

# Kyrgyzstan:

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*“Situation with the fundamental human rights and freedoms in the framework of Human Dimension Implementation Meeting OSCE-2015”*

*Prepared by the Human Rights Movement: “Bir Duino-Kyrgyzstan”*

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## **Overview of the human rights situation in Kyrgyzstan:**

According to the Human Development Index, compiled by the UN Development Program in 2014<sup>1</sup>, Kyrgyzstan is in the 125th place in terms of quality of life of its citizens. Only 20 points separate the country from the countries of the African continent with a low level of well-being, the states that are currently facing or have experienced different types of violent internal and external armed conflicts.

The difficult economic situation of the country has negative impact upon the human rights situation in the country and moves away this issue from the sight of the government. On the eve of the parliamentary elections and in the pre-election campaigns political parties do not focus on the promotion and protection of fundamental human rights in their party programs and promises. Even more, political parties participating in the elections, use technologies and techniques that violate basic rights of citizens: "buying" votes, falsification of results of elections, abuse of administrative resources, and distortion of information in the mass media to name a few. In order to define this phenomenon in the electoral process in Kyrgyzstan, Public Association "Human Rights Movement" Bir Duino Kyrgyzstan " used the term "electoral corruption ". It is one of the types of political corruption, which provides acquisition (holding) of public power through election of officials or political parties by citizens.

However, political parties themselves become targets of different unlawful actions and discrimination. Candidates from political parties become subjects of criminal prosecution, Government interferes in the electoral process, and cases when open preference is given to one party over another etc.

The fact that the topic of human rights and freedoms is not discussed by the participants of the electoral process rises serious concerns among the civil society. It is considered that with the entry of Kyrgyzstan in the Customs Union the bills and initiatives that were considered by the previous Parliament, if adopted by the new Parliament would significantly reduce political space of NCOs in the country.

These legislative initiatives label NCOs as "foreign agents" and limit the rights of the LGBT community.

Civil society activists were harassed and attacked. Human rights activist Azimjan Askarov still remains in prison without access to fair trial.

According to representatives of civil society, the current human rights situation in Kyrgyzstan is characterized by the following negative trends:<sup>2</sup>

1. Multiple discriminatory legislative initiatives (on "expulsion of aliens for the protection of morals", on "foreign agents", on "restriction of abortion," on "state language", on "propaganda", on "skirt length", on "restriction of girls under the age of 23 on traveling abroad" etc. - draft resolutions);

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<sup>1</sup> <http://gtmarket.ru/ratings/human-development-index/human-development-index-info>.

<sup>2</sup> Presentation «Cooperation of political parties with the civil society. Ways and mechanisms of solution of discrimination issues in the Kyrgyz Republic.», round table of the coalition «For Justice and Non-discrimination», 18.09.2015.

2. High level of discrimination in the society based on xenophobia, patriarchy, nationalism and chauvinism;
3. Existing national legislation of the Kyrgyz Republic has discriminatory norms/elements;
4. Absence of a separate comprehensive law regulating hate crimes;
5. There is no Governmental program or action to eliminate discrimination;
6. The deterioration of the image of the country in the international arena in the light of non-implementation of the recommendations and commitments in the context of ratified international treaties / covenants.

## **Chapter 1. Freedom of association**

### **Legislation**

The right to freedom of association is enshrined in the article 35 of the Constitution of the Kyrgyz Republic, which clearly states that everyone has the right to freedom of association. Citizens have the right to form associations based on free will and common interests, and the state, in turn, has to guarantee the rights and legitimate interests of public associations. The right to freedom of association includes both the right to form and register a public association, and includes the right to form associations without obtaining legal personality. The right to freedom of association allows citizens, acting within the framework of a public association to protect their interests together in various forms of organized social activity, and combine their efforts for the implementation of certain tasks. The Kyrgyz Republic adopted more than a dozen of laws governing non-profit organizations, which cover almost all types of organizations in the civil sector. Overall, the country has a sufficiently well developed legal basis. There is a principle of "single window" which is a simplified system of registration of legal entities.

### **Recommendations**

Recently, however, some attempts were made to limit and control the activities of NGOs. The bill amending the law "On Non-commercial Organizations" (further "NCOs" ) passed the first reading in order to limit activities of NCOs.

