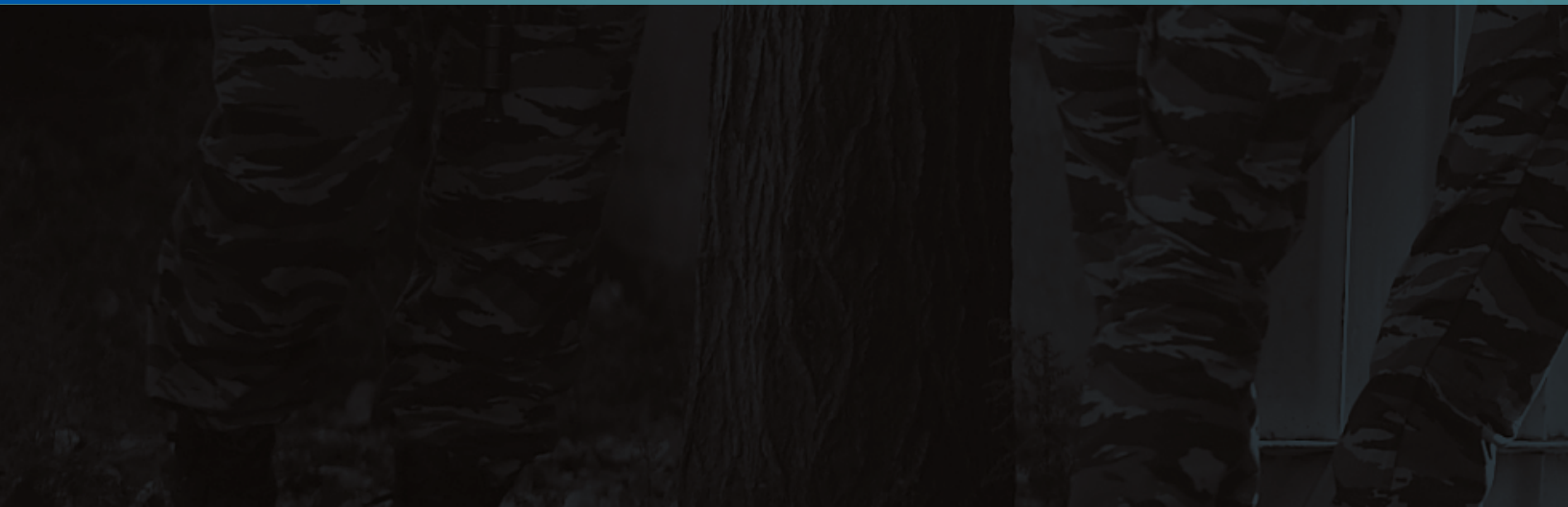




HUMAN
RIGHTS
WATCH

“We Live in Constant Fear”

Possession of Extremist Material in Kyrgyzstan





“We Live in Constant Fear”

Possession of Extremist Material in Kyrgyzstan

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Map of Kyrgyzstan



Summary

In 2017, “Sukhrob” was convicted of possessing extremist material in Kyrgyzstan after counterterrorism police raided his home and claimed they found a magazine and three other pages of writing from a banned Islamist group.

Sukhrob was not accused of disseminating the banned material, which was several years old. He was not accused of plotting or carrying out violent acts. He repeatedly told the court that the material used to convict him was planted. Nevertheless, a judge sentenced him to three years of detention. He was released on parole after several months for health reasons but could be returned to custody at any time.

“Nobody saw how the police got that material into their hands—not me, not my family, not my neighbors who witnessed the search,” Sukhrob told Human Rights Watch. “We live in constant fear that at any moment, someone will knock on our door with a warrant and take us to prison on false evidence.”

Sukhrob is one of at least 258 people to be convicted in Kyrgyzstan since 2010 for possessing vaguely defined extremist material under article 299-2 of the Criminal Code, the country’s most widely applied charge against terrorism and extremism suspects. Several hundred suspects are awaiting trial on the charge and the numbers increase each year, with 167 new cases opened during the first nine months of 2016, according to the most recent data available. In many cases the authorities in Kyrgyzstan have been using article 299-2 to imprison suspects solely for non-violent behavior such as possessing banned literature or videos or practicing conservative forms of Islam, a Human Rights Watch investigation found.

Since 2013, amendments to article 299-2 criminalize possession of material deemed extremist even if the accused has no intent to disseminate it, rendering the measure a particularly severe threat to freedom of belief and expression. In December 2016, following criticism from local and international human rights groups, Kyrgyzstan’s parliament approved amendments to the Criminal Code that will restore the requirement that possessing extremist material cannot be a criminal offense unless it is “for the purpose of

dissemination.” The amendments are part of a sweeping package of criminal justice reforms due to take effect in January 2019, but government authorities have warned that technical preparations for the changes are behind schedule and reform advocates are concerned that implementation may be delayed.

Most problematically, the amendments do not address the other central flaw in article 299-2 since its introduction in 2009: its use of an overbroad definition of “extremism.” Article 299-2 relies on the list of so-called extremist offenses in Kyrgyzstan’s 2005 Law on Countering Extremist Activity, which range from acts of terrorism to “affronts to national dignity,” “hooliganism,” and “vandalism.” The determination of whether material is or is not extremist is made by the State Commission for Religious Affairs, a government panel that human rights defenders have criticized for insufficient expertise and impartiality. The government has pledged to transfer reviews of material for extremist content to its forensic service but at time of writing had yet to do so.

In several cases examined by Human Rights Watch, suspects arrested for article 299-2 offences also alleged that they had been subject to one or more due-process abuses such as planting of evidence or ill-treatment. In 11 cases, suspects, their lawyers, or family members said that law enforcement officials planted books, pamphlets, videos, flash drives, or discs with banned material to make arrests or demand payoffs to drop or not bring criminal charges. In six cases, they accused law enforcement officials of beating suspects to extract confessions.

Most article 299-2 arrests are carried out by police from the Ministry of Internal Affairs’ 10th Department or counterterrorism forces of the State Committee for National Security (GKNB).

For the most part, government authorities either did not directly respond to questions about whether law enforcement officials committed abuses in article 299-2 cases or denied allegations of systemic abuse. Three government officials interviewed separately by Human Rights Watch acknowledged that some law enforcement officials carried out torture, evidence planting, and extortion but two of them said such incidents were isolated. “Yes of course we have this problem,” one official said. Some counterterrorism forces in Kyrgyzstan still include “officers and senior managers who work the old way, who still abuse rights and freedoms,” another said.

Kyrgyzstan's Human Rights Ombudsman's Office told Human Rights Watch that it had received "numerous complaints on behalf of religious believers of violations" but that prosecutors had not found any wrongdoing. A senior official in the ombudsman's office told us that police searches are often a point at which violations can take place. He said the ombudsman's office plans to investigate allegations of abuse under article 299-2 and prison conditions for terrorism and extremism detainees in the latter half of 2018. At time of writing, however, the ombudsman's position was vacant.

The Prosecutor General's Office told Human Rights Watch that no law enforcement officials have been disciplined or prosecuted for ill-treating suspects during questioning or investigations for extremism- or terrorism-related offenses.

Both the United Nations Committee Against Torture and Kyrgyzstan's National Center for the Prevention of Torture have confirmed the use of torture by law enforcement officials in Kyrgyzstan and raised concerns about it with the government.

While this report focuses on the overly aggressive application of article 299-2, several concerns we raise, including treatment of terrorism suspects, also apply to the broader government response in Kyrgyzstan to the rise of transnational Islamist armed groups such as the Islamic State (also known as ISIS), Syria-based Jabhat al-Nusra (which now calls itself Tahrir al-Sham), and their affiliates. Since 2012, between 2,600 and 5,000 Central Asians, including 764 from Kyrgyzstan, are estimated to have traveled to Syria, Iraq and, to a lesser degree, Afghanistan to join such groups. The numbers are subject to debate and include family members and others who did not perform combat functions.

Nationals from Central Asian countries including Kyrgyzstan, some from the diaspora, have been implicated in at least seven attacks by extremist armed groups including ISIS between 2016 and July 2018—two in Istanbul and one each in St. Petersburg, Stockholm, New York City, the Khatlon region of southern Tajikistan, and Kyrgyzstan's capital, Bishkek. At least 117 people were killed and more than 360 injured in the attacks.

Human Rights Watch unequivocally condemns such attacks and calls on governments to hold those responsible to account. We recognize that governments have an obligation to protect those within their borders from harm. At the same time, all responses must comply with international law. As the UN has repeatedly warned and Human Rights Watch has

documented, not only are abusive counterterrorism measures unlawful, they also can be counterproductive by alienating local communities and generating support for extremist armed groups.

Human Rights Watch interviewed 70 people and reviewed 34 article 299-2 cases for this report. Interviews were conducted in Kyrgyzstan in June and July 2017 and May 2018 and by telephone and Internet telecommunications. Interviewees included 11 people accused or convicted under article 299-2, 13 suspects' family members, 17 local human rights defenders and lawyers working on such cases, three government security officials, and a senior official from the Human Rights Ombudsman's Office. Human Rights Watch also reviewed court records on 23 article 299-2 cases, as well as government documents, media reports, and social media postings about such cases.

The court records included 18 evaluations by the State Commission for Religious Affairs of materials it classified as extremist. In 14 of those cases, the material did not include violent content—for example, acts of physical abuse—or incitement to violence. In the four other cases, suspects were accused of possessing one or more recruitment videos or other propaganda for Islamist armed groups in Syria, but none of those cases included evidence that the accused had disseminated the material.

Government officials said much of the extremist material found in the possession of individuals prosecuted under article 299-2 is sermons and other writings from Hizb ut-Tahrir (Party of Liberation), a pan-national Islamist movement that is banned in more than a dozen countries including Kyrgyzstan. Hizb ut-Tahrir seeks to establish a caliphate throughout the Muslim world based on Islamic law but publicly disavows efforts to achieve its goals through violent means.

A 2016 Supreme Court study found that a majority of suspects prosecuted in Kyrgyzstan for terrorism and extremism offenses, including article 299-2, are ethnic Uzbeks from the south. Ethnic Uzbeks comprise just under 15 percent of the population nationwide with the highest concentration in southern Kyrgyzstan, the most religiously conservative part of the country. Longstanding ethnic Uzbek grievances, including those linked to deadly inter-ethnic clashes in southern Kyrgyzstan in June 2010, remain largely unaddressed by the government.

Human Rights Watch is not in a position to determine whether individuals prosecuted under article 299-2 are targeted on the basis of ethnicity or suspected affiliation with conservative religious movements. However, many Uzbek suspects and family members believe this is the case, turning these prosecutions into a potential source of tension. The Ministry of Internal Affairs wrote to Human Rights Watch that since 2010, the first full year that article 299-2 was in force, it had received no complaints of ethnic targeting by its law enforcement officials. The GKNB did not respond to requests for comment on the topic.

In 2016, Kyrgyzstan's parliament, the *Jogorku Kenesh*, heightened penalties for article 299-2 convictions by requiring prison terms for those found guilty: three to five years for first-time offenders and seven to 10 years for repeat offenders or in aggravating circumstances.

To avert violent radicalization inside prisons, Kyrgyzstan in 2016 began moving terrorism- and extremism-related detainees into wards that are segregated from the general prison population. Representatives of some UN agencies and other international and nongovernmental organizations (NGOs) expressed concern to Human Rights Watch that government authorities were not separating violent offenders from those serving time for lesser offenses such as possession of extremist material.

Former prisoners, human rights lawyers, and family members of current detainees complained to Human Rights Watch of degrading prison conditions including stinking toilets in cells, inadequate food and medical care, and overcrowding. Rather than prioritize recreational and rehabilitation programs, deradicalization efforts have focused on surveillance measures such as close-circuit television cameras to monitor prisoners' every move.

Human Rights Watch recognizes the challenge of preventing violent radicalization in prisons. However, all prisoners retain all human rights protected under international law subject only to such limitations demonstrably inherent to the fact of incarceration. Core rights during incarceration include rights to bodily integrity, humane conditions of detention, and access to adequate and appropriate health care.

In its correspondence with Human Rights Watch, the State Penitentiary Service (GSIN) denied prison conditions are degrading. GSIN noted that it is working with the UN Office of Drugs and Crime to improve detention facilities and programs.

Kyrgyzstan is one of eight former Warsaw Pact countries to have adopted measures prohibiting possession of extremist material, using a Russian counter-extremism law as a model.

The arrests and prosecutions under article 299-2 violate fundamental rights and freedoms including the right to privacy, freedom of religion, expression and association, freedom from torture and other ill-treatment, and the right to a fair trial.

The authorities in Kyrgyzstan should ensure that amendments to the Criminal Code that will de-criminalize possession of extremist material absent evidence of distribution or intended distribution for violent purposes are fully and effectively implemented as scheduled on January 1, 2019. They should also promptly narrow the overbroad definition of what constitutes extremist material under the country's Law on Countering Extremist Activity of 2005. In the meantime, they should immediately halt prosecutions for possession of extremist material absent clear evidence of intent to use or disseminate it to incite violence.

In addition, prosecutors and the courts should promptly conduct an independent review, with the participation of international legal experts, of all article 299-2 cases, and vacate convictions in cases that are based on tainted evidence or do not include use or intent to incite or commit violent acts. They also should impartially investigate and prosecute allegations of planted evidence, torture, and forced confessions. The GKNB and 10th Department of the Ministry of Internal Affairs should adopt a zero-tolerance policy toward abuses by the security forces.

International partners including the Organization for Security and Co-operation in Europe (OSCE), UN agencies, the European Union and its member states, and the United States should condition counterterrorism assistance to Kyrgyzstan on human rights benchmarks. The UN Office of the High Commissioner for Human Rights and the OSCE should continue to document and publicly report on the human rights situation in Kyrgyzstan and be available to assist the government in bringing its policies and actions into compliance with international human rights standards.

Methodology

This report is based on research carried out by Human Rights Watch between June 2017 and May 2018 including two trips to Kyrgyzstan, in June and July 2017 and in May 2018.

Human Rights Watch interviewed 70 people, including 11 people accused or convicted of possession of extremist material, family members of 13 suspects, and 17 local human rights defenders and lawyers working on such cases. We also spoke with Kyrgyzstan-based journalists; local and foreign academics and independent experts on religion, violent extremism, or security in Central Asia; Bishkek-based diplomats; and members of international organizations including the UN and the Organization for Security and Economic Co-operation in Europe. In addition, we met with three senior government security officials and a senior official with the ombudsman's office.

Human Rights Watch also reviewed court records and government documents, media reports, academic studies, and social media postings about article 299-2 and other extremism-related cases.

Most interviews took place in person in Kyrgyzstan in locations including Bishkek, Osh, and the Lake Issyk-Kul region, and with others by telephone and Internet telecommunications. Interviews were conducted in English, or in Russian, Kyrgyz, or Uzbek through an interpreter.

Human Rights Watch informed interviewees of the nature and purpose of our research, and our intention to publish the information we gathered. We obtained oral consent for each interview, and informed interviewees of their right to stop or pause the interview at any time, and to decline to answer any question. Human Rights Watch followed procedures to avoid re-traumatizing interviewees. We advised that Human Rights Watch does not provide direct humanitarian services and did not offer any incentives for interviews. In some cases, Human Rights Watch provided modest reimbursements for travel expenses.

In 2017 and in 2018, Human Rights Watch sent detailed questions and summaries of our preliminary findings to Kyrgyzstan's ministries of Foreign Affairs, Internal Affairs, and

Justice; the Prosecutor General's Office; the Prime Minister; the Security Council Secretariat; the State Committee for National Security (GKNB) and the State Penitentiary Service (GSIN); and the Human Rights Ombudsman's Office. All government entities except the Prime Minister's office responded, however many did not answer all questions. The government's responses are reflected in this report.

Human Rights Watch has used pseudonyms for most suspects and family members. We have in most cases removed additional identifying information such as hometowns and dates and locations of arrests and interviews to protect the interviewees' privacy and minimize the risk of reprisals for sharing their accounts. Human Rights Watch also withheld identification of most human rights defenders and other civil society members, as well as lawyers, journalists, members of international organizations, and diplomats, who requested anonymity due to the sensitivity of the topic or in order not to jeopardize their ongoing activities. Human Rights Watch also withheld the names of others who were willing to reveal their identities out of concerns that they would be subject to undue scrutiny.

Background

Kyrgyzstan is a landlocked, former Soviet republic of 6 million people in Central Asia. Although popular revolts unseated two consecutive leaders in 2005 and 2010, Kyrgyzstan subsequently adopted a parliamentary system and has twice undergone peaceful transfer of presidential power. The country has seen notable improvements in human rights since independence. Yet serious human rights violations persist.

Justice and law-enforcement systems are weak, and impunity for torture and ill-treatment in places of detention is the norm.¹ Inter-ethnic grievances remain largely unaddressed.² External assessments indicate that government corruption is widespread, with Kyrgyzstan ranking 135 out of 180 countries on Transparency International's Corruption Perceptions Index.³ Pervasive poverty and unemployment have prompted the exodus of more than 700,000 people seeking work in Russia, South Korea, Turkey, and beyond.⁴

Government and security experts estimate that hundreds of Kyrgyzstan nationals, many from the diaspora, have joined extremist armed groups such as the Islamic State (also known as ISIS).⁵ According to security analysts, some may espouse violent jihad for

¹ Human Rights Watch, *World Report 2018*, Kyrgyzstan chapter (New York: Human Rights Watch, 2018), <https://www.hrw.org/world-report/2018/country-chapters/kyrgyzstan>; United Nations Committee against Torture, "Concluding observations on the second periodic report of Kyrgyzstan," CAT/C/KGZ/CO/2, December 20, 2013, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/KGZ/CO/2&Lang=En (accessed June 25, 2018), paras. 5-6.

