the border is not always safe, as migrants can be subjected to corruption and extortion by border control officers.

Aigul, Belovodskoe (Chuy province): *"We left by train, it was a mid-day trip. We had problems with the Kazakh customs officers; they opened our suitcases and said that we had too many pieces of luggage. Customs officials said that shampoo smelt funny and that it was perhaps drugs. I did not pay anything at the end because I screamed. You always have to resist. If you are silent, they will extort you. In this case, they asked for 1 000 rubles [the equivalent of 25 euros in 2014]."*⁹⁵

Another woman from Chuy province explained to the fact-finding mission that while she was heading to Moscow in 2012 by train with her 10-year-old son, a police officer threatened her and separated her son from her. He blamed her for being without her husband, pressured her and her son to give him money, but the woman refused to do so. Women interviewed from Ak-Jar added that those who do not speak Russian are at higher risk of being extorted by officers at the border.

Extortion cases at the border between Kyrgyzstan and Kazakhstan are not unusual. Kyrgyz permanent migrants in the Kazakh province of Enbekshikazakhsky stated that they are often asked for bribes when they exit and re-enter Kazakhstan in order to legalise their temporary stay. They do not have work permit and do not work legally, but they register for 90 days. As was the case in the Russian Federation until January 2014, in Kazakhstan foreign nationals can stay legally for 90 days. At the end of this period, those who have not signed a work contract can leave Kazakhstan and re-enter immediately for another legal 90-day stay.

Kyrgyz migrants who are not aware that they are on the re-entry ban list and go from Kyrgyzstan to Russia by train can be blocked at the Kazakhstan-Russia border as they may not have enough money to purchase a return ticket. This situation is not unusual, as many migrants have only enough money to get to the place where they can find a job. Once blocked in Kazakhstan, they are very vulnerable to becoming a victim of forced exploitation.

Exploitative working conditions

Under article 7 of the International Covenant on Economic, Social and Cultural Rights, States Parties recognise workers' rights, such as the right to just and favorable conditions of work, safe and healthy working conditions, and reasonable limitation of working hours.

According to figures cited by the Joint Report on Migration⁹⁶, in 2015, 60% of Kyrgyz migrants in the Russian Federation were undocumented migrants⁹⁷. None of the women interviewed had signed a contract with their respective employer. Some mentioned having an "oral agreement". Working conditions for most of women were very difficult with excessive hours (between 12 and

95. Interview with FIDH mission, Belovodskoe, 1 March 2016.

96. Joint Report on Migration in Kyrgyzstan, 2015, cit., *supra* note 1.

97. "International sources estimate that between 10 and 15 per cent of the world's international migrants are in an irregular situation". Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, General comment No. 2 on the rights of migrant workers in an irregular situation and members of their families, 28 August 2013, CMW/C/GC/2, available at: www2.ohchr.org/english/bodies/cmw/cmw_migrant_domestic_workers.htm

15 hours per day), or exhausting work in an environment that lacked the basic security and safety conditions. Some had to work up to 24 hours in a row. Non-payment of salaries, or delayed or partial payments are frequent for migrants in an irregular situation.

Aina, Sretenka (Chuy province): *"The first year I worked in a sewing factory for four months, near the metro station Elektrozavodskaya (Moscow). It was an illegal workshop, we were working with false documents that the factory gave us. When the immigration officers came, they hid us in a special room. There were almost only Kyrgyz migrant women, around 30, and two Uzbek brothers. I earned 15 000 rubles per month [the equivalent of 300 euros in 2014]. The others, who were there for a long time, sometimes earned between 30 000 rubles and 35 000 rubles [the equivalent of 610 and 710 euros in 2014]. We worked from 8 am to 8 pm, with 30 minutes for lunch. We had Monday off. If there were many orders we could work 24 hours. My legs swelled. It was very difficult. When I returned to Russia the second time, I washed hotel laundry with chemical products. I found this work through acquaintances. The boss was very naughty! When someone was sick for a day, or arrived late, he beat them. We worked during the night, from 8 pm to 8 am. Out of 30 working days, we had only two days off. And overtime hours were not paid. We earned 25 000 rubles per month [the equivalent of 400 euros in 2015]. It was also without any contract, and as the license cost 4 000 rubles [the equivalent of 64 euros in 2015], no one wanted to buy it. As payment of wages were always delayed, we decided to go on strike, we came one evening at the plant but did not work. The plant manager called constantly, then he came, and a guy told him: "Why do you not pay us?" He said, "Who are you for asking that?". The manager entered the factory, everybody came after him, he took three guys and beat them hard, with feet and fists. He told them that they will not work anymore at the plant. The guys did not defend themselves because they were scared that the manager would call the police. After that, the manager gave us our wages."⁹⁸*

There are cases of labor exploitation, especially in the fields or in households in Kazakhstan⁹⁹, with employers confiscating documents of migrants and refusing to give them back. Sometimes, the employer promises to provide all the documents needed for the legalization of the migrant, often to no avail, and uses this as a pretext to pay only a part of the first scheduled pay. A woman in Aravan (Osh province) explained to the mission that she worked in Moscow with a patent. When she changed jobs, she agreed to give 4 000 rubles (the equivalent of 64 euros in 2015) each month to her employer for allegedly paying her license. However she discovered later that the employer never paid the license and that she found herself in irregular situation.

Since July 2014, when the Russian economy began to worsen, the non-payment of salaries has become even more widespread, which substantially increases the vulnerability of migrants.

Migrant women are particularly at risk of psychological, physical and sexual abuse, and violence when they work in closed environments such as households. Gender-based abuse and humiliation can be committed by their employers or their colleagues.

Inadequate living conditions

Under article 11 (1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the right to adequate housing must be interpreted as the right to live somewhere in security, peace, and with dignity. Adequate housing means adequate space with certain facilities essential for health, security, comfort and nutrition, including safe drinking water and site drainage. Housing-

98. Interview with FIDH mission, Sretenka, 1 March 2016.

99. Interview of representatives of the Kazakh NGO Sana Cezim who help migrants to defend their rights, in Shymkent on 11 March 2016.

related costs must be commensurate with income levels, and must not limit the satisfaction of other basic needs¹⁰⁰.

Most of Kyrgyz migrants who are employed in low-skilled sectors without legal status live in grossly inadequate conditions in Russia and in Kazakhstan.

Finding an affordable place where they can live and which they can officially rent is usually very difficult in Russia. Due to the high costs of accommodation, especially in Moscow where 50% of Kyrgyz migrants work, and against the backdrop of a strong anti-migrant and xenophobic climate, many landlords do not want to rent to people who have a “non-slavic appearance” as it is commonly said, including in the printed announcements. As documents showing you are officially registered as living somewhere in Russia are necessary to be granted authorization to stay (more than five days until 2015, and more than 30 days since the accession of Kyrgyzstan to the EEU), granting fake addresses has become a business. Migrants often pay to get officially registered in one place, however, they live somewhere else. As a consequence, migrants may actually live in places that are not meant to be living places. Several women reported that they used to live in basements in Russia, and apparently it is not unusual for 20 to 50 or more migrants to live in one apartment, paying a lot for this indecent housing.

Nargiz, Ak-Jar (Chuy province): *“My husband lives in one-room apartment where there are 20 people. They each pay 6 000 rubles per month. [72 euros in March 2016]”*¹⁰¹

Assel, Belovodskoe (Chuy province): *“The owner “gives” you a room. We were up to nine people in a room, we lived in one small room with my sister, her husband, and the brothers of my sister’s husband. We each paid 3 000 rubles a month [75 euros in 2013]. My sister and her husband were separated from us by a curtain. I slept on the couch, and the brothers of my sister’s husband slept on the floor. Sometimes, when we saw a Kyrgyz who had no shelter, we invited him to stay with us a few days to allow him to find something. Then, the owner yelled, and police officers came and beat people.”*

Sometimes, migrants live in places without running water or adequate sanitary facilities.

Aina, Sretenka (Chuy province): *“At the beginning, we lived in a basement with my husband. He worked for a cleaning agency and had been given what we shared accommodation with other people working for this company. We lived in a room with four families, Kyrgyz and Uzbek. (...) In fact there was a specific accommodation for the cleaning agency’s employees, but managers used it for themselves. This is why we were in that basement.”*

Damira, Sretenka (Chuy province): *“After two days in the basement, we found - through an intermediary - an apartment with “only” six people who lived in a room. It cost 6 000 rubles per month [72 euros in March 2016]. We were three families: three men and three women. We were of the same age. We were like a family, we got along very well but we never went out together. We went out only to go to our work place, and after work we came straight back home.”*¹⁰²

Being registered in one place and living somewhere else places migrants in an irregular situation and at risk of forced eviction, arrests, condemnation, and/or expulsion. Given that corruption is endemic among Russian and Kazakh police officers, migrants are particularly vulnerable to extortion, and are even often seen as “a source of income”. Migrants may be arrested on

100. Committee on Economic, Social and Cultural Rights, General comment No. 4: the right to adequate housing (art. 11 (1) of the Covenant), 1991, §7, 8 (b), (c) and (d), available at: www.refworld.org/docid/47a7079a1.html

101. Interview with FIDH mission, Ak-Jar, 2 March 2016.

102. Interview with FIDH mission, Sretenka, 1 March 2016.

trumped-up charges, and detained until they tell the police officer where they live with other migrants. Subsequently, the police can go there and threaten the others with expulsion in order to extort them.

Shakhlo, Aravan (Osh province). She lived in Moscow in an apartment with 40 other migrants. She told the mission about the continuous raids performed by law enforcement officials and explained how, each time, they were forced to pay 1500 rubles [21 euros in 2015] in order to be released. In addition, on days she received her salary (once every fifteen days), a neighborhood police officer was always waiting in front of her door, requesting payoffs from her and her neighbor. She was arrested five times for not telling police officers where she lived. She added that it was a usual practice for police officers to arrest Central Asian people in the street on the basis of their appearance in order to interrogate them and discover where they live. In doing this, police officers hoped to discover places where undocumented migrants lived and to have the possibility to extort them by threatening them with arrest and expulsion.¹⁰³

For many undocumented migrants working in the shadow economy, the employer may provide them with accommodation which places them in a dependent relationship. In such cases, in addition to the fear of losing their employment, migrants are also afraid of not having anywhere to live. Some women have told the fact-finding mission that they had to prostitute themselves to live in the employer-provided apartments.

Human trafficking

Kyrgyz citizens may be victims of forced labor and sexual exploitation abroad, especially in Russia, Kazakhstan, Turkey, and the United Arab Emirates.

Exploitation of migrant workers in Russia and Kazakhstan is common. As mentioned above, irregular migrants workers are very vulnerable to being subjected to exploitative working conditions, non-payment of salaries, and inadequate living conditions in housing provided by employers. Employers can also withhold passports to compel migrants to stay. According to the US Department of State Trafficking in Persons Report, 2015, “organized crime syndicates from Russia sometimes play a role in exploiting migrant workers”¹⁰⁴. Alina Orlova, President of the Women’s Support Centre based in Kazakhstan, reported that¹⁰⁵ members of the Kyrgyz diaspora may also exploit their fellow nationals in Kazakhstan. For example, in Petropavlovsk (Kazakhstan), Kyrgyz migrants who have just arrived often rely on members of the diaspora, who have settled down for years and have a legal permanent resident status. Diaspora members may use this opportunity to exploit newly arrived Kyrgyz migrants by taking their passport to allegedly complete their registration, or by asking them to work for free, allegedly in order to reimburse all expenses that their countrymen have covered (administrative expenses, housing, food, etc.).

There is a disproportionate number of female victims in human trafficking, and women are at a higher risk of being trafficked for sexual exploitation.¹⁰⁶ In Kazakhstan, the Law on Domestic

103. Interview with FIDH mission, Aravan, 29 February 2016.

104. The US Department of State annually releases a Trafficking in Persons Report which categories countries into different “tiers” based on the extent of government action to combat human trafficking. Countries that have the highest level of compliance with the Trafficking Victims Protection Act’s minimum standards for the elimination of trafficking are placed in Tier 1. Those that have made “significant efforts” to meet the standards are placed in Tier 2 and countries that are not making significant efforts to combat human trafficking are placed in Tier 3. US Department of State, Trafficking in Persons Report, July 2015. available at: www.state.gov/documents/organization/245365.pdf

105. FIDH workshop with civil society representatives from Kazakhstan, Kyrgyzstan and Russia on the situation of migrant workers and their members of their families in Kazakhstan, Almaty, 1-2 February 2016.

106. United Nations Office on Drugs and Crime, Human trafficking, page viewed on 16 April 2016, available at: www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html?ref=menuse

Workers facilitated the employment by private persons of up to five migrants per household represents, on the one hand it is a positive development as the work permit is delivered directly to the migrant worker, but on the other hand, increases the vulnerability of migrants employed in these closed areas. Labor inspectors do not check working conditions in these places unless they receive a complaint from a migrant.¹⁰⁷

According to the US Department of State Trafficking in Persons Report 2015¹⁰⁸, Kyrgyz women are subjected to forced prostitution, forced child care and domestic servant work. A joint report by the Centre for Support of International Assistance based in Kyrgyzstan (Osh) and the OSCE¹⁰⁹ stressed that women in rural areas are more exposed to these types of exploitation as they benefit less from information campaign provided by the Ministry of Internal Affairs and NGOs¹¹⁰.

The Crisis Centre Cezim in Bishkek, which provides assistance to women victims of domestic violence and of human trafficking, stated to the fact-finding mission that, in some cases, victims of sex trafficking are now themselves “recruiting” young women from the bazaars in Kyrgyzstan with the false promise of a well-paid job abroad (usually in Kazakhstan, Russia, or Turkey).