In general, the main disadvantages are the following:

- Procedures for the closure of NCOs are quite complex.
- The lack of tax incentives for NCOs to engage in commercial activities.
- Complicated procedures for registration and activities of religious organizations (does not meet democratic standards, many religious organizations are not registered because of the impossibility to comply with the requirements of the law).
- Limited access to legal support for NCOs in the regions.

Forcing NCOs, receiving funding from foreign sources, to be humiliated and be registered as "foreign agents."

On May 26, 2014 Members of Parliament, Tursunbai Bakir uulu, Madaliev Nurkamil and Narmatova Nadir, initiated the bill in the Parliament of the Kyrgyz Republic "On amendments and additions to some legislative acts of the Kyrgyz Republic". The bill basically proposed amendments and additions to the Law of the Kyrgyz Republic "On non-commercial organizations" (hereinafter - the "Law on NCOs"), and the Law of the Kyrgyz Republic "On state registration of legal entities, branches (representations)" and the Criminal Code of the Kyrgyz Republic.

It should be noted that the bill got negative assessment results from the Venice Commission, OSCE Office for Democratic Institutions and Human Rights, Ministry of Justice of the Kyrgyz Republic, the relevant departments of the administration and the expert committee of the Jogorku Kenesh of the Kyrgyz Republic which demonstrated that the adoption of this bill

would significantly deteriorate the legal status of non-profit organizations in the Kyrgyz Republic.

The analysis shows that the bill, if enacted, would significantly deteriorate the legal position of the whole non-governmental sector of the Kyrgyz Republic. Several provisions of the bill are in contradiction with the International Covenant on Civil and Political Rights and other major sources of international human rights law.<sup>3</sup> Adoption of the bill will cause a mass appeal to different international human rights mechanisms/institutes on the violations of the rights of citizens and NCOs in the Kyrgyz Republic. According to the previous experience, in such cases, the state will probably lose all these cases and this would lead to the formation of a negative reputation of Kyrgyzstan as a non-democratic country.

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<sup>3</sup> Universal Declaration of Human Rights (article 20), 1948; European Convention of Human Rights (article 11), 1950; International Covenant on Civil and Political Rights (article 22), 1966.

## **Chapter 2: Freedom of peaceful assembly**

### **Legislation**

The right to freedom of peaceful assembly is an essential condition for the realization of other human rights, such as right to freedom of expression. The right to freedom of peaceful assembly, as one of the true foundations of democracy is enshrined in the major human rights treaties. So, "The right to peaceful assembly is not subject to any restrictions other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, health or morals or the protection of the rights and freedoms of others."<sup>4</sup> The Constitution of the Kyrgyz Republic stipulates that everyone has the right to freedom of peaceful assembly.<sup>5</sup>

Law "On Peaceful Assemblies" is in full conformity with the Constitution of the Kyrgyz Republic and includes basic guiding principles on freedom of peaceful assembly. In the preparation of the bill opinion of the human rights defenders, representatives of the leading reputable international organizations such as the OSCE and the European Commission for Democracy through Law (Venice Commission), professional legal community of the Kyrgyz Republic were given close consideration.

According to the results of the monitoring of the human rights center "Kylym Shamy" from 98 peaceful assemblies 71 of them were held without prior notice. However, law enforcement authorities continue to detain and impose administrative sanctions on organizers of assemblies for the absence of prior notice.

### **Recommendations**

The entry into force of the new Law "On Peaceful Assemblies" decreased the threat of confrontation between the authorities and civil society and the consequences of violations of the right to peaceful assembly. State agencies and local governments comply with the requirements of the Law "On peaceful assembly." It is clear that the violation of the right to peaceful assembly can lead to serious deterioration in the socio-political situation in the country which will entail unpredictable consequences.

Behavior of police officers during the assemblies does not comply with the law and international standards. In addition, there were some attempts to make changes and additions to the Law "On Peaceful Assemblies", such as the elimination of the ban on the use of force.<sup>6</sup>

There is a need for continuous objective monitoring of assemblies by independent observers in order to monitor the following aspects: the level of compliance of state bodies and officials with the law on peaceful assemblies, implementation of the law, the provision of objective information about the real situation in this area, existing problems, the mobilization and involvement of civil society in the active advocacy and lobbying to improve the situation.

