

Introduction to the Report

Summary

Domestic violence and abduction for forced marriage (bride-kidnapping) are pervasive forms of violence against women in Kyrgyzstan. Although statistics are not available, great numbers of women and girls in Kyrgyzstan have experienced these serious violations of their most fundamental human rights. The problems of domestic violence and abduction have long been neglected by government officials, and urgently need to be addressed.

Perpetrators of domestic violence variously beat, kick, strangle, stab, rape, and shoot their wives. Women are locked in their homes to isolate them from their natal families and to prevent them from seeking assistance; are denied food; and are beaten with bricks, pipes, and other heavy objects. They are humiliated and demeaned. Some women are hospitalized due to domestic abuse; some suffer permanent injury. Women are severely traumatized by the violence they experience, and some commit suicide as a result. Some are killed by their husbands.

Kyrgyzstan is not alone in having a serious domestic violence problem. Statistical data on domestic violence is inadequate worldwide, but available data shows disturbingly high levels of domestic violence in many countries. In 2005 the World Health Organization issued a report reflecting data collected from more than 24,000 women in 10 countries around the world that found that the proportion of women who had experienced intimate partner violence ranged from 15 to 71 percent, with most sites falling between 29 and 62 percent. Research shows that domestic violence occurs in all social, economic, religious, and cultural groups.

The domestic violence section of this report focuses primarily on how Kyrgyz police respond to domestic violence. This focus was chosen for several reasons: First, Kyrgyzstan has a progressive new law on domestic violence that specifically calls on law enforcement agencies to play a role in responding to and preventing domestic violence through a series of very specific obligations. Second, despite their legal

obligations, Kyrgyz police display significant reticence in fulfilling their duty to address domestic violence. Third, the resources exist to train law enforcement officials and support them in pursuing an appropriate response to domestic violence, including financial and technical support from international donors and nongovernmental organizations (NGOs).

Kyrgyz authorities similarly neglect their duty to prevent and punish kidnapping for forced marriage. Kidnapping of women and girls—some as young as 12 years old—for forced marriage are carried out by groups of men who capture a woman through physical force or deception and take her to the home of the intended groom. The abductor's family then exerts psychological, and sometimes physical, pressure to coerce the young woman to consent to marry. In some cases the young woman is raped soon after being taken to the abductor's house, so that she will feel shame and feel unable to return to her parents' home; other times the kidnapped woman is coerced to have sex or in some cases is raped on her wedding night, after a marriage ceremony is performed.

The government of Kyrgyzstan has an obligation to prevent violence against women, including domestic violence and abduction. Although both kidnapping and domestic violence are illegal in Kyrgyzstan, this report documents how police and other local authorities fail to enforce the law. Law enforcement officials do not view domestic violence and kidnapping for forced marriage as serious crimes. In most cases they do not take action to stop violence against women, to help women obtain safety from abusers, or to investigate and prosecute such violations in accordance with the law. Instead, government authorities often block women's access to justice, encourage women to reconcile with their abusers, and allow violence against women to continue with impunity. Too often, government officials try to justify their inaction by claiming that these practices are either too entrenched or too widely accepted by Kyrgyz society, and are therefore insurmountable.

In this report Human Rights Watch puts forward a series of recommendations to the government of Kyrgyzstan designed to improve state protection of women's rights and ensure accountability for crimes of violence against women. Specifically, Human Rights Watch calls on the government of Kyrgyzstan to enforce existing criminal laws

against assault and abduction and prosecute perpetrators, and to launch extensive, nationwide public awareness campaigns against domestic violence and bride-kidnapping. The government of Kyrgyzstan should also amend the country's Family Code to abolish the mandatory waiting period for divorce, and establish long-term shelters where women and their dependent children can stay voluntarily.

Methodology

Human Rights Watch conducted research for this report in Kyrgyzstan in October and November 2005. Two researchers traveled to five of the seven provinces of Kyrgyzstan as well as the capital, Bishkek, and visited numerous cities, towns, and villages in the north and south of the country. This report is based on in-depth interviews with 25 victims of domestic violence and kidnapping throughout the country. The identities of these women have been withheld in the interest of protecting their safety. Interviews with these women were facilitated with the help of local women's rights organizations. This report is also based on dozens of additional interviews with police, government officials, medical professionals, lawyers, representatives of international and donor organizations, women's rights activists, gender experts, and other civil society activists; the identities of some of these interviewees have also been withheld, in the interest of avoiding possible repercussions to them for having spoken to Human Rights Watch. No official representatives from the headquarters of the Ministry of Internal Affairs or prosecutor's office made themselves available to Human Rights Watch during the research mission. As of this writing, Human Rights Watch had not received any reply to questions sent to these government agencies on May 15, 2006.