Restrictive access to healthcare

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to enjoyment of the highest attainable standard of physical and mental health. As explained by the Committee on Economic, Social and Cultural Rights (CESCR), the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services, and conditions necessary for the realization of the highest attainable standard of health. These should be available, accessible, affordable, acceptable, and of good quality.¹¹¹

Russia

According to the law in the Russian Federation, free emergency medical care should be provided to everyone in need regardless legal status. Between January 2010, and August 2015, only foreign nationals who had a permanent residence permit could get non-emergency care paid for by the health insurance provided by their employer. Migrant workers who stayed only temporarily in Russia, – as was the case of the majority of Kyrgyz citizens – could only use private health insurance agencies. Since January 2015, amendments to the “On the legal status of foreign nationals in the Russian Federation Law”¹¹² have stipulated that migrant workers from countries with a visa-free regime were obliged to have voluntary medical insurance.

107. Interview with labor inspector and representatives of the Kazakh Ministry of Labor in Shymkent (southern Kazakhstan) 11 March 2016.

108. Trafficking in Persons Report, cit., *supra* note 104.

109. OSCE, Centre for Support of International Protection, Analysis of factors and risks of human trafficking in the South of the Kyrgyz Republic, 2012-2013.

110. Maria Grazia Giammarinaro, Special Rapporteur on trafficking in persons, especially women and children, Statement at the 70th session of the General Assembly Third Committee Item 68 (b & c), 23 October 2014, available at: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16659&LangID=E#sthash.CeFXkEcL.dpuf and Analysis of factors and risks of human trafficking in the South of the Kyrgyz Republic, cit., *supra* note 94.

111. Committee on Economic, Social and Cultural Rights, General Comment No. 14: the right to the highest attainable standard of health (article 12 of the Covenant), 11 August 2000, E/C.12/2000/4, §12 (b), available at: www.refworld.org/pdfid/4538838d0.pdf. See also Committee on the Elimination of Racial Discrimination, General Comment No. 30, 2004, §29, 36, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?TreatyID=6&DocTypeID=11.

112. Article 13 of the Law “on the legal position of foreign citizens in the Russian Federation”, available at: www.legislationline.org/documents/action/popup/id/4355.

Since the accession of Kyrgyzstan to the EEU, Kyrgyz migrant workers who stay in Russia either temporarily or permanently, should get a mandatory health insurance for themselves and members of their families after signing a labor contract, as do Russian citizens.

Kazakhstan

In Kazakhstan, emergency medical care should be provided to migrant workers from CIS countries for free. Free medical treatment can be provided to all regular migrant workers if they have a disease that is dangerous for others. For non-emergency medical care, it is the responsibility of the employer to provide medical insurance. Since the accession of Kyrgyzstan to the EEU, Kyrgyz migrant workers have access to the Kazakh public health care system, as provided to Kazakh citizens.

Before the accession of Kyrgyzstan to the EEU, none of the migrants interviewed had a voluntary health insurance while they worked in either Russia or Kazakhstan, either because they did not know that they had to get it or because they did not consider the cost of health insurance to be a necessary expense.

Nurgul, Sretenka (Chuy province): "I came back here [Kyrgyzstan] from Russia five years ago. I helped my husband on the construction site where he worked. I helped him with the wallpaper, but I fell and I broke my spine. I was not hospitalized. I was only prescribed a corset and drugs. I paid for the X-ray I had, but not the consultation. As the accident happened in an illegal building, I did not want to call the ambulance and instead went on my own to the nearest clinic. Ten days after the accident, I came back to Kyrgyzstan to get another medical advice because here a medical consultation is cheaper. I had a head X-ray. At the hospital, they told me that I should have surgery, otherwise I would hurt all my life and, when I am 40 years old, I would walk like an old woman. But they asked me to pay in dollars for the surgery, and how could I have dollars? Now it is still very painful, for five years I have felt this pain all the time, and it is now too late to do the operation."¹¹³

Although the accession of Kyrgyzstan to the EEU should have improved the access to health care in Russia and Kazakhstan, the situation of undocumented migrants remains worrying, as they do not have the possibility to get health insurance without signing a written agreement.

When health problems appear, undocumented migrants in Russia or in Kazakhstan prefer to not go to the hospital, because of both the high costs of medical treatment and, for those who live in Russia, the fear of being deported. Research carried out in 2014 in the Republic of Tatarstan, in western Russia, found that *"self-medication is often the only possible response to disease amongst migrant workers"*.¹¹⁴

Gulkharir, Sretenka (Chuy province): "I did not have any health insurance. It's too expensive and I did not even think about buying it. Once I felt pain in my breast, so I went to a clinic and they sent me to the Embassy of Kyrgyzstan, where I was given contact details of a Kyrgyz therapist. A consultation with him cost 300 rubles [the equivalent of 8 euros in 2012]. I went there (...). He told me that I had to go see a mammalogist, I looked up information and discovered that one consultation with a mammalogist costs 5 000 rubles. I could not afford it, so I did not go and stayed like that. Besides, there are no Kyrgyz female doctors. So, when women have feminine health problems, such as gynecological problems, they do not dare to go to a doctor's office. They never go to see doctors. No one goes."¹¹⁵

113. Interview with FIDH mission, Sretenka, 1 March 2016.

114. Irina Kuznetsova, Laysan Muchyaryamova, "Migrant workers and health care access in Russia: formal and informal strategies", *The Journal of Social Policy Studies*, 12 (1), 30 March 2014, available at: https://jsps.hse.ru/data/2014/03/30/1317318420/JISP_12_1_Kuznetsova_Muchar'arova.pdf (Ирина Кузнецова, Лайсан Мухарьямова, "Трудовые мигранты в системе медицинских услуг: формальные и неформальные стратегии", *Журнал исследований социональной политики*, 12 (1) 30 марта 2014.)

115. Interview with FIDH mission, Sretenka, 1 March 2016.

In its 2015 alternative report to the UN Committee on Migrants' Rights, the Civil Partner Platform "Central Asia on the Move" reported that "when women migrants have diseases, they delay treatment until they return to Kyrgyzstan. Exceptions are in the case of acute illness, childbirth, and examination of newborn babies."¹¹⁶

Reproductive health issues

Sexual and reproductive rights are protected by several international instruments, such as the CEDAW or the ICESCR, which provide for the protection of the right to health or healthcare, as specifically defined by UN treaty bodies. These rights are also enshrined in the Program of Action of the International Conference on Population and Development (Cairo, 1994) and the Beijing Declaration and Platform for Action (1995). In 1999, the CEDAW Committee affirmed that "access to health care, including reproductive health, is a basic right under the Convention on the Elimination of All Forms of Discrimination against Women". As such, States parties should "ensure universal access for all women to a full range of high-quality and affordable health care, including sexual and reproductive health services"¹¹⁷. The 2016 Committee on Economic, Social and Cultural Rights (CESCR) General Comment 22 on the right to sexual and reproductive health recalled that this right is indivisible from, and interdependent with, other human rights.

Few migrant women have access to sexual and reproductive health information, services, and counseling care when they are in countries of destination. Many of them are deterred from getting access to reproductive health care out of fear of deportation, but also for financial reasons. According to representatives of health centres interviewed by the Centre for Support of International Assistance, amongst those women who have access to a doctor, many, especially young women, are not able to afford the birth control pills which are prescribed to them¹¹⁸. Childbirth is supposed to be free of charge for migrants from CIS countries as emergency care, according to both Kazakh and Russian law; however, researchers who carried out an investigation in Moscow on the access to health care public system for migrants from Central Asia (2014) reported that the requirements for residence permits and/or reports of pre-natal testing may become obstacles to hospital admission for childbirth. Further, antenatal care services are neither free nor adequate¹¹⁹.

Aina, Sretenka (Chuy province): "Four months after my arrival in Russia, I was pregnant with my first daughter. I had a pregnancy test and that is all. It is too expensive to go to see a doctor. I tried, but blood analyses cost 5 000 rubles [120 euros in 2012], and an ultrasound scan cost 2 500 rubles [70 euros in 2012]. As I had stopped working due to my pregnancy, I could not afford to pay it. I was afraid to not have the ultrasound scan, but it was like that! I came back to Kyrgyzstan when I was six months pregnant, and here I has all the analyses and fortunately everything was fine! (...) I stayed a year and a half in this plant (chemical cleaning plant of hotel linen). After being five months pregnant, I stopped this work. I did not tell anyone that I was pregnant because I did not want to lose two months' salary, we can not avoid losing one month's salary, but it is already something! Working when you are pregnant is very hard physically and mentally as well."¹²⁰

116. Civil Partner Platform "Central Asia on the move" composed of such organizations as the Center of Support to International Protection Public Foundation; Human Rights Movement: Bir Duino - Kyrgyzstan; Public Association and the Resource Centre for Elderly People Public Association, "Alternative Report – 2015" submitted to the UN Committee on the Protection of All Labor Migrants, 2015, available at: http://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/KGZ/INT_CMW_NGO_KGZ_19876_E.pdf

117. CEDAW Committee, General recommendation No. 24: article 12 of the Convention (women and health), 1999, A/54/38/Rev.1, chap. I, §1, 29.

118. Alternative Report – 2015, cit., *supra* note 116.

119. Interview organized by the local NGO Sana Cezim in Shymkent (Kazakhstan) on 11 March 2016.

120. Interview with FIDH mission, Sretenka, 1 March 2016.

Two women interviewed during the fact-finding mission attested that they were discriminated in Russia because they were pregnant. When they inform their employers about their pregnancy, they were immediately fired without being paid for the work done since they received their last salary (the equivalent of over two months salary as in each case).

Lack of prenatal care may lead to problematic pregnancies, pre-eclampsia, and other gynecological health issues. According to statistics from the National Committee on the confidential investigation on the maternal mortality rate for 2011-2012 (under the supervision of the Ministry of Health Care of the Kyrgyz Republic), 12% of the deceased were migrants. This report states that migrant “were occupied with shuttle trade or other business characterized by a heavy workload, without having any necessary access to health adequate antenatal services”¹²¹.

Lack of access to justice in countries of destination

Given that more than 60% of Kyrgyz migrants are undocumented in Russia¹²², most of them do not go to the police when they are victims of violations of their rights, as they fear they could be extorted, arrested and/or expelled. The centre for Support of International Assistance affirmed that “55% of women migrant workers indicated that they suffer most oppression from the city police and 28% from the staff of the Federal Migration Service (37.5% from local residents, and 21% from employers - in this case, the vast majority of migrants do not know where to complain against ill-treatment).”¹²³

Over the past few years, along the multiplication of legislative amendments on migration and the exacerbation of a xenophobic climate, raids performed by law enforcements have become much more frequent, in particular in Moscow with the aim to discover illegal migrants and to extort them under the threat of arrest and deportation. (See above II.2. Inadequate living conditions).

Even when they are not directly infringing the rights of migrants, the police often fails to carry out independent, credible and impartial investigations to punish those who do.

Alina, Sretenka (Chuy province): “The basement was burnt on 30 December 2012 by Russian nationalists (we think that they were Russian nationalists, but the perpetrators were not arrested), they watered the whole entrance and corridor with gasoline and closed the door from outside and then they struck a match. Only one room had a window, we broke it and we all could go out, except one Kyrgyz man who died. His brother had 60% of his body burned but he could go out. We did not complain because we were too scared as we are illegal, but the police came anyway and they said it was an accident. But we felt the gasoline smell! Nobody wanted to arrest those who did this! After carrying out small repairs, we continued to live there for a while.”¹²⁴

Kyrgyz State bodies involved in migration issues

In 2005 was created the State Committee on Migration and Employment (2005-2009) and then established a Ministry of Labor, Migration and Youth in 2012. After the legislative elections in October 2015, this Ministry was transformed into a State Migration Service under the supervision of the Government of the Kyrgyz Republic.

121. Ministry of Health Care of the Kyrgyz Republic, National Committee on confidential investigation on maternal death, “First report on confidential audit on maternal death in the Kyrgyz Republic. 2011-2012.”, Bishkek, 2014. (Министерство здравоохранения Кыргызской Республики, Национальный комитет по конфиденциальному расследованию материнской смертности, “Первый отчет конфиденциального аудита материнской смертности в Кыргызской Республике за 2011–2012 гг.”, Бишкек 2014.)

122. Joint Report on Migration in Kyrgyzstan, 2015, cit., *supra* note 1.

123. G. Ibraeva, A. Niyazova, M. Ablezova, A. Moldosheva, 2014. Report on the results of the survey “Gender and Migration”, order from ICCO Cooperation

124. Interview with FIDH mission, Sretenka, 1 March 2016.

The Ministry of Foreign Affairs through its embassies and consulates in Kazakhstan (Astana and Almaty¹²⁵) and in the Russian Federation (Moscow, Yekaterinburg, Novosibirsk, Krasnoyarsk, Vladivostok, Orenburg, Krasnodar, Khabarovsk and two in Saint-Petersburg¹²⁶) is also involved in working on migration-related issues.

Most migrant workers lack information regarding the protection of their rights. They are not aware of the opportunity to apply for assistance to consular offices. The only migrant we met who was aware of the existence of the Kyrgyz Consulate in Moscow explained that it was by chance as she saw a sticker on the train heading to Moscow. In the city, she and her husband had problems with their employer who did not pay them their salary. She decided to ask the Consulate for help. As they did not conclude any contract, the Consulate representatives explained they could only interfere in an unofficial way and succeeded in returning half of the initial salary. But this case seems to be an exception. According to the Centre for Support of International Assistance, "the vast majority of migrants living and working in Moscow are not included in the consular register (96%). The majority of them have been in Moscow for more than a year".¹²⁷ Besides the lack of outreach towards the Kyrgyz migrant communities, the absence of women among the staff of consular agencies in Kazakhstan and in Russia could have a deterrent effect and hinder female migrants to contact the Kyrgyz Consulate¹²⁸. According to the Consular services of the Kyrgyz Ministry of Foreign Affairs, all consular officers in Russia used to be male officers. However, following the FIDH mission held in March, a woman was appointed to the Kyrgyz Consulate in Saint-Petersburg. In Almaty (Kazakhstan), since 2016, the consul is also a woman.

