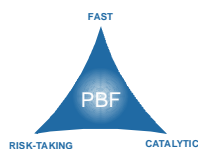


Access to Justice for Vulnerable Groups in the Kyrgyz Republic



Contributors

Lillian Langford and Elzar Elemanov prepared this report for the UNDP in Kyrgyzstan. The data provided within is drawn from baseline assessments carried out by B. Albanov, S. Baktygulov, K. Sadybakasova, and N. Prigoda (legal framework component) and M-Vector Consulting, Bishkek (surveying and interview component).



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ACCESS TO JUSTICE FOR VULNERABLE GROUPS IN THE KYRGYZ REPUBLIC:
FINDINGS FROM BASELINE ASSESSMENTS IN BISHKEK, CHUY PROVINCE, OSH CITY, AND OSH
PROVINCE

UNITED NATIONS DEVELOPMENT PROGRAM, 2014

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PREFACE

The world is changing and with it is changing the way people look at – or *should* look at – the question of justice. Laws, which are cultural products, must reflect this change, adapting in order to serve citizens rather than remaining merely theoretical or illusory. “Rule of Law” essentially means that everybody, none excluded, must respect the law, not simply the rule of the strongest.

Many years ago, Immanuel Kant, a German philosopher with a good sense of humor, said that there is a big difference between *thinking* about having 100 golden coins and actually *having* 100 golden coins. Considering this wisdom in terms of rule of law, what is the effect of a “right” if you don’t know about it or you don’t know how to achieve it? Is that justice or the mockery of it?

Access to Justice is, then, a map – a quick guide for people to find the way to their rights. Actually, there is not just one map, but several, each of which adapts to the different abilities of individuals, addressing the needs of the most vulnerable ones whose rights are most at risk and at the same time face the greatest barriers in enforcing them.

For this reason I am very happy to welcome this baseline study, a tool that will help the government of the Kyrgyz Republic and the United Nations Development Program to better understand the needs of the country’s people, especially the most vulnerable ones, such as rural women, people with disabilities, youth at risk and ethnic minorities. Through such mechanisms, eventually all may be provided with the support they need in order to be protected and assisted by the Law.

Lucio Valerio Sarandrea
Chief Technical Adviser on Rule of Law
UNDP in Kyrgyzstan

Acronyms

2012 KgDHS – The 2012 Kyrgyz Republic Demographic and Health Survey
CEDAW – Convention on the Elimination of all forms of Discrimination Against Women
CCA – Commission for Children’s Affairs
CPC – Criminal Procedure Code of the Kyrgyz Republic
CPDV – Committee for the Prevention of Domestic Violence
DFCP – Department for Family and Child Protection
GBV – Gender-Based Violence
KR – the Kyrgyz Republic
MIA – Ministry of Internal Affairs
MOJ – Ministry of Justice
MSD – Ministry of Social Development
NGO – Non-Governmental Organization
NSC – National Statistical Committee of the Kyrgyz Republic
NSYP – National Strategy on Youth Policy through 2015
PWD(s) – Person (People) with Disabilities
PPC – Public Prevention Center
SDSPP – Strategy on the Development of Social Protection for the Population for 2012–2014
SGLA – State-Guaranteed Legal Aid
TPO – Temporary Protection Order

I. EXECUTIVE SUMMARY

Meaningful human rights guarantees cannot exist in the absence of mechanisms for enforcing them. The ability of individuals to insist that the government and private actors respect their civil rights and liberties is tied to the availability of tools for complaining about violations. Access to the institutions, knowledge, and willingness needed demand one's rights is paramount. This is particularly true for those who are especially at risk of rights violations due to discrimination, physical or cognitive constraints, poverty, or a lack of knowledge or experience.

The Kyrgyz Republic has laid the groundwork for creating such access to justice for vulnerable groups. Yet ensuring that meaningful rights guarantees are ultimately realized for all will require further steps to be taken. When viewed through the lens of three specific groups – women, children and youth, and people with disabilities – in select target areas of the Kyrgyz Republic (Bishkek, Chuy province, Osh city, and Osh province), some of the largest deficits in practical access to justice become clear.

Women face special barriers to the enjoyment of their rights in the Kyrgyz Republic. Many are subject to discrimination, violence, and economic dependence. The present research showed that well over half of women in the target areas lacked paid employment, and younger women were particularly unlikely to be employed. More than one in 10 women surveyed lives on a family income of less than US\$89 a month. Over one in 20 married women has no marriage certificate, blocking these women from exercising the important bundle of rights attached to the marriage institution in the country. Furthermore, a large percentage of women lack a valid residence permit, making it difficult to access basic social services for themselves and their children. This problem is particularly acute in Bishkek, where more than one in 3 women have no *propiska*. However, women in Osh were more likely to have experienced a problem accessing services as a result of having no valid residence permit.

Children and youth also confront serious challenges to accessing justice. Their relative lack of experience and education, economic dependence, and – often – lack of necessary documents makes it more difficult for them to engage with the formal and informal justice sectors. Two out of three young people said that their monthly household income was less than \$178 a month. One in 10 young people aged 16 to 28 does not have a national identity card, making it impossible to access important public services and justice institutions. Many young people lack birth certificates, a problem that appears worse in Osh city, where more than one in 10 women said that they had a child with no certificate. Young people in Osh were also less likely to have a valid national identity document.

People with disabilities, both physical and cognitive, are among the most vulnerable of all. Physical inability to enter justice and educational institutions and restricted access to public information represent serious hindrances. A dependence on government financial assistance, received by half the respondents, creates a tenuous situation for many disabled individuals, who have no other way to generate income if government payments fail. Residence permits, required for access to medical care, education, and other important services, are not held by almost one in five surveyed people with disabilities.

ACCESS TO JUSTICE: ELEMENTS

LEGAL FRAMEWORK

The Kyrgyz Republic has ratified the primary international treaties relating to the rights of women and children; however, it has not yet ratified the Convention on the Rights of Disabled People. In 2010, a progressive new Constitution created guarantees for equality of all citizens regardless of gender, ethnicity, age, religion, or social status. Many new laws have been adopted aimed at creating such equality, along with broad swathes of amendments to the substantive and procedural civil and criminal codes. Many of these laws remain largely declarative due to poor enforcement.

There remain many areas in the legislative framework that do not live up to international standards. Guarantees for meaningful remedies to victims of domestic violence, protection of child victims and witnesses of crime, and procedural guarantees for people with disabilities in courtroom proceedings are absent from any adopted code.

LEGAL KNOWLEDGE

Legal knowledge among women, young people, and people with disabilities is poor. A clear majority in every group said that they would not seek help anywhere if they experienced a rights violation, indicative of a lack of understanding of their rights, an unwillingness to exercise them, or both. Large minorities of each group are not aware of basic rights guarantees, such as those tied to the marriage institution. One in five women and young people said they would not try to seek help in a formal or informal justice institution in the case of domestic violence. More than one in 20 women thinks that a woman who is bride kidnapped should not seek help anywhere. Women in the south of the country may face greater challenges to accessing justice as a result of generally lower education rates – while about 41% of women in Bishkek hold a university degree, just 17.3% of women in Osh city do.

ADVICE AND REPRESENTATION

Access to legal advice and representation is limited by a lack of qualified lawyers in rural and remote regions of the country as well as by the cost of legal services. Over half of the surveyed individuals said that it was not possible to find a qualified civil law specialist in their area; the average distance needed to travel to get to a qualified lawyer ranged from 5 kilometers to 18 kilometers, making it difficult or impossible for many to reach such a specialist.

Lack of trust in the justice system and in lawyers more generally presents another barrier. One in five women and young people said that they wouldn't go to a lawyer even if they needed to; of these, a third said it was because they didn't believe they could get effective help from a lawyer. This reluctance to seek legal help was particularly acute in the south of the country; half of women in Osh city said that they would not seek legal assistance even if they needed it. This tendency was more pronounced among Uzbek respondents.

ACCESS TO A JUSTICE INSTITUTION

Parallel systems of formal and informal justice exist in the Kyrgyz Republic, each with numerous associated institutions and actors. Yet on the whole, women, young people, and people with disabilities demonstrated a disbelief in the premise of real, practical, and equal access to justice in the country. Ethnic minorities were particularly unconvinced as to the equality citizens enjoyed before these institutions.

Although informal systems such as the Aksakal (elders') courts and Women's Councils tend to be more physically accessible to vulnerable groups, especially in rural areas, there is a plain tendency to eschew these institutions in favor of the more formal institutions, such as courts, which are viewed as more competent and more impartial. Police remain the most accessible institutions for domestic violence victims, although only slightly more than a third of women said that they would go to the police if they experienced violence in the home.

FAIR PROCEDURE

Although the Criminal and Civil Procedure Codes set forth a wide range of guarantees for citizens engaged in formal hearings, there is an overwhelming belief that justice institutions, particularly informal ones, are biased. Aksakal courts are viewed with particular suspicion as to their impartiality. In formal court hearings, many members of vulnerable groups lack representation to defend their interests, calling into question their ability to effectively realize their legal rights. Less than half of those who participated in formal court hearings felt that the outcome was just. Respondents in both Osh city and Osh province indicated generally lower rates of trust in the justice system's fairness and impartiality, suggesting that vulnerable groups in the south of the country experience greater barriers to accessing fair procedure.

ENFORCEABILITY OF DECISIONS

Both the formal and informal court systems lack any concrete enforcement measures. After a decision is rendered in the formal court system, there is no adequate institutional mechanism for ensuring it is realized. This affects women and children disproportionately, as their ability to receive child support payments and property division after a divorce, for example, requires that such judgments are enforced. Almost a third of those who had been party to a completed trial said the court's judgment had not been executed. This lack of meaningful enforcement appears to be particularly acute in the south of the country.

Aksakal court decisions also lack any implementation mechanism. Particularly in rural areas, the party with the least amount of power or local influence – often women, young people, and people with disabilities – will find that she or he is unable to put into practice the court's decision.

II. INTRODUCTION

The Kyrgyz Republic lies in Central Asia between Kazakhstan, Tajikistan, Uzbekistan, and China. The country is highly mountainous, located between the western and central portions of the Tian Shan and the northern parts of the Pamir ranges, and occupies an area of 198,500 square kilometers. Its territory reaches 410 kilometers laterally and 900 kilometers longitudinally. The capital city, Bishkek, sits at approximately the same latitude as Rome, Italy, and at a longitude slightly west of New Delhi, India.

The Kyrgyz Republic boasts an array of landscapes, including the mountain-ringed Lake Issyk-Kul, the second deepest lake and second highest alpine lake in the world; Victory Peak, the country's highest mountain at 7439 meters; and the fertile Fergana Valley, the nation's primary agricultural center producing fruits, vegetables, and cotton.

The country's total population reached 5,776,570 in 2014, of which 66.4% were rural citizens and 50.5% were women.¹ Although the population is diverse, comprising over 100 nationalities, the majority is Kyrgyz (72.6%), with significant Uzbek (14.5%), Russian (6.4%), Dungan (1.1%), Uighur (0.9%), Tajik (0.9%), Turk (0.7%), and other minorities.²

A sovereign, secular, and democratic nation, the Kyrgyz Republic is divided into seven administrative regions, or provinces: Chuy, Osh, Batken, Naryn, Issyk-Kul, Talas, and Jalalabad, as well as two separate city administrative units: Osh (city) and Bishkek, the capital, with a population of around 915,668 (in the first half of 2014).³ The country is a parliamentary presidential republic, with the president elected by direct vote and serving 6-year terms; the current president began his term in 2011. The parliament – the Jogorku Kenesh – includes 120 deputies, elected for 5-year terms, and has the power to amend the Constitution, ratify treaties, make national law, elect the judges of the Supreme Court and the Ombudsman, and declare states of emergency and war.

The highest judicial body of the Kyrgyz Republic is the Supreme Court, which exercises jurisdiction over all lower courts in the areas of criminal, civil, and administrative proceedings. The Constitutional Chamber of the Supreme Court has the power to rule on constitutional matters.

Adopted in 2010, the most recent Constitution represents the supreme law of the land. Among its many guarantees for the country's citizens is the provision that all shall enjoy equality before the law and in judicial institutions.⁴

¹ NATIONAL STATISTICAL COMMITTEE OF THE KYRGYZ REPUBLIC, *Population*, Population of Kyrgyz Republic by sex and age in 2014 (Russian), http://stat.kg/index.php?option=com_content&task=view&id=24&Itemid=101 (last visited Oct. 31, 2014) [hereinafter NSC Population Site].

² *Id.*, Population of Kyrgyz Republic by nationality in 2014 (Russian).

³ *Id.*, Primary Demographic Indicators of Bishkek, 2009-13 and Jan-May 2014 (Russian).

⁴ Constitution of the Kyrgyz Republic (2010), art. 16(3).

III. METHODOLOGY

A. Bases of this report

Attempting to provide concrete and measurable indicators for access to justice in a country is no simple task, and this report results from the careful study of numerous measuring instruments and the guidance of a variety of expertise in the area of justice administration, both within the Kyrgyz Republic and abroad.

The format of this report is based generally upon the American Bar Association Rule of Law Initiative's "Access to Justice Assessment Tool,"⁵ which provides the element-based structure used here to analyze various barriers to justice for vulnerable groups. The data and analyses falling under each of these elements are drawn primarily from the findings of two studies commissioned by UNDP in 2014 for the purposes of conducting baseline assessments for the projects "Widening Access to Justice for Legal Empowerment in the Kyrgyz Republic," financed by the Government of Finland, and "Improving Rule of Law for Sustainable Peace and Access to Justice," funded by the UN Peace Building Fund.⁶

The first of these studies, "Access to Justice for Vulnerable Groups in the Kyrgyz Republic," authored by B. Albanov, S.D. Baktygulov, K. Sadybakasova, and N. Prigoda for the UNDP Democratic Governance Program, provides the basis for the international and domestic legislative analysis presented in the current report, particularly that included under the Legal Framework section.

In their assessment, the authors provided an overview of the legislative basis establishing formal channels of justice for vulnerable groups. The study examined international treaties, the constitution of the Kyrgyz Republic, national legislation, and national statistics in order to describe the country's formal justice mechanisms. This report also undertook a detailed assessment of the structural and implementation-related shortcomings of the legal framework as seen in practice and provided recommendations for enhancing access to justice.

The second of the studies commissioned by UNDP, "Research on Access to Justice for Vulnerable Sections of the Population," prepared by M-Vector Research and Consulting, provided the quantitative and qualitative survey and interview data presented throughout the present report. In the following pages the relevant findings of the M-Vector report are summarized to provide an overview of six specific indicators for access to justice.

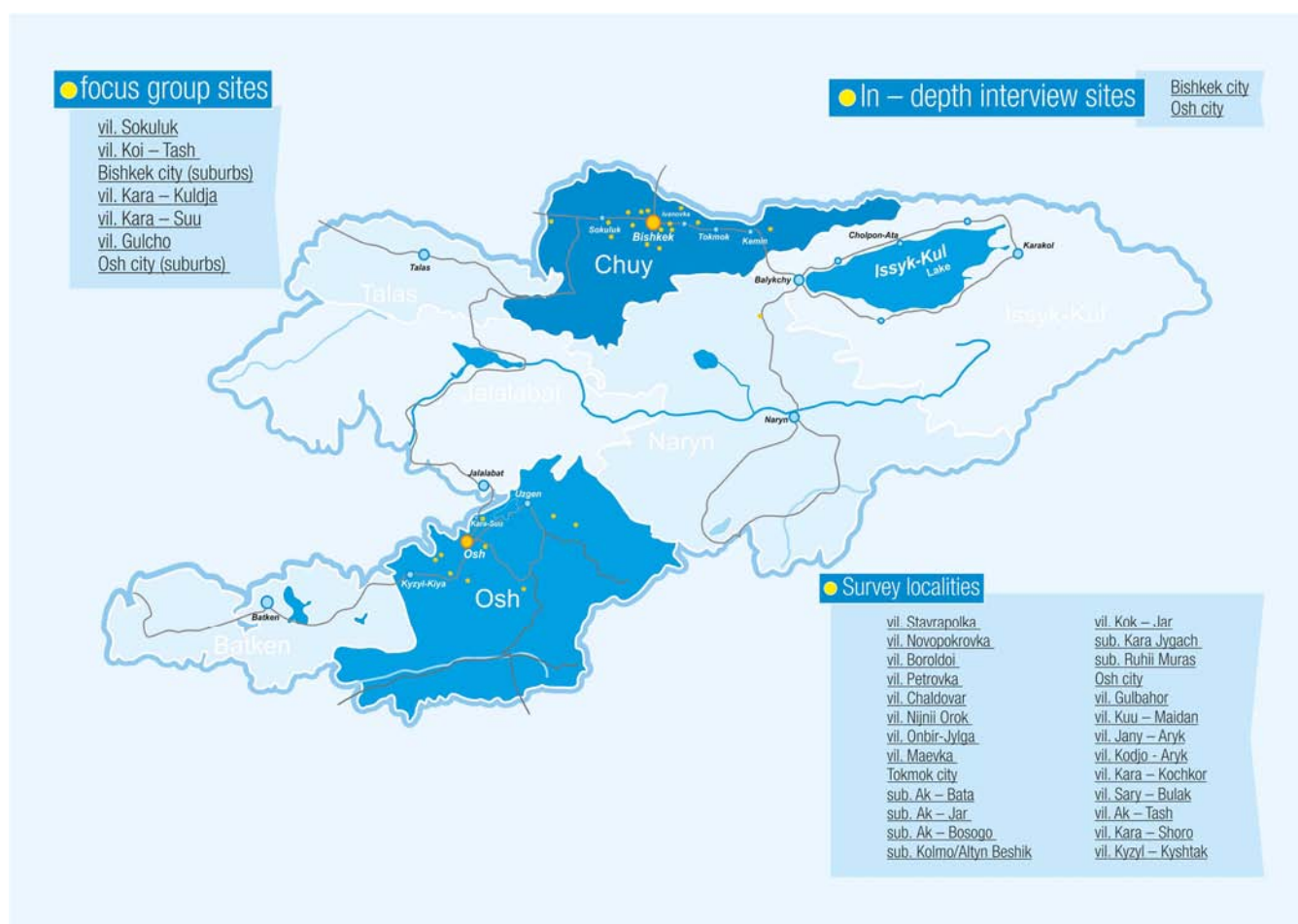
B. M-Vector methodology

For its study, M-Vector conducted qualitative and quantitative research among representatives of the most vulnerable populations (defined below) in the target regions of Bishkek (suburbs), Chuy province, Osh city, and Osh province.

⁵ American Bar Association Rule of Law Initiative (ABA ROLI), *Access to Justice Assessment Tool: A Guide to Analyzing Access to Justice for Civil Society Organizations* (2012).

⁶ For more information on the project, see UNDP, WIDENING ACCESS TO JUSTICE FOR LEGAL EMPOWERMENT IN THE KYRGYZ REPUBLIC, *Project Summary* at http://www.kg.undp.org/content/kyrgyzstan/en/home/operations/projects/democratic_governance/access-to-justice-project/.

Figure 1. M-Vector Survey Target Regions



The surveying techniques employed by M-Vector included:

- **Focus group discussions** consisting of **8-10 representatives** of formal and informal justice systems. A total of **eight focus groups** were carried out in seven target areas (including two in Bishkek city), comprising in total 73 individuals. The duration of each focus group ranged from **90 to 120 minutes**.
- **In-depth qualitative interviews** with representatives of formal justice institutions, human rights experts, representatives of the Ministry of Social Development, and representatives of NGOs. A total of **15 interviews** were conducted (12 in Bishkek and 3 in Osh), ranging from **30 to 90 minutes** in length.
- **In-person surveys** with a sample of each of the target groups (women, young people, and people with disabilities) using a piloted questionnaire. A total of **750 individuals** were surveyed, including: **420 women** (18 years and older), **180 young people** (from 14 to 28 years), and **150 people with disabilities** (PWDs) or their guardian-representatives.⁷ Survey subjects were selected from a total of **26 towns and villages** in the two target regions (Chuy and Osh Provinces).

⁷ Of the 150 respondents in the “people with disabilities” group, 78 were adults with disabilities providing responses on their own behalf, while the remaining 72 respondents were parents or guardians responding on behalf of children or adults with disabilities, who for reasons of their age or condition could not respond on their

It should be noted that the survey instrument designed for respondents from the “women” target group were used to collect data on barriers to justice both for the women themselves, and for their minor children (who were not personally surveyed).

Finalized survey instruments were prepared in Kyrgyz and Russian languages. A total of 10% of all completed surveys, selected at random, underwent quality screening by a professional controller who did not take part in the interview process. These surveys were checked for logic, completion, and accuracy before analysis of the data began.

C. Features of target group samples

After weighting for accurate population representation, the survey data reflects the following distribution of responses by region, age, and ethnicity:

The women surveyed answered questions on their own behalf and also provided data in certain questions regarding their minor children under the age of 14 (such as whether their children possessed birth certificates), who were not interviewed.

- **Women** (total 420 individuals):
 - **By target region:** 28% from Bishkek; 26% from Chuy province; 11% from Osh city; and the remaining 35% from Osh province.
 - **By type of residence:** 56.7% rural residents; 43.3% urban residents.
 - **By age group:** 24% 18-28 years; 26% 28-34 years; 15% 34-40 years; and 35% 41 years and older.
 - **By ethnicity:** 81% Kyrgyz; 7% Uzbek; 5% Russian; and 7% Other (including Turkish, Uighur, Azerbaijani, Tatar, Dungan, and Kazakh).

This study generally refers to people aged 0-17 as “children” and those aged 18-28 as “young people.” Although children are afforded special protections not available to young people under international and Kyrgyz law, it is important to note that young people also tend to be more vulnerable than the rest of the population due to their relative lack of education, experience, and – usually – income. To better understand the characteristics and challenges for both groups, the M-Vector research surveyed a selection of both children and young people, targeting respondents aged 14 to 28.

- **Youth** (total 180 individuals):
 - **By gender:** 44.4% female; 55.6% male.
 - **By target region:** 34.5% from Bishkek; 13.6% from Chuy province; 29.7% from Osh city; and 22.2% from Osh province.
 - **By type of residence:** 54.2% rural residents; 45.8% urban residents.
 - **By age group:** 21% 14-16 years; 20% 17-19 years; 21% 20-22 years; 22% 23-25 years; and 16% 26-28 years.
 - **By ethnicity:** 85% Kyrgyz; 8% Uzbek; 2% Russian; and 5% Other.

The situation for people with disabilities (PWD) was assessed by surveying two groups: adult PWDs and parents of PWDs (both child and adult), answering on behalf of their disabled child. For the sake of simplicity, the data that both groups provided about the problems faced

own behalf. This sampling method was designed to capture the interests not only of adult PWDs, but also those of children with disabilities and adults with severe cognitive disabilities.

by the PWD (either by the PWD him- or herself or by his or her parents) will generally be presented together in this report, except for where indicated otherwise.

- **People with Disabilities (PWD)** (total 150 individuals)
 - **By gender:** 53.3% female, 46.7% male.
 - **By location:** 24.7% in Bishkek; 33.3% in Chuy province; 16.7% in Osh city; and 25.3% in Osh province.
 - **By type of residence:** 53.3% rural residents; 46.7% urban residents.
 - **By age group:** 41.3% under 15 or younger; 12% 16-24 years; 11.3% 25-34 years; 10% 35-44 years; and 25.3% 45 or older.
 - **By ethnicity** (total 78 PWD respondents):⁸ 69.2% Kyrgyz; 0% Russian; 23.1% Uzbek, and 7.7% Other.

Select data and graphics from the M-vector study are presented throughout this report. The graphics have been altered for ease of reading and to draw attention to the most important issues. In the tables, the most prominent response for each column is highlighted in light blue; other interesting results are highlighted in yellow.

⁸ Here only the ethnicity of the PWD who answered on their own behalf is available.

IV. THE SITUATION FOR VULNERABLE GROUPS IN THE KYRGYZ REPUBLIC

A. Definition of “Vulnerable Group”

The two UNDP projects mentioned above – Widening Access to Justice for Legal Empowerment and Improving Rule of Law for Sustainable Peace and Access to Justice – focus on sections of Kyrgyz society that encounter particular difficulty in seeking equity. For the purposes of this report, “vulnerable groups” are defined as women, children and youth, and people with disabilities (PWDs). The reasons that such segments of society have trouble accessing justice are manifold, and spring from a variety of sources, including higher levels of poverty, discrimination, physical limitations, societal expectations, and lower levels of education, among many others, some of which will be discussed below.

The project focuses on the three distinct groups of women, children, and PWDs as representatives of vulnerable populations in Kyrgyzstan. This choice of target groups is based on observations and reporting from a wide variety of governmental and non-governmental actors in the country. Although the difficulties encountered by these target populations do not necessarily represent the problems faced by other distinctly vulnerable groups in the country (such as internal migrants, ethnic and religious minorities, single mothers, sex workers, etc.), they do capture some of the most pressing problems in accessing justice faced by the nation’s disempowered.

B. Features of Vulnerable Groups in Target Areas

The following section describes representative features and legal problems for vulnerable groups that were identified through the qualitative and quantitative research conducted by the UNDP and M-Vector.

It should be borne in mind that the M-Vector research surveyed respondents only in the four target areas of Bishkek, Chuy province, Osh city, and Osh province. These target regions provide a helpful cross-section of the population, as they together account for over half of the country’s total population (56.5%);⁹ in addition they represent both urban and rural populations as well as the northern and southern regions of the country.

The populations in these target regions have important similarities to those living in other parts of the country: they are bound by the same constitution and laws, they have the same formal and informal institutions of justice, and they live within the same systems of documentation and registration of marriages, births, and residence, among other common features. However, it is also important to realize that there may be some variation in the problems faced by groups in different parts of the country. Vulnerable groups living in more remote regions such as Batken and Naryn provinces may have more trouble accessing formal justice institutions due to constraints like transport costs and information availability. In addition, wages in these regions tend to be lower than those in areas surrounding cities, which may exacerbate barriers to justice like the costs of legal representation and transportation.

Thus, while it is important to note that non-surveyed regions of the country may have distinct legal problems in addition to those noted here, generally speaking the data and conclusions

⁹ At the beginning of 2014, the total population of the country was 5,776,570. By target region the population statistics at that time were: Bishkek – 915,668 (15.9% of the total population); Chuy province – 853,725 (14.8%); Osh city – 265,204 (4.6%); and Osh province: 1,199,929 (21.2%). NSC Population Site, *supra* note 1, Population.

given below provide a reasonable foundation for understanding the legal problems faced by vulnerable groups in the Kyrgyz Republic today.

