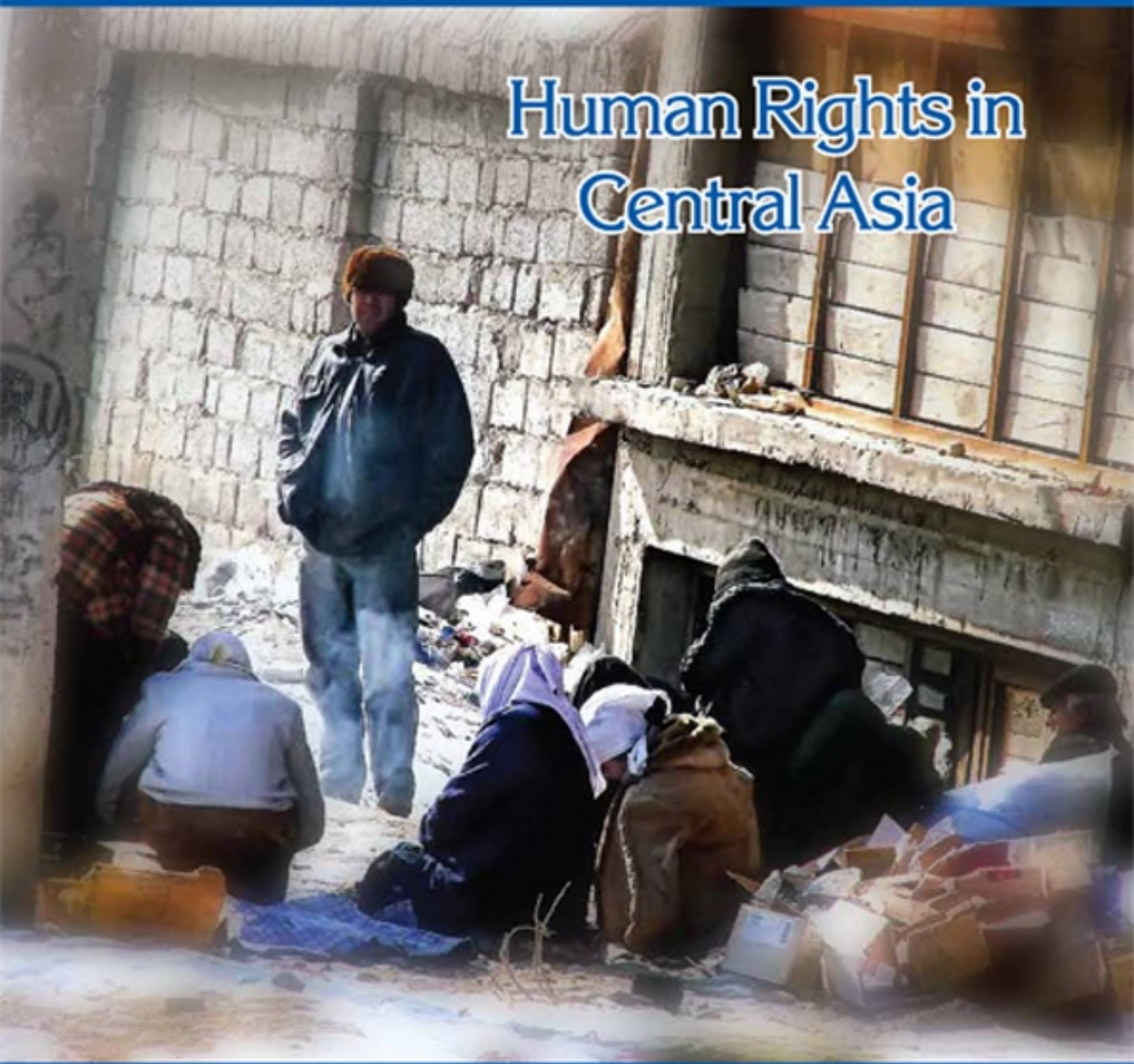


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Kyrgyzstan to Draft a Law against Early Marriages

A roundtable on “Improvement of the Law on Early Marriages and Religious Marriage Ceremonies (introduction of mandatory state marriage registration)” took place in Osh on May, 26.

The problem of early marriages in the south of Kyrgyzstan raises many concerns. The government’s statistics show that in the south half of all young women between the ages of 15 and 19 who give birth are not legally married. The relations between men and women are often registered according to Muslim traditions. In case of a divorce, women usually cannot put any claims for the property they acquired together with their husbands when they lived together. A study undertaken by the national Red Crescent Society indicates that two out of five marriages in southern Kyrgyzstan are not officially registered.

The problem of early marriages in southern Kyrgyzstan leads to the increasing number of lone mothers and children growing up in single-parent families.

Several human rights groups in Osh, Jalal Abad, and Batken provinces have started to lobby the law against unofficially registered marriages.

The roundtable participants suggested that a provision allowing Muslim ceremony to be conducted only if it is preceded by an official marriage registration should be included in the Kyrgyz Civil and Family Codes.

In addition, it was suggested that those mullahs who conduct the religious marriage rituals without asking for a marriage certificate should pay a fine of USD 115-230.



Experts Point out to Deteriorating Human Rights Situation in Kyrgyzstan



A roundtable “Democracy and Human Rights in Kyrgyzstan: Current Situation and Prospects” was held in Bishkek on June, 16.