The interconnectness of the issues means that a number of the individual cases covered in this report are referenced in both the domestic violence and bride-kidnapping chapters.

Background

Political and economic development in Kyrgyzstan

The population of Kyrgyzstan is officially around five million people, though it is estimated that as many as a million Kyrgyz nationals live and work abroad at least

part of the year. The population is about 67 percent ethnic Kyrgyz, 14 percent ethnic Uzbeks, and 10 percent ethnic Russians.¹ Kyrgyzstan has few natural resources and little local industry, leaving the economy vulnerable to external price shocks. Its natural resources include gold and other metals, some natural gas, and hydropower. Cotton is among the country's chief exports. Kyrgyzstan's GDP for 2003 was estimated to be U.S.\$1.9 billion.² The GDP per capita was \$1,751.³

As described below, poverty is frequently cited in explanations for violence against women, and women's poverty is an important factor that inhibits women from leaving violent or forced marriages. In 2005 the minimum wage was around 100 som (about \$2.42) per month.⁴ The average monthly salary was reported by official sources to be around \$64 in 2005.⁵ Eighteen percent of adults were registered as unemployed in 2004.⁶ Officially, 42.9 percent of the population lives in poverty.⁷ Yet although Kyrgyzstan is a poor country in comparison to its resource-rich neighbors, such as Kazakhstan and Uzbekistan, its infrastructure and government institutions are relatively well developed. Government agencies and institutions are operational, though inhibited in their functions by under-funding and corruption.

Kyrgyzstan rated in the lower half of the UNDP's 2003 human development index, with a ranking of 109 out of 177.⁸ Average life expectancy is 66.8 years.⁹ Infant

¹ U.S. Department of State, "International Religious Freedom Report 2005," citing data from Kyrgyzstan's National Statistics Committee, <http://www.state.gov/g/drl/rls/irf/2005/51562.htm> (accessed June 23, 2006). The latest official data from the National Statistics Committee reflected the following ethnic breakdown of the population: Kyrgyz, 67.4 percent; Uzbeks, 14.2 percent; Russians, 10.3 percent; Dungans (ethnic Chinese Muslims), 1.1 percent; Uighurs, 1 percent; and other ethnicities, 6.4 percent.

² United Nations Development Programme (UNDP), *Human Development Report* (New York: United Nations Development Program, 2005), http://hdr.undp.org/reports/global/2005/pdf/HDR05_complete.pdf (accessed June 23, 2006).

³ *Ibid.*, p. 221.

⁴ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices - 2005: Kyrgyz Republic," March 8, 2006, <http://www.state.gov/g/drl/rls/hrrpt/2005/61657.htm> (accessed June 23, 2006).

⁵ In 2005 the average monthly salary in Kyrgyzstan was officially reported to be 2,612.5 som (about \$64), <http://www.stat.kg/Rus/Home/obzor.html#Top1> (accessed August 15, 2006). The average monthly salary in Kyrgyzstan for the first quarter of 2006 was officially estimated to be 2,651.5 som (about \$65). This estimate does not include data from small businesses, <http://www.stat.kg/nsdp/rus/index.htm> (accessed August 14, 2006).

⁶ Kyrgyzstan Unemployment rate, *Index Mundi*, http://www.indexmundi.com/kyrgyzstan/unemployment_rate.html (accessed June 23, 2006).

⁷ U.S. Department of State, "Country Reports on Human Rights Practices - 2005: Kyrgyz Republic."

⁸ Rankings ranging from 146 to 177 indicate low human development and rankings from 58 to 145 indicate medium human development. UNDP, *Human Development Report 2005*, p. 221.