1. Women

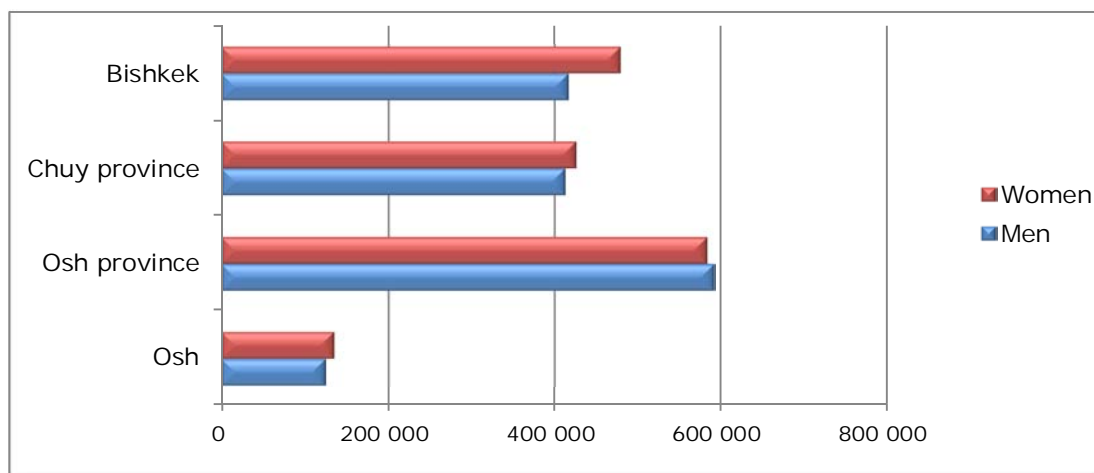
The following section describes general features of women in the Kyrgyz Republic and particularly of those women in the target areas, including education level, employment status, sources of income, and amount of monthly income. Other indicators such as marriage status and number of children will be discussed under the “documentation problems” section that follows.

Overarching country statistics

National statistics provide a broad picture of the types and ages of people living in the Kyrgyz Republic. According to the National Statistical Committee, in 2014 the population was around 5.8 million.¹⁰ Women represent 50.5% of the total population, although they are somewhat less represented in rural areas – women comprise 49.5% of the rural population and 52.7% of the urban population.¹¹ At the beginning of 2014, two out of three citizens (66.4%) lived in villages.¹²

Poverty is a serious problem for a large proportion of the country’s citizens. The Kyrgyz government recognized 2,153,000 citizens living below the poverty line in 2012, almost two-thirds of whom (65.9%) were living in rural areas.¹³

Figure 2. Gender Distribution in Target Areas in 2013



Women’s level of education

Education represents one of the most important factors in increasing access to justice for women, by expanding citizens’ knowledge about rights and responsibilities and endowing them with the confidence and sophistication to demand that those rights are protected. As can be expected, the M-Vector research revealed a higher level of education among urban women

¹⁰ NSC Population Site, *supra* note 1, Population.

¹¹ *Id.*

¹² *Id.*

¹³ NATIONAL STATISTICAL COMMITTEE OF THE KYRGYZ REPUBLIC, WOMEN AND MEN OF THE KYRGYZ REPUBLIC, 111 (2013).

(particularly those living in Bishkek) than among rural women; more than twice as many surveyed women living in cities (39.1%) held a higher (university) education than those living in villages (15.9%). Overall, the largest group of women – 45.7% of respondents – had completed secondary school (11 classes) but not more, while just over a quarter of all women (26%) had gone on to complete university.

Geographically, the highest percentage of those women with a completed university education (40.8%) were found in Bishkek, while surrounding Chuy province revealed the lowest percentage of women with a higher education (15.1%). Interestingly, this trend was reversed in the south; just 17.3% of women in Osh city indicated they had finished university, while 24.9% of women in the surrounding Osh province did.

Employment

Employment also plays a large role in ensuring women are able to enjoy the law’s guarantees equally to other groups. Women, whether as individuals or caretakers in a family, who have a regular, independent source of income are more likely to be able to exercise their rights than those who must depend on others to support them financially. This is, of course, particularly true when the source of the rights violation centers in the home itself, as is the case with domestic violence.

The study found that most women (57.7%) in the target areas lacked any regular paid employment, and that for those employed, agriculture (37.7%), animal husbandry (32.4%), and office jobs (41.9%) provided the primary sources of income.¹⁴ Interestingly, women in Osh city and Osh province reported significantly higher rates of paid employment than women in either Bishkek city or Chuy province.¹⁵ In fact, the proportion of employed women in both Osh city and Osh province was roughly equal to the proportion of those unemployed.

The number of unemployed women, by contrast, was highest among those living in Chuy Province (70.2%). Bishkek city reflected a female unemployment rate similar to that of the target groups as a whole, with almost 6 in 10 women (57.9%) reporting that they did not have a regular job.

Unemployment was found to be higher for younger women. Fully two-thirds (67%) of those aged 18 to 28 said that they did not have a job, while unemployment rates fell almost to half (52%–53.5%) for women aged 34 and older.¹⁶ Predictably, women with university degrees were more likely to have a job than the general female population, but the unemployment rate for this group was still significant at around 40%.

Income

In the Kyrgyz Republic, income can be a primary determinant of just outcomes, by allowing payment of official bureaucratic fees and access to legal services and, in some cases, through payment of “non-official” fees necessary to ensure that a document is processed timely or one’s claim is heard. This will be discussed in further detail below, in the assessment section.

¹⁴ Note that some women reported multiple sources of income.

¹⁵ Employment rates by region were 42.1% of women in Bishkek versus 51.1% in Osh city, and 29.8% in Chuy province versus 49% in Osh province.

¹⁶ More precisely, 52% of women 34-40 years old and 53.5% of women 41 and older reported they lacked regular paid employment.

Sufficient income to provide family necessities proved to be a challenge for many of the women in the target areas. Quantitative indicators of income showed that more than one in 10 respondents has a family income of less than US\$89 per month.

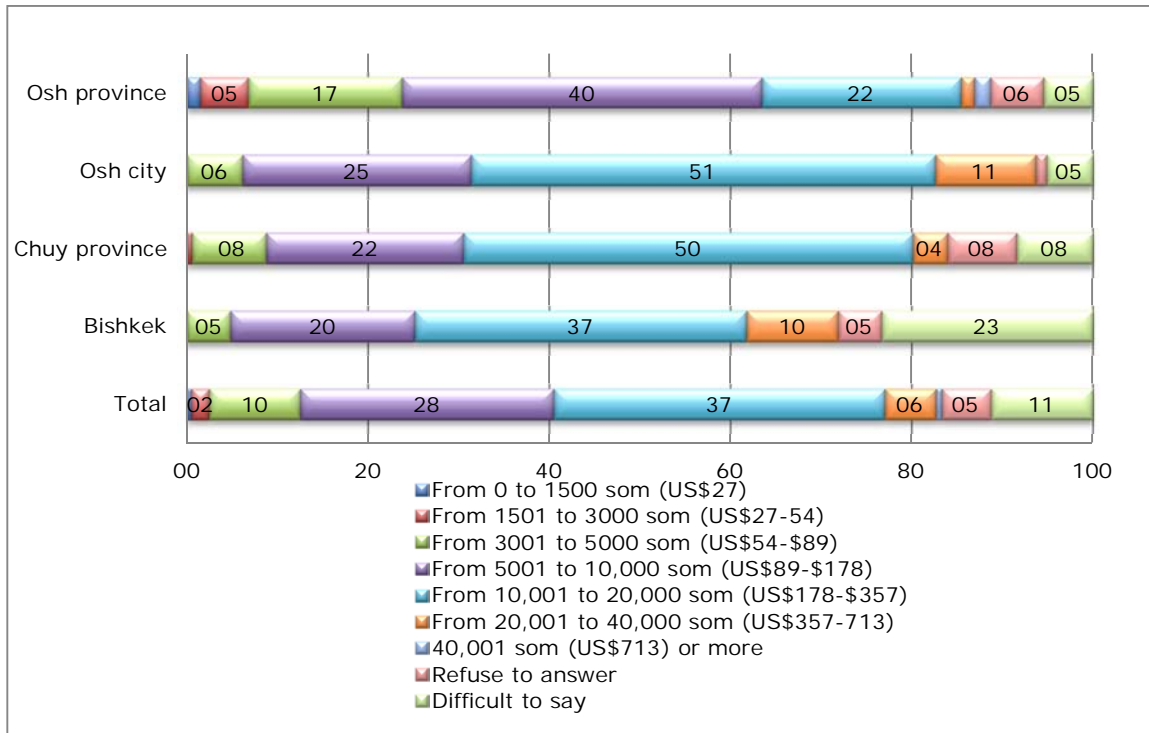
Most of the women said that they could afford the very bare necessities for survival but not much more. Over half (56.4%) indicated that their monthly family income was, for example, enough to buy food and clothing, but not enough to allow for the purchase of durable goods such as a washing machine, television, etc. Almost a quarter (23.6%) reported an even lower level of income, saying that they had enough money for food, but it was difficult to afford clothing. A small portion of women – 2% of all respondents – indicated that their family had trouble affording even food.

The women respondents were also asked to report on the numerical amount of their household's monthly income. It should be noted that in all, 11% of women were unable to say how much money their family made per month, and another 5% refused to answer the question. Notably, about one in four women in Bishkek could not provide an estimate for their monthly family income (and another 5% chose not to), suggesting that this group exercises little control over family finances.

Of those women who could answer the question, over 12% reported that their families earned very little, with monthly family earnings of 5,000 (US\$89) or less. The largest group, over a third (36.6%) of all the women surveyed, reported a monthly household income of 10,001 to 20,000 som (US\$178-\$357). Only around 6% of the respondents said that their family earned more than 20,000 som (US\$357) a month.

Unsurprisingly, there was large variation in the reported income ranges between urban and rural families. Families reporting a monthly income of less than 10,000 som (US\$178) accounted for more than half (52.4%) of the respondents living in rural areas, but only 23.9% of respondents living in urban areas. There were also significant regional variations between target areas, which are depicted in the chart below. As can be seen, Osh province reported the greatest proportion of women with a monthly income of 5000 som (US\$89) or less, more than six out of 10 respondents.

Figure 3. Total monthly income reported by women respondents, by region, %



2. Children and young people

The Kyrgyz Republic is young, demographically speaking, and growing fast. In 2013, children age 15 and younger accounted for about a third of the population – 1.84 million.¹⁷ When taking into account children and young people aged 16-19, the number jumps to 2.3 million, or 40.6% of all people in the country. In the same year, the average age of the population was just 27.2 years.¹⁸ This rapid population growth creates novel challenges for the nation in addressing problems of equity and ensuring that its increasingly youthful population is provided with equal access to just outcomes. As noted above, for the purposes of this study, the problems facing children (aged 0-17) and young people (aged 18-28) are, at times, discussed as one. Although the two groups are socially and legally distinct in many ways, they also share important challenges to equal treatment, including lower levels of education, experience, and income than the general population.

Youth Level of Education

Level of education is, obviously, a limitation for youth, particularly those who have not yet completed secondary school. However, the data demonstrated that most of the youth aged 14 to 28 in the target areas had completed at least their primary education, and about one in 10 had already obtained a university degree.

The general level of formal education among the youth surveyed was, predictably, relatively low (only 9.7% had completed university, and another 14.5% had completed technical or

¹⁷ NATIONAL STATISTICAL COMMITTEE OF THE KYRGYZ REPUBLIC, *supra* note 13, at 46. In 2013, there were 1,845,018 children aged 0-15, and 2,298,376 youths aged 16-19.

¹⁸ *Id.*

vocational school). This is unsurprising given that the sample included respondents from 14 years of age who are still studying in secondary school.

Of concern, however, is the revelation that a small number of respondents in this group had not completed even the 9th class, which in general should be expected among 14-year-olds. In total, 6.2% of the young people surveyed stated that the highest level of education they had obtained was primary school (to the 4th class). Interestingly, most of these were found in the capital city – more than one in 20 (5.4%) of the youth surveyed in Bishkek said that they only had a primary education.

Possible reasons for the relatively low education level of these youth in Bishkek could be child labor, internal migration of a child's family (which may hinder access to education), and other consequences of poverty that limit a child's ability to finish school. This is an important factor to consider when thinking not only about the barriers to justice faced by youth in Bishkek, but also a potentially major factor driving youth unemployment.

Generally speaking, however, urban youth demonstrated a higher level of post-secondary school education than rural youth. Over a third (35.6%) of the young people living in cities reported some form of education attained after 11th grade – secondary technical education, some higher education, or completed university – while only one in five (20.3%) of the youth in rural areas did so.

This gap is hardly surprising given that cities are likely to attract more educated youth for employment opportunities, but it also highlights the fact that youth living in rural areas are less likely to have the educational resources required to navigate bureaucracy and participate in the justice system – a major barrier to effective access to justice.

Family Status

Family status – the presence of one or both parents and other relatives and family support structures – can exert a major impact on long-term outcomes for youth. Having to support a single parent or help care for relatives when other family members migrate for work can determine whether or not young people complete their education or pursue other social activities that can contribute to a more informed view of the world, including the justice system.

Of the youth surveyed, three out of four (75%) reported that both of their parents were still alive, and living together. The remaining quarter said that their parents were either not living together (17%) or that they had only one parent (8%).

Internal and external labor migration proved to be major factors affecting the family status of youths – 16.4% reported that a member of their family was currently working abroad, while 8.8% said that a member of their family had migrated internally within the Kyrgyz Republic for work.

Youth Employment and Income

Needless to say, paid employment plays an enormous role in empowering youth by providing them with an independent source of funding as well as an opportunity to build networks

outside their family and social circles and gain valuable practical experience. All of these factors are relevant to a young person's ability to access justice.

Excluding those respondents who answered that they were too young to work (6.6% of the total), slightly more than half (51.6%) of the youth surveyed said that they did not have a paid job. Interestingly, however, the paid employment rate for working-aged rural youth was significantly higher than that of urban youth. Of those who did not exclude themselves from the possibility of employment due to their young age, over half of rural youth (54.1%) reported that they had a paid job, while significantly fewer work-aged urban youth (41.4%) said that they were currently employed in a paying position.

As can be expected, reported employment rates among youth rise precipitously with age. Just 2.2% of those aged 14 to 16 reported having paid work (with 73.5% responding in the negative and 24.3% saying they were too young to work). By age 17 to 19, 14.4% of respondents reported having paid work. But starting around age 20, the majority of youth reported having a job (59.5% of those aged 20 to 22, and 77.6% of those aged 23 to 25). By the age of 26 to 28, almost three-quarters of youth (74.6%) reported having paid employment. The slight drop in employment rate after age 25 could be due to women who leave the work force following marriage and/or the birth of a child.

Interestingly, the difference in employment rates between youth who had finished university (66.5% employed) and those who had finished only secondary school (63.1% employed) was not dramatic. Yet those who had undergone some kind of specialized post-secondary school education (like technical or vocational training) reported somewhat lower paid employment rates (52.3%).

Of those with a job, the most widely reported work activities included animal husbandry (39.4%), entrepreneurial activities (27.2%), and agriculture (25.6%).¹⁹ Office jobs were held by fewer respondents (17.2%), although the completion of higher education was a strong indicator for where a young person was working – 69.6% of employed youths who had a university degree said they worked in an office. By contrast, about a quarter (26.9%) of employed youths with a technical/vocational education said they were employed in an office, while only 4.4% of employed youths who had completed only secondary school held office jobs.

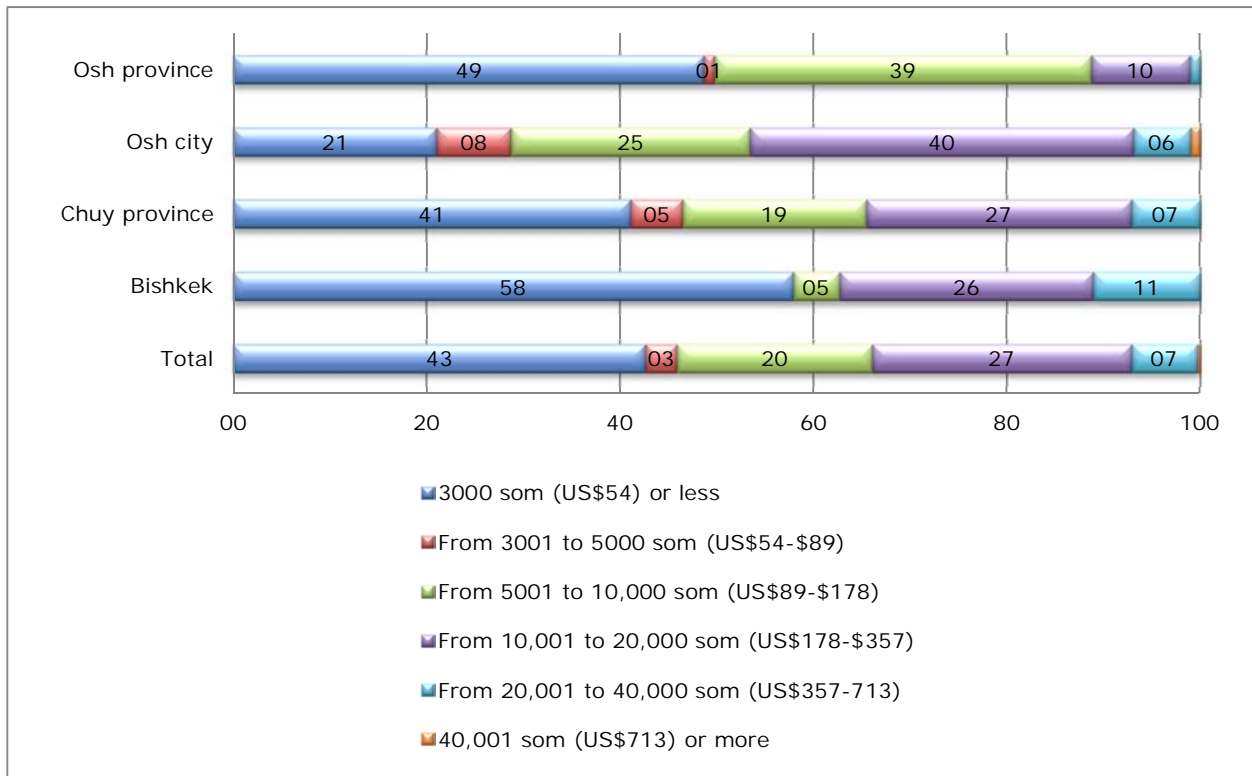
Employment options for youths who had not finished secondary school were, unsurprisingly, limited to unspecialized fields, such as animal husbandry, agriculture, and domestic tasks like cleaning and manual labor. None of the employed youths in this category had a job in an office or were engaged in entrepreneurship, a predictable, though still important, reminder that the possession of an advanced education is a critical factor in providing young people with employment options.

Of all the young people surveyed (both employed and unemployed), two out of three (66.1%) reported that their total monthly household income was less than 10,001 som (\$US178), and only a minority of respondents (7.1%) said that their household earned 20,001 som (US\$357) or more per month. The chart below shows a geographic breakdown of reported monthly earnings in the target areas. It is interesting to note that Osh city had the greatest percentage of youth (46.6%) reporting monthly earnings of more than 10,000 som (US\$178).

¹⁹ Note that respondents could report more than one work activity.

It is important to note that income figures reported by young people may have serious limitations – for example, teenagers might not have a full understanding of the income that their parents earn, or might be afraid to report the family’s entire income for fear of reprimand. This hypothesis is particularly plausible given that overall, most youth (56.2%) said that their family was able to afford food and clothing with their monthly income, but had trouble affording durable goods.

Figure 4. Total monthly household income reported by young people, shown by target area, %



3. People with Disabilities

In the Kyrgyz Republic, disability certificates are issued to those who are recognized by the state as having limited physical or cognitive capacity. The government follows a grouping system, defined by law, that indicates severity of an individual’s disability, from “Type 1” (the most severely limiting disability, often involving complete physical immobility, total lack of vision/hearing, loss of multiple limbs, etc.) up to “Type 3” (the least limiting, for example partial loss of sight or hearing, partial loss of mobility in a limb, etc.).

The National Statistics Committee reported that in 2012, a total of 13,996 new cases of adult disability were officially recognized in the country (about 25 per 10,000), of which 6,274 (44.8%) were women. In the same year, 4,663 new cases of child disability were recognized, of which (44.9%) were girls.²⁰

Children with Disabilities

²⁰ NATIONAL STATISTICAL COMMITTEE OF THE KYRGYZ REPUBLIC, *supra* note 13, at 73.

Table 1. Number of children with registered disabilities (Min. of Soc. Dev.)²¹

Province	2013	1st quarter 2014
Bishkek (city)	2,444	2,629
Chuy province	1,531	1,950
Issyk Kul province	2,863	2,931
Naryn province	1,018	1,039
Talas province	906	929
Osh (city)	1,152	895
Osh province	473	184
Jalalabad province	3,029	3,130
Batken province	1,663	1,705
Total	15,079	15,392

Types of disabilities

Respondents in the target regions reported a wide range of disabilities which involved varying degrees of limitation. Some of these limitations carry significant implications for access to justice, which are discussed in the assessment section below.

The largest percentage of respondents (44%) stated that they had been disabled from birth, with another 23.3% saying that their disability had begun in early childhood (1-7 years). About half of the PWDs from the survey's target regions held a valid certificate for a Type 2 disability (49.3%). The second largest group reported a Type 3 disability (19.3%), and 13.3% reported a Type 1 disability (the most limiting of the three groups). Another 16.7% stated that they were not officially registered as disabled and thus did not know their disability level.

The largest percentage of respondents, over a quarter (28.6%), indicated that their disability stemmed from problems with the musculoskeletal system. Hearing impairment or complete deafness affected about 15% of the PWD adults and children, and another 13% reported debilitating chronic illness. Over one in 10 of the respondents (10.5%) suffered from limited sight or complete blindness. Physical disability not falling under one of these other categories accounted for another 11% of respondents. Less commonly reported were mental illness (8.4%) and mental disability (8.3%). Only one case of cerebral palsy was reported out of the whole sample group.

Education level of PWDs

The survey data suggested a worryingly low rate of formal education both for adult PWDs and for school-aged children with disabilities. Many adults reported never having finished primary school, and over half of the parents surveyed said that their disabled child was not currently in school.

Respondents answering for themselves (that is, excluding responses from parents of children with disabilities) reported significantly lower rates of formal education than other target groups. Most striking – and concerning – was that of the 78 PWD respondents in all four regions, 13 (16.7%) stated that they had not received even a primary level education. Another 5% said that they had finished only primary school (to the 4th grade), but not progressed

²¹ Statistics provided by the Ministry of Social Development upon official request by M-Vector in the second quarter of 2014 [hereinafter MSD Statistics 2014].

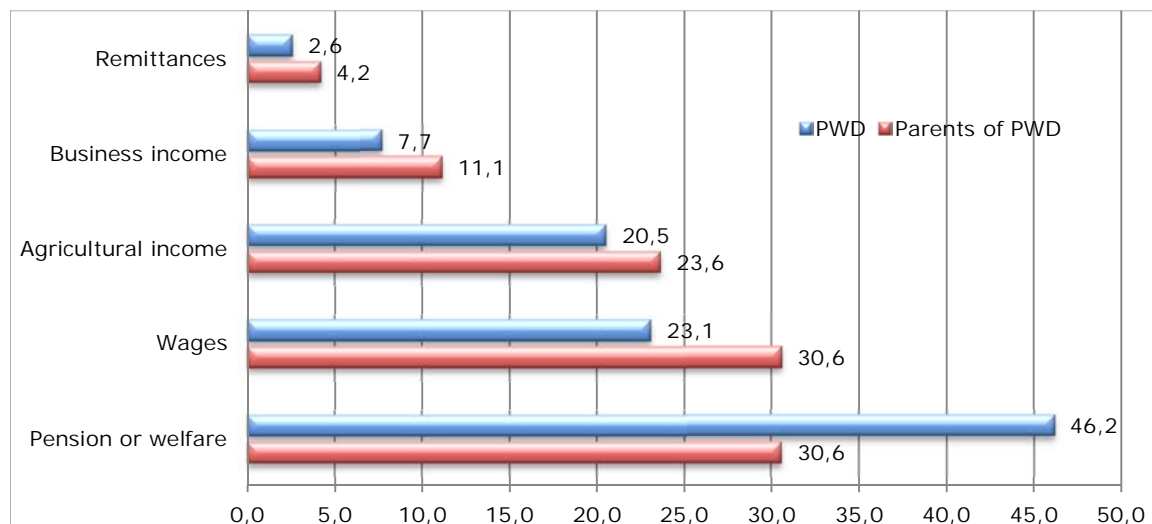
further. The largest two groups were those who had finished some secondary school (23%) or finished secondary school (25.6%). Just 15.4% of all the PWD respondents said that they had graduated from university.

This disconcerting trend was also seen in the responses from parents of children with PWDs. Well over half (56.9%) responded that their child was not studying in school. Another 15.3% said that their child was not yet school aged, leaving just 27.8% of children with disabilities who were currently in school.

Income for PWDs

Almost half of respondents with disabilities (46.2%) indicated that they received their income from pensions or government assistance. Parents of children with disabilities also relied heavily on government assistance (30.6%). Regular working wages also provided a significant source of income for many PWDs (23.1%) and their parents (30.6%). A minority of both groups said that they received income from a business or from remittances.

Figure 5. Income sources for PWD and parents of PWD, %



Out of those respondents in the PWD and parent groups who reported on the amount of their income (104 individuals), the largest part (38.5%) said that their monthly household income was between 5,001 and 10,000 som (US\$89-178). A minority of respondents – fewer than one in 10 (8.7%) – said that their monthly income was more than 15,000 som (US\$267). Another quarter (24%) reported that their household was in the lowest income bracket, less than 5,000 som (US\$89) per month.

Osh province proved to have the greatest number of PWD respondents (42.9%) whose family was living on less than 5,000 som (US\$89) per month, but, interestingly, Osh province also tied with Osh city for the greatest percentage of respondents earning more than 15,000 som (US\$267) per month (Osh province – 14.3%, Osh city – 15%).

In terms of the sufficiency of monthly income, an overwhelming majority indicated financial difficulty of some sort. The largest group of respondents, including both PWD themselves and parents of children with disabilities (44%), said that they had enough money for food but had difficulty buying clothing. Another 40.6% said that although they could afford food and

clothing, they were not able to afford durable goods like household appliances. A small and roughly equal minority of respondents answered at either extreme of the spectrum – 7% said they had difficulty affording even food, while another 6.7% said that they could afford food, clothing, and appliances, but lacked expendable income for purchasing movable and immovable property or for travel. Out of the entire sample (150 individuals), only one respondent said that they had enough money for everything.