Lack of proportionality of sentences for violations of migration procedures: fines, detention, and expulsion

Due to the lack of information regarding their rights and of the various recent changes in the Russian legislation, many migrants are convicted in Russia on the basis of the following articles: Part 3 of Article 18.8 of the Administrative Code of the Russian Federation (violation by a foreign citizen or a stateless person of entrance and staying regulations in the Russian Federation) and Part 2 of Article 18.10 of the Administrative Code of the Russian Federation (illegal implementation by a foreign national or a stateless person of work in the Russian Federation) pertaining to the Russian migration regime. These articles entered in force on August 9, 2013 during a time increased xenophobia. According to these legislative changes, when a violation of these laws takes place in Moscow, Saint Petersburg, or the Moscow or Leningrad regions, expulsion is now mandatory. According to monitoring of trials carried out by Civic Assistance Committee (Russia), since 2012, the number of expulsions has increased more than fourfold. Between 2012 and 2015, 98% of the decisions on expulsions taken by Russian courts were taken on the basis of these two articles¹²⁹. In case of a violation of the migration regime, migrants may be subjected to a triple sentence: they can be fined, imprisoned, and/or expelled.

125. Consular services of the Ministry of Foreign Affairs of the Kyrgyz Republic, official site, information, viewed on 11 April 2016, available at: www.consulkg.kz/

126. Kyrgyz Embassy in the Russian Federation, official site, viewed on 11 April 2016, available at: http://kyrgyzembassy.ru/?page_id=449#.Vw5mmSZb9CU

127. Alternative Report – 2015, cit., *supra* note 116.

128. Meeting with the representative of the Consular Services of the Ministry of Foreign Affairs in Bishkek on 5 March 2015.

129. Konstantin Troitsky, "Expulsions In Moscow: Statistics And Court Practice", Civic Assistance Committee, 23 February 2016, available at: <http://refugee.ru/en/news/expulsions-in-moscow-statistics-and-court-practice/>

According to a report issued by the Civic Assistance Committee on 10 May 2016, “in 2015 district courts have issued more than 58 thousand deportation decisions under Articles 18.8 and 18.10 of the Administrative Code of the Russian Federation. Such cases made up more than 80% of the total number of administrative cases in district courts. The average consideration of such cases lasts from three to five minutes as a result creating champion judges, who manage to expel up to hundred people within one working day.”¹³⁰

Abusive conditions of detention

According to international human rights standards, the detention of migrants for violations of immigration rules should never be automatic or mandatory. Other non-custodial measures should be prioritised. Detention should be a last resort and used only for the shortest period of time, and only when a less restrictive measure is not available. Judicial safeguards must be in place to ensure that such a detention is neither arbitrary nor indefinite¹³¹.

In 2015 report, ADC “Memorial” denounced the violations of the rights of migrants in the so-called “foreign national detention centres”. The “detention conditions in these centres are no better than the conditions in prisons where people accused of a crime are held, and court control over detention periods in these institutions may even be worse: in Russia, migrants can be held in such facilities for up to two years without any court review”¹³². Women who had been in these detention centres described overcrowded facilities; poor hygienic conditions; a precarious separation between men from women, and adults from minors; and inadequate access to proper medical treatment and counseling.

Zeinat, Ak-Jar (Chuy province): “For a month I was not registered. The employees of the Federal Migration Service came into the café where I worked because my license had expired. I did not have the right to work, but I still worked two hours a day to replace a colleague, and they came right at this time. There was a trial, and I had to pay 7 000 rubles in fines to the Migration Service [roughly 100 euros in 2015]. I first stayed at the Migration Service until midnight, then in a temporary detention centre for two days. I did not have any food or water for 24 hours. During the transfer to the Court, I was handcuffed, and they electrocuted me with a taser, pushed me into the car, and shouted “Sit there! Get up!” Then I spent 20 days in a detention centre in Kazan. In this detention centre, we were six persons per cell. We had a ten minute walk twice a day. They gave me my phone one week after my arrival after having forced me to wash the floor and do the dishes too. (...) The men were on the ground floor and women on the first floor. The guards were men or women. There were cameras everywhere. Women and men often fought. Many were there for a long time. There was an Uzbek woman and her four children who had been there for six months. (...) There were many suicides. A woman cut her veins in my cell and died. Another hanged herself in the showers. When I was released, I had to wear the handcuffs until we reached the airport, and even inside the plane. I removed the handcuffs once I entered the plane, while police officers were both sitting around me. They left just before take-off. I was so ashamed. There were a lot of acquaintances at the airport; Kyrgyzstan is a small country! And I was treated like a criminal...”¹³³

130. Civic Assistance Committee, “Deportations In Russia: Court Proceedings Or Mass Expulsion?”, 10 May 2016, available at: <http://refugee.ru/en/news/deportations-from-russia-court-proceedings-or-mass-expulsion/>

131. E.g. the Annual Report of the Special Rapporteur on the human rights of migrants, François Crépeau, on the detention of migrants in an irregular situation, 2012, available at: www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-24_en.pdf

132. ADC “Memorial”, Foreign national detention center and the failure to comply with EHCR rulings on the protection of migrant rights, 2015, http://adcmemorial.org/wp-content/uploads/KIM_ENG1.pdf

133. Interview with FIDH mission, Ak-Jar, 2 March 2016.

Insecurity, violence and xenophobia

The International Covenant on Civil and Political Rights enshrines non-discrimination (article 2), equality before the law, and equal protection of the law (article 26). It also states that “any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence shall be prohibited by law” (article 20). In its 2015 Concluding Observations on the Russian Federation, the U.N Human Rights Committee expressed concerns over (a) “racist and xenophobic acts, including racially motivated crimes, such as violent attacks by the Cossack patrols, which particularly target non-Slav persons, including migrant workers from Central Asia (...); (b) the proliferation and functioning of extremist groups, such as ultra-nationalist, racist, and neo-Nazi groups, including skinheads; and (c) the use of discriminatory language against national, ethnic, religious, or other minorities, and xenophobic and racist rhetoric in the political discourse, in particular during electoral campaigns, and in the media.”¹³⁴

On 8 April 2016, a Russian shot a man several times in the metro just because of his “non-Slavic appearance”. Since 2007, the Sova Centre for Information and Analysis (Russia Federation) reported no fewer than 787 violent acts committed against individuals from Central Asia¹³⁵, and the figure is believed to be underestimated as many undocumented migrants do not file complaints.

The xenophobic and anti-migrant discourse and policies fueled and implemented by Russian authorities contribute to attacks against migrants in impunity, especially in Moscow and Saint Petersburg where the anti-migrant climate is particularly exacerbated. Between 23 October and 2 November 2014, authorities in Moscow carried out “Operation Migrant 2014”¹³⁶ to crack down on ‘illegal’ migration. 7 000 migrants were arrested in the first four days during mass raids, in which the police used violence.

Many women interviewed who had worked in Russia, especially those working at night in Moscow, felt insecure in public areas. Most of women stated that they only went from work to their house and did not leave their house otherwise in fear of being attacked.

Anora, Sretenka (Chuy province): *“I worked from 10 am to 10 pm, and every night my husband picked me up because I was afraid to come back home alone. It is very dangerous for Kyrgyz. Once I was in the subway and a Kyrgyz boy was beaten by three Russian boys who called him “a Muslim”. Nobody said anything.”*¹³⁷

Gender-based violence

In countries of destination, Kyrgyz women migrants may be at risk of being subjected to gender-based violence, including at the hands of Kyrgyz men, whether they are their partners, relatives, or unknown countrymen.

Domestic violence exported and exacerbated in countries of destination

Discrimination and violence against women and girls is a major problem in Kyrgyzstan. In 2014, the UN Human Rights Committee expressed concern over continued violence against women,

134. UN Human Rights Committee, Concluding observations on the seventh periodic report of the Russian Federation, 2015, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRUS%2fCO%2f7&Lang=fr

135. Centre for information and analysis Sova, Database, viewed on 9 May 2016, available at: www.sova-center.ru/en/database/

136. FIDH, “Russia : Stop Mass Arrests of Migrants”, 30 October 2014, available at: www.fidh.org/en/region/europe-central-asia/russia/16382-russia-fidh-and-adc-memorial-call-to-stop-mass-arrests-of-migrants

137. Interview with FIDH mission, Sretenka, 1 March 2016.

highlighting that domestic violence still is “accepted by the society at large”¹³⁸. In Kyrgyzstan’s 2012 Demographic and Health Survey, 28% of married or formerly married women, and girls aged 15-49 reported having experienced physical, sexual, or emotional violence by a spouse or partner¹³⁹. These numbers are underestimated due to the stigma and silence existing around domestic violence in the country.

Domestic violence in Kyrgyzstan, is often “exported” to Russia or Kazakhstan, where there also is a high prevalence of domestic violence, which is also under reported in these countries. Female migrants are particularly vulnerable abroad as they are cut off their families and support system, may not be able to report abuses due a lack of legal status, or the fear of losing legal status if they leave their husbands and being subsequently deported.

Nurgul, Belovodskoe (Chuy province): *“We rented with my husband a “place” in a two-room apartment where there were 15 people (...) There was a man who beat his wife in the kitchen. He was from Osh. He was so jealous. He told her that she came home late and beat her. She came home late because she worked. She had bruises on her face and he broke her nose. We were trying to separate them, but he said that it was not our business, it was his family.”*¹⁴⁰

Nurmira, Ak-Jar, (Chuy province): *“My youngest sister [Gulmira, 20 years old] got married in November 2015. She stopped her studies and went to Moscow to join her husband. There, he beat her. He was jealous because she was talking on the internet with her former classmates. They lived with her husband’s brother and his wife. They did not want her to leave, so they hid all her clothes. After a month, she ran away, and called my husband who paid for the plane ticket to return to Kyrgyzstan. After returning, she had regularly episodes of tetany.”*¹⁴¹

Zeinat, Ak-Jar (Chuy province): *“My husband said the “talak” three times [the pronouncement of a religious formula spoken three times that formalizes a divorce according to the Quran: repudiation], and left me. (...) He left Russia in 2011 and I joined him a year later in Kazan. One night he threw me out at midnight. He put all my clothes in a suitcase and put everything outside the apartment, in the corridor. I had come home at 11 pm by taxi because I was afraid to come back alone. He shouted: “Why are you home so late? Why did you take a taxi? It’s expensive, the taxi! You surely have a relationship with the taxi driver!”. He beat me violently, until I vomited. I went to the hospital, I could not work for several weeks. In Russia, he beat me all the time. Once he said, “I forbid you to work in a café; if you do so, I’ll throw acid on your face!” He asked my boss to fire me. I was fired, so I found a place in another café, and he did it again.”*¹⁴²

The scourge of the so-called “Patriots”

Alina, Sretenka (Chuy province): *“In the washing plant where I worked in Moscow, there was a Kyrgyz girl who had relationship with an Uzbek man. The other Kyrgyz men kept humiliating her all the time, and called her a prostitute and other offending names.”*¹⁴³

138. Human Rights Committee, Concluding observations on the second periodic report of Kyrgyzstan, CCPR/C/KGZ/CO/2, April 23, 2014, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/KGZ/CO/2&Lang=En.

139. National Statistical Committee of the Kyrgyz Republic and Ministry of Health of the Kyrgyz Republic, Kyrgyz Republic. Demographic and Health Survey, Bishkek, 2012, available at: <https://dhsprogram.com/pubs/pdf/FR283/FR283.pdf>

140. Interview with FIDH mission, Belavodskoe, 1 March 2016.

141. Interview with FIDH mission, Ak-Jar, 2 March 2016.

142. Interview with FIDH mission, Belovodskoe, 2 March 2016.

143. Interview with FIDH mission, Sretenka, 1 March 2016.

In an online video posted on YouTube in February 2012, Saparagul, a young Kyrgyz woman, stands naked in a dark street in Russia while a group of Kyrgyz men insult her and beat her up because she spoke to a Tajik migrant man in a Moscow café. Despite the fact that other videos showing violent acts against Kyrgyz women migrants in Russia had been previously posted online by their Kyrgyz aggressors, the video of Saparagul triggered massive outcry¹⁴⁴. These videos display the same type of abuses: young men extremely violent towards a female Kyrgyz migrant because she is involved with a non-Kyrgyz man and demanding an answer as to why she is “bringing shame on the nation and engaging in prostitution with men of another nationality.”¹⁴⁵ These Kyrgyz men present themselves as “patriots” and believe that they have to “teach a lesson” to Kyrgyz women and girls who do not respect what they see as “Kyrgyz traditions” by dating non-Kyrgyz men.

Since 2012, this type of violence has increased with impunity. On 26 February 2016, three “patriots” were arrested¹⁴⁶ for the first time by the representation of the Ministry of Internal Affairs of the Kyrgyz Republic in Moscow after several victims filed a complaint. However Askar Aliyev, the Head of the representation of the Ministry of Internal Affairs of Kyrgyzstan, posted the following comment on Facebook: *“The view of knives and stun guns should scare anybody who has seen these videos. But naturally, as a brother and future father, I cannot support the lifestyle that some of our young women lead, which provokes a strong reaction amongst Kyrgyz countrymen.”*¹⁴⁷ Such a comment from an official representative of the Kyrgyz State justifying criminal acts can only fuel further violence and stigmatization, and lead to Kyrgyz women lacking trust in the State to protect them from violence.

