



**Submission to the United Nations Committee on the Elimination of Discrimination against Women on the fourth periodic report of Kyrgyzstan  
January 16, 2015**

We write in advance of the 60<sup>th</sup> Session of the Committee on the Elimination of Discrimination against Women and its review of Kyrgyzstan to highlight areas of concern regarding the government of Kyrgyzstan's compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This submission addresses Articles 2, 3, and 5 of the Convention, with reference to Article 15.

Human Rights Watch recognizes the steps that the government of Kyrgyzstan has taken to address violence against women and girls, including the 2003 Law on Social and Legal Protection from Domestic Violence and current proceedings to introduce a revised domestic violence law. However, we remain troubled by gaps in protection and implementation that Human Rights Watch documented during our recent research in Kyrgyzstan. This submission focuses on domestic violence against women and girls, with specific attention to support and service provision for survivors of such violence, attitudes and beliefs that contribute to perpetration of and insufficient response to domestic violence, and police and judicial response to domestic violence. The Committee referred to each of these areas in its list of issues and questions conveyed to the government in July 2014 in relation to the fourth periodic report of Kyrgyzstan.

This submission is based on Human Rights Watch research conducted in Kyrgyzstan in November and December 2014. In interviews with 25 survivors of domestic violence and 65 representatives of crisis centers and shelters, law enforcement agencies, health care facilities, religious institutions, local and international NGOs, and United Nations agencies, Human Rights Watch documented government failure to provide adequate protection and redress from domestic

violence. Human Rights Watch also met with representatives of the Prosecutor General's office, the Ombudsman for Human Rights, and the Ministries of Health and Justice.

Human Rights Watch interviews with survivors and service providers revealed a lack of services and support for women and girls seeking assistance in cases of domestic abuse. Interviews with police, lawyers, judges, and medical professionals showed that the response to cases of domestic violence is inconsistent and often insufficient to ensure the safety and well-being of survivors. Furthermore, law enforcement and medical personnel are frequently unaware of the full scope of services and legal standards in place to address domestic violence, and in some cases, they do not adhere to relevant laws and policies. These interviews, as well as meetings with government representatives, indicated that some authorities hold attitudes and beliefs that prioritize preservation of the family unit above ensuring women's and girls' safety or holding perpetrators of domestic violence to account.

### ***Lack of adequate services and support for survivors of domestic violence (Articles 2 and 3)***

Human Rights Watch interviewed staff members at nine crisis centers and shelters serving survivors of domestic violence in three *oblasts*, or provinces, of Kyrgyzstan.<sup>1</sup> Only two of the nine facilities reported receiving any government support.<sup>2</sup> Only four of the organizations currently provide any form of shelter services, two of which target especially vulnerable groups. Together, these shelters offer a total of approximately three dozen spaces to survivors.<sup>3</sup> One organization in Naryn and one in Osh oblast each reported having suspended their shelter services due to lack of funding. We are not aware of any fully government-funded and government-run domestic violence shelter in Kyrgyzstan.

Human Rights Watch findings indicate that the number of shelter spaces in Bishkek, Osh, and Naryn province remains insufficient; in Bishkek, for example, the sole shelter that reported

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<sup>1</sup> Human Rights Watch interviewed staff members at facilities in Bishkek (Chuy Oblast), Naryn city (Naryn Oblast), and Osh city (Osh Oblast). Some of the facilities also provide services to survivors of abuses other than domestic violence. At two centers, the target population includes women from particularly vulnerable and marginalized groups, such as drug and alcohol abusers, former prisoners, trafficking victims, and HIV-positive women.

<sup>2</sup> One organization in Bishkek reported receiving support from the national government and one organization in Osh reported receiving material support from the municipal government in the form of shelter facilities.