² Human Rights Watch, *Distorted Justice: Kyrgyzstan's Flawed Investigations and Trials on the 2010 Violence*, June 8, 2011, <https://www.hrw.org/report/2011/06/08/distorted-justice/kyrgyzstans-flawed-investigations-and-trials-2010-violence>; Human Rights Watch, *World Report 2018*, Kyrgyzstan chapter. See also, "OSCE High Commissioner on National Minorities and Government of Kyrgyzstan to intensify co-operation on inter-ethnic policy and multilingual education," Organization for Security and Co-operation in Europe press release, April 12, 2018, <https://www.osce.org/hcnm/377635>.

³ Transparency International, "Corruption Perceptions Index 2017," February 21, 2018, https://www.transparency.org/news/feature/corruption_perceptions_index_2017 (accessed June 26, 2018).

⁴ Suyunbek Shamshiev, "50,000 Migrant Workers Leave Kyrgyzstan Annually," *24.kg*, November 17, 2017, https://24.kg/english/68509_50000_migrant_workers_leave_Kyrgyzstan_annually/ (accessed June 26, 2018). Some sources estimate the number of migrant workers as 1 million. Remittances to Kyrgyzstan from the diaspora total at least US\$1.6 billion a year.

⁵ International Crisis Group (ICG), "Kyrgyzstan: State Fragility and Radicalisation," October 3, 2016, <https://www.crisisgroup.org/europe-central-asia/central-asia/kyrgyzstan/kyrgyzstan-state-fragility-and-radicalisation> (accessed June 26, 2018); Richard Barrett, "Beyond the Caliphate: Foreign Fighters and the Threat of Returnees," the Soufan Center, October 2017, <http://thesoufancenter.org/wp-content/uploads/2017/11/Beyond-the-Caliphate-Foreign-Fighters-and-the-Threat-of-Returnees-TSC-Report-October-2017-v3.pdf>; Anne Speckhard, Ardian Shajkocvi, and Chinara Esengul, "Analysis of the Drivers of Radicalization and Violent Extremism in Kyrgyzstan," International Center for the Study of Violent Extremism, August 4, 2017, <http://www.icsve.org/research-reports/analysis-of-the-drivers-of-radicalization-and-violent-extremism-in-kyrgyzstan-including-the-roles-of-kyrgyz-women-in-supporting-joining-intervening-in-and-preventing-violent-extremism-in-kyrgyzstan/> (accessed June 26, 2018).

ideological reasons, while others appear motivated at least in part by factors such as government inefficiency and corruption, poverty, or ethnic marginalization.⁶

Religious Freedom

Officially, Kyrgyzstan's population is 80 percent Muslim. While the state is staunchly secular, following decades of official atheism under Soviet rule, Islam is increasingly popular. The number of mosques and other Islamic organizations has grown from 39 in 1991, when Kyrgyzstan gained independence, to 2,595 in 2016.⁷

Kyrgyzstan endorses the Hanafi school of Islam, which it calls "traditional."⁸ In response to the spread of Salafism and other fundamentalist strands of Islam in recent years, authorities in Kyrgyzstan have become increasingly repressive, according to local human rights defenders.⁹ Government rhetoric against fundamentalist Islamic ideology and dress has at times been strident.¹⁰

Proposed amendments to the country's 2009 Law on Freedom of Religion and Religious Organizations would place further, excessive restrictions on collective religious practices.¹¹

⁶ See, e.g., ICG, "Kyrgyzstan: State Fragility and Radicalisation," <https://www.crisisgroup.org/europe-central-asia/central-asia/kyrgyzstan/kyrgyzstan-state-fragility-and-radicalisation>.

⁷ Search for Common Ground, "Promoting Religious Freedom through Government and Civil Society Collaboration in Kyrgyzstan," July 2017, https://www.sfcg.org/wp-content/uploads/2017/08/FoR-in-Kyrgyzstan-Final_Evaluation_Report_04.08.2017-1-2.pdf, p. 10.

⁸ US Commission on International Religious Freedom, *2017 Annual Report*, Kyrgyzstan, <http://www.uscifr.gov/sites/default/files/Kyrgyzstan.2017.pdf> (accessed June 26, 2018).

⁹ Human Rights Watch interviews with 11 local human rights defenders and lawyers as well as religious experts, Kyrgyzstan, June-July 2017 and May 2018. See also ICG, "Kyrgyzstan: State Fragility and Radicalisation," <https://www.crisisgroup.org/europe-central-asia/central-asia/kyrgyzstan/kyrgyzstan-state-fragility-and-radicalisation>; and Human Rights Watch, *World Report 2018*, Kyrgyzstan chapter.

¹⁰ In 2015, then-Prime Minister Temir Sariyev spoke out against the wearing of Islamic dress. The theme was reprised a year later by an NGO supported by then-President Almazbek Atambayev. The group hung banners in central Bishkek depicting women wearing traditional Kyrgyz clothing on one side and hijabs on the other, with the caption, "Oh poor nation, where are we headed?" See, e.g., Aidai Masykanova, "Is the ISIS Threat in Kyrgyzstan Real?," *The Diplomat*, August 4, 2015, <https://thediplomat.com/2015/08/is-the-isis-threat-in-kyrgyzstan-real/> (accessed June 26, 2018); and Freedom House, *Nations in Transit 2017*, Kyrgyzstan Country Profile, <https://freedomhouse.org/report/nations-transit/2017/kyrgyzstan> (accessed June 26, 2018). The government also has been accused of unlawfully restricting the practices of smaller religious groups including Roman Catholics, Protestants, Jehovah's Witnesses, and Ahmadi Muslims. For the most part, mainstream followers of the Russian Orthodox Church have encountered fewer barriers.

¹¹ Human Rights Watch interviews with members of Kyrgyzstan civil society, international NGOs, and inter-governmental organizations, Kyrgyzstan, June-July 2017; Felix Corley, "Kyrgyzstan: Religious censorship, sharing faiths ban?" *Forum 18*, May 31, 2017, http://www.forum18.org/archive.php?article_id=2283 (accessed June 26, 2018).

Ethnicity Issues

A Supreme Court study from 2016 found that a majority of suspects prosecuted for terrorism- or extremism-related offenses are ethnic Uzbeks from southern Kyrgyzstan.¹² The highest concentration of ethnic Uzbeks in Kyrgyzstan is in the south. Nationwide, less than 15 percent of the population is ethnic Uzbek, while nearly 73 percent is ethnic Kyrgyz.¹³

Ethnic Uzbeks endured the majority of casualties in the 2010 violence, which took place in southern Kyrgyzstan. Of the nearly 2,000 homes that were destroyed during the violence, most belonged to ethnic Uzbeks. In the aftermath, Uzbeks were disproportionately subjected to arbitrary detention, ill-treatment, and torture. At time of writing, the authorities still had taken no meaningful action to address the abuses endured by the Uzbek community during the violence or to review torture-tainted convictions delivered after the clashes.¹⁴

More recently, journalists and human rights defenders who raise ethnic Uzbek concerns have been subject to investigation and prosecution.¹⁵

International Counterterrorism Cooperation

Kyrgyzstan receives counterterrorism assistance from United Nations agencies including the Office on Drugs and Crime (UNODC), the Organization for Security and Co-operation in Europe (OSCE), as well as countries including Russia and China—its chief economic partners—and the US. The European Union is increasing counterterrorism and security ties with all Central Asian countries.

¹² Supreme Court of the Kyrgyz Republic, Bulletin 2(63), 2016, <http://jogorku.sot.kg/sites/default/files/images/2017.pdf>, pp. 34-35.

¹³ National Statistics Committee of the Kyrgyz Republic, 2018 Population Data, <http://www.stat.kg/en/statistics/naselenie/> (accessed June 26, 2018).

¹⁴ Human Rights Watch letter to President of Kyrgyzstan Sooronbai Jeenbekov, December 20, 2017, <https://www.hrw.org/news/2017/12/20/hrw-letter-president-kyrgyzstan-sooronbai-jeenbekov>; and *Distorted Justice: Kyrgyzstan's Flawed Investigations and Trials on the 2010 Violence*, June 8, 2011, <https://www.hrw.org/report/2011/06/08/distorted-justice/kyrgyzstans-flawed-investigations-and-trials-2010-violence>.

¹⁵ See, e.g., Ulugbek Babakulov, "Farewell to Kyrgyzstan's 'island of democracy,'" *Open Democracy*, September 6, 2017, <https://www.opendemocracy.net/od-russia/ulugbek-babakulov/farewell-to-kyrgyzstans-island-of-democracy> (accessed June 26, 2018).

The UN is actively engaged with Kyrgyzstan on regional security issues including counterterrorism. The UNODC works with authorities in Kyrgyzstan on projects including countering violent radicalization and improving detention conditions in prisons, and on technical training, in some cases in cooperation with the OSCE.¹⁶ In 2017, the UN appointed a counterterrorism adviser to Central Asia.¹⁷ Counterterrorism since 2011 has also been a focal point for the UN Regional Center for Preventive Diplomacy for Central Asia.¹⁸

The EU is increasing ties with Kyrgyzstan and other Asian countries including on counterterrorism, border control, and other security concerns.¹⁹ At time of writing the EU was negotiating an enhanced bilateral agreement with Kyrgyzstan that is expected to include a counterterrorism component. The EU allocated €184 million (US\$226.4 million) for 2014-2020 for Kyrgyzstan projects including preventing torture and corruption and strengthening government dialogue with civil society.²⁰

Kyrgyzstan is a member of the Russian-led Collective Security Treaty Organization (CSTO) and the country's President Sooronbai Jeenbekov in May 2018 called Russia and the CSTO key counterterrorism allies.²¹ It is also a member of the China-led Shanghai Cooperation

¹⁶ See, e.g., OSCE Programme Office in Bishkek, "Countering Terrorism," <https://www.osce.org/programme-office-in-bishkek/106155> (accessed June 26, 2018); and "UNODC and Japan partner with Kyrgyzstan's Prison Service to prevent violent extremism," United Nations in Kyrgyz Republic news release, February 16, 2018, <http://kg.one.un.org/content/unct/kyrgyzstan/en/home/news/kg-news/2018/unodc-and-japan-partner-with-kyrgyzstans-prison-service-to-preve.html> (accessed June 26, 2018).

¹⁷ Simon Hooper, "UK Prevent strategist to build counter-extremism programmes in Central Asia," *Middle East Eye*, May 23, 2017, <http://www.middleeasteye.net/news/home-office-prevent-strategist-build-counter-extremism-programmes-central-asia-1883821989> (accessed June 26, 2018).

¹⁸ "Press Statement on United Nations Regional Centre for Preventive Diplomacy for Central Asia," UN Security Council press release, SC/13179, January 25, 2018, <https://www.un.org/press/en/2018/sc13179.doc.htm> (accessed June 26, 2018). See also Hugh Williamson, "UN Secretary-General Fails to Speak Up for Rights in Central Asia," Human Rights Watch dispatch, June 15, 2017, <https://www.hrw.org/news/2017/06/15/un-secretary-general-fails-speak-rights-central-asia>.

¹⁹ "Council Conclusions on the EU strategy for Central Asia," 10387/17, Council of the European Union, June 19, 2017, <http://www.consilium.europa.eu/media/23991/st10387en17-conclusions-on-the-eu-strategy-for-central-asia.pdf> (accessed June 26, 2018), para. 5.

²⁰ Delegation of the European Union to the Kyrgyz Republic, "Kyrgyz Republic and the EU," May 12, 2016, https://eeas.europa.eu/delegations/kyrgyz-republic/1397/kyrgyz-republic-and-eu_en; "General information about EU projects in Kyrgyzstan," May 12, 2016, https://eeas.europa.eu/delegations/kyrgyz-republic/1398/general-information-about-eu-projects-kyrgyzstan_en; and "EU Supporting Rule of Law and Rural Development in the Kyrgyz Republic with €23 million," European Commission news release, February 16, 2017, https://ec.europa.eu/europeaid/news-and-events/eu-supporting-rule-law-and-rural-development-kyrgyz-republic-eu23-million_en (all accessed June 26, 2018). See also, "EU Ready To Start Talks On 'Ambitious' Bilateral Agreement With Kyrgyzstan," RFE/RL, November 9, 2017, <https://www.rferl.org/a/eu-kyrgyzstan-uzbekistan-mogherini-visit/28843969.html> (accessed June 26, 2018).

²¹ "Jeenbekov names Kyrgyzstan's allies in the fight against terrorism," *Radio Azattyk*, May 9, 2018, <https://rus.azattyk.org/a/29216614.html> (accessed June 26, 2018).

Organisation (SCO), whose pledges include countering terrorism, separatism, and extremism.²²

Kyrgyzstan borders China's Xinjiang province, where Chinese authorities are conducting abusive campaigns against Muslim Uyghurs and other Turkic minorities in the name of countering terrorism. The campaigns target anyone who expresses, even peacefully, his or her religious or cultural identity.²³ Beijing pledged \$14.6 million in military aid to Kyrgyzstan in 2017.²⁴

The US gave more than \$515 million in security aid to Kyrgyzstan between 2001, when it began using the country's Manas air base as a key transit station for its troops in Afghanistan, and 2017. In 2014, Kyrgyzstan ended the US lease on Manas.²⁵

²² Regional Treaties, Agreements, Declarations and Related, *Shanghai Convention on Combating Terrorism, Separatism and Extremism*, June 15, 2001, entered into force March 29, 2003, <http://www.refworld.org/docid/49f5d9f92.html> (accessed June 26, 2018).

²³ The campaigns are named "Strike Hard" and "Enduring Peace." See "China: Big Data Fuels Crackdown in Minority Region," Human Rights Watch news release, February 26, 2018, <https://www.hrw.org/news/2018/02/26/china-big-data-fuels-crackdown-minority-region>.

²⁴ Anara Mamytova, "China to provide Kyrgyzstan 100 million yuan grant aid," *24.kg*, March 23, 2017, https://24.kg/english/47683_China_to_provide_Kyrgyzstan_100_million_yuan_grant_aid/ (accessed June 26, 2018).

²⁵ Akhilesh Pillalamarri, "The United States Just Closed Its Last Base in Central Asia," *The Diplomat*, June 10, 2014, <https://thediplomat.com/2014/06/the-united-states-just-closed-its-last-base-in-central-asia/> (accessed June 26, 2018).

Security Threats and Counterterrorism

Kyrgyzstan has suffered relatively few major incidents involving extremist armed groups in recent years. However, reports of Central Asians fighting in Syria, along with the country's proximity to Afghanistan to the south and Xinjiang province in China to the east, have prompted officials at home and abroad to express fears that Kyrgyzstan might serve as fertile ground for armed extremists to recruit and carry out attacks.

In the late 1990s and early 2000s, the regional group Islamic Movement of Uzbekistan (IMU) kidnapped several people in Kyrgyzstan—including four Japanese geologists and four American mountain climbers—and attacked security targets inside the country.²⁶ In 2012, thousands of Central Asians, including from Kyrgyzstan, were reported to have joined a global flow of fighters traveling to Syria and Iraq to enlist with ISIS and other extremist armed groups. In 2015, ISIS released its first recruitment video geared at Kyrgyzstan.²⁷

Authorities in Russia, Central Asia, Europe, and the US have accused nationals from Central Asian countries including Kyrgyzstan of involvement in seven separate, high-profile extremist armed attacks from 2016 to July 2018. Two attacks took place in Istanbul; the others were carried out in St. Petersburg, Stockholm, New York City, the Khatlon region of southern Tajikistan, and Kyrgyzstan's capital, Bishkek. The attacks killed at least 117 people and injured more than 360. ISIS has claimed, inspired, or been linked by domestic authorities to five of the attacks.²⁸

²⁶ See, e.g., Ahmed Rashid, "They're Only Sleeping: Why militant Islamicists in Central Asia aren't going to go away," *New Yorker*, January 14, 2002, <https://www.newyorker.com/magazine/2002/01/14/theyre-only-sleeping> (accessed June 26, 2018); Tommy Caldwell, "The Push: An Excerpt From Tommy Caldwell's Gripping New Memoir," *Climbing*, May 5, 2017, <https://www.climbing.com/people/the-push-an-excerpt-from-tommy-caldwells-gripping-new-memoir/> (accessed June 26, 2018).

²⁷ Joanna Paraszczuk, "How to Recruit Militants & Influence People: IS's First-Ever Kyrgyz Recruitment Video," RFE/RL, July 27, 2015, <https://www.rferl.org/a/islamic-state-kyrgyz-recruitment-video/27155247.html> (accessed June 26, 2018).

²⁸ "A Year After St. Petersburg Subway Blast, Russia Says Probe Almost Finished," RFE/RL, April 3, 2018, <https://www.rferl.org/a/russia-peterburg-subway-bombing-probe-almost-finished/29141942.html> (accessed August 26, 2018); "Istanbul Reina club suspect 'confesses': official," *Al Jazeera*, January 17, 2017, <http://www.aljazeera.com/news/2017/01/istanbul-reina-club-suspect-confesses-official-170117084328630.html> (accessed June 26, 2018); Catherine Putz, "3 Convicted for Chinese Embassy Attack in Bishkek," *The Diplomat*, June 30, 2017, <https://thediplomat.com/2017/06/30-convicted-for-chinese-embassy-attack-in-bishkek/> (accessed June 26, 2018); "Trial begins in Turkey over IS attack on Istanbul airport," *DW*, November 13, 2017, <https://www.dw.com/en/trial-begins-in-turkey-over-is-attack-on-istanbul-airport/a-41360914> (accessed July 30, 2018); "Stockholm Truck Attack Suspect Pleads Guilty As Trial Opens," RFE/RL, February 14, 2018, <https://www.rferl.org/a/weden-uzbekistan-tajikistan-stockholm-truck-attack-trial/29037023.html> (accessed July 22, 2018); "New York truck attack

Human Rights Watch unequivocally condemns such attacks. We recognize that governments have a duty to hold those responsible for such attacks to account and to protect those living under their jurisdiction from harm. However, all such efforts must comply with international law. While this report focuses on the overly aggressive application of article 299-2, the concerns that we raise regarding abuse of suspects also apply to the broader spectrum of the government's counterterrorism responses.