3. WIVES OF MIGRANTS – VULNERABILITY EXACERBATED BY DEPENDENCE

Migration does not only affect people in migration. It also impacts the lives of those left behind by their partners and other family members. As acknowledged by the former Special Rapporteur on the human rights of migrants, Jorge Bustamante¹⁴⁸, “the impact on migrants’ children left behind is “difficult to measure and to generalize.” It is also difficult to assess it for the wives of migrants who have been left behind. Some will see their economic, social, and cultural rights improved by the remittances sent by relatives from abroad, whilst others will note that this situation makes those left in the country more vulnerable to, and even subject to, psychological, physical, and sexual violence.

In Kyrgyzstan, discrimination and gender-based violence against women is widespread. In its 2015 Concluding Observations on Kyrgyzstan, the CEDAW Committee raised concerns about the “persistence of deep-rooted patriarchal attitudes and stereotypes concerning the roles and

144. Eleanora Beishenbek Kyzy and Claire Bigg, “Kyrgyz Migrant Women Brutally Assaulted In ‘Patriotic’ Videos”, Radio Free Europe/Radio Liberty, 31 May 2012, available at: www.rferl.org/content/kyrgyz-migrant-women-brutally-assaulted-in-patriotic-videos/24599390.html

145. Gulnara Ibraeva and Anara Moldosheva, “Male political unconsciousness and the future of nationalism in Kyrgyzstan”, 2013, abstract available at: https://static.unigraz.at/fileadmin/rewizentren/Reees/CAS_Abstract_Ibraeva_and_Moldosheva_2nd_draft.pdf

146. Ajjamaal Muratalieva, “Moscow: arrestation of “patriots”, who abused Kyrgyz women”, Kloop, 2 March 2016, available at: <http://kloop.kg/blog/2016/03/02/moskva-zaderzhany-patrioty-izdevavshiesya-nad-kyrgyzstankami/> (Айжамал Мураталиева, “Москва: Задержаны «патриоты», издевавшие над кыргызстанками”, Kloop, 2 март 2016)

147. В ход пускают даже холодное оружие и электрошокеры, заставляют “зрителей” содрогнуться от ужаса. Безусловно, я сам, будучи отцом и братом, не могу поддерживать тот образ жизни, который ведут некоторые наши девушки, провоцируя столь жесткую реакцию земляков.” Dilya Yussupova, “Representative of the Kyrgyz Ministry of Internal Affairs in Russia called upon the “patriots” not to carry out summary justice”, Zanoza, 22 February 2016, available at: http://zanoza.kg/doc/333755_predstavitel_mv_d_kr_v_rossii_prizval_patriotov_ne_ustrajivat_samosyd.html. (Юсупова, “Представитель МВД КР в России призвал “патриотов” не устраивать самосуд”, Zanoza, 22 февраля 2016).

148. Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante, 2009, A/HRC/11/7, para. 46 to 52, available at: www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.7.pdf

responsibilities of women and men in the family and society, which discriminate against women and perpetuate their subordination within the family and society. Those attitudes and stereotypes are reflected in women's educational and professional choices, their limited participation in political and public life, their unequal participation in the labor market, and their unequal status in marriage and family relations". The Committee recalls that such stereotypes are root causes of violence against women and expresses its concern at the high prevalence of harmful practices that discriminate against women, such as child marriage and bride kidnapping, and that, to date, the State party has not taken sustained measures to modify or eliminate discriminatory stereotypes, negative traditional attitudes and harmful practices."¹⁴⁹ Against this backdrop, migration often exacerbates the vulnerability of women left behind.

Steps to fight gender-based discrimination

The 2010 Constitution and the Law of the Kyrgyz Republic on State Guarantees on the Provision of Equal Rights and Equal Opportunities for Men and Women of 2008 encompass direct and indirect discrimination. The government took steps in 2012 to address gender inequality and discrimination by developing a National Strategy to Achieve Gender Equality by 2020, as well as corresponding National Action Plans¹⁵⁰. On 16 December 2015 the Government of the Kyrgyz Republic approved the National Action Plan on Gender Equality 2015-2017¹⁵¹.

Exploitation by and financial dependence on the in-laws

Given that a significant part of the Kyrgyz population lives abroad, and that family members are split between their country of origin and their country of destination, the traditional structure of the family has been rethought, and the domestic burden has increased for women left behind. For example, Nurgul lives in Sretenka (Chuy province) and takes care of six children, only two of which are hers. One is her sister's, who works in Bishkek (internal migration), and the other three belong to her brother-in-law, who left for Russia with his wife.

In traditional families, women live with their in-laws after their wedding and stay with them while their husband goes to work abroad. Wives of male migrants are often vulnerable to social stigma, poverty, as well as abuse at the hands of their husband's family. Following a mission in Kyrgyzstan, the Special Rapporteur on violence against women, its causes and consequences stated in 2010 that "economically dependent women living with their in-laws while their husbands are in migration are considered as amongst the most vulnerable women in Kyrgyzstan, as they are more likely to be victims of domestic violence."¹⁵²

In an interview with the delegation, Emil Nasritdinov, researcher on migration issues at the American University of Central Asia (Bishkek), characterized the complex relationship that exists in traditional families between the "*kainene*" (mother-in-law) and the "*kelin*" (daughter-in-law), as "*often built on exploitation. The mother-in-law traditionally plays the role of a "police officer"*".¹⁵³ This was confirmed by various interviews conducted by the delegation in Osh and Aravan (Osh province).

149. CEDAW, Concluding Observations on Kyrgyzstan, 11 March 2015, CEDAW/C/KGZ/CO/4, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fKGZ%2fCO%2f4&Lang=en.

150. *Ibid.*

151. UNDP, "National Action Plan on Gender Equality", UNDP in the Kyrgyz Republic, Women's empowerment, viewed on 18 April 2016, available at: www.kg.undp.org/content/kyrgyzstan/en/home/library/womens_empowerment/follow-your-voice1.html

152. Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, following an official visit in Kyrgyzstan in November 2009, published on 29 May 2010, A/HRC/14/22/Add.2, at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.22.Add.2_en.pdf

153. Emil Nasritdinov, "Pros and Cons of Migration in Kyrgyzstan", cit. *supra* note 2.

Aigul, Osh: *"When a woman gets married, she finds herself in complete subordination to her mother-in-law, who has to be strict and serious according to traditional family values since she is the only person who has authority at home. The situation of the new bride arises from this basic rule. She has to act as a servant of her mother-in-law. For example, she has to get up at five or six in the morning to prepare warm water for her mother-in-law to allow her to bath before the first prayer ["namaz"]. After this, she has to clean, to cook and so on. All day she must take care of everything at home. She does not have time to receive an education, nor to work and earn money. If the mother-in-law does not like the bride, she can make her son divorce her. Another problem is the early age at which women get married, and can thus become a mother-in law at a young age, and therefore become the authority figure at home. Lacking experience, she can see the new bride of her son as a rival, and fiercely react to protect her status. (...) Secondly, our families are very religious, and according to the Quran, paradise begins under the feet of mothers. This means that sons should appease their mother first, and then second their wife. This rule is widely overestimated by some men. Thus, when brides become a mother-in-law in turn, they behave in the same way. Here is the main justification: "I suffered, now it is her turn". It is a kind of "dedovshina"¹⁵⁴. It is like in army."¹⁵⁵*

Wives of migrants may not receive remittances from their husbands directly and therefore do not have control of them. Wives of migrants interviewed in Osh and Aravan explained that their husbands send remittances directly to their respective mothers, or to their oldest sister. One of them mentioned the case of a young woman whose son died of anaemia in 2012 because she did not have enough money to buy medicine. The remittances sent by her husband went directly to his older sister, who spent everything on her own needs.

Religious marriage, polygamy, and bride kidnappings

Vulnerability linked to religious marriage

Over the past few years, the scale and the duration of migration processes contributed to the exacerbation of practices violating the rights of women, and were characterized by the renewal and misappropriation of traditional and religious acts linked to marriage.

In its General Comment on article 16 of the CEDAW on the equality of men and women in all matters relating to marriage and family relations, the CEDAW Committee stated that "registration of marriage protects the rights of spouses with regard to property issues upon dissolution by death or divorce"¹⁵⁶. In case of divorce or separation, "the guiding principle should be that the economic advantages and disadvantages related to the relationship and its dissolution should be borne equally by both parties. The division of roles and functions during the spouses' life together should not result in detrimental economic consequences for either party."

In Kyrgyzstan, it is estimated that up to 80% of the inhabitants are Muslims¹⁵⁷. Religious marriage, or "niqah", is not recognized by State authorities, despite the fact that its practice is widespread, in particular in conservative and traditional communities in rural areas and in the southern region of the country. This increases the vulnerability of wives of migrants as they do not allow women to benefit from legal protections and assistance in case of divorce. Without legal proof of the marriage,

154. Dedovshina: informal practice of brutalization and humiliation of new junior conscripts in military forces of former Soviet Republics.

155. Interview with FIDH mission, Osh, 2 March 2016.

156. CEDAW, General recommendation on article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (Economic consequences of marriage, family relations and their dissolution), 26 February 2013, CEDAW/C/GC/29, available at: www2.ohchr.org/english/bodies/cedaw/docs/comments/CEDAW-C-52-WP-1_en.pdf

157. U.S. Department of State, bureau of democracy, human rights and labor, International Religious Freedom Report, Kyrgyzstan, 2013, available at: www.state.gov/j/drl/rls/irf/2001/5598.htm (accessed on 14 May).

wives have little legal standing to seek alimony or child support. If their husband is abroad, they have even fewer options to compel him to contribute to the financial well-being of the children.

After a divorce, women have to move out of their in-laws' home, usually with their children, and are not always accepted back by their own family, which leaves them impoverished and stigmatized. In Islam, according to the *"talaq"*, a husband can divorce his wife by merely declaring three times "I divorce you."¹⁵⁸ In an interview with the delegation, the Director of ISEDA reported various cases of "religious divorce by phone or SMS" in Osh. Some Muslim Kyrgyz have adapted this practice to the migration reality and have sent three SMS' to get divorced.

Legislation on religious marriage

In order to increase the protection of women within a marriage, the Parliament introduced in December 2015 a draft bill requesting mullahs to only perform a "nikah" (religious marriage) after the couple had contracted a civil marriage registered with the State. The draft bill also asked mullahs to request documentation proving the age of the individuals getting married.

On June 2016, the Parliament adapted in first reading another draft bill prohibiting religious marriage for minors. The penalty incurred for parents of the minor, for the mullah performing the religious ceremony and/or for the adult who wants to marry a minor is from three to five years of imprisonment.

Migration and bride kidnappings

According to a UNICEF survey in 2009, "approximately 1.7% of respondents of fertile age (15–49 years) stated that they were in a polygamous marriage or union (...)"¹⁵⁹ The CEDAW Committee stated that "polygamous marriage contravenes a woman's right to equality with men, and can have such serious emotional and financial consequences for her and her dependents that such marriages ought to be discouraged and prohibited."¹⁶⁰

The former Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, noted in 2010 that "heavy labor migration of Kyrgyz men has also resulted in polygamous relations, as married men may enter into an extramarital relation, get married, and establish a new family while abroad".¹⁶¹ Indeed, the delegation heard of various cases of men, who have left Kyrgyzstan for years and who get married a second time abroad. Some of them keep sending remittances to their wife in Kyrgyzstan, while others just stopped having any contacts.

An expert on women's rights in Kyrgyzstan, and representative of the Crisis Centre Cezim (Bishkek) raised concerns about how migration has become one amongst various factors which recently led to an increase of polygamy and bride kidnappings. According to a UNICEF survey in 2009, the highest percentages of polygamy were in Batken (3.6%), Chuy province (3.1%), and a sharp increase can be seen in Osh and Jalal-Abad.¹⁶²

158. Alma Kenjebekova, "Tradition of getting divorced using the world "talaq" has also appeared in Kazakhstan", Radio Azattyq, Kazakh service of Radio Free Europe/Radio Liberty, 27 November 2012, available at: <http://rus.azattyq.org/a/talaq-muslim-ritual-for-divorce-in-kazakhstan/24781672.html> (Алма Кенжебекова, "Традиция дать жене развод словом «талак» появилась и в Казахстане", Радио Азаттык, 27 ноября 2012)

159. Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, cit., *supra* note 152.

160. CEDAW, General Recommendation No. 21: Equality in Marriage and Family Relations, paragraph 14., available at: www.refworld.org/docid/48abd52c0.html

161. Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, cit., *supra* note 152.

162. *Ibid.*

Bride kidnappings

Article 16 of CEDAW underlines that men and women have the same rights to enter into marriage only with their free and full consent, and to freely choose a spouse, and the same rights and responsibilities during marriage and at its dissolution.

Forced marriage is an alarmingly flourishing practice in Kyrgyzstan. According to the NGO “Assistance Centre for Women”, 32 women are kidnapped every day – one every 40 minutes. Of this number, six are raped daily.¹⁶³ It is believed that some 30% to 80% of marriages in rural areas are concluded following bride kidnapping. Usually a group of men kidnap a woman in a public place and take her into the home of the man who wants to marry her. He then forces a white wedding scarf on her head. Victims are often sequestered an entire night as social pressure is very strong: the woman’s family often prefer that their daughter stay with her kidnapper rather than come back home after having spent a night outside of her own home. According to the Statistics of the Ombudsman Office, in 2014, 80% of kidnapped women stayed with their aggressor, while the other 20% escape.