<sup>3</sup> Numbers are approximate as the shelters all accept women with children and in some cases will accommodate family members or additional survivors by taking extra measures, such as placing mattresses on the floor or having children share sleeping space.

receiving government funding and working directly to assist domestic violence survivors offers 15 places for a city population of approximately 850,000.<sup>4</sup> The center's staff said that the shelter is frequently full or overcrowded; at times women and children sleep in the corridors, or shelter staff work to find them temporary housing elsewhere.<sup>5</sup>

Survivors of domestic violence repeatedly told Human Rights Watch that they remained in abusive situations because they felt they had “nowhere to go.” Women also reported that fear of being homeless deterred them from reporting abuse to the authorities or seeking assistance. This is especially true for women who depend on their abusers or abusers' families for shelter. Aigul (all survivors' names have been replaced with pseudonyms), a 42-year-old woman from Naryn oblast, said that although she had considered filing a complaint with the police, she had not done so during nine years of abuse:

*I knew if I went to the police I would have to leave the house and couldn't go back and I thought, 'Where will I go with two kids? My husband and his [adult] sons would kick me out of the house....' I put up with his beatings, but at least I have a place to stay.<sup>6</sup>*

Most of the survivors Human Rights Watch interviewed had attempted to leave abusive relationships but had ultimately returned, in many cases due, at least in part, to concern about providing for their children. Some women who managed to flee abusive homes said they had to leave their children behind, frequently with other relatives, as they sought housing and work to support themselves and their families. Several of these women told Human Rights Watch that they

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<sup>4</sup> Human Rights Watch interview with staff of Sezim Crisis Center, Bishkek, November 10, 2014. According to the most recent available census conducted by the Kyrgyzstan government, the population of Bishkek in 2009 was 851,800 people. See National Statistical Committee of the Kyrgyz Republic, *Population and Housing Census of the Kyrgyz Republic of 2009, Book 1: Main social and demographic characteristics of population and number of housing units*, Bishkek: 2009, [http://unstats.un.org/unsd/demographic/sources/census/2010\\_PHC/Kyrgyzstan/A5-2PopulationAndHousingCensusOfTheKyrgyzRepublicOf2009.pdf](http://unstats.un.org/unsd/demographic/sources/census/2010_PHC/Kyrgyzstan/A5-2PopulationAndHousingCensusOfTheKyrgyzRepublicOf2009.pdf) (accessed January 9, 2015) p.12. Council of Europe minimum standards on service provision recommend one shelter space per 10,000 people where shelters are the predominant or only form of service provision, and one family place in a shelter per 10,000 women where shelters form part of a community response to violence. See Council of Europe, *Combating Violence Against Women: Minimum Standards for Support Services*, Gender Equality and Anti-Trafficking Division, Directorate General of Human Rights and Legal Affairs, Strasbourg: 2008, p. 38.

<sup>5</sup> Human Rights Watch interview with staff of Sezim Crisis Center, Bishkek, November 10, 2014.

<sup>6</sup> All survivors' names have been changed and identifying details removed for their security and privacy. Human Rights Watch interview with Aigul, Naryn, November 28, 2014.

now struggle to make ends meet and rely on low-paying jobs, sometimes working night shifts or shifts of more than 24 hours at a time, due to lack of education and work experience.

Service providers and survivors also told Human Rights Watch that there is little, if any, legal assistance available for survivors of domestic violence. A Naryn lawyer who previously provided free legal aid to survivors said that he had to stop offering such services due to lack of funding; at the time he spoke to Human Rights Watch, he was unaware of any free legal services available to victims in Naryn.<sup>7</sup> Survivors interviewed by Human Rights Watch said that no law enforcement or medical personnel provided them with information about legal support; only those who visited crisis centers that offered or referred survivors to legal services reported receiving legal assistance. This violates Article 6 of Kyrgyzstan's domestic violence law, which states that domestic violence victims' rights include the right to "receive information about personal defense and available legal help."<sup>8</sup>

Interviews with survivors, NGO staff, police, and medical workers indicate that comprehensive referral systems are nonexistent and that survivors are rarely referred to critical services. Only survivors who visited crisis centers offering a holistic range of services reported being offered or referred to psychological, medical, legal, and shelter services. Health and law enforcement professionals said they did not routinely refer survivors to crisis centers, shelters, psychological, legal, or other forms of care. In some locations, professionals interviewed by Human Rights Watch were unaware of available services and said that none existed in the community, though Human Rights Watch visited such services in the same locations. Medical professionals at three different facilities across Kyrgyzstan said that they only direct survivors to specialists within the medical facility (such as neurologists for head injuries) and sometimes to police. The Naryn lawyer said that in two years of providing legal aid, he never received a case of domestic violence referred by police and received only one referral from a state agency.