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<sup>4</sup> Article 21, International Covenant on Civil and Political Rights from 16 December 1966 r.

<sup>5</sup> Article 35, Constitution of the Kyrgyz Republic.

<sup>6</sup> Legislative initiative of the Ministry of Internal Affairs of the Kyrgyz Republic in 2013.

## Chapter 3: Freedom of Expression

According to a research conducted by the Public Association "Journalists" in 2014<sup>7</sup>, Kyrgyzstan has more than 1500 registered media. There are 159 newspapers, 25 operating television stations and 26 operating radio stations in the country. There are 125 newspapers, 26 TV stations and 17 radio stations that operate in Kyrgyz language. In the second place is the Russian language media: 71 newspapers, 21 television and 17 radio stations.

"The right to freedom of expression is one of the main achievements of people of Kyrgyzstan and its protection in the country is provided by the Constitution of the Kyrgyz Republic, as well as a number of international documents, including the Universal Declaration of Human Rights." With these words starts one of the chapters of the "National Strategy for Sustainable Development of the Kyrgyz Republic for the period of 2013-2017", which is devoted to freedom of speech and the formation of the state information policy in Kyrgyzstan. This strategy was approved by the Decree of the President in January 2013.

The main directions of state information policy for the 2013-2017 are the following:

- Ensuring transparency of work of public authorities, local self-government bodies;
- Interaction with the media, public associations and independent professional associations in the field of information in order to guarantee the right to freedom of expression;
- Support and assist in further development of public broadcasting in Kyrgyzstan;
- Providing, in accordance with the law, public access to information held by public bodies, local authorities and their officials;
- Development of the Internet, as well as providing till 2017 full Internet access to all areas of the country, as one of the priorities in the development of human potential, ensuring economic growth, development of culture, education, health and general development of an individual.

### **Legislation and initiatives**

Kyrgyzstan has been adopting laws and considering legislative initiatives that restrict freedom of expression and journalists' rights. In May 2014, the Parliament of the state signed a law providing for amendments and additions to the article on "misleading information" of the Criminal Code of the Kyrgyz Republic. The new version of the article is called "false report of a crime." According to the amendments, false information provided by mass media about commission of a crime is punishable by a fine of 50 thousand (US \$ 700) to 100 thousand (\$ 1400 US) soms or imprisonment up to 1 year. If the information is provided about a serious or especially serious crime, then the punishment will be 100 thousand (\$ 1400 US) to 200 thousand soms (\$ 2800 US) or imprisonment from 1 to 3 years. An act committed in the interests of an organized group with artificial creation of evidence, is punishable by imprisonment for a term of 3 to 5 years.

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<sup>7</sup> <http://journalist.kg/news/oo-zhurnalystyi-rasskazal-ob-itogah-mini-issledovaniya-smi-kr/>.

In February 2015 the Ministry of Justice has initiated amendments to the Law "On mass media", according to which the activities of the media can be terminated without a court decision.<sup>8</sup>

In particular, the Ministry of Justice proposed to terminate activities of media without a court decision in cases when the court decides to suspend the work of the media, if the media owner has died, if there is no legal basis for doing business. The journalists said that media activities may be terminated only by court decision, or the rights of journalists will be grossly violated and this legislative initiative was identified as pressure on the media. After the public debate and discussion with the civil sector, the Ministry of Justice withdrew its proposed amendments to the Law of the Kyrgyz Republic on the media.<sup>9</sup>

Another step backwards in the area of freedom of expression is the adoption by the Parliament of the Kyrgyz Republic in the first reading of the draft law on "formation of a positive attitude towards non-traditional sexual relations".<sup>10</sup> According to the draft law the punishment will be imprisonment up to one year or a fine up to 30 thousand soms (560 US dollars).