The “Girls not brides” campaign notes that “despite the widespread belief that bride kidnapping is a Kyrgyz tradition, the practice is relatively new. Researchers have found that although consensual kidnappings historically occurred as a form of elopement, non-consensual kidnapping were very rare.”¹⁶⁴

Since the introduction of changes to the Criminal Code in 2013, abducting a woman in order to marry her against her will has been a crime punishable by up to seven years of imprisonment (article 155 of the Criminal Code). However, the practice continues unabated as perpetrators are rarely prosecuted. Besides, according to Nurgul Bakirova, Head of the Department on Gender Issues of the Ministry of labor and Social Development, in the framework of the current reform of the Criminal Code, the article 155 providing for prison sentence could be suppressed and the crime of abduction could lose its public character. Instead, private conciliation could be considered in such a case.¹⁶⁵

Larissa Ilibezova, expert on gender issues and women’s rights in Kyrgyzstan, further mentioned that the resurgence of old traditions such as bride kidnapping is not foreign to migration processes. Before emigrating, male migrants are usually keen to find a wife who will take care of his parents. Bride kidnapping can therefore be coupled with exploitation of these kidnapped women, who have to take on the domestic burden in a family that they did not choose.

When victims of these practices reach out to the police despite the risk of stigmatization within their communities, they are often faced with inaction on the part of the State and a lack of understanding, which leads to re-victimization.

163. Topchugul Shaydullaeva of the Women Assistance Centre in Bishkek, “Traditions as violations of human rights”, Radio Azattyk, Kyrgyz service of Radio Free Europe/Radio Liberty, 7 December 2011, available at: http://rus.azattyk.org/content/kyrgyzstan_shaidullaeva_women_rights/24413912.html (Топчугуль Шайддулаева (Центр помощи женщинам, Бишкек), “Традиции” как нарушение прав человека”, Радио Азаттук, 7 декабря 2011)

164. Ailey Hugues, “Bride kidnapping and land rights in rural Kyrgyzstan”, Girls not Brides, 27 March 2013, available at: www.girlsnotbrides.org/bride-kidnapping-and-land-rights-in-rural-kyrgyzstan/

165. Interview with FIDH mission, Bishkek, 24 May 2016.

Right to sexual and reproductive health

Human immunodeficiency virus (HIV)-related rights are well enshrined in international human rights instruments protecting the rights to life, health¹⁶⁶, privacy¹⁶⁷, and non-discrimination¹⁶⁸. In its 2011 Political Declaration on HIV and AIDS, the United Nations General Assembly reaffirmed that “the full realization of all human rights and fundamental freedoms for all is an essential element in the global response to the HIV epidemic, including in the areas of prevention, treatment, care, and support, recognize that addressing stigma and discrimination against people living with, presumed to be living with, or affected by, HIV, including their families, is also a critical element in combating the global HIV epidemic”¹⁶⁹.

In Osh, Ikbol Bakhramova, Director of ISEDA, underscored the lack of access to information about sexual and reproductive health in Kyrgyzstan. In conservative and traditional communities, contraception and sexually transmitted diseases are taboos. Nevertheless, the number of Kyrgyz migrants living with HIV has increased over the past few years. According to official statistics, their number doubled between 2009 and 2012. These statistics should be used carefully as they take into account only those included on the register of the Kyrgyz Ministry of Health Care, and many people living with HIV do not know about it.

Due to the lack of information concerning sexual health, and the conservative values of society which prevent any discussion about this issue, young migrants living abroad do not know about the importance of having safe sex. According to a 2015 study by the Red Cross¹⁷⁰, 20% of the Kyrgyz migrants interviewed who have several partners, have unsafe sex with them. 82% of migrants interviewed (from Tajikistan, Kyrgyzstan and Uzbekistan) did not know where it was possible to get an anonymous HIV test in Russia. Consequently, most migrants living with HIV can spread the disease when they return home, whether because they do not know about their situation, or because they are unwilling to publicly disclose it due to fear of stigmatization. Thus, their wives, who have no access to information about sexually transmitted diseases, can become infected.



Russian Federation, Moscow: A rally of Putinist United Russia's Young Guards movement stigmatizing migrant workers takes place at the Kazansky railway station in Moscow. 2009-01-19.
© RIA Novosti

166. See e.g., International Covenant on Economic, Social and Cultural Rights, Article 1, available at: www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx.

167. See e.g., International Covenant on Civil and Political Rights, Article 17, available at: www.ohchr.org/en/professionalinterest/pages/ccpr.aspx; and the International Guidelines on HIV/AIDS and Human Rights, 2006, para. 119, available at: www.ohchr.org/Documents/Issues/HIV/ConsolidatedGuidelinesHIV.pdf.

168. See e.g. Committee on Economic, Social and Cultural Rights, General Comment 14, para. 18, available at: www.refworld.org/pdfid/4538838d0.pdf

169. United Nations General Assembly, Political Declaration on HIV and AIDS: Intensifying Our Efforts to Eliminate HIV and AIDS, available at: www.unaids.org/sites/default/files/sub_landing/files/20110610_UN_A-RES-65-277_en.pdf

170. “Results of the investigation “Information level of migrants about tuberculosis and HIV”, Internist.ru, 28 April 2015, available at: <http://internist.ru/publications/detail/22192/>

III. CHILDREN AFFECTED BY MIGRATION

For the purposes of the report, a child means “every human being below the age of eighteen years, unless under the law applicable to the child, majority is attained earlier”¹⁷¹. In Kyrgyzstan the age of majority is set at eighteen.

Over the past few years, Kyrgyz children have been increasingly affected by migration. They can be classified into the following categories¹⁷²:

- children that migrate with their parents who are migrant workers;
- children that migrate unaccompanied¹⁷³ (also referred to as “unaccompanied minors”): “children, as defined in article 1 of the Convention [on the Rights of the Child], who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so”¹⁷⁴;
- children that emigrated separated¹⁷⁵ from their parents: “children, as defined in article 1 of the Convention [on the Rights of the Child], who have been separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.”¹⁷⁶;
- children that are born to parents who are migrant workers in transit and destination countries;
- migrant children that return to their country of origin, either voluntarily or by force, alone or with their parents.

There is an additional category, quite distinct: children left behind by their parents, namely “children, as defined in article 1 of the Convention [on the Rights of the Child], raised in their home countries or in their countries of habitual residence, who have been left behind by the adult migrants responsible for them, such as one or both parents, extended family members, legal guardians, or caregivers.”¹⁷⁷

The Committee on the Rights of the Child stated explicitly that “the enjoyment of rights stipulated in the Convention (was) not limited to children who are citizens of a State party and must therefore, if not explicitly stated otherwise in the Convention, also be available to all children – including asylum-seeking, refugee, and migrant children – irrespective of their nationality, immigration status, or statelessness”¹⁷⁸.

The United Nations recognizes a protection gap as far as the rights of children affected by migration are concerned: laws, policies, and practices relating to migration fail to include a child-sensitive and rights-based approach, and fail to take into account the special needs and vulnerability of children affected by migration¹⁷⁹.

171. Convention on the Rights of the Child, 1989, available at: www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx

172. CMW-CRC Joint General Comment on the Human Rights of Children in the Context of International Migration, Concept Note, available at: www.ohchr.org/EN/HRBodies/CMW/Pages/JointGeneralCommentonChildren.aspx

173. Committee on the Rights of the Child, General Comment No. 6: Treatment of Unaccompanied and on Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, para. 7, available at: www2.ohchr.org/english/bodies/crc/docs/GC6.pdf

174. *Ibid.*

175. Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante, *cit.*, *supra* note 148, para. 45.

176. General Comment No. 6: Treatment of Unaccompanied and on Separated Children Outside their Country of Origin, *cit.*, *supra* note 173, para. 8.

177. Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante, *cit.*, *supra* note 148, para. 45.

178. General Comment No. 6: Treatment of Unaccompanied and on Separated Children Outside their Country of Origin, *cit.*, *supra* note 173, §12.

179. Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante, *cit.*, *supra* note 148, para 42-45.

There is a lack of disaggregated statistics on the movement of children from Kyrgyzstan. Kyrgyz children migrate internationally for various reasons, but mostly to accompany family members and/or to seek economic opportunities. Although Kyrgyz male migrant workers used to not take their children with them, the feminization of the migratory flows (cf. *supra*) has led to an increase in children emigrating with their parents. Some migratory plans involve all the members of a family: for instance, it is not unusual for Kyrgyz families to emigrate for the season with their children to work in the fields in southern Kazakhstan. Although they usually travel with their relatives, there is a growing number of children migrating unaccompanied, who migrate for economic reasons and with the aim to work.

1. KYRGYZ CHILDREN IN MIGRATION – A DOUBLE VULNERABILITY

Children are in a situation of double vulnerability throughout the migration process: both as children and as individuals affected by migration. They are particularly at risk of discrimination, psychological, physical, and sexual violence and abuse throughout the migration process. In its 2014 Concluding Observations on the Russian Federation, the Committee on the Rights of the Child stated it was concerned about the prevalent discrimination against “children in marginalized and disadvantaged situations such as the children of migrant workers, of stateless persons, and children not registered as permanent residents (*“propiska”*), and the lack of targeted budget allocated to them”¹⁸⁰. Children may *inter alia* face difficulties and restrictions to access social and health services and education in countries of destination, and may be subjected to forced or exploitative labor.

Inadequate living conditions

Kyrgyz migrant children and their families often live in substandard crowded and unsanitary housing due to the high costs of rental apartments in Russia and Kazakhstan. In the above-mentioned 2014 Concluding Observations, the Committee on the Rights of the Child worried that migrant workers’ very busy work schedule (often seven days a week, plus overtime) was “depriving their children of parental attention”¹⁸¹.

Gulmira, Belovodskoe (Chuy province): *“We took our young daughters, who were five and six years old with us, because nobody could take care of them here (Kyrgyzstan). They did not go to school, not to kindergarten, I locked them up at home and they warmed themselves the dishes I had prepared in advance. The first two days, they cried a lot, after that they got used to it.”*¹⁸²

Under article 27 of the Convention on the Rights of the Child, “States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral, and social development”. If the parents have the primary responsibility to implement this right, States shall, within their means, take appropriate measures to assist them.

As migrant workers usually unofficially rent places (without registration), they are permanently at risk of expulsion.

180. Committee on the Rights of the Child, Concluding Observations on the Russian Federation, 2014, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fRUS%2fCO%2f4-5&Lang=en

181. *Ibid.*

182. Interview with FIDH mission, Belovodskoe, 1 March 2016.

Aida, Osh: "In 2013, my husband, my three children, and I rented a two-bedroom apartment illegally. The owner just let us enter the apartment after we paid the rent. We lived with ten other people. At the end of the year, neighbors complained about the fact that there were a lot of migrants in our apartment. The police came and kicked us out of the apartment. The owner did not give us back the rent we had paid for the upcoming month. We found ourselves homeless. It was winter. We did not know where to go. Luckily, my husband worked as a taxi driver, so we slept in the car all week. Then, with the help of acquaintances, we found another apartment."¹⁸³

Restrictions to the right to education in countries of destination (Russia and Kazakhstan)

Under the article 13 of the International Covenant on Economic, Social and Cultural Rights, the right to education must be available to all, in both law and in practice, without discrimination. According to the Committee on Economic, Social and Cultural Rights, "the principle of non-discrimination extends to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of their legal status"¹⁸⁴. The Committee on the Rights of the Child expressed serious concerns about the widespread discrimination against migrant children "in the process of admission into schools, and regular visits of representatives of school administrations to the homes of migrant pupils in order to report on their migration status"¹⁸⁵ in Russia.

According to a joint study carried out by UNICEF and the UNESCO Institute for Statistics on Kyrgyz out-of-school children (2012), "even children who migrate with their parents are left without a choice of school, since they are forced to move from one apartment to another (a family can change addresses up to 6–8 times a year). The frequent lack of documents makes migrant children vulnerable in terms of access to education and medical services, and this category of children is at greatest risk of being involved in illegal or hard labor, drug trafficking, begging, and prostitution."¹⁸⁶ As most of the Kyrgyz migrants work in the shadow economy and do not have a regular status, some may prefer not to send their children to school due to fear of deportation.

Some Kyrgyz migrant children face barriers to access education because of lack of required documentation. In Russia, until August 2015, Kyrgyz children had had increasing difficulties in attending school.

Access to education in Russia before the Kyrgyzstan access to the EEU

Before January 2014, having a legal status for an academic year was very challenging for migrant children as they were obligated to leave the country every three months in order to renew their registration and to legalize their stay in Russia. Usually they crossed the closest border before reentering the Russian territory, but many parents could not make this trip due to financial reasons and lack of time.

After January 2014, the obligation for children of migrant workers from Central Asia to renew their permit of stay every 90 days by leaving the country for three months meant that their education was interrupted every three months (see *supra* II.2.). In their alternative report submitted to the UN

183. Interview with FIDH mission, Osh, 2 March 2016

184. Committee on Economic, Social and Cultural Rights, General Comment No. 13: the right to education (article 13 of the Covenant), 8 December 1999, E/C.12/1999/10, §34. See also articles 2 and 28 of the Convention on the Rights of the Child.