When referrals are made between the health and law enforcement sector, it is sometimes without the survivor's consent. When asked about reporting cases of domestic violence to police against a survivor's wishes, one trauma doctor in Bishkek told Human Rights Watch, "If she [the survivor] officially says she was beaten by her husband we have to report to the police because it's an

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<sup>7</sup> Human Rights Watch interview with lawyer, Naryn, November 26, 2014, name and identifying information withheld.

<sup>8</sup> Kyrgyz Republic Law on Social and Legal Protection against Domestic Violence, passed by the Legislative Assembly of the Kyrgyz Republic Jogorku Kenesh, January 31, 2003, Art. 6.

obligation and we could be made answerable.”<sup>9</sup> All of the medical professionals Human Rights Watch interviewed echoed the same view that they felt obliged to report such cases, although neither they nor a representative of the Ministry of Health could point to a specific directive on mandatory reporting. In addition, the Ministry of Health representative confirmed that medical staff “always automatically call the police” in cases of domestic violence, and that there are no existing protocols related to requesting a survivor’s consent prior to contacting law enforcement.<sup>10</sup>

In its clinical and policy guidelines on intimate partner violence and sexual violence against women, the World Health Organization (WHO) does not recommend mandatory reporting of intimate partner violence to police by health care providers, other than in cases that are life-threatening or include mistreatment of a child and where reporting is legally obligated. Rather, the WHO recommends that health care providers inform survivors of their rights and options with regards to reporting cases to authorities, and offer to report the case to police with the survivor’s informed consent, and to inform survivors in cases where these rights may be limited.<sup>11</sup>

***Human Rights Watch encourages the Committee to use the upcoming review to urge the government of Kyrgyzstan to:***

- *Establish, disclose, and implement a plan of action to ensure availability and access to shelters and other services for survivors of domestic violence, including in rural areas and for particularly vulnerable populations.*
- *Ensure that revisions to the Law on State-Guaranteed Legal Aid will guarantee provision of free legal services to survivors of domestic violence without financial means to secure legal representation. The government should clarify the timeline for revision of the law and plans to ensure an adequate budget for implementation.*
- *Establish, publicize, and implement a plan of action to create referral systems that incorporate shelter, health, psychosocial, legal, and social assistance services and facilitate timely, holistic care for survivors of domestic violence. Referral systems should guard survivors’ security and confidentiality and be based on informed consent.*

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<sup>9</sup> Human Rights Watch interview with doctor, neurotraumatology unit, Republican Hospital, Bishkek, December 9, 2014, name withheld.

<sup>10</sup> Human Rights Watch interview with Aigul Abdrakhmanovna Bobekova, Ministry of Health, Bishkek, December 12, 2014.

<sup>11</sup> World Health Organization, *Responding to intimate partner violence and sexual violence against women: clinical and policy guidelines*, Geneva: 2013, p. 41.

- *Clarify its policies on the health system response to domestic violence so that health providers understand that it is not mandatory to report cases of domestic violence to law enforcement, and instead that such reporting should only be done with the informed consent of the survivor, except in cases where reporting is legally obligatory.*
- *Ensure that all relevant personnel—including in the health, law enforcement, and judicial sectors—participate in mandatory training on response to and referral systems for domestic violence at regular intervals.*

### ***Attitudes and Practices Conducive to Domestic Violence and Victim-Blaming (Articles 2, 3, and 5)***

Women and girls who experienced domestic abuse told Human Rights Watch that they often felt enormous familial and societal pressure to keep the abuse private and remain in the abusive situation for the sake of the family. Some survivors said that they did not seek help because they felt it would bring shame on their families and they feared stigma in the community. When women did attempt to leave abusive relationships, they said their families often encouraged them to return and reconcile, especially if they had children.

Many interviewees described what they called a “Kyrgyz mentality,” wherein preservation of the family unit must be prioritized above all else, and women who complain about violence in the home or leave abusive partners are perceived as destroying the family, leaving their children as “orphans” subject to immoral upbringing, and causing disgrace for themselves and their extended family. Human Rights Watch found that such attitudes persist at all levels of society, including among police, judges, and government officials.