The worrying aspect is the fact that the Government wants to have pretrial blocking of web sites that are suspected of distributing extremist materials.<sup>11</sup>

### **Lawsuits against journalists**

In Kyrgyzstan, since the beginning of 2015 till present time, the Institute of Media Policy was representing media and journalists in 14 trials for the protection of honor, dignity and business reputation. In 8 cases the plaintiffs were the state officials and public figures, the amount of moral compensation varies between 100 000 thousand soms (over \$ 1,400 dollars) to 30 million soms (about US \$ 430,000).<sup>12</sup>

In July 2015, in the court of first instance the resonant case came to its conclusion in which the General Prosecutor's Office opened a criminal case against the journalist Dayyrbek Orunbekov in order to protect honor of the President of the Kyrgyz Republic, Almazbek Atambayev. The trial court ruled in favor of the General Prosecutor`s Office and awarded compensation for moral damage in the amount of two million soms (over thirty thousand US dollars).

Ex-deputy head of the presidential administration Ikramzhan Ilmiyanov sued on 5 million soms (over seventy thousand US dollars) the Kyrgyz-site kabarordo.kg (Publishing House "Vechernii Bishkek") to protect his honor and dignity. The Court of First Instance ruled in favor of the plaintiff and ordered moral damages in the amount of one million eight hundred thousand soms (over twenty-five thousand US dollars) and ordered the publication of a refutation. This court decision was appealed in the Bishkek City Court by the Media Policy representative Akmat Alagushev.

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<sup>8</sup> <http://rus.azattyk.org/content/article/26825709.htm>.

<sup>9</sup>

[http://www.24kg.org/obschestvo/6093\\_ministerstvo\\_yustitsii\\_kyrgyzystana\\_otzyivaet\\_popravki\\_v\\_zakon\\_o\\_smi/](http://www.24kg.org/obschestvo/6093_ministerstvo_yustitsii_kyrgyzystana_otzyivaet_popravki_v_zakon_o_smi/)

<sup>10</sup> <http://kloop.kg/blog/2014/10/15/parlament-odobril-antigejskij-zakon-v-pervom-chtenii/>.

<sup>11</sup> <http://www.atc.kg/>.

<sup>12</sup> <http://caa-network.org/archives/3324>.

Currently the court is considering a claim of a former bodyguard of the current president, Mambetaliev Erkin, who sued the newspaper "Vechernii Bishkek" on fifty million soms (over seven hundred and fifty thousand US dollars) to protect his honor and dignity.

Considering the claims against the Publishing House "Vechernii Bishkek", including Russian-language newspaper of the same name and website, as well as Kyrgyz website kabarordo.kg, these claims occurred at the same time when the judicial process of changing owners of the Publishing House "Vechernii Bishkek" was taking place. The staff of the Publishing House appealed to the President, Almazbek Atambayev, to pay attention to the situation in the judicial system. Employees of the Media Holding indicated that litigations surrounding the publishing house are considered as a raider seizure with political implications. However, changes in the composition of the founders of the Publishing House "Vechernii Bishkek" still took place in August 2015 and part of the team, who were disagree with the court decisions, resigned from their positions.

### **Recommendations**

Termination of excessive restrictions on media. In particular, the authorities should take measures to provide space for the independent and opposition media, so that it can work openly, and to refrain from censoring or blocking websites because they contain information that state authorities disagree with or that they do not like.<sup>13</sup>

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<sup>13</sup> [www.nhc.nl/cms\\_file.php?fromDB=195&forceDownload](http://www.nhc.nl/cms_file.php?fromDB=195&forceDownload).

## **Chapter 4. Tolerance and non-discrimination (national minorities)**

### **Legislation**

Constitution of the Kyrgyz Republic (from 27 June 2010) guarantees people belonging to national minorities, civil, political, social, economic, cultural rights and freedoms in accordance with the universally recognized international standards of human rights and its legislation and undertakes to guarantee people belonging to national minorities the right to participate in public life, especially in matters relating to the protection of their interests at the regional level.

### **The problem of representation in the government**

The problem lies in the fact that the representatives of national minorities are still quite poorly represented in different state bodies and administration.

A particularly acute problem is the low rate of representation of ethnic minorities in law enforcement bodies in southern part of Kyrgyzstan. The representativeness of the largest ethnic minority, Uzbeks, who make up 28-29% of the population in the South, in the law enforcement bodies do not exceed 6%.