C. Common Documentation Problems for Target Groups

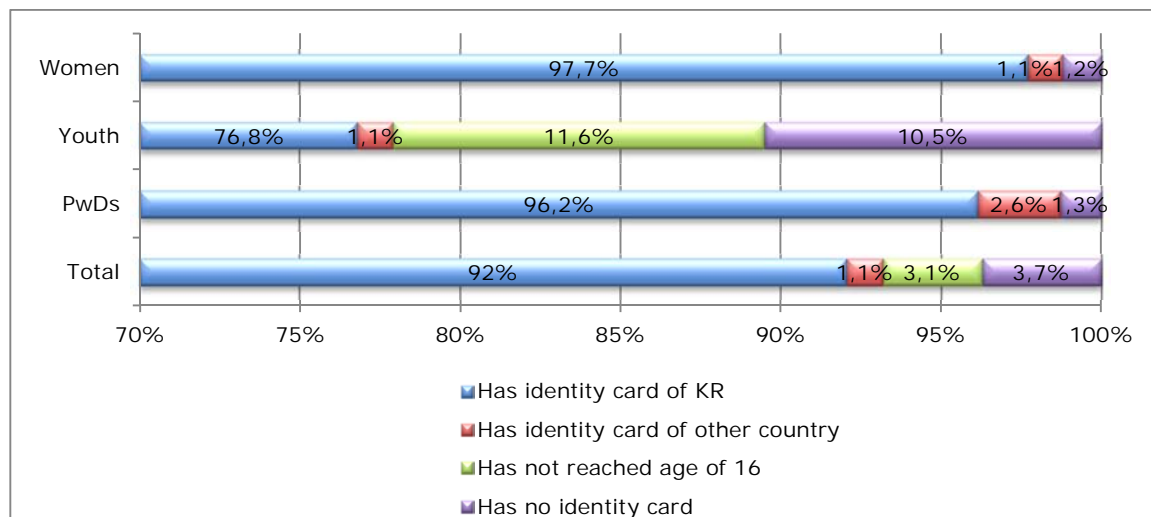
In the Kyrgyz Republic, possessing proper documentation is of paramount importance for receiving public services and enforcing one’s rights. Several types of documentation are required for handling a range of rights-related issues, which are discussed in turn below.

1. Personal identification document (passport)

The importance of possessing a national identity document (also called a “passport,” although it is not valid for international travel), in theory mandatory for all citizens 16 and older, cannot be overstated. Without this document, citizens are unable to access the most basic of government services, such as social security, residency registration, healthcare, and education. Furthermore, individuals who do not hold a national identity card are unable to obtain other important documents, such as a marriage certificate (discussed below), birth certificates for children, disability certificates, property deeds, and so forth. Personal documentation is also required in order to file a civil or criminal complaint with the judicial authorities.

The research revealed that around 92% of all respondents in the target areas were in possession of a valid Kyrgyz Republic national identity card. However, there was a notable difference in identity card possession rates between those of adult women (97.9%) and adult PwD (96.2%) and those of young people, only 76.8% of whom had a valid Kyrgyz Republic identity card. Although some of the difference can be accounted for by those young people who were not yet 16 years old (11.6% of the sample group), 10.5% of the sample (who had reached age 16) simply did not have their identity documents. Another 1.1% said they had an identity card from another country.

Figure 6. Possession of valid national identity card, by target group



Among women, those living in Osh city had the highest incidence of a missing identity document – 4.2% of those surveyed said they didn't have one at all. Interestingly, however, 100% of women surveyed in surrounding Osh province (145 individuals) had a valid Kyrgyz Republic identity document. Generally speaking, however, there did not seem to be much of a difference between urban and rural women in the target areas, taking into account a margin of error.

The responses also showed that Osh city had the highest percentage of young people over age 16 without identity documents, 16.7% of those surveyed in the area. By contrast, only 4% of young people in Chuy province who were over 16 said that they lacked their documents.

There were also surprising differences between the identity card possession rates of Kyrgyz and Uzbek respondents, particularly youths. Of the Kyrgyz youths who had reached the age of 16, 74% had a valid identity document, while Uzbek youths reported a 100% rate of card possession.

Of the respondents lacking ID cards who were old enough to receive them, almost all said that they had either lost their identity document or that they were in the process of obtaining one. Some and perhaps even all of the gap between young people and older people in terms of identity document possession can be explained by the fact that young people who have recently turned 16 have not yet gone to obtain their documents. In fact, when asked why they didn't have their documents, 12 out of 15 young people who were old enough to get their documents responded that they were already in the process of obtaining (or replacing) one.

However, it is still important to be aware of this difference between the target groups given that possession of a valid identity document is critical in accessing any type of government service in Kyrgyzstan, registering a marriage, obtaining a birth certificate for one's children, etc. It should be emphasized to young people that they should apply for their identity card as soon as possible after turning 16, and those who have lost their documents should be encouraged to replace them immediately to avoid further documentation problems, as discussed below.

2. Birth certificates

Similarly to a national identity document for adults, a birth certificate forms the basis of one's identity for children in the Kyrgyz Republic. Legally children must have a birth certificate to enroll in school, receive health care, and to receive child support (via his or her mother) from a father in the event of the parents' divorce. As noted above, if a mother is not in possession of a valid identity document then she cannot receive a birth certificate for her child, which creates myriad problems later on.

National statistics from the Ministry of Social Development (MSD) show a not insignificant quantity of children who lack identity documents. It is unclear the extent to which these data reflect reality, in that children who lack birth certificates are more likely to be living under circumstances that would have prevented the notice of state authorities. However, as a departure point for general estimates, the following data are useful.

Table 2. Number of children without birth certificates (Min. of Soc. Dev.)²²

Province	2013	2014 (as of 2 nd quarter)
Bishkek (city)	29	33
Chuy province	293	288
Issyk Kul province	72	27
Naryn province	32	33
Talas province	49	45
Osh (city)	22	5
Osh province	2,304	2,381
Jalalabad province	1,570	1,774
Batken province	82	60
Total	4,453	4,646

The survey data in the target regions does seem to reflect the regional variations seen in the MSD data. Of the women surveyed, a total of 3.3% responded that they had minor children who did not have birth certificates,²³ but viewed by target region, the highest percentage of such women were found in Osh city, where 12.5% said that one or more of their children lacked a birth certificate. In Chuy province, by contrast, not a single woman reported having a child with a missing birth certificate. Seen as a whole, however, there did not seem to be a significant difference between rural and urban regions.

Half of the women (out of a total of 14) with children lacking birth certificates said that they had simply lost them at some point, while a handful (4 individuals) said that they weren't able to get a birth certificate because they themselves lacked Kyrgyz Republic identity documents. Two other respondents simply hadn't tried to get one, and one woman reported she didn't have the money to get the certificate.

Problems arising from missing birth certificates

Strikingly, almost half of the surveyed mothers who were missing their child's birth certificates reported that they had experienced at least one problem as a result. Three women said that they'd been unable to enroll their child in school or preschool, and another three reported that their child had been refused medical care on account of the missing certificate. Two women had experienced problems trying to receive government financial assistance for their child, and another two reported other types of problems.

Government representatives interviewed by the researchers confirmed that children without birth certificates face serious difficulties as they grow older. As supported by the quantitative survey data, several interviewees highlighted that children without certificates are not able to register their legal residency and thus often have trouble enrolling in school. In addition, such children are not eligible to receive free governmental healthcare, and the lack of a birth certificate makes it difficult for abandoned children to be adopted.

²² MSD Statistics 2014, *supra* note 21.

²³ It should be noted that the childless women were not excluded from the sample pool for the purpose of this question, and therefore we can expect the percentage of mothers who have children without birth certificates to be somewhat higher than this statistic. Most of the women reporting that they had a child without a birth certificate said that they had only one such child.

Interviewees cited a variety of reasons for which children ended up without birth certificates. Many said that the main reason was that the child's mother or father lacked an identity document, a suggestion supported by the quantitative findings described above. Several others responded that parents had lost the child's birth certificate and never replaced it.

These two situations aren't necessarily unrelated; certain events could be responsible for the loss of both a parent's identity documents and the birth certificate of his or her child, such as a fire or a robbery. For those parents unwilling or unable to replace the documents, future children will also lack birth certificates as the parents themselves do not have the identity documents to claim their child's certificate.

One lawyer in the Osh city suburbs cited several other reasons why families, particularly those with single parents or with many children to care for, might not receive birth certificates for their children: "Now women are giving birth in Russia with a foreign passport, then coming here, with a child who has no passport. In Russia they don't give documents to the child....Then they don't receive their [TB] vaccination, they don't register at the clinic. Then comes the second child and the third child. And so the children are left without birth certificates."

3. Marriage registration certificate

Since independence, one of the largest emerging documentation problems has been the registration of marriages. As will be discussed below, many important rights guarantees are linked to the registration of one's marriage with the government. Although legislation tied to marriage certification is gender-neutral, in practice the declining trend in marriage registrations has disproportionate effects for women, which will be discussed in the following section.

Marital status

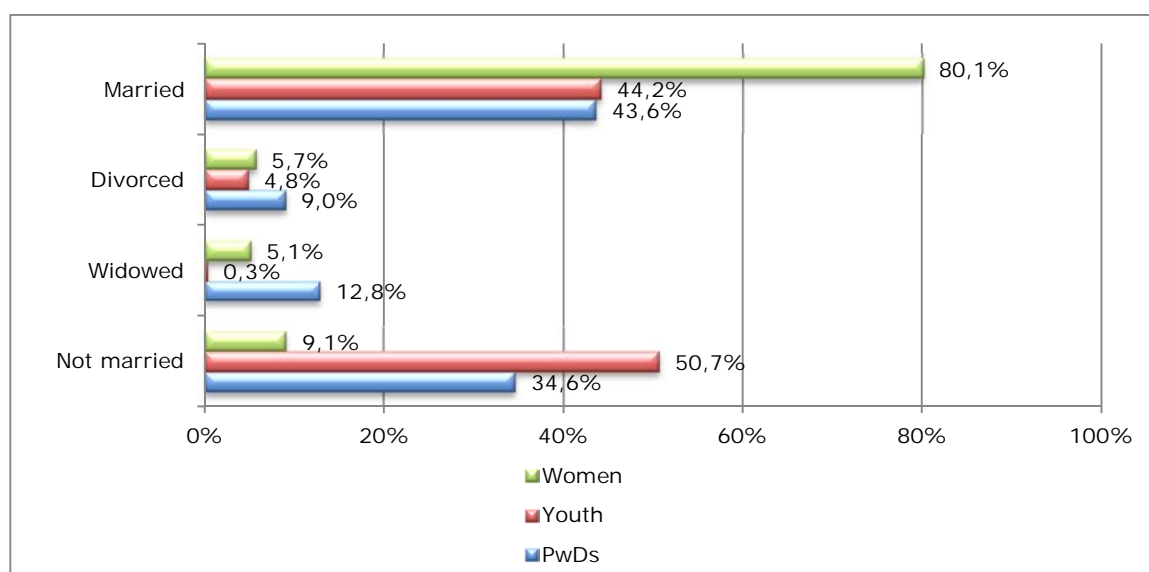
Fewer than one in 10 women (9.1%) surveyed had never been married. The overwhelming majority of respondents indicated that they were currently married (80.1%); a handful had divorced their spouse (5.7%), and the remaining 5.1% reported that they were widows.

Young people, naturally, reported much lower marriage rates – 31.7% of respondents in this group (aged 14-28) reported they were currently married, and 3.4% had already divorced. However, when the sample data is restricted to respondents 18 to 28 years old, as seen in the chart below, married individuals represent 44.2% of the whole group, and the divorce rate climbs to 4.8%.

People with disabilities were also less likely to be married than women as a whole. Less than half of PWDs surveyed (43.6%) said that they were married, while 9% had divorced their spouse and 12.8% were widowed. Over a third (34.6%) had never been married.

The chart below provides a visual comparison between the marital status of the target groups.

Figure 7. Marital Status of Target Groups (with “youth” restricted to 18-28 years)



Marriage registration

Under Kyrgyz law, including the Constitution²⁴ and the Family Code,²⁵ marriage and its related rights exist only upon official recognition by the state. Under law, spouses in a state-recognized marriage are equal in terms of their decision-making and property rights.²⁶ However, women living in a “civil” marriage (co-habitation) or religious marriage (in the Muslim tradition, called “*nike*”) are not recognized by the state and are particularly vulnerable in the event of divorce or death of a husband. Without an official registration, women have no legal grounds upon which to receive their share of joint marital property, inherit from their deceased husband, or claim other benefits such as alimony, government financial assistance, pensions, etc.

The survey data revealed a distinct split in marriage registration rates between women and youths, with the latter reporting significantly higher rates of “civil” marriage and religious marriage (that is, marriage that is not registered with the state and thus afforded joint property ownership, inheritance rights, and other legal guarantees). These findings are consistent with anecdotal data that young people are increasingly failing to register their marriages for a variety of reasons which will be discussed below.

Of the respondents in the “women” target group (aged 18 and older) who identified themselves as “married,” 92.5% possessed a marriage certificate. The remainder reported that they lived in a “civil” marriage, without any legal registration (5.6%) or a “religious” marriage, overseen by a religious leader but also without legal registration (1.9%).

Respondents in the “young people” group reported much lower rates of registration – a worrying trend. Of those young people (only individuals 18 to 28 years old) who identified

²⁴ “Persons reaching the age of consent shall have the right to marry and create a family. No marriage may be entered into without voluntary and mutual consent of the couple. The marriage shall be registered by the state.” Constitution of the Kyrgyz Republic (2010), art. 36(5).

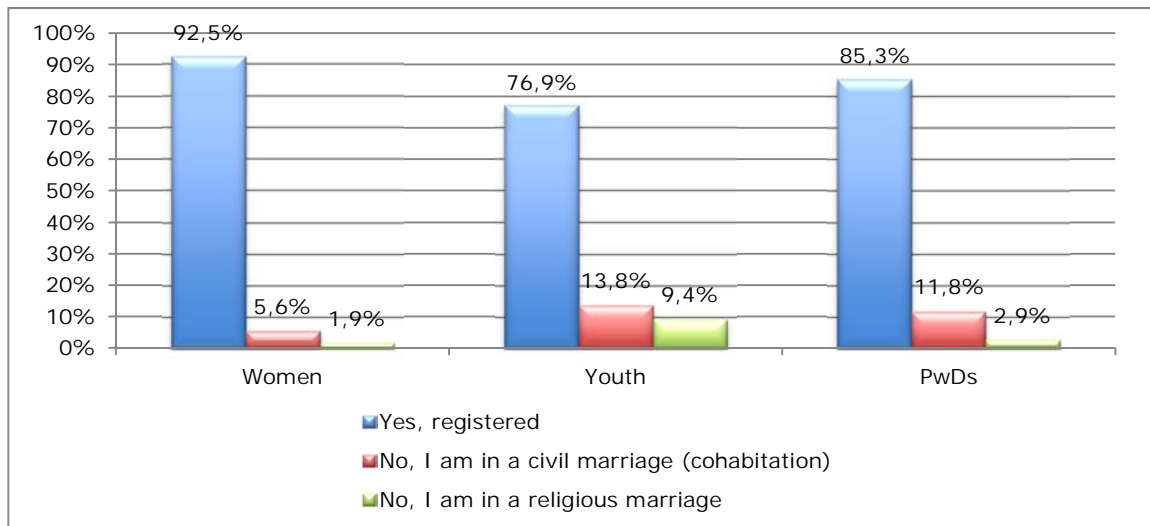
²⁵ Family Code of the Kyrgyz Republic, art. 1(2).

²⁶ Family Code of the Kyrgyz Republic, 30 August 2003, as amended 30 June 2014, arts. 3, 32, 40 [hereinafter Family Code].

themselves as “married,” only 76.9% reported having an officially registered marriage, with 13.8% living in a civil marriage and another 9.4% living in a religious marriage.

People with disabilities also reported lower marriage registration rates than women in general – 85.3% of PwDs surveyed said they had a marriage certificate, while 11.8% said they were living in a civil marriage and 2.9% in a religious marriage. The chart below shows the variation in marriage registration status between the target groups.

Figure 8. Possession of Marriage Registration Certificate, by Target Group



The reasons given by women for their lack of a marriage certificate varied widely, but the largest percentage of respondents in this group (40%) said that they did not have the necessary documents in order to register the marriage, highlighting the snowball effect mentioned above – when a citizen’s basic document (passport or birth certificate) is missing, it quickly creates a host of other problems for him or her, as this document is required to obtain others.

Significantly, the second most common reason (24%) cited for the lack of a marriage registration was that the woman’s husband or his family were against the official registration of the marriage. This finding reveals the particularly vulnerable position of such women from a rights standpoint. First, the women who lack a marriage certificate are officially not married and thus lack any property or inheritance rights in the event of a divorce or death of a husband. Second, the fact that a husband or his relatives would prevent the registration of the marriage suggests that these women are less likely to have decision-making power in their relationships. Third, the husband or his family’s wish to prevent the registration suggests that they are aware of the consequences of registration and may be specifically seeking to avoid the possibility that the wife gains inheritance or property rights. Further research would be needed among populations such as married men and older women (mothers-in-law) to understand what reasons underlie the prevention of marriage registration.

Another 20% of the women who lacked a marriage certificate said that they simply had not had time to register their marriage. A handful of others cited reasons such as a lack of necessity, her husband’s ongoing legal marriage to another woman, and ongoing government benefits related to a continuing legal marriage to an ex-husband.

Whatever the reasons for the lack of a marriage certificate, the apparent upward trend in non-registered marriages has troubling implications for women's rights. Adding to this problem is the fact that women and youth as a whole demonstrated a shaky understanding of the importance of having a marriage certificate, and thus may not be aware of the threat to their rights until it is too late. This situation is discussed further in the "Legal Knowledge" section below.

4. Residence permit

The residential registration system in the Kyrgyz Republic also carries major significance for citizens' access to basic government services. Without a proper registration ("*propiska*"), citizens often find themselves unable to receive government healthcare, education for their children, take formal ownership over property, receive government financial assistance or a private loan, or even to file a case with police and/or a prosecutor.

Yet registration remains a problem for many in Kyrgyzstan, particularly low-income individuals and internal migrants. The survey data showed this to be a particularly significant problem for women, 24% of whom said that they did not have a valid residence permit for their current place of dwelling. However, it also appeared to be a problem for young people, 19% of whom did not have a proper residence permit, and 19.8% of PWDs who answered on their own behalf.

Unsurprisingly, the percentage of those respondents who had a registered residence in another region of the country was particularly high among those living in Bishkek, reflecting internal migration patterns. In Bishkek, just 60.5% of women had a valid residence permit, while 20.2% said they had a permit for another province of the country, but not for their current home in Bishkek. Likewise, 22.6% of young people in Bishkek said that they had a permit for another part of the country, but not in the capital where they were currently living.

By contrast, the highest rates of *propiska* possession for young people were in Osh province, where 100% of young people surveyed (39 individuals) stated they held a valid permit, and for women in Osh city, where 87.2% said they had a proper permit. This difference between Bishkek and Osh isn't necessarily surprising since Bishkek naturally attracts more labor migrants, students, and other temporary residents than the other parts of the country. However, the 100% possession rate reported by young people in Osh city, higher than one might expect, could suggest either that social programs following the June 2010 events, and the heightened activity of NGOs in the region in the years following, have had a positive effect, or that young people are not fully aware of the requirements of the *propiska* system and perhaps don't know that they don't have a valid residence permit for Osh city if they have migrated there from a more rural area.

Interestingly, the parents of children with disabilities reported the lowest rates of residency permits in Bishkek (53.3%), and just 63.6% of PWDs living in Bishkek themselves reported they had a valid permit. While the rates for PWDs were far higher in other regions (from 80.6-100%), the low rates of residency registration in Bishkek for PWDs highlight their particular vulnerability in the capital city.

Of those 134 respondents who did not have a residence permit, just 23 indicated that they were trying to obtain one. This lack of effort was similarly pronounced across all the target groups. Those who did not have a permit cited various reasons for the lack of one, including

that they didn't have ownership documentation for the property or the owner of the property on which they lived did not allow them to register there; that they had only a temporary residence permit; that they didn't have time to go get one; financial difficulties; and problems within the local community.

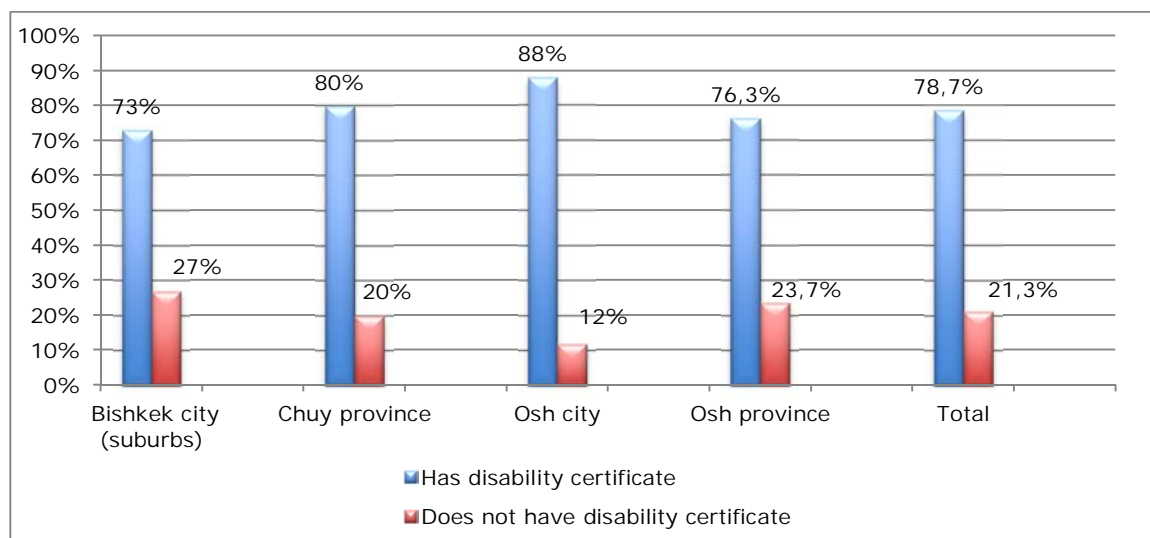
The majority of those lacking a *propiska* reported that they had not experienced any problems as a result. However, women appeared to be those most often negatively affected by the lack of a residence permit – about a quarter of women without one (26.1%) reported that they'd had trouble filing a complaint as accident/emergency victims. Notably, virtually all of the women with this complaint were in Osh city (where 55.8% women without a *propiska* had experienced this problem) and Osh province (where a startling 80.1% of women without a *propiska* had experienced the problem). Although women were not asked to elaborate upon the accident/emergency for which they'd needed to register, it is possible that this surge in problems for women in Osh occurred following the June 2010 events and the government benefit schemes for victims that followed afterwards.

Another 13% of women who didn't have a residence permit said that they'd been unable to receive healthcare as a result, and 4.3% said they had consequently been refused a job. Another 7% said they had experienced other types of problems. Although these respondents did not indicate precisely the negative result, other problems relating to a lack of a *propiska* may, for example, include difficulty registering a child for school or accessing public utilities (electricity, water, etc.).

5. Certificate of disability

According to the survey results, more than one in five disabled people in the target areas (21.3%) do not have a valid disability certificate. This figure was similar whether it was reported by a disabled person on her own behalf (20.5%), or by a parent on behalf of her disabled child (22.2%), suggesting that the age of the PWD is not necessarily a major factor determining whether that person possesses a certificate of disability (since the overwhelming majority of parents were reporting on behalf of a disabled child under the age of 16). The graph below shows the slight regional variation in disability certificate possession rates, with Osh city having the highest percentage of certificate holders and Bishkek city the lowest.

Figure 9. Rates of disability certificate possession, by target region



The most common reasons given by those who lacked a certificate were a lack of desire to obtain one (40%) and that the registration process was too long and complex (36.7%). Another 26.7% said that they couldn't register because they didn't have the necessary documents, again highlighting the importance of ensuring that vulnerable populations have their basic documents (national identity document and/or birth certificate) in order to realize their rights.²⁷

D. Common legal and social problems for individual target groups

Although the rights violations faced by vulnerable groups in the Kyrgyz Republic each day represent a broad spectrum of problems of varying complexity, some of which are mentioned above in the population description section, the expert interviews and focus group discussions emphasized a few particularly prevalent issues for each target group, which are summarized here.

1. Women

Inequality and Gender-based violence

In spite of efforts in recent years on the part of many civil society actors and government agencies, gender inequality remains a major issue for women in Kyrgyzstan. In 2012, women filled just 15.4% of governmental administration posts²⁸ and 34.5% of positions in local self-government structures.²⁹

Among the manifestations of this problem is a widespread prevalence of violence against women, usually by husbands or intimate partners and their relatives. The 2012 Kyrgyz Republic Demographic and Health Survey (2012 KgDHS) found that 23% of women in the Kyrgyz Republic aged 15 to 49 had been victims of physical violence at least once since age 15, a proportion that increases somewhat (25%) for women who have ever been married.³⁰ Of the women interviewed, 13% said that they had experienced physical violence in the last 12 months. Furthermore, 4% of ever-married women reported experiencing sexual violence, and 13% said they had been emotionally abused by their current or most recent husband.³¹

The 2012 KgDHS also revealed wide variation between reported violence rates in the target areas of the present research. In Chuy province, 19.3% of women reported experiencing physical violence since age 15, and in Osh province, 26.1% of women did; in Bishkek, the percentage of women reporting such violence was 23%, while in Osh city the proportion was dramatically lower at 12.3%.³² This striking finding suggests the potential for underreporting;

²⁷ A handful of others said that the medical-social expert commission, which is responsible for determining level of disability, had refused to acknowledge the individual's disability. One person also said that he hadn't managed to gather the necessary money, which he said was 3000 som, demonstrating either a lack of understanding about the process or that he had been asked for a bribe in the process.

²⁸ NATIONAL STATISTICAL COMMITTEE OF THE KYRGYZ REPUBLIC, *supra* note 13, at 30.

²⁹ *Id.* at 31.

³⁰ NATIONAL STATISTICAL COMMITTEE AND MINISTRY OF HEALTH OF THE KYRGYZ REPUBLIC, KYRGYZ REPUBLIC DEMOGRAPHIC AND HEALTH SURVEY 2012, 245 (2013) [hereinafter 2012 KgDHS]. This study, carried out in collaboration with the US Agency for International Development (USAID) and the UN Population Fund (UNFPA) surveyed 8,208 women and 2,413 men in all provinces of the Kyrgyz Republic.

³¹ *Id.*

³² *Id.* at 248.

in more conservative regions, the pressure to remain silent about family affairs may be stronger than in less conservative areas. It is important to remember that, as in any survey (anywhere in the world) attempting to garner information on sensitive or taboo topics, underreporting is practically guaranteed, suggesting that the actual number of women experiencing such violence is likely to be higher than these estimates.