185. Concluding Observations on the Russian Federation, 2014, cit., *supra* note 180.

186. UNICEF and UNESCO Institute for Statistics, All children in school by 2015. Global initiative on out-of-school children. Kyrgyzstan country study, 2012, available at: www.uis.unesco.org/Library/Documents/out-of-school-children-kyrgyzstan-country-study-2012-en.pdf

Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, ADC Memorial, and Bir Duino – Kyrgyzstan denounced the serious consequences for a child: “a child who has attended school for three months must suspend his or her schooling, leave Russia, and remain outside the country for three months. Only then he or she can return to Russia and re-enrol in school. This child will have missed the program that his or her classmates studied over the previous three months, so the quality of his or her education will suffer. This also violates the right of the child to live in a family. Most children have nowhere to go – they no longer have homes in their native countries because their parents are in Russia.”¹⁸⁷

Children of migrants can also be affected by the bill pertaining to “the legal stay of foreign citizens in the Russian Federation” adopted in January 2014, and they can be included on the re-entry ban list (see *supra* II.2.). For instance, according to the director of the NGO the Planet of Hopes, and as related in the ADC Memorial report on “the situation of children belonging to vulnerable groups in Russia”¹⁸⁸, the Kyrgyz minor Samikjhon Samikov (17 years old at this time) was forbidden re-entry on the Russian territory on the pretext that he exceeded the duration of his legal stay in 2013. From 1 September 2011, he had studied at the professional school of design in Saint Petersburg. He lived with his mother who had a work permit. Following a complaint, the decision to place on the re-entry ban list was cancelled. But the cancellation was not effective immediately due to the complex system of the re-entry ban list (the decision has to be reported to the relevant organ and it usually takes a lot of time).

Besides, according to the Decree No. 32 of the Ministry of Education dated 22 January 2014, children are divided into two categories: those with permanent registration have priority to be admitted at school, and those with only temporary registration, who are only admitted if there are any spaces left¹⁸⁹. There is nothing in the decree about children without registration.

Since the introduction of various legislative changes in 2014, many migrant children have been expelled from school due to lack of documentation (resident permit, registration, health insurance...). According to Civic Assistance Committee, schools’ directors are under a lot of pressure from the Russian Federal Service on Migration to expel those children without registration.

In September 2015, the Supreme Court allowed children who do not have a residence registration to attend school. Therefore, any child, including those of migrants and refugees, have “the right to study in educational institutions in the capital and in the Moscow region as long as there are available places,” stated Svetlana Gannushkina, Director of the Civic Assistance Committee.¹⁹⁰ This caveat means that undocumented migrants’ children continue to face difficulties in attending school, not to mention that it causes significant confusion for school directors due to the implementation of various contradictory legal instruments within only a few years.

In Kazakhstan, The Ministry of Education and Sciences adopted a decree in 2012 allowing all migrants’ children, and not only children whose parents have a permanent resident permit, to attend school. According to a teacher from Shymkent, now all children are accepted in school, even those without registration. Nevertheless, the Head of the Child Fond of Kazakhstan stated

187. Alternative report submitted to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, cit., *supra* note 59.

188. Anti-Discrimination Centre “Memorial”, The situation of children belonging to vulnerable groups in Russia, alternative report, 2014, pp.38-39, available at: http://adcmemorial.org/wp-content/uploads/crs_eng_www.pdf

189. Darina Shevshenko, “Why Migrant Children Are Being Expelled from Russian Schools”, Civic Assistance Committee, 18 June 2015, available at: <http://refugee.ru/en/news/why-migrant-children-are-being-expelled-from-russian-schools/>

190. Anastasia Zotova, “Supreme Court allows children to study in schools without residence registration”, OpenRussia, 17 September 2015, available in Russia at: <https://openrussia.org/post/view/9593/> (Анастасия Зотова, “Верховный суд разрешил детям учиться в школах без регистрации”, OpenRussia, 17 сентября 2015).

that many children of seasonal migrants were out of school in Kazakhstan and, as they are not registered, are “invisible”.

Restrictive access to health care in Russia and Kazakhstan

Under article 24 on the Convention on the Rights of the Child, States Parties recognize the right of the child to “the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right to access to such health care services”¹⁹¹.

In its 2014 Concluding Observations on the Russian Federation, the Committee on the Rights of the Child raised concerns about “the frequent occurrence of malnourishment, especially among children of migrant workers, and the significant obstacles faced by such children and asylum-seeking children in obtaining medical assistance, including preventive health care and emergency assistance”¹⁹². Indeed, due to the lack of legal documents such as registration, health insurance, contracts (or, prior to 2015, patents), children of migrants can be prevented from gaining effective access to health care services as they or their parents fear that their irregular status may be discovered, and that they will be subsequently detained and deported. Regardless of the legality of their status, a clear barrier to accessing health care services are their high costs. Migrants, who usually left their country to seek better economic opportunities, do not want to “spend money” on health care insurance, which is too often considered as an “unnecessary expense”.

Child labor

Kyrgyz families in difficult economic situations may decide to send one or several children abroad for financial support. Usually minors are sent from Kyrgyzstan with relatives or acquaintances who work abroad. An unknown number of children are currently migrating autonomously and unaccompanied.

According to the Head of the Department for Pre-primary, Primary, and Conventional Education in the Ministry of Education and Sciences of Kyrgyzstan (2012), “migrant children who accompany their parents to Kazakhstan and Russia usually work with (them) in plantations, kitchen, markets, and other locations. These children usually do not attend school”.¹⁹³ In Russia and in Kazakhstan, children often take care of other migrants’ children, and manage their households or help them in the markets or at construction sites¹⁹⁴. In most cases, these children have no chance to go back to school when they go back to Kyrgyzstan. For example, in Chuy province, an unemployed mother of five children, (her husband was also unemployed) sent her 16-year old daughter to Moscow to take care of the children of acquaintances for a year¹⁹⁵.

As a result of the establishment of the Russian re-entry ban list, it is reported that minors are being increasingly sent to Russia, particularly when all adult members of their family are on the Russian re-entry ban list. So far, no official data is available to confirm or not this alarming information.

191. According to the Committee on the Rights of the child, “health and related services as well as equipment and supplies must be available to all children (...), in law and in practice, without discrimination of any kind”.. See General comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), 17 April 2013, CRC/C/GC/15, available at: www.refworld.org/docid/51ef9e134.html

192. Concluding Observations on the Russian Federation, cit., *supra* note 180.

193. All children in school by 2015. Global initiative on out-of-school children. Kyrgyzstan country study, cit., *supra* note 150.

194. Zamira Kojobaeva, “Children, victims of labor migration”, Radio Azattyq, Kyrgyz service of the Radio Free Europe/ Radio Liberty, 23 January 2016 available in Russian at: <http://rus.azattyk.org/content/article/27506177.html> (Замира Кожобаева, “Дети – жертвы трудовой миграции”, Радио Азаттык, 23 января 2016)

195. On States’ obligations towards unaccompanied and separated children, see General Comment No. 6: treatment of unaccompanied and separated children outside their country of origin, cit., *supra* note 171, §12 et seq.

2. CHILDREN LEFT BEHIND – “THE MISSING GENERATION”¹⁹⁶

As up to 17% of the Kyrgyz population are migrant workers, there are numerous children left behind. Many parents do not want to, or are not able to, take their children with them when they migrate because they fear difficulties in their countries of destination, they do not have the financial means to cover the transportation and living costs for them, and/or because they fear that the migration police can identify them as undocumented migrants through their children.

The Special Rapporteur on the human rights of migrants stated in his 2009 annual report that “the impact of migration on children left behind is difficult to measure and generalize. Some will benefit from remittances and from a subsequent better enjoyment of their economic, social, and cultural rights, in particular the field of access to education, housing, and health care. Others, however, will be at greater risk of psychosocial trauma; family instability; drug abuse and violent behavior; school drop-out; teenage pregnancy; destitution and neglect; discrimination and social stigmatization; debt/pressure from moneylenders and smugglers; psychological, physical, and sexual abuse from relatives and caregivers; and violence.”¹⁹⁷

When both parents migrate, they usually leave their children with their grandparents. Should they be deceased or refuse to take them, parents then reach out to other relatives (uncles or aunts), or neighbors. In extreme cases, they can be placed with unknown people or in State-run institutions, where they are often referred to as “social orphans”¹⁹⁸.

The decision to leave children behind usually results from a difficult dilemma.

Dinara, Ak-Jar (Chuy province): *“If I can find a job here, I will not go back to Russia, but in case I do not find one, for sure, I would like to go there. I will leave the care of my children to my mother. I am torn because, on one hand, I should stay with the children for their own good, and on the other hand, I have to earn money to be able to raise them... so what should I do?”*¹⁹⁹

According to UNICEF’s situation assessment of children in the country, “many children are left with relatives, often grandparents, who may find it difficult to meet the material and emotional needs of the growing children, many of whom are thus placed in residential institutions. In some cases, children whose parents have migrated abroad can face problems in obtaining legal documentation, including internal passports and other identity documentation.”²⁰⁰ The Special Rapporteur on the sale of children, child prostitution, and child pornography, added in 2013 that “guardians are often ill-equipped, economically or emotionally, to tend to the needs of the children left in their care.” She stated that children left behind were particularly vulnerable to exploitation.

Child labor, limited access to school and lack of health care

Article 32 of the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work likely to be hazardous or

196. Emil Nasritdinov and Nate Schenkan, “A portrayal of Absence: Households of Migrants in Kyrgyzstan”, research conducted by SIAR Research and Consulting, Bishkek, Kyrgyzstan, May 2012.

197. Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante, 2009, A/HRC/11/7, cit., *supra* note 148.

198. Hamid Tursunov, “Kyrgyzstan: labor Migrants Leave Behind “Social Orphans”, EurasiaNet.org, 22 January 2013, available at: www.eurasianet.org/node/66436

199. Interview with FIDH mission, Ak-Jar, 29 February 2016.

200. Matthew Naumann, “Situation assessment of children in the Kyrgyz Republic”, UNICEF, 2011, available at: www.unicef.org/kyrgyzstan/Situation_analysis_ENG.pdf

to interfere with their education, or to be harmful for their health or development. The Kyrgyz Constitution, the Labor Code and the Children's Code prohibit the use of children in harmful and/or dangerous working conditions, as well as in forms of employment that can damage their health or moral development.

Children left behind in Kyrgyzstan usually have increased domestic tasks in the household they live in. For instance, they often do the tasks their grandparents are physically no longer able to do²⁰¹. They also have to take over agricultural tasks²⁰². As a result, they often miss school, especially during the fall and spring farming season.

Article 13 of the International Covenant on Economic, Social and Cultural Rights and article 28 of the Convention on the Rights of the Child recognize the right to compulsory, available and free primary education for all and encourage the development of the progressive introduction of free secondary education in different forms. The Convention on the Rights of the Child insists on State Parties taking 'measures to encourage regular attendance at schools' and reduce the drop-out rates.

Emil Nasritdinov and Nate Schenkan, in a national survey conducted in 2012 by SIAR Research & Consulting (Kyrgyzstan), showed how children's rights to education and to health care become limited when their parents leave them behind. Aside from the psychological toll of migration, these children raised by their grandparents are *"more likely to be taken to traditional healers instead of using modern medicines"*, whereas those who live with distant relatives may not see anyone when they have health problems.²⁰³

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to enjoyment of the highest attainable standard of physical and mental health. As stated by the Committee on Economic, Social and Cultural Rights (CESCR), the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services, and conditions necessary for the realization of the highest attainable standard of health. These should be available, accessible, affordable, acceptable, and of good quality. Non-discrimination is one of the key dimension of accessibility. Facilities, goods and services must be accessible to everyone in law and in fact without discrimination, in particular the most vulnerable or marginalized individuals²⁰⁴.

Risk of ill-treatment and psychological, physical, and sexual abuse

Article 19 of the Convention on the Rights of the Child urges all States Parties to take all appropriate measures to "protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child". The Kyrgyz Code on Children, adopted in 2012, includes as one of the basic principles of child protection "ensuring

201. Altynai Myrzabekova, "Kyrgyzstan: The Migration of Women from Post-Soviet Kyrgyzstan to Russia: Effects on the Family", The PULS magazine, 7 March 2015, available at: <https://pulsocentralasia.org/2015/03/31/the-migration-of-women-from-post-soviet-kyrgyzstan-to-russia-effects-on-the-family-by-altynai-myrzabekova/>

202. Mehriqul Ablezova, Emil Nasritdinov, Ruslan Rahimov, "The impact of migration on elderly people. Grandparent-headed households in Kyrgyzstan", Help Age International Central Asia, Social Research Centre of the American University of Central Asia, Bishkek, 2008, available at: www.auca.kg/uploads/Migration_Database/Impact%20of%20migration%20on%20elderly,%20eng.pdf

203. Emil Nasritdinov and Nate Schenkan, "A portrayal of Absence: Households of Migrants in Kyrgyzstan", research conducted by SIAR Research and Consulting, Bishkek, Kyrgyzstan, May 2012, available at www.academia.edu/4370835/Portrayal_of_Absence_Households_of_Migrants_in_Kyrgyzstan

204. Committee on Economic, Social and Cultural Rights, General Comment No. 14: the right to the highest attainable standard of health (article 12 of the Covenant), 11 August 2000, E/C.12/2000/4, §12 (b), available at: www.refworld.org/pdfid/4538838d0.pdf. See also Committee on the Elimination of Racial Discrimination, General Comment No. 30, 2004, §29, 36, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?TreatyID=6&DocTypeID=11

protection of the child from all forms of violence” (article 4) and defines violence/abuse as “any action in relation to the child which violates or endangers its physical or mental development” (article 5). Article 7 states that the child has the rights to “care from parents and persons replacing them” and to “respect for his/her human dignity”. Article 16(1) states: “Every child has the right to honour and dignity, and security of the person. The State provides personal security of the child, and protects him/her from physical and mental, sexual violence, cruel, brutal, inhuman or degrading treatment.”²⁰⁵

According to above-mentioned 2012 national survey, children left behind appear to be more vulnerable to discrimination and humiliation, both at “home” or at school than other children. This is particularly true when both parents migrated and they live with more distant relatives, who do not always treat them as their own. These children are particularly at risk of ill-treatment and psychological, physical, and sexual abuse.