Their number decreased after the interethnic conflict that took place in June 2010. According to the survey results, one of the main reasons of maltreatment of Uzbek people during the ethnic conflict was the lack of their representation in law enforcement bodies. According to the Department of Internal Affairs of Osh city in 2010 after the ethnic conflict 20 members of national minority working in law enforcement bodies were dismissed from their positions. According to the police department of Osh region 21 representatives of national minorities lost their jobs.

Out of the total number of national minorities in the Republic, Uzbeks make up 1.9%; Russian - 1.3%; Tajik - 0.23% etc. of employees in the Prosecutors` Offices. Also it is important to note that the representatives of national minorities in the Republic are not appointed to high positions such as district, city and regional prosecutors. Usually people of Kyrgyz ethnicity are recruited to police, security services and prosecutors` offices.

Today national minorities and their organizations are not effectively cooperating with the law enforcement agencies to address important issues, such as recruitment of national minorities to work in the state bodies or training employees of these state bodies that work with minorities in order to perform effective functions of law enforcement bodies in a multicultural society. The law enforcement agencies do not have employees who would be responsible for the interaction with ethnic communities or special departments that would deal with law enforcement in a multicultural society.

### **Recommendations:**

- Adopt regulations and improve the legislative framework to ensure the expansion of the number of representatives of different ethnic communities in the personnel of law enforcement agencies. State Agency for the Local Government and Inter-Ethnic Relations of the Government of the Kyrgyz Republic during the monitoring process in the sphere of inter-

ethnic relations has to pay enough attention to representation of ethnic minorities in the police, created at the level of local government (district, regional) providing a system for early detection of contradictions and conflict prevention of different character which can turn into ethnic conflict.

- Consider the possibility of creating in the Prosecutor's Office, Interior Ministry and other government bodies, sectors (departments, special positions) to monitor the situation with the implementation of legislation in the sphere of interethnic relations; provide an impartial application of the law, prevent ethnic discrimination, improve the system of legal protection of people belonging to ethnic communities, in conformity with international commitments.
- In accordance with the article 14, para. 3 a) and f) of the International Covenant on Civil and Political Rights, article 5, para. 2 and article 6, para. 3 e) of the European Convention on Human Rights, rules and laws governing the use of language in legal proceedings should provide that investigation and court documents that have to be given to a suspect, as well as other participants in the proceedings, upon request, have to be translated into the native language of a participant of criminal proceedings or into a language which he/she understands. The new editions of the Code of Criminal Procedure of the Kyrgyz Republic, the law "On Enforcement Proceedings", the Criminal Code of the Kyrgyz Republic and other laws should include these norms. Also, the services of an interpreter in criminal proceedings should be provided free of charge.
- Reform of law enforcement bodies, increase their capacity to eradicate prejudice against the local communities, intolerance to discrimination, develop skills and competencies to work in a multinational environment. The ability to harmonize interethnic relations should be put at the heart of their activities because it would help to keep national unity, preserve cultural heritage and ethnic diversity of the country. Independent monitoring institute/person/s of law enforcement agencies should be introduced in order to monitor their compliance with common standards of professional work in improving inter-ethnic situation.
- Develop and implement a government-level program to increase the capacity of law enforcement bodies to manage ethnic diversity, including the development of monitoring skills and analysis of ethnic processes. Ethnic issues should be included in the planning of local and national development strategies. Rules and regulations should be developed according to which inalienable ethno-cultural rights and needs would be realized.
- Provide support for the initiatives of civil society, ethnic, youth, other communities, aimed at creating and strengthening the credibility of law enforcement authorities in a multicultural environment, promoting national unity through improvement of interethnic relations, preservation of cultural heritage and ethnic diversity of the country.

## **Chapter 5. Independence of judiciary, accountability and integrity of judges and prosecutors (based on cases of Osh office)**

### **Harassment of human rights defenders and lawyers**

In 2014 State Committee of National Security has initiated a criminal case against the "Advocacy Center for Human Rights." "Advocacy Center for Human Rights" carried out its work in cooperation with the American human rights organization Freedom House. The purpose of the project was monitoring whether the civil rights of national minorities are guaranteed in Batken and Jalal-Abad regions.