The roundtable was attended by Kyrgyz legislators, representatives of the Institute for War and Peace Reporting and Institute for Public Policy, independent experts and journalists.

Kyrgyz ombudsman Tursunbek Akun pointed out to “the democratic setback in Kyrgyzstan”, which was also mentioned in his report for 2008. The ombudsman also noted that the situation was aggravated by the limits the authorities imposed for political rallies and peaceful assemblies. Tursunbek Akun stressed that the new draft of the law has been sent to the ODIHR for its review and comments.

In the ombudsman's opinion, the following factors impeded the democratic development of Kyrgyzstan – corporate raid, use of child labour, poor criminal situation in the country, gloomy situation in the Kyrgyz penitentiary system, as well as amendments to the law mandating the army to help the ministry of the interior in maintaining the law and order and public security.

Parliamentarian Alisher Mamasaliyev also noted the worsening human rights situation in the country. He also men-

tioned that there is no “second echelon of human rights activists” in Kyrgyzstan, which, in the parliamentarian's opinion, is the result of the current political and economic situation.

At the end of the roundtable, head of the Institute for Public Policy Muratbek Imanaliyev said that “Despite all its problems and difficulties, Kyrgyzstan follows the track of democratic changes and reforms, and everybody recognizes that”.

Law on Publicity of Court Proceedings is not Observed in Tajikistan



On May, 31, the Institute for War and Peace Reporting held a roundtable in Dushanbe, where the results of the monitoring of the Tajik criminal proceedings, held between August, 2008 and April, 2009, were presented.

During the monitoring, representatives of “Center for Human Rights” attended 62 lawsuits in Dushanbe, Sogd and Badakhshan provinces, and a town of Vakhdat.

The survey team discovered that some judges violate the law on publicity of court proceedings. For instance, at one of the public trials, a judge warned the researchers that he objected to publishing the information obtained during the trial. Besides, the survey team also pointed out that people with disabilities, the elderly, and pregnant women face difficulties in accessing court buildings.

Number of Suicides Grows in Tajikistan



A roundtable on “Suicides in Tajikistan – Possible Solutions” was held on June, 18, in Khujant.

According to statistics, the highest incidence of suicide cases occurred in Sogd province. Over 400 residents of this Tajik northern region have committed suicide since 2007. Over the past five months of 2009, there were 89 new cases.

Local official Azamjon Khormirzoyev thinks that an in-depth investigation is needed to reveal the reasons for this phenomenon, as they have not been identified yet. “It is surprising that many of well-off people who usually do not have economic or social problems commit suicides,” says Khormirzoyev.

The roundtable participants said that the growing number of suicides made various social bodies unite their efforts. However, lack of school psychologists, overall declining level of education and culture among the population, poverty, promulgation of violence on TV and in the internet, parents' leaving to work abroad, shortcomings of upbringing and domestic violence only aggravate the problem.

Refugees Still Face Uncertainty in Kazakhstan



Until comprehensive legislation is in place, asylum-seekers from Uzbekistan and China will be at risk of deportation.

New legislation which should be in place by the end of the year is designed to bring Kazakhstan into full compliance with international conventions on the treatment of refugees. But some experts doubt it will substantially improve the treatment of people, especially from the former Soviet Union, who claim asylum in Kazakhstan.

Kazakhstan ratified the United Nations Convention Relating to the Status of Refugees in 1998, and drafted national legislation in 2002.

The country's parliament has only just started hearings on a bill which incorporates international standards for granting refugee status, for example a guarantee that people will not be deported, permission for separated families to be reunited, and accessible and transparent procedures.

Pending approval of the law, which is expected to come into force next January if all goes well, the policy in Kazakhstan seems to be to grant refugee status only to people from Afghanistan.

That leaves other asylum-seekers, particularly Chechens from Russia, Uighurs from China, and people from Kazakhstan's neighbours in Central Asia out in the cold, with no legal protection against deportation.

Rozlana Taukina, who heads the Journalists in Trouble foundation, believes that Kazakhstan currently provides no protection for asylum seekers, so that they have no recognised status, no access to benefits, and no guarantee of safety.

"There have been some cases where Uzbek citizens with refugee status were deported to their home country," she said. "Kazakhstan needs to resolve such issues and provide appropriate conditions for refugees. Ours is a more democratic country than Uzbekistan or Turkmenistan."

GAP IN CURRENT LEGISLATION

The status of refugee applies to people fleeing persecution or conflict and seeking sanctuary in another state. As well as freedom from deportation to their home country, or "refoulement" as it is known, the 1951 UN convention says they should receive the same education and social benefits as nationals of the state concerned, and recommends that they be allowed to earn a living, does not come automatically and has to be granted by the host country.

In Kazakhstan, the lack of national legislation means that many people remain asylum-seekers – people who have claimed but not received refugee status – and therefore find it hard or impossible to claim these rights.

According to the Kazak Ministry of Labour and Social Welfare, there are 580 officially-recognised refugees, most of them are immigrants from Afghanistan.

As well as a general law on immigration, Kazakhstan has regulations on political asylum-seekers – a subcategory of would-be refugees – which were set out in a presidential decree from 1996 making provision for individuals facing persecution on political grounds.

According to Yevgeny Zhovtis, head of the Kazakhstan International Bureau for Human Rights and Rule of Law, there is currently no such thing as a refugee under present laws.