National statistics on reported incidences of domestic violence do suggest severe underreporting to governmental authorities. In 2012, the Ministry of Internal Affairs (MIA) received a total of 2,580 reports of domestic violence, of which 2,341 were directed against women. In the same year, 4,877 women turned to crisis centers for help in relation to domestic violence (down from 6,578 in 2011 and 6707 in 2010, possibly suggestive of loss of funding and closure of crisis centers), demonstrating the reluctance to report such cases to law enforcement.³³

Yet even the crisis center data does not appear to reflect true levels of domestic violence against women in the country. Taking the 2012 KgDHS into account, we can estimate, very roughly, that over 197,000 women aged 15-49 in the Kyrgyz Republic are likely to have experienced some form of physical violence in the home in 2012.³⁴ Assuming this is approximately accurate, the cases registered with the Ministry of Internal Affairs reflect just 1.2% of the total physical violence experienced (and only by women aged 15-49) in 2012. This staggering level of underreporting to law enforcement is supported, somewhat, by the survey data cited below in the “Legal Knowledge” section.³⁵

Experts from the justice sector and human rights organizations interviewed for the present study expressed a belief that the number of cases and the types of violence that women experience have in fact been on the rise in recent years. Several interviewees linked the problems of alcoholism and unemployment with a rise in domestic violence, and also noted that labor migration (by men and women alike) is playing an increasingly large role in the disruption of cohesive family life in the country, itself a contributor to violence and conflict.

The focus group discussions confirmed the breadth of the problem, noting that both physical and psychological domestic violence are commonplace for women in Kyrgyzstan. They also highlighted the difficulty of addressing it stems from its sensitive and secretive nature – many women attempt to hide the problem instead of seeking help, a suggestion supported by the qualitative research (see below in the “Legal Knowledge” section). Furthermore, many women either don’t know where to turn in case of domestic violence or are mistrusting of the available options for victims, a problem that is also discussed in more detail below.

³³ NATIONAL STATISTICAL COMMITTEE OF THE KYRGYZ REPUBLIC, *supra* note 13, at 132.

³⁴ We arrived at this very approximate estimate by calculating 13% of the number of women in the Kyrgyz Republic in 2012 who were aged 15 to 49 (1,516,965), which is equal to 197,205 estimated victims of physical domestic violence in 2012. For the population statistics, see NATIONAL STATISTICAL COMMITTEE, *WOMEN AND MEN IN THE KYRGYZ REPUBLIC 2012* (English version), at 43.

³⁵ It should also be kept in mind that the term “domestic violence” may not be understood by all interviewees. The 2012 KgDHS attempted to account for this by asking women respondents specific questions about different acts (i.e. hitting, slapping, kicking, choking, etc.), see 2012 KgDHS, *supra* note 30, which some women might not realize count as “domestic violence.” Thus, women who say that they would take certain actions in the event of “domestic violence” may believe that this refers only to very serious assaults causing “heavy injury” (as defined by the Kyrgyz Criminal Code) and/or requiring medical attention.

Bride kidnapping

Among the most insidious forms of violence against women in the Kyrgyz Republic, repeatedly mentioned during the focus group sessions and interviews, is the continuing presence of “bride kidnapping,” the practice by which girls and women are non-consensually kidnapped and forced to marry their kidnappers, which in some cases involves raping the victim. Although the practice is widely referred to, particularly in rural areas, as a “Kyrgyz tradition,” scholars and researchers have cast doubt upon this claim;³⁶ in addition, although imams/mullahs perform the marriage rites in many such cases, the practice is disputed by many as un-Islamic.³⁷ In any case, it remains prevalent in the country, especially in rural areas. As in the case of domestic violence, it can be difficult to make quantitative estimates as to its exact incidence, and inadequate research has been conducted on the topic. One of the few reasonably reliable studies conducted on the topic in 2003 estimated that around a third (34%) of all ethnic Kyrgyz marriages resulted from non-consensual bride kidnapping.³⁸

Although the kidnapping of a person for the purpose of forced marriage is a crime under Kyrgyz law, punishable by up to 7 years in prison (or 10 years if the victim is under the age of 18),³⁹ members of the focus groups and expert interviews generally agreed that the practice enjoys widespread immunity in the country, for several reasons. First, as will be seen in the “Legal Knowledge” section below, some girls and women are either not aware of their right to appeal for help following a kidnapping or they simply don’t know where to go. Second, social pressure to stay with a kidnapper looms heavy for young women, especially those who are uneducated and living in rural areas; escaping a kidnapper often means being ostracized by the community and one’s own family, and perhaps precluding the option of ever being able to marry voluntarily (since potential suitors and their families in the community believe, even if the girl was not raped after the kidnapping, that she is not a virgin any longer). A strong cultural emphasis on humility and deference to one’s elders plays a role in cowering victims into submission. Third, threats from the kidnapper and his family may contribute to a victim’s fear of leaving in some cases. A lack of education and few or no opportunities for economic independence limit a woman’s perceived options should she choose to escape. Finally, once a kidnapping victim agrees, even under immense psychological pressure, to marry the perpetrator, she may believe (incorrectly) that she has no legal right to file a complaint. Attitudes and understandings of justice institutions for kidnapping victims are discussed further below.

Divorce and related rights

Not unrelated to the problems of domestic violence and bride kidnapping is divorce, which was widely cited in expert interviews and focus groups as a common problem for women in itself. National statistics suggest that divorce and marriage rates among the general population have both been rising in recent years, but overall, official rates of divorce per 1000 marriages seem to have remained fairly stable, with some fluctuation from year to year. In 2005, for example, there were 7.2 marriages and 1.2 divorces per 1,000 population in the country, with 163 divorces for every 1,000 marriages; and in 2012, the corresponding figures were 9.8 marriages and 1.6 divorces per 1,000 people, with 158 divorces for every 1,000

³⁶ See, e.g., Russ Kleinbach & Lilly Salimjanova, *Kyz ala kachuu and adat: non-consensual bride kidnapping and tradition in Kyrgyzstan*, 26(2) C. ASIAN SURVEY 217 (2007).

³⁷ *Id.* at 218.

³⁸ Russell Kleinbach, *Frequency of Non-Consensual Bride Kidnapping in the Kyrgyz Republic*, 8(1) J. OF C. ASIAN STUDIES (2003).

³⁹ Criminal Code of the Kyrgyz Republic, 1 October 1997, as amended 25 October 2014, arts. 154–155.

marriages.⁴⁰ Divorce applications also represent a significant portion of lawsuits filed each year. In the first half of 2014, applications for dissolution of marriage constituted 16.5% of all civil law cases completed by the court system.⁴¹

It should be borne in mind, however, that many couples split without officially divorcing, due to bureaucratic or practical reasons, especially when one or both spouses are working abroad, which may conceal some degree of the divorce that is occurring. Furthermore, while 5,808 applications for divorce were filed in the first half of 2014, during the same period 236 (4.1%) divorce suits were withdrawn, and another 22 rejected by the court.⁴² This may explain, in part, why just 6% of women in the present sample reported that they were divorced; those who are unofficially separated from a spouse not admit this to an interviewer or consider themselves to be divorced.

Experts and representatives of the formal and informal justice sectors also emphasized that divorce served as a root cause for a host of other problems that women faced, including applying for child support payments (alimony) from an ex-husband, property division, return of dowry, and others. Applications for child support, for example, represented another 9.6% of all completed civil cases in the first half of 2014.⁴³ The challenges that spring from these issues are particularly acute for women who lack an official marriage certificate. As noted above, under Kyrgyz law, religious and civil marriages not recognized by the state do not carry the same rights and privileges as officially registered unions.

A troubling development revealed by the interviews and focus groups was a widespread belief that unregistered religious marriages are on the rise in the country, an assertion that was to some degree borne out by the quantitative research described above. In such arrangements an imam/mullah performs the marriage ceremony according to certain conditions, such as the mutual consent of the parties, the consent of the bride's guardian (usually her father), the presence of witnesses, and the mahr (the gift from the groom to the bride). The problem with such religious marriages among a population with a low level of legal literacy is that many women do not understand the fundamental difference between an official, registered marriage and *nike*. Women may understand that an "official" marriage is important for protecting their rights, but they may not realize that marriage in a mosque is not "official" in the sense understood by Kyrgyz law.

2. Children and youth

Children's ability to enjoy the guarantees of the law is, of course, closely related to their family's situation. In 2012, 28.1% of births, or 154,918 children, occurred outside of an official marriage.⁴⁴ A child in such a situation begins life in a potentially challenging position. As described above, a mother's lack of a marriage certificate creates an automatic barrier to receiving child support from the father, should the couple split (or if they are no longer together when the child is born), as the mother must then provide documentation for proving paternity in order to receive court-ordered child support payments. With inadequate

⁴⁰ National Statistical Committee of the Kyrgyz Republic, *supra* note 13, at 56.

⁴¹ Of 31,506 civil law cases completed during the first half of 2014, 5,211 were applications for divorce. Official statistics on criminal and civil cases handled by the court system were furnished by the Judicial Department of the Kyrgyz Republic to M-Vector upon official request.

⁴² *Id.*

⁴³ In the first half of 2014, courts concluded 3,022 child support application cases, out of a total of 31,506 completed civil cases. *Id.*

⁴⁴ National Statistical Committee of the Kyrgyz Republic, *supra* note 13, at 55.

financial resources, children are less likely to obtain a high-quality education and more likely to have to work from an early age to support their family. Furthermore, children born out of wedlock may be more likely to face discrimination at a community level.

Several of the experts interviewed expressed a belief that the rising incidence of labor migration to Russia and other countries is driving the disintegration of the family unit in the Kyrgyz Republic, and along with it the rights of children. Children born in Russia do not receive a certificate upon birth, and many others born are to single mothers in the Kyrgyz Republic who have been left behind by a partner or husband now working in Russia.

Difficult life circumstances

Many children in Kyrgyzstan currently face serious life difficulties, as defined by the Ministry of Social Development (MSD). Statistics from the MSD show that as of the second quarter of 2014, a total of 27,724 minors (17 years and younger) in Kyrgyzstan were identified as “orphans,” that is, children whose parents have both died or one or more of whose parents are unknown.⁴⁵ Another 123,273 were considered to be living under “difficult circumstances,” including neglect, abuse, abandonment, disability, low income, unstable residence, lack of documents, etc.⁴⁶

The MSD further recognizes children who have fallen into the category “without parental care” over the course of the year. A child meeting this definition is a person under the age of 18 whose parent or parents have died, whose parent(s) are unknown, whose parent(s) are absent due to imprisonment or restriction of parental rights, whose parents have been recognized as incapacitated, whose parents have refused to care for them, who are living in a social protection institution, etc. The table below shows the number of children who have been placed in this category in 2013 and the first quarter of 2014.

Table 3. Number of children left without parental care, 2013-2014 (Min. of Soc. Dev.)⁴⁷

Region	2013	As of 2 nd quarter 2014
Bishkek	119	91
Chuy province	187	157
Issyk-Kul province	198	89
Naryn province	145	49
Talas province	139	44
Osh city	82	25
Osh province	162	114
Jalal-Abad province	397	217
Batken province	123	72
Total	1,552	858

⁴⁵ MSD Statistics 2014, *supra* note 21.

⁴⁶ *Id.* It is important to note that these statistics, which were furnished by the Ministry of Social Development for the M-Vector study, raise doubts as to the possibility of underreporting, misreporting, and varying understandings across provinces as to the meaning of the reporting criteria. For example, the data for “children living in difficult circumstances” shows tremendous variation across provinces; Jalal-Abad province reported 56,622 children living in difficult circumstances in 2014, while neighboring Osh province reported just 51 such children. Thus the Ministry of Social Development data should be viewed as indicative, but not conclusive for quantitative estimates of children’s circumstances in Kyrgyzstan.

⁴⁷ MSD Statistics 2014, *supra* note 21.

Furthermore, the MSD identified 58 children as “homeless” as of the second quarter of 2014. Another 51 children were identified as “neglected,” and in this same period 181 children were found not to be attending school.⁴⁸

Abuse and maltreatment

In all of 2013, the MSD recognized 39 children in the country who had been abused or maltreated, and 12 children who had been sexually abused; in the first half of 2014 the MSD reported 18 child victims of abuse or cruel treatment.⁴⁹ Although statistics on domestic abuse and especially sex offenses are generally recognized as universally underreported, they are particularly likely to be underreported in the Kyrgyz Republic, where social pressure exists discouraging victims and witnesses from reporting on crimes and social problems that are considered to be strictly family affairs, such as domestic abuse and sex crimes. This reluctance to talk about sensitive family issues also makes it less likely that children are educated about what constitutes abuse and where they can turn for help. Hence, children themselves are less likely to report abuse when it is occurring without the knowledge of family or community members.

Self-reported rights violations

The research found that the situations in which children and young people said their rights were most often violated were in accessing education, healthcare, and employment. For children aged 14 to 18, 17% reported experiencing a barrier to adequate schooling. Almost a third (29.8%) of youths aged 19 to 28 reported that their rights had been violated in the course of hiring, employment, or starting a business. Another quarter (24.1%) said they had experienced barriers to receiving medical care (24.1%), while 13.2% said their rights had been infringed through interactions with law enforcement.

3. People with Disabilities

Access to education and government services

The in-depth interviews with experts revealed that often for PWDs the biggest problem is that of fundamental access to services and institutions. Interviewees, including representatives from the judiciary, civil society, and the bar association, noted that ramps are scarce in government buildings (and others) and that this can often mean that PWDs are not able to seek basic medical care, government services, or education. As the representative for the Ombudsman’s office put it, “First, there is no infrastructure. For this reason there is no access to other services, such as education. The child must go to a special school if, for example, he is blind; but if he has problems with his legs, for example, the infrastructure must be created so he can go to a regular school.”

Access to employment

Others mentioned that PWDs experience difficulty in accessing employment, both for the reason of physical accessibility and because of discrimination. One judge described the problem, saying, “PWDs have the problem of illegal dismissal, especially those who have a

⁴⁸ *Id.* Note that the MSD statistics exhibit surprising gaps, for example, Batken province, Naryn province, and Osh city do not report any cases of neglected children. Although it is possible that there are no cases in these regions, this may also suggest a problem with the data collection.

⁴⁹ *Id.*

disability that is not immediately noticeable. Everyone thinks that such a person can work to full capacity, but he cannot. Accordingly, for PWDs, even getting hired for a job is a problem.”

Pensions and benefits relating to disability

Many interviewees noted the challenges that PWDs face in ensuring the receipt of government pensions and benefits. Problems can stem from missing or improperly filled documentation or an applicant’s lack of knowledge regarding where to refer for assistance. Often, a missing birth certificate or certificate of disability can mean that a person with a disability is unable to access other fundamental services, like housing, pension, or health care.

V. ACCESS TO JUSTICE ASSESSMENT

Assessment Tool

The following analysis is based upon the Access to Justice tool developed by the American Bar Association Rule of Law Initiative (ABA ROLI).⁵⁰ It examines six distinct aspects of access to justice in order to provide a concrete and practical picture of the situation that average citizens face daily in trying to enforce their rights and freedoms. For the purposes of this study, the tool will be used to examine the situation for the target vulnerable groups in the Kyrgyz Republic. Although the analysis will, therefore, contain specific aspects relating only to particular groups, we can draw a number of conclusions from the findings here that can be extrapolated to the broader population.

The six elements of the ABA ROLI Access to Justice tool are summarized in the table below and then addressed in detail one by one.

Access to Justice Elements (ABA ROLI)	
I. Legal Framework	To what extent is there a legal framework that establishes citizens' rights and duties and provides citizens mechanisms to solve their common justice problems?
II. Legal Knowledge	To what extent are citizens aware of 1) their rights and duties; and 2) the mechanisms available to solve their common justice problems?
III. Advice and Representation	To what extent can citizens access the legal advice and representation necessary to solve their common justice problems?
IV. Access to a Justice Institution	To what extent do justice institutions, whether formal or informal, exist that 1) are affordable, 2) are accessible, and 3) process cases in a timely manner?
V. Fair Procedure	To what extent do justice institutions, whether formal or informal, ensure: 1) citizens have an opportunity to effectively present their case; 2) disputes are resolved impartially and without improper influence; 3) where disputes are resolved by mediation, citizens can make voluntary and informed decisions to settle?
VI. Enforceability of Decisions	To what extent are justice institutions able to enforce their decisions?

⁵⁰ American Bar Association Rule of Law Initiative, *supra* note 5.

ELEMENT 1: LEGAL FRAMEWORK

“To what extent is there a legal framework that establishes citizens’ rights and duties and provides citizens mechanisms to solve their common justice problems?”

Summary:

The Kyrgyz Republic boasts an impressive array of legal instruments aimed at promoting equal rights and freedoms for all of the country’s citizens, from the Constitution down to the bylaws and Ministerial orders governing the implementation of national legislation. Numerous laws exist relating to each of the target groups addressed in this assessment. However, due to a number of challenges, including deficits in the legislation, vague wording, lack of funding sources, and poor monitoring and enforcement, many of these laws currently remain declaratory. In order to establish a truly sound legal framework that could form the basis for vulnerable groups’ access to justice, the Kyrgyz Republic must commit itself to rigorous implementation efforts and meaningful opportunities for citizens to demand their legal rights be enforced.

Highlights:

- The Kyrgyz Republic has ratified the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and related protocols.
- The Constitution and several pieces of legislation specifically prohibit discrimination on the basis of sex, age, disability status, age, and social status, but anti-discrimination provisions lack concrete enforcement mechanisms and thus are poorly enforced.
- Procedural provisions for both civil and criminal cases do not always take full account of the needs of especially vulnerable participants in court proceedings such as child witnesses and victims as well as people with physical limitations.
- Legislation aimed at protecting victims of crime and violence is poorly enforced and does not clearly define responsible parties for reporting cases of violence against particularly vulnerable victims such as children and people with limited mobility.

A. International framework

The Kyrgyz Republic has ratified a wide variety of international instruments on human rights protections. However, the country’s level of compliance with the provisions of these instruments varies.

Women

In 1996, Kyrgyzstan ratified the **UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**, which guarantees, in part, that:

- States must take special account of the situation and needs of women living in rural areas⁵¹
- States must work to eliminate discrimination against rural women to ensure their full participation in society and development⁵²
- States must recognize equality of women and men before the law⁵³
- States must provide to women equal legal capacity and the opportunity to exercise it, in particular through the conclusion of contracts, administration of property, and through their equal treatment in justice institutions⁵⁴

Kyrgyzstan has also ratified the Declaration on the Elimination of Violence against Women in 1994 and the Beijing Declaration and Platform for Action (BPA) in 1995. These instruments require that parties adopt measures to prevent and eliminate all forms of discrimination and violence against women and girls in both public and private spheres of life.

Article 20 of the BPA notes that although poverty affects many women in urban areas, special attention should be paid to the plight of women living in rural and remote areas with a lower level of development. The instrument points out that women in rural areas have been left behind in many cases in terms of economic and social marginalization, even in countries that have shown improvement overall in achieving gender equality.⁵⁵ The BPA also calls attention to the fact that women often face barriers to full equality and advancement because of factors such as race, age, language, ethnicity, culture, religion, disability, or other status leading to marginalization in society at large.⁵⁶

Kyrgyzstan presents a clear example of the reason for these provisions; the situation for rural women, particularly with regard to access to justice and economic development, has remained largely unchanged since the adoption of these instruments. Legislative efforts to strengthen gender equality have not taken into account the particularities of life for rural women and have thus failed to evoke meaningful change.

Children and youth

In 1994, the Kyrgyz Republic joined the Convention on the Rights of the Child (CRC), and in 2002 the country acceded to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, as well as the Optional Protocol on the Involvement of Children in Armed Conflict.

The Convention guarantees to children a number of fundamental rights, including:

- the right to life;⁵⁷
- the right to state registration at birth, to a name, and to a nationality;⁵⁸
- the right to expression;⁵⁹

⁵¹ Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force Sept. 3, 1981, art. 14(1) [hereinafter CEDAW].

⁵² CEDAW, art. 14(2).

⁵³ CEDAW, art. 15(1).

⁵⁴ CEDAW, art. 15(2).

⁵⁵ Beijing Declaration and Platform for Action, adopted 15 Sept. 1995, para. 20 [hereinafter BPA].

⁵⁶ BPA, para. 46.

⁵⁷ Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force Sept. 2, 1990, art. 6 [hereinafter CRC].

⁵⁸ CRC, art. 7.

- the right to protection from violence and exploitation;⁶⁰
- the right of children with disabilities to a decent life with conditions ensuring her dignity;⁶¹
- the right to protection from torture and cruel, inhuman or degrading treatment or punishment;⁶² and
- the right to rehabilitation and recovery for victims of violence and abuse,⁶³ among others.

People with Disabilities

In 2011, the Kyrgyz Republic signed the Convention on the Rights of Persons with Disabilities, but to date has not yet ratified it.⁶⁴

Accordingly, the state has provided few concrete mechanisms at the legislative level aimed at protecting the rights and freedoms of people with disabilities. In particular, the government has failed to pay adequate attention to those individuals who stand the risk of multiple forms of discrimination, for example women and girls with disabilities, individuals with serious and/or complex disabilities requiring a high degree of support, children and young people with disabilities, elderly persons with disabilities, and people from minority ethnic and religious groups with disabilities.

B. National constitutional framework

The Constitution of the Kyrgyz Republic guarantees protection of the rights and freedoms enshrined within it, within international instruments to which the country is a party, and the generally recognized rights and principles of international law. Embedded within the Constitution is the declaration that “human rights and freedoms are inalienable and belong to everyone at birth”;⁶⁵ furthermore it prohibits discrimination “on grounds of sex, race, language, disability, ethnicity, religion, age, political or other beliefs, education, origin,” and other characteristics.⁶⁶

The Constitution declares men and women to have “equal rights and freedoms and equal opportunities for their realization.”⁶⁷ It guarantees citizens the protection of their rights as defined by national law and international treaties to which the country is party, along with the development of trial procedures and standards required to ensure that protection.⁶⁸ And it declares that all have the right to receive “qualified legal aid,” which under circumstances defined by law shall be paid by the state.⁶⁹

⁵⁹ CRC, art. 13.

⁶⁰ CRC, art. 19.

⁶¹ CRC, art. 23.

⁶² CRC, art. 37.

⁶³ CRC, art. 39.

⁶⁴ For an updated list of the Convention’s signatories and states parties, see UN ENABLE, *Convention and Optional Protocol Signatures and Ratifications*, <http://www.un.org/disabilities/countries.asp?navid=12&pid=166> (last visited October 25, 2014).

⁶⁵ 2010 Constitution, art. 16(1).

⁶⁶ 2010 Constitution, art. 16(2).

⁶⁷ 2010 Constitution, art. 16(4).

⁶⁸ Constitution of the Kyrgyz Republic, art. 40(1).

⁶⁹ Constitution of the Kyrgyz Republic, art. 40(3).

C. National legislative framework

In accordance with the Constitution, the treaties that the Kyrgyz Republic has ratified are automatically integrated into national law;⁷⁰ in addition, the government has passed a number of national legislative measures aimed at the effective realization of treaty provisions concerning vulnerable groups.

General provisions

Right to equality before the law and legal capacity

Under Kyrgyz Law, women and men exercise equal legal capacity and equal rights to exercise that capacity, which begins with birth and ends with death.⁷¹ Full civil capacity begins at 18 years, with exceptions for entry into marriage under the legally lowered marriage age (17 years) and emancipation (16 years).⁷² Civil standing is recognized equally for all citizens of any age, but civil procedural capacity depends on age; for that reason, minors are generally represented in legal proceedings by their legal guardians.

Right to a fair trial

In accordance with the Civil Procedure Code, the administration of justice in civil matters is based upon the principle of “equality before the law and the courts for all citizens regardless of gender, race, nationality, language, religion, political or religious beliefs, origin, property or official status, place of residence, and any other conditions or circumstances of a personal or social nature....”⁷³

In rural areas, access to justice in civil cases often revolves around issues of land, inheritance rights, or family law (divorce, property division, and/or child support). In such cases, jurisdiction can represent a major issue affecting access to justice, particularly for marginalized groups, and it is addressed by the Civil Procedure Code. According to article 28, a court action must be brought in the place of the defendant’s residence.⁷⁴ This rule could represent a barrier to justice for marginalized groups who are physically distant from the defendant’s place of dwelling and who lack the resources to travel to this area to participate in litigation proceedings. However, article 29 of the Civil Procedure Code establishes jurisdiction per the plaintiff’s choice under certain circumstances.⁷⁵ This provision greatly increases women’s ability to participate in certain necessary legal procedures, such as filing for divorce or dissolution of a marriage when her husband has been absent or imprisoned for a term of three or more years, divorce in cases where there are minor children involved or the plaintiff’s health prevents her from traveling, and in all cases for establishing paternity and seeking child support payments.⁷⁶

⁷⁰ Constitution of the Kyrgyz Republic, art. 6(3).

⁷¹ Civil Code of the Kyrgyz Republic, 8 May 1996, as amended 21 April 2014, art 52 [hereinafter Civil Code].

⁷² Civil Procedure Code of the Kyrgyz Republic, 29 December 1999, as amended 14 March 2014, art. 37 [hereinafter Civil Procedure Code].

⁷³ Civil Procedure Code, art. 7.

⁷⁴ Civil Procedure Code, art. 28.

⁷⁵ Civil Procedure Code, art. 29.

⁷⁶ Civil Procedure Code, art. 29(1), (3), (5), (6).

The Criminal Procedure Code (CPC) guarantees legal rights protections to all parties at each stage of the process.⁷⁷ Guarantees for victims and compensation for damages are established by law, and according article 16 of the CPC guarantees the impartial administration of criminal justice for all.⁷⁸ However, in practice there remain cases in which women, especially victims of crimes that carry cultural or social taboos like rape or incest, may be at a disadvantage in criminal proceedings. For example, the provision of an interpreter where necessary, which is guaranteed by law,⁷⁹ may not take into account the sensitive nature of the subject matter, leaving women victims vulnerable to misinterpretation or exploitation by a translator with discriminatory or insensitive attitudes towards the acts described by the victim.

Procedural concerns for vulnerable populations

Aside from the mandatory provision of a lawyer to criminal defendants who are in some way incapacitated, mentioned below, very few procedural provisions take account of the special needs of adult vulnerable groups such as victims of gender-based crimes and people with disabilities. While situations unaccounted for by the law can be dealt with by individual judges on a case-by-case basis, the lack of a standardized system and a common understanding of that system creates an environment that starkly raises the risk of rights violations for people with disabilities participating in the formal judicial system.

The legislation does not clearly define the procedure for summoning parties to judicial proceedings. A party to a case is notified by subpoena or by the use of other means of communication able to inform the individual about his required appearance in court. Thus it is possible to dispute the issue of a proper summons based, for example, on poor mobile phone connection. This can create misunderstandings and allow perpetrators of crimes against vulnerable groups to avoid appearing in court.