On 26.09.2014 investigator of the Investigation Division of the Office of the Chief of the State Committee of National Security of Osh city and Osh region A.Dzhenbaevym under the pretext that on 20.09.2014 he received collective and individual complaints from residents of Osh on the illegal activities of representative offices of international NGO "Freedom House" and USAID in Osh. Based on these complaints the investigator issued a ruling from 26.09.2014 (LE №082-14-02100) on the grounds of crime under Articles 28 and 299, Part I of the Criminal Code of the Kyrgyz Republic. The rationale for the initiation of the criminal proceeding was the result of the philological and political expertise from National Academy of Sciences of the Kyrgyz Republic, №40 / 01-143 from 25.09.2014. According to the results some of the questionnaires, in a hidden and implicit way represent actions aimed at inciting national hatred, and may, under certain circumstances, provoke people to conflict on the basis of interethnic relations.

On 27 March 2015 Kyrgyz security forces (the Investigation Division of the Office of the Chief of the State Committee of National Security of Osh city and Osh region) searched the Osh office of the human rights movement "Bir Duino-Kyrgyzstan" and the houses of lawyers Vakhitov Valerjan Akhmetovich and Saliev Husanbay Kadyrzhanovich.

On an appeal by lawyers decision of the Osh Regional Court on April 30, three resolutions of Osh city court from 26 March and 27 March 2015 which had been given as search warrants were canceled as illegal. Petition of A.Dzhenbaev, SCNS investigator, to conduct a search at the Osh office of the Human Rights Movement "Bir Duino Kyrgyzstan" and houses of V.Vahitova and H. Salieva were dismissed.

On June 24, 2015 the Supreme Court of the Kyrgyz Republic upheld all three decisions of the Osh Regional Court from April 30.

The trials that we had left us with the impression that, despite the negative criticism of judicial reforms, it is having some positive changes and tends to progress.

### **The fight against extremism**

Member of the Public Council on ethnic and religious issues under the administration of the President of the Kyrgyz Republic T. Ismailova initiated consideration of the case of lawyers Vakhitov and Saliev at the Council meeting. At this time, members of the Council recognized that in Kyrgyzstan there is no officially empowered legitimate authority for combating extremism in accordance with international principles and the Constitution of the Kyrgyz Republic. This issue is being considered by the Government and the Ministry of Justice of the Kyrgyz Republic.

According to the results of the monitoring conducted by Bir Duino the fight against extremism in Kyrgyzstan has elements of corruption and discrimination. Under the guise of combating extremism the rights of active citizens, civilians, and believers are being violated. This activity is supported in the framework of cooperation with the Collective Security Treaty Organization and the Shanghai Cooperation Organization. The basis for the criminal prosecution of religious extremism is the conclusion of the State Commission on Religious Affairs (SCRA). Conclusions of SCRA are not scientifically justified, typically conclusions do not indicate what kind of research was conducted and on the basis of what data the Commission came to its conclusions.

According to an official letter to T. Bekbulatova, Director of the State Judicial Examination Center under the Ministry of Justice of the Kyrgyz Republic dated June 22, 2014, she stated that the State Commission on Religious Affairs is not a forensic expert organization, and qualification requirements for the religious examination had not been developed.

To date, the majority convicted for religious extremism under article 299-2 of the Criminal Code of the Kyrgyz Republic have connection with extremist materials. Extremist materials as mentioned above are recognized as such by a court judgment. Till now there is no such court judgment, however that have not prevented from criminal prosecution.

Careful consideration should be given to the case of Rashod Kamalov, the imam of the central mosque of Karasuu located in Osh region of the Kyrgyz Republic. He was accused of inciting religious hatred and storage of extremist materials. The basis of the charges was his sermons about the Caliphate. The basis of Kamalov Rashod's criminal responsibility was the decision of an employee of the South Regional Directorate of the State Commission for Religious Affairs. During the investigation of a lawyer, it was found that an employee of the State Commission on Religious Affairs who conducted a theological examination was a teacher of a foreign language according to his education.

Kamalov Rashod has been detained since 9 February 2015. The defense filed a fatwa of the Spiritual Administration of Muslims of the Kyrgyz Republic about the Caliphate, the conclusion of an independent examination, which showed that there was nothing in his sermons that incited religious hatred and were illegal and his performance was within canonical concepts of Islam. Kamolov connects his criminal prosecution with the fact that the law enforcement officials were taking revenge for his public statements about extortion taking place under the pretext of combating religious extremism.