Foreign Fighters

Since 2012, the UN Counter-Terrorism Committee estimates that some 30,000 foreign fighters have joined Sunni militant groups in Iraq and Syria including ISIS, Al-Qaeda, and their affiliates.²⁹ Various studies estimate that 2,600 to 5,000 of these foreign fighters are Central Asians.³⁰

Estimates of foreign fighters should be treated with caution.³¹ Several independent experts on security in Central Asia have expressed concern that regional and domestic actors manipulate the numbers—up or down—for political and economic support, or to justify

suspect charged," *Washington Post*, November 2, 2017, https://www.washingtonpost.com/news/post-nation/wp/2017/11/01/new-york-attack-probe-expands-to-uzbekistan-as-possible-militant-links-explored/?utm_term=.4e7e92a409b2 (accessed August 23, 2018); Rukmini Callimachi and Andrew E. Kramer, "Video Purports to Show Tajikistan Attackers Pledging Allegiance to ISIS," *New York Times*, July 31, 2018, <https://www.nytimes.com/2018/07/31/world/asia/isis-tajikistan-video-attack.html> (accessed August 23, 2018).

²⁹ UN Security Council Counter-Terrorism Committee, "Foreign terrorist fighters," <https://www.un.org/sc/ctc/focus-areas/foreign-terrorist-fighters/> (accessed June 26, 2018).

³⁰ See, e.g., "Beyond the Caliphate: Foreign Fighters and the Threat of Returnees," the Soufan Center, <http://thesoufancenter.org/wp-content/uploads/2017/11/Beyond-the-Caliphate-Foreign-Fighters-and-the-Threat-of-Returnees-TSC-Report-October-2017-v3.pdf>. Other regions that the study estimates to have significant numbers of nationals who fought in Syria and Iraq are the Middle East (17,000), Western Europe (15,700), the Maghreb (15,300), and South and Southeast Asia (11,500), followed by the Balkans (1800) and North America (1400). See also, "Analysis of the Drivers of Radicalization and Violent Extremism in Kyrgyzstan," International Center for the Study of Violent Extremism, <http://www.icsve.org/research-reports/analysis-of-the-drivers-of-radicalization-and-violent-extremism-in-kyrgyzstan-including-the-roles-of-kyrgyz-women-in-supporting-joining-intervening-in-and-preventing-violent-extremism-in-kyrgyzsta/> (accessed June 26, 2018).

³¹ See, e.g., UN Office of Counter-Terrorism, Enhancing the Understanding of the Foreign Terrorist Fighters Phenomenon in Syria, July 2017, http://www.un.org/en/counterterrorism/assets/img/Report_Final_20170727.pdf (accessed June 26, 2018). According to the Soufan Center, 8,700 people traveled from all former Soviet republics to Syria and Iraq—the highest figure for any region in the world. That figure included Dagestanis and Chechens among others, not only members of the Central Asian diaspora. See "Beyond the Caliphate: Foreign Fighters and the Threat of Returnees," the Soufan Center, <http://thesoufancenter.org/wp-content/uploads/2017/11/Beyond-the-Caliphate-Foreign-Fighters-and-the-Threat-of-Returnees-TSC-Report-October-2017-v3.pdf>.

crackdowns on fundamentalist Muslims and ethnic minorities.³² Perceptions that recruitment is high in the diaspora may also be exaggerated.³³

The GKNB told Human Rights Watch that 764 nationals—615 males and 149 females, including 107 children—had joined extremist armed organizations such as ISIS and Jabhat al-Nusra (which now calls itself Tahrir al-Sham) in countries including Syria, Iraq, and Afghanistan since 2012. Of those, the GKNB said 180 were fighters killed in action and another 100 were in custody in Kyrgyzstan.³⁴ The GKNB did not provide further details. A senior government official told Human Rights Watch that the highest swell was in 2015 and 2016, and that only about 200 remained as of May 2018.³⁵ About one-half of those who joined extremist armed groups abroad were cooks, cleaners, family members, and other non-combatants, the official said. More than 90 percent were ethnic Uzbeks, about 12 percent were women, and about 4 percent were children, he said. At least one-third of those who left were killed, and about 48 had been captured or surrendered.³⁶

The official told Human Right Watch that nationals had joined extremist armed groups including ISIS, the Syrian-based Jabhat al-Nusra and affiliates, and the IMU.³⁷

³² See, e.g., Noah Tucker, “Central Asian Involvement in The Conflict in Syria and Iraq: Drivers and Responses,” USAID, May 2015, http://pdf.usaid.gov/pdf_docs/PBAAE879.pdf (accessed June 26, 2018); “Beyond the Caliphate: Foreign Fighters and the Threat of Returnees,” the Soufan Center, <http://thesoufancenter.org/wp-content/uploads/2017/11/Beyond-the-Caliphate-Foreign-Fighters-and-the-Threat-of-Returnees-TSC-Report-October-2017-v3.pdf>; and Thomas F. Lynch III, Michael Bouffard, Kelsey King, and Graham Vickowski, “The Return of Foreign Fighters to Central Asia: Implications for US Counterterrorism Policy,” Center for Strategic Research, National Defense University, October 29, 2016, <http://ndupress.ndu.edu/Portals/68/Documents/stratperspective/inss/Strategic-Perspectives-21.pdf> (accessed July 22, 2018), pp. 5 and 23. Three independent security experts as well Bishkek-based diplomats, academics, and human rights defenders also expressed this concern to Human Rights Watch during interviews in Kyrgyzstan in June-July 2017 and by telephone and Internet.

³³ Royal United Services Institute and Search for Common Ground, “Causes and Motives of Radicalization Among Central Asian Labor Migrants in the Russian Federation,” https://www.sfcg.org/wp-content/uploads/2018/04/RUSI-report_Central-Asia-Radicalisation_ENG_24042018.pdf (accessed July 14, 2018), p. 4.

³⁴ State Committee for National Security (GKNB) portion of consolidated government responses from the Ministry of Foreign Affairs to Human Rights Watch regarding the information in this report, June 22, 2018. On file with Human Rights Watch.

³⁵ Human Rights Watch interview with senior government official, Kyrgyzstan, May 2018. As with other government officials and representatives of NGOs, the name and other details were withheld upon interviewee’s request.

³⁶ Ibid.

³⁷ In 2013, Jabhat al-Nusra pledged loyalty to Al-Qaeda. However, in 2016 it renamed itself Jabhat Fateh al-Sham in an apparent attempt to distance itself from Al-Qaeda, and the following year merged with other groups to become Tahrir al-Sham.

Much of the recruitment of nationals appeared to take place in diaspora communities in countries such as Russia and Turkey, the government official said, but he also expressed concern over potential sleeper cells.³⁸

Following the US-led coalition's defeat of ISIS in Raqqa, Syria, and Mosul, Iraq, in 2017, officials in Kyrgyzstan feared Central Asian foreign fighters might return home or join groups such as the Afghanistan-based Islamic State in Khorasan Province (ISKP).³⁹

State Responses

Government responses to the foreign fighter phenomenon in Kyrgyzstan have included repressive measures such as arresting hundreds of people on vaguely-defined terrorism and extremism charges.⁴⁰ The responses also include torture and blacklisting.

Torture of Suspects

Kyrgyzstan has a documented history of torture or ill-treatment of criminal suspects. In its last report on Kyrgyzstan, in 2013, the UN Committee Against Torture wrote that it was “deeply concerned about the ongoing and widespread practice of torture and ill-treatment of persons deprived of their liberty, in particular while in police custody to extract confessions.”⁴¹ It deplored a “persistent pattern” of “impunity for State officials allegedly responsible.”⁴²

The government has acknowledged that torture occurs in Kyrgyzstan and has committed to ending it.⁴³ In 2013, it approved the establishment of the National Center for the Prevention of Torture. The center reported receiving 217 complaints in 2017, including 104 for torture and 25 for ill-treatment. Of those complaints, 95 percent alleged abuse by the Ministry of Internal Affairs, which includes the Service for Combatting Extremism and Illegal Migration,

³⁸ Human Rights Watch interview with senior government official, Bishkek, July 2017.

³⁹ “Beyond the Caliphate: Foreign Fighters and the Threat of Returnees,” the Soufan Center, <http://thesoufancenter.org/wp-content/uploads/2017/11/Beyond-the-Caliphate-Foreign-Fighters-and-the-Threat-of-Returnees-TSC-Report-October-2017-v3.pdf>.

⁴⁰ Ministry of Internal Affairs portion of the consolidated government responses from the Ministry of Foreign Affairs to Human Rights Watch, June 22, 2018. On file with Human Rights Watch.

⁴¹ UN Committee against Torture, “Concluding observations on the second periodic report of Kyrgyzstan,” http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/KGZ/CO/2&Lang=En, paras. 5-6.

⁴² *Ibid.*

⁴³ *Ibid.*, para. 5.

known as the 10th Department counterterrorism police. Another 8 percent alleged abuse by the GKNB and 1 percent alleged abuse inside GSIN facilities.⁴⁴

At time of writing, the National Center had initiated only nine criminal cases in response to torture complaints, according to its website.⁴⁵

In 2016, the Prosecutor General's Office received 435 allegations of torture and ill-treatment, and as of February 2018 the courts were considering 48 criminal cases alleging torture.⁴⁶ In 2016 and 2017, the courts handed down only one conviction of law enforcement officers for torture and three convictions for abuse of office related to ill-treatment.⁴⁷

Banned Groups including Hizb ut-Tahrir

Government authorities have proscribed 21 organizations as terrorist or extremist. The list includes ISIS and the Taliban. It also includes Central Asian armed groups that have fought or fight in Iraq, Syria, and Afghanistan such as the IMU, the Monotheism and Jihad Front (Jamaat at-Tawhid wal-Jihad, also known as the Katibat al Tawhid wal Jihad battalion, or KTJ), and the Imam Bukhari Battalion (also known as Katibat Imam al Bukhari, or KIB).⁴⁸

The list also includes Hizb ut-Tahrir (Party of Liberation), a pan-national Islamist movement whose suspected members are often charged with extremism- and terrorism-related

⁴⁴ "Zero tolerance towards torture—uniting efforts of the government and society," Delegation of the European Union to the Kyrgyz Republic news release, February 9, 2018, https://eeas.europa.eu/delegations/kyrgyz-republic/39643/zero-tolerance-towards-torture-%E2%80%93-uniting-efforts-government-and-society_en (accessed June 26, 2018).

⁴⁵ For more information, see the official website of the National Center of the Kyrgyz Republic for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, <http://npm.kg/en/>.

⁴⁶ "Zero tolerance towards torture—uniting efforts of the government and society," Delegation of the European Union to the Kyrgyz Republic news release, February 9, 2018, https://eeas.europa.eu/delegations/kyrgyz-republic/39643/zero-tolerance-towards-torture-%E2%80%93-uniting-efforts-government-and-society_en (accessed June 26, 2018).

⁴⁷ Human Rights Watch interview with senior member of Human Rights Ombudsman's Office, Kyrgyzstan, May 2018.

⁴⁸ As of June 2017, the only non-Muslim entry on the list of banned organizations is the Unification Church. The full list is: 1. Al-Qaeda; 2. Taliban; 3. East Turkestan Islamic Movement; 4. Kurdistan People's Congress ("Kongra-Gel"); 5. Eastern Turkestan Liberation Organization; 6. Hizb ut-Tahrir al-Islami; 7. Islamic Jihad Union; 8. Turkestan Islamic Party (Islamic Movement of Uzbekistan); 9. Unification Church; 10. Zhaishul Mahdi; 11. Jund-al-Khalifa; 12. Ansarullah (Ansar Allah); 13. Takfir Wal-Hijra; 14. Acromiya; 15. Said Buryatsky; 16. Islamic State; 17. Jabhat al-Nusra; 18. Imam Bukhari Battalion; 19. Jannat Oshiklari; 20. Monotheism and Jihad Front; 21. Yakyn-Inkar. See "List of Organizations Whose Activity is Banned on the Territory of the Kyrgyz Republic," State Committee for Religious Affairs, June 2017, http://religion.gov.kg/ru/religion_organization/%D1%82%D1%8B%D1%8E%D1%83-%D1%81%D0%B0%D0%BB%D1%8B%D0%BD%D0%B3%D0%B0%D0%BD-%D0%B4%D0%B8%D0%BD%D0%B8%D0%B9-%D0%B1%D0%B8%D1%80%D0%B8%D0%BA%D0%BC%D0%B5%D0%B5%D0%B5%D1%80/ (accessed July 23, 2018).

offenses in Kyrgyzstan. Hizb ut-Tahrir seeks to establish a caliphate throughout the Muslim world based on Sharia, or Islamic law. The movement publicly disavows efforts to achieve its goals through violent means. Nevertheless, it calls for an end to secular statehood in Muslim-majority countries. Hizb ut-Tahrir is proscribed in more than a dozen countries. Kyrgyzstan banned it in 2003, saying it seeks the government's overthrow.⁴⁹

Some international security analysts express concern that Hizb ut-Tahrir is among groups that may serve as "unwitting" bridges for followers to join extremist armed groups.⁵⁰ However, some security analysis and members of non-governmental organizations (NGOs) also contend that government authorities intentionally blur the lines between terrorism and Hizb ut-Tahrir.⁵¹

While it falls within Kyrgyzstan's discretion to proscribe Hizb ut-Tahrir, all application of criminal law must comport with international standards on due process and focus on criminal conduct, not punish exercise of basic rights such as free speech, opinion, and association. Banning an organization should be a last resort, and the organization should be able to contest the ban in court.

Extremist Watch List

The Ministry of Internal Affairs had placed 4,154 people on its extremist watch list as of October 2016, the most recent date for which figures were available.⁵² The listed individuals are suspected of unlawful activities including membership in proscribed groups, particularly Hizb ut-Tahrir.

⁴⁹ Evgenii Novikov, "The Recruiting and Organizational Structure of Hizb ut-Tahrir," *Terrorism Monitor Vol: 2, Issue: 22*, Jamestown Foundation, November 17, 2004, <https://jamestown.org/program/the-recruiting-and-organizational-structure-of-hizb-ut-tahrir-2/> (accessed June 26, 2018).

⁵⁰ Hizb ut-Tahrir also has been accused of anti-Semitism by countries including Germany, whose ban on the group was upheld by the European Court of Human Rights in 2012. See "Media statement regarding ISIS's declaration in Iraq," Hizb ut-Tahrir Britain, July 2, 2014, <http://www.hizb.org.uk/current-affairs/media-statement-regarding-isis-declaration-in-iraq> (accessed June 26, 2018); ICG, "Syria Calling: Radicalisation in Central Asia," January 20, 2015, <https://www.crisisgroup.org/europe-central-asia/central-asia/syria-calling-radicalisation-central-asia>; US Institute of Peace (USIP), "Preventing Violent Extremism in Kyrgyzstan," October 2014, https://www.usip.org/sites/default/files/SR355_Preventing-Violent-Extremism-in-Kyrgyzstan.pdf (accessed June 27, 2018); and "Complaint about prohibition of Islamic organisation's activities in Germany declared inadmissible," European Court of Human Rights press release, ECHR 260 (2012), June 19, 2012.

⁵¹ Human Rights Watch interviews with four international and Kyrgyzstan-based consultants, Kyrgyzstan, June-July 2017.

⁵² "Nine-Month, 2016 Summation of the Results of Operational and Official Activity for the Republic," Ministry of Internal Affairs news release, October 17, 2016, <http://mvd.kg/index.php/rus/mass-media/all-news/item/2828-mvd-podvedeny-itogi-operativno-sluzhebnov-deyatelnosti-ovd-respubliki-za-9-mesyatsev-2016-goda>.

Local human rights defenders accused the authorities of routinely placing people on the list because they appear through dress and manner to adhere to religious ideologies other than state-sponsored Islam or are members of ethnic minorities.⁵³

Internet Restrictions

Kyrgyzstan has dramatically increased Internet censorship as part of its counterterrorism measures. Since July 2016, amendments to the Civil Procedure Code allow prosecutors to block websites containing content they deem to be extremist or terrorist for up to five days before obtaining court approval.⁵⁴ Courts blocked 159 alleged terrorism-related Internet sites and pages in 2017, nearly double the 86 sites blocked for alleged terrorism-related content in 2016.⁵⁵ In May 2018, the Supreme Court blocked 25 more Internet sites including SoundCloud, a music-sharing platform with more than 175 million listeners worldwide.⁵⁶

⁵³ Human Rights Watch interviews with six local human rights defenders, Kyrgyzstan, June-July 2017.

⁵⁴ Law No. 97 on Amending Certain Legislative Acts of the Kyrgyz Republic (the Civil Procedure Code of the Kyrgyz Republic, the Law of the Kyrgyz Republic on Countering Extremist Activity), July 1, 2016, <http://cdb.minjust.gov.kg/act/view/ru-ru/111376>.

⁵⁵ Ulan Nazarov, "Kyrgyzstan takes action to protect 'vulnerable' youth population from propaganda," *Caravanserai*, December 21, 2017, http://central.asia-news.com/en_GB/articles/cnmi_ca/features/2017/12/21/feature-02 (accessed June 26, 2018); "Kyrgyzstan shuts down websites with Taliban and Islamic State content," *AkiPress.com*, January 8, 2018, <https://akipress.com/news:600657/> (accessed June 26, 2018).

⁵⁶ "Kyrgyzstan to have 25 websites blocked over extremism propaganda and SoundCloud in the list," *AkiPress.com*, May 14, 2018, <https://akipress.com/news:606414/> (accessed June 26, 2018).