Kyrgyz law also fails to provide a concrete period of time by which parties to proceedings must be summoned. The Civil Procedure Code, for example, provides that parties must have sufficient time to prepare for the case and their timely appearance in court,⁸⁰ but the law does not specify any method by which to calculate a period of time sufficient of the preparation of the case. This oversight could have particularly negative outcomes for persons with disabilities or other special circumstances that could require additional time to prepare to appear in court.

On a positive note, the law does provide for certain benefits (exemptions from payment) for claims filed by NGOs, institutions, educational institutions, and associations working on behalf of people with disabilities.⁸¹ On the other hand, exemption from payment for individual people with disabilities is at the discretion of the court and involves an overly bureaucratic process that requires the claimant to prove his inability to pay the court costs.

⁷⁷ Criminal Procedure Code of the Kyrgyz Republic, 30 June 1999, as amended 14 July 2014, art. 9(1) [hereinafter Criminal Procedure Code].

⁷⁸ Criminal Procedure Code, art. 16.

⁷⁹ Criminal Procedure Code, art. 23(2).

⁸⁰ Civil Procedure Code, art. 123(2).

⁸¹ Law of the Kyrgyz Republic “On State Duties,” 15 August 2007, as amended 13 April 2012, art. 6.1(18).

Liability for Vulnerable Groups

Under criminal law, a person's disability is not in itself defined as a mitigating factor for liability, but it may be recognized as such at the discretion of the court. In addition, the Criminal Code excludes people with Type 1 and Type 2 disabilities from the penalties of mandatory service or correctional labor.⁸²

The Law on Administrative Liability recognizes a number of circumstances that can mitigate administrative responsibility for people with Type 1 and Type 2 disabilities, as well as for pregnant women and single parents raising children who are under 14 years old.⁸³ The law also excludes these same groups from the possibility of administrative arrest⁸⁴ and people with Type 1 and Type 2 disabilities as well as women on maternity leave from mandatory community service.⁸⁵ The law prohibits the deprivation of the right to use a vehicle for disabled individuals who depend on them for mobility, except in cases where they were apprehended driving under the influence of alcohol or drugs, or in cases where they willfully left the scene of an accident to which they were party.⁸⁶ Furthermore, the law provides for special protections from exploitation for people with disabilities by imposing administrative responsibility on entities which take advantage of a consumer's inability to protect her interests due to a disability, illiteracy, or inability to understand the language of an agreement.⁸⁷

The law does not allow exclusion from civil liability for special circumstances, including for people with disabilities.

Right to representation in criminal cases

The participation of a defense lawyer is mandatory in criminal cases where the defendant is a minor.⁸⁸ However, a child defendant is unlikely to have the level of sophistication and knowledge to assess the work of her lawyer, let alone lodge a complaint with the Ministry of Justice or the National Commission on State-Guaranteed Legal Aid if that work is sub-par. Also problematic is the fact that children who are victims of crime or abuse are not guaranteed a lawyer.

The Criminal Procedure Code provides for the mandatory provision of defense counsel under other circumstances. Under its provisions, for example, a suspect who is unable to adequately defend himself due to the existence of a physical or mental disability such as deafness, blindness, speech disorder, chronic illness, dementia, intellectual disability (mental retardation), and others is guaranteed a defense attorney in criminal proceedings.⁸⁹

According to the Law "On State-Guaranteed Legal Aid" (SGLA), free legal assistance in certain categories of cases is granted to citizens of the Kyrgyz Republic whose individual or

⁸² Criminal Code of the Kyrgyz Republic, 1 October 1997, as amended 25 October 2014, art. 43(4) [hereinafter Criminal Code].

⁸³ Law of the Kyrgyz Republic "On Administrative Liability," 4 August 1998, as amended 25 October 2014, arts. 42(5), 42(7) [hereinafter Law on Administrative Liability].

⁸⁴ Law on Administrative Liability, art. 38(3).

⁸⁵ Law on Administrative Liability, art. 40-1(3).

⁸⁶ Law on Administrative Liability, art. 33.

⁸⁷ Law on Administrative Liability, art. 320.

⁸⁸ Criminal Procedure Code, art. 43.

⁸⁹ Criminal Procedure Code, art. 46.

family income falls below a certain threshold, or who are minors, persons with Type I or Type II disabilities and other physical limitations, persons accused for particularly serious crimes, veterans, or unemployed.⁹⁰ Currently the law provides only for assistance in criminal cases, excluding representation in civil and administrative proceedings. In addition, it does not have any special provisions relating to women.

While the adoption of the SGLA law represented an important step forward in guaranteeing equal access to justice for all in criminal cases, serious problems remain for its effective implementation. A common complaint voiced by civil society representatives and legal professionals is that the roster of lawyers maintained by the government features primarily unqualified attorneys who fail to provide a minimum acceptable standard of representation to the law's beneficiaries – usually poor and marginalized members of society.

Right to information

The Criminal Procedure Code requires that criminal proceedings be conducted in the national language or an official language of the country, and it provides for those who do not speak one of these languages to testify in their native language with the help of an interpreter.⁹¹ Furthermore it provides for translation of any necessary court documents into the individual's native language.⁹² This includes an interpreter to and from sign language for deaf participants in proceedings. However, the law does not specifically provide an opportunity for individuals with visual impairments to familiarize themselves with the court documents (for example, through Braille or large font documents). This is also true of the Civil Procedure Code, which envisions the provision of an interpreter for courtroom proceedings,⁹³ but does not account for the needs of visually impaired adults and children.

Right to compensation

The Civil Code establishes civil liability for damages to a victim's health and imposes the possibility of reimbursement to the victim for medical costs and non-pecuniary damage.⁹⁴ Such compensation may be awarded after the victim files a claim for damages, or in the case of child victims, when the request is filed by the child's legal representative or by the prosecutor where the victim is unable to file on his/her own account.

The Civil Code also guarantees citizens compensation by the state for losses caused as a result of illegal actions or inactions caused by government bodies or their officials.⁹⁵

Gender-specific provisions

In its efforts to promote gender equality, Kyrgyzstan has developed a National Strategy for Achieving Gender Equality by 2020 ("National Gender Strategy") and a National Action Plan for Achieving Gender Equality in the Kyrgyz Republic for 2012–2014 ("NAP"). The NAP sets targets and enumerates measures for eliminating gender discrimination and improving access to justice for women. However, the NAP departs from the spirit of the BPA by failing

⁹⁰ Law of Kyrgyz Republic "On State-Guaranteed Legal Aid," 17 July 2009, arts. 6–7 [hereinafter Law on SGLA].

⁹¹ Criminal Procedure Code, art. 23(2).

⁹² Criminal Procedure Code, art. 23(3).

⁹³ Civil Procedure Code, art. 11.

⁹⁴ Civil Code, arts. 14, 16.

⁹⁵ Civil Code, art. 15.

to take special account of the situation for rural women, and for failing to create mechanisms for identifying their needs.

Article 5 of the Law “On State Guarantees of Equal Rights and Opportunities for Men and Women” prohibits direct and indirect forms of gender discrimination against either sex in any sphere of activity.⁹⁶ Per the law, “indirect discrimination” includes the creation of conditions or requirements which result or could result in negative consequences for people of a particular sex, as well as “the reproduction of gender stereotypes in the media, education, and culture.”⁹⁷

While the creation of this law signaled a positive development in attention to gender issues at the political level, the degree to which it has been meaningfully implemented is highly dubious. The law does not provide for sufficiently concrete consequences for its violation, and thus fails to pose a meaningful challenge to ongoing discrimination in Kyrgyz society. Thus, although national legislation is generally free of directly discriminatory provisions, indirect discrimination continues to occur against women in public institutions, workplaces, schools, politics, and the justice system.

Child- and youth-specific provisions

In an effort to standardize its approach to the rights of children and youth, in 2012 the government adopted a National Strategy on Youth Policy through 2015 (NSYP).⁹⁸ The activities enumerated in this document are, however, stated broadly and are of a declarative nature, including: improve the legal framework on youth policy; increase youth capacity; develop “spiritual and moral values” of the younger generation and civic education; etc. Unfortunately, this document overlooks the issue of youth access to justice.

The adoption of the national Strategy on the Development of Social Protections for the Population (SDSPP) for 2012–2014 did, however, signal some governmental attention to the issue of children’s access to justice. In particular, the strategy envisioned protections for the personal property rights and opening of separate personal accounts for children living in governmental institutions (independent of their parents),⁹⁹ the development of mechanisms to ensure the participation of a legal representative for children accused of criminal offenses during the inquiry and trial stages, and the organization of a telephone hotline for use by children and families affected by violence, although the latter has not yet been implemented due to lack of funding.

Children’s rights in civil proceedings

As noted above, under Kyrgyz law, children possess only limited procedural capacity; the rights, freedoms, and legitimate interests of children under 14 are defended by a legal representative in civil proceedings,¹⁰⁰ while those between the ages of 14 and 17 may be permitted by the court to represent their own interests in certain types of proceedings.¹⁰¹ Particularly in cases concerning civil, family, labor, and administrative relations, and

⁹⁶ Law of Kyrgyz Republic “On State Guarantees of Equal Rights and Opportunities for Men and Women,” 4 August 2008, as amended by law 14 July 2011, art. 5 [hereinafter Law on Gender Equality].

⁹⁷ *Id.*

⁹⁸ Resolution of the Kyrgyz Republic #640 of 25 September 2012.

⁹⁹ Codified in Law of the Kyrgyz Republic on Children, 10 July 2012, arts. 77–78 [hereinafter Children’s Code].

¹⁰⁰ Civil Procedure Code, art. 37(5).

¹⁰¹ Civil Procedure Code, art. 37(3).

especially cases concerning business or income, minors have the right to personally defend their rights and interests, although the court has the power to involve their legal representatives as it sees fit.¹⁰² Furthermore, adopted children aged 14 and older may appeal to the court for cancelation of their adoption, which may be permitted according to certain conditions prescribed by law.¹⁰³

In civil cases relating to the rights and interests of a child 10 years or older, the court is obliged to take the child's views into consideration. In addition, the court must obtain the consent of a child of this age when deciding on certain questions, such as any change in the child's name, the restoration of parental rights that have previously been denied, and the placement of a child left without parental care into an alternative arrangement, such as foster care, adoption, or transfer of custody.¹⁰⁴

With regard to minor witnesses in civil proceedings, the assistance of a representative is required during the testimony of children under the age of 14, and at the discretion of the court for the testimony of witnesses between the ages of 14 and 16.¹⁰⁵ The parent or guardian of child witnesses may also be called to court to assist, as necessary. Following testimony, witnesses under the age of 16 must be removed from the courtroom, unless the court finds her presence necessary.¹⁰⁶

Children's rights in criminal proceedings

The treatment of children in criminal proceedings, whether as defendants, victims, or witnesses, is prescribed by the provisions of the Convention on the Rights of the Child. The Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, adopted by the United Nations Economic and Social Council in 2005, further elaborate on these principles. At this time, the legislation of the Kyrgyz Republic does not, unfortunately, fully comply with these international standards.

Under current national legislation, the representation of child victims of crime depends upon the type of application submitted to the court, for example, whether it is a private prosecution¹⁰⁷ or a private-public prosecution.¹⁰⁸ The prosecutor and the investigator may on their own initiative bring a private-public proceeding where the alleged crime affects the interests of 1) state and society; or 2) a person in a helpless or dependent state, or who for other reasons is unable to protect her rights.¹⁰⁹ Children are assumed to fall under this second category; however, such initiation of proceedings by the prosecutor is a right, but not a duty.

Minors who are accused of a crime are afforded certain procedural protections, in particular the mandatory participation of a legal representative throughout the proceedings.¹¹⁰ One particularity that threatens access to justice in certain criminal proceedings is the provision pertaining to private and private-public prosecutions that allows the case to be dropped if the parties reconcile or if the victim refuses to maintain the prosecution.¹¹¹ In cases where a child

¹⁰² Civil Procedure Code, art. 37(4).

¹⁰³ Children's Code, arts. 62–63.

¹⁰⁴ Family Code, art. 62; Children's Code, art. 21.

¹⁰⁵ Civil Procedure Code, art. 180(1)–(2).

¹⁰⁶ Civil Procedure Code, art. 180(3).

¹⁰⁷ Criminal Procedure Code, art. 26(2).

¹⁰⁸ Criminal Procedure Code, art. 159(1).

¹⁰⁹ Criminal Procedure Code of the Kyrgyz Republic, art. 159(2).

¹¹⁰ Criminal Procedure Code of the Kyrgyz Republic, art. 43(1).

¹¹¹ Criminal Procedure Code of the Kyrgyz Republic, art. 28(12).

is the victim, the case may thus be dropped if her legal representative agrees, even if the child's views have not been taken into account, contrary to the requirements of the CRC.

As noted above, the Law on State Guaranteed Legal Aid and other legislation of the Kyrgyz Republic does not currently envision representation for children who are victims or witnesses of crime. The laws are also silent as to psychological assistance for such victims, a point of conflict with the state's obligations under the CRC, which obliges states to provide rehabilitation for victims of violence and abuse.¹¹²

In general, the proceedings as envisioned by the current Criminal Procedure Code, both during the stages of the investigation and throughout the courtroom proceedings, fail to take into account the needs of child participants in criminal cases. Kyrgyz law does not cover a number of situations that international standards deem deserving of special attention where children are involved, such as: the procedure for confrontation between the defendant and the child victim or witness; the procedure for identification of a suspect that does not require direct contact between the suspect and the child victim or witness; procedures for medical examination and/or re-examination of a child victim; gender considerations (i.e., the assigning of an investigator of the same sex as the victim) relating to child victims of crime; and the timing and duration of investigation and prosecution procedures when the victim is a child. In these and other procedures, in order to avoid the traumatization and/or re-victimization of child witnesses and victims, the judicial system should employ specially trained professionals who are able to treat minors involved in the process with an appropriate level of care and sensitivity according to the needs of each individual.¹¹³

Children's right to protection from violence and exploitation

Per the Children's Code, the government of the Kyrgyz Republic has committed to protecting children from physical, mental, and/or sexual violence, cruel or degrading treatment, involvement in criminal activity and other threats to their constitutional rights.¹¹⁴ In accordance with this obligation, the Family Code envisions restriction or deprivation of parental rights in cases of failure to perform parental duties, including by abuse, neglect, and alcohol/drug addiction.¹¹⁵

Serious crimes such as murder, infliction of serious bodily injury, trafficking in persons, forced labor, rape and other forms of sexual assault, forced prostitution, and others carry additional penalties if committed against a minor, as does the production of child pornography if the victim is under 14. In addition, the Criminal Code was recently amended to toughen penalties for the act of kidnapping for the purpose of forced marriage, now envisioning sentences up to 10 years if the victim was a minor.¹¹⁶

One practical problem with the legislation on victims of forced prostitution¹¹⁷ is that it does not clearly define "prostitution" or "child prostitution," which leads to difficulties in the successful prosecution of perpetrators. Furthermore it can be difficult to procure evidence for

¹¹² CRC, art. 39.

¹¹³ See, e.g., The Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, ECOSOC Res. 2005/20, 22 July 2005, para. 10.

¹¹⁴ Children's Code, art. 16.

¹¹⁵ Family Code, art. 74.

¹¹⁶ Criminal Code of the Kyrgyz Republic, art. 154.

¹¹⁷ Criminal Code, arts. 260–261.

proving the necessary elements in such cases, such as proof of physical violence or the threat of physical violence, intimidation, or fraud.

The issue of domestic violence is also addressed by national legislation, which provides a definition of “family violence” and sets forth measures aimed at protecting persons subjected to such violence, especially women and children.¹¹⁸ As noted above, the main mechanism for protection provided by the law is the issuance of a temporary protection order (TPO), initially by the police (for up to 15 days), and for longer periods by a judicial protection order, which can last from 1 month up to 6 months.¹¹⁹ The protection order may regulate contact between the alleged perpetrator and victim, specifically by prohibiting further violence or prohibiting physical contact altogether. Such orders can also require the perpetrator provide financial compensation for the victim’s medical treatment or impose administrative liability (a fine or a brief period of detention) in case the order is violated.¹²⁰ Violations of the TPO may also result in criminal liability.¹²¹ Per the law, measures for the victim’s protection may be initiated after the appeal of the victim herself, or on request of a third party; a child’s consent to the measures is not required.¹²² The law also requires that certain entities, such as local self-government, NGOs, and others attending to the needs of violence victims, provide social support and advice to victims of domestic violence and, in cases involving minors, disabled people, and victims with otherwise reduced mobility, report such cases to law enforcement.¹²³ However, this list of providers is poorly defined and the obligations are vague and thus difficult to enforce.

Provisions relating to Persons with Disabilities

In spite of the fact that the Kyrgyz Republic has not yet ratified the Convention on the Rights of People with Disabilities, in 2008, the government adopted the law “On the rights and guarantees of persons with disabilities.” The stated purpose of the law was to ensure PWDs have “equal opportunities to realize their rights and freedoms” as well as to allow them to participate fully in society.¹²⁴ Among other things, the law enumerates, in broad terms, the social, civil, political, cultural, medical, educational rights guaranteed to citizens with disabilities. However, although this and other legislation are positive signs in terms of the rights of PWDs, inadequate attention has been paid to ensuring their equal access to justice in order to *enforce* those rights. In addition, as noted above, the law in its current state does not take into account the particular risk of “double discrimination” faced by women and children with disabilities.

Legal capacity of PWDs

Although legal standing is recognized equally among all citizens of the Kyrgyz Republic, ability to participate in legal proceedings may be limited according to a person’s level of capacity, which may be determined by a court without the participation of the person concerned.¹²⁵

¹¹⁸ Law of the Kyrgyz Republic, “On Social and Legal Protection from Domestic Violence,” 31 January 2003 [hereinafter Law on Protection from Domestic Violence].

¹¹⁹ Law on Protection from Domestic Violence, arts. 23, 25.

¹²⁰ Law on Protection from Domestic Violence, arts. 23, 24.

¹²¹ Law on Protection from Domestic Violence, art. 25.

¹²² Law on Protection from Domestic Violence, art. 19.

¹²³ Law on Protection from Domestic Violence, art. 12.

¹²⁴ Law of the Kyrgyz Republic “On the Rights and Guarantees of Persons with Disabilities,” 3 April 2008, as amended on 30 December 2009, preamble [hereinafter Law on the Rights of PWDs].

¹²⁵ Civil Code, art. 64.

As noted above, the Civil Procedure Code provides for interpretation and translation services for participants in legal proceedings who do not speak the national or official languages of the Kyrgyz Republic, including those requiring sign language or Braille.¹²⁶ However, the law does not envision the financial mechanism for paying such providers, a challenge to its enforcement.

The Criminal Procedure Code addresses situations where, for reason of a physical disability, a party to an investigation is unable to sign the investigation record, a third party may sign in his place with his consent.¹²⁷ However, the Civil Procedure Code does not contain any such provision.

Protection of rights, freedoms, and interests of PWDs

As noted above, the state guarantees free legal aid to defendants with certain types of disabilities in the investigation, trial, appellate, and supervisory stages of criminal proceedings.¹²⁸ However, the legislation does not provide for such assistance in civil and administrative cases. It also does not envision help for PWDs needing to appeal to other formal and informal public bodies and justice institutions, which can often be a bureaucratic and complex process.

Furthermore, although the state recognizes sign language as a legitimate means of communication, legislation in the realm of the justice system does not provide concrete mechanisms for the use of sign language when filing complaints with judicial or other public authorities without the help of an interpreter.

D. Recommendations

- The Ministry of Justice and the Parliament should include civil and administrative cases in the Law on State-Guaranteed Legal Aid. Furthermore, the law should also provide for representation of plaintiffs who are particularly vulnerable or victims of particularly serious offenses.
- Parliament should amend the Law on Social and Legal Protection from Domestic Violence in several aspects in order to better protect women, children, PWDs, and other vulnerable individuals from physical, psychological, and sexual harm in the home. Specifically, the new law should ensure:
 - Temporary Protection Orders may be issued upon any report of domestic violence, not just upon application by the victim;
 - Women have the right to appeal to the court for the limitation of a perpetrator's rights, including the imposition of limitation on a perpetrator's contact with the victim or her children, restrictions on purchasing a weapon, the imposition of mandatory behavioral correctional programs, and court-ordered divulgence of a perpetrator's conviction to his place of work;
 - Information channels are created for domestic violence victims about their rights and how to receive assistance from government bodies and NGOs;

¹²⁶ Civil Procedure Code, art. 11(2), 11(3).

¹²⁷ Criminal Procedure Code, art. 171(3).

¹²⁸ Law on SGLA, arts. 5, 7.

- Standards for the provision of public services to victims of domestic violence are created and enforced; and
- The list of those actors required to report violence against children is made broader and more concrete and specific duties are assigned.

Gender-related provisions:

- All administrative organs of the Kyrgyz Republic should monitor the recommendations and statements of the Committee on the Elimination of Discrimination Against Women and the Committee on the Rights of the Child and take steps to facilitate the realization of those recommendations, including through legislative amendments.
- The Ministry of Internal Affairs and the Ministry of Justice should ensure the effective investigation and execution of criminal sanctions for bride kidnapping. Further, Parliament should amend the law to strengthen investigation procedures for such crimes and provide greater support and protection to victims.

Child-related provisions:

- The Parliament should amend the Criminal Code to align the definition of “prostitution” with that of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography.
- Parliament should amend procedural legislation at several points to enhance protection of children’s rights and interests, including:
 - The Criminal Procedure Code should be amended to require the Prosecutor’s mandatory initiation of criminal proceedings against adult perpetrators of crimes against children.
 - The government should provide free legal representation and psychological assistance for child victims and witnesses of crimes, and ensure that children covered by the mandatory counsel provision are given an opportunity to appeal cases to the second instance.
 - The Criminal Procedure Code should be amended to take into account the special needs and vulnerabilities of children participating in criminal proceedings, including obligatory training of investigators and lawyers working with the child throughout the proceedings, the requirement that a same-sex investigator be assigned to conduct necessary examinations, protective measures for ensuring children are not placed in direct contact with the alleged perpetrator, and the obligatory presence of a trained psychologist as well as a legal representative during interrogation of the child.
 - The government should organize specialized investigative units, or investigators and judges, trained and assigned to work specifically with children, whether victims or juvenile offenders.
 - The age threshold for consideration of a child’s wishes should be reduced or removed, requiring courts to always consider a child’s opinion in matters concerning the child’s place of residence following parental separation.
 - The age threshold for a child’s mandatory consent should be reduced or removed in cases relating to adoption, restriction of parental rights, name changes, and others.

- It should be made mandatory that not only the legal representative, but the child herself gives her consent to the termination of a criminal case in which the child was a victim.

Disability-related provisions:

- The Kyrgyz Republic should immediately ratify the Convention on the Rights of People with Disabilities and its Optional Protocol and take meaningful steps towards compliance with their guarantees, particularly on expanding physical access to justice institutions and other public places.
- Parliament should amend the Civil and Criminal Procedure Codes to specify the mechanisms by which people with disabilities in sight and hearing will receive adequate interpretation and translation services to ensure their ability to effectively defend their rights.
- In reviewing legislation for compliance with international norms on PWDs, the government should follow the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, a set of guidelines which, although not binding, provide agreed-upon measures that States should take.
- The Criminal and Civil Procedure Codes should be amended where they do not comply with international standards regarding vulnerable populations. For example, the Criminal Procedure Code should ensure that victims of gender-based crimes who require interpretation services (particularly PWDs, who are especially at-risk of rights violations in court proceedings), are provided with an interpreter who is trained in gender sensitivity and the nature of trauma associated with such crimes.

ELEMENT 2: LEGAL KNOWLEDGE

“To what extent are citizens aware of 1) their rights and duties; and 2) the mechanisms available to solve their common justice problems?”

Summary

The surveys revealed a strikingly large proportion of individuals in all the target groups who said they would not seek help anywhere if their rights were violated, possibly a result of poor understanding of what those rights are and how to exercise them, a lack of trust in the justice system, or both. This was confirmed by the interviews among experts and focus groups, during which participants emphasized the low level of legal knowledge for vulnerable groups in the country. Rural women were cited as among the least legally literate due to the heightened difficulty with which they are able to obtain education and access to information. Experts asserted a need to augment citizens’ legal knowledge, although they did not agree on whether vulnerable groups such as rural women should be targeted separately or whether the problem was general to the population of the country and needed to be addressed as such.

Highlights

- In a variety of common conflict situations, both women and young people showed an overwhelming preference for the formal court system over the Aksakal court system or other options.
- About one in five respondents from the women and youth target groups said that they wouldn’t turn anywhere for help in case of domestic violence.
- More than one in 20 women said that a woman who is bride kidnapped should not seek help anywhere.
- A significant minority of women and youth do not know which rights are associated with the registration of marriage, including rights to marital property and child support.
- More than four out of five people in every target group said that they would not seek help anywhere if their rights were being infringed, suggesting a lack of knowledge about their rights and how to exercise them, a lack of trust in the efficacy of the justice system, or both.
- Those who said they would turn to lawyers in case of a rights violation represented just 3% of women, 0% of young people, and 2.6% of PWDs.

A. Assessment measures for legal knowledge of vulnerable groups

For the present study, legal knowledge was assessed both in terms of awareness and understanding of one’s rights as well as the willingness to exercise those rights. These assessments were made by examining 1) responses as to where each target group would turn for help in various conflict situations; 2) respondents’ understanding of the rights associated with registering a marriage; 3) answers to the question of what the respondent thinks a

woman should do if she is bride kidnapped; and 4) information gained through focus groups and interviews with human rights experts and justice system actors.

B. Legal knowledge of vulnerable groups

Women

Many of the human rights experts interviewed for the study described a low level of legal literacy among women, particularly those women living in rural areas who tend to have limited access to information and education. One member of the Red Crescent Society in the Bishkek suburbs described the situation, saying, "...the majority of our women don't know their own rights. I think that this happens because of the lack of access to information...where are young girls going to find out what their rights are? They came from the village, often having skipped school, to come here and work, but now they are just barely able to feed themselves and their families."

Women's knowledge about and willingness to refer to justice institutions

The experts noted that one of the biggest problems with legal knowledge for vulnerable groups is a general lack of awareness about where to turn in case of problems. This issue was noted by a representative of the Ombudsman, who said that the majority of applicants who come to them ask questions concerning areas that are not within the Ombudsman's jurisdiction, such as credit disputes, active lawsuits, or questions for local law enforcement: "People cannot distinguish the functions of the different [justice] organs, that's why I say that there is no legal literacy. People need to know clearly what courts, the Ministry of the Interior, and the Ombudsman are doing." This representative also noted that the low level of legal literacy creates extra work for them and other justice institutions, since they must spend time explaining their role and functions to the individuals who mistakenly appeal there for help.