## Chapter 6. Electoral corruption

"Political corruption is defined as the use of powers and rights of official position and status by a person holding a public office, which he/she represents, to the unlawful extraction of political benefits (political enrichment) for personal and (or) group goals, including in favor of third parties."<sup>14</sup>

Electoral corruption is a type of political corruption and based on the definition of political corruption, it is a type of corruption, which "affects" the political process, on which the conquest (holding) of public power takes place through the election of state officials or the political parties, elected by the vote of citizens.<sup>15</sup> It is common knowledge that the elections are one of the most important political "levers" that identifies and corrects the socio-political direction and economic well-being of any state. Electoral corruption is considered as the most dangerous type of corruption because of the negative consequences that it entails: people and parties that come to power, form the structure of the government that will affect the development of other forms of corruption and the development of the country as a whole.

### **"Buying" votes and falsification of results**

"Buying" votes and electoral fraud are the most common problems in our society. "Buying" votes in the high-tech world is still a common problem. No wonder that the President of the Kyrgyz Republic himself on the eve of elections to the parliament asks people: "Do not sell your vote for a bottle of vodka and for beshbarmak (traditional food)."<sup>16</sup>

It is a well-known fact that people's confidence in the parties and in the government is greatly undermined as a consequence of their failure to perform their election promises and their obligations in general. According to various media sources, some citizens say: "The main thing is to get paid (for voting for this or that party/person). I wonder how much will they pay."<sup>17</sup>

The Prime Minister of the Kyrgyz Republic Temir Sariyev on 15 September, during a meeting with leaders of political parties, said that "The government has received information that some parties are going to bribe voters."<sup>18</sup> These facts demonstrate that "buying" votes is an urgent problem in the electoral process. According to the report of the Central Election Commission of Kyrgyzstan regarding the expenditures of 14 parties on the election campaigns, it can be seen that almost in a half a month of election campaigning the parties have spent 435 million 118 thousand 328 soms from the election funds of political parties.<sup>19</sup>

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<sup>14</sup> <http://cyberleninka.ru/article/n/elektoralnaya-korruptsiya-i-model-uchastiya-v-vyborah-v-rossii>.

<sup>15</sup> *Id.*

<sup>16</sup>

[http://www.knews.kg/politics/69121\\_almazbek\\_atambaev\\_ne\\_otdavayte\\_svoi\\_golosa\\_za\\_butylku\\_vodki\\_za\\_be\\_shbarmak/](http://www.knews.kg/politics/69121_almazbek_atambaev_ne_otdavayte_svoi_golosa_za_butylku_vodki_za_be_shbarmak/).

<sup>17</sup>

[http://www.gezitter.org/society/43541\\_predvybornaya\\_lihoradka\\_ili\\_proyavlenie\\_lyubvi\\_so\\_storonyi\\_politikov\\_v\\_techenie\\_mesyatsa/](http://www.gezitter.org/society/43541_predvybornaya_lihoradka_ili_proyavlenie_lyubvi_so_storonyi_politikov_v_techenie_mesyatsa/).

<sup>18</sup> [http://www.vb.kg/doc/324978\\_djoldybaeva:\\_prokyratyra\\_v\\_den\\_vyborov\\_bydet\\_rabotat\\_kryglosytochno.html](http://www.vb.kg/doc/324978_djoldybaeva:_prokyratyra_v_den_vyborov_bydet_rabotat_kryglosytochno.html).

<sup>19</sup> <http://catoday.org/centrasia/21907-centrizbirkom-kyrgyzstana-soobschil-o-rashodah-partiy-na-vyborah.html>.

Unfortunately, we do not have any information on the amount and the services that parties spent their money on.

Regarding the falsification of election results, our Government somehow is trying to solve this problem, the success of the efforts is questionable due to several reasons: the newly introduced electronic voting system has certain defects that were seen during the test; the requirement of delivery of biometric data in order to vote deprives the part of the population of their basic constitutional right to participate in elections. This leads to negative consequences for the country because the next parliament will not be a representative body. Even President A. Atambaev during his working visit to Batken acknowledged the fact that "not 100% of voters will have a chance to vote as was previously reported by the authorities, but only 60% of the electorate will be able to vote."<sup>20</sup> The validity of procedure was repeatedly disputed and most likely, this issue will still arise in the future.