In discussing the fact that many domestic violence complaints do not reach the courts, a representative of the Prosecutor General’s office told Human Rights Watch, “For the state, for society it is more important that we have a whole family – practice shows that children from broken families grow and commit crimes.”<sup>12</sup> The head of one city police unit said that he is opposed to reforming Kyrgyzstan’s domestic violence law according to international standards because of the “mentality” of Kyrgyzstan’s population: “If we bring in international standards for punishment for violence at home, then we will destroy many families and this is not appropriate

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<sup>12</sup> Human Rights Watch meeting with Marat Kuzhabaev, Ministry of Interior unit, office of the Prosecutor General, Bishkek, December 11, 2014.

for Kyrgyzstan.”<sup>13</sup> In addition to deterring survivors of domestic violence from seeking help, such beliefs undermine the police and judicial response to domestic violence cases, as discussed further below.

### ***Police and Judicial Response to Complaints of Domestic Violence (Articles 2, 3, and 15)***

Human Rights Watch documented cases in which police and judicial response to complaints of domestic violence was insufficient or inappropriate. Some survivors reported police inaction or even hostility when they attempted to report domestic abuse. Iliana, 47, said that she called the Osh police twice in 2012 after severe beatings by her partner. She told Human Rights Watch, “They said, ‘Did he use a knife? Did he try to kill you?’ I would say, ‘No,’ and they would say, ‘Okay, you call me when he tries to kill you, because we have more important things to do.’”<sup>14</sup>

In other cases, survivors said that police took their complaints, but did not follow up or pursue any action against the perpetrator of the abuse, or that police confronted the abuser and victim together in an effort to bring about reconciliation.

Many of those who reported cases to police said they were never informed that they could get a temporary protection order, as per the Law on Social and Legal Protection from Domestic Violence.<sup>15</sup> Those who received temporary protection orders often only did so after visiting a crisis center, where staff assisted them in filing a complaint and seeking a protection order.<sup>16</sup> Crisis center staff told Human Rights Watch that women who go to the police independently face difficulty in either getting protection orders or ensuring that such orders are enforced.<sup>17</sup> Moreover, crisis center and shelter staff said that domestic violence survivors are rarely granted court protection orders, which offer longer-term and more stringent protection than temporary

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<sup>13</sup> Human Rights Watch interview with city police officer, Osh, December 4, 2014, name and title withheld.

<sup>14</sup> Human Rights Watch interview with Iliana, Osh, December 7, 2014.

<sup>15</sup> Kyrgyz Republic Law on Social and Legal Protection against Domestic Violence, passed by the Legislative Assembly of the Kyrgyz Republic Jogorku Kenesh, January 31, 2003.

<sup>16</sup> Under the Kyrgyz Republic Law on Social and Legal Protection against Domestic Violence, a victim of family violence or his/her representative may apply for a temporary protection order where there is an immediate threat to the life or health of a family member. The order is to last for a period not exceeding 15 days. “Kyrgyz Republic Law on Social and Legal Protection against Domestic Violence,” art. 23.

<sup>17</sup> Human Rights Watch interview with staff of Sezim Crisis Center, Bishkek, November 10, 2014.

protection orders.<sup>18</sup> Only one of the survivors Human Rights Watch interviewed had received a court protection order. Only two of the lawyers, judges, and police that Human Rights Watch interviewed knew or had heard of a court protection order being issued; many were unfamiliar with court protection orders, what they are, and how they are granted.

Even when protection orders are issued, they may be ineffective or unenforced. While the law states that a temporary protection order can prohibit a perpetrator from having direct or indirect contact with the victim, many survivors said they continued to live with their abusers even after receiving a temporary protection order that barred contact between the survivor and perpetrator. Police and judges said they cannot force a perpetrator to leave the home, especially if the home belongs to the perpetrator or his family, as it would violate his constitutional and property rights. However, in its recommendations on protection orders, the United Nations *Handbook for Legislation on Violence against Women* notes that protection orders in cases of domestic violence may include instructing the perpetrator to vacate the home without having any bearing on property ownership.<sup>19</sup>