"In our country, a refugee is viewed as an illegal immigrant," he said. "Only if one proves that one really is seeking asylum will the relevant legislation [i.e the presidential decree on political asylum] be applied to his case".

The office of the United Nations High Commissioner for Refugees grants refugee status to individuals in Kazakhstan, and according to Zhovtis, "the Kazak authorities do not hinder their departure for third countries."

POLITICAL SENSITIVITIES TRUMP OTHER CONSIDERATIONS

Zhovtis argues that the concept of asylum is excessively bound up with Kazakhstan's external political relationships. "This is the reason why asylum claims filed by Uzbeks, Turkmens, Tajiks, Chinese, Chechens, and Turkish Kurds are usually ignored. They are denied asylum on different pretexts," he said. "There have been several cases [in the past] where Kazakhstan deported Chinese Uighurs and Uzbek citizens who were facing the death penalty in their home countries."

The Kazak authorities have been concerned not to upset Russia by accepting people fleeing the Chechen war and its aftermath.

They are also sensitive to the concerns of another great neighbour, China, which takes a hard line on separatism among the ethnic Uighurs of its western province of Xinjiang. There are longstanding Chechen and Uighur diasporas in Kazakhstan, which explains why asylum-seekers would choose to gravitate there in particular.

Within Central Asia, the main source of Kazakhstan's refugees is Uzbekistan, from where there is a steady flow of asylum-seekers claiming they face arbitrary arrest and the risk of torture if they remain.

In recent years, Kazakhstan has been accused of sending Uzbek nationals back home even when they have claimed asylum.

This particularly concerns people who fled after the Andijan violence of May 2005, in which security forces opened fire on a crowd of protestors. The government in Tashkent portrayed the action as legitimate suppression of an Islamic uprising, and went on to pursue journalists and human rights activists who witnessed the shootings, as well as people suspected of taking part in the protests, or in armed attacks on a garrison and a prison the day before.

Unlike the international community, neighbours were reluctant to condemn the state's actions. Kyrgyzstan's security service was accused of quietly allowing its Uzbek counterparts to enter the country and snatch people on the wanted list. The Kazakstan authorities were accused of extraditing Uzbek nationals without going through due process.

Nine Uzbek nationals, four of whom had claimed political asylum, were reported missing in Kazakstan in November 2005, and were reportedly sent to Uzbekistan without publicity. In November 2007, Khurshid Shamsutdinov, another man wanted by the Uzbek authorities for alleged involvement in the Andijan violence, went missing in the southern town of Shymkent. Friends believe he was abducted by Uzbek security officers.

Since last year, the Kazakstan authorities have appeared more willing to adhere to rules governing the treatment of Uzbek refugees.

Denis Zhivaga, coordinator of a UNHCR project providing legal assistance to refugees, says that in 2008, Kazakstan refused to extradite several refugees accused of terrorism in Uzbekistan. They were placed under arrest and a request was submitted to Tashkent to provide full documen-

tation relating to their cases. When this failed to materialise within the required three months, the refugees were released.

Zhivaga says the Kazak authorities acceded to the UNHCR's request to move these individuals to other countries. "The Uzbek authorities were informed that the wanted persons had left Kazak territory", he said.

NEW LAW MAY FACE RESISTANCE

Not everyone in Kazakstan favours the introduction of a refugee law.

"If the law is passed, Kazakstan will turn into a cesspit," Ayan Asanov, deputy head of the Almaty department of the immigration police service told IWPR. "Anyone who comes to Kazakstan illegally will then be regarded as a refugee. It is the Criminal Code that needs to apply to such people, as they have broken the law not only of the country they left, but also that of Kazakstan".

Zhovtis welcomes the law as it will bring Kazakstan into compliance with international best practice and should improve things overall. But he remains sceptical that it will bring rapid change to the treatment of refugees from Uzbekistan and other Central Asian states, and from Chechnya and China.

"I wouldn't jump to hasty conclusions about Uzbek, Turkmen or Tajik citizens, Chechens or Chinese Uighurs," he said.

Aygerim Beysenbayeva is an IWPR-trained journalist

Kazaks Approve Rights Laws Ahead of OSCE Year



in Almaty

Government seen to be tidying up loose ends of human rights legislation.

As Kazakstan heads toward its much-prized year as chair of the Organisation for Security and Cooperation in Europe, OSCE, it has been putting its house in order when it comes to human rights legislation, although experts say implementing conventions will be harder than signing them.

In February, President Nursultan Nazarbaev signed off on the ratification of the First Optional Protocol to the International Covenant on Civil and Political Rights, ICCPR. The document gives individuals in Kazakstan the right to lodge allegations of human rights abuses with the United Nations Committee for Human Rights.

Kazakstan ratified the ICCPR, the basic world charter for human rights, in 2006 after signing it in 2003. The First Optional Protocol was signed by President Nursultan Nazarbaev in 2007.

For comparison, Kyrgyzstan ratified both basic document and the protocol in 1994, Uzbekistan did so the following year, Turkmenistan in 1997 and Tajikistan in 1999.

Although Uzbekistan and Turkmenistan are seen as Central Asia's worst offenders in the area of human rights, they are the only ones to have ratified the Second Optional Protocol, committing states to end the death penalty. This is despite the fact that capital punishment has been abolished or suspended in all five, including Kazakstan.

In another reform that may have been timed in advance

of Kazakhstan's year at the OSCE, parliament amended the criminal code in March to abolish the death penalty for most crimes, in line with the Second Optional Protocol. Capital punishment still applies for certain crimes of war – an exclusion that is compatible with the protocol – and more controversially for crimes of terrorism. Since the latter category could encompass a wide range of offences, some experts warn that it could complicate ratification of the second protocol.

Many analysts believe the leadership is making up for lost time in order to demonstrate a commitment to international human rights law.

Kazakhstan's bid to chair the OSCE, launched in 2003, was approved only after several delays. Some OSCE member states were concerned that a state where elections were judged as undemocratic, freedom of speech was curbed and political opponents mistreated should not be given this accolade. The Kazak application was finally approved in November 2007, amid pledges of further reform from the government.

"Kazakhstan dragged out ratification of the protocol as long as it could, since doing so was not in the authorities' interests," said Nurul Rahimbek, head of the Society of Young Professionals of Kazakhstan.

"If it hadn't been for the OSCE chairmanship, Kazakhstan would not have ratified the optional protocol," said political scientist Dosym Satpaev, director of the Risk Assessment Group in Kazakhstan.

Satpaev notes that the government has yet to notify the UN Human Rights Committee that it has ratified the document, and until this happens, citizens of the country will not be able to use the rights the document gives them.

Serik Temirbulatov, who sits on parliament's committee for international affairs, defence and security, sees ratification as an important step, and explained that once it came into force, Kazakhstan citizens would have the right to go to the UN Human Rights Committee if they failed to get satisfaction from national courts.

"If a person has appealed to all the judicial levels and believes his rights have not been protected in his home country, only then can he appeal to the UN Committee for Human Rights," he said.

Lawyer Sergei Utkin thinks ratification is "a big step forward".

"There are many cases in Kazakhstan when people appeal to the Supreme Court but still do not obtain justice, and they don't know what to do after that," said Utkin. "Now they can make complaints to a higher authority."

"Although the UN Human Rights Committee is not the Strasbourg court [European Court of Human Rights], decisions of which are legally binding, it is still a fairly effective mechanism," he added.

Utkin said citizens would need help with preparing the documentation needed to file complaints at the UN committee.

"There will need to be several appeals to the UN committee that establish a precedent," he said. "NGOs should be set up to advise [citizens] on these matters."

At the moment, said Utkin, 90 per cent of all complaints sent to the Human Rights Committee are set aside because the documentation is inadequate.

Even if all these things are done, some analysts fear that having the theoretical right of access to the UN committee will not change much on the ground.

According to Rahimbek, "The UN Human Rights Committee has no levers of influence; it can only make recommendations".

Satpaev, too, warned that ratification of international documents did not automatically translate into improved practice in the human rights observance by local institutions. "But it's better than nothing," he said of the protocol.

"The fact that Kazakhstan, unlike other Central Asian states, understands that it needs to take such measures because of its status in the OSCE is a positive sign," he said.

In any case, embedding the principles set out in the protocol is going to take time, according to Grishin.

"For a while, everybody will continue operating in the same old way, referring to the old legislation they are accustomed to," he said. "From my own experience, I know that neither the courts nor the police recognise international standards."

Marik Koshabaev is an IWPR-trained journalist in Almaty

Special Report: Child Labour a Family Affair in Badakhshan

Exodus of adults has placed even greater burden on children in this mountainous region of Tajikistan.

Samad's father left home to go and work in Russia when the boy was an infant. Now aged ten, Samad has not seen his father since.

"Dad used to send us some money, but this year we haven't received anything from him," said Samad.

The boy lives with his mother and grandfather in Barvoz, an area close to Khorog, the main town in Tajikistan's south-eastern province of Badakhshan.

With the main breadwinner long gone, Samad has to work hard.

"I help to plant wheat and potato, graze the animals, bring water from the river, and cut firewood in the forest," he said. "Besides, I always try to do the homework I get at school."

He finds it tiring, but adds, "I have to help my mum as she's often ill. My granddad is very old and he can't work too much."

Twelve-year-old Farid spends his time in much the same way. If he is not out tending the animals, he is working on the family plot or cutting firewood, while trying not to miss classes at school.

Farid lives with his grandparents, as both his mother and father have been working in Russia for the past few years.

Gulos Rahmatshoev, who coordinates a programme called Protecting Working Children of Labour Migrants in Badakhshan, told IWPR that there are thousands of children in the same position as Farid and Samad.

According to the United Nations children's agency UNICEF, 28 per cent of children aged between five and 14 in Badakhshan are engaged in heavy labour – a higher figure than anywhere else in Tajikistan.

Tajikistan ratified the UN Convention on the Rights of the Child in 1993, soon after it gained independence, and thereby committed itself to protect the rights and interests of children.

The government of Tajikistan has had a National Plan for Child Rights Protection in place since 2003. The strategy seeks to raise children's living standards, make the state and society more aware of their obligations to protect child rights, with particular emphasis on those from vulnerable groups.

The strategy runs out in 2010, but few people in Badakhshan are aware of what it means for them, according to Jamol Khudododov, head of the Vozrozhdenie (Revival) Children's Foundation.

DOMESTIC CHORES OR HARD LABOUR?

The standards employed by the International Labour Organisation discriminate between various kinds of work performed by children, saying light work should be allowed only after the age of 12 or 13, heavier tasks from the 14-16 age range, while work described as "hazardous" should be outlawed for anyone under 18.

National labour legislation in Tajikistan, meanwhile, allows children to work full time only when they reach 16. From 14 to 16, they are allowed to work a maximum of two-and-a-half hours a day.

Tajik law also makes it a criminal offence to hire children and profit from their labour.

This latter provision may be more enforceable in other parts of Tajikistan, where children may be employed by strangers. In Badakhshan, however, it is mainly a question of children helping adult relatives to keep households afloat, according to Manuchehr Kholiknazarov, who heads the regional branch of the Bureau for Human Rights and Rule of Law.

The ILO conventions exclude work done around the home or in the family business. But this cannot be so taxing that it affects their wellbeing or interferes with their schooling.

In Badakhshan, many working children in rural areas appear to fit this category. Others who do jobs at markets in urban centres like Khorog seem to more precisely fit the category of those in paid employment.

In Badakhshan, a vast but sparsely populated area in the high Pamir mountains, life has always been tough. The economy is almost entirely rural, and although people grow potatoes, cereals and tobacco, the sheer lack of farmland and the harsh climate mean they rely mainly on livestock

In this environment, families see it as normal and necessary to ask the children to help out.

In recent years, though, the need for labour has become more acute because of the mass exodus of working-age adults, particularly male, going off to Russia and Kazakhstan to find seasonal jobs. Some, like the parents of Samad and Farid, end up staying abroad more or less permanently.

According to Kamchibek Nasillobekov, head of the Badakhshonkhorijakor agency, which provides job placement ser-



vices for migrants, 24,000 people or 12 per cent of Badakhshan's population are working abroad.

The head of the regional department of the government agency for employment and migration, Mamadkarim Nazirov says that depending on how the calculations are done, up to 25 per cent of Badakhshan's economically active population may be out of the country.

This has placed a much greater burden on the shoulders of children who stay behind.

In the village of Shohirizm in the Roshtkalinskiy district, for example, 150 of the 400 residents, typically young men, have gone off to Russia in the last two years. Local headmaster Sarvar Mansurov says the situation is the same in the neighbouring villages of Sindev and Sejd, where 140 out of 370 and 300 of 1,000 residents, respectively, have gone.

Zarchabek Zarchabekov, who runs a farm in Shohirizm, says it is left to children to fill the gap.

"There's no one else to do it," he said. "Children have to work, and no one knows how to resolve this problem."

CHILDREN SUFFER INCREASED HEALTH, SOCIAL PROBLEMS?

Some doctors say children's health is being harmed by having to work so hard. This may place them within the ILO's definition of "hazardous work".

Nargis Bulbulaidova, a paediatrician at the Khorog Health Centre, says many children in Badakhshan suffer from skeletal deformation, diseases of the internal organs, hernias, and other problems. In general, she says, those from rural areas are behind their urban peers in terms of physical development.

In addition, "Many of them are depressed and suffer from chronic fatigue", she said.

Psychiatrist Muso Mardonov says the absence of parents is bad for children's psychological wellbeing.

"Grandmothers and grandfathers are no substitutes for parents," says Mardonov. "The children of labour migrants live without parents for several years. Many of them become drug addicts as they want to attract people's attention".

Bordering on Afghanistan, Badakhshan is located on a prime route used to traffic heroin out of the country. A side-effect of trafficking is that at this stage in their journey, narcotics are cheap and local consumption has soared.

Mardonov says these children also account for a large proportion of delinquent behaviour, again because they are vulnerable and needy.

"Hard physical labour coupled with the absence of parents leads to constant stress and depression among such children," said Mardonov. "There are no official statistics on this, but there have been recorded cases of suicide attempts by the children of labour migrants."

PENALTIES AND REFORMS

Khushomad Alidodov, deputy head of the provincial branch of the opposition Social Democratic Party, has seen children from the age of six out working in the fields.

"None of those who use children as hard labour has ever been penalised," said Alidodov. "The authorities should bring people who use child labour to justice, while local government should provide support to the children of migrants."

Alidodov said these children do not receive humanitarian aid, because it is commonly believed that their parents send a lot of money home. "But no one knows how much of the money gets spent on the children's needs," he added.

Until recently, remittances sent by labour migrants was the major source of income for most families in Tajikistan, but the downturn in the availability of work in Russia and Kazakhstan in recent months has made a severe dent in the flow of money. In the first quarter of this year, remittances transferred to Badakhshan came to just over 4.8 million US dollars – down by one-third on the 6.5 million dollars sent over the same period of 2008.

Anjirbegim Maqbulshoeva of the Badakhshan education department's juvenile affairs committee says parents should take prime responsibility for caring for their children.

"If you work hard, you can earn enough even if you [stay and] work in the Pamirs," she said. "If the parents want to go and work in Russia, they should take their children with them."

Atokhuja Shaftoliev, who lives in the village of Sejd, disagrees with this view. He argues that the main reason why migrants do not take their children to Russia or other countries is that it is very difficult to place them in schools and kindergartens there.

"Only if they return can the problem of child labour be solved," he said. "But there isn't enough land or livestock in Tajik villages, and that makes it almost impossible to resolve this."

There are a number of government agencies and NGOs working on child rights in Badakhshan. Maqbulshoeva says



the state authorities are ready to cooperate with the NGO sector, and Khudododov of the Vozrozhdenie Foundation agrees this is essential.

"All segments of society should act together," he said.

At the moment much of the work is being funded by international donors like the ILO, which is funding the Protecting Working Children of Labour Migrants programme, which will initially focus on 500 children in Khorog and in the Shugnan and Roshtkala district, with plans to expand to help 3,000 children in future.

According to programme coordinator Rahmatshoev, the work also encompasses raising awareness among officials, members of the public and the children themselves.

"If it proves effective, we will put in another proposal to donors to create a children's centre in Badakhshan, where children will be taught foreign languages, IT, business and legal issues," said Rahmatshoev.

(All the names of children have been changed out of respect for privacy.)

Iftikhor Mirshakar is a freelance journalist in Khorog

Concern at Unregistered Marriages in Kyrgyzstan



for family affairs and women in Osh region, commenting on the results of the Red Crescent poll.

Rights activists and local officials say women whose husbands divorce them according to traditional religious practice – a simple matter of saying a few words – find themselves isolated, with no legal protections for themselves, ostracised by relatives and neighbours, and with few ways of supporting themselves and any children.

When Mukaram met her future husband two years ago, at the age of 25, she agreed to his marriage despite knowing he already had a wife.

“At the beginning, everything was good – the courtship and promises of good and secure life. He was 20 years older, and he told me his wife was sick and dying,” she recalled.

Mukaram was persuaded to go through the Muslim ceremony, with the promise that civil registration would follow later.

“He did not leave his first wife as he said he couldn’t do that,” she said. “Nor did I insist on it strongly.”

Mukaram’s husband eventually abandoned her and went off to Russia with his first wife.

Already in the advanced stages of pregnancy, Mukaram found herself alone, with no money and no job. Her own family would not have her back.

When the baby was born, she considered giving it up to a state children’s home, but in the end could not bring herself to do so.

The children’s home put her up for a while she sorted out work and accommodation, and she was able to get a live-in job as a home help with a family.

Apart from polygamous marriages, another common reason for avoiding the state registry is because the bride is under 18.

“Very often the nikah ritual is performed because the bride has not reached the official marriageable age,” said human rights activist Abdubali Khalilov.

The civil code does allow for exceptions where marriage can be allowed at 16, but this has to be approved in advance by the local state authorities, which obviously does not apply when they are not consulted.

Khalilov knows of cases where girls as young as 15 have been married according to the religious rite.

“Of course, the marriage has not been registered, and the Muslim ceremony alone was conducted because the bride was not even 16,” he said.

The children from unregistered marriages which break up are also vulnerable.

“They live in a one-parent family, they are doomed to poverty and brought up under adverse circumstances,” said Lilia Ismanova, who heads Meerban (“Kindness”), a crisis centre for victims of domestic violence in Osh region. “This will affect the way their personality develops.”

Nor is it easy for mothers to gain any acknowledgement of responsibility from their divorced husbands.

According to Muhayo Abduraupova, a lawyer from the Osh-based Advocacy Centre for Human Rights, “Women have to endure various humiliations and insults when trying to prove their former husband is the father of their child.”

Campaigners say religious-only marriage ceremony offers no legal protections to wives.

The increasing trend for young women in Kyrgyzstan to enter into unofficial marriages leaves them vulnerable to abuse and discrimination, say rights groups.

Members of parliament met local officials, clerics, police and rights activists on May 26 to discuss draft legislation which would mean a religious wedding could only go ahead if the couple had first obtained a marriage license from the state registry office.

Weddings conducted according to the Muslim rite are not recognised under Kyrgyz law, and partners must also go through the state registry ceremony before both can benefit from the legal rights that come with married status.

A study which the national Red Crescent Society conducted in March indicated that four out of ten marriages in southern Kyrgyzstan are not officially registered. The survey was part of an advocacy campaign by the Red Crescent, which is urging people to register marriages with the state.

A separate set of figures from the government’s statistical office show that in the south, half of all young women between the ages of 15 and 19 who give birth are not legally married.

The practice of Islam has traditionally been stronger in southern Kyrgyzstan, and it is standard practice to have one’s marriage blessed by a mullah, in a ceremony called “nikah”.

In former years, couples would also have gone through the civil ceremony as a matter of course. This is fading as many people in the south no longer see a need to register on top of their religious wedding.

In some cases, it would be impossible anyway because the bride is a second or third wife, or is underage. Polygamy is illegal under Kyrgyzstan’s secular laws.

According to rights activist Abdumanap Rajapov, some couples will go to the marriage registry on the birth of their first child, so as to avoid complications, but others will carry on as before.

Since wives in this situation are not married in the eyes of the state, their rights to a share of household assets in the event of break-up are greatly reduced.

“These figures indicate that the situation is very serious,” said Farida Avazova, head of the government committee

Daud Aby-Uuly, a Muslim theologian, says men are deceiving themselves if they think a religious ceremony frees them from responsibilities. Under Islamic law, he said, husbands are obliged to provide for spouses and children after the marriage has ended.

Clerics in southern Kyrgyzstan say they are only doing their job, and have no right to refuse to conduct the marriage rite for consenting couples.

Some mosques issue their own wedding certificates, but these carry no legal weight and are not recognised by state officials.

The Red Crescent, local government and women's rights activists are now trying to get the Civil Code and the Family Code changed to make it mandatory to register a marriage with the state when a couple go through a religious wedding.

"In Soviet times, clerics could conduct a Muslim wedding only when an official marriage certificate was produced, said Svetlana Shermatova, head of the Red Crescent office for southern Kyrgyzstan, in remarks quoted by the Ekho Osha newspaper on May 23.

"We are proposing that parliament introduce this [same] requirement into civil and family law, to make clerics who conduct Muslim weddings in breach of the rules accountable for their actions."

According to Dilfuza Murasheva, the Red Crescent's coordinator in southern Kyrgyzstan, the group is working with local elected councils to lobby for the changes to the law to go to parliament.

Toktokan Mambetova, who heads Janyl Myrza, a crisis centre for vulnerable groups including women and orphans in the southern region of Batken, said action was already being taken at community level there.

A local commission consisting of elders, women's groups and elected councillors has agreed to impose a penalty of between 115 and 230 US dollars on any mullah found to be marrying couples without having seen evidence of legal registration.

Some argue that even if the legislative changes go through, they will not take root unless they are accompanied by a campaign to change popular attitudes, which clearly do not see value in the state marriage registration system at the moment.

"Changes to the law won't produce tangible results until people change their awareness and view of this issue," said Aby-Uluu. "Educational work is needed, above all else."

Jyldyz Bekbaeva is a freelance journalist in Osh

Tajikistan: Questions Over Ombudsman's Independence



Human rights watchdog is supposed to be independent but is appointed by the president.

The appointment of an ombudsman to review human rights observance in Tajikistan is being seen as a step forward, although some analysts fear the new post is compromised because it is a presidential appointment.

After President Imomali Rahmon appointed Zarif Alizoda, until now his adviser on legal affairs, to the post of ombudsman, the lower house of Tajikistan's parliament approved the decision on May 27.

The law underpinning the post was passed in February 2008, and the creation of the new institution has been seen as a response to pressure from international bodies like the United Nations and the OSCE.

"For the West... the creation of the institution of ombudsman is one of the indicators that the republic is focused on democratic values," said political scientist Rashid Abdullo. "Countries like that will get all sorts of support."

The law states that the ombudsman is independent and does not answer to any state institution, even the president. He or she also has immunity from arrest and prosecution.

The incumbent stays in the post for five years, and can only hold it once. He or she is required to report on his activities and on the state of human rights in Tajikistan on an annual basis.

The ombudsman will look at cases of alleged human rights

violations brought by individuals after all judicial mechanisms have been exhausted. Under the law, state officials are obliged to respond to questions from the ombudsman.

Very often cases will involve abuses allegedly committed by state officials such as the police. This will inevitably result in confrontations between the ombudsman and the state.

The fact that the ombudsman will be appointed by the president raises questions about how candidates will be selected, and how much they will identify themselves with the interests of the state rather than those of the public, whom they are supposed to represent.

Central Asia offers two possible models for Tajikistan – that of Uzbekistan, where the ombudsman's office is effectively an arm of the state whose public role is seen by many observers as no more than window-dressing for the government's poor human rights record; and contrasting Kyrgyzstan, where the ombudsman has produced damning reports on the actions of police and other agencies.

For legal expert Shams Gulmamadov, the fact that the appointment is in the president's gift is a problem.

The ombudsman, he fears, "will be controlled by state institutions. He is not going to be able to be totally independent, which is what we would expect of him."

As a result, he says, "even though the ombudsman has broad powers and the right to visit any institution, the question remains whether his inspections will be selective".

Abdullo says the reality that the president dominates political life in Tajikistan means the ombudsman is inevitably going to be more of a go-between than a strong independent figure.

"It's very important that the human rights ombudsman is in a position to pick up on alarm-bells sounded in society and is then able to communicate this to the president," he said.



Alizoda may have been hand-picked to play that kind of role.

“He has experience of [conducting a] positive dialogue between the authorities – various institutions including the president – and the opposition,” said Abdullo.

Alizoda, 47, is a lawyer by training who served as a top judge heading the constitutional court in 2003-06. He has also held posts in President Imomali Rahmon’s office, most recently as his legal adviser and personal representative in parliament.

He has also been a member of parliament, chairing its committee for constitutional law, legislation and human rights.

Crucially, he led the group which drafted the ombudsman law.

A number of other names came up when the post was in the making. Some were establishment figures like Prosecutor General Bobojon Bobokhonov and the deputy justice

minister Gulchehra Sharipova. One possible outside candidate who was mentioned was Nigina Bahrieva, formerly head of the Republican Bureau for Human Rights and Rule of Law.

Abdughani Mamadazimov, who heads the National Association of Political Scientists, would have liked to see an independent figure from outside government appointed to this important post, but says, “The government has shown that it is not prepared to do this.”

At the same time, Mamadazimov concedes that Alizoda has a good reputation as a lawyer and his nomination was “not the worst”.

“He’s a flexible person, and he’ll be able to find a consensus between the state and civil society, something of no small importance for this job,” he said.

Nafisa Davlatshoeva is an IWPR contributor in Dushanbe

International Traders Urged to Shun Uzbek Cotton

Despite government assurances, children reappeared in the fields last autumn and this spring.

Human rights activists from Uzbekistan are calling for the international boycott of cotton to be stepped up.

Over the last couple of years, a successful campaign highlighting the use of child labour in Uzbekistan led to leading textile industry associations and clothing retailers including Wal-Mart, Tesco and Marks & Spencer abandoning the use of cotton sourced from the country.

Now 47 leading activists and concerned citizens of Uzbekistan have signed a letter asking the European Union and the United States to refuse to allow imports of products made from Uzbek cotton, and urging commodity traders not to buy from Uzbekistan.

The letter was released to coincide with World Day Against Child Labour on June 12.

Between 1.6 and 2.4 million children between the ages of ten and 15 are believed to work in the cotton fields during the growing and harvesting seasons every year. Schools close altogether for two months and pupils are sent out to pick cotton seven days a week.

“School pupils are forced to do cotton work from September until the end of November,” said a human rights activist in the western Samarkand region. “That has to affect the quality of education in the schools.”

The government of Uzbekistan used to deny the existence of child labour, but this position became unsustainable in the face of the growing industry boycott and campaign.

In early September 2008, therefore, it formally enacted two international conventions banning child labour which Uzbekistan had ratified earlier in 2008. The government also approved a national action plan for enforcing the minimum working age. The new rules mean that minors under the age of 15 cannot be employed, including in cotton farming.

The authorities went on to assert that no children were now working in the fields. However, within a few weeks that pledge had demonstrably been broken, according to a recently-released report by the London-based Environmental Justice Forum, EJF, entitled “Still in the Fields”.

“EJF considers Uzbekistan to be unique for the scale of its system of state-sponsored forced child labour,” said the report. “Uzbekistan appears to dwarf others [other Central Asian states] both in the magnitude of the abuse and,

despite mounting international pressure, the government’s reluctance to recognise and address the causal factors behind forced child labour.”

The report, based on field research, says children work under difficult conditions for pitiful levels of pay. Their health is at risk, and the report alleges that at least five children died last year for work-related reasons.

In response to the report, Uzbek human rights defenders said in their open letter that despite all the evidence, “The authorities publicly and routinely deny the existence of massive exploitation of children as well as their own involvement in it.”

Since the government reinforced its ban on child labour last autumn, it has insisted the problem – if there was one – is a thing of the past. Officials have stated that if any children were sighted in the fields during the 2008 harvest, they must have been working for their parents, and the government cannot control how families organise their farm work.

Akmal Saidov, who heads the National Centre for Human Rights, told a United Nations meeting last December, “According to the law, [private] farms are independent entities. The state cannot therefore bear responsibility if children work in farmers’ cotton fields.”

However, as the “Still in the Fields” report says, “The children EJF met stated that the 2008 harvest was essentially the same as in previous years – the government announcements had made little difference to their lives.”

The report suggested that Tashkent was well aware of what was going on, noting, “What has changed in 2008 is that independent monitoring of the situation has been severely curtailed by the presence of security personnel in the fields – the very people the Uzbek state claims to have instructed to enforce the law and protect the rights of children.”

Human rights activist Gavhar Aripova confirmed the discrepancy between official statements and actual practice on the ground.

While interviewing children on farms she was approached by the local school head who told her they were merely helping out their parents.

“Yet I didn’t see a single parent there,” she said. “There were only children gathering cotton in rubber galoshes [but otherwise] barefoot in November.”



Cotton is a key export commodity for Uzbekistan, which was the world's third largest exporter last year. Exports are handled by two quasi-state trading agencies, but the substantial hard-currency receipts for the state do not translate into improved incomes for the people who grow it.

Farmers in Uzbekistan are private operators but they remain beholden to the state because they hold their land on a long lease rather than in outright ownership. They continue to be subject to Soviet-style state quotas for planting and producing cotton, which they have to sell to the monopoly trading firms at prices far below the market rate. Selling cotton privately is treated as an illegal act.

The notionally private cotton sector is therefore managed as a giant state enterprise, and local and national government officials are tasked with "fulfilling the plan", through coercion and the use of child labour where necessary.

"It probably sounds strange to anyone who isn't really familiar with our country, but it is the Office of the Prosecutor General that is de facto tasked with managing the cotton industry in Uzbekistan," said Tashpulat Yoldashev, an Uzbek analyst now living abroad. "Agricultural work is carried out under the total supervision of the police."

Since farmers have to bear all the production costs – which they pay for at free market prices – yet can only sell at a fixed price, it is hardly surprising that they do not make much of a living from cotton.

"Not only do they not make a profit, they are often left in the red," said Yoldashev.

One man in the central Jizak region explained the fairly universal means of survival for those who lease land and are made to grow cotton – he is able to set aside a small area of land to produce fruit and vegetables which he sells at the market.

A forcible consolidation under which groups of small farms were combined into one left numerous former leaseholders with neither land nor work, and no compensation for their investment, either.

Even the larger leaseholders cannot afford to offer decent

wages to hired labourers, who prefer to find better paid work at home or frequently abroad.

With no change to the economics of cotton production, observers say child labour is likely to be unavoidable in the 2009 harvest.

People interviewed by IWPR last month said children were already being employed to sow cotton and weed the young plants.

Observers said local government had not been using overt coercion, but were instead resorting to financial incentives, requiring farmers to pay child workers 5,000 or 6,000 Uzbek soms, or four or five US dollars a day.

In their open letter, the human rights activists said the child labour problem would only be resolved if the government embarked on comprehensive reforms resulting in farmers being allowed to decide what to grow, who to sell it to, and for how much. So far, they say, there is no sign that this will happen.

Umida Niazova is a freelance journalist from Uzbekistan, now based in Germany; and head of the Uzbek-German Forum for Human Rights