### **Administrative resources**

Before each elections, representatives of the Government try to ensure the population that they will not allow the use of administrative resources, but in practice it never happened (Temir Sariev in 2015<sup>21</sup> and Otunbayeva in 2010 promised that in the elections to the Jogorku Kenesh the administrative resources will not be applied<sup>22</sup>), however, in practice, everything happens differently. Abuse of various resources of public authority (administrative resources), is one of the most popular and commonly used mechanisms to win the elections. Although administrative resources by themselves are a natural and integral part of any public authority. However, in the framework of electoral corruption, administrative resources carry a negative connotation as a result of their illegal use in different levels of the election process. To combat this problem there is a legal basis (Code of the Kyrgyz Republic on Elections), which is currently not working properly. According to political analysts in the upcoming elections, "[in] a certain level the local authorities, heads of government would use administrative resources indirectly in order to support the party that the Government is in favor of. Such methods can be traced especially in the course of the election campaigns."<sup>23</sup> In order to prevent and avoid such situations it is necessary to have strong legal framework, mechanisms and strict control.

### **Mass media**

The media also plays a key role in holding fair, open and free elections in any democracy or countries that are trying to become one. Through the mass media people get this or that information about the political parties and elections in general. Based on the provided information the electoral will would be formed which later plays a crucial role in any public life of any state. Restriction of access to media to specific parties or the media is one-sided and provides misleading information, all these undermine people's trust in the media itself, but also to the Government as well. Thus, the media also contributes to the development of electoral corruption in the country.

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<sup>20</sup> [http://www.gezitter.org/vybory/43552\\_atambaev\\_v\\_etot\\_raz\\_pridet\\_menshe\\_izbirateley/](http://www.gezitter.org/vybory/43552_atambaev_v_etot_raz_pridet_menshe_izbirateley/).

<sup>21</sup> <http://www.paruskg.info/2015/09/11/122162>.

<sup>22</sup>

[http://kyrtag.kg/news/na\\_parlamentskikh\\_vyborakh\\_kyrgyzstana\\_ne\\_budet\\_primenyatsya\\_administrativnyy\\_resurs\\_obeshchaet\\_otun/](http://kyrtag.kg/news/na_parlamentskikh_vyborakh_kyrgyzstana_ne_budet_primenyatsya_administrativnyy_resurs_obeshchaet_otun/).

<sup>23</sup> [http://www.gezitter.org/vybory/42673\\_na\\_vyiborah\\_budet\\_ispolzovan\\_myagkiy\\_administrativnyiy\\_resurs/](http://www.gezitter.org/vybory/42673_na_vyiborah_budet_ispolzovan_myagkiy_administrativnyiy_resurs/).

## **Chapter 7. Freedom of religion**

### **Legislation**

The Constitution of 2010 clearly recognizes the right to freedom of religion in accordance with international human rights standards. According to the national and international norms everyone has the right to practice his/her religion alone or in a community with others, freely choose and have religious and other convictions. The new Constitution of the Kyrgyz Republic also established a ban on the forced expression of one`s religious or other beliefs or to deny them.

Under no circumstances, the right to freely choose and have religious and other convictions can be limited. In addition, the Constitution of the Kyrgyz Republic introduced a direct ban on the adoption of normative legal acts that restrict the rights and freedoms of people. However, to date, these positive changes in the Constitution were not implemented in the legislation of the Kyrgyz Republic on freedom of religion. The law "On Freedom of Conscience and Religious Organizations in the Kyrgyz Republic", adopted in 2008 has not yet been brought in line with the new Constitution. Moreover, recently there was an attempt to restrict the creation and activities of religious organizations, but these initiatives received strong criticism, and the bill was sent back for revision.

### **Recommendations**

It is necessary to conduct a comprehensive review of the law on religion, to bring it in conformity with the Constitution of the Kyrgyz Republic and international standards. It is necessary to ensure cooperation between all public officials, including the State Agency for Religious Affairs, civil society, recognized local and international experts in the field of religion and, of course, representatives of religious organizations. It is necessary to eliminate the complex and often not feasible procedures for registration, facilitate, and not complicate reporting process.

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