⁹ *Ibid.*, p. 301.

mortality rates have decreased since the Soviet period and were at 59 deaths per 1,000 live births in 2003.¹⁰

Kyrgyzstan attained independence with the demise of the USSR in 1991. Aksar Akaev, a former scholar, was elected president and held that post until he was forced to resign following a popular revolution in March 2005. During the early years of his administration, Akaev committed his government to policy reform and greater promotion of human rights. Kyrgyzstan signed on to numerous international human rights instruments and joined the Organization for Security and Cooperation in Europe (OSCE), as well as other bodies aimed at regional cooperation.

During the later years of the Akaev presidency, government persecution of political rivals and civil society groups, including human rights organizations, marred the administration's human rights record.¹¹ Presidential and parliamentary elections were found to fall short of international standards.¹² Popular confidence in the Akaev administration waned in the late 1990s as government progress on human rights went into reverse and government institutions and officials were perceived as increasingly corrupt. It plummeted following a series of events in 2002 that began with revelations that the government had concluded a secret deal to hand over contested border land to China. The whistleblower on this scandal, opposition parliamentarian Azimbek Beknazarov, was detained on unrelated criminal charges. Thousands of people poured into the streets in his support, and police fired on demonstrators in the town of Aksy in Jalal Abad province, killing six people and injuring dozens.

The final catalyst for the widespread expression of disaffection with the administration was the 2005 parliamentary elections, which were widely criticized as

¹⁰ Ibid, p. 252.

¹¹ See, for example, Human Rights Watch, *Human Rights Watch World Report* (New York: Human Rights Watch, 2005), <http://hrw.org/english/docs/2005/01/13/kyrgyz9894.htm>; U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices - 2003: Kyrgyz Republic," February 25, 2004, <http://www.state.gov/g/drl/rls/rrpt/2003/27846.htm> (accessed August 11, 2006); and OSCE press release, "OSCE Chairperson-in-Office expresses serious concern about recent developments in Kyrgyzstan," April 5, 2000, <http://www.osce.org/item/4509.html> (accessed August 11, 2006).

¹² See, for example, OSCE Office for Democratic Institutions and Human Rights (ODIHR), "Final report on the presidential election in Kyrgyzstan, 29 October 2000," http://www.osce.org/documents/odihr/2001/01/1383_en.pdf, and OSCE/ODIHR, "Final report on the parliamentary elections in Kyrgyzstan, 20 February and 12 March 2000," http://www.osce.org/documents/odihr/2000/04/1384_en.pdf (both accessed April 26, 2006).

neither free nor fair.¹³ In response to the marred vote, people in the south of Kyrgyzstan and later in the north took to the streets. A host of popular complaints ranging from manipulation of the media to election fraud was narrowed into one call: Akaev's resignation. Akaev fled the country and later resigned.

Opposition leader Kurmanbek Bakiev, a former prime minister, became interim president of Kyrgyzstan and was confirmed in this post in an election held on July 10, 2005. A number of opposition leaders and rights activists, including former political prisoner Feliks Kulov, were invited to join his administration. As of this writing, close to 18 months after the change of government, civil society groups have expressed disappointment in the pace of reform by the Bakiev administration.

Women's status in society and the family in Kyrgyzstan

Society in Kyrgyzstan is highly patriarchal, with women's roles in public and private life circumscribed. This has negative consequences for the exercise of their rights.

In 2004 the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee) expressed concern about the status of women in Kyrgyzstan, growing rates of poverty among women, rising female unemployment, and women's low status in the labor market.¹⁴ The committee found that “[u]nemployment among women is rising steadily, and some 53.3 per cent of the total number of unemployed are women.”¹⁵

The CEDAW Committee stated it was concerned also that discrimination interfered with women's ability to assert their rights to land. The government of Kyrgyzstan's own report to the committee acknowledged that barriers to the achievement of women's equality in the country included “the growth of poverty and unemployment,

¹³ OSCE/ODIHR, “Statement of preliminary findings and conclusions by the OSCE/ODIHR election observation mission on the parliamentary elections held in Kyrgyzstan on 27 February 2005,” http://www.osce.org/documents/odihr/2005/02/4334_en.pdf (accessed April 26, 2006).

¹⁴ The committee monitors states parties' implementation of the convention and issues comments guiding states in interpretation of the convention.

¹⁵ Committee on the Elimination of Discrimination against Women, press release, WOM/1424, January 14, 2004, <http://www.un.org/News/Press/docs/2004/wom1424.doc.htm> (accessed April 26, 2006). A report by Radio Free Europe/Radio Liberty (RFE/RL) cites information provided by Kyrgyzstan's National Statistics Office in February 2002, stating that more than half the unemployed were women. See, “Registered Unemployment on Rise in Kyrgyzstan,” RFE/RL Newsline, July 26, 2002, vol. 6, no. 139, <http://www.rferl.org/newsline/2002/07/2-TCA/tca-260702.asp> (accessed April 26, 2006).

a low level of social protection, the low participation of women in decision-making, and the persistence of gender stereotypes and traditions....”¹⁶ With respect to the latter point, the committee said, “While noting the efforts of the State party to eliminate gender role stereotyping, especially in the media, the committee is concerned about the persistence of discriminatory cultural practices and stereotypes relating to the roles and responsibilities of women and men in all areas of life, and the deep-rooted patriarchal attitudes, which undermine women’s social status and are an obstacle to the full implementation of the Convention.” The committee urged the government of Kyrgyzstan “to monitor carefully the persistence of discriminatory cultural practices and stereotypes and intensify its efforts to eliminate them.” It further urged the government “[to] take action to change stereotypical attitudes and perceptions as to men’s and women’s roles and responsibilities.”¹⁷

The subordination of women in Kyrgyz society

Notwithstanding the urging of the CEDAW Committee to take action against gender stereotypes and cultural attitudes about women’s inferiority and subordination, many in society, including government officials, still view male dominance as the order of things.¹⁸ There is little enthusiasm in government circles to take on this issue or its consequences for women’s rights.

President Bakiev took an important step toward promoting the role of women in public life by signing a decree on March 22, 2006, to achieve greater gender parity in government by ensuring at least 30 percent female representation in central and local government, including in decision-making positions (the decree does not specify whether these are to be appointed or elected positions, nor whether these are to be new or existing positions). But overall, Bakiev’s administration holds the establishment of gender equality as a low priority compared to other problems it must address, including corruption, organized crime, and approval of a new constitution and government structure. The national plan of action that it inherited

¹⁶ The committee considered the second periodic report of Kyrgyzstan (CEDAW/C/KGZ/2 and Add.1) at its 632nd and 633rd meetings, on January 14, 2004 (see CEDAW/C/SR.632 and 633). Report of the Committee on the Elimination of Discrimination against Women, Thirtieth session (January 12-30, 2004), Thirty-first session (July 6-23, 2004), General Assembly Official Records, Fifty-ninth Session, Supplement No. 38 (A/59/38), United Nations, New York, 2004.

¹⁷ Ibid.

¹⁸ See interviews cited in *passim* in this report.

from the previous government for achieving gender equality (for the period 2002-2006) appears to have gone largely unfulfilled.

Government officials who spoke with Human Rights Watch displayed little willingness to promote women's equality in society. One government official charged with monitoring human rights expressed his view that the subordination of women is inevitable: "In my opinion we can't change relationships between men and women. The domination of men is not revocable; it will stay for ever. We just need to admit this."¹⁹ Another senior government official also acknowledged that Kyrgyzstan continues to have a patriarchal society: "Kyrgyz men consider themselves to be higher than women. This is from the past. We haven't gotten away from this."²⁰

The effect of Bakiev's recent decree remains to be seen, but a manifestation of the subordination of women in society that was often pointed out to Human Rights Watch researchers was the absence of women in positions of power. As of this writing, for example, there are no female members of parliament. In its report to the CEDAW Committee in 2004, the previous government acknowledged the "under representation of women in legislative and executive bodies" and "indicated that women were not considered a political force and were under represented in political parties."²¹ The Committee expressed concern "about the under representation of women in elected and appointed bodies, particularly at high levels...State executive and administrative organs and the diplomatic service."

Family life

The vast majority of women move directly from living with their parents in homes dominated by their fathers, to living with their husbands, who similarly dominate family life. As discussed in some detail below, when they are new brides young women occupy the position of least power among the adults in a family. Many

¹⁹ Human Rights Watch interview with Embek Tarajanov, Ombudsman's Office, Bishkek, November 14, 2005. The Office of the Ombudsman was created in 2002 as a government human rights institution. The ombudsman's duties include monitoring the government's observance of human rights standards.

²⁰ Human Rights Watch interview with Tursunbek Akun, chairman, Presidential Commission for Human Rights, Bishkek, November 14, 2005.

²¹ Report of the Committee on the Elimination of Discrimination against Women, Thirtieth session (January 12-30, 2004), Thirty-first session (July 6-23, 2004), General Assembly Official Records, Fifty-ninth Session, Supplement No. 38 (A/59/38), United Nations, New York, 2004.

women work without pay in the home, maintaining the household, participating in agriculture, caring for livestock or contributing to other family business, and raising children. The majority of women in Kyrgyzstan do not work outside the household. Women and girls have little authority in the family, except over more junior female members, and little autonomy.

Many of the women who spoke to Human Rights Watch told us that their daily lives in the family are controlled by their mothers-in-law. Women told us that new brides are expected to give their in-laws, and particularly their mothers-in-law, complete obedience and service. The newest bride takes over the bulk of household duties once undertaken by the mother-in-law and other female members of the household. As the adult with the least power in the family, the new bride is easily exploited.

Mothers-in-law can also be extremely physically and psychologically abusive toward new brides. In some cases, the new bride is beaten and insulted relentlessly by her mother-in-law and sisters-in-law (themselves once the “new brides” in the family), reinforcing her position of powerlessness in the family. They attempt to exert extensive control over her, including over her daily schedule, her work around the house, whether she can leave the house, her contact with others (including her natal family), and decisions related to sex, reproduction, and child-rearing.

Ainura A., who was kidnapped for forced marriage and thrown out of the house 10 years later, said of her mother-in-law, “[S]he tormented me psychologically. One year went by after my marriage and she made a big deal about the fact that I wasn’t pregnant. Then when I got pregnant with my second child she said I was ‘like a dog.’”²² Dimira D. was forced to give away one of her three children: “I gave [my brother- and sister-in-law] the child because my sister-in-law could not have children; my mother-in-law ordered me to do it.”²³ Gulzat G., who became pregnant before she was married, recalled that her mother-in-law forced her to go to a doctor for an abortion. The doctor refused to carry out the procedure because Gulzat G. was seven

²² Human Rights Watch interview with Ainura A., November 2005. All names of women victims of domestic violence and bride-kidnapping interviewed for this report have been replaced with pseudonyms, for the interviewees’ protection.

²³ Human Rights Watch interview with Dimira D., November 2005.

months pregnant and he said it would be too risky. After Gulzat G. gave birth, she said, her mother-in-law expressed a desire to sell the baby.²⁴

Aisulu A. described the abuse she suffered as a new bride at the hands of her in-laws after she was kidnapped and joined a family previously unknown to her:

My sister-in-law beat me. I didn't say anything and I agreed to stay. They brought me back to the house [after I ran away]. Every day there were scandals. My sister-in-law insulted me every day.... Then [one time] my husband's sister insulted me and told me to leave, that no one liked me.... Then my mother-in-law and sister-in-law beat me and kicked me out of the house and onto the street. I wrote a complaint to the police against my sister-in-law. They opened a case, but then closed it.... I have no medical report of the beatings. It will be hard for me to prove it.²⁵

Dimira D., who suffered years of violence at the hands of her husband, said that her brother-in-law also beat her: "One time my husband's brother lost one of his suits. He blamed me and then he beat me up. My husband watched this and didn't say anything. His brother... beat me on the head and blood came out of my nose. He spit on me."²⁶

Increased prevalence of polygyny

Although it is illegal, polygyny (men having multiple wives) continues to be practiced in Kyrgyzstan. Men's marriages to second or subsequent wives are not registered with the state, but are often marked by Muslim ceremonies. First and second/subsequent wives tend to live in separate households, and in some cases men keep their wives a secret from one another.

Recent research conducted by the Soros Foundation-Kyrgyzstan found that polygyny has been on the increase in Kyrgyzstan since the country attained independence.²⁷ Researchers attribute this among other things to a rise in adherence to patriarchal

²⁴ Human Rights Watch interview with Gulzat G., November 2005.

²⁵ Human Rights Watch interview with Aisulu A., November 2005.

²⁶ Human Rights Watch interview with Dimira D., November 2005.

²⁷ Anara Moldosheva, expert, Soros Foundation-Kyrgyzstan, "Polygamy in Modern Kyrgyzstan," Women's Program information memo for the Gender Montage Project, 2005.

values and the deterioration of the country's economic infrastructure.²⁸ The report pointed out that, although polygyny is illegal, there are no known cases of prosecution for it in Kyrgyzstan. The report stated that up to 40 percent of women who have appealed to women's crisis centers for assistance complained of problems associated with their having been in unregistered, polygynous marriages, such as asserting their property and child custody rights.²⁹

Women's rights NGOs, crisis centers and shelters

There are more than a dozen active women's rights groups, located all over Kyrgyzstan, that are engaged in a variety of ways with the problem of domestic violence. Some operate primarily as research and advocacy groups, while others provide direct services to women victims of violence. Organizations that operate crisis centers typically maintain a hotline (in some cases available 24 hours a day, every day) and offer women victims of violence psychological counseling and consultations with a lawyer. These groups also help women access medical care, including gynecological services.

Some groups also maintain shelters, though there are few such facilities. Human Rights Watch found that major cities in Kyrgyzstan each have one NGO shelter, while in smaller towns the only option for women seeking a shelter is often the home of the leader of the local women's NGO, or nothing at all. Shelters in major cities typically have eight beds or fewer. Those rights advocates who manage shelters point out that though many women need a place to stay for several weeks or months, the law regulating such facilities allows NGOs to offer women and their minor children safe haven free of charge only for a maximum 10 days.³⁰

Women's NGOs receive little budgetary support from the government of Kyrgyzstan, though in some cases rent or utilities for NGO offices and shelter facilities are subsidized by the state. In the absence of a strong local base for charitable giving in

²⁸ Among the other reasons cited for men's inclination to marry more than one woman is heightened social status, as well as increasing religiosity among Kyrgyz Muslims and the belief that polygyny is in keeping with Shari'a (Islamic law).

²⁹ Soros Foundation-Kyrgyzstan, "Polygamy in Modern Kyrgyzstan," p. 2.

³⁰ Law on Social-Legal Protection from Domestic Violence, art. 17, 2003.

the country, many Kyrgyz NGOs rely on foreign sources of funding, such as foundations and other international donor organizations, to finance their operations.

The work of women's rights activists involved in the support of victims of domestic violence and abduction can be dangerous. A number of staff members at women's rights NGOs reported retaliatory violence against them by abusive husbands for giving shelter to women seeking to flee violent situations. Svetlana Sayakbayeva, head of the NGO Tendesh in Naryn province, southeast of the capital, said that she was badly beaten in one such incident in 2000. She said the son of a woman who had sought shelter with Tendesh told the woman's husband where she was. The man arrived, found his wife and began to beat her right there in the shelter. He also began to beat participants of a seminar that was taking place in the NGO's offices. Sayakbayeva herself was injured: "I was covered with bruises," she said.³¹

Due to the danger posed by male abusers to the women seeking help from these NGOs and their staff, most women's NGOs keep their address confidential and give it out on a selective basis only.³²

Kyrgyzstan's international legal obligations

Rights protections against violence against women

Domestic violence and abduction for forced marriage are acts of violence against women and are violations of women's fundamental human rights.

The government of Kyrgyzstan has committed itself to taking action to stop violence against women. To its credit, Kyrgyzstan has ratified many of the key international instruments guaranteeing women's equality and right to live free of violence. Under the International Covenant on Civil and Political Rights (ICCPR, ratified by Kyrgyzstan in 1994³³), the government is obligated to ensure each person's right to life, security, and physical integrity (articles 6, 7 and 9)—all of which can be violated in domestic

³¹ Human Rights Watch interview with Svetlana Sayakbayeva, Tendesh, Naryn, November 5, 2005.

³² Human Rights Watch interviews with Svetlana Sayakbayeva and Erkin Asanaliev, Tendesh, Naryn, November 5; and Bubusara Ryskulova, Sezim, Bishkek, October 28, 2005.

³³ There is some discrepancy among sources regarding the date of Kyrgyzstan's ratification of the ICCPR. 1994 is the date given by the Office of the United Nations High Commissioner for Human Rights, <http://www.ohchr.org/english/law/ccpr-ratify.htm> (accessed August 14, 2006).

violence—and “to ensure” the rights recognized in the treaty and provide effective remedy to those whose rights are violated (article 2).³⁴ Regrettably, however, the record of failure to prevent, investigate, and prosecute violence against women, discussed in this report, means that the government is in violation of its obligations under this and other instruments of international law.³⁵ Kyrgyzstan has developed progressive national laws on the protection of women from domestic violence, but is falling down in their effective enforcement.

Over the past 20 years, the protection of women from domestic violence became an international priority that found expression in international law. In 1985 the United Nations General Assembly adopted a resolution on domestic violence based on a recommendation from the United Nations Economic and Social Council (ECOSOC).³⁶ ECOSOC in 1986 recognized “violence in the family” as a “grave violation of the rights of women.”³⁷ The 1993 United Nations Declaration on the Elimination of Violence against Women, which articulates the international standard for protection of women from violence, affirms “that violence against women constitutes a violation of the rights and fundamental freedoms of women...”³⁸ Article 1 of the declaration specifically states that “the term ‘violence against women’ means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”³⁹ Article 2 asserts that “Violence against women shall be understood to encompass,

³⁴ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 999 U.N.T.S. 171 (entered into force March 23, 1976).

³⁵ In interpreting a nearly identical provision in the Inter-American Convention on Human Rights, the Inter-American Court on Human Rights in the late 1980s explained that the duty “to ensure” requires a state to prevent or respond actively to violations of rights recognized in the treaty. Specifically, the decision stated that a government must “take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation.” The decision went on to say that a state “has failed to comply with [this] duty... when the State allows private persons or groups to act freely and with impunity to the detriment of the rights recognized by the Convention.” *Velázquez Rodríguez v. Honduras* (July 29, 1988), Inter-American Court of Human Rights (series C), No. 4, paras. 174 and 176.

³⁶ U.N. General Assembly resolution 40/36, A/RES/40/36, November 29, 1985.

³⁷ ECOSOC resolution 1986/18, May 23, 1986, para 2.

³⁸ Declaration on the Elimination of Violence against Women, February 23, 1994 (New York: United Nations, 1994) A/Res/48/104. This declaration reaffirms the rights guaranteed women under the International Covenant on Civil and Political Rights and other human rights instruments. The declaration is a non-binding resolution that establishes an international standard.

³⁹ *Ibid.*

but not be limited to, the following: (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.”⁴⁰

State responsibility for private acts of violence

Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, ratified by Kyrgyzstan in 1997) spells out the obligation of states to provide remedy for violation of women’s rights and to exercise due diligence in investigating and prosecuting such abuses.⁴¹ Elaborating on the principle of due diligence, the Committee on the Elimination of Discrimination against Women stated that “States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.”⁴²

Article 4 of the Declaration on the Elimination of Violence against Women states that, “States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination.” Article 4 (c) instructs states to “Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.” Paragraph (d) provides that states should “Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as

⁴⁰ Ibid.

⁴¹ CEDAW, art. 2.

⁴² Committee on the Elimination of Discrimination against Women, General Recommendation 19, Violence against Women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI\GEN\1\Rev.1 at 84 (1994).

provided for by national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms.” The instrument spells out further measures that states should undertake to prevent violence against women.⁴³

In sum, the government of Kyrgyzstan is obligated under international law to protect women from violence perpetrated by state agents and private actors.

The former UN special rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, stated in her first report on the subject, “In the context of norms recently established by the international community, a State that does not act against crimes of violence against women is as guilty as the perpetrators. States are under a positive duty to prevent, investigate and punish crimes associated with violence against women.”⁴⁴ As regards domestic violence in particular, Coomaraswamy stated in 1996 that “the role of State inaction in the perpetuation of the violence combined with the gender-specific nature of domestic violence require that domestic violence be classified and treated as a human rights concern rather than as a mere domestic criminal justice concern.”⁴⁵

Other rights violations

The United Nations Committee on the Elimination of Discrimination Against Women has stated that “[g]ender-based violence is a form of discrimination which seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.”⁴⁶ The ICCPR prohibits discrimination on the basis of sex and establishes the duty of states to provide everyone equal protection of the law.⁴⁷ State parties to the

⁴³ Declaration on the Elimination of Violence against Women, February 23, 1994.

⁴⁴ Preliminary Report Submitted by the Special Rapporteur on Violence Against Women, Its Causes and Consequences, U.N. Document E/CN.4/1995/42, November 22, 1994, p. 18.