Criminalizing Possession of Extremist Material

Article 299-2 of the Criminal Code of Kyrgyzstan as applied at time of writing criminalizes possession—using a word that translates directly as “storage”—of vaguely-defined extremist material, regardless of whether the suspect distributes it, or uses or intends to use it to commit or incite violence. The provision falls under article 299, which lays out offenses on “inciting national, racial, religious or inter-regional hostility.”⁵⁷

Article 299-2 was enacted in 2009 and is modeled on a provision in a 2002 Russian counter-extremism law that Kyrgyzstan and seven other former Warsaw Pact countries have used as a template.⁵⁸ Initially, the provision in Kyrgyzstan criminalized possession of extremist material only if the aim was distribution. This material element of the offence was eliminated in Kyrgyzstan in 2013. Amendments to article 299-2 scheduled for January 2019 (described below) will reintroduce the intent requirement. They will not however address other highly problematic aspects of the offence.

The application of article 299-2 at time of writing violates provisions of international human rights law including the rights to freedom of religion, expression, and association. In addition, overbroad and insufficiently publicized interpretations of extremism used to convict suspects under article 299-2 violate the requirement that criminal law should classify and describe punishable offences in sufficiently precise and unambiguous language so that the accused can know when their actions are unlawful.⁵⁹

⁵⁷ Criminal Code of October 1, 1997, <http://cbd.minjust.gov.kg/act/view/ru-ru/568>, arts. 299 and 299-2.

⁵⁸ The Russian provision is article 1(1) of Russia’s Federal Law No. 114-FZ, On Combating Extremist Activities, July 25, 2002, <http://base.garant.ru/12127578/>. The other countries in the former Soviet sphere with measures criminalizing storage or distribution of material that the authorities deem extremist are Azerbaijan, Belarus, Kazakhstan, Moldova, Slovakia, Tajikistan, and Uzbekistan. In some of these countries, such provisions are administrative rather than criminal offenses. For a comprehensive analysis of such laws, see Alexander Verkhovsky, *Criminal Law on Hate Crime, Incitement to Hatred and Hate Speech in OSCE Participating States*, (The Hague: SOVA Center, 2016), https://www.nhc.nl/assets/uploads/2017/07/NHC-Criminal-Law_10.pdf (accessed June 26, 2018).

⁵⁹ The requirement of “clarity” of the criminal law—often referred to as the “void for vagueness” doctrine—is enshrined in article 15 of the International Covenant on Civil and Political Rights (ICCPR). See UN General Assembly, “International Covenant on Civil and Political Rights (ICCPR),” Resolution 2200A (XXI) (1966), entered into force March 23, 1976, in accordance with article 49, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (accessed June 27, 2018), art. 4. See also Manfred Nowak, UN Covenant on Civil and Political Rights: CCPR Commentary, 2nd rev. ed., (Kehl am Rhein: Engel, 2005), p.361.

No Intent Required

As originally enacted in 2009, article 299-2 criminalized “the acquisition, storage [possession], transportation and transfer of extremist materials *for the purpose of distribution, or their production and distribution*, as well as the deliberate use of symbols or attributes of extremist organizations [emphasis added].”⁶⁰

In 2013, amid rising concerns about recruitment in Kyrgyzstan to Hizb ut-Tahrir as well as extremist armed groups, the government amended article 299-2 to criminalize “the acquisition, manufacture, storage, distribution, transportation and transfer of extremist materials, as well as the deliberate use of symbols or attributes of extremist organizations,” but removed the requirement that to be criminal, the suspect must have distributed or intends to distribute the material.⁶¹ Each element of the crime is a separate offense.

More than a dozen defense lawyers, human rights groups, and representatives of international NGOs told Human Rights Watch that they considered article 299-2 to be dangerously misguided.⁶² “The authorities are not addressing the cause, they are addressing the effect,” one member of an international NGO said. “They are punishing the people who receive the information, not the people responsible for distributing it to them or the conditions that may attract them to violent radicalism.”⁶³

Since 2016, convictions under article 299-2 carry mandatory prison terms of three to five years for first-time offenders and seven to 10 years for repeat offenders or for aggravating circumstances such as distributing the material in public.⁶⁴

⁶⁰ Law No. 60 of the Kyrgyz Republic, On Amendments and Additions to Certain Legislative Acts of the Kyrgyz Republic, February 20, 2009, art. 1(2), <http://cbd.minjust.gov.kg/act/view/ru-ru/203112?cl=ru-ru>.

⁶¹ Law No. 180 of the Kyrgyz Republic, On Amendments and Additions to the Criminal Code, August 3, 2013, art. 1(9), <http://cbd.minjust.gov.kg/act/view/ru-ru/203989?cl=ru-ru>.

⁶² Human Rights Watch interviews with 13 local human rights defenders and lawyers and representatives of international NGOs, Kyrgyzstan, June-July 2017 and May 2018, as well as by phone and Internet.

⁶³ Human Rights Watch interview with a representative of an international NGO via Internet communication, May 2018.

⁶⁴ Article 63 of the Criminal Code as amended by Kyrgyzstan Law No. 162, On Amending Certain Legislative Acts in the Sphere of Combating Terrorism and Extremism, August 2, 2016, <http://cbd.minjust.gov.kg/act/view/ru-ru/568>.

The Constitutional Chamber of the Supreme Court of Kyrgyzstan has declined to consider two separate complaints contesting the constitutionality of article 299-2 following the amendments in 2013.⁶⁵

The human rights ombudsman plans to monitor prosecutions under article 299-2 in the latter half of 2018 and note any violations in its year-end reporting, a senior official with the office told Human Rights Watch.⁶⁶ However, the human rights ombudsman who made that pledge resigned in June, and the post has not been filled at time of writing.⁶⁷

Insufficient Reforms

Following criticism from local and international human rights groups that article 299-2 criminalized free speech and other internationally protected rights, Kyrgyzstan's parliament, the *Jogorku Kenesh*, in December 2016 approved further amendments to the Criminal Code that will restore the requirement that acquiring or possessing material deemed extremist cannot be a criminal offense unless it is "for the purpose of dissemination."⁶⁸ The change is scheduled to enter into force on January 1, 2019 as part of a vast package of criminal justice reforms. However, government officials have warned that they are behind schedule.⁶⁹

Representatives from civil society groups and international organizations including NGOs said implementation may be delayed due to the need to train the police and GKNB forces, prosecutors, and court officials on the modifications.⁷⁰ In addition, at the time of writing, there have been no steps to halt or impose a moratorium on prosecutions for mere possession of banned material. Most problematically, the 2019 amendment does not change the overbroad definition of extremism used in article 299-2 cases, as well as

⁶⁵ Court documents on file with Human Rights Watch.

⁶⁶ Human Rights Watch interview with senior official in Human Rights Ombudsman's Office, Kyrgyzstan, May 2018.

⁶⁷ Darya Podolskaya, "Kubat Otorbaev resigns as Ombudsman of Kyrgyzstan," *24.kg*, June 26, 2018, https://24.kg/english/88977_Kubat_Otorbaev_resigns_as_Ombudsman_of_Kyrgyzstan/ (accessed July 23, 2018).

⁶⁸ Article 315 of the Criminal Code as amended by Law No. 10 of the Kyrgyz Republic of January 24, 2017, effective January 1, 2019, <http://cbd.minjust.gov.kg/act/view/ru-ru/111527>.

⁶⁹ "Time is very short. Very little has been done, and much remains to be done," Kyrgyzstan's President Sooronbai Jeenbekov said in May 2018. "Implementation of judicial and legal reform and fighting against corruption is the most priority work in Kyrgyzstan," Office of the President, May 17, 2018, http://www.president.kg/ru/sobytiya/11658_prezident_sooronbay_ghe_enbekov_realizaciya_sudebno_pravovoy_reformi_i_borba_protiv_korruptcii_samaya_prioritetnaya_rabota_v_kirgizstane.

⁷⁰ Human Rights Watch separate interviews with three representatives of international NGOs and four local civil society members, Bishkek, May 2018.

mandatory prison sentences for that offense, neither of which are part of the criminal reform package.

Overbroad Definition of Extremism

Article 299-2 relies on the overbroad definition of what constitutes extremism or extremist material in Kyrgyzstan's 2005 Law on Countering Extremist Activity. That 2005 law's list of extremist offenses includes serious crimes, such as intended or actual acts of terrorism, that are based on "ideological, political, racial, national (ethnic) or religious hatred or enmity." However, the list also includes "affronts to national dignity," as well as lesser crimes such as "hooliganism" and "vandalism." The 2005 law also criminalizes justification of, or public calls to support such activities, as well as financing or otherwise facilitating them. It defines extremist materials as any documents or information that call for or justify extremist views.⁷¹

"This vague interpretation of extremism could allow prosecutors and judges to condemn whoever they want for whatever they want," said Noah Tucker, a Prague-based scholar who studies Central Asian radicalism.⁷²

There is no universal legal definition of extremism or terrorism under international law. The UN Human Rights Committee has warned of the dangers of overly broad use of such terms in the context of freedom of expression, cautioning that:

Such offences as "encouragement of terrorism" and "extremist activity," as well as offences of "praising," "glorifying," or "justifying" terrorism, should be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression.⁷³

Article 19, a UK-based NGO that defends the fundamental right to freedom of expression, expressed concern in 2015 that the Law on Countering Extremist Activity is "extremely

⁷¹ Kyrgyzstan Law No. 150 on Countering Extremist Activity, August 17, 2005, <http://cbd.minjust.gov.kg/act/view/ru-ru/1748>, art. 1.

⁷² Human Rights Watch online interview with Noah Tucker, June 21, 2017.

⁷³ UN Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, CCPR/C/GC/34 (2011), <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> (accessed June 26, 2018), para. 46.

broad” and might be “an illegitimate attempt by the Kyrgyz government to restrict civil space and shut down minority voices.”⁷⁴ It added that the definition of extremist materials “suggests that the government is giving itself the power to prevent access to any material which it does not approve of.”⁷⁵

List of Proscribed Content

The Law on Countering Extremist Activity requires the government to maintain a public list of proscribed content.⁷⁶ However, for years the Ministry of Justice website created for this purpose did not include much of the material used to convict suspects under article 299-2 and, according to human rights defenders, remains incomplete.⁷⁷ As of May 2018, the Ministry of Justice had listed 22 court decisions banning material.

Most of the 22 court decisions contained multiple entries, some banning websites featuring the content of extremist armed groups or Hizb ut-Tahrir sermons, others banning articles in mainstream, online media, or reports by human rights organizations.⁷⁸ The banned websites include Jihadology.net, a leading clearinghouse for extremist armed videos and messages that is widely used by Western academics.⁷⁹ Proscribed material also includes the film “I am Gay and Muslim.”⁸⁰

The counter-extremism law does not specify that the list be exhaustive and calls only for periodic updates.⁸¹ An incomplete list raises serious questions as to whether the accused would know that possession of particular materials was unlawful.

When asked to comment, the Ministry of Justice said government agencies periodically update the list upon receipt from the courts of rulings that designate material as extremist, as provided under the counter-extremism law.⁸²

⁷⁴ Article 19, “Kyrgyzstan: Law on Countering Extremist Activity,” December 2015, <https://www.article19.org/data/files/medialibrary/38221/Kyrgyzstan-Extremism-LA-Final.pdf> (accessed June 26, 2018), p. 4.

⁷⁵ Ibid., p. 10.

⁷⁶ Kyrgyzstan Law No. 150 on Countering Extremist Activity, August 17, 2005, <http://cbd.minjust.gov.kg/act/view/ru-ru/1748>, art. 13.

⁷⁷ Human Rights Watch separate interviews with 11 human rights defenders and lawyers, Kyrgyzstan, June-July 2017.

⁷⁸ Ministry of Justice, List of Extremist Materials, <http://minjust.gov.kg/ru/content/950>.

⁷⁹ Ibid., No. 6.

⁸⁰ Ibid., No. 3.

⁸¹ Kyrgyzstan Law No. 150 on Countering Extremist Activity, August 17, 2005, <http://cbd.minjust.gov.kg/act/view/ru-ru/1748>, art. 13.

⁸² Ministry of Justice letter to Human Rights Watch, August 30, 2017. Letter on file with Human Rights Watch.

Problematic Screening of Material

Prosecutors and judges often apply elastic interpretations of the extremist acts listed in Law on Countering Extremist Activity of 2005 in article 299-2 cases, according to 11 human rights defenders, lawyers, and religion experts interviewed by Human Rights Watch. Their observations are supported by Human Rights Watch reviews of court papers. These interpretations are made by Kyrgyzstan's State Commission for Religious Affairs, a panel created to examine the content of books and other material entering Kyrgyzstan from abroad, or to experts hired by the commission to evaluate the content.

The human rights defenders, lawyers, and religion experts told Human Rights Watch that the commission's in-house and contract examiners lack sufficient training to identify potentially criminal content. Frequently, they said, the expert opinions failed to include a finding that possession of the content posed a threat to national security.⁸³ They also questioned the commission's impartiality.⁸⁴

Several defense lawyers also said that in many cases the material used to convict suspects had not been banned through a previous court ruling as required under domestic criminal procedure. Instead, they said, that concurrent with handing down the conviction, the courts simply rubber-stamp the religious commission's finding that the content was extremist.⁸⁵

In its 2016 study of terrorism- and extremism-related cases, Kyrgyzstan's Supreme Court raised concerns about lower courts' reliance on these examinations, concluding that the examiners tended to review material from a theological perspective—that is, through the prism of a particular creed or set of beliefs, rather than through a more “neutral,” religious perspective based on academic and scientific knowledge. The study also noted that in

⁸³ Human Rights Watch separate interviews with 11 human rights defenders, lawyers, and religion experts, Kyrgyzstan, June-July 2017 and May 2018.

⁸⁴ See, e.g., “Kyrgyzstan: Film Ban Violates Free Speech,” Human Rights Watch news release, October 4, 2012, <https://www.hrw.org/news/2012/10/04/kyrgyzstan-film-ban-violates-free-speech>; “Kyrgyz Indigo” and “Labrys,” “Alternative Report on the Implementation of the Provisions of ICCPR Related to LGBT People In Kyrgyzstan,” March 2014, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KGZ/INT_CCPR_CSS_KGZ_16586_E.pdf (accessed July 23, 2018).

⁸⁵ Human Rights Watch separate interviews with six defense lawyers, Kyrgyzstan, June-July 2017 and May 2018.

several cases, the religious examiners' conclusions "use the same wording," suggesting the reviews lacked nuance and individualization.⁸⁶

Human Rights Watch reviewed 18 commission opinions from 2014 to 2018 that courts used in article 299-2 convictions.⁸⁷ The material in question included three recruitment videos from armed extremist groups, a video of a Hizb ut-Tahrir funeral, and several pamphlets and videos of Hizb ut-Tahrir sermons. Some of the content might well be considered offensive or inflammatory. However, none of the reviewers concluded that the material contained calls to overthrow the government of Kyrgyzstan by force, one of the main questions prosecutors asked them to consider.

"Although the material does not contain explicit calls to change the constitutional order of the Kyrgyz Republic, the above-mentioned religious extremist party [Hizb ut-Tahrir] and its goals are against the Constitution," reads one typically worded conclusion from 2017.⁸⁸

Desiring any kind of state, including a caliphate, absent violence or intended violence, is protected under the right to freedom of opinion.

In a written response to Human Rights Watch, the State Commission for Religious Affairs wrote that staff members conducting religious examinations "have a relevant religious studies and theology background."⁸⁹ The response also noted that the commission is allowed under law to hire outside experts to conduct reviews.

At time of writing, the government had committed to transferring evaluations of potentially extremist material to the State Service for Forensic Expertise as soon as staff could be trained to review the content from religious, linguistic, and psychological perspectives.⁹⁰

The combination of overly broad definitions of extremism, questionable expert determinations of whether specific material meets that definition, and the Ministry of

⁸⁶ Supreme Court of the Kyrgyz Republic, Bulletin 2(63), 2016, <http://jogorku.sot.kg/sites/default/files/images/2017.pdf>, pp. 35-36.

⁸⁷ Copies on file with Human Rights Watch.

⁸⁸ State Commission for Religious Affairs expert examination dated January 11, 2017. On file with Human Rights Watch.

⁸⁹ Written comments from State Commission for Religious Affairs, October 5, 2017. On file with Human Rights Watch.

⁹⁰ Human Rights Watch interviews with members of NGOs monitoring the transfer, Kyrgyzstan, May 2018.

Justice's delays in maintaining a comprehensive list of banned materials raises serious questions as to whether individuals possessing allegedly extremist material are even aware that they may be committing a crime by doing so.

Arrests and Convictions

According to the most recently available data, from 2010 through September 2016, courts in Kyrgyzstan convicted at least 258 people under article 299-2 of the Criminal Code.⁹¹ That makes article 299-2 the country's most widely used charge in terrorism or extremism cases in recent years. Another 167 cases were opened under article 299-2 during the first nine months of 2016.⁹²

Government authorities did not provide Human Rights Watch with the more recent annual data we requested on article 299-2 arrests and convictions. Moreover, the government data we were able to compile on article 299-2 contained discrepancies and omissions, hence these figures should be viewed as estimates.

More broadly, the Ministry of Internal Affairs told Human Rights Watch that in 2017 alone, law enforcement authorities detained 565 people for questioning and opened 229 investigations into extremism-related offenses.⁹³ That compares to 418 detentions and 180 new investigations in 2016 and 278 detentions in 2015.⁹⁴

As of June 2018, according to the State Penitentiary Service, 540 people were imprisoned or serving conditional sentences on extremism- or terrorism-related charges. Defense

⁹¹ Government authorities did not respond to requests from Human Rights Watch for data from 2017 and 2018 on article 299-2 arrests, charges, and convictions. Human Rights Watch reached the number of at least 258 convictions based on data from government sources and NGOs, as well as interviews with defense lawyers in Kyrgyzstan. The governmental sources included published material from the Prosecutor General's Office; "Nine-Month, 2016 Summation of the Results of Operational and Official Activity for the Republic," Ministry of Internal Affairs news release, October 17, 2016, <http://mvd.kg/index.php/rus/mass-media/all-news/item/2828-mvd-podvedeny-itogi-operativno-služebnoj-deyatelnosti-ovd-respubliki-za-9-mesyatsev-2016-goda>; Open Viewpoint Foundation, "Freedom of Religion or Belief in the Kyrgyz Republic: An Overview," October 1, 2014, <http://www.osce.org/odihr/124810?download=true> (accessed June 26, 2018), p. 17; "Review of the judicial practice for the consideration of criminal cases on terrorism and extremism," Kyrgyz Republic, Bulletin of the Supreme Court, 20(63) 2016, http://www.jogorku.sot.kg/sites/default/files/byulleten_263_2016.pdf, p. 34; and "Exchange of experience and information on the practice of dealing with crimes related to terrorism and extremism, Speech of Deputy Chairman of the Supreme Court of the Kyrgyz Republic, VE Esenkanov," in Kyrgyz Republic, Bulletin of the Supreme Court, 20 (64) 2017, <http://jogorku.sot.kg/sites/default/files/images/2017.pdf>, p. 178.