While migrant parents are abroad, it is very difficult to check on the situation of their children. In its 2015 Concluding Observations on Kyrgyzstan, the Committee on Economic, Social and Cultural Rights expressed concerns regarding the fact that “children of Kyrgyz migrant workers who are in the care of other people while their parents work abroad are frequently subjected to sexual abuse”²⁰⁶. The director of the Assistance Centre for children victims of ill-treatment and violence told to the mission that half of the 200 children from the Chuy province they supported over the last year were children left behind by one or two parents. In 2015, they helped 40 to 45 children victims of sexual violence, 40% of whom had parents who were either internal or external migrants²⁰⁷.

Children may also be at risk in schools. In the village of Uygurobat in Osh province, a 6-year-old girl and her 10-year-old sister left behind by their mother (who worked in Moscow) were subjected to repeated sexual abuse in a madrasa (religious school)²⁰⁸. Each month the mother sent 10 000 soms (145 euros) for the alleged “care” provided to her daughters. The youngest finally fled the madrasa and told her relatives. Forensic tests confirmed that both girls had been subjected to sexual abuse. The authorities, who did not want a scandal, swept the issue under the rug and published a press release stating that the girls were not raped. The man, who ran the institution was found guilty of harassment, but not of sexual abuse, despite forensics evidence. This case is representative of the impunity for crimes committed against children left behind in Kyrgyzstan.

Although migrant parents usually expect that their children will be treated well by their relatives, it is not always the case. The Director of the “League of Child Rights Defenders” Public Fund, Nazgul Turdubekova, characterized boarding schools, special closed institutions and places of detention, as well as “educational organizations”, as potentially dangerous places for children, but she particularly stressed that the most frightening fact was that living with family members was not safe for children either. In its 2015 report on “Combating the violence against children in the Kyrgyz Republic”, the Ombudsman reported the case of a 10-year-old girl left behind with relatives whilst her mother was in Kazakhstan seeking financial opportunities. For two years, she lived with her uncle and his two sons, and was subjected to repeated sexual abuse and was threatened in order to prevent her from telling anyone. Every time she tried to escape, she was taken back home and beaten up.²⁰⁹

205. Peter Newell, “Briefing on Kyrgyzstan for the Committee on the Rights of the Child”, pre-sessional working group, Global Initiative to End All Corporal Punishment of Children, October 2013, available at: http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/KGZ/INT_CRC_NGO_KGZ_15749_E.pdf

206. Committee on Economic, Social and Cultural Rights, Concluding Observations, July 2015, E/C.12/KGZ/CO/2-3, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/150/29/PDF/G1515029.pdf?OpenElement>

207. Interview conducted on 2 March 2016 in Bishkek.

208. Case reported to the FIDH mission in Aravan (Osh province) on 29 February 2015.

209. Ombudsman of the Kyrgyz Republic, Special Report. Combating violence against children in the Kyrgyz Republic, Bishkek, 2015. (Омбудсмен Кыргызской Республики, Специальный доклад “Борьба с насилием в отношении детей в Кыргызской Республике”, Бишкек, 2015.)

State failure to protect and assist children left behind

The Kyrgyz State fails to provide adequate and effective protection to this vulnerable group. In her 2013 report on Kyrgyzstan, the Special Rapporteur on the sale of children, child prostitution and child pornography, underlined “the lack of sustainable programs to strengthen families and parenting, and the lack of social services for children and families at risk, including children of migrants left behind. Services for families, where available, are often underfunded or insufficient. In particular, there is a lack of trained social workers with adequate skills and resources at the local level to identify and assist families and children in need”.²¹⁰

The Centre of the Protection of Children (based in Bishkek)²¹¹ underlined the role of teachers at school to identify those children left behind who may be in difficult situation (psychological pressure, discrimination and humiliation in their living place, ill-treatment...). The role of social assistants is also essential to provide them with protection.

A decree was adopted on 23 June 2015 (decree n°391²¹²) regarding assistance for vulnerable children and families, including children left behind. According to the Head of the Department on the Protection of Children and families of the Ministry of labor and Social Development²¹³, out of 192 000 families the Kyrgyz State visited to map out vulnerable people, there were 72 000 children left behind. At the local level, 59 local commissions deal with the protection of children’s rights in the country.

In 2003, the Law on Social and Legal Protection against Domestic Violence was adopted and defined family violence as “any intentional act by one family member against another, if this action violates the legal rights and freedoms of a family member, causing him physical and mental suffering and causing moral harm or posing a threat to the physical and personal development of a minor member of the family”. It addresses not only physical but also psychological and sexual violence in the family. According to the Kyrgyz Law, the penalty prescribed for sexual violence committed against children is up to five years of imprisonment. Nevertheless, children left behind, victims of violence or sexual exploitation, usually fail to get access to justice. Corruption is an endemic problem in Kyrgyzstan, and is widespread at all levels of the administration and within the judicial system. When a complaint is filed against the men and/or women who were asked to take care of children, but who instead mistreated and abused them, are often not followed-up on, or are rapidly dismissed, especially if the accused have power or money, or if the authorities want to avoid a rumpus.

A 30 year-old-woman from Aravan (Osh province) had to leave her six- and eight-year old daughters with a family that she did not know well when she left for Russia because her husband was in prison and her parents had passed away. While she was in Russia, she learned through a distant relative that the 44-year old father of the family raped her daughters. On 25 April 2016, in the absence of forensic evidence, the offender, who denied the charges, was only given a suspended one-year prison sentence²¹⁴.

210. Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mission to Kyrgyzstan (15 to 26 April 2013), United Nations Human Rights Council, 25th session, 23 December 2013, available at: www.ohchr.org/EN/Issues/Children/Pages/CountryVisits.aspx.

211. Interview carried out on 29 February 2016 in Bishkek.

212. Постановление правительства кыргызской республики, от 22 июня 2015 года №391 “Об утверждении Положения о порядке выявления детей и семей, находящихся в трудной жизненной ситуации”, http://base.spinform.ru/show_doc.fwx?rgn=77569

213. Meeting with FIDH mission, Bishkek, 24 March 2016.

214. Janna Askarova, “A man accused of raping six- and eight-year old girls was given a suspended one-year prison sentence”, Golos Svobody, 11 May 2016, available at: <http://vof.kg/?p=30783> (Жанна Аскарова, “За изнасилование девочек шести и восьми лет суд вынес условный приговор на год”, Голос свободы, 11 мая 2016),

CONCLUSION

This report has highlighted multiple failures of the States of Kyrgyzstan, Kazakhstan, and the Russian Federation in protecting the rights of Kyrgyz women and children affected by migration throughout the process. Since the accession of Kyrgyzstan to the Eurasian Economic Union (EEU) in August 2015, the procedures for Kyrgyz migrants and members of their families to stay and work legally have been simplified in the two main countries of destination, Kazakhstan and Russia. Access to health care for adults and children, and access to education for children have improved for migrants who can sign a contract with their employers. However, insofar as the majority of Kyrgyz migrants do not have such a contract, they cannot benefit from these improvements, and thus remain very vulnerable. Even worse, migrant workers and their family members who do not have all the required documents to comply with current migration rules of countries of destination are often seen as criminals, especially in Russia since the creation of a re-entry ban list (2014), and as a financial manna by unscrupulous and corrupt employers and law enforcement officers.

Low-skilled, undocumented women who work in the shadow economy face exploitative working conditions and inadequate living conditions. They are particularly at risk of discrimination, abuse and violence; entrenched corruption of law enforcement agencies and the justice system and violent xenophobia. These violations often occur with impunity for the perpetrators as undocumented migrants fear deportation if they seek access to an effective remedy. It should be noted that the State of Kyrgyzstan, and those of the two main countries of destination Kazakhstan and Russia, have failed to adopt a rights-based and gender-sensitive approach to protect them, including from their own fellow nationals. Children of migrants may see their rights violated on the basis that their parents are undocumented. They often face restricted access to education and health care. The situation of unaccompanied children is of particular concern as they are extremely vulnerable to exploitation and child labor.

In Kyrgyzstan, the situation of women and children left behind is particularly vulnerable. In particular, migrants' wives who contracted religious marriage cannot benefit from any protection in case of divorce in a society marked by patriarchal values. Additionally, migration processes have to a some extent, contributed to strengthening practices violating women's rights such as polygamy and bride kidnappings. Additionally, such practices have nourished domestic violence in Kyrgyzstan and abroad, and abuses of Kyrgyz women perpetrated by Kyrgyz citizens abroad.

Impacts of migration on children left behind appear to have very negative effect in Kyrgyzstan, such as an increase for them in domestic burden, and a less assiduous presence at school. In particular, children left behind are very vulnerable to violence and abuse, not only when placed in orphanages or left with unknown people or distant acquaintances, but even when left with family members. Further, they are granted very little protection in a country marked by impunity for crimes perpetrated against children, and entrenched corruption of the justice system.

RECOMMENDATIONS

To the Kyrgyz authorities:

- Implement the recommendations issued by UN treaty bodies, in particular by the Concluding Observations of the Committee on Social and Cultural Rights, issued in July 2015; by the Committee on Migrant Workers, issued in April 2015; by the Committee on the Elimination of Discrimination against Women, issued in March 2015; by the Committee on the Rights of the Child, issued in June 2014; and of the Human Rights Committee, issued in March 2014, which address most of the issues raised in the present report.
- Ratify the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143); the ILO Private Employment Agencies Convention, 1997 (No. 181); and the ILO Domestic Workers Convention, 2011 (No. 189).
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2013).
- Make a Declaration as provided for in articles 76 and 77 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, recognizing the competence of the Committee to receive and consider communications from State parties and individuals concerning violations of rights enshrined in the Convention.
- Advocate for the ratification of the International Convention on the Rights of All Migrant Workers and Members of Their Families by the receiving countries – the Russian Federation and the Republic of Kazakhstan – within the framework of integration processes and harmonization with Eurasian Economic Union laws on migrant workers.

To the State Migration Service under the Government of the Kyrgyz Republic:

- Continue to disseminate reliable information and develop targeted pre-departure and awareness-raising programs on:
 - the new applicable rules of stay and employment within the Eurasian Economic Union;
 - the rights of migrant workers and members of their families under the UN Conventions;
 - risks that migrants can be subjected to, with a focus on potential gender-based discrimination, abuse, and violence;
 - how to access social services (such as health care and education), justice, and services provided by Kyrgyz consular services.
- Emphasize the need to have a written contract with one's employer to enjoy all the rights enshrined in the framework of the Eurasian Economic Union.
- Reinforce cooperation with civil society, especially with the network of local public councils, in accordance with the recommendations of the Committee on Migrants Workers²¹⁵, and with the "Central Asia on the Move" platform and other organizations working on migration issues.
- Adopt a gender- and child-sensitive approach in the "Concept on State Migration Policy until 2030" that is currently being drafted under the supervision of the Department on Migration, and should be adopted before the end of this year.

215. Conclusion 45 of the Committee: "The Committee requests the State party to involve civil society organisations more closely in the implementation of the recommendations contained in the present concluding observations."

To the Ministry of Foreign Affairs:

- In accordance with the law “On State-guaranteed Legal Aid”, ensure that Kyrgyz citizens in external labor migration have access to protection through consular offices.
- Develop mechanisms for cooperation between the Ministry of Justice and the Ministry of Foreign Affairs to implement the law “On State-guaranteed Legal Aid” in order to provide free legal aid to external migrant workers.
- Advocate for the ratification of the International Convention on the Rights of All Migrant Workers and Members of Their Families by the receiving countries – the Russian Federation and the Republic of Kazakhstan – within the framework of integration processes and harmonization with the Eurasian Economic Union laws on migrant workers.

To the Consular Services of the Ministry of Foreign Affairs:

- Carry out information campaigns for migrants throughout the territories of the Russian Federation and the Republic of Kazakhstan, including the following information:
 - the new applicable rules of stay and employment within the Eurasian Economic Union;
 - the rights of migrant workers and members of their families under the UN Conventions;
 - the risks that migrants can be subjected to, with a focus on potential gender-based discrimination, abuse, and violence;
 - how to access social services (such as health care and education), justice, and services provided by Kyrgyz consular services.
- Improve access to consular assistance by extending consular representation and visibility thereof, especially through innovative technologies.
- Increase the number of attorneys at consular offices in large cities in the Russian Federation and the Republic of Kazakhstan.
- Provide legal, psychological and medical assistance for victims of discrimination, abuse, and violence – including domestic violence – to external migrant workers.
- Ensure consular services are gender sensitive, including by increasing the recruitment of female consular officers.
- Ensure consular offices cooperate with civil society organizations involved in the protection of the rights of migrant workers from Kyrgyzstan, including joint monitoring of trials and detention conditions in Specialized Institutions for the Temporary Detention of Foreign Nationals and other specialized and closed institutions in the receiving countries.

To the Ministry of Internal Affairs:

- Hold unscrupulous recruiters and illegal employment agencies in the Kyrgyz Republic accountable.
- Enhance cooperation between the Ministry of Internal Affairs, the Ministry of Labor and Social Development, the Ministry of Education and Science, and local governments to prevent violence against children, with a special focus on the children of migrant workers.
- Respond in a timely manner to incoming information about children's rights' violations, with particular attention to cases of violence against children.
- Increase the liability of officials at the Ministry of Internal Affairs who deliver unethical public statements regarding female migrant workers that could result in threats to their safety.
- Conduct thorough and effective investigations into instances of domestic violence against women and children whose family members are migrant workers.

To the Ministry of Labor and Social Development:

- Raise awareness about the importance of undergoing a complete medical check-up, including HIV and tuberculosis tests, before leaving for labor migration and upon return.
- Increase the number of social workers to allow them to identify the children of external migrant workers, with special attention on protecting their rights.
- Conduct regular training of social workers using professional trainers who work with children and who keep their best interest in mind.
- Expand information campaigns on the importance of establishing temporary guardianship for children whose parents have left for external labor migration.
- Enhance cooperation between the Ministry of Labor and Social Development, the Ministry of Internal Affairs, the Ministry of Education and Science, and local governments to prevent violence against children, with a special focus on the children of external migrant workers.

To the Ministry of Justice:

- In accordance with the law “On State-Guaranteed Legal Aid”, ensure that Kyrgyz citizens in external labor migration have access to protection through consular offices.
- Improve cooperation between the Ministry of Justice and the Ministry of Foreign Affairs to implement the law “On State-guaranteed Legal Aid” to provide free legal aid to external migrant workers.

To the Kyrgyz Parliament:

- Bring the status of the Institute of the Ombudsman of the Kyrgyz Republic in line with the Paris Principles.
- Adopt the pending bill that makes it a requirement for those who have a religious marriage to also have a marriage sanctioned by the State.
- Expedite the process of adopting the bill “On Additions and Amendments to the Kyrgyz Republic Law on Social and Legal Protection from Violence in the Family”.

To the Institute of the Ombudsman of the Kyrgyz Republic:

- Pay particular attention to the situation of children whose parents have left for external labor migration; in particular, monitor cases of ill-treatment and sexual violence, and investigations thereof, and monitor trials of ill-treatment and sexual violence involving children left behind.

To the Russian and Kazakh authorities:

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families within the framework of integration processes and harmonization with the Eurasian Economic Union laws on migrant workers.
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Kazakhstan signed the Protocol in 2010 but has not yet ratify it).
- Ratify the ILO Convention No. 97 of 1949 concerning Migration for Employment; the ILO Convention No. 143 of 1975 concerning Migrant Workers (Supplementary Provisions); and the ILO Domestic Workers Convention, 2011 (No. 189).
- Strengthen controls on employers and ensure that those who employ migrant workers without contracts, or who do not respect the conditions set forth in contracts, face appropriate penalties.
- Plan labor inspections in households that employ domestic workers, in particular migrant women.

- Fight corruption among official representatives, in particular law enforcement officers, custom officers, and migration police officers.
- Conduct prompt, effective, independent, and impartial investigations into violations of migrants' rights; and hold all perpetrators accountable.
- Establish free access to sexual and reproductive health, including antenatal care services for all women, regardless of their legal status.
- Ensure that all children, including children of undocumented and seasonal migrants, have free access to education.
- Prosecute the Kyrgyz citizens who abuse Kyrgyz female migrants in their territory.

To the Eurasian Economic Commission:

- Adopt a child- and gender-sensitive approach in developing migration policies.

FIDH urges the international community to use all of the means at its disposal to make authorities in Kyrgyzstan, Kazakhstan, and Russia follow the aforementioned recommendations and, in particular, to address the following recommendations:

To the United Nations:

To the UN Special Rapporteur on migrants' rights:

- Request a country visit to Russia to assess the situation of undocumented migrant workers.
- Make a country visit to Kazakhstan to assess the situation of undocumented migrant workers.
- Request a country visit to Kyrgyzstan to assess the situation of members of the migrants' family left behind.

To the UN Special Rapporteur on violence against women:

- Request a follow-up mission to Kyrgyzstan on the situation of violence against women, its causes, and consequences, with a special focus of the impact of migration on Kyrgyz women.

To the UN Special Rapporteur on the sale of children, child prostitution, and child pornography:

- Request a follow-up mission to Kyrgyzstan on the situation of violence against children, its causes, and consequences, with a special focus of the impact of migration on children left behind.

To the European Union:

- Systematically integrate the issues of the rights of migrants and members of their families in countries of destinations, and those left behind in countries of origin, into the bilateral human rights dialogues with Kyrgyzstan, Kazakhstan, and Russia.
- Ensure that the objective of effective realization of human rights is not isolated in human rights' dialogues, but is incorporated in all negotiations and policies, and is politically supported at all levels of discussion (including on trade, within UN bodies, etc.).
- Implement the recommendation of the Council inviting "the Commission to design, in cooperation with the Central Asian partners, strategies to respond to the dynamics of labor markets and changes in migrant worker patterns in order to minimize unemployment through the promotion of

- entrepreneurship, and to promote the employability and empowerment of young people, women and persons belonging to minorities”²¹⁶.
- Develop programs focusing on the social reintegration and employment of returning migrant women from abroad in line with the recommendation 73 of the European Parliament resolution of 13 April 2016 on implementation and review of the EU-Central Asia Strategy.²¹⁷
 - Take necessary steps, where relevant, to come into line with the EU Guidelines on Violence and Discrimination against Women.

To the Office for Democratic Institutions and Human Rights (ODHIR) of the Organisation for Security and Cooperation in Europe (OSCE):

- Closely monitor the situation of migrant workers and members of their families in countries of destination, as well as those left behind in Kyrgyzstan, in the framework of its human rights mandate.

216. Council of the European Union, “Council conclusions on the EU Strategy for Central Asia”, 22 June 2015, available at: www.consilium.europa.eu/en/press/press-releases/2015/06/22-fac-central-asia-conclusions/

217. European Parliament resolution of 13 April 2016 on implementation and review of the EU-Central Asia Strategy, available at: www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0121&language=EN&ring=A8-2016-0051

ANNEX 1

List of official representatives, NGO representatives and researchers met during the investigation mission in Kyrgyzstan in March 2016.

Kyrgyz national authorities

- Ministry of Labor and Social Development, Ms Jypara Ryspekova, Head of State benefits and monetary compensation service, and Ms Janyl Djaimabaeva, Head of the protection of family and children service.
- State Migration Service under the supervision of the Kyrgyz government, Mr Mairambek Beishenov, Head of the elaboration of the migration policy service, and Ms Gulayda Orozalieva, Head of Legal Protection and International Cooperation.
- Consular Services of the Ministry of Foreign Affairs, Mr Ruslan Matkerimov, Advisor to the Head of the Consular Services of the MFA of KR.
- Consulate of the Kyrgyz Republic in Almaty, Kazakhstan, Ms Gulnura Narmatova, Consul.
- Institute of the Ombudsman of the Kyrgyz Republic, Mr Albert Kolopov, Head of the department on child's rights, and Mrs Gulzina Assanalieva, Head of the Department on the protection of social and economic rights.

International organizations

- UN Women, Mr Gerald Günther, representative.
- IOM, Ms Jyldyz Ahmetova and Ms Salia Borbieva, representatives.

NGOs

- The Human Rights Movement “Bir Duino – Kyrgyzstan”, Ms Tolekan Ismaylova, Head of the organization, and Mr Mirlan Kubatbekov, project coordinator.
- “Mekhr Shavkat”, Mr Ramil Nafikov, project coordinator.
- “Innovative Solutions”, Ms Gulnara Ibraeva, co-Director.
- “Resource Centre for the Elderly”, Ms Svetlana Bashtovenko, Head of the organization.
- “Community integration”, Ms Ayimjan Imanalieva, Head of the organization.
- Crisis Centre “Sezim”, Ms Bubusara Ryskulova, Head of the organization.
- Assistance Centre for children victims of ill-treatment and violence, Ms Dinara Davletbayeva, Director.
- Centre of the Protection of Children, Ms Mira Itikeyeva, Head of the Centre.
- Civil Partner Platform “Central Asia on the Move”, Ms Tatiana Zorina, former coordinator of the Platform, and Mr Taalaibek Kurmanaliev, current coordinator of the platform.
- Centre for Support of International Protection”, Mr Akjol Abdukerimov, project coordinator.
- Institute for Social and Economic Development Assistance, Ms Ikbola Bakhramova, Head of the organization.
- Crisis Centre “Ak Jurok”, Ms Dariikan Assilbekova, director.

Researchers and journalists

- American University of Central Asia, Tian Shan Policy, Ms Tatiana Zlobina and Mr Emil Nasritdinov.
- Kloop.kg, online media, Ms Anna Lelik, journalist.

List of official representatives met during the advocacy mission (May 2016).

Kyrgyz national authorities

- State Migration Service under the supervision of the Kyrgyz government, Mr Almaz Assanbayev, Deputy Head of State Migration Service.
- Consular Services of the Ministry of Foreign Affairs, Mr Ruslan Matkerimov, Advisor to the Head of the Consular Services of the MFA of KR.
- Ministry of Labor and Social Development, Ms Nurgul Bakirova, Head of the Department on Gender Issues, and Mr Bakyt Todogeldiev, Head of the Department on the Protection of Children and families.
- Ministry of Internal Affairs, Mr Almaz Dobroyev, Deputy Head of the Department of the fight against illegal migration of the 10th Branch of the Ministry.
- Office of the General Prosecutor, Mr Tilek Salibayev, Head of the Department on the Protection of Children.
- Parliament of the Kyrgyz Republic, Ms Cholpon Djakupova.
- Institute of the Ombudsman, Mr Yerlan Alimbaev, Deputy Ombudsman, Mr Albert Kolopov, Head of the department on child's rights, and Ms Gulzina Assanalieva, Head of the Department on the protection of social and economic rights.

International organizations

- International Labor Organization, Mr Bolotbek Orokov, National Coordinator in the Kyrgyz Republic, and Ms Amina Kurbanova, ILO-IPEC National Project Coordinator "Elimination of child labor in Central Asian countries".
- Delegation of the European Union to the Kyrgyz Republic, Mr Nicola Scaramuzzo, Rule of Law, Civil Society, Human Rights Operations Section.

ANNEX 2

Table of Ratifications of UN Human Rights Instruments treaties ratified by Kyrgyzstan, Kazakhstan and Russia.

UN HUMAN RIGHTS INSTRUMENTS	RUSSIA	KAZAKHSTAN	KYRGYZSTAN
International Convention on the Elimination of All Forms of Racial Discrimination: 1969	Ratification/ Accession: 1969	Ratification/ Accession: 1998	Ratification/ Accession: 1997
International Covenant on Civil and Political Rights: 1976	Ratification/ Accession: 1973	Ratification/ Accession: 2006	Ratification/ Accession: 1994
Optional Protocol to the International Covenant on Civil and Political Rights: 1976	Ratification/ Accession: 1991	Ratification/ Accession: 2009	Ratification/ Accession: 1994
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty: 1991	Ratification/ Accession: No	Ratification/ Accession: No	Ratification/ Accession: 2010
International Covenant on Economic, Social and Cultural Rights: 1976	Ratification/ Accession: 1973	Ratification/ Accession: 2006	Ratification/ Accession: 1994
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: 2013	Ratification/ Accession: No	Ratification/ Accession: No	Ratification/ Accession: No
Convention on the Elimination of All Forms of Discrimination against Women: 1981	Ratification/ Accession: 1981	Ratification/ Accession: 1998	Ratification/ Accession: 1997
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women: 2000	Ratification/ Accession: 2004	Ratification/ Accession: 2001	Ratification/ Accession: 2002
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 1987	Ratification/ Accession: 1987	Ratification/ Accession: 1998	Ratification/ Accession: 1997
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 2006	Ratification/ Accession: No	Ratification/ Accession: 2008	Ratification/ Accession: 2008
Convention on the Rights of the Child: 1990	Ratification/ Accession: 1990	Ratification/ Accession: 1994	Ratification/ Accession: 1994
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: 2002	Ratification/ Accession: 2008	Ratification/ Accession: 2003	Ratification/ Accession: 2003
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography: 2002	Ratification/ Accession: 2013	Ratification/ Accession: 2001	Ratification/ Accession: 2003
Optional Protocol to the Convention on the Rights of the Child on a communications procedure: 2014	Ratification/ Accession: No	Ratification/ Accession: No	Ratification/ Accession: No
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families: 2003	Ratification/ Accession: No	Ratification/ Accession: No	Ratification/ Accession: 2003
International Convention for the Protection of all Persons from Enforced Disappearance: 2010	Ratification/ Accession: No	Ratification/ Accession: 2009	Ratification/ Accession: No
Convention on the Rights of Persons with Disabilities: 2008	Ratification/ Accession: 2012	Ratification/ Accession: 2015	Signature: 2011, Ratification/ Accession: No
Optional Protocol to the Convention on the Rights of Persons with Disabilities: 2008	Ratification/ Accession: No	Ratification/ Accession: No	Ratification/ Accession: No

Source: UN Human Rights Office of the High Commissioner, Status of ratification of 18 international human rights treaties, Kyrgyzstan, available at: <http://indicators.ohchr.org/> (accessed on 11 May 2016).

WITH THE PARTICIPATION OF ADC “MEMORIAL” AND “BIR DUINO - KYRGYZSTAN”



“Bir Duino - Kyrgyzstan”

The mission of the nonprofit organization “Human Rights movement: Bir duino - Kyrgyzstan” is the protection of human rights with specific attention given to the freedom of association, defending the political space of human rights defenders in Kyrgyzstan through culture and arts. The long-term vision is to create a sustainable and inclusive human rights movements that promotes human dignity values, fundamental human rights, international obligations, and strengthens the political space for civil society using innovative methods. “Bir Duino - Kyrgyzstan” is an organization member of FIDH and a partner of the civil platform “Central Asia on the move”.

<http://birduino.kg>



ADC “Memorial”

Anti-Discrimination Center “Memorial” protects the rights of people suffering from discrimination in Russia and in the postsoviet area, such as ethnic minorities, including Roma, migrants, sexual minorities (LGBT) and victims of various forms of discrimination. ADC “Memorial” is an organization member of FIDH and a partner of the civil platform “Central Asia on the move”.

<http://adcmemorial.org>

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