Attitudes about the importance of preserving the family negatively influence police and judicial response to domestic violence. Police and judges told Human Rights Watch that they work to keep the family intact, even in cases of domestic violence, though some police and judges said that they make exceptions in cases where physical violence results in severe injuries. One district court judge said that when he oversees a domestic violence case between partners or spouses, he attempts to reconcile the couple: “I would explain to both spouses that these kinds of problems are common, not unique to your family....If after that the wife understands the situation, normally she withdraws the complaint.” He also said that if “the wife insists on punishment,” he would most likely sentence the perpetrator with parole, even though the permitted penalty for cases involving minor bodily injury is up to two years imprisonment: “Very rarely do we put people in detention in this category – maybe one out of 100 is put in detention. In such cases when injuries

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<sup>18</sup> Under the Kyrgyz Republic Law on Social and Legal Protection against Domestic Violence, a court protection order may be issued by the court for a period of one to six months in order to provide a victim with further protection from family violence. “Kyrgyz Republic Law on Social and Legal Protection against Domestic Violence,” arts. 25 and 26.

<sup>19</sup> United Nations Division for the Advancement of Women, *Handbook for Legislation on Violence against Women*, Department of Economic and Social Affairs, New York: 2010, <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf> (accessed January 9, 2015) p. 46.

are not severe we try to preserve the family. We give time to the perpetrator to rectify the problem.”<sup>20</sup>

Judges typically require that couples requesting divorce undergo a waiting period, and interviewees confirmed that this is standard practice even when evidence of domestic violence is present. All of the five survivors Human Rights Watch interviewed who requested or received divorces had been issued waiting periods of at least one month at the beginning of divorce proceedings. Some said that they had filed for divorce but their cases were continuously delayed for unknown reasons. Ainura, 34, told Human Rights Watch that she is seeking a divorce after nine years of physical abuse by her husband. She said the judge issued a one-month waiting period and insisted that Ainura and her husband see a family psychologist and attempt to reconcile, despite the fact that Ainura had a temporary protection order against her husband for domestic violence. Ainura said the judge also blamed her for the couple’s problems: “The judge asked me and I told her about everything – the physical violence, everything. She said, ‘Why haven’t you turned to the police at those moments? This is your fault. This is your fault you were suffering and continued to live with him.’”<sup>21</sup>

Survivors told Human Rights Watch that such attitudes and behaviors diminished their faith that the law enforcement and judicial systems would help them, and deterred them from filing complaints. Lawyers, judges, police, and crisis center and shelter staff told Human Rights Watch that many women who file domestic violence complaints with police later withdraw them under pressure by family, authorities, and/or society at large, as well as due to the stigma, shame, and economic dependence on their abusers.

***Human Rights Watch encourages the Committee to use the upcoming review to urge the government of Kyrgyzstan to:***

- *Develop and implement a plan of action to address attitudes and practices that are conducive to perpetration of domestic violence and victim-blaming. In addition to wide scale awareness-raising, including in rural areas and marginalized communities, this should encompass obligatory training for law enforcement, judicial, and health care*

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<sup>20</sup> Human Rights Watch interview with district court judge, November 27, 2014, name and location withheld.

<sup>21</sup> Human Rights Watch interview with Ainura, Bishkek, November 21, 2014.

*professionals. This should also entail ongoing engagement with community and religious leaders to stimulate behavior and attitude change.*

- *Ensure that law enforcement and judicial personnel who inappropriately or inadequately respond to domestic violence complaints or deter or prevent survivors from filing complaints are held accountable.*
- *Develop, make public, and implement a plan of action to ensure that all law enforcement and judicial personnel have knowledge of temporary and court protection orders, and how they are issued and enforced; that they inform all women and girls reporting domestic violence about such protection orders; and that the orders are enforced.*
- *Ensure that any revisions to its domestic violence law (1) maintain the option of both temporary protection orders, which can be issued on an emergency, ex-parte basis, and longer-term court protection orders, which can be issued after a hearing; and (2) include (among other measures) the option to require that the respondent vacate the family home pursuant to such orders.*
- *Eliminate waiting periods in divorce proceedings where evidence of domestic violence is present, including through previous issuance of a protection order to one of the parties, and hold to account judges who issue waiting periods in such cases.*

### ***Referral of domestic violence cases to aksakal courts (elders courts) (Articles 2 and 15)***

*Aksakal* courts, or elders courts, are used in some parts of Kyrgyzstan to resolve disputes at the community level. While many cases brought to *aksakal* courts relate to disputes over property or livestock, Human Rights Watch interviewed police and *aksakal* court members who confirmed that domestic violence cases are also referred to and reviewed by *aksakal* courts. According to Kyrgyzstan’s Law on Askakal Courts, *aksakal* courts can oversee cases of a civil nature and cases referred by courts and the prosecutor’s office, with the intent of “applying social influence.”<sup>22</sup> Police may refer cases to *aksakal* courts only with prior approval of the prosecutor’s office.<sup>23</sup> One *aksakal* court member in Chuy province told Human Rights Watch that police sometimes refer

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<sup>22</sup> Of the Law on Courts of Elders, Bishkek, July 5, 2002 N 113 (Law of the Kyrgyz Republic on the Courts of Elders, dated July 30, 2003 N 158, June 12, 2009 N 181, July 30, 2013 N 169), art. 4. The Law on Social and Legal Protection from Domestic Violence also states that a victim of domestic violence has the right to address her case to the elders court herself, with the goal of “a public reprimand of the assailant.” Law on Social and Legal Protection from Domestic Violence, art. 6.

<sup>23</sup> *Ibid.* See further discussion in Human Rights Watch, *Reconciled to Violence—State Failure to Stop Domestic Abuse and Abduction of Women in Kyrgyzstan*, September 2006, <http://www.hrw.org/reports/2006/09/26/reconciled-violence>, pp. 63-65.

domestic violence cases involving physical abuse and relay incorrect information about legal penalties for domestic violence. She said, “[F]or us it is difficult to come up with adequate punishment in these cases. The police department tells us there is no law that allows them to punish a husband for beating his wife. The police tell us, ‘If he kills you or kills her then we will come.’”<sup>24</sup>

In interviews with *aksakal* court members, Human Rights Watch documented ongoing misuse of referrals to *aksakal* courts by police, who referred domestic violence cases without permission from the prosecutor’s office, even in instances involving severe bodily injury.<sup>25</sup> For example, an *aksakal* court member in Osh said that neighborhood police refer cases of domestic violence to the *aksakal* courts based on their own discretion. The *aksakal* court member said this was often done as a means of preserving the family, even in cases involving serious bodily harm: “When it is necessary to prevent divorce, keep the family together. Usually the police officer considers the case to see if it is just a stress situation, a woman just needs to release some stress. Then they bring it to the *aksakal* court.”<sup>26</sup>

Referral of cases of domestic violence involving serious bodily harm contradicts Kyrgyz law. It is also contrary to Articles 2c and 15 of CEDAW, which guarantee women legal protection and equality before the law. Referral of domestic violence cases to *aksakal* courts, whose rulings generally entail public shaming or financial or material payment, prevents women with criminal cases from having the opportunity to demand that their abusers be judged and punished to the fullest extent of the law.

***Human Rights Watch encourages the Committee to use the upcoming review to urge the government of Kyrgyzstan to:***

- *Take measures to enforce state law prohibiting police from referring cases to aksakal courts without authorization from the prosecutor’s office and requiring criminal cases to be*

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<sup>24</sup> Human Rights Watch interview with Kazima Sushanloe, head of *aksakal* court, Alexandrovski village municipality, Chuy Province, Bishkek, December 12, 2014.

<sup>25</sup> This has been documented previously by Human Rights Watch and the Special Rapporteur on Violence against Women. See Human Rights Watch, *Reconciled to Violence*, pp. 64-66; Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Mission to Kyrgyzstan, United Nations document A/HRC/14/22/Add.2, May 28, 2010, paras 82-83.

<sup>26</sup> Human Rights Watch interview with *aksakal* court member, Osh province, December 6, 2014, name and exact location withheld.

*reviewed by a court of law. The government should develop and implement a monitoring system to ensure that personnel of the law enforcement and judicial systems adhere to and uphold these statutes.*

- *Ensure that all members of the law enforcement and judicial systems, as well as of the aksakal courts and other community structures, undergo training on the roles of police, lawyers, judges, and aksakal courts in responding to domestic violence.*