⁹² Data from the Prosecutor General's Office that was shared by a third party. On file with Human Rights Watch.

⁹³ Ministry of Internal Affairs portion of the consolidated government responses from the Ministry of Foreign Affairs to Human Rights Watch, June 22, 2018. On file with Human Rights Watch.

⁹⁴ US Department of State, Bureau of Democracy, Human Rights and Labor, "Kyrgyz Republic 2016 International Religious Freedom Report," 2016, <https://www.state.gov/documents/organization/269178.pdf> (accessed July 23, 2018). The report did not list the arrest figures by specific offense.

lawyers told Human Rights Watch that the majority of arrests and convictions were under article 299-2.⁹⁵

While article 299-2 does allow prosecutions for distribution of extremist material, defense lawyers and civil society members told Human Rights Watch that the vast majority of cases under this provision are for mere possession of religious pamphlets, literature, or videos and speeches—often contained on cellphones, discs, or flash drives—that the State Commission for Religious Affairs determined to be extremist, with no evidence of dissemination. (See preceding chapter.) Although in some cases the material deemed extremist does include violent content or calls to commit violent jihad, most of it does not show or depict violence, defense lawyers said.⁹⁶

Human Rights Watch reviewed 34 cases of individuals charged or convicted for possession of extremist material under article 299-2 and examined court documents in 23 cases. In none of the court documents that Human Rights Watch reviewed did the authorities present credible evidence that the accused used or intended to distribute the material to cause physical harm to populations for political, religious, or ideological purposes.

In 11 of the 34 cases that Human Rights Watch examined, the suspects, their family members, or their lawyers accused the police of planting material that was used to charge or convict them. In three cases, suspects or their lawyers alleged that the police used fake witnesses. Seven cases included allegations that the police or security officers had tortured or otherwise ill-treated suspects, in some cases to extract confessions. Five former suspects or members of their families said the police had harassed them. Several cases involved two or more such allegations, such as planting of evidence and extortion.

Nearly all the cases we examined are from locations in southern Kyrgyzstan including the regional capital of Osh, the city of Jalal-Abad, and the districts of Aravan, Kara Suu, Nookat, and Uzgen. The arrests were carried out by counterterrorism forces of the GKNB and the Interior Ministry's 10th Department. Diplomats, NGOs, and security experts have

⁹⁵ Data from the State Penitentiary Service (GSIN) published by UNODC, March 2018. On file with Human Rights Watch. Human Rights Watch interviews with nine defense lawyers, Kyrgyzstan, June-July 2017 and May 2018.

⁹⁶ Human Rights Watch interviews with 11 defense lawyers, Kyrgyzstan, June-July 2017.

criticized these forces for corruption, inadequate staffing, and cumbersome bureaucracy.⁹⁷ Both units reportedly operate with little regulation or oversight.⁹⁸

Government Responses

For the most part, government authorities did not directly respond to questions about whether law enforcement officials committed abuses in article 299-2 cases or denied any allegations of systemic abuse. In separate meetings with Human Rights Watch, three government officials who work on security issues acknowledged that torture, evidence planting, and extortion took place.

“Yes of course we have this problem,” one official said, blaming it on a pervasive culture of corruption, insufficient education, and lack of professional opportunities.⁹⁹ The other two officials said the Ministry of Internal Affairs repeatedly trains police on the importance of building trust within local communities and said abuse was isolated.¹⁰⁰

“The Kyrgyz people have an old saying: all five fingers are different,” said an official with the Ministry of Internal Affairs. “And every law enforcement officer is different. There are some people among us who commit acts of violence, but the number is very limited.” In many cases suspects are harmed only when resisting arrest, and members of Hizb ut-Tahrir are trained to fabricate complaints that are spread on social media, the official said.¹⁰¹ He urged victims to file complaints with the Ministry of Internal Affairs.

The third official said domestic counterterrorism forces still include “officers and senior managers who work the old way, who still abuse rights and freedoms.”¹⁰² The three officials agreed that abusive responses were counterproductive and played into the narrative of extremist armed groups.

⁹⁷ Human Rights Watch interviews with Bishkek-based diplomats, NGO representatives and security experts, and local human rights defenders, Kyrgyzstan, June-July 2017. See, e.g., US Department of State, Bureau of Counterterrorism, “Country Reports on Terrorism 2016: Kyrgyz Republic,” July 2017, <https://www.state.gov/documents/organization/272488.pdf> (accessed June 26, 2018).

⁹⁸ Ibid. See also ICG, “Kyrgyzstan: State Fragility and Radicalisation,” <https://www.crisisgroup.org/europe-central-asia/central-asia/kyrgyzstan/kyrgyzstan-state-fragility-and-radicalisation>.

⁹⁹ Human Rights Watch interview with a government official, Kyrgyzstan, May 2018.

¹⁰⁰ Human Rights Watch separate interviews with two Ministry of Internal Affairs security officials, Kyrgyzstan, June-July 2017 and May 2018.

¹⁰¹ Human Rights Watch interview with a Ministry of Internal Affairs security official, Kyrgyzstan, May 2018.

¹⁰² Human Rights Watch interview with a second Ministry of Internal Affairs security official, Kyrgyzstan, June-July, 2017.

The Prosecutor General's Office wrote to Human Rights Watch that no law enforcement officials have been disciplined or prosecuted for ill-treating suspects during questioning or investigations for extremism- or terrorism-related offenses.¹⁰³

Regarding allegations of torture of suspects in extremism and terrorism cases, the Prosecutor General's Office wrote to Human Watch that at time of writing that it had received 42 complaints since 2010 alleging torture and ill-treatment of 51 suspects, none of which led to prosecutions or convictions of any accused or suspected law enforcement officials.¹⁰⁴ The office did not provide requested statistics for complaints regarding suspects in article 299-2 cases.

In a survey conducted in May 2017 for the National Center by the non-governmental Kyrgyzstan Coalition Against Torture, 18 of 28 prisoners detained for terrorism-related offenses alleged they had been tortured.¹⁰⁵

Human Rights Watch also received information from defense lawyers, civil society members including a member of the Anti-Torture Coalition, and victims or their family members on 13 cases of alleged torture between 2014 and 2017 of people accused of terrorism- or extremism-related crimes (see Arrests and Convictions chapter).

The Human Rights Ombudsman's Office wrote to Human Rights Watch that it had received "numerous complaints on behalf of religious believers regarding violations" by police officers, GKNB agents, prosecutors, and the State Commission for Religious Affairs during searches and prosecutions. "We referred these allegations to relevant prosecutorial authorities asking them to investigate. The investigations failed to confirm the allegations," the letter said.¹⁰⁶ In a meeting in May, a senior official with the office said that police searches are "often" a time when "violations take place."¹⁰⁷

¹⁰³ Prosecutor General's Office portion of the consolidated government responses from the Ministry of Foreign Affairs to Human Rights Watch, June 22, 2018. On file with Human Rights Watch.

¹⁰⁴ Ibid. According to the letter, two cases were investigated, one of which was suspended and the other dismissed for lack of evidence.

¹⁰⁵ Human Rights Watch interview with a member of the Kyrgyzstan Coalition against Torture, Kyrgyzstan, July 2017. The coalition joins 16 human rights organizations working on torture prevention. It interviewed the prisoners in Correctional Colony No. 27 in Moldovanovka, on the outskirts of Bishkek. A copy of the survey is on file with Human Rights Watch.

¹⁰⁶ Letter from Deputy Ombudsman Erlan Alimaev to Human Rights Watch May 17, 2018. On file with Human Rights Watch.

¹⁰⁷ Human Rights Watch interview with senior official from the Human Rights Ombudsman's Office, Kyrgyzstan, May 2018.

Affiliations of Suspects

Human rights lawyers and a government security official told Human Rights Watch that the largest category of article 299-2 prosecutions by group were for possession of Hizb ut-Tahrir material, and they noted that since 2016 the types of material used in prosecutions has broadened. Several of the 34 article 299-2 cases reviewed by Human Rights Watch also alleged possession of Hizb ut-Tahrir material. The majority of people arrested for terrorism and extremism offenses—most of whom were accused under article 299-2—were ethnic Uzbeks, a 2016 Supreme Court study found.

From 2013 to 2015, 252 people were convicted in Kyrgyzstan on terrorism and extremism charges, of whom 213 were found guilty under article 299-2, according to the Supreme Court study. Of those 252, more than half—136—were from the ethnic Uzbek minority, and more than half the convictions were from courts in southern Kyrgyzstan, the study said.¹⁰⁸ In June, the Ministry of Internal Affairs wrote to Human Rights Watch that extremism “prevails” in the south of the country, with 40 percent of all arrests taking place in Jalal-Abad and Osh regions alone.¹⁰⁹

Human Rights Watch is not in a position to determine whether those arrested under article 299-2 are targeted for any particular reason such as suspected membership in Hizb ut-Tahrir, ethnicity, or adherence to particular forms of Islam. Southern Kyrgyzstan has the country’s highest concentration of ethnic Uzbeks. It is also the country’s most religiously conservative area, and government officials and religious scholars told Human Rights Watch that Hizb ut-Tahrir has a following there.¹¹⁰ In the past two to three years, ethnic Kyrgyz have been arrested under article 299-2, they said.

A counterterrorism official with the Ministry of Internal Affairs told Human Rights Watch that the government was not targeting suspects based on ethnicity. Rather, he said, historically, extremist armed groups such as IMU had strong roots in southern Kyrgyzstan following the

¹⁰⁸ Bulletin of the Supreme Court, 20(63) 2016, pp. 34-35. Of the 252 convictions, 46 were women and two were children. The Supreme Court study did not provide demographic breakdowns for convictions solely under article 299-2.

¹⁰⁹ Ministry of Internal Affairs portion of the consolidated government responses from the Ministry of Foreign Affairs to Human Rights Watch, June 22, 2018. On file with Human Rights Watch.

¹¹⁰ Human Rights Watch interviews with two independent religious scholars and three government officials, Kyrgyzstan, June-July 2017 and May 2018. USIP, “Preventing Violent Extremism in Kyrgyzstan,” October 2014, https://www.usip.org/sites/default/files/SR355_Preventing-Violent-Extremism-in-Kyrgyzstan.pdf (accessed June 27, 2018).

collapse of the Soviet Union but that in recent years, violent radicalization was spreading to the north and increasingly was attracting ethnic Kyrgyz followers as well.¹¹¹

In a written statement to Human Rights Watch, the Ministry of Internal Affairs said, “there are no complaints against its officials” regarding ethnic discrimination in counterterrorism or counter-extremism operations in recent years.¹¹² The GKNB did not respond to a request for comment on the topic.

However, several human rights defenders and suspects told us they believe that both Islamic fundamentalists—regardless of ethnicity—and ethnic Uzbeks are targets. “Just one piece of paper with the words ‘Hizb ut-Tahrir’ and ‘caliphate’ can lead to a prison term of three to five years,” one defense lawyer said.¹¹³

One ethnic Kyrgyz man who was awaiting trial on a charge of possession of religious material accused the police of planting a pamphlet deemed extremist in his house because he was outspoken about his religious fundamentalism:

I pray five times and attend mosque. If I see a group of people drinking vodka, I will explain to them that this is prohibited under our religion, it will not lead to good things. Or if I see friends or neighbors who are betraying their vows with another woman I will remind them that according to our religion this is prohibited. Our government is saying in international meetings that we are a democratic country, with freedom of speech and freedom of religion. So why, if I chose Islam as my religion, can I not express this freely?¹¹⁴

Many ethnic Uzbeks interviewed by Human Rights Watch said they believed their ethnicity was the primary factor.

¹¹¹ Human Rights Watch interview with Ministry of Internal Affairs counterterrorism official, Kyrgyzstan, May 2018.

¹¹² GKNB portion of the consolidated government responses from the Ministry of Foreign Affairs to Human Rights Watch regarding the information in this report, June 22, 2018. On file with Human Rights Watch.

¹¹³ Human Rights Watch interview with defense lawyer, Kyrgyzstan, June-July 2017.

¹¹⁴ Human Rights Watch interview with “Dilshod,” Kyrgyzstan, May 2018.

“The authorities can’t say, ‘We are arresting the Uzbeks.’ So instead they say, ‘We are fighting religious extremism,’” said “Bobur,” an ethnic Uzbek man whose close relative is serving a nine-year prison sentence for alleged possession of Hizb ut-Tahrir literature.

What is clear is that the sentiment within ethnic Uzbek communities that they are being disproportionately targeted is exacerbating tensions that have festered since the inter-ethnic clashes of June 2010. The arrests are also eroding faith in the government.

“The laws are not working in Kyrgyzstan,” said “Sukhrob,” an ethnic Uzbek man who was convicted in 2017 for possessing a magazine and three other pages of material that according to the authorities “contained the extremist ideas, attributes, symbols, and logos of Hizb ut-Tahrir.”¹¹⁵ Sukhrob said the material was several years old and was planted.

“Nobody saw how the police got that material into their hands—not me, not my family, not my neighbors who witnessed the search,” Sukhrob told Human Rights Watch. “We live in constant fear that at any moment, someone will knock on our door with a warrant and take us to prison on false evidence.”¹¹⁶

Sukhrob was sentenced to three years of detention in a low-security penal colony. He was released on parole after several months for health reasons but could be returned to custody at any time.

Furthering that mistrust is the predominantly ethnic Kyrgyz composition of Kyrgyzstan’s law enforcement forces, prosecutors, and the judiciary. The government has made periodic efforts to increase diversity in public institutions.¹¹⁷ Electoral law, for example, sets a 15-percent quota for ethnic minority political party representation in parliament, although enforcement has been insufficient.¹¹⁸ However, the police forces in Kyrgyzstan as of June

¹¹⁵ State Commission for Religious Affairs expert opinion of October 2016. Copy on file with Human Rights Watch.

¹¹⁶ Human Rights Watch interview with “Sukhrob,” Kyrgyzstan, June-July 2017. Details of the interview withheld to protect interviewee from possible reprisal.

¹¹⁷ Erica Marat, “Kyrgyzstan’s Fragmented Police and Armed Forces,” *Journal of Power Institutions in Post-Soviet Societies*, 18 (2010), <https://journals.openedition.org/pipss/3803> (accessed July 23, 2018), para. 25.

¹¹⁸ Organization for Security and Co-operation in Europe (OSCE) and Office for Democratic Institutions and Human Rights (ODIHR), “Kyrgyz Republic Parliamentary Elections: OSCE/ODIHR Election Observation Mission Final Report,” October 4, 2015, <https://www.osce.org/odihr/elections/kyrgyzstan/219186?download=true> (accessed June 27, 2018), p. 20.

2017 were approximately 96 percent ethnic Kyrgyz.¹¹⁹ Ethnic minorities comprise about 27 percent of the population, with Uzbeks the largest group.¹²⁰

One senior government official acknowledged that the problem persists. Some ethnic Kyrgyz law enforcement officials would not “trust” giving an ethnic Uzbek [policeman] a gun, he said, while some individuals from ethnic minorities in turn do not trust Kyrgyz law enforcement officials, feeling so marginalized that “they do not feel Kyrgyzstan is their homeland.”¹²¹

Planting Evidence

All defense lawyers interviewed by Human Rights Watch accused the police of routinely planting evidence during searches of suspects’ homes. In 11 cases that Human Rights Watch investigated for this report, suspects or their lawyers and family members alleged the police planted evidence such as statements or violent videos from groups including ISIS, IMU, KTJ, and Hizb ut-Tahrir onto micro flash drives or into their cellphones, or books and pamphlets from Hizb ut-Tahrir in their homes or possessions, such as handbags. They accused the police of planting evidence as an easy way to earn bribes or obtain a conviction without having to build a case.

While Human Rights Watch is not in a position to verify the claims, planting of evidence is a recurrent complaint in Kyrgyzstan. Three government security officials acknowledged that planting of evidence takes place although two said it was not systemic.¹²² When counterterrorism forces are not properly trained to build a case, “they might be tempted to plant evidence,” one official said.¹²³

One official from an international organization that works closely with the security forces said that a lack of forensic capacity encouraged police and other security agents to plant evidence on suspects. Fingerprint analysis and other forensic work can take weeks or

¹¹⁹ Human Rights Watch interview with representative of an international organization, Kyrgyzstan, May 2018. A UNODC pamphlet said that 6 percent of the police forces nationwide were minorities in 2014. In Osh, where nearly half the population is ethnic Uzbek, 9 percent of the police forces were minorities that year. Copy on file with Human Rights Watch.

¹²⁰ National Statistics Committee of the Kyrgyz Republic, 2018 Population Data, <http://www.stat.kg/en/statistics/naselenie/> (accessed June 26, 2018).

¹²¹ Human Rights Watch interview with senior government official, Bishkek, July 2017.

¹²² Human Rights Watch interviews with three government officials, Kyrgyzstan, June-July 2017 and May 2018.