⁴⁵ Report Submitted by the Special Rapporteur on Violence Against Women, Its Causes and Consequences, U.N. Doc. E/CN.4/1996/53, February 5, 1996, p. 9.

⁴⁶ Committee on the Elimination of Discrimination against Women, “Violence Against Women,” General Recommendation No. 19 (Eleventh session, 1992), (New York: United Nations), CEDAW/C 1992/L.1/Add.15, para. 1.

⁴⁷ ICCPR, arts. 2, 3, and 26.

CEDAW are required under article 2 to “to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.”⁴⁸

Women victims of domestic violence and bride-kidnapping in Kyrgyzstan are sometimes also deprived of other fundamental rights during the course of violent marriages, including freedom of movement (guaranteed under article 12 of the ICCPR), the right to education (stipulated in article 13 of the International Covenant on Economic, Social and Cultural Rights, ICESCR, ratified by Kyrgyzstan in 1994), the right to work and to enjoy fair labor conditions (articulated in articles 6 and 7 of the ICESCR), and the right not to be held in servitude or to be “required to perform forced or compulsory labour” (article 8, ICCPR). Abductions also violate women’s rights to liberty and security of person (article 9, ICCPR) and can involve violations of women’s rights to life and physical integrity (articles 6 and 7, ICCPR).

International law dictates that marriages should take place only with the clear consent of both people. Article 10 (1) of the ICESCR provides, in part, that “Marriage must be entered into with the free consent of the intending spouses.” Article 16 (1) of the CEDAW provides that “States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women... the same right freely to choose a spouse and to enter into marriage only with their free and full consent.”

Article 1 (1) of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (ratified by Kyrgyzstan in 1997) states that “No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person after due publicity and in the presence of the authority competent to solemnize the marriage and of witnesses, as prescribed by law.”⁴⁹

⁴⁸ CEDAW, art. 1 defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex which has the purpose of impairing or nullifying the recognition, enjoyment or exercise by women... on a basis of equality of men and women, of human rights and fundamental freedoms....”

⁴⁹ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 521 U.N.T.S. 231, entered into force December 9, 1964.

As this report documents, not only young adult women but also teenage girls are targeted for kidnapping for forced marriage in Kyrgyzstan. The preamble to the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages states that the parties to it “[Reaffirm] that all States.... should take all appropriate measures with a view to abolishing such customs, ancient laws and practices by ensuring, *inter alia*, complete freedom in the choice of a spouse, eliminating completely child marriages and the betrothal of young girls before the age of puberty, establishing appropriate penalties where necessary and establishing a civil or other register in which all marriages will be recorded...” Article 16(2) of the CEDAW states that “The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.” The minimum age for marriage in Kyrgyzstan is set at 18, but the law provides for girls as young as 16 to be legally married in some cases.⁵⁰

The abduction of children for forced marriage—indeed for any reason—is a violation of the International Convention on the Rights of the Child (CRC, ratified by Kyrgyzstan in 1994): article 35 states that “States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction, the sale of or traffic in children for any purpose or in any form.” The Convention also provides for states’ obligation to protect a 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.”⁵¹ Article 37(a) further states that “No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment,” while paragraph (b) states that “No child shall be deprived of his or her liberty unlawfully or arbitrarily...” The abduction of children for forced marriage inhibits their ability to enjoy other rights guaranteed to them under international law, including the rights to

⁵⁰ Article 14 of the Family Code of the Kyrgyz Republic stipulates that 18 is the minimum age for marriage. However, the law allows for girls who are at least 16 years old to be married if local government authorities find that there is good reason for them to marry at a younger age. Family Code as amended and published on June 20, 2005.

⁵¹ CRC, art. 19 (1). Article 34 also specifically states that parties to it “undertake to protect the child from all forms of sexual exploitation and abuse.”

education and freedom of movement, and protection from forced servitude and other exploitation.⁵²

⁵² The right to education is provided under article 13 of the ICESCR and article 28 of the CRC. Freedom of movement, including the right to choose one's residence, is guaranteed under ICCPR article 12. Article 8 of the ICCPR prohibits holding any person in slavery, servitude or for forced labor. Article 10 (3) of the ICESCR states that "Children and young persons should be protected from economic and social exploitation." Articles 32 and 36 of the CRC similarly charge states with protection of children from exploitation.