In order to better understand average knowledge and preferences for the different institutions in various situations, women were asked where they would turn for help (aside from relatives) in specific types of conflicts or for assistance with particular legal problems. The findings are depicted in the table below, with the most preferred institution for each type of conflict highlighted in light blue.

Table 4. Where respondents would appeal in case of various conflict situations, women, %

Type of Justice Institution	Land disputes	Labor disputes	Domestic violence	Inheritance disputes	Divorce, property disputes	Violence against children
The elders of the village / community	2.8	1.4	4.7	2.1	1.6	1.9
Women's council	0.1	0	1.3	0.1	0.1	0
Local religious leaders	1	0.1	0.1	0	0	0
Local self-government institutions	45.8	10.9	0	1.2	0.9	0.4
Human rights NGOs	0.8	4.1	3.1	1.1	0.2	2.2
Crisis centers	0.3	0.1	2	0	0.3	0.6
Attorneys / Lawyers	1.5	6.9	2	9.5	4.4	2.3

Ombudsman	0.3	1	2.7	0	0	0.6
Prosecutor's Office	2.7	3.2	1.2	3.9	2.2	2.5
Police	3	7.2	37	3.8	3.7	36.9
Court	31.5	37.8	21.7	67.4	77.9	40
Nowhere	4.1	10.5	19	7.3	6.6	9.4
Other	0.9	4.9	0.5	0.5	0.5	0.1
Difficult to say	5.2	11.9	4.7	3.1	1.6	3.1
Total	100	100	100	100	100	100

As can be seen from the data, women's preference for where to seek help varied according to the type of dispute. For example, in case of land disputes, 45.8% of women said that they would turn to local self-government institutions, although in other disputes women exhibited a general disinterest in appealing either to local elder's councils, local self-government institutions, or women's councils.

By contrast, a large majority of women – almost 78% – said that in case of divorce or (marital) property disputes, they would turn to the court system. In domestic violence cases, however, the largest group of respondents, 37%, said that they would appeal to the police for help. This variation in preference for justice institution depending on the type of dispute, along with the fact that generally less than 10% of women said it was “difficult to answer” where they would go in various situations, suggests that not all women are clueless about where and how to exercise their rights.

However, it is highly concerning that almost 1 in 5 women said that in case of domestic violence, they would not seek help anywhere (note that this figure was slightly higher for Uzbek women). Only slightly fewer said that they would appeal to a court for assistance. Just 1.3% said they would refer to a local women's council if they were experiencing domestic violence, and only 2% said they would go to a crisis center. This may in part be due to a lack of knowledge or access to crisis centers, since they are fairly few and generally located in urban centers. More about women's opinions on efficacy of certain justice institutions in cases of domestic violence is discussed below.

Needless to say, this finding is indicative of a problematic trend in women's willingness and/or ability to seek protection from violence, a human right clearly enshrined in Kyrgyz law (in particular by the Law on Social and Legal Protection from Domestic Violence). This suggests that, in reference to at least certain types of conflicts, the problem is not merely one of knowledge among women, but also of their opportunities to exercise that knowledge, including freedom from social and cultural constraints that prevent them from complaining about violence in the home. Women seemed more willing to seek help if the violence was directed against their children (40% said they would appeal to a court and almost 37% said they would go to the police), but 9.4% still responded that they would keep quiet – a very worrying prospect for children's rights.

Knowledge about what to do in case of bride kidnapping

The findings about women's understanding of their options if bride kidnapped also suggested a limited level of legal knowledge. When asked where, in the respondent's opinion, a woman should turn for help if she were bride kidnapped, only about half of the women (50.1%) surveyed said (correctly) that the victim should go to the police. Another 28.3% felt the victim should ask for help in the court. A handful of respondents (3.5%) thought a victim should appeal to the prosecutor directly. These responses are indicative of a belief among

many citizens that legal complaints may be handled simply by going to the court and asking for help. In reality, victims of crimes should first file complaints about most rights violations (domestic violence, bride kidnapping, etc.) with the police, or discuss them with a lawyer (whether private or working in an NGO), who may be able to file a formal complaint with the court.

Members of the justice system, in the in-depth interviews, repeatedly emphasized this common lack of knowledge about where to go for legal complaints. One judge commented that the absence of any centralized government-run informational source contributed to this problem: “Citizens should have information about where to go [in case of legal problems]. But there aren’t handbooks or information about where to go...If there were one government number, through which citizens could get help, [which would tell them] where they could go...but there isn’t such a number.”

Perhaps of even greater concern, more than one in 20 (6%) of all the women respondents said that a woman should not seek help anywhere if she is bride kidnapped. As in the case of domestic abuse, a tendency remains towards keeping silent about violence towards women, in spite of recent changes to the Criminal Code and massive informational campaigns seeking to change the situation.

Knowledge about women’s rights in unregistered marriages

Women were also asked about their knowledge regarding non-registered marriages. Given the fact that one of the most common rights violations for women is denial of marital rights (property, child support, inheritance, etc.) due to a failure to register their marriage with the state, the surveyed groups were asked to say which rights they thought were at risk of infringement for women without a registered marriage.

The results of these questions suggested that women in a registered marriage were more likely to be aware of the rights tied to the marital institution. For example, about three-quarters of the women who *did* have a registered marriage said that without a registration, women were at risk of violation of their property rights (76%) and the right to receive child support (72.6%). By contrast, although the number of respondents was limited, of the 6 women surveyed who had only a religious marriage, only 2 believed that a woman’s property rights could be violated due to the lack of a marriage certificate. In addition, just half thought that the lack of a certificate could threaten her right to receive child support. Women living in a civil marriage (cohabitation) also exhibited a lower level of understanding regarding marital rights; less than half (47%) thought that a woman’s property rights could be violated due to the lack of a registration. Women who had a marriage certificate were also much less likely to report that it was difficult to answer the question, suggesting greater legal knowledge among this group.

This interesting finding could indicate one or more possibilities regarding the legal knowledge of married women. First, women who have a higher level of legal knowledge may be less willing to enter or stay in a marriage without an official registration, since they are more aware of the rights violations they could face as a result. Second, women who are in unregistered (civil or religious) marriages may have less access to legal information, particularly if the reason their marriage is unregistered is due to constraints such as distance from government institutions, a lack of time, or control over the situation by a husband or his relatives. Another possibility is that, as younger women are more likely to be in an unregistered marriage (as seen above), they simply lack the life experience and education

(particularly in the form of observing the experiences of friends and relatives) to know which rights can be violated as a result of the non-registration of a marriage.

Knowledge and willingness to appeal for help in case of a rights infringement

Women were also asked where they would go in case of a rights infringement. By far the largest group of women – 82.1% - said that they wouldn’t go anywhere in such a case. About one in 20 said that they would go to the court system, and only slightly more (5.7%) said that they would go to the police. Just 3% said they would refer to a lawyer. This surprisingly high number of women who appear unwilling to demand enforcement of their rights could be due to several things. First, women could lack a concrete understanding of what their rights are, leaving them with little confidence to make a complaint about their infringement. Second, it could result from poor knowledge of where to go in case of a rights violation. Finally, this may be the result of a lack of trust in the justice system or a cynicism about its ability to rectify rights violations. In any event, the finding that more than four out of five women would go nowhere for help in case of a rights violation raises serious concerns.

Children and youth

Interviewees and focus groups demonstrated a general belief that youth are more aware of their rights due to a higher level of technological savvy – that is, young people who are well acquainted with the internet, mobile telecommunications, and other new forms of communication are more likely to know and understand their rights. However, some experts challenged this assumption. One women’s council member and NGO chairperson responded to the question of youth legal awareness by saying, “Young people just know how to listen to music and sit on the social networks. They do not know their rights or seek to obtain necessary legal information.”

Of the problems encountered by youth with regard to legal knowledge, many interviewees cited a lacking understanding of labor law as pressing. Because young people don’t know the law, they fail to demand a written employment contract when they are hired. If problems arise over the course of the employment or if the young person is improperly dismissed, she has no proof of her employment terms in court, making it very difficult to enforce her labor rights.

Youth knowledge about and willingness to refer to justice institutions

Surveyed youth were also asked to say where they would turn for help in case of various types of conflicts. Their responses are depicted in the table below.

Table 5. Where respondents would appeal in case of various conflict situations, youth, %

Type of Justice Institution	Land disputes	Labor disputes	Domestic violence	Inheritance disputes	Divorce, property disputes	Violence against children
The elders of the village / community	7	3.6	6.3	8.4	6	2.6
Women’s council	0.4	0	0.7	0	0.3	0.1
Local religious leaders	9.6	1	2	1.1	0	0
Local self government	18	10.8	2.4	2.9	1.2	0

institutions						
Human rights NGOs	2.8	0.9	0.7	1	1	3.1
Crisis centers	0	0	0.5	0.3	0.3	0.1
Attorneys / Lawyers	1.6	4.5	1.5	6.2	6.6	0.4
Ombudsman	0.3	0.3	0	0	0	0.3
Prosecutor's Office	0.4	0.3	0.3	1.3	2.1	1.7
Police	6.3	12	38.7	6.8	1.3	39.6
Court	32.5	30.9	15.9	52.4	65.9	32.3
Nowhere	9.8	13.1	22.4	9.7	6.3	10.5
Other	0	0	0	0	0	0
Difficult to say	11.5	22.7	8.5	9.9	9.2	9.3
Total	100	100	100	100	100	100

Similarly to the women surveyed, youth showed a general preference for the formal court system as a mechanism for resolving issues like labor and inheritance disputes, as well as divorce. One major difference in the responses of women and youth was that less than 1 in 5 young people said they would turn to local self-government to resolve a land dispute (compared to 46% of women), while about 10% said that they would ask a local religious leader to help resolve this type of conflict (compared to just 1% of women who would do so). Youth were also slightly more likely to appeal to community elders to help resolve their conflicts, possibly the product of a cultural system that generally encourages deference to one's elders.

The other points of variation may signal several important differences between women and youth with regards to knowledge and willingness about justice mechanisms. First, youths' lower willingness to seek help from local self-government could indicate a decreasing amount of trust in such institutions among younger people – possibly a result of decreased oversight and supervision of local self-government institutions in recent years. At the same time, increasing willingness to seek assistance from religious leaders among youth could indicate a growing trust in these types of institutions to help resolve community problems.

Unfortunately the trend towards not reporting domestic violence seen among the women was also reflected among youth respondents. In fact, slightly *more* of the youths – 22.4% - said that they would not seek help anywhere in case of domestic violence (and an even greater percentage of Uzbek youths said they would not seek help anywhere). It must also be borne in mind that this sample included men as well as women, which might explain some of the increase; men may hold different attitudes towards reporting violence than women. More than one in 10 of all the respondents said that they would not seek help even in case of violence against a child.

Furthermore, when questioned about the marital property rights of women, youth did not exhibit a drastically different level of knowledge than the “women” target group. Similarly to the women respondents, about three-quarters (74.3%) of those in the “youth” group who *did* have a marriage certificate thought that without one, a woman's property rights could be violated, and almost as many thought that her right to child support was also at risk (70.9%). It should be noted, however, that the knowledge of the handful of youths in religious marriages was not especially low – four out of five in this group knew that both property rights and child support rights were at risk of being violated for women in unregistered marriages.

Knowledge and willingness to appeal for help in case of a rights infringement

As with the women respondents, a surprisingly high percentage of youth – 86.4% – said that they would not appeal anywhere for help in case their rights were infringed. The second largest group, 11.6%, said they would go to the police, and roughly one in 20 said that they would go to village elders or to the court system. As noted above, the potential reasons for this unwillingness are several, including poor awareness about one’s rights, a lack of understanding about where to turn in such cases, or little trust in the justice system.

People with Disabilities

Opinions and self-reporting about the legal knowledge of PWDs varied widely. Notably, over a third of the people with disabilities surveyed said that they had a “very weak” understanding of their rights as PWDs, while the largest group (42%) said that they had only a limited understanding of their rights.¹²⁹ The focus group discussions emphasized that PWDs face many challenges in exercising their rights; some attributed this to a lack of legal awareness, while others asserted that PWDs are aware of their rights but are not able to exercise them due to certain barriers such as bureaucracy or physical access to government institutions. A few expert interviews, by contrast, asserted that today many PWDs have become increasingly aware of their rights and are more willing to exercise them.

Parents of minor children (under 14 years) with disabilities also reported only a limited understanding of their child’s rights. About half of the surveyed caregivers said that they knew their child’s rights as a PWD only partially. Compared to fathers or other relatives, a greater proportion of mothers felt that they knew their child’s rights well – about 1 in 5 mothers gave this response, while only 1 in 10 fathers did.

One important observation made in the course of the interviewing and focus group discussions was that information sources on laws and rights for PWDs must be delivered in multiple formats to ensure that people with particular disabilities (hearing, sight, mobility, etc.) are still able to access the information. Television broadcasts without visual information cues will not be able to reach people with limited hearing, for example, and information posted in local self-government institutions will never be seen by those who are physically unable to leave their homes.

Almost half of PWD respondents (45.8%) said they would like to know more about their right to receive medical assistance, suggesting a general lack of knowledge in this area; 30.2% also said they would like to know more about their right to social guarantees (government assistance). Just 10% said that they did not want to receive any further information about their rights or that it was difficult to answer the question.

When surveyed about their preferred source of information about their rights, the largest group of PWD respondents, about a third, said that social workers were the best option. This preference was only slightly different between city dwellers (32.4%) and rural dwellers (35%). By contrast, PWDs living in cities had a marginally greater preference for the broadcasting of information about their rights on the television (30.6% versus 20.5% of rural respondents). Individuals in rural areas showed a stronger preference for receiving

¹²⁹ PWDs were asked to rate their legal knowledge on a scale of 1-3, where “1” is “very weak knowledge” about one’s rights and “2” represents “partial knowledge” about one’s rights.

information through NGOs working on disability issues (22.2% versus 13% of urban respondents).

Like women and youths, PWDs were asked where they would turn for help if their rights were infringed in order to assess their level of knowledge about institutions of justice and their willingness to refer to these institutions. The results are depicted below.

Table 6. Responses to “where would you turn for help if your rights were infringed?”, PWDs, %

Justice Institution	PwDs
The elders of the village / community	0
Women's council	0
Local religious leaders	0
Local self-government institutions	0
Human rights NGOs	0
Crisis centers	0
Attorneys / Lawyers	2.6
Ombudsman	0
Police	6.4
Court	5.1
Prosecutor's Office	3.8
Other	0
Nowhere	87.2
Difficult to say	0

Similarly to the results for the other two target groups, this question revealed an astonishingly high level of PWDs who report that they would not refer to *any* institution in case of a rights violation. As discussed above, this unwillingness to seek help anywhere (including the Ombudsman and/or human rights NGOs) could indicate respondents' low level of awareness about their rights. It could also suggest poor knowledge about the functions of these institutions and their role in helping to rectify rights violations. Finally, this finding could be indicative of a lack of trust or a cynicism regarding the justice system's ability to help.

C. Recommendations

The experts interviewed proposed a number of recommendations for improving legal literacy among vulnerable groups, which are included here, among others.

- The Ministry of Education should develop mechanisms for teaching legal knowledge and civic responsibility to schoolchildren from a very young age. Although pilot programs have been launched in various regions of the country, given that disseminating such units throughout the country will take time, the government should begin by incorporating legal knowledge training into university-level curricula in pedagogical departments, and developing a policy to encourage rural schoolteachers to teach legal knowledge units in their classes.

- The Ministry of Justice, the Ministry of Social Development, and the Ministry of Education should work together to develop comprehensive legal informational campaigns capable of working through a variety of media formats to broadcast directly to citizens, businesses, and other organizations. This includes distribution via websites and new media, but also through traditional media such as print, radio, television, and others that are accessible to rural citizens. In addition, the government should invest in the specialized training of social workers to advise PWDs and their guardians about their rights and where to turn in case they need legal help.
 - Information relating to citizens' rights and obligations should be written and distributed in a simple, easy-to-understand format that does not require any legal background for clarity. This includes print mediums (brochures, posters, newspapers, flyers), traditional media (television and radio broadcasts), and virtual information sources. Information should be available in the languages most relevant to vulnerable groups, including Kyrgyz, Uzbek, Russian, Braille for the visually impaired, and closed captioning for the deaf.
 - Information regarding women's and children's rights should make reference to CEDAW and the CRC and explain each group's rights under international treaties.
- Local self-government bodies, particularly in rural areas (Ayil Okmotus) should plainly display simplified, yet thorough, information on citizens' rights and duties, as well as how to enforce them, in a public area of their offices. This information should include, for example:
 - 1) basic information about legal guarantees for citizens, including the rights of domestic violence victims to seek protection, employment and contract rights, spousal rights tied to marriage registration, the rights of PWDs to institutional access and government benefits, the right to child support from a parent and government support for single mothers, etc.;
 - 2) clear, step-by-step instructions for completing common rights enforcement procedures and where, exactly, an applicant must go to do so, including to report domestic violence, register a marriage or a divorce, register property, establish paternity, seek child support, file for inheritance, and apply for state guaranteed legal aid;
 - 3) the phone numbers and addresses for important government institutions such as the Ministry of Justice's Centers for Provision of Free Legal Aid, the police department, the GosRegistar (property registration department), the ZAGS (civil registry office), etc.; and
 - 4) a very clear explanation of what constitutes corruption under the law and step-by-step instructions on where and how to make a corruption complaint against a public official, including members of local self-government and Aksakal courts.
- The Ministry of Justice and the Ministry of Social Development should devote expertise to learning how to effectively spread information through informal social networks, which can help distribute information among relatives, friends, and co-workers. This could be accomplished, for example, by engaging local self-government actors in the process of starting local discussions about the law and citizens' rights.
- The Ministry of Social Development should take into account the particular needs of PWDs when designing legal information campaigns. Such sources of information

should be redundant and overlapping (i.e. through television, radio, social workers, etc.) to ensure that individuals with particular limitations (of hearing, sight, mobility, and others) still have the opportunity to receive the message.

ELEMENT 3: ADVICE AND REPRESENTATION

“To what extent can citizens access the legal advice and representation necessary to solve their common justice problems?”

Summary

Poor accessibility of qualified legal advice and representation presents a barrier to vulnerable groups in realizing their rights. Lawyers’ services are scarce in many regions of the country, and a fairly low perception of the affordability, competence, and honesty of lawyers may prevent many individuals from seeking legal help even when they need it.

Highlights

- More than six out of 10 respondents in every target group said that it was not possible to find a qualified civil law specialist in their area.
- Respondents reported that the distance from their homes to centers where they could receive legal services ranged from around 5 kilometers (in Bishkek) to 18 kilometers (in Chuy province), further than many individuals, such as mothers of young children and people with limited physical capacity, are able to travel in a day. The distances to a legal center in the south were also significant (around 10 kilometers in Osh city and over 11 kilometers in Osh province).
- The average price of legal representation reported by those respondents who had accessed it exceeded the average price that women and youths said they would be willing to pay for a legal consultation.
- More than one in five women and youths said that they would not seek legal help if they needed it. This reluctance appears to be linked primarily to a lack of trust in the quality of legal services, the cost of qualified legal services (real or perceived), a lack of knowledge about where to find a lawyer, and/or poor opinions regarding their competence and honesty.
- Uzbek women and youth were less likely than others to seek legal representation, due mostly to skepticism about its quality and a lack of knowledge about where to find it.

A. Availability of qualified legal services

Among target groups and experts interviewed for the study, opinions were divided as to the availability of qualified legal advice. Notably, opinions were starkly divided even among representatives of the justice system. For example, one judge said that today, “if a person needs legal help, he can obtain it with ease,” due to growing numbers of law graduates, international organizations working on justice issues, and the state-guaranteed legal aid system. A representative of the Ministry of Justice also expressed the belief that legal advice was not difficult to obtain due to the establishment of centers for legal advice in the Ministry itself.

However, others were more critical about the availability of legal advice. Another judge noted that even if multiple legal aid organizations do exist in the country today, information

about them is scarce, signage is poor, and many even lack basic access features, such as ramps for people with disabilities.

As discussed above, state-guaranteed legal aid (SGLA) is provided only to certain types of defendants in criminal cases. Furthermore, the quality of such assistance is hotly contested, in part because the state-paid fees set by law for such attorneys are so small. One expert on the legal aid system interviewed pointed out that the SGLA systems ensures access only to “pocket lawyers,” that is, those whose representation of their client may be improperly compromised by financial or personal connections to the prosecutor’s office or law enforcement.

Perhaps the most important issue affecting the availability of legal aid in the Kyrgyz Republic, however, is simply the physical lack of qualified attorneys around the country. Although Bishkek and Osh cities are home to numerous legal aid organizations (whether or not they are known by the general population), such organizations are few or non-existent in the more remote regions of the country.

When asked about the availability of qualified lawyers specializing in civil law, a majority of respondents in every target group (with the exception of PWD guardians in Osh city) said that such lawyers could not be found in their area. The results are shown in the table below.

Table 7. Responses to the question “is it possible to find a qualified civil law specialist in your village/town?”, by target group and region, %

Target groups	Provinces				Total
	Bishkek city (suburbs)	Chuy province	Osh city	Osh province	
	%	%	%	%	
Women					
Yes	8.4%	13.9%	29.2%	26.0%	18.3%
No	72.3%	75.0%	58.3%	52.7%	64.6%
No answer	19.3%	11.1%	12.5%	21.3%	17.1%
Youth 14-28 years					
Yes	9.8%	12.0%	28.3%	19.5%	17.8%
No	63.9%	72.0%	56.6%	53.7%	60.6%
No answer	26.2%	16.0%	15.1%	26.9%	21.7%
PWDs					
Yes	13.6%	12.9%	14.3%	27.3%	15.4%
No	68.2%	64.5%	57.1%	54.5%	62.8%
No answer	18.2%	22.6%	28.6%	18.2%	21.8%
PWD guardians					
Yes	0.0%	5.3%	54.5%	11.1%	13.9%
No	86.7%	57.9%	36.4%	66.7%	63.9%
No answer	13.3%	36.8%	9.1%	22.2%	22.2%

Aside from the clear overall majority responding that qualified lawyers were not available in their area, about one in five from every group had difficulty answering the question, suggesting that even if such lawyers do exist in their region, they are not widely known. Respondents from Osh city and Osh province took a slightly more favorable view of the availability of lawyers than did the respondents in Bishkek and Chuy province; this is likely a result of the proliferation of legal aid NGOs around Osh province following the June 2010

conflict in the area, set up to assist victims of the events and those who had experienced ethnic discrimination. The responses of PWD guardians in Osh city are particularly striking when compared with those from Bishkek; while a narrow majority of guardians in Osh city felt that qualified civil law specialists were available in their area, not a single PWD guardian in Bishkek responded that there were.

The answers were very similar to the question of whether a qualified criminal law specialist was available in a respondent's area. However, women said that it was even harder to find a criminal law specialist (15.7% responded "yes" to the question) than a civil law specialist (18.3%). PWDs also said it was more difficult – 9.7% said it was possible to find a criminal law specialist in their area, versus 13.9% who said they could find a lawyer practicing civil law.

Of the respondents who were able to say how far a legal aid center was from their home, average distances ranged from 18.1 kilometers (in Chuy province) to 5.3 kilometers (in Bishkek). In Osh city respondents noted that such a center could be found, on average, 9.8 kilometers from their home, while in Osh province the distance was somewhat greater, at 11.4 kilometers. Needless to say, such distances, especially for women taking care of young children in the home, and for those who have trouble affording transport costs, are difficult to manage.

B. Affordability of lawyers

Expert interviewees widely agreed that the cost of qualified legal services, and associated costs such as transportation and administrative fees, presents a serious barrier for vulnerable groups, especially those living in rural or remote regions.

Vulnerable groups themselves rated the affordability of lawyers, on the whole, as not very accessible. It should be noted that only a minority of respondents (54 individuals out of all three target groups) had actually sought legal assistance in the past few years, so the opinions of other respondents, taken into account in the question, are an indicator more of perceptions and perhaps the experiences of family and friends than of personal experience. This is seen in the overall rate of respondents who said it was difficult to answer the question (between 4.2% for PWD guardians and 28.2% for PWDs themselves). Of those who responded, on a scale of 1 to 5, where "1" indicated that affordability of lawyer in the country was "completely inaccessible" and "5" represented "completely accessible," on average, every group surveyed indicated a score between 2 and 3, suggesting the price of lawyers is fairly inaccessible. Of all the groups, PWDs ranked lawyers' affordability the lowest, at 2.58.

Out of the respondents, just 10 reported having paid a lawyer to participate in courtroom proceedings in the past and were able to say how much they paid (out of 24 total who had been parties to litigation). Of these, the largest group (6 people) said they had paid between 1501 and 10,000 som (US\$26–174) for the lawyer's services. Two reported having paid more than 25,000 som (US\$436) for their legal representation.

Based on this small sample, it appears that the cost of a qualified lawyer for representation at trial is indeed quite expensive for groups reporting fairly low levels of income. On average, the survey found that of those people who said that they would seek legal advice if the need arose, women said they'd be willing to pay around 1450 som (approx. US\$25) for such a consultation and young people said they would pay around 1340 som (US\$23). Respondents from both groups said they would pay a little more for consultation in a criminal case; on

average, both women and young people said they would be prepared to pay around around US\$31 in such a case (women – 1757 som and young people – 1795 som).

Even assuming that qualified legal services are available for free through governmental and non-governmental programs, the general feeling that lawyers are unaffordable likely presents a significant barrier to seeking justice for vulnerable groups. This is especially true given that many individuals have not yet had any experience with the justice system and thus they rely on the impressions given by friends and family, or a general belief that lawyers are too expensive and free legal aid is inadequate. Addressing this barrier would require further research on the actual cost of legal services and a dissemination of information that would make vulnerable groups more aware of the true cost of a lawyer’s services as well as sources of high-quality free legal aid.

C. Willingness to seek legal assistance

In order to assess the general level of willingness to engage with legal service providers, respondents from the women and youth groups were asked whether they would seek the help of a lawyer, if necessary. Interestingly, although the majority of respondents said that they would, the results showed significant regional variation, which can be seen in the table below.

Table 8. Responses to the question “Would you seek legal assistance, if it became necessary?”, by region

Target groups	Province				
	Bishkek city (suburbs)	Chuy province	Osh city	Osh province	Total
	%	%	%	%	%
Women					
Yes	71%	76%	48%	77%	72%
No	9%	20%	50%	21%	21%
Difficult to say	19%	4%	2%	2%	7%
Youth aged 14 - 28					
Yes	64%	80%	63%	44%	61%
No	10%	20%	32%	34%	23%
Difficult to say	27%	0%	6%	22%	16%

As can be seen, in Osh city, women were divided almost exactly in half regarding their willingness to seek the help of a lawyer, an enormous difference from their counterparts in Bishkek, a large majority of whom said that they would do so if needed (although almost one in five women in Bishkek couldn’t answer the question). Overall, youth had more trouble answering the question, but in general the group was somewhat less willing to appeal to a lawyer if necessary. Overall, more than one in five of the respondents said they would not ask for legal help.

Of the individuals who responded that they would not seek legal advice if necessary, the reason most commonly given for this refusal, by around a third of the respondents, was “I don’t think that I would receive effective help” (30% of women and 36.4% of youth). Many of the women also felt that they wouldn’t be able to afford it (26%), while large groups of both women (25%) and youth (30%) simply didn’t know where to receive such assistance. Some women (14%) also said that they didn’t have time to seek legal advice.

Respondents of Uzbek ethnicity expressed the greatest skepticism about the effectiveness of legal representation; of Uzbek women and youth, over half of the group, 56%, said that they wouldn't go to a lawyer if they had a legal problem. Of this group, half of the youth and a little less than half of the women said that they didn't think they could receive effective help. The second-largest group of Uzbek women, about two out of five, who wouldn't go to a lawyer said it was because they didn't know where to find one – higher than the general women population surveyed.

The reluctance of those who said that they didn't think they would receive effective legal help may be due in part to a general lack of trust in lawyers and the legal system overall. When asked to rate legal professionals' level of competence and honesty (non-corruption), target groups took a fairly dim view, especially PWDs, who on average considered lawyers to be below a "2" on the non-corruption scale (where "1" is "completely corrupt" and "5" is "completely not corrupt").

D. Availability of Free Legal Aid

As noted above, free legal aid for vulnerable groups is not currently guaranteed by Kyrgyz Law in civil or administrative cases; it is also not available to victims of crimes or administrative offenses, including children. Furthermore, the availability of free legal aid is largely unknown to the country's vulnerable populations; when asked about its accessibility, 44% of respondents said that they couldn't answer the question, suggesting that they had either not heard of it or they did not know how to receive it. Another 22% gave it a "1" on a scale of 1 to 5 for "accessibility" (where "1" is "completely inaccessible"). Among focus group members and expert interviewees there was a general skepticism about the concept of "free legal aid" and its quality. One expert from the justice system expressed this doubt by saying, "Nothing is free now, and lawyers are also not free....There is an incorrect attitude here, a stereotype that legal aid can be free – it's an illusion that needs to be destroyed. Then there will be fewer problems."

The Ministry of Justice is currently providing legal advice to vulnerable groups in certain types of non-criminal cases through its free legal aid program. However, the initiative is not widely advertised and thus serves a limited number of clients. It is also quite distant for most respondents; on average they reported that the institutions where such aid is rendered were between 22.4 kilometers (in Chuy province) and 6 kilometers (in Bishkek) from where they lived.

A variety of NGOs across the country provide legal aid to certain groups, often specializing in certain types of cases or clients. However, funding for these institutions is severely limited and they usually operate only in urban centers, leaving rural residents without access to legal representation. More about these NGOs can be found below in the "Access to a Justice Institution" section.

Of the 750 respondents in the present study, just 23 (3.1%) had received free legal aid of some kind. On average, they rated their satisfaction with the legal service they received at 3.54 points (on a 5-point scale, where "5" is the highest level of satisfaction).

E. Recommendations

The findings from this element of the assessment suggest a few overarching recommendations for improved access to advice and representation.

- The availability of free or low-cost legal aid is a prerequisite to creating access to justice for marginalized groups. The Ministry of Justice must work together with NGOs to ensure that legal aid is available to all vulnerable groups in every province of the country, including rural areas.
- The Ministry of Justice, Ministry of Education, international organizations, and NGOs should cooperate to develop programs for enhancing the capacity of lawyers in the Kyrgyz Republic to handle sensitive or taboo cases and to address prominent rights violations against vulnerable groups.
- The Ministry of Justice and NGOs must create options for access to legal advice in rural and remote areas in order to address the general dearth of legal assistance citizens in such regions face.
 - One option for rendering such assistance would be mobile legal clinics, staffed by qualified lawyers, that travel through the regions on a monthly or bi-monthly basis, particularly those trained in the rights of PWDs and women. However, in order to ensure their success, such efforts must be coordinated at a national level, widely advertised among local self-government and local NGOs, and monitored by a centralized governmental or non-governmental agency.
 - Another option would be to train paralegals (non-lawyers with a high level of legal knowledge and ability to advise on basic matters) in the organs of local self-government and the Aksakal courts. This would utilize existing human resources in rural areas, preventing the need to incentivize qualified legal professionals to work in these areas, while increasing capacity and legal knowledge to be shared with the community.
 - The government should also take advantage of, and further support, university-based legal clinics in every part of the country. Such clinics already exist in Bishkek, Osh, and Jalalabad, and these student clinics should be supported in efforts to perform mobile outreach work in rural communities.
 - Information campaigns regarding free legal aid sources should address both Kyrgyz and Uzbek audiences; this study finds that Uzbeks have a higher level of skepticism about, and lower level of trust in, the quality of legal aid. In addition, Uzbek women were less likely to know where to find a lawyer if needed.
- In order to encourage individuals requiring legal services to access them, the perception of free legal aid, whether rendered by the government or by NGOs, must be enhanced. The Ministry of Justice can help accomplish this by creating stringent public standards for practicing lawyers, including ethical standards, and punishing lawyers who deviate from them. This is especially true for lawyers assigned to represent children and PWDs with limited capacity for self-representation. The government and NGOs must also raise the wages guaranteed to free legal aid lawyers in order to ensure that they are qualified and committed to their work.

- The problem of corruption (real or perceived) among lawyers prevents vulnerable groups from seeking legal help when they need it. The government must make serious, publicized efforts to address corruption in the court system and impose meaningful punitive measures for those caught abusing the system.

ELEMENT 4: ACCESS TO A JUSTICE INSTITUTION

“To what extent do justice institutions, whether formal or informal, exist that 1) are affordable, 2) are accessible, and 3) process cases in a timely manner?”

Summary

The Kyrgyz Republic is home to a dynamic and interlinked system of formal and informal channels to justice. In recent years, the government has undertaken a range of measures to help improve the accessibility of these institutions to all citizens. However, serious barriers remain. Overall, perceptions of impartiality and honesty (lack of corruption), particularly regarding the informal system of justice, remain abysmal.

Highlights

- Respondents tended to rank the level of access to various justice institutions around average, or were not able to answer the question, suggesting a general lack of knowledge about these institutions.
- The greatest barriers to accessing formal justice institutions appear to be bureaucracy and the time required to gather necessary documents and file them.
- Overall, respondents found the law enforcement system (the police) to be a fairly accessible institution, with almost half of respondents rating it as “completely accessible” or “fairly accessible.”
- The greatest barriers to accessing the informal justice system, particularly Aksakal courts, appears to be an unwillingness on the part of vulnerable groups to do so, given perceptions of these institutions’ partiality and lack of legal knowledge.
- Barriers to informal institutions like crisis centers and legal aid NGOs included a lack of knowledge about these institutions as well as their general scarcity, particularly outside of urban areas.

A. Access to Institutions

A variety of mechanisms exist in the Kyrgyz Republic through which citizens may theoretically seek to enforce their rights. Generally speaking, there are two parallel systems in the country functioning simultaneously: that of formal institutions, and that of informal institutions. Understanding access to justice in the country requires a thorough understanding of both systems and their important differences. However, currently at the legislative level there is no regulative distinction between the two systems, resulting in a non-uniform approach to the concept of access to justice at the formal and informal levels. The table below provides an overview of each mechanism, as well as a rating of its current state of development.

Table 9. Overview of formal and informal justice mechanisms in the Kyrgyz Republic

When a possible rights violation occurs, an individual may appeal to:	
Formal justice system	Informal justice system
<p>Mechanism: Various government bodies and NGOs Role: Appropriate support services to improve vulnerable groups' level of effectiveness and independence in asserting their rights, including the provision of legal assistance in some cases Current level: Underdeveloped</p>	
<p>Mechanism: Law enforcement bodies (police) Role: Accepting complaints and investigating Current level: Developed, but requires changes in order to take into account special needs of vulnerable groups</p>	<p>Mechanism: Aksakal courts Role: Hearing and generating resolutions to a limited range of local and family conflicts Current level: Partially developed; requires additional training and supervision to ensure decisions are impartial and sensitive to the needs of vulnerable groups</p>
<p>Mechanism: Prosecutor Role: Supervision of law abidance Current level: Developed, but requires changes in order to take into account special needs of vulnerable groups</p>	<p>Mechanism: Non-governmental organizations (NGOs) Role: Providing direct legal services, referring individuals to particular governmental bodies, advising the government, increasing capacity for legal actors, etc. Current level: Developed, but every organization operates at a different level of capacity and sustainability due to unstable funding sources</p>
<p>Mechanism: Ombudsman Role: Enforcement of rights and freedoms Current level: Partially developed; requires legal support and training on the protection and monitoring of rights and freedoms of vulnerable groups</p>	<p>Mechanism: Women's councils Role: Support to women whose rights have been violated in rural areas Current level: Underdeveloped</p>
<p>Mechanism: Courts/judges Role: Administration of justice and provision of remedy Current level: Developed, but requires changes in order to take into account special needs of vulnerable groups</p>	<p>Mechanism: Committee for the Prevention of Domestic Violence Role: Support and policy development for victims of domestic violence Current level: Partially developed, but lacks a standardized approach and quality supervision</p>
<p>Mechanism: Judicial Department of the Supreme Court of the Kyrgyz Republic Role: Enforcement proceedings for judicial remedies Current level: Developed, but requires changes in order to take into account special needs of vulnerable groups</p>	
<p>Mechanism: Ministry of Justice, free legal aid Role: Provision of representation in certain categories of cases, licensing lawyers Current level: Partially developed; requires changes for systematic provision of legal aid and for inclusion of civil and administrative proceedings</p>	
<p>Mechanism: UN Committees Role: Processing of individual complaints against the State Current level: Developed, but the Kyrgyz Republic has not ratified the Convention on the Rights of People with Disabilities</p>	

There are important differences between formal and informal institutions. Although formal institutions tend to feature more qualified and impartial decision-makers, they are largely inaccessible to uneducated individuals living in rural areas, especially those who don't have access to a lawyer; furthermore, decision processes can be lengthy and unpredictable. But while informal institutions are more accessible to rural dwellers and the less educated, they operate largely without oversight and thus are prone to quality issues and favoritism. These problems can be exacerbated with respect to vulnerable populations, who often lack the legal savvy and resources to defend their rights vis-à-vis a more powerful decision maker.

Overall, the respondents from vulnerable groups who were surveyed did not fully agree with idea that there is equal access to justice, regardless of age, sex, race, or social status. The largest percentage of women and youth rated overall access to justice as a "3" on a 5-point scale (where "5" is complete agreement with the assertion that equal access to justice exists). More than half of all people with disabilities, however, either strongly disagreed the statement (27%) or found it difficult to assess (27%). More detail on each group's assessment of various justice institutions is provided below.

There was some variation in the perceptions of justice between respondents of different ethnic groups. For example, while around 17% of Kyrgyz women strongly disagreed with the statement that equal access to justice exists ("1" on the 5-point scale), about a quarter of Uzbek women and around half of Russian women strongly disagreed with the statement, demonstrating a more prominent perception among ethnic minorities that the justice system is unfair.

An effective and sustainable approach to widening access to justice for these groups must not only acknowledge and account for both formal and informal systems, and how groups of different ethnicities relate to them, but also facilitate more productive interaction between the various actors in these systems, i.e. police, courts, prosecutors, social workers, local leaders, elder courts, local councils, and others. In order to describe vulnerable groups' access to particular justice institutions, each institution (and, where appropriate, its establishing and regulating information) is described below.

B. Formal Institutions

The Bar Association

The government guarantees equal access for all residents to legal assistance and information about the process for receiving it. In addition, as described above, in 2010 the Kyrgyz Republic adopted a law guaranteeing free legal assistance under specified circumstances to citizens who lack the funds to pay for such assistance themselves. At the present time, however, the law guarantees assistance only to defendants in criminal cases, not to parties in civil or administrative matters.¹³⁰

The Ministry of Justice compiles and maintains a state register of lawyers who have signed up to participate in the provision of state-guaranteed legal aid; the overwhelming majority of these lawyers are found in the major urban centers of Bishkek and Osh. These lawyers are paid a fixed fee by the government for their services.¹³¹

¹³⁰ Law on SGLA, art. 5.

¹³¹ Law on SGLA, art. 30.

Although much of the legislation regulating the justice system is currently under reform, to date there is no uniform, clear structure for members of the legal profession working in various fields. A new law on the Bar Association was passed in July 2014 after much debate over its provisions, but many aspects of the law, including the development of a mandatory Code of Ethics, have not yet been developed.¹³² In addition, at the present time an advocate's license is required only for those lawyers representing criminal defendants. This leaves the vast majority of practicing lawyers – those working in private law firms, in their own practice, in non-profit organizations, in district government offices, and regional lawyer associations – unregulated by any standardized nation-wide system of qualification and ethics.

As described in the preceding section, gaining practical access to qualified lawyers remains a severe problem for vulnerable groups, largely due to geographical and financial constraints. Naturally, the most qualified lawyers tend to charge the highest fees, which are inaccessible for most vulnerable citizens whose rights are being violated. When asked to rate the accessibility of a legal assistance center, at least a quarter of the respondents in every target group said that they could not answer the question, including more than half of PWDs. Overall, 42% of respondents couldn't answer the question, and another 19% said that legal assistance centers were “completely inaccessible.”

Ministry of Justice – Free Legal Aid

The Ministry of Justice recently established, by ministerial order, a system for providing free legal aid to citizens requiring primary legal assistance. The stated purpose of the system is to help citizens enforce their rights, protect citizens' legitimate interests, and provide access to justice. Per the ministerial order, centers for legal aid provision have been established in every province of the country in order to give free consultations and advice free of charge, regardless of social status, gender, age, or ethnicity. These centers cover a wider range of matters than the SGLA system, as they are set up to provide assistance in civil and administrative matters in addition to criminal law consultations. However, the free legal aid centers remain in an early stage of development and are largely unknown to the general population. Furthermore, they render only primary assistance (consultations and assistance in preparing documents) and do not provide, for example, representation of clients in courts or administrative bodies.

The accessibility of this system received very poor overall ratings from target group members. Almost half of all the respondents (47%) said that they weren't able to assess the accessibility of this system, suggesting that they either had not heard of it or did not know how to access it. Of those who did answer the question, by far the largest group – 23.3% of all respondents – rated the system as “completely inaccessible” (“1” on a 5-point scale).

Courts

Civil, criminal, and administrative cases are all handled by local courts and, on appeal, by the Supreme Court of the Kyrgyz Republic. Courts review cases relating to the protection of civil, political, social, cultural, and other rights and civil liberties of citizens. Criminal and administrative responsibility may be imposed upon defendants 16 years and older. In some categories of serious crimes, such as theft, murder, robbery, terrorism and so forth, criminal liability can be imposed on defendants as young as 14.

¹³² Law of the Kyrgyz Republic, “On the Bar Association,” 14 July 2014, art. 6(3).

In the Kyrgyz Republic there is no special system of courts for juveniles. Although the Children's Code envisions the use of special juvenile courts for minor suspects, the law "On the Supreme Court and Local Courts of the Kyrgyz Republic" fails to mention the creation of these juvenile justice courts. To date no such system has been put into place.

Experts interviewed for the research took a generally positive view of the accessibility of courts to vulnerable groups. One representative of the Ministry of Social Development provided a response typical of the justice system and human rights experts, saying, "It seems to me that the courts are available. Anyone, if he wants, can go to court."

Vulnerable groups themselves took a somewhat different view to the accessibility of the court system. Although ratings varied widely, the largest group – about a third – of all respondents rated court accessibility as average (3 points on a 5-point scale). However, another 31% rated the system as either a "4" or a "5." More women rated the system as completely accessible than any other group, while guardians of PWDs seemed to take the least favorable view of the system (12.5% gave the court system a "1" for accessibility), perhaps reflecting a lack of ramps and other equipment necessary for physical access.

One of the challenges to court accessibility noted by experts was the level of bureaucracy required in filing a claim. Due to the large amount of paperwork that must all be completed and filed correctly, many vulnerable groups who lack higher education and a sophisticated approach to such bureaucracy may be denied access to the court system without a legal representative to assist. Of those women surveyed who had litigated in the formal court system previously, the average time spent merely collecting documents was around 68 days.

Another barrier to the formal court system is physical distance. The respondents in this study reported that the distance from their home to a court ranged from 5.9 kilometers (in Bishkek) to 15.5 kilometers (in Osh province). As noted above, traveling such distances for a court hearing is simply impossible for some groups, such as mothers caring for young children, people with physical disabilities, and individuals who cannot afford the transportation costs.

The time reported for the completion of a trial (from the filing of the complaint until the rendering of a judgment) varied, although overall respondents reported fairly expedient processes. A clear majority (14 out of 20) those who had previously been parties to formal courtroom proceedings reported that their cases had been processed and a judgment rendered within a year. Two respondents said that their case had taken between one and three years to complete, while just one person said that her case had taken between three and five years to finish.¹³³

The reported costs associated with litigation varied widely; however, on average, the most expensive aspects of litigation mentioned by respondents were administrative fees and duties and expenses for transport to and from the court and to the lawyer's office. Several respondents also mentioned significant expenditures on "nonofficial payments," that is, bribes to officials in order to facilitate the process.¹³⁴

¹³³ Note that three former litigants – all in the "young people" category – were not able to answer the question.

¹³⁴ The average payments reported may not be indicative of true averages, given the very small sample size. However, to give a broad idea of what respondents reported, the average expenditures for the "women" respondent group and the "youth" respondent group were as follows: 1) Transport costs: women – 2139 som, youth – 4338 som; 2) Administrative fees and duties: women – 1042 som, youth – 5750 som; 3) Costs for

Prosecutor's Office

The Prosecutor's Office is responsible for filing a claim and appearing in court on behalf of victims who are unable, for health, age, or other reasons, to take part in proceedings themselves. The Prosecutor is also responsible for representing victims' interests when a significant number of citizens' rights have been violated or when the violation carries particular social significance.¹³⁵ Furthermore, the Prosecutor has the right to intervene at any stage of a judicial proceeding, if "required by the protection of citizens' rights or to uphold the legal interests of society or the government."¹³⁶ The participation of the Prosecutor is mandatory in cases of adoption, revocation of adoptive rights, and termination, restriction, or restoration of parental rights. The Prosecutor also has the right to initiate a claim for the protection of a child's rights, including annulling the marriage of a minor child who did not have permission to marry, and restricting or revoking adoption or parental rights.

Although the legislation regulating the Prosecutor's Office does not contain special provisions for categories of the population such as women and people with disabilities, it does create special procedures and institutions concerning children. The General Prosecutor's Office of the Kyrgyz Republic has a special unit charged with overseeing compliance with children's rights, and the District Prosecutor's Offices have assistant prosecutors responsible for overseeing the protection of children's rights.

Assessing the accessibility of the Prosecutor's Office is more challenging than other institutions, since most citizens will never have the need to interact directly with it. Even the experts interviewed were hesitant to rate the overall accessibility of the office. The target groups surveyed tended to shy away from the question, suggesting a lack of knowledge (21.3% of all respondents said it was difficult to answer) or simply provided an "average" score (27% of the total).

Ombudsman

The Ombudsman of the Kyrgyz Republic "exercises Parliamentary control over the observance of constitutional rights and freedoms" of citizens and others in the Kyrgyz Republic or under its jurisdiction.¹³⁷ The Ombudsman only reviews complaints and applications which challenge the decision of a higher authority, administrative organ, or court, and when the complaint concerns the violation of rights or freedoms in the course of that review. The Ombudsman does not consider cases which are currently under a court's review, and ceases review of any cases which are referred to a court after the involvement of the Ombudsman begins. The Ombudsman is responsible for ensuring that the complaints received by her or his office are considered by the appropriate body within a certain time period and in a certain format; however, the law does not specify the mechanisms by which he or she should do so.

Vulnerable groups did not give a positive overall assessment of the accessibility of the Ombudsman's office. The majority of respondents said that they couldn't rate its accessibility

collection and preparation of documents: women – 1094 som, youth – 350 som; 4) Unofficial payments: women – 1714 som, youth – 1000 som.

¹³⁵ Law of the Kyrgyz Republic, "On the Prosecutor's Office," 17 July 2009, art. 34(4) [hereinafter Law on the Prosecutor's Office].

¹³⁶ Law on the Prosecutor's Office, art. 40(3).

¹³⁷ Law of the Kyrgyz Republic, "On the Ombudsman," 31 July 2002, art. 1.

at all, suggesting that they either lacked information about it or didn't know anyone who had been there. The next largest group of respondents, 20.7%, rated the accessibility of the institution as a "1" (on a 5-point scale). Less than 3% said that they thought the Ombudsman was "completely accessible."

Organs of Internal Affairs (Law Enforcement)

Law enforcement authorities are responsible for investigating crimes, including those relating to women and children (whether as victims or juvenile delinquents), and for the maintenance of public order, including the issuing of temporary protection orders (TPOs) in cases of domestic violence.¹³⁸ The laws of the Kyrgyz Republic provide for several specialized units within the Internal Affairs agencies, including the Inspector for Juvenile Affairs, the Center for the Prevention of Juvenile Delinquency, the Department for Combating Juvenile Delinquency within the Interior Ministry, investigative organs, and local police inspectors. Guardians or legal representatives of minors or incapacitated persons may submit complaints on their behalf to the Internal Affairs authorities.¹³⁹ Any such appeal must be considered within 14 days of its filing,¹⁴⁰ although the consideration period may be extended up to 30 days on an "exceptional basis."¹⁴¹

The Law on Social and Legal Protection from Domestic Violence established a regime by which individual police units may immediately issue a TPO upon complaint from a victim.¹⁴² However, statistics published since the law's adoption in 2003, compared with the number of complaints received by crisis centers, suggest that this option not used in most cases.¹⁴³ Several reasons may contribute to this poor functioning of the law.

First, women are severely underrepresented in the organs of Internal Affairs, from the management level down to village-level inspectors and officers. Given the highly sensitive nature of gender-based violence in the Kyrgyz Republic, where victims often find themselves under social pressure from relatives and neighbors to remain quiet about their situation, women are less likely to report violence to a man, particularly when she must undergo a physical inspection in order to file a criminal complaint. In addition, law enforcement representatives who lack a degree of gender sensitivity and an understanding of the cycles of victimization involved in cases of domestic violence are less likely to take complaints from a victim seriously, believing that the woman will merely withdraw her complaint when the couple has again reconciled. Finally, women are generally reluctant to report domestic violence, as was seen above in the "Legal Knowledge" section of the assessment. Survey results from the present study showed that about one in five women said that they would not appeal for help anywhere if they were to experience domestic violence, and just 37% said that they would go to the police.

¹³⁸ Law on Protection from Domestic Violence, arts. 6, 21.

¹³⁹ Law of Kyrgyz Republic "On the Review of Citizens' Appeals," 4 May 2007, art. 4(3) [hereinafter Law on Review of Citizens' Appeals].

¹⁴⁰ Law on Review of Citizens' Appeals, art. 8(2).

¹⁴¹ Law on Review of Citizens' Appeals, art. 8(3).

¹⁴² Law on Protection from Domestic Violence, arts. 10, 23.

¹⁴³ According to the Ministry of Internal Affairs, in 2012 a total of 2,415 TPOs were issued (out of 2,580 registered cases of domestic violence). NATIONAL STATISTICAL COMMITTEE OF THE KYRGYZ REPUBLIC, *supra* note 9, at 138. As seen above in the section "Inequality and Gender-Based Violence," the number of women appealing to crisis centers due to domestic violence was 4,877 in the same year. *Id.* at 132. Actual domestic violence figures are probably much higher.

However, overall members of vulnerable groups responded slightly more positively to the question of law enforcement accessibility when compared to that of other institutions. Although about a third of respondents (34%) gave the police an average rating (3 on a 5-point scale), 44.6% felt that the police were generally accessible (either a 4 or a 5 on a 5-point scale).

Furthermore, police units are not as far from respondents, on average, as other institutions like crisis centers or courts. In Osh city, respondents reported that they could reach a police unit on average just 2.8 kilometers away, in Bishkek 4 kilometers away, and in Osh province 5.1 kilometers away, while in Chuy the distance was further, at 11.9 kilometers.

Ministry of Social Development – Department for Family and Child Protection

Housed under the Ministry of Social Development, the Department for Family and Child Protection (DFCP) is the state body authorized by law for the protection of children living in difficult circumstances.¹⁴⁴ The body was created in recent years as part of a larger reform movement in the country aimed at stronger systems for child development and protection.¹⁴⁵ At the district and city levels, branches of the DFPC function under the district- or city-level administration of the Ministry of Social Development. When the DFPC identifies a child or a family in difficult circumstances, it carries out an assessment of the situation and then develops an individualized work plan together with the family. This plan includes detailed steps for social, legal, psychological, educational, and/or medical assistance to the family in order to promote the child or children’s positive long-term development, as well as to strengthen child-rearing skills for her parents or guardians.

In the event that the DFPC finds a child to be without adequate parental care, the department has the power to formally request that a court terminate or restrict parental rights, approve or revoke an adoption, appoint guardians or trustees, or become involved in other cases as necessary in order to protect the child’s rights. The DFPC is also responsible for assessing the suitability of potential adoptive parents, guardians, and trustees, and it must formally approve any transactions relating to the estate of a child who is under a guardian’s care before they can be concluded. In addition, in criminal cases involving a juvenile suspect, the DFPC is a mandatory party to the proceedings as per the Criminal Procedure Code.¹⁴⁶

Commissions for Children’s Affairs

Commissions for Children’s Affairs (CCA) are not permanent institutions, but rather are convened and carry out activities on a periodic basis as needed. CCAs can be created either by a District Administration or by a Mayor’s office (in any region for which the Mayor’s office holds administrative responsibility), and by law include representatives from the Department of Internal Affairs, the Department of Education, the Department of Health, the Department of Family and Child Protection, the Department of Migration, the District Administration or Mayor’s office, and, by agreement and as appropriate, representatives of civil society.¹⁴⁷

¹⁴⁴ Decree of the Kyrgyz Republic #121, “On Issues of the Ministry of Social Development,” 20 February 2012.

¹⁴⁵ UNICEF, *Analysis of the Situation of Children’s Residential Institutions in the Kyrgyz Republic* 12 (2012), available at http://www.unicef.org/kyrgyzstan/ANALYSIS_OF_THE_SITUATION.pdf.

¹⁴⁶ Criminal Procedure Code of the Kyrgyz Republic, 30 June 1999, as amended 14 July 2014, art. 34-1(1).

¹⁴⁷ Resolution of the Government of KR, #285, “Model Provisions on Commissions for Children,” 10 June 2008, as amended by resolution #619, 11 November 2013, arts. 1(2), 4(3).

CCAs review the draft individual plans for child protection and draft individual work plans for families, consider questions relating to a specific child’s future, oversee the execution of these plans and take steps relating to a child’s temporary placement, when necessary.

C. Informal Institutions

Informal justice institutions represent a significant portion of the justice sector in Kyrgyzstan, and frequently are the only viable options available to vulnerable groups, especially in rural areas. At the same time, they tend to be less closely regulated and monitored than formal institutions, and are more prone to pitfalls such as poorly trained arbiters, corruption and community influence, and inefficacy in enforcing decisions.

Aksakal (Elder) Courts

The Kyrgyz Constitution provides for the creation of Aksakal (elders’) courts to handle community disputes, and Kyrgyz law further defines the scope, jurisdiction, and rights of such courts.¹⁴⁸ The regulations concerning Aksakal courts provide that the Constitution and other laws of the Kyrgyz Republic form the basis for the courts’ activities, in addition to the “conscience, personal beliefs, morality, and ethics historically tied to the customs and traditions of the people of Kyrgyzstan, not in contradiction with the legislation of the Kyrgyz Republic.”¹⁴⁹

Aksakal courts are permitted by law to consider civil cases where both parties have agreed to transfer the case to the community court from the formal court system, and they may also review property disputes and family matters that have not yet progressed to the formal court system, given the consent of both parties to the conflict.¹⁵⁰ Aksakal courts also have the right to review cases where criminal proceedings were initiated but not completed, where the case has been stopped by the prosecutor, court, or investigator, and sent for review to the Aksakal court.¹⁵¹ In such cases, the Aksakal courts consider materials sent to them by the formal court system, the prosecutor’s office, and other law enforcement agencies concerning the case and then make a decision aimed at exerting social pressure or imposing a punitive measure, the range of possibilities of which is formally defined by law. The punishment that may be inflicted in such cases is limited to a warning, a small fine, or an order to compensate the injured party.¹⁵² In cases having to do with property and family disputes, Aksakal courts may make a decision on the merits of the case if a favorable reconciliation between the parties is not reached;¹⁵³ the parties then have the opportunity to appeal the court’s decision to the formal court system within 10 days of its issuance.¹⁵⁴ Aksakal courts are not authorized to hear cases concerning children’s rights and protection.

Generally speaking, the interviews and focus groups evinced a belief that Aksakal courts are fairly accessible to vulnerable segments of the population, particularly given their physical location in rural and remote regions. Importantly, they are usually located closer to the homes of rural citizens. The average distances from a respondent’s home to an Aksakal court ranged

¹⁴⁸ 2010 Constitution, art. 59; Law of the Kyrgyz Republic “On Elders’ Courts,” 5 July 2002, as amended 12 June 2009 [hereinafter Law on Elders’ Courts].

¹⁴⁹ Law on Elders’ Courts, art. 2.

¹⁵⁰ Law on Elders’ Courts, art. 4.

¹⁵¹ *Id.*

¹⁵² Law on Elders’ Courts, art. 28.

¹⁵³ *Id.*

¹⁵⁴ Law on Elders’ Courts, art. 30.

from 2.4 kilometers (in Osh city) to 4.8 kilometers (in Bishkek), much closer than formal courts.

However, the counterpoint to the Aksakal court's accessibility, widely cited by the experts interviewed, was a lack of legal knowledge in these institutions and a questionable level of impartiality, which will be discussed further below.

Women's Councils

At the level of local-self government (village administrative units called Ayil Okmotus, or territorial administrative units), women's councils are responsible for gender policy, helping to serve as a point of reference in the local self government for local women requiring assistance. Women's council members do not receive a salary, and their effectiveness and availability varies widely.

As seen above in the "Legal Knowledge" section, a very small fraction – generally less than half of one percent – of women said that they would turn to a women's council in case of a conflict situation (with the exception of violence in the home, in which case 1.3% of women said they would contact a women's council member). Thus, although women's councils are theoretically more accessible to rural women given their location directly within villages, they are not often addressed with serious problems facing vulnerable groups.

Committee for the Prevention of Domestic Violence

The Committee for the Prevention of Domestic Violence (CPDV) was established to address the problems of domestic abuse, bride kidnapping, and early and unregistered marriages, and has been working across the country since 2014. The CPDV for each province comprises representatives of various sectors of society working to combat these issues, and it provides a forum for more effective communication and cooperation between its members, who may include, for example, social workers, representatives of the educational and health sectors, Aksakal court judges, representatives of local self-government and law enforcement, and civil society representatives like NGO workers and local activists. Participation in the CPDV is voluntary and its structure flexible, but the main purpose of this informal association is to identify and implement the most effective strategies for combatting violence in each community.

Thus, although the precise activities and working habits of each regional CPDV will vary according to local circumstances, generally speaking, each Committee's activities include: 1) providing direct assistance (legal, psychological, and informational) to citizens who appeal for help in violence-related cases; 2) monitoring the general situation of violence in the region, particularly with regards to domestic violence, bride kidnapping, and early/non-registered marriage; 3) informing the population about its rights and advocating on behalf of vulnerable groups; and 4) planning, implementation, and monitoring of its own activities for continual improvement.

Crisis Centers

Crisis centers are organizations rendering direct assistance to victims of violence, including domestic abuse, bride kidnapping, and human trafficking. Some organizations offer temporary accommodation for victims in an in-house shelter; others render legal, psychological, and/or financial assistance, and still others do both. A number of such crisis

centers operate independently across the country and function with various levels of quality and capacity, due largely to unstable funding sources. The impact of these centers is not insignificant; according to official statistics, in 2012 crisis centers rendered legal, medical, social, or psychological assistance to 5,103 women (and 2,758 men), provided temporary shelter to 468 female victims, gave telephone consultations to 2,873 women, helped 52 women obtain a Temporary Protection Order (TPO), prepared documents for submission to justice institutions for 243 women, and initiated criminal proceedings on behalf of 62 women.¹⁵⁵

Crisis centers work largely independently of governmental entities (and each other); monitoring data show that there is very little cooperation or exchange of information between the centers and law enforcement agencies.¹⁵⁶ Occasionally crisis centers do cooperate with law enforcement to file a complaint on behalf of a victim and request a TPO, but the practice is far from systematic.

Part of the problem encountered by crisis centers in their work is the inefficacy of the TPO system in its current form. The experience of these centers show that TPOs are not protecting victims in practice. Thus, many consider the process of working with law enforcement to be a waste of valuable time when victims require immediate legal, psychological, and medical assistance.

As with many other types of services, the greatest quality and quantity of crisis centers is accumulated in the large urban centers of Bishkek and Osh, while other provinces, and particularly rural areas, are largely lacking in such assistance-giving entities. This is reflected in the fact that when asked about the accessibility of crisis centers, over half of the members of vulnerable groups surveyed could not respond to the question.

Public Prevention Centers

Public Prevention Centers (PPCs) are local institutions that aim to manage and coordinate community crime prevention. They function according to model regulations developed by the Ministry of Internal Affairs and with the approval of local self-government administrations. Examples of activities undertaken by PPCs are to review minor offenses in the community, maintain public order, carry out individual prevention measures with at-risk individuals, and do general crime prevention work in the community.¹⁵⁷ Typically, the Centers consist of representatives from the local Aksakal court, the Women's Council, the Veteran's Board, police inspectors, and others actively involved in local crime prevention efforts. PPCs are an important instrument in the community as they are frequently the only point of contact with at-risk groups and potential offenders; they also help clear up court backlogs by examining and taking affirmative action related to very minor community offenses, thereby predicating the need for a formal review.

Legal Clinics and NGOs

Numerous types of non-commercial, non-governmental organizations operate in Kyrgyzstan which render free (or low-cost) legal assistance to vulnerable populations. Generally these

¹⁵⁵ NATIONAL STATISTICAL COMMITTEE OF THE KYRGYZ REPUBLIC, *supra* note 9, at 138.

¹⁵⁶ Report on the monitoring results of law enforcement compliance with the Law of the Kyrgyz Republic "On Protection from Domestic Violence," Bishkek (2009).

¹⁵⁷ See, e.g., Provisions on Public Prevention Center, Issyk Kul Province Administration Decree #97, 16 May 2008.

organizations work with particular target groups, such as children, people with disabilities, immigrants, refugees, low-income individuals, etc. Some further specialize in particular areas of law or social issues, such as children's rights, juvenile justice, domestic violence, or victims of crime. For example, as of the second quarter of 2014, 149 registered NGOs were officially working for the protection of children's rights and the provision of social services.¹⁵⁸ One limitation of these types of organizations is that the quality and consistency of their services relies heavily upon the availability of funding from donors and international organizations at any given time.

Adilet Legal Clinic is among the more prominent legal aid NGOs in the country. In 2013 the organization provided 8,758 legal consultations to vulnerable groups across the country (women, children, and PWDs). The organization's lawyers also represented 358 members of these groups in state agencies, 157 in courts, and held 28 seminars and trainings on legal rights and access to justice.¹⁵⁹

There was general agreement among the experts interviewed that NGOs are fairly accessible in urban areas, but in rural areas they are practically non-existent. Needless to say, this presents a significant barrier to vulnerable groups seeking to access these institutions.

D. Recommendations

- Free legal advice should be provided by the government and NGOs to specific categories of vulnerable groups seeking to appeal to formal institutions of justice and governmental bodies. Bureaucracy and a lack of understanding surrounding the necessary documentation often represents the greatest barrier to justice for those with a low level of legal education, a problem that could be solved by providing simple consultations to those individuals. With government support and training, such advice could be given by paralegals or legal clinics in areas where an inadequate number of lawyers are available.
- The Ministry of Justice, the Ministry of Social Development, and international organizations should support the establishment of free legal aid centers (both governmental and non-governmental) in rural areas, where the need is often greatest but the supply is smallest.
- The Ministry of Internal Affairs should create a unit dedicated to the issue of domestic violence and carry out extensive training on gender sensitivity, issues relating to PWDs, and the nature of trauma (including the psychological explanations for why domestic violence victims stay with their abusers), in order to instill attitudes and behaviors among law enforcement that will encourage victims to report violence instead of hiding it. The MIA should also recruit more female cadets to increase women's representation in law enforcement institutions.
- The National Statistical Committee should expand its collection of gender-disaggregated statistics to include not only criminal offenses committed against women and men, but also civil and administrative cases, in order to show the nature of cases brought by each gender and understand how courts treat these cases (for example, whether the court refuses the application or finds a defendant not liable). These statistical measures should be developed with a view to creating more effective

¹⁵⁸ MSD Statistics 2014, *supra* note 21.

¹⁵⁹ LEGAL CLINIC ADILET, *Report on the Activities of Public Foundation "Adilet" in 2013*, <http://adilet.kg/ru/about/report/report2013/> (last visited Oct. 27, 2014).

formal and informal mechanisms for women and other vulnerable groups to access justice.

- The Ministry of Justice, Ministry of Social Protection, organs of local self-government and others must strive to improve practical physical access to public institutions for people with physical disabilities, the lack of which currently bars many people from realizing their rights. Furthermore, these institutions and others should pay special attention and take particular care in designing policies and approaches to especially vulnerable groups such as women and girls with disabilities, people with very serious disabilities requiring a high level of support, elderly people with disabilities, children with disabilities, and disabled persons from minority groups, as well as refugees.
- All public institutions should ensure that there is a way to provide vital information to people with visual disabilities (for example, Braille or large fonts when printed material is necessary), hearing disabilities (for example, a video or staff trained in sign language), and other disabilities limiting their capacity to understand other forms of information.
- Courts and other venues for formal proceedings should always be equipped with any specialized equipment necessary for the full understanding and participation of PWDs.
- The government and NGOs should work together to develop alternative mechanisms for conflict resolution not currently offered by the systems in place, for example, a more robust system of mediation mechanisms that do not require submitting one's case to an Aksakal court (which may be partial due to community ties or gender discrimination).

The National Statistical Committee should expand its collection of gender-disaggregated statistics to better understand the situation facing disabled men and women, with a view to creating better policies and state services within the justice sector aimed at realizing the rights of PWDs.

ELEMENT 5: FAIR PROCEDURE

“To what extent do justice institutions, whether formal or informal, ensure: 1) citizens have an opportunity to effectively present their case; 2) disputes are resolved impartially and without improper influence; 3) where disputes are resolved by mediation, citizens can make voluntary and informed decisions to settle?”

Summary

The overall perception of fairness and impartiality of justice institutions among vulnerable groups is poor. While the formal court system received fairly low ratings, the Aksakal court system fared even more poorly, with a majority of focus group participants asserting that the system is completely partial. In terms of a specific issue faced by vulnerable groups – domestic violence – the police were seen as a fairly helpful institution in the administration of justice.

Highlights

- Over a third of the respondents who had participated in courtroom proceedings were not represented by a lawyer, calling into question the opportunity of vulnerable groups to effectively defend their interests in court.
- A large majority of focus group participants (84%) ranked Aksakal courts as a “1” on a 1-5 scale of institutional impartiality, indicating a widespread belief that these informal judicial mechanisms do not render fair judgments.
- More than two-thirds of women said that they believe the police would be helpful or mostly helpful in case of a domestic violence incident, suggesting a general belief in the fairness of law enforcement.

A. Opportunity to effectively present case

Those survey respondents who had previously participated in court cases (24 individuals out of the total) expressed generally negative views as to the fair trial guarantees for participants in such proceedings. Women, youth, and PWDs were asked to rank certain aspects of the litigation process on a 5-point scale by the level of “justice” they perceived. All three groups ranked “representation of the defendant’s interests” poorly, between 2 and 2.3 points. Although the respondents had a somewhat more positive picture of the “acceptability of the process,” they still gave it only an average rating (around 3 out of 5 points).

There was some regional variation between respondents from different target areas. Those from Bishkek and Chuy province generally ranked the judicial process higher in every category than those from Osh city and Osh province, suggesting lower levels of quality and fairness (real or perceived) in the court system of the country’s southern region.

The issue of representation in the courtroom was also split. Of those individuals who had been parties to courtroom proceedings, 13 said they had been represented by a lawyer, while the remaining nine who answered the question said they did not have a lawyer. When asked

why not, four responded that they'd been able to defend their own interests, two said that they didn't have the money to pay a lawyer, and three others weren't sure why.

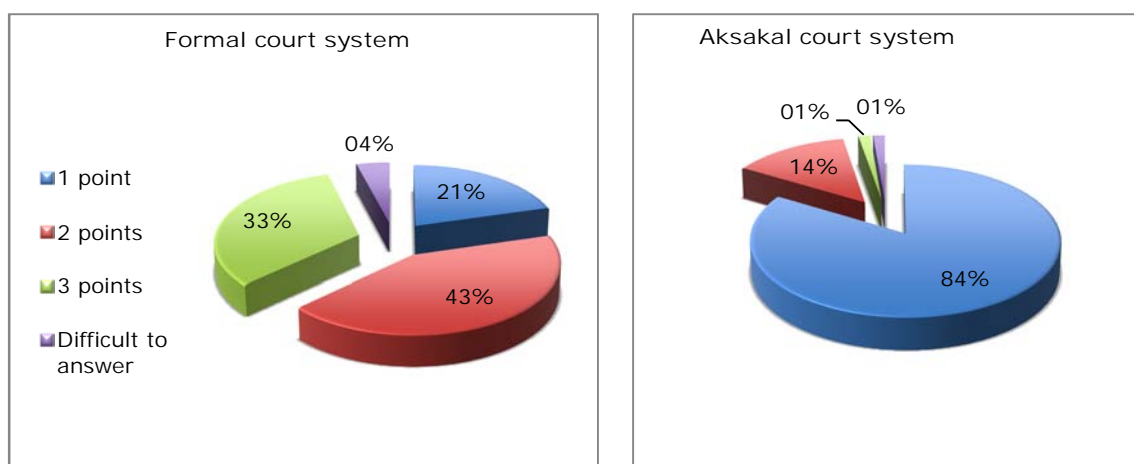
The presence of an attorney in courtroom proceedings is in most cases a prerequisite to an individual's opportunity to effectively present their case. The lack of a lawyer due to inadequate funds or a lack of understanding regarding the complexity of formal litigation presents a very real barrier to justice.

B. Perceived impartiality of institutions

The experts interviewed expressed varying opinions about the impartiality of specific institutions of formal and informal justice. Some interviewees, like one representative of the Ministry of Justice department of free legal advice, believed that the courts are generally impartial, taking a dispassionate, "doctor"-like approach to the questions before them, but can become interested in a case when the parties have particular qualities like wealth, social status, public positions, etc. Others, such as an expert on the legal and judicial system, felt that justice is wholesale denied in the country by an improper judicial selection process, even at the Supreme Court level.

Overall, participants in the focus groups expressed a rather negative opinion about the impartiality of both formal and informal justice institutions in the Kyrgyz Republic. For a quick comparison, it is interesting to observe the variation between ratings of (formal) courts and Aksakal courts. Focus group participants were asked to rate each of these institutions on a 3-point scale, where "1" represented the lowest level of impartiality and "5" represented the highest level of impartiality. As can be seen below, not a single focus group participant ranked either the formal court system or the Aksakal court system as a "4" or "5" on this scale.

Figure 10. Comparison of formal court and Aksakal court impartiality, rated on a 1 to 5 scale by focus group participants



As is clear from the assessment of the focus group participants, neither institution is considered to be impartial, but the formal court system does somewhat better than the Aksakal court system, which received an almost universally poor rating for impartiality – 84% of respondents gave the Aksakal courts a "1" on a 5-point scale. This finding suggests a general belief that the Aksakal court system is not fair to all participants.

C. Perceived level of justice

Fairness of court decisions

Of 24 respondents who had participated in formal trials, a minority (five respondents, all from the “women” group) felt that the court decision in their case had been completely just. Eleven respondents, including representatives from each target group, considered the decision in their case to be only partially just, while the remainder (split between women and young people) believed the decision in their case to be completely unjust.

Satisfaction with the outcome of the formal judicial process is an important indicator for a population’s perception of justice in the country overall. Although the sample size is inadequate given the relatively small number of respondents who had been parties to a case in court, it is concerning that well over half of those who had interacted with the formal justice system considered the outcome to be, at best, only partially fair.

Domestic violence

Another indicator for the perceived level of fair procedure is how members of these target groups regard the helpfulness of specific institutions in addressing specific complaints. Given that domestic violence is among the most widespread problems for women in the Kyrgyz Republic, it is illustrative of women’s understanding of fairness to ask about how various formal and informal institutions assist (or do not assist) when women appeal for help in the case of such violence.

As was seen above, with regards to domestic violence, women respondents exhibited an overall reluctance to appeal for help anywhere. However, in spite of this tendency, the survey results showed an overwhelming preference for the police as compared with other institutions (such as crisis centers, human rights NGOs, or women’s councils). Although 12.3% of women said that they would not turn to the police in case of domestic violence, a large majority – 71.3% – said that the police would be “helpful” or “somewhat helpful” in such a circumstance. Only 13.3% of women said that the police would be “mostly unhelpful” or “unhelpful.” This is an encouraging finding, given the sensitivity of the issue of domestic violence and the widely-perceived inefficacy of the police.

Table 10. Women’s opinions on the helpfulness of various actors in the justice system in cases of domestic violence, %

Justice Institution	Would not appeal there	Helpful	Somewhat helpful	Mostly unhelpful	Unhelpful	Refused to answer	Difficult to say
	%	%	%	%	%	%	%
The elders of the village / community	54.5	21.1	13.4	2.4	5.4	0	3.1
Women council	45.4	22.6	17.1	4	6.7	0	4.3
Local religious leaders	58.1	11.4	13.2	4.4	8.7	0	4.1
Local self-government institutions	61.2	12.8	10	3.1	7.9	0	5

Human right CSOs	63.5	8.9	12.7	2.3	5.6	0.5	6.5
Crisis centers	67	7.8	13.2	2.7	3.5	0.3	5.5
Attorneys / Lawyers	58.6	17.3	14.1	2.6	3.2	0.3	4
Ombudsman	70	6.3	6.2	3.3	5.2	0.3	8.6
Police	12.3	35.4	35.9	10.2	3.1	0	3
Court	28.7	32.6	27.9	3.7	2.5	0	4.5
Prosecutor's Office	43.2	20.9	22.4	3.3	3.6	0.2	6.4

D. Recommendations

Building trust in a judicial system that is widely perceived to be unfair and biased will require a broad array of measures by multiple parties. Some initial steps should include:

- In order to ensure that every citizen has the equal opportunity to participate in the justice system, steps should be taken to increase the availability of representation in courtroom proceedings.
- The Judicial system should increase the transparency of trial processes and make information about court procedures and judgments more readily available to the public, in formats that are understandable to vulnerable groups such as poorly educated rural women and children and persons with hearing and visual impairment. This may involve publishing information about specific court cases on respective websites, or inviting media representatives to observe and report on cases.
- The Ministry of Justice and NGOs should work to provide expert guidance and support to informal justice systems in order to increase their efficacy and increase impartiality. Steps should be taken to punish members of such institutions who abuse their power.
- Government agencies and NGOs should coordinate to develop a plan and carry out actions in order to increase representation of vulnerable groups such as women, PWDs, and ethnic and religious minorities within justice institutions, for example as lawyers, judges, investigators, etc. in order to amplify the voices of these groups and highlight their needs within the justice system. This has the potential to contribute greatly to perceptions of fairness and impartiality both in the formal and informal systems.

ELEMENT 6. ENFORCEABILITY OF DECISIONS

“To what extent are justice institutions able to enforce their decisions?”

Summary

The execution of court decisions, both in the formal and informal justice systems, presents a daunting challenge to vulnerable groups and others in the Kyrgyz Republic. The formal court system lacks adequate power to effectively implement decisions, and thus more powerful actors are able to find means of avoiding court orders. In the informal court system, vulnerable groups who lack influence on a local level have no leverage to force compliance with court decisions.

Highlights

- Enforcement mechanisms for formal court decisions are weak and a significant minority of respondents who had been parties to litigation reported that their court decision was never enforced.
- Aksakal courts are largely bereft of enforcement capacity, and must depend more on community respect than legal implementation powers in order to realize their decisions.

A. Execution of court decisions

Formal court decisions are widely understood to be unenforceable. As a result, it is often the case that even after fighting a lengthy court battle, entailing significant expenditures, a winning party finds the decision worthless due to a simple refusal by the losing party to comply. Although the law provides for court bailiffs who should, in theory, ensure the effective implementation of decisions, in reality these actors have little power to force practical compliance, especially when the losing party has been ordered to pay compensation or vacate a dwelling or place of business.

For vulnerable groups this reality is particularly bitter. Among women, some of the most common reasons for litigation are related to family affairs, especially divorce, property division, and child support payments. Yet without support from formal justice institutions to ensure that favorable decisions are respected, women often find that child support and property division orders remain on paper only.

Of the respondents to the survey who had participated in a full judicial process to conclusion, just 17 out of 24 said that the court’s decision had been executed. Another five said that it was never executed, while one was still waiting.¹⁶⁰ The majority of those who had trouble enforcing their judgment were respondents in the southern target regions (Osh city and Osh province).

The experts interviewed for the present study cited a variety of reasons for this weak enforcement capacity, including a high level of bureaucracy associated with implementation,

¹⁶⁰ The final respondent said she was unable to answer the question.

poor qualifications among judicial officers, lack of legal basis for court enforcement powers, and a simple inability or unwillingness to comply on the part of losing parties.

B. Aksakal court decisions

Aksakal courts are limited by law as to the extent of the measures they may impose in their decisions. Furthermore, they are virtually without enforcement capacity since they lack the bailiffs found in the formal court system for helping to enforce judgments. Ultimately, the power of Aksakal courts to enforce their decisions rests upon inherent community respect for the institution, which is of course not standardized and varies widely depending on the members of the Aksakal court itself, their level of influence among the community in which they sit, and the relative power of the parties to the case itself. Needless to say, less powerful parties (such as women in property division proceedings, who are often not originally from the village where the conflict arises) are likely to have more difficulty enforcing a favorable Aksakal decision than those who enjoy broad influence in the community.

C. Recommendations

The experts interviewed proposed a number of measures that the government should undertake in order to improve the enforcement of court decisions, which are summarized here.

- Court bailiffs and social workers must be granted greater legal capacity to carry out the enforcement of judicial decisions.
- Parliament should amend the law in order to compel defendants to pay court-ordered compensation or else face criminal penalties (such as incarceration).
- The government should consider promoting a greater acceptance of insurance regimes, which could help ease the problem. For example, even if enforcement of judgments remains weak, private insurance schemes could help ensure that plaintiffs are still able to recover compensation for injuries.

VI. CONCLUSION: ACCESS TO JUSTICE IN KYRGYZSTAN

The findings of this baseline study suggest that although the Kyrgyz Republic has made steps towards increasing protection of vulnerable groups' rights and ability to enjoy social services, the country still lags behind in each of the six access to justice indicators described above. Women, youth, and people with disabilities face particular challenges in addressing common legal problems and in seeking redress for their complaints, both in the formal and informal justice sectors.

Although the country's legal framework for addressing rights violations is fairly comprehensive, a general lack of knowledge among vulnerable groups regarding their rights and mechanisms for enforcing them prevents many from accessing remedy. Unavailability of qualified representation and a lack of trust in lawyers and the court system also represent substantial barriers. Justice institutions are widely perceived to lack impartiality and fairness, particularly in the south of the country, and many communities are physically distant from centers providing legal services and courts. Even those individuals who receive a favorable court decision often find themselves unable to enforce it.

However, the study also revealed extensive opportunities for improving vulnerable groups' access to justice in the Kyrgyz Republic. The existence of a fairly comprehensive legal framework allowing citizens to appeal to law enforcement bodies and courts, along with robust constitutional and legislative provisions on equality before the judicial system, offers a solid foundation from which to ensure that this equality is realized in practice. Furthermore, the government's introduction of free legal representation in criminal cases and primary assistance in civil and administrative matters through newly-established legal aid provision centers represents an important development in widening access to justice for marginalized groups.

As seen in the recommendations following each of the six assessment sections above, making further meaningful changes will require substantial and coordinated efforts of a wide range of governmental and non-governmental actors in the Kyrgyz Republic. Ensuring that interventions by one or more of these actors occur in concert with other concurrent programming will be critical to effecting sustainable improvements in vulnerable groups' experiences with the justice system. Policymaking and programming aimed at strengthening capacity in permanent justice institutions will also play a role in promoting equitable outcomes. Joint efforts, transparency of information, and frequent assessments of progress will help ensure that improved access to justice for vulnerable groups is sustained, widespread, and truly for the benefit of all.