

# **Report to the UN Special Rapporteur on Violence Against Women**

re: shelters and protection orders for victims of violence against women in  
the Kyrgyz Republic

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### 1. BRIEF RESPONSES TO THE CALL FOR SUBMISSIONS

*Protection orders and shelters are extremely important for the protection of women, their sense of safety, their ability to overcome the effects of abuse and planning for the future. The Special Rapporteur on violence against women, its causes and consequences seeks to collect information on shelters and protection orders which will feed into the thematic report she will present at the 34th session of the Human Rights Council in June 2017. In order to inform her work, the Special Rapporteur wishes to secure from different stakeholders, including States, National Human Rights Institutions, Non-governmental organizations, as well as members of academia, information, inputs and views on both forms of protection:*

#### **Shelters:**

- **Legislative framework and/or guidelines regulating shelters’ operations procedures and their shortcomings;**

VAW victims’ right to access shelters are outlined in the *Law of the Kyrgyz Republic on Social and Legal Protection Against Domestic Violence* [Domestic Violence Law]. Though this law states that victims of domestic violence have the right to apply to shelters and that these shelters must provide unspecified “services” to those staying in them, it does not clarify what such services must entail. Moreover, the law does not designate any governmental body with the responsibility to oversee shelters, nor are there any regulations regarding shelters’ operating procedures.

Note that other Kyrgyzstani legal acts address forms of VAW beyond domestic violence such non-domestic rape, sexual harassment, discrimination, etc. However, these laws do not include provisions on shelters.

- **Types of shelters and number of shelters in a given State, their territorial allocation and their financing;**

The Kyrgyz Republic has a total of 14 crisis centers, plus two shelters with facilities for overnight stay. Both of these shelters are located in the country's major urban centers: one in the capital of Bishkek (with 12 beds) and the other in the city of Osh (according to Human Rights Watch, no longer able to house women due to a lack of funds). Only the Sezim shelter in Bishkek receives governmental support, with its operating costs covered by the Mayor's Office in Bishkek. All of the other crisis centers and the shelter in Osh rely on private funding (donors, benefactors, etc.). Though provisions exist in law whereby perpetrators of domestic violence may be required to pay for their victims' stays in shelters beyond the first 10 days, civil society activists note that this provision has never worked or been enforced. Instead, shelters and private donors end up paying for the services.

- **Conditions to access shelters for women with their children (in particular boys and specific age restrictions and children with special needs);**

The Domestic Violence Law explicitly allows shelters to set their own admissions standards. Those interviewed noted that women are routinely allowed to bring their children to crisis centers and shelters. However, a Human Rights Watch report from 2015 noted that the women's shelter in Osh City began to bar women from bringing their children as it did not have the money to provide meals or other basic services (like heat). According to the same HRW report, VAW victims who turn to other types of shelters – such as those for the homeless – are routinely allowed to bring their children, both male and female.

- **Length of stay in shelters;**

Under the Domestic Violence Law, those staying in shelters can stay for up to 10 days for free, after which the perpetrator of violence is supposed to pay for their stay. In practice, women tend to stay for 10 days to 3 weeks before being requested to find other accommodations. In extreme cases of violence and difficulty, leaders of the shelters will try to find longer-term accommodation by contacting individual donors (usually business leaders or personal acquaintances) and finding cheap apartments in the city.

- **Availability of alternative accommodation and of second and third stage housing**

Second and third stage housing facilities do not exist in the Kyrgyz Republic, nor are there any laws that would establish them or their conditions.

- **Landmark jurisprudence and good practices.**

Though our interviewees could not identify best practices currently in existence, they proposed ideas for best practices that could be put in place. These included: (1) embedding businesses within shelters, having the residents make hand-made crafts and using the sales to fund the shelter, (2) founding professional organizations – such as a professional association of psychologists and psychiatrists – to monitor the quality and effectiveness of services provided in

shelters, (3) partnering with pre-existing professional organizations – such as the Advocatura and Lawyer’s Training Center – to elicit high-quality, free services for shelter residents.

**Protection orders:**

- **Legislative framework and/or guidelines regulating them as well as their shortcomings;**

Interim protection orders and court protection orders are provided for in the Administrative Codex of the Kyrgyz Republic and in the Domestic Violence Law. Though both the IPO and CPO mechanisms are progressive on paper, in reality they suffer from a lack of implementation (see “efficiency or lack thereof”, below).

- **Practicalities on how protection orders work, who can issue them , types and length of protection or barring orders;**

Summary: Protection Orders in Cases of Domestic Violence

	<b>Interim Protection Order (IPO)</b>	<b>Court Protection Order (CPO)</b>
<b>Length of Protection</b>	Up to 15 days	1 to 6 months
<b>Who Can Issue</b>	Police	Court
<b>Basis of Issuance</b>	Act of violence or threat of immediate violence	Act of violence that poses a threat to the life or health of a family member
<b>Provisions / protections are...</b>	Compulsory under the law (“the IPO <i>shall</i> include...”)	At the discretion of the court (“The following official measures <i>can</i> be taken as per the CPO...”)
<b>Key Provisions/Protections</b>	Prohibition of further violence	Prohibition of further violence
	Regulation of access to minor children	Regulation of access to minor children
		Requirement that the perpetrator leave the place of residence regardless of who owns it
	Warning against direct or indirect contact with the victim	Warning against direct and indirect contact with the victim at <i>her place of work</i> or any other place
		Prohibition on the purchase of fire-arms or other weapons

	Prohibition on the perpetrator's sole use or managements of joint property
Requirement that the perpetrator pay for the victim's medical treatment	Requirement that the perpetrator pay for the victim's medical treatment, consultations, and stay at a shelter

- **Efficiency or lack thereof of protection orders;**

The police – who are in charge of issuing interim protection orders – routinely characterize domestic violence and VAW as “private” matters that should not be their concern. In cases where IPOs are issued, police routinely attempt to reconcile the parties with the aim of forestalling any further legal action on their part. IPO issuance was non-existent for the first 7 years of the mechanism's existence (it was first introduced to Kyrgyzstan in 2003 via the Domestic Violence Law) and only increased once police were put in competition with one another to show who could issue the highest number of IPOs (regardless of the underlying conditions of their communities or effect on decreasing VAW).

Only 10 CPOs have been issued since the mechanism was introduced to Kyrgyzstan via the 2003 Domestic Violence Law. Women's rights experts and civil society activists have found the mechanism so ineffective that they proposed removing it from a new draft law being introduced to parliament to improve domestic violence legislation in Kyrgyzstan.

- **Legal consequences of the non-respect of protection orders;**

For breaking an IPO: an administrative fine

For breaking a CPO: either administrative or criminal proceedings, depending on the nature of the underlying offence / manner of breaking the CPO

- **Landmark jurisprudence and good practices.**

None identified.

**Information on existing mandatory mediation and reconciliation practices which may undermine the protection of gender-based violence victims as well as information on their social reintegration and legal, security and financial assistance measures are also welcomed.**

Kyrgyzstan has legal provisions allowing reconciliation in instances of VAW and mediation of conflicting parties, even for (minor) criminal offenses. These legal provisions include article 6 of the Domestic Violence Law, which allows victims to seek mediation by an Aksakal Court (or Court of Elders), a community-based alternative dispute resolution mechanism that usually seeks to reconcile the disputing parties rather than protect victims from violence. Moreover, Article 66 of the Criminal Code exempts those who commit “minor offenses” from liability if

(s)he and the victim “reconcile.” Human Rights Watch documents repeated instances of police encouraging complainants to use this method to withdraw their cases, while sociologist Elena Kim quotes multiple police saying that women’s propensity to withdraw their cases and ‘reconcile’ with their husbands made it “pointless” to start investigating their domestic violence cases at all.

## 2. ADDITIONAL DATA: AN OVERVIEW

- As of 2015, some 7,812 women resorted to a crisis center for help in Kyrgyzstan. 5,718 of these women were sufferers of domestic violence.
- The Kyrgyz Republic has a total of 14 crisis centers and two shelters with facilities for overnight stay. Both of these shelters are located in the country's major urban centers: one in the capital of Bishkek and the other in the city of Osh.
- The core problem faced by crisis centers is a lack of operating funds. Only one – which receives half of its funding from the Office of the Mayor of Bishkek – is consistently able to provide shelter space for victims of VAW. Others have closed their facilities due to an inability to pay for heating, meals, running water, and other ongoing costs (much less the salaries for qualified employees).
- The Government of the Kyrgyz Republic – and specifically its Finance Ministry – has explicitly stated that it does not have the funds to pay for shelters and other services for victims of VAW. A new law currently being debated in parliament thus does not require any government financing for the system of shelters and services that it guarantees as the right of all VAW victims. Though many women's rights activists and civil society activists believe government funding would be ideal, they have chosen not to push for what they see as a 'non-starter' and are instead trying to experiment with alternative sources of financing.
- The laws of the Kyrgyz Republic grant victims of domestic violence the right to receive interim protection orders (IPOs) of up to 15 days. However, the police – who are in charge of issuing IPOs – routinely characterize domestic violence and VAW as "private" matters that should not be their concern. In cases where IPOs are issued, police often attempt to reconcile the parties with the aim of forestalling any further legal action on their part.
- The laws of the Kyrgyz Republic grant victims of domestic violence the right to receive court protection orders (CPOs) of 1 to 6 months. However, only 10 CPOs have been issued in all of Kyrgyzstan in the past 13 years (and none before then). One women's rights expert notes that CPO's "do not work" given the problems with judicial implementation and police training. As such, a new draft bill recently introduced to Parliament to address domestic violence does not include the CPO mechanism.
- Kyrgyzstan's legislation includes articles that encourage reconciliation in VAW cases. For example, article 66 of the Criminal Code allows victims to withdraw their complaints against "minor" criminal acts so long as they reconcile with the perpetrator.
- Given the uphill battle for victims of VAW, members of Kyrgyzstan's civil society are trying to experiment with new methods and find creative best practices. These include, for example, the idea of embedding businesses in shelters, with women-residents learning new skills and helping to fund their shelter stays.

### 3. INTRODUCTION TO THE KYRGYZ REPUBLIC

*Population:* Women make up roughly 51% of the Kyrgyz Republic's population of 6 million, with some 3 million 20 thousand women and girls living in the country as of 2016.<sup>1</sup> The entire population is skewed toward youth, with notable baby-booms having occurred in both the 1990's and 2010's.<sup>2</sup>

*Gender-disaggregated economic activity:* Across all age groups, men are more economically active than women, with some 50% of the female population being economically active and 76% of the male population being economically active.<sup>3</sup> The difference in female and male economic activity is particularly wide from ages 25 to 34, the primary child-birthing and child-rearing years (and a critical time for career and skills development).<sup>4</sup> Those women who are economically active tend to be engaged in small-scale farming and trade, while men's primary employment includes small-scale farming, trade, transport (taxi and truck driving), and construction work.<sup>5</sup> Roughly one third of Kyrgyzstan's female population lives in urban areas (i.e. in Bishkek or Osh) and two thirds in rural areas.<sup>6</sup>

*Socio-cultural factors:* Citizens of the Kyrgyz Republic experience a variety of socio-cultural influences: as part of the Soviet Union for some 70 years, the legal and institutional structure of the country – plus citizens' vision of government programs and support – remain largely in the Russo-Soviet model. Yet in the almost 30 years since independence, Western donors and NGOs have spearheaded the introduction of deregulation, Westernization, and neo-liberal economic policies. While this has resulted in the spread of human rights doctrine – and with it increasing recognition of women's rights, agency, and independence – the resultant dismantling of government support has been a major setback for the country's women. Local and foreign scholars alike have documented how these policies have had an unequal and negative effect on women, resulting in more Kyrgyzstani women living in poverty than Kyrgyzstani men.<sup>7</sup> The post-independence years have also seen an increase in the influence of religion: some 80% of the population now identifies as Muslim, and religiosity is increasingly visible via the construction of mosques, wearing of hijab by women and beards/skull-caps by men, and public observance of prayer and holidays. Kyrgyzstani citizens are thus exposed to a variety of external (and frequently contradictory) frameworks for ordering their society and gender practices.

Finally, a body of beliefs and actions often referred to as “Kyrgyzcha” or “in the Kyrgyz way” (i.e. traditions and customs) shape many citizens' gender beliefs and practices. These include beliefs and practices such as patrilocality; respect for elders and strict rules for demonstrating this respect; the subordination of newly married women and obligation for them to bear children; and the avoidance of public conflict, especially in terms of settling discord out of court and via mediation and negotiation.<sup>8</sup>

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<sup>1</sup> National Statistics Committee (2016).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

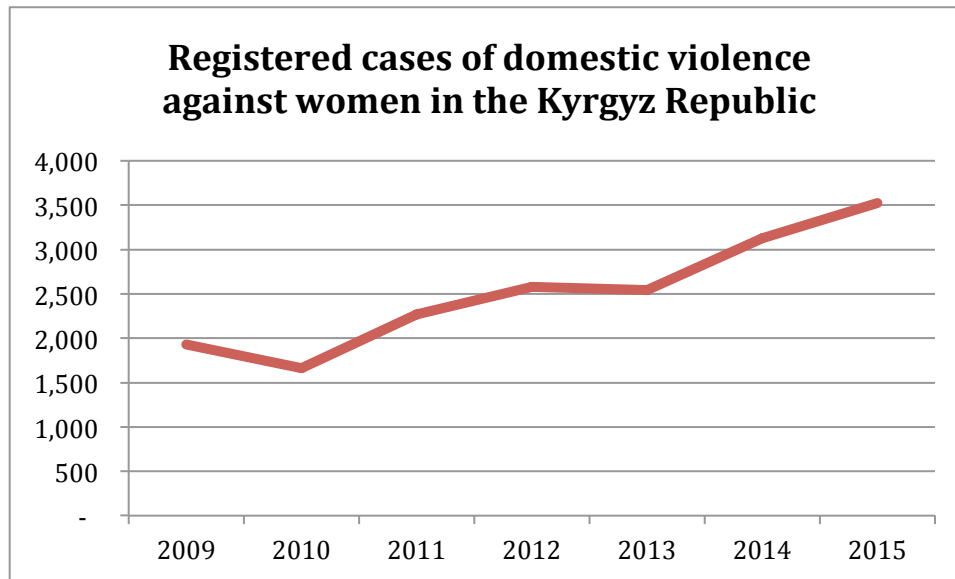
<sup>7</sup> *Id.*

<sup>8</sup> See Kim (2016), Human Rights Watch (2015), Human Rights Watch (2005), 24 KG News Service (2016).



### 3.1. VIOLENCE AGAINST WOMEN IN THE KYRGYZ REPUBLIC

According to official statistics, some 3,524 women suffered from domestic violence in Kyrgyzstan in 2015.<sup>9</sup> This number has steadily risen over the past several years (see table below), though it is unclear whether this is due to an increase in violence or in reporting.



Source: National Statistics Committee of the Kyrgyz Republic. “Women and Men of the Kyrgyz Republic” surveys from 2009 to 2016.

These official statistics are believed to be significantly lower than actual rates of domestic abuse, with under-reporting and a lack of knowledge about what exactly constitutes domestic violence among citizens.<sup>10</sup> For example, one young married woman told the author that, “He [my husband] said that strangling doesn’t count as domestic violence. And I guess since he only did it one time he’s right that it doesn’t count.”<sup>11</sup> Many Kyrgyzstani women believe it is acceptable for a man to beat his wife if she leaves the house without asking his permission (18% agree), refuses to have sex with him (7%), burns the food (6%), or neglects the housework (15%).<sup>12</sup> Some 21% of Kyrgyzstani women note that their husbands do not let them work or meet with friends.

Women in Kyrgyzstan are also particularly vulnerable to violence in the form of forced marriage via bride kidnapping and child marriage. Bride kidnapping, or the act of abducting a woman with the intention to force her to marry her abductor, is practiced in all regions of the country.<sup>13</sup> Though reliable statistics are not available on the prevalence of bride kidnapping, as of a recent survey some 12% of respondents from 6,000 surveyed households noted that their marriages

<sup>9</sup> National Statistics Committee of the Kyrgyz Republic (2015).

<sup>10</sup> Center for Research of Democratic Processes (2010).

<sup>11</sup> Anonymous. Interview with author conducted in Bishkek, Kyrgyz Republic in October 2016.

<sup>12</sup> National Statistics Committee of the Kyrgyz Republic and UNFPA (2015), Table CP.13.

<sup>13</sup> Kim (2016).

were the result of a kidnapping.<sup>14</sup> Though the process of kidnapping involves significant amounts of physical, psychological, and sexual violence against its victims,<sup>15</sup> many citizens and justice officials alike support the practice as a “national tradition.”<sup>16</sup> Early marriage, or the practice of marrying girls younger than 18, is also prevalent and has been found to inflict significant psychological damage on brides, some as young as 13 or 14.<sup>17</sup>

#### 4. LEGAL FRAMEWORK FOR ADDRESSING VAW IN THE KYRGYZ REPUBLIC

The Constitution of the Kyrgyz Republic states that “no one may be subject to discrimination on the basis of sex”<sup>18</sup> and that “men and women shall have equal rights and freedoms and equal opportunities for their realization.”<sup>19</sup> In addition to these general pronouncements on non-discrimination and equality between the sexes, the Constitution guarantees social programs, support, and health services sufficient to establish “decent conditions of life and free personal development” for all citizens.<sup>20</sup> The Constitution also guarantees governmental protection of the health and labor rights of “socially vulnerable categories of citizens.”<sup>21</sup>

Though the applicability of these Constitutional guarantees to victims of VAW has never been litigated in a Kyrgyzstani court, at the international level similar provisions have been interpreted to give victims of VAW certain rights to State protection.<sup>22</sup> Given that Kyrgyzstani is a party to CEDAW, CEDAW’s Optional Protocol, as well as the other core UN human rights instruments (such as the ICCPR, ICESCR, the Convention on the Rights of the Child, and others), its courts would at least take such interpretations into consideration. Thus sufferers of VAW in Kyrgyzstan arguably have constitutional rights to governmental support in (re)establishing “decent” living conditions, achieving “free personal development,” and attaining health protection. Such systems of support would include shelters that can provide adequate health care, psychological support, and other necessary services for sufferers of domestic violence.

Kyrgyzstan’s legislation, meanwhile, contains several provisions and mechanisms to counter violence against women. These include articles in the **Administrative Code of the Kyrgyz Republic** against battery, intentional injury, death threats, disorderly conduct, drunken disorderly conduct, and domestic violence. **The Administrative Codex also contains measures for failure to comply with an interim protective order (§ 66-4) and court protective order (§ 66-5), including fines and administrative arrest from 3 to 5 days.** Meanwhile, the Criminal

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<sup>14</sup> UNFPA (2016).

<sup>15</sup> Kim (2016), Bokontaeva (2015), CEDAW Committee (2013), Borbieva (2012), Kleinbach (2007).

<sup>16</sup> Kim (2016), CEDAW Committee (2013), Werner (2009), Kleinbach (2007), Ayres (1974).

<sup>17</sup> Kim (2016), Ilibezova (2013), Kinderbaeva (2012), Thomas (2009).

<sup>18</sup> Art. 16.2 ¶2.

<sup>19</sup> Art. 16.2 ¶4.

<sup>20</sup> Art. 9 ¶1. The text reads: “The Kyrgyz Republic shall elaborate social programs aimed at establishing decent conditions of life and free personal development...”

<sup>21</sup> Art. 9 ¶2. The text reads: “The Kyrgyz Republic shall ensure support to socially vulnerable categories of citizens, guaranteed a minimum level of labor remuneration, and protection of labor and health.”

<sup>22</sup> See, for example, the CEDAW Committee’s landmark 1992 declaration on violence against women (VAW), in which it elaborates how VAW is a form of gender discrimination and thus actionable under the CEDAW Convention itself.

Codex of the Kyrgyz Republic contains provisions against criminal offenses such as assault, sexual assault, murder, under-age marriage, and bride kidnapping.<sup>23</sup>

Moreover, after significant efforts from civil society and women’s NGOs,<sup>24</sup> the Parliament of the Kyrgyz Republic passed the ***Law of the Kyrgyz Republic on Social and Legal Protection Against Domestic Violence [Domestic Violence Law]*** in 2003.<sup>25</sup> Among the relevant provisions of the Domestic Violence Law are its definition of illegal family violence (including, for example, rape within marriages as a form of sexual violence), victims’ rights in such cases, and the social and legal institutions to which such victims can turn. The Domestic Violence Law **guarantees victims’ rights to apply to shelters and crisis centers, to receive counseling, and to receive interim protection orders and court protection orders on a case-by-case basis.**

However, **Kyrgyzstan also has legal provisions allowing reconciliation in instances of VAW** and in general mediation of conflicting parties, even for (minor) criminal offenses. These legal provisions include **article 6 of the Domestic Violence Law, which allows victims to seek mediation by an Aksakal Court (or Court of Elders)**, a community-based alternative dispute resolution mechanism that usually seeks to reconcile the disputing parties rather than protect victims from violence. Moreover, **Article 66 of the Criminal Code exempts those who commit “minor offenses” from liability if (s)he and the victim “reconcile.”** Human Rights Watch documents repeated instances of police encouraging complainants to use this method to withdraw their cases,<sup>26</sup> while sociologist Elena Kim quotes multiple police saying that women’s propensity to withdraw their cases and ‘reconcile’ with their husbands made it “pointless” to start investigating their domestic violence cases at all.<sup>27</sup>

#### 4.1. IMPLEMENTATION OF KYRGYZSTAN’S ANTI-VAW LAWS

Though much of Kyrgyzstan’s legislation is progressive in its approach to VAW, its effectiveness has been stymied by poor judicial and police implementation. In a **2006 survey, some 90% of judges surveyed did not know that the Domestic Violence Law existed.** These judges tended to apply light measures to cases of violence against women such as “minor disorderly conduct” and “drunken conduct that disturbs the peace,” administrative offences punishable by small fines, community service, and administrative arrest.<sup>28</sup> Though additional, more serious Administrative Code articles for battery, intentional injury, or death threats could be applied in cases of domestic violence, many of the judges who participated in the study claimed that these provisions were ‘too serious’ for VAW offenses.<sup>29</sup>

Meanwhile, as of 2008 (5 years after passage of the Domestic Violence Law) **80% of 300 surveyed police did not know about the Domestic Violence Law.** Moreover, **not a single one of**

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<sup>23</sup> Criminal Codex of the Kyrgyz Republic § 155.

<sup>24</sup> Interview with Rimma Sultanova (21 Feb. 2017). The law was passed after women’s civil society groups gathered 30,000 signatures on their petition to increase protections against VAW in the Kyrgyz Republic.

<sup>25</sup> Adopted 25 Mar. 2003 No. 62

<sup>26</sup> Human Rights Watch (2015).

<sup>27</sup> Kim (2016).

<sup>28</sup> Administrative Codex of the Kyrgyz Republic §§ 364, 366.

<sup>29</sup> Human Rights Watch (2015), Center for Research of Democratic Processes (2010).

**the surveyed policemen or policewomen could say where to find a sample IPO form**, despite the fact that detailed instructions and sample forms had been available to them since 2004.<sup>30</sup>

Though several trainings for police and judges were organized throughout the country in the wake of these dismal results, progress appears to be slow. **A 2016 study found that policemen were deeply averse to dealing with cases of domestic violence, bride kidnapping, and child marriage, with officers arguing that such issues were “not my problem”, “private”, “too much paperwork”, and “pointless, since women just retract their complaints a few days later”** (recall the laws allowing for mediation and reconciliation).<sup>31</sup> And while progress appears to have been made on police knowledge of formatting and issue IPOS – with some 3,201 interim protection orders issued in cases of domestic violence in 2015<sup>32</sup> – reportedly **only one court protection order has been issued in the entire 13-year history of the Domestic Violence Law**.<sup>33</sup>

Compounding these problems from within the justice system, women themselves have little knowledge of their rights or capacity to advocate for themselves. **As of 2013, only 12% of citizens were aware of the contents of the Domestic Violence Law**.<sup>34</sup> Numerous victims interviewed by Human Rights Watch in 2014 and 2015 said they were unaware of their rights to receive an IPO, CPO, or to apply to stay at a shelter,<sup>35</sup> despite the fact that police are legally required to notify them of these rights.<sup>36</sup> With judges either unaware of or unwilling to enforce the Domestic Violence Law’s provisions, police unclear on the procedures to implement the law’s most basic measures (such as IPOs), and citizens lacking knowledge of their rights, the legal response to VAW appears to have floundered in real-world implementation.

#### 4.2. ADVOCACY TO IMPROVE THE ANTI-VAW REGIME

In light of many of the problems noted above, a new law is being discussed to strengthen Kyrgyzstan’s anti-domestic violence infrastructure. This **proposed legislation, the Draft Law on**

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<sup>30</sup> Center for Research of Democratic Processes (2010), p. 36.

<sup>31</sup> Kim (2016).

<sup>32</sup> National Statistics Committee of the Kyrgyz Republic (2016). Note, however, that this progress may be more in terms of paper statistics than of effective protection from domestic violence. Munara Beknazarova, director of the Open Line Public Foundation of the Kyrgyz Republic, described to the authors how beginning in 2010, police were commended for issuing a high number of IPOs without regard for the underlying level of domestic violence in their communities. The incentive became not so much to counter domestic violence as it was to drive up numbers showing an aggressive police response (Id). This system continues to this day, feeding police skepticism about the effectiveness and intent of the Domestic Violence Law as a whole (Kim, 2016). Its effects can also be seen in the difference between interim protection orders and court protection orders: whereas the number of IPOs rapidly increased once they were publicly tracked and police commended for them, the number of CPOs has remained at a constant one. CPO issuance is not tracked by the Ministry of Justice (National Statistics Committee of the Kyrgyz Republic, 2016), and police are known to actively impede women’s ability to attain CPOs (Human Rights Watch, 2015). Thus police attitudes toward domestic violence – as a private affair not within their authority – appear to have remained unchanged with progress made only where paper statistics become valuable for job security and promotion.

<sup>33</sup> Personal Interview with Munara Beknazarova, 22 Feb. 2017.

<sup>34</sup> UNFPA (2013).

<sup>35</sup> Human Rights Watch (2015).

<sup>36</sup> Order of the Ministry of the Interior (2009).

***Safeguarding and Protection from Domestic Violence***, would “provide the victims of domestic violence with the right to be placed in the state or municipal shelter for safe temporary accommodation,” notes deputy Taalaykul Isakunova (an improvement over their current right to simply apply for but not necessarily receive shelter).<sup>37</sup> Moreover, it lays out duties and responsibilities across different levels of government, identifies specific government institutions and actors responsible for safeguarding victims’ rights, and expands the group of officials responsible for responding to domestic violence complaints.<sup>38</sup> All of these are major **improvements over the current Domestic Violence Law**, which lacks provisions clearly assigning governmental responsibility to meet its guarantees, does not authorize specific sources of public funding, and fails to ensure equitable access to shelter and support across all categories of victims.

And yet this **new draft law contains major deficiencies as well**, such as a lack of clarity about funding sources for the envisioned services and shelters (plus all of its other provisions) and a lack of specificity about how many shelters shall be provided and how they will be distributed across the country.<sup>39</sup> Indeed, deputies, the Ministry of Finance, and others have stated that the bill will not be passed if it requires any funding from the government.<sup>40</sup>

In this context, many of those advocating for the bill – including leaders of Kyrgyzstan’s shelters, crisis centers, and women’s rights NGOs – note the need to be “realistic” in shaping its new legislative provisions. For example, **the new law will not require the government to fund any of its envisioned protections – such as shelters and their services.**<sup>41</sup> Though this fails to meet international standards for legislation against VAW, several local women’s activists point to the Ministry of Finance’s explicit refusal to endorse the bill should it require funding.<sup>42</sup> Thus rather than include a provision for financing that they know will cause the entire bill to be rejected, they are hopeful that other financial resources can be found.<sup>43</sup>

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<sup>37</sup> As quoted by 24 KG News Service (2016).

<sup>38</sup> 24 KG News Service (2016). See also OSCE (2014), which includes a version of the draft law as of 2014 and Human Rights Watch (2015).

<sup>39</sup> For these and additional comments on the draft law, see OSCE (2014).

<sup>40</sup> Human Rights Watch (2015); Interview with Munara Beknazarova, 22 February 2017.

<sup>41</sup> Personal interview with Munara Beknazarova, 22 February 2017.

<sup>42</sup> Personal interview with Rimma Sultanova, 21 February 2017; Personal interview with Munara Beknazarova, 22 February 2017.

<sup>43</sup> Personal interview with Rimma Sultanova, 21 February 2017.

## 5. SHELTERS

The Kyrgyz Republic has a total of 14 crisis centers and two shelters with facilities for overnight stay.<sup>44</sup> Both of these shelters are located in the country's major urban centers: one in the capital of Bishkek and the other in the city of Osh.<sup>45</sup>

As of 2015, some 7,812 women turned to a crisis center for help in Kyrgyzstan.<sup>46</sup> 5,718 of these women were sufferers of domestic violence.<sup>47</sup>

Given the widespread and acute problems of domestic violence and forced marriage in Kyrgyzstan, the country's system of shelters and its legal framework for governing these institutions are in vital need of support and improvement.

### 5.1. LEGAL PROVISIONS ON SHELTERS AND CRISIS CENTERS

Kyrgyzstan's Domestic Violence Law guarantees suffers of domestic violence the right to "apply for help to a specialized institution of social service [a.k.a. a crisis center or hospital]" either directly or through any number of justice officials.<sup>48</sup> Under this law, all shelters and crisis centers are required to register as legal entities and act in accordance with procedures as established by law.<sup>49</sup> The law also mandates that all shelters provide:

- Unspecified "services";<sup>50</sup>
- Up to 10 days of free accommodation;<sup>51</sup>
- After the initial 10 days of free accommodation, further stay which "shall be ensured on a contractual basis" with the cost "of [such] services to the victim ... imposed on the perpetrator." If the perpetrator refuses to pay for these costs, the courts are authorized to seek reimbursement;<sup>52</sup>

While these provisions are promising, the Domestic Violence Law suffers from several deficiencies:

- Though victims are given a right to *apply* for shelter (Art. 17) nowhere are they guaranteed a right to actually *receive* such shelter.<sup>53</sup>

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<sup>44</sup> Personal interview with Munara Beknazarova, 22 February 2017; Personal interview with Tolkun Tulekova, 24 February 2017.

<sup>45</sup> Personal interview with Munara Beknazarova, 22 February 2017.

<sup>46</sup> National Statistics Committee of the Kyrgyz Republic (2016), Table 8.6.

<sup>47</sup> National Statistics Committee of the Kyrgyz Republic (2016), Table 8.6.

<sup>48</sup> Law of the Kyrgyz Republic on Social and Legal Protection against Domestic Violence (25 Mar. 2003 No. 62) § 17.

<sup>49</sup> Domestic Violence Law § 14.

<sup>50</sup> Domestic Violence Law § 17.

<sup>51</sup> Domestic Violence Law § 17.

<sup>52</sup> Domestic Violence Law § 17.

<sup>53</sup> Arguably, this failure to guarantee actual shelter means that the Domestic Violence Law does not meet the Constitutional standard that the government must provide adequate services and support for socially vulnerable citizens (see Const. Art. 9 and the discussion above).

- The Domestic Violence Law requires that shelters and crisis centers offer “services” to their clients and residents (Art. 17). But nowhere does the law specify what such services are to entail, the qualifications (if any) of who is to provide them, or how victims of domestic violence can respond if such services are not provided, are of poor quality, or are administered discriminatorily.
- Overall, there is **no system in place for monitoring the shelters or the quality of their services**. As one interviewee noted, this leaves open the possibility that poor quality or even abusive psychologists may do further harm to VAW victims.<sup>54</sup>
- **There is no set standard for admission to shelters, nor legal regulations regarding women’s right to bring children with them when they seek shelter**. Instead, the law explicitly authorizes shelters to set their own standards for admission.<sup>55</sup> That said, Human Rights Watch reported that women were allowed to bring their children to all of the 36 shelter facilities that its team visited (note that these shelter facilities were by and large *not* for victims of VAW but rather for other disadvantaged groups like the homeless, those with HIV/AIDs, or others in need).<sup>56</sup>
- The Domestic Violence Law does not name specific government organs responsible for elaborating regulations or developing further rules based on its provisions. This means that more detailed regulations – such as **rules on shelters’ operating procedures and shortcomings – do not exist**.
- The **Domestic Violence Law does not specify a source of funding to meet its requirements**.
- Rather than guaranteeing state financial support for victims of domestic violence, the Domestic Violence law requires that the *perpetrator* pay the cost of the victim’s medical care and shelter-stay beyond the first 10 days. The perpetrator can only be compelled to pay upon the decision of a court. In actuality, “they never pay.”<sup>57</sup>

## 5.2. THE DE FACTO SYSTEM OF SHELTERS AND CRISIS CENTERS

Only the Sezim shelter in Bishkek, which has some 12 beds in a city with 1 million residents, receives some governmental support: the Mayor’s Office helps pay for its operating costs (employees’ salaries and other ongoing expenses).<sup>58</sup> The remaining crisis centers and shelter in Osh city are managed by local civil society organizations and funded by a mix of local and international donors. This system leaves many centers struggling to survive. As a 2015 Human Rights Watch report describes,

The [Domestic Violence] law places significant responsibility for social service provision to survivors with “specialized social service institutions” [a.k.a. shelters] without specifying governmental responsibility for supporting or monitoring such institutions. Service providers and women’s rights activists told Human Rights Watch that the

<sup>54</sup> Personal interview with Rimma Sultanova, 21 February 2017.

<sup>55</sup> Law of the Kyrgyz Republic on Social and Legal Protection Against Domestic Violence (25 Mar. 2003 No. 62), § 17.

<sup>56</sup> Human Rights Watch (2015).

<sup>57</sup> Personal interview with Munara Beknazarova, 22 February 2017.

<sup>58</sup> Personal interview with Munara Beknazarova, 22 February 2017; Personal interview with Tolkun Tylekova, 24 February 2017.

**government relies largely on NGOs to provide critical services for survivors.** They said that almost **none of these services receive government funding or material support** (with one significant exception being a shelter in Bishkek), and several said that they **struggle to keep their doors open.**<sup>59</sup> (Emphasis added).

Another expert explained that while financing may be found for building a new shelter and having a public opening ceremony, many donors fail to provide funds for less exciting budget items like heat and janitorial services.<sup>60</sup> The result is that shelters close after only one or two months of operation. Indeed, one notorious example of this phenomenon is the \$750,000 Women's Development Center funded by the U.S. Pentagon. After a heavily publicized opening ceremony, the building was left deserted and was ultimately illegally privatized, never having served its function as a woman's center.<sup>61</sup>

Given the lack of basic operating funds, it is little surprise that many of Kyrgyzstan's crisis centers do not have the money to compensate qualified psychologists, lawyers, and other professionals. As expert Rimma Sultanova stated, "crisis centers ... can provide only psychological consultations. As for legal consultations ... [they] say they don't have the money or capacity."<sup>62</sup> She goes on to describe the lack of any oversight or monitoring of the professional standards of psychologists, noting that lack of regulation places VAW victims at risk of further suffering at the hands of unqualified professionals.

Because of the dearth of shelter facilities for victims of violence against women, many turn to shelters intended for other disadvantaged populations such as the homeless, those who have HIV/AIDS, etc.<sup>63</sup> Directors of such facilities keep their doors open to VAW victims as "there [are] no other shelters available to them," though their staff may not have VAW-specific training or knowledge of the legal framework to protect victims of domestic violence.<sup>64</sup>

**Currently, centers for second and third stage housing do not exist in Kyrgyzstan, nor are there legal provisions that would guarantee or provide government funding for such institutions.** This can adversely affect women's ability to pursue their rights in court. As Tolkun Tulekova, director of the Bishkek-based Association of Crisis Centers, notes, legal cases involving domestic violence take 6 months on average from start to finish.<sup>65</sup> "Where is a woman supposed to stay during that time? If she can only be in a shelter 10 days, then where does she go?"<sup>66</sup> In some cases, leaders of women's organizations and crisis centers have taken it upon themselves to find donors and apartments for individual VAW victims. Yet this system is unsustainable and, as one interviewee noted, "We found an apartment for her [a woman who had suffered domestic violence from her husband and then been repeatedly raped by the police for turning to them and the courts], but how many other women are there that we don't do that for?"<sup>67</sup>

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<sup>59</sup> Human Rights Watch (2015).

<sup>60</sup> Personal interview with Rimma Sultanova, 21 February 2017.

<sup>61</sup> Yefimov and Trilling (2011); Trilling (2015).

<sup>62</sup> Interview with Rimma Sultanova, 21 February 2017.

<sup>63</sup> Human Rights Watch (2015).

<sup>64</sup> Human Rights Watch (2015).

<sup>65</sup> Personal interview with Tolkun Tulekova, 24 February 2017.

<sup>66</sup> Personal interview with Tolkun Tulekova, 24 February 2017.

<sup>67</sup> Personal interview with Munara Beknazarova, 22 February 2017.



## 6. PROTECTION ORDERS

Kyrgyzstani law provides for two types of protection orders in cases of domestic violence: an interim protection order (IPO) and a court protection order (CPO).<sup>68</sup> Police are required to inform victims that both types of protection orders exist.<sup>69</sup> The key aspects of these two different types of orders are summarized in the table below and described in more detail after.

**Summary: Protection Orders in Cases of Domestic Violence**

	<b>Interim Protection Order (IPO)</b>	<b>Court Protection Order (CPO)</b>
<b>Length of Protection</b>	Up to 15 days	1 to 6 months
<b>Who Can Issue</b>	Police	Court
<b>Basis of Issuance</b>	Act of violence or threat of immediate violence	Act of violence that poses a threat to the life or health of a family member
<b>Provisions / protections are...</b>	Compulsory under the law (“the IPO <i>shall</i> include...”)	At the discretion of the court (“The following official measures <i>can</i> be taken as per the CPO...”)
<b>Key Provisions/Protections</b>	Prohibition of further violence	Prohibition of further violence
	Regulation of access to minor children	Regulation of access to minor children
	---	Requirement that the perpetrator leave the place of residence regardless of who owns it
	Warning against direct or indirect contact with the victim	Warning against direct and indirect contact with the victim at <i>her place of work</i> or any other place
	---	Prohibition on the purchase of fire-arms or other weapons
	---	Prohibition on the perpetrator’s sole use or managements of joint property
	Requirement that the perpetrator pay for the victim’s	Requirement that the perpetrator pay for the

<sup>68</sup> Domestic Violence Law § 21.

<sup>69</sup> Order of the Ministry of the Interior (2009).

	medical treatment	victim's medical treatment, consultations, and stay at a shelter
<b>Penalty for non-compliance</b>	An administrative fine	Either administrative or criminal proceedings

### Interim protection orders (IPOs)

**In all, some 3,201 IPOs were issued in 2015 – 105 against women and 3,096 against men.<sup>70</sup> In the same year, 11 cases were heard in court for violation of an IPO.<sup>71</sup>**

IPOs are provided on the grounds of a “committed act of family violence or a threat thereof.”<sup>72</sup> IPOs can last up to 15 days and are to contain prohibitions against further acts or threats of violence,<sup>73</sup> conditions regarding the perpetrator’s access to minor children, the obligation of the perpetrator to pay for the victim’s medical treatment, and a warning that violation of the order will result in administrative penalties (i.e. a fine) amid other conditions and descriptions of the victim’s rights.<sup>74</sup> Either the victim or his or her representative can apply to the police for an IPO in any situation that “poses an immediate threat to the life or health of a family member.”<sup>75</sup> The victim or his or her representative must apply in the locality in which the act or threat of violence took place, after which the IPO is to be issued within 24 hours by the police.<sup>76</sup> It is the responsibility of the body of the interior (i.e. the police) to ensure that the perpetrator complies with the conditions of the IPO.<sup>77</sup> The perpetrator against whom an IPO has been issued has the right to appeal the IPO in court and to immediate consideration of his or her case.<sup>78</sup>

Unfortunately, police limitations undermine the effectiveness of IPOs as anti-VAW instruments. Though the police are required to inform victims of domestic violence about their right to receive an IPO,<sup>79</sup> many victims stated that they were never told that they had such a right.<sup>80</sup> Moreover, one women’s rights expert describes how even women who *do* attain IPOs suffer from poor police implementation:

IPOs work only at the stage of issuance: the policeman hands the IPO [to the offender] and then leaves. But further monitoring? Or sending the offender somewhere else? They can’t make him leave, he stays in the same house [as the victim]. And then who

<sup>70</sup> National Statistics Committee (2016), Table 8.16.

<sup>71</sup> National Statistics Committee (2016), Table 8.18.

<sup>72</sup> Domestic Violence Law § 22.

<sup>73</sup> Domestic Violence Law § 23 ¶ 3.

<sup>74</sup> Domestic Violence Law § 24.

<sup>75</sup> Domestic Violence Law § 23 ¶ 1.

<sup>76</sup> Domestic Violence Law § 23 ¶ 2.

<sup>77</sup> Domestic Violence Law § 23 ¶ 5.

<sup>78</sup> Domestic Violence Law § 23 ¶ 2.

<sup>79</sup> Order of the Ministry of the Interior (2009).

<sup>80</sup> Human Rights Watch (2015).

checks if he re-approached the victim or didn't re-approach the victim, if he hit her again or didn't hit her again? Who monitors that?<sup>81</sup>

In sum, IPOs appear to provide some limited protection to victims of VAW and domestic violence, though their implementation is undermined by poor police implementation.

### **Court Protection Orders (CPO)**

A court protection order (CPO) can be provided in cases where the perpetrator commits an act that "hinders settlement of a difficult life situation, which poses threat to life and health of family members, the protection of their rights and interests."<sup>82</sup> CPOs last for a period of 1 to 6 months<sup>83</sup> and are issued after a court's review of the materials provided by the police, prosecutor, or both.<sup>84</sup> The judge issuing the order decides both the length of the CPO and the binding conditions to be included in it,<sup>85</sup> and is required to hold hearings on the order within 10 days of receiving an application for the CPO.<sup>86</sup>

Within 24 hours issuing a CPO, to court is to send it to the police overseeing the victim's place of residence.<sup>87</sup> The police are in charge of ensuring that the perpetrator complies with the court order.<sup>88</sup> A perpetrator's failure to comply with a CPO may result in either administrative or criminal proceedings,<sup>89</sup> though the Domestic Violence Law does not clarify when one or the other type of punishment is to be used. If a perpetrator continues to engage in violent acts after the termination of a CPO, he or she may be prosecuted under either criminal or administrative law (depending on the type of offence).<sup>90</sup>

In-line with international best practices (as articulated in the UN Women Handbook for Legislation on Violence Against Women), CPOs may contain conditions expressly meant to protect victims' housing, employment, and property. Thus in addition to prohibiting further violence and regulating the perpetrator's contact with minor children, the CPO may require the perpetrator to "leave the place of residence despite who owns the house," ban the perpetrator from making "direct or indirect contact with the victim at his or her work and other places," and prohibit him from attempting to solely use or manage joint property.<sup>91</sup> The CPO may also require the perpetrator to pay for the victim's medical expenses and stay in a crisis center or shelter.<sup>92</sup> Note that the court that issues the CPO has the discretion to choose which if any of these conditions are to be included in the order.<sup>93</sup>

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<sup>81</sup> Personal interview with Munara Beknazarova, 22 February 2017.

<sup>82</sup> Domestic Violence Law § 23 ¶1.

<sup>83</sup> Domestic Violence Law §§ 25.

<sup>84</sup> Domestic Violence Law § 26.

<sup>85</sup> Domestic Violence Law § 26.

<sup>86</sup> Domestic Violence Law § 26.

<sup>87</sup> Domestic Violence Law § 26.

<sup>88</sup> Domestic Violence Law § 26.

<sup>89</sup> Domestic Violence Law § 26.

<sup>90</sup> Domestic Violence Law § 25.

<sup>91</sup> Domestic Violence Law § 27.

<sup>92</sup> Domestic Violence Law § 27.

<sup>93</sup> Domestic Violence Law § 27.

While CPOs appear to be a powerful tool for protecting victims of VAW, they also suffer from poor implementation. **In its 2015 report, Human Rights Watch states that “courts have issued only 10 protection orders in all of Kyrgyzstan” in the 13 years since the passage of the Domestic Violence Law.**<sup>94</sup> A woman’s rights expert told the authors that it was not 10 CPOs but rather only 1 CPO that had been issued in these 13 years.<sup>95</sup> Given that the Ministry of Justice does not keep data on CPO issuance, it is not possible to independently confirm the number. Nevertheless, it is clear that the number of CPOs issued is negligible.

In explaining this low number of CPOs, Human Rights Watch quotes the Head of Public Security for Internal Affairs of the Kyrgyz Republic, who says that, “‘Within the 15 days of the [temporary] protection order issued by the police, through persuasion and explanation we [police] resolve the problem. There is no need for further supervision of the problem.’”<sup>96</sup> According to this interviewee, police intervention almost completely blocks women’s access to the courts and the more robust guarantees of court protection orders. One women’s right expert noted that CPOs were found to be so ineffective that the drafters of the new *Draft Law on Safeguarding and Protection from Domestic Violence* had chosen to remove them completely.<sup>97</sup> However, she also noted that the police claim to use CPOs as a ‘scare tactic’ against offenders, threatening them with a CPO if they fail to follow the terms of their IPOs.<sup>98</sup> It appears that this threat is almost never implemented in reality.

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<sup>94</sup> Human Rights Watch (2015).

<sup>95</sup> Personal interview with Munara Beknazarova, 22 February 2017.

<sup>96</sup> Human Rights Watch (2015)

<sup>97</sup> Personal interview with Munara Beknazarova, 22 February 2017.

<sup>98</sup> Id.

## 7. CONCLUSION: SEARCHING FOR BEST PRACTICES

Members of Kyrgyzstan's civil society sector are actively searching for ways to provide better protections for victims of VAW. Ideas raised in the course of our interviews included:

- Embedding businesses within shelters. In this model, residents living in shelters would be trained in specific skills – such as creating hand-made souvenirs, clothes, or jewelry – and sell these products. The proceeds from their work would fund their shelter at least partially. “If we can show that we’re putting in effort too, then maybe the government would give money,” says Rimma Sultanova of the Women’s Support Network.
- Partnerships with local government. Sezim, a shelter in Bishkek, is frequently cited as a model of success in that it was able to secure financing from the Office of the Mayor of Bishkek. This has allowed it to provide shelter services on a regular basis. Organizers in other cities may want to try to replicate this model. However, Rimma Sultanova notes that local governments are not charged with responding to VAW or other “social problems” and tend to avoid discussions of diverting precious budget to such services.
- If shelters are to be located in rural areas – in-line with international best practices for the number and geographical distribution of shelters – they should be called “family centers” rather than shelters. As expert Munara Beknazarova notes, “If it’s just going to be a ‘crisis center’ located in the village, people won’t go. If it has a different name, if it has a non-threatening name like a ‘family center,’ then people will go.” This may in part explain the relative success of shelters not targeted specifically toward victims of VAW and why the majority of VAW sufferers turn to such institutions.

These above points cover only some of the innovative ideas being discussed by activists in the Kyrgyz Republic. While VAW is widespread and the system of shelters and protection orders woefully ineffective, if there is one promising element it is the motivation of women leaders within the country to improve the system one step at a time.

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