¹²³ Human Rights Watch interview with Ministry of Interior security official, Bishkek, July 2017.

months to complete and is often questioned; with no tradition of relying on solid evidence, law enforcers resort to supplying it themselves, the official said.¹²⁴

As part of criminal procedure reforms scheduled to enter into effect on January 1, 2019, police will be required to photograph and make audio and video recordings of searches and confiscations of evidence.¹²⁵ At time of writing, the law permitted but did not require audio and video recordings in all cases.¹²⁶

Family Videos

“Oybek,” a man in his 30s, told Human Rights Watch that the 10th Department police had planted a Hizb ut-Tahrir video on one of his DVDs after searching his home in 2017.¹²⁷

The police confiscated a Quran, videos, and DVDs including one containing short videos of family celebrations such as weddings and birthdays. Several days later, they charged Oybek with possession of extremist material, saying the DVD of family celebrations also contained Hizb ut-Tahrir videos. A 2017 examination by the State Commission for Religious Affairs reviewed by Human Rights Watch said that the videos contained “attributes, symbols, and logos” for Hizb ut-Tahrir, including for the “establishment of a caliphate.” However, it said they “did not” contain “terrorist propaganda” or material inciting “religious hatred.”¹²⁸

Oybek told Human Rights Watch that the DVD had never contained a Hizb ut-Tahrir video. He said he had never been involved in subversive activity and he and his lawyer provided detailed accounts of how his job promotes the government.¹²⁹ His arrest has left him embittered, he said:

I am not an extremist. I never was an extremist. Maybe they did this to me because I am a religious person. I say my *namaz* [ritual prayers]. I have a

¹²⁴ Human Rights Watch interview with representative of an inter-governmental organization, Kyrgyzstan, June-July 2017.

¹²⁵ Criminal-Procedural Code of the Kyrgyz Republic of February 2, 2017, <http://cbd.minjust.gov.kg/act/view/ru-ru/111530?cl=ru-ru#st> (accessed July 18, 2018), art. 163.

¹²⁶ Criminal-Procedural Code of the Kyrgyz Republic of June 30, 1999, <http://cbd.minjust.gov.kg/act/view/ru-ru/9?cl=ru-ru> (accessed July 18, 2018), art. 181.

¹²⁷ Human Rights Watch interview with “Oybek,” Kyrgyzstan, June-July 2017.

¹²⁸ State Commission for Religious Expertise opinion of 2017. Copy on file with Human Rights Watch.

¹²⁹ Human Rights Watch is withholding details of the job to protect “Oybek” from potential retaliation.

beard. And I am Uzbek. Uzbeks have no voice right now. Even if I am acquitted I will be labeled a religious criminal.¹³⁰

At the time he spoke with Human Rights Watch, Oybek was under house arrest. In 2018, a prosecutor dropped the case against him.¹³¹

Evidence “Lost”

In 2017, prosecutors charged “Farhod,” a man in his 20s, under article 299-2 after a team of police from the 10th Department searched his family’s home and claimed to have found a disc containing Hizb ut-Tahrir sermons. Farhod and his father, “Alisher,” told Human Rights Watch that they had never seen the disc and believed it was planted. After Alisher and Farhod recalled that a police videographer had recorded every item that the police had confiscated during the house search, their lawyer asked to see the video. Alisher and Farhod said they were certain that the video would prove that no Hizb ut-Tahrir disc had been taken from their home. However, they and their lawyer said that the prosecutor told them the video had been “lost.”¹³²

The other evidence that the police offered against Farhod was a statement from a secret witness who accused him of disseminating material about Hizb ut-Tahrir in a public place at a specific time on a specific date. However, location tracking data from the witness’s cellphone showed that the witnesses was in a different location at the time Farhod was allegedly disseminating the information, his defense lawyer said.

Following these and other irregularities, Farhod’s lawyer successfully petitioned for the case to be transferred to a new judge. At time of writing, the case was still pending.¹³³

Farhod and Alisher said that on the day of the search, one policeman from the 10th Department boasted to them about planting evidence after Alisher protested their innocence. Alisher said:

¹³⁰ Human Rights Watch interview with “Oybek,” Kyrgyzstan, June-July 2017.

¹³¹ Human Rights Watch Internet communication with Oybek’s lawyer, August 2018.

¹³² Human Rights Watch interviews with “Farhod,” “Alisher,” and their lawyer, Kyrgyzstan, June-July 2017.

¹³³ Human Rights Watch Internet communication with lawyer for “Farhod,” August 2018.

I kept telling the policemen, “My children and I are not involved with any extremist group.” One of them replied that, “Anyone who has a beard has committed at least one crime...We can place a bullet on the edge of your garden and you will become a terrorist, it is that easy. Even if we find the bullet on the outside of your fence, we can still make you a terrorist, the bullet will still belong to you.” When I heard this I became so frightened, I couldn’t think how to protect myself. These are the people who should be protecting us. We work, we pay taxes to pay their salaries, and instead they treat us like terrorists. Who can we turn to in this situation?¹³⁴

Mystery Book

In 2016, “Rustam” was convicted under article 299-2 for allegedly possessing a book of writings that the State Commission for Religious Affairs found to be Hizb ut-Tahrir material. The book was the only evidence used to convict Rustam, yet it was not on the list of evidence that the police recorded as confiscating from Rustam’s house during the search that led to his arrest, Rustam’s lawyer told Human Rights Watch. Rustam claimed he had never seen the book, much less possessed it, the lawyer said.

The judge suspended Rustam’s one-year sentence after his lawyer argued that the only credible explanation for the discrepancy was that the police planted the material.¹³⁵ However, the conviction remains on Rustam’s criminal record.

Repeat Convictions

Human Rights Watch received complaints that some accused had been convicted two or more times on the basis of planted evidence. Lawyers, civil rights defenders, suspects and family members accused the police of targeting previous offenders because it was easier than finding new suspects. “They look through their lists and reopen the cases,” one lawyer said of the 10th Department police. “It’s a racket to show results at the end of the year.”¹³⁶

¹³⁴ Human Rights Watch interview with “Alisher,” Kyrgyzstan, June-July 2017.

¹³⁵ Human Rights Watch interview with defense lawyer, Kyrgyzstan, June-July 2017. Please note that Rustam was convicted before the Criminal Code was amended in August 2016 to mandate prison terms for article 299-2 offenses.

¹³⁶ Human Rights Watch interviews with lawyers, accused, and family members, Kyrgyzstan, May 2018.

Human Rights Watch reviewed three cases in which the accused alleged they were repeatedly convicted based on planted evidence. One case involved “Abdul Karim,” who in 2018 was convicted for a third time for possessing Hizb ut-Tahrir material. The first two times, Abdul Karim received suspended sentences. But in 2018, he received an eight-year sentence as a repeat offender.

In the search leading to Abdul Karim’s second conviction under article 299-2, in 2015, the police claimed to find a memory stick in his home containing Hizb ut-Tahrir propaganda. But during Abdul Karim’s court hearing, the prosecution did not produce the memory stick, saying it must have dropped out of the sealed evidence bag, which had a hole in the bottom, Abdul Karim’s lawyer and a family member said. The court convicted Abdul Karim anyway.¹³⁷

“I feel powerless to fight this,” the family member said. “It is a vicious cycle and I see no end to it.”¹³⁸

Extortion

People accused under article 299-2 are often subjected to extortion according to suspects, family members and lawyers. Extortion is a commonly reported problem within Kyrgyzstan’s police forces.¹³⁹

A family member of one young man under investigation for possession of extremist material said a 10th Department police officer made clear during a search of their home in 2018 that he could make the charge go away for money. “He said, ‘If you want the boy released, you always have an option,’” the family member recalled. “It was clear to me that if I had money there would be an accommodation.”¹⁴⁰

Bribes ranged from large to small, the interviewees said. One lawyer described a 2017 case in which a family sold a house to pay a bribe of 30,000 Kyrgyz soms (about US\$440)

¹³⁷ Human Rights Watch interview with lawyer and family member of “Abdul Karim,” Kyrgyzstan, May 2018.

¹³⁸ Human Rights Watch interviews with family member of “Abdul Karim,” Kyrgyzstan, May 2018.

¹³⁹ See, e.g., US Department of State, Bureau of Democracy, Human Rights and Labor, “Kyrgyz Republic 2017 Human Rights Report,” 2017, <https://www.state.gov/documents/organization/277529.pdf> (accessed June 27, 2018).

¹⁴⁰ Human Rights Watch interview with family member of accused, Kyrgyzstan, May 2018.

demanded by a 10th Department police officer. Thirty-thousand Kyrgyz soms is a large sum for most inhabitants of Kyrgyzstan, where the World Bank in 2016 put annual per capita income at US\$1,100 and the poverty rate at 25.4 percent.¹⁴¹

“Bilol” told Human Rights Watch that the authorities began questioning him in 2017 after learning that one of his family members died fighting in Syria. A 10th Department police officer told him through his lawyer that the police would stop investigating him in exchange for several thousand Kyrgyz soms (several hundred US dollars), he said, but “I told them, ‘I am not paying anything, I am not guilty.’”¹⁴²

A few months later in 2018, he said the police and members of the GKNB searched his house and planted compact discs, which they then sent to the State Commission on Religious Affairs for examination. Bilol insisted he had never seen the discs and had no idea what they might contain:

I think they did it because I didn’t get them any money. To tell you the truth I would have given them money. But I was told that if I gave money to one police officer they would tell another and another and I would feed not just one mouth but many—it would be become a chain.¹⁴³

At time of writing prosecutors had not yet told him if the state commission had found the contents of the discs to be extremist, he said.

Torture and Other Ill-Treatment

Human Rights Watch received more than two dozen complaints of ill-treatment, including torture, of suspects charged with terrorism or extremism related offences in Kyrgyzstan. They included complaints from lawyers, former suspects, or family members that the police or GKNB members physically abused or otherwise mistreated suspects held on charges of possessing extremist material.¹⁴⁴

¹⁴¹ World Bank, “Kyrgyz Republic homepage,” <https://data.worldbank.org/country/kyrgyz-republic> (accessed June 27, 2018).

¹⁴² Human Rights Watch interview with “Bilol,” Kyrgyzstan, May 2018.

¹⁴³ Ibid.

¹⁴⁴ Human Rights Watch interviews with seven defense lawyers, accused and family members, and civil society members, Kyrgyzstan, June-July 2017 and May 2018.

The complaints were as recent as 2018, with one family member recounting how she saw a male relative in a court hearing with a fresh gash on his cheek. She said the male relative told her that during his arrest the previous day, members of the 10th Department police pushed him so hard he fell and cut his face.¹⁴⁵

Alleged Torture to Force Confession

“Nargiza” was detained for three months and alleged she was tortured in 2017 by 10th Department police who searched her cell phone, claiming to be acting on a tip from an informant. The police found an armed group’s recruitment video on one of her social media apps, her lawyer and a female relative told Human Rights Watch. Nargiza had not opened or downloaded the video, the lawyer and relative said.

A State Commission for Religious Affairs summary of the video from 2016 reviewed by Human Rights Watch described the video as showing a member of the group KTJ calling for recruits to fight in Syria.¹⁴⁶

In her court testimony, Nargiza apologized for the video and said she did not know it was illegal. She said a family member in Turkey had sent it to her to dissuade her from traveling to Turkey to seek work.

“I never watched those video films, I never disseminated these videos to anyone and I did not download these videos from the Internet,” Nargiza told the court. “I don’t follow their ideology...I am not a member of this group,” she added of KTJ. Her relative sent her the videos to warn her that, “if you come to Turkey they will send you straight to Syria,” she said.¹⁴⁷

A criminal conviction for the mere existence on a cellphone of such a video, without any evidence of a response or use of the material, is incompatible with respect for the right to freedom of expression, including the right to receive and impart information.

¹⁴⁵ Human Rights Watch interview with “Mavlyuda,” Kyrgyzstan, May 2018.

¹⁴⁶ Copy of court papers on file with Human Rights Watch.

¹⁴⁷ Copy of court papers on file with Human Rights Watch.

After her court appearance, Nargiza was able to briefly speak with family members. One relative, “Umida,” said Nargiza told them that the police took her to a local police station and tortured her in an effort to make her confess:

She told me that they took her to a dark room and put a plastic bag on her head and threatened to stick nails beneath her fingernails. They wanted her to sign a confession that her oldest son [a migrant worker] went to Syria. She said, “I won’t confess to that.”¹⁴⁸

Nargiza was sentenced to three years in prison. In one of the few exceptions that Kyrgyzstan law allows to mandatory prison terms under article 299-2, a judge postponed her sentence until her youngest child reached the age of 14.

“Blood All Over”

“Tohir,” a man in his 40s who was convicted in 2015 for possession of Hizb ut-Tahrir literature that he said was planted, pointed to a large scar on the top of his head and three missing teeth as he described a raid on his home by ten masked GKNB agents in 2014:

They broke the lock, burst into the house, and one of them hit me on the head and the mouth with his gun. There was blood all over the room.... While they were searching I called an ambulance, but the police would not let them in. I called again, and a nurse entered but she was so scared she stuck a bandage on my head and ran away. I lost consciousness twice.¹⁴⁹

In court papers, the GKNB alleged that Tohir threatened them with a knife and resisted arrest. Tohir contended he had grabbed the knife as a protective measure when he heard his door being broken down, before he realized the police were entering, his lawyer said.

The GKNB agents struck Tohir’s teenage daughter when she tried to stop the beating and, when she fell, repeatedly kicked her in the back, he said. The agents only showed their search warrant and called in witnesses 40 minutes after they began the search of the

¹⁴⁸ Human Rights Watch interview with “Umida,” Kyrgyzstan, June-July 2017.

¹⁴⁹ Human Rights Watch interview with “Tohir,” Kyrgyzstan, June-July 2017.

house and after they beat Tohir and his daughter, he said. Kyrgyzstan law requires the presence of witnesses during home searches.

The physical abuse continued at the Osh station of the GKNB, Tohir said:

They were humiliating me morally and physically, taking videos and slapping. This continued for about eight hours.... They took me to the basement, to a very small cell. I lay there for 48 hours. They gave me nothing, no breakfast, lunch, or supper. No mattress or blanket. On the way to the toilet I managed to take some water. When I got back into the cell they told me to walk as a swallow. Your nose has to be close to your knees and your hands must be behind you. I said, “Show me the rules of conduct for inside cells that say you have to take this position.” The guard asked another guard to take out a prisoner and they hit this prisoner in front of my eyes. They were beating him to show that they were in charge.¹⁵⁰

Alerted to the beating and detention, representatives of the National Center for the Prevention of Torture arrived at the KGNB center in Osh and demanded to see Tohir, as they are entitled to do under domestic law. They waited one hour but were refused access, the National Center said in its 2014 report, which contains photos of Tohir’s bloodied head and other wounds.¹⁵¹

The GKNB took Tohir to an emergency room two days after his arrest, where a doctor recorded soft tissue bruises, hematomas, bruises to the chest and the left kidney, and a head injury. A government-ordered forensic examination conducted 11 days after the arrest concluded that Tohir could have received the injuries by resisting arrest with a knife. An independent forensic examination a month later faulted the government examination, noting it did not refer to Tohir’s complaints of dizziness, nausea, and skull injury. Nor did they refer him to a specialist to be examined for skull and brain trauma.¹⁵²

¹⁵⁰ Ibid.

¹⁵¹ National Center of the Kyrgyz Republic on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Annual Report 2014*, pp. 77-79. Copy on file with Human Rights Watch.

¹⁵² Copy of forensic examinations and court papers on file with Human Rights Watch.

In 2015 a court dismissed Tohir’s criminal complaint of torture, citing lack of evidence. The Committee Against Torture in 2013 wrote of Kyrgyzstan that “judges commonly ignore” torture allegations raised by criminal defendants and their lawyers, including reports from medical examinations.¹⁵³

Investigation Delays

Complaints of torture often take years to complete or are dismissed, lawyers told Human Rights Watch. In one case we reviewed, “Sanjar” alleged in court documents that twice in 2014, police officers from the 10th Department abused him during interrogations. The first time, he said, the police repeatedly hit him in the head to pressure him to confess to membership in an extremist group and held him for about eight hours without food or water. Two months later, he said, the police again detained him for a day without food, water, or medicine. Doctors in the first case found evidence of physical abuse consistent with head trauma and in both instances found evidence of psychological trauma, according to court documents. Prosecutors opened a case against Sanjar under article 299-2, saying the police had found extremist material in his home, but refused to investigate the torture allegations.¹⁵⁴

In 2015, Sanjar filed a complaint with a local court, which ordered an investigation. Prosecutors appealed the decision. In 2016, a higher court upheld the investigation order. At time of writing, more than four years after the alleged abuse, Sanjar’s case against the police officials was still pending.¹⁵⁵ In 2018, however, prosecutors reopened the case against Sanjar under article 299-2, which a court had suspended the previous year. At time of writing, his trial was ongoing.

Extortion with Beatings

In some cases, suspects or their families and lawyers told Human Rights Watch, the security forces coupled beatings with extortion. One example is “Mahmud,” a young man

¹⁵³ UN Committee against Torture, “Concluding observations on the second periodic report of Kyrgyzstan,” CAT/C/KGZ/CO/2, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/KGZ/CO/2&Lang=En (accessed June 25, 2018), para. 6(d).

¹⁵⁴ Court papers on file with Human Rights Watch.

¹⁵⁵ Court papers on file with Human Rights Watch.

who alleges that 10th Department police in 2017 planted evidence on him, beat him, extorted money in return for his release, then re-arrested him two months later.¹⁵⁶

Mahmud said he was approached by a group of policemen at a bazaar in southern Kyrgyzstan who asked to see a cellphone he had recently bought. Saying the phone was stolen, the police took his phone. He said that two policemen drove him to the 10th Department police station in Osh, while a third policeman, who had his phone, drove to the station in a separate car. Upon arrival, he said the policemen showed him a video on his phone that contained what he described to Human Rights Watch as “violent images from the war in Syria.” Mahmud stared at his feet, then buried his head in his hands as he described what happened next:

I asked, “How did this get onto my phone? It wasn’t there before.” One of them stood up and said, “You had this video.” He hit me in the stomach and on my forehead with his fist. He hit me so hard I cried out. One policeman outside the door looked in to see what was going on but when he saw us he left.¹⁵⁷

About a half-hour later, Mahmud’s father “Aziz” arrived at the police station, alerted by an acquaintance who had seen the policemen take Mahmud from the bazaar. Aziz told Human Rights Watch that one of the three policemen informed him they had found several violent Islamist videos on his son’s phone. “They told me, ‘Your son belongs to an extremist group and will be in prison for 20 years,’” he said. Aziz said he protested that he watched his son closely and was convinced he was neither violent nor extremist. He begged the policeman to drop the case. It was then, he said, that the extortion began:

The policeman told me he needed to ask his supervisor. They were going back and forth, back and forth. He warned me that this case was not an easy one. Then he told me, “This case can’t be closed even for 50,000 or 60,000 soms [US\$736 to \$883]. I asked, “How much do I need to pay?” He said, “400,000 soms [US\$5,888].” I said, “I am a farmer. I do not have that much money.” Finally, we settled on 150,000 soms [US\$2,208]. They told

¹⁵⁶ Human Rights Watch interview with “Mahmud” and his father “Aziz,” Kyrgyzstan, June-July 2017.

¹⁵⁷ Human Rights Watch interview with “Mahmud,” Kyrgyzstan, June-July 2017.

me to get them the money in two hours. I rushed home and collected my money and money from my relatives and we got my son out. I asked for the phone back because we paid 7,000 soms [US\$103] for it. They would not give it back.¹⁵⁸

The family thought the ordeal was over. But two months later, policemen arrived at their home with a search warrant. In the room of a relative who had died years earlier, Aziz said, they rummaged inside an old bag and pulled out two sheets of paper and a book about Hizb ut-Tahrir. Aziz and Mahmud said they had never seen the book or the papers. Ultimately, the authorities did not charge the father or son. Nevertheless, Aziz said, the experience has devastated them emotionally and financially:

We are just ordinary people, common people. We are not rich. Before all of this happened, we were trying to earn money so that my son could get married. All his friends are married. All the money I had saved I gave to the police, all this money that I earned with my sweat. How will I marry him now?¹⁵⁹

Abuse in pre-trial detention

Sukhrob described five days of ill-treatment while detained in 2016 in a basement, pre-trial detention center run by the Ministry of Internal Affairs.

I was in isolation with no water, no toilet. My bed was one mattress with one blanket. It was a really smelly room, very stinky. They took us prisoners only twice a day to the toilet. If you need to use the toilet at any other time you have to use a dirty bucket inside the cell. During those five days I fell twice.... The guards would pick me up then just throw me back into the cell. I injured my knee and I asked to see a doctor. I showed the doctor my knee. The doctor said I needed to be taken to a traumatologist but the [detention center authorities] said, “Just prescribe ointment.”¹⁶⁰

¹⁵⁸ Human Rights Watch interview with “Aziz,” Kyrgyzstan, June-July 2017.

¹⁵⁹ Ibid.

¹⁶⁰ Human Rights Watch interview with “Sukhrob,” Kyrgyzstan, June-July 2017.

Opportunistic Arrests

Human Rights Watch received information from defense lawyers or suspects' family members about three cases in which the police arrested people who voluntarily brought material to the authorities' attention that the authorities decided was extremist.

One case in 2017 involved "Akmal," a young man who received a three-year prison sentence under article 299-2.

In early 2017, Akmal bought a cellphone and downloaded videos onto it from the Internet, according to his court testimony as well as interviews with his lawyer and a family member.¹⁶¹ Concerned that some of the videos contained violent messages, he showed one of the videos to a policeman at a local bazaar.

"I showed him the video to ask, 'What kind of video is this? If it is a bad video then I want to delete it,'" he testified in court. The policeman called in an officer from the 10th Department, who examined the material and promptly arrested him, he said.¹⁶²

An examination by the State Commission for Religious Affairs found two videos on the cellphone from the IMU and the KTJ, respectively, that contained "calls for war, for jihad, and inciting religious hatred." The video from KTJ included a call from its leader Abu Saloh for Muslims to join the fight in Syria, it said.¹⁶³

Akmal apologized to the court, saying he did not know it was illegal to download the videos.¹⁶⁴

The family member said Akmal had no intent to incite or commit violence. "He bought this phone just to talk with girls. It was inexpensive, but all it has cost us is grief," the relative said, adding that Akmal was the family bread-winner.¹⁶⁵ In 2018, an appeals court upheld Akmal's sentence.

¹⁶¹ Human Rights Watch interviews with lawyer and family member of "Akmal," Kyrgyzstan, June-July 2017.

¹⁶² Court sentencing order for "Akmal," 2017. Copy on file with Human Rights Watch.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ Human Rights Watch interview with relative of "Akmal," Kyrgyzstan, June-July 2017.

Crackdowns on Critics, Human Rights Defenders

Human Rights Watch reviewed several complaints that critics including lawyers, human rights defenders and journalists have been threatened for speaking out against heavy-handed tactics against extremist suspects, including those prosecuted under article 299-2. In some cases, those targeted were themselves accused under article 299-2 or their work was banned as extremist, rendering them vulnerable to wrongful prosecution under article 299-2 in the future. “The space is closing in on us,” one civil society member told Human Rights Watch.¹⁶⁶

Journalist Convicted

In 2017, a Bishkek court convicted “Sayyora,” a journalist from a television station that promotes Islam, for unlawful possession of extremist material after police officers found notebooks, a newspaper, and other material about Hizb ut-Tahrir during a search of her home and laptop.¹⁶⁷ In her court testimony, Sayyora accused the police of planting the newspaper and she noted that she was not home during the search. She said she was using the rest of the material as research for a TV program on religious trends.¹⁶⁸ The court convicted her anyway, finding that she should not have stored the materials “knowing that Hizb ut-Tahrir is a banned extremist organization.” The court gave Sayyora a three-year sentence but suspended it until her two young children were grown.

Lawyer Convicted

Another case involved “Rahman,” a lawyer who in 2016 was convicted of possession of extremist material under article 299-2. The extremist materials used to convict Rahman were his case files on a client who had been found guilty under article 299-2 the previous year. “They entered my house, carried out a search and found all the files on this client,” he said of the 10th Department police and GKNB.¹⁶⁹

Rahman received a three-year suspended sentence that was later reduced to one year (he was convicted before sentences under article 299-2 were mandatory). But by then he had

¹⁶⁶ Human Rights Watch interviews with 12 civil society members, lawyers, journalists, and human rights defenders, Kyrgyzstan, June-July 2017 and May 2018.

¹⁶⁷ Court decision on file with Human Rights Watch.

¹⁶⁸ Court decision on file with Human Rights Watch.

¹⁶⁹ Human Rights Watch interview with “Rahman,” Kyrgyzstan, May 2018.

spent two months in pre-trial detention. Now free, he cannot find a job. “No one wants to hire a lawyer with a criminal record,” he said.¹⁷⁰

Human Rights Publications Banned

Between March and May 2018, five respected international, regional, and local civil society groups discovered that the Ministry of Justice had added two reports, which they had either written or provided support to publish, to its official list of banned extremist materials.¹⁷¹ The unusual move potentially exposes members of the five organizations to criminal prosecution under article 299-2. Human Rights Watch considers the designation of these two reports as extremist to be unfounded.

One report, on labor migrants, was submitted in 2015 by ADC Memorial, a Brussels-based anti-discrimination organization, and Bir Duino, a local human rights organization, to the UN Committee on the Rights of Migrant Workers. The other report, on the June 2010 violence and its immediate aftermath, was written by Memorial, a Moscow-based human rights organization, with the Norwegian Helsinki Committee, and published in 2012 with support from Freedom House.¹⁷²

The government’s inclusion of the two reports on the list of banned materials followed a court decision in January 2017 which found them to be extremist. The court banned “publication, reproduction, storage, transportation, and dissemination” of the reports in print or on the Internet.¹⁷³ The court also banned ADC Memorial from carrying out activities in Kyrgyzstan.

The court decision alleges that both reports “incite ethnic strife on the territory of the Kyrgyz republic.” Regarding the report by ADC Memorial and Bir Duino, the court cited a review by the Academy of Science of the Kyrgyz Republic which concluded that:

The report should be considered subjective, one-sided, and nationalist, although it does not contain direct calls to nationalist, racial, religious, or

¹⁷⁰ Ibid.

¹⁷¹ Ministry of Justice, List of Extremist Materials, No. 4, <http://minjust.gov.kg/ru/content/950>.

¹⁷² Both the court decision and the Ministry of Justice’s List of Extremist Materials erroneously attribute the 2012 report to ADC Memorial rather than to Memorial. The two organizations are not affiliated.

¹⁷³ Court decision on file with Human Rights Watch.

interregional hatred, or to violently overthrowing the government, or violently overthrowing the constitutional order, or public justifications of terrorism or genocide.”

None of the five human rights organizations named in the court ruling was informed of the Prosecutor General’s allegations that the materials were extremist. The groups were only given access to the analyses used to designate the reports as extremist in June.¹⁷⁴

Website Blocked

In May 2017 the authorities banned as extremist a news article that accused the authorities of failing to stem social media postings by Kyrgyz nationalists that denigrated ethnic Uzbeks while aggressively prosecuting authors of postings critical of the then-president.¹⁷⁵ The authorities simultaneously blocked access inside Kyrgyzstan to *Ferghana News*, a leading online source of news about Central Asia, for publishing the article.¹⁷⁶ As with members of the five human rights organizations noted above, the ban renders the journalists and readers of *Ferghana News* vulnerable to prosecution under article 299-2.

Sentenced for Sermon

In 2015, Rashod Kamalov, a prominent imam from Kara Suu, was convicted and sentenced to 10 years in prison for possession and dissemination of extremist material under article 299-2, and for inciting religious hatred under article 299-1. While Human Rights Watch is not in a position to reach a conclusion on the facts of the case, Kamalov’s prosecution raises sufficient due-process concerns to merit a new and independent review of the evidence and trial procedures. A journalist and a man who liked a social media posting about Kamalov were prosecuted in the aftermath of the cleric’s arrest.

¹⁷⁴ Human Rights Watch email and telephone correspondence with representatives of the organizations whose material was banned, May-June 2018.

¹⁷⁵ Ministry of Justice, List of Extremist Materials, No. 17, <http://minjust.gov.kg/ru/content/950>. See also “RSF calls for end to prosecutions of Kyrgyz media and journalists,” Reporters Without Borders news release, June 26, 2017, <https://rsf.org/en/news/rsf-calls-end-prosecutions-kyrgyz-media-and-journalists> (accessed June 27, 2018). The article, by Ulugbek Babakulov, was “People are like animals. Calls for reprisals against the ‘Sarts’ in Kyrgyz segments of social networks,” *Ferghana News*, May 23, 2017, <http://www.ferghananews.com/articles/9421> (accessed June 27, 2018).

¹⁷⁶ The GKNB accused Babakulov of violating article 299-1 of the Criminal Code, a companion provision to article 299-2, for writing the article. In response, Babakulov fled the country. See Ulugbek Babakulov, “Farewell to Kyrgyzstan’s ‘island of democracy,’” *Open Democracy*, September 6, 2017, <https://www.opendemocracy.net/od-russia/ulugbek-babakulov/farewell-to-kyrgyzstans-island-of-democracy> (accessed June 27, 2018).

Kamalov succeeded his late father Rafiq Kamalov, an outspoken government critic, as the most prominent ethnic Uzbek imam in Southern Kyrgyzstan. In 2006, the father was shot dead, apparently during a joint operation in 2006 by the security forces of Uzbekistan and Kyrgyzstan.¹⁷⁷ Rafiq Kamalov's mosque in Kara Suu was frequented by members of Hizb ut-Tahrir but the cleric denied he was a leader of the group.¹⁷⁸

The evidence used to convict Kamalov was a sermon he gave in 2014 titled "About the Caliphate," which was contained on a compact disc that the police found during a search of his home. The State Commission for Religious Affairs quoted Kamalov as saying in a sermon: "Those who say that there will be no caliphate shall be cast out of the religion. We must bow before those that created the caliphate." The commission found that portions of the sermon aimed to foment religious hatred and to replace the government with a caliphate.¹⁷⁹

Kamalov and his defense team argued that the quotations were taken out of context and said he was preaching that "what the Islamic State is doing and what is happening in Syria is not a caliphate." An Osh city court judge declined to accept written testimonies presented by the defense as expert testimony.¹⁸⁰

In October 2015, the court convicted and sentenced Kamalov to five years in prison. A month later, an Osh regional court doubled Kamalov's prison term to 10 years after prosecutors argued he deserved a longer sentence for using his official position of power to disseminate his messages.¹⁸¹

Kamalov and his defense team contended that his prosecution was politically motivated. Several weeks before his arrest, Kamalov had told government officials that repressive

¹⁷⁷ Government authorities said Rafiq Kamalov was accidentally killed in crossfire, but his death sparked an outcry among many ethnic Uzbeks. See Igor Rotar, "Kyrgyzstan: Imam's killing seen as attack on independent Islam," *Forum 18*, August 24, 2006, http://www.forum18.org/archive.php?article_id=835 (accessed June 27, 2018).

¹⁷⁸ Alla Pyatibratova, "Kyrgyz Mufti Fends Off Extremism Charges," Institute for War and Peace Reporting, February 21, 2005, <https://iwpr.net/global-voices/kyrgyz-mufti-fends-extremism-charges> (accessed June 27, 2018).

¹⁷⁹ Court paper on file with Human Rights Watch. See also Peter Leonard, "Kyrgyzstan: Trial Marks Escalation in Religious Crackdown," *Eurasia.net*, August 13, 2015, <https://eurasianet.org/s/kyrgyzstan-trial-marks-escalation-in-religious-crackdown> (accessed June 27, 2018).

¹⁸⁰ Ibid.

¹⁸¹ Court document on file with Human Rights Watch. Human Rights Watch interviews with five civil society members and lawyers, Kyrgyzstan, June-July 2017. See also, "Kyrgyzstan Court Stiffens Imam's Sentence," *Eurasia.net*, November 24, 2015, <https://eurasianet.org/s/kyrgyzstan-court-stiffens-imams-sentence> (accessed June 27, 2018).

tactics by law enforcement officials such as evidence-planting, beatings, and extortion were fueling violent extremism and a flow of foreign fighters to Syria, according to media accounts and Human Rights Watch interviews with civil society members and lawyers.¹⁸²

Detained and Deported for investigating Kamalov case

In March 2015, the police arrested Umar Farooq, a journalist and US citizen, who was in southern Kyrgyzstan to investigate the Kamalov case and inter-ethnic relations five years after the June 2010 violence. Shortly after Farooq visited Kamalov's mosque in Kara Suu, police arrested him, saying they found discs of Kamalov's sermons in his possession. Farooq contends the discs were planted.

Farooq was charged with possession of extremist materials under article 299-2 and with seeking to overthrow the constitutional order through his media work. He was detained for three days in the same pre-trial prison in Osh where Kamalov was being held. A local court then deported Farooq, finding that his papers were not in order, but did not prosecute him.¹⁸³

Convicted for "Liking" Kamalov

In August 2015, officers from the 10th Department detained Abdullo Nurmatov a 20-year-old ethnic Uzbek, for liking posts on the Russian social media website, *Odnoklassniki* ("Classmates"), about the imam Rashod Kamalov and a journalist critical of government authorities.¹⁸⁴ In court papers reviewed by Human Rights Watch, Nurmatov alleges the police took him to the Osh police station and brutally beat him into making a false confession, tried to make him give them his Odnoklassniki password, and filmed him while forcing him to pretend to speak on the phone with someone in Syria.¹⁸⁵ His statements in court were reported by local journalists and human rights defenders:

I was beaten by six people. I lost consciousness three times.... Someone [one of the police] took my phone number and said they would contact

¹⁸² Human Rights Watch interviews with five civil society members and lawyers, Kyrgyzstan, June-July 2017.

¹⁸³ Human Rights Watch interviews with civil society members and lawyers, Kyrgyzstan, June-July 2017. See also Umar Farooq, "Kyrgyzstan and the Islamists," *The Diplomat*, November 16, 2015, <https://thediplomat.com/2015/11/kyrgyzstan-and-the-islamists/> (accessed June 27, 2018).

¹⁸⁴ Details of the case are documented in court papers and local media accounts, and by the Kyrgyz Committee for Human Rights. Copies on file with Human Rights Watch.

¹⁸⁵ Court papers on file with Human Rights Watch.

people who are in Syria, and I would speak with them. When I asked what I would tell them I was beaten again. The phone was shoved into my hand and they began to film me with a camera. There was no man in Syria on the phone. I was seated at a table in front of a computer opened to a social network page, and I was again filmed, then again beaten.¹⁸⁶

After the police released him around midnight, Nurmatov went immediately to a local hospital. Medical records reviewed by Human Rights Watch show he was diagnosed with a closed cerebro-cranial injury, bruises and swelling to the temporal area, a concussion, hearing impairment in the left ear, and complaints of headache, dizziness and nausea.

Soon after Nurmatov went public with his allegations of torture, the State Commission for Religious Affairs concluded that the material he had liked on the Odnoklassniki site belonged to Hizb ut-Tahrir.”¹⁸⁷

In May 2016, a local court convicted him under article 299-2 but gave him a reduced one-year conditional sentence, as his charge pre-dated the mandatory prison sentences for possession of extremist material that began in August 2016. Prosecutors rejected his petition to file criminal charges against the police for torture.

Frozen Funds

Human Rights Watch heard numerous complaints from lawyers and suspects about the authorities freezing the finances of people convicted under article 299-2. We examined three such cases, including one involving a man who threatened to set himself on fire when he was unable to retrieve his money.

Under domestic law, the State Financial Intelligence Service maintains a list of people or entities subject to the freezing of pensions and other assets for terrorism- or extremism-related activities. Anyone serving a prison sentence for a terrorism or extremism offense is

¹⁸⁶ Shohruh Saipov, “Kyrgyzstan: Put ‘Class!’ In ‘Classmates,’” *Fergana News*, April 28, 2016, <http://www.fergana.news.com/article.php?id=8955>.

¹⁸⁷ State Commission for Religious Affairs opinion cited in Osh City Court judgment of Osh City court of May 18, 2016 (First Instance Court). Copy on file with Human Rights Watch.

included in the list.¹⁸⁸ At time of writing, the list contained 939 individuals and the Ministry of Justice list of 21 banned organizations.¹⁸⁹

The law provides that upon completion of sentences, offenders are to be removed from the list.¹⁹⁰ In practice, however, this does not always happen, defense lawyers and human rights defenders said—either because the State Financial Intelligence Agency does not update the list or because it makes use of a clause allowing it to place a person on the list based on “sufficient information” of involvement in financing terrorist or extremist activities.¹⁹¹

In a written statement to Human Rights Watch, the Ministry of Justice said that domestic law allows for property subject to an asset-freezing order to be managed by trustees.¹⁹² However, none of the people interviewed by Human Rights Watch in such cases said the authorities had allowed them to make such arrangements.

Any blocking of funds should afford those affected the right to meaningfully challenge the evidence against them and take into consideration the impact, including on dependent family members.

Self-Immolation Threat

In 2016, “Umar,” a shoe salesman and father of three from Kara Suu, doused himself with gasoline in the town square and threatened self-immolation after a bank froze his account containing US\$17,500 he owed to family members and acquaintances.

¹⁸⁸ Regulations on the list of persons involved in terrorist and extremist activities or the proliferation of weapons of mass destruction, as amended by the Resolution No. 716 of October 12, 2012, <http://cbd.minjust.gov.kg/act/view/ru-ru/38264>, sect. 2.

¹⁸⁹ State Financial Intelligence Service, National List of Persons Involved in Terrorist and Extremist Activities or the Proliferation of Weapons of Mass Destruction, <https://fiu.gov.kg/page/20>.

¹⁹⁰ Regulations on the list of persons involved in terrorist and extremist activities or the proliferation of weapons of mass destruction, as amended by the Resolution No. 716 of October 12, 2012, <http://cbd.minjust.gov.kg/act/view/ru-ru/38264>, para. 12.

¹⁹¹ Ibid., para. 4.

¹⁹² Ministry of Justice portion of the consolidated government responses from the Ministry of Foreign Affairs to Human Rights Watch, June 22, 2018, referring to the Law of on Countering Money Laundering and Financing Terrorism or Extremism of 2006, art. 2. On file with Human Rights Watch.

In 2013, Umar received a one-year suspended sentence under article 299-2 for possessing Hizb ut-Tahrir material on two CDs found during a search of his home and for liking Hizb ut-Tahrir postings on social media such as Odnoklassniki, according to court papers and interviews with his lawyer and a family member.¹⁹³ Court papers said the material was extremist because it was from Hizb ut-Tahrir, a banned organization whose goals are “against the constitution and laws of the Kyrgyz Republic.”¹⁹⁴ After Umar successfully completed probation the court declared the sentence served.

In 2016, Umar sought a visa for South Korea, a destination for many migrant workers from Kyrgyzstan, to work with a friend who was in the auto repair business there, his lawyer and relative said. To apply for a South Korean visa, he needed proof of funds to start a business, so he deposited US\$17,500 that he had borrowed from acquaintances and family members into a bank account, using his house as collateral for one of the loans. The South Korean government rejected Umar’s visa application. Umar then went to the bank to retrieve the borrowed funds to return them to his debtors. However, the bank informed him that the funds were “frozen” on orders of the State Financial Intelligence Service, the lawyer and family member said. They showed Human Rights Watch a letter from the bank in which the State Financial Intelligence Service ordering the bank to freeze the funds “indefinitely.”

After failing to unfreeze the funds through requests to police, prosecutors, courts, the GKNB, and the Interior Ministry, Umar requested permission to hold a peaceful protest in the Kara Suu town square to draw attention to his case. Local authorities obtained a court order to stop the protest, which Umar ignored. After he doused himself with gasoline and threatened self-immolation the police arrested him, and a court sent him to jail for two weeks for violating the order prohibiting his protest. He was freed after six days after his wife threatened to set herself on fire to protest her husband’s treatment, the lawyer and family member said. Homeless, Umar and his family moved to Turkey.¹⁹⁵

“The money is still frozen to this day,” his lawyer said.

¹⁹³ Human Rights Watch interviews with lawyer for “Umar” and family member, Kyrgyzstan, June-July 2017.

¹⁹⁴ Kara Suu Municipal Court documents of April 28 and June 3, 2013. Copies on file with Human Rights Watch.

¹⁹⁵ Human Rights Watch interviews with lawyer for “Umar” and family member, Kyrgyzstan, June-July 2017.

Barred from Sending, Receiving Money

In 2017, “Muzaffar” completed a seven-year sentence in a low-security penal colony for possession of one Hizb ut-Tahrir book. Muzaffar said he had not committed or been accused of any wrongdoing since his release. Nevertheless, he said, the authorities have not allowed him to conduct any banking transactions.

“I cannot open a bank account, I cannot send money through the bank, and I cannot receive money,” he said. “I am blacklisted. What will happen if I ever get a pension? How will that money come to me?”¹⁹⁶

Book from Mecca

“Jafar,” then 74, was convicted in 2014 under article 299-2 for owning a book he had brought back from the *hajj*, the pilgrimage to Mecca, Saudi Arabia, that all Muslims are expected to make at least once during their lifetime. During the hajj, Jafar received a gift of a book of Hizb ut-Tahrir writings.

“It was decorated with ornaments, it was very beautiful, so he put it on display in his room,” two lawyers familiar with the case told Human Rights Watch. Jafar received a suspended sentence as his case pre-dated the mandatory prison sentences for possession of extremist material that began in August 2016. But the authorities froze his pension payments, the lawyers said. Jafar died several months later.¹⁹⁷

Harassment of Suspects, Family Members

Human Rights Watch also heard allegations from three suspects that the police and GKNB subjected suspects to unnecessary visits to the police department, or threatened, harassed or insulted suspects or relatives of individuals believed to be extremists or terrorists. We heard seven additional complaints of this kind from family members of associates of individuals suspected of other terrorism- or extremism-related offenses.¹⁹⁸

¹⁹⁶ Human Rights Watch interview with “Muzaffar,” Kyrgyzstan, June-July 2017.

¹⁹⁷ Human Rights Watch, separate interviews with two defense lawyers, Kyrgyzstan, June-July 2017.

¹⁹⁸ Human Rights Watch interviews with seven former suspects or their family members or acquaintances, and five defense lawyers, Kyrgyzstan, June-July 2017 and May 2018.

Two suspects accused under article 299-2 told Human Rights Watch that 10th Department officials would repeatedly summon them to the police station and make them wait hours for no little or no apparent reason. Both said they thought the long waits were deliberate.

“They would say things like, ‘We’ll give you the phone back,’ or ‘We have a document for you showing the case against you is closed,’” said “Saida,” a young woman who had been accused of possession of extremist material in 2018 after two family members were convicted of extremism-related charges. “I would wait and wait and then go home with nothing.”¹⁹⁹ The authorities later dropped the charges against Saida for lack of evidence.

“Rahman,” the above-mentioned lawyer who was convicted under article 299-2 in what he considers retaliation for representing a suspect convicted of the same offense, told Human Rights Watch that even after he had served his conditional one-year sentence in 2017, the police summoned him several times. “The reasons were ridiculous [such as], ‘Let us make a new photo of you; we lost your photo in our archives.’ They would keep me for several hours.”²⁰⁰

“Zuhra” said police officers repeatedly taunted family members when they went to a 10th Department station to request information on a relative who had been arrested for alleged possession of extremist material:

We went to the police department every other day and they would tell us, “Nothing good is waiting for you.” Some would come out and make bad jokes at my expense. Even though they knew I was [a conservative] Muslim, they would tell me, “Go get some alcohol and we will drink together, all of us.”²⁰¹

Potential Backlash

Abusive responses in the name of security are not only unlawful, they also are counterproductive, creating the potential to alienate local communities and generate support for extremist armed groups. As noted in the UN Counter-Terrorism Strategy of

¹⁹⁹ Human Rights Watch interview with “Saida,” Kyrgyzstan, May 2018.

²⁰⁰ Human Rights Watch interview with “Rahman,” Kyrgyzstan, May 2018.

²⁰¹ Human Rights Watch interview with “Zuhra,” Kyrgyzstan, May 2018.

2006, which was reaffirmed by the UN General Assembly in 2018, human rights and rule of law are integral components of counterterrorism strategy.²⁰² Conversely, the Counter-Terrorism Strategy notes that violations of human rights, erosion of rule of law, ethnic, national and religious discrimination, political exclusion, and socio-economic marginalization can be drivers of terrorism.²⁰³

“Rather than discouraging already marginalized people away from [violent] extremist organizations and recruiters, government heavy handedness plays into the narratives that extremist recruiters use,” warns one study on violent radicalization in Central Asia. “By silencing the moderate voices, the Kyrgyzstani government risks pushing marginalized communities towards more radical action.”²⁰⁴

²⁰² UN Office of Counter-Terrorism, “UN Global Counter-Terrorism Strategy,” A/RES/60/288, September 20, 2006, <http://www.un.org/en/terrorism/strategy-counter-terrorism.shtml#poa1> (accessed June 27, 2018), Pillar IV.

²⁰³ Ibid., Pillar I. The UN Security Council, the Human Rights Council, and the Secretary General have also warned of the link between human rights violations and terrorism; see, e.g., “Secretary-General’s opening remarks at High-level Conference on Counter-Terrorism,” United Nations statements, June 28, 2018, <https://www.un.org/sg/en/content/sg/statement/2018-06-28/secretary-generals-opening-remarks-high-level-conference-counter> (accessed July 23, 2018).

²⁰⁴ Thomas F. Lynch III, Michael Bouffard, Kelsey King, and Graham Vickowski, “The Return of Foreign Fighters to Central Asia: Implications for US Counterterrorism Policy,” Center for Strategic Research, National Defense University, October 29, 2016, <http://ndupress.ndu.edu/Portals/68/Documents/stratperspective/inss/Strategic-Perspectives-21.pdf> (accessed July 22, 2018), p. 18.

Mandatory Prison Terms

Until 2016, individuals convicted for the first time under article 299-2 routinely received suspended sentences or were sent to low-security prisons known as colonies, where they lived in dormitories, and often received permission to leave daily for work or to have regular or extended home visits.²⁰⁵

In August 2016, however, the government amended the Criminal Code to impose mandatory prison terms of three to five years for first-time offenders under article 299-2, and seven to 10 years for repeat offenders or for aggravating circumstances such as distributing the material in public.²⁰⁶ The amendments made no distinctions based on the content or volume of extremist material in the possession of suspects, or between suspects who did or did not disseminate the material. Only rare exceptions are granted; for example, judges may suspend the sentences of mothers until children in their custody reach age 14.

Four months earlier in April 2016, acting on amendments to the Penitentiary Code approved that month by parliament, prison authorities also began segregating all individuals convicted of terrorism- or extremism-related offenses, including those accused under article 299-2, into new, specially built wards at four prisons.²⁰⁷ At time of writing, scores of prisoners had been moved into the new wards, but construction and transfers were less than halfway complete.²⁰⁸

The reported aim of the tougher sentencing regime is to prevent detainees held on extremism- and terrorism-related offenses from violently radicalizing the broader prison

²⁰⁵ Human Rights Watch interviews with 11 local defense lawyers, Kyrgyzstan, June-July 2017 and May 2018. Of the 252 people convicted of terrorism or extremism charges from 2013-2015, 176—nearly three-fourths—received suspended sentences, according to the Supreme Court’s 2016 study, Supreme Court of the Kyrgyz Republic, Bulletin 2(63), 2016, <http://jogorku.sot.kg/sites/default/files/images/2017.pdf>, pp. 34.

²⁰⁶ Article 63 of the Criminal Code as amended by Kyrgyzstan Law No. 162, On Amending Certain Legislative Acts in the Sphere of Combating Terrorism and Extremism, August 2, 2016, <http://cbd.minjust.gov.kg/act/view/ru-ru/568>.

²⁰⁷ Article 52 of the Penitentiary Code as supplemented by Kyrgyzstan Law No. 44, On Amending the Penitentiary Code of the Kyrgyz Republic, April 16, 2016, <http://cdb.minjust.gov.kg/act/view/ru-ru/111324>, art. 1.

²⁰⁸ Human Rights Watch interviews with representatives of three international organizations and NGOs that work on security and detention issues in Kyrgyzstan, two in person and one via Internet, May 2018.

population.²⁰⁹ Under the amendments, prisoners in the special wards are placed in “strict” regimes.²¹⁰ The authorities have not revealed details of what the regime entails.²¹¹ However, several sources with knowledge of the system said they include reductions on family visits, correspondence, and freedom of movement inside the prison.²¹² Prisoners in these special wards are monitored around the clock, in all areas, by closed-circuit video, one representative of an NGO with knowledge of the system told Human Rights Watch.²¹³

Human Rights Watch could not determine the impact of the tougher sentencing regime on prisoners sentenced under article 299-2 because the State Penitentiary Service (GSIN) did not provide us with most of the data we requested on that specific offense. More broadly, however, GSIN data shows that the number of people sentenced on terrorism- or extremism-related offenses increased nearly seven-fold between 2010 and March 2018, the most comprehensive data available. As previously noted, the vast majority of terrorism and extremism convictions are for article 299-2 offenses. In contrast, the prison population as a whole increased less than 10 percent during that period.²¹⁴

As of June 2018, at least 540 people—95 percent of them men—were serving sentences or awaiting trial in Kyrgyzstan for terrorism- or extremism-related offenses, according to GSIN. Of those, 276 were in prisons, including at least 53 who were convicted of extremism offenses such as article 299-2. Another 52 were awaiting trial. As of March 2018, 170 others were in colonies and 94 were on conditional release. That compares to 79 people serving sentences for such crimes in 2010.²¹⁵ The increase in terrorism- and extremism-related convicts began in 2014.²¹⁶ That was the first full year following the change to article

²⁰⁹ “In Kyrgyzstan, prisoners convicted of extremism are kept separate from other prisoners,” Central Asia Online, May 19, 2016, <http://inozpress.kg/news/view/id/48619>.

²¹⁰ Article 52 of the Penitentiary Code as supplemented by Kyrgyzstan Law No. 44, On Amending the Penitentiary Code of the Kyrgyz Republic, April 16, 2016, <http://cdb.minjust.gov.kg/act/view/ru-ru/111324>, art. 1.

²¹¹ General provisions only broadly set forth separation from the rest of the prison population. See Internal Regulations of Correctional Institutions of the Penal System of the Kyrgyz Republic as amended by Resolution No. 322 of June 12, 2014, <http://cbd.minjust.gov.kg/act/view/ru-ru/95347?ckwds>, chapter 39.

²¹² Human Rights Watch interviews with five defense lawyers and civil society members, Kyrgyzstan, June-July 2017 and May 2018, as well as representatives from two international organizations and one NGO that work on security and detention issues in Kyrgyzstan, two in person and one via Internet, May 2018.

²¹³ Human Rights Watch Internet communication with NGO representative, May 2018.

²¹⁴ Data from the GSIN published by UNODC, March 2018. Copy on file with Human Rights Watch.

²¹⁵ The data on detainees in prisons as of June 2018 was provided by GSIN in the consolidated government responses from the Ministry of Foreign Affairs to Human Rights Watch of June 22, 2018. The data on detainees in colonies and serving conditional sentences was published by UNODC in March 2018. Copies on file with Human Rights Watch.

²¹⁶ GSIN data published by UNODC, March 2018. On file with Human Rights Watch.

299-2 allowing prosecution for possession for extremist material regardless of whether it was distributed or intended for distribution.

The rise in numbers of terrorism- and extremism-related detainees is particularly pronounced in prisons and colonies following the August 2016 amendments that bar conditional sentencing for such offenses. Of the 341 people sentenced for terrorism- or extremism-related convictions in 2016, 142 were serving conditional sentences. By March 2018, only 94 of a total of 540 such prisoners remained on conditional release.²¹⁷

As of September 2017, more than 80 percent of prisoners detained on terrorism- or extremism-related offenses were from southern Kyrgyzstan.²¹⁸

Prisons “Meet Requirements”

The GSIN told Human Rights Watch that prisoners are detained in conditions that “meet requirements” for hygiene, sanitation, nutrition, medication, and health care.²¹⁹ The UN Office on Drugs and Crime (UNODC) has been working with Kyrgyzstan’s Justice Ministry on penal reforms for such prisoners, with the aim of bringing detention conditions “in line with national and international standards,” the GSIN said. Projects underway at time of writing included sports equipment for outdoor areas, expanding fiction and approved religious readings at prison libraries, and job training workshops.²²⁰ Kyrgyzstan’s five-year counterterrorism strategy for 2017 to 2022 lists prison rehabilitation as a priority.²²¹

Human Rights Watch did not conduct prison visits for this report. Several defense lawyers, former detainees and family members described degrading conditions for prisoners held for offenses including article 299-2, as well as for the general prison population. Prisons are overcrowded and do not meet international standards for hygiene, nutrition, or medical care according to former prisoners, family members of current detainees, and human rights

²¹⁷ Ibid.

²¹⁸ *Number of Convicts in the Penal System in Kyrgyzstan*, UNODC pamphlet based on GSIN data, October 2017. On file with Human Rights Watch.

²¹⁹ GSIN letter to Human Rights Watch, October 5, 2017.

²²⁰ Ibid.

²²¹ Action Plan on implementing the Kyrgyz Government Program on Countering Extremism and Terrorism 2017-2022, Resolution No. 414-r, September 20, 2017, <http://cbd.minjust.gov.kg/act/view/ru-ru/215948#unknown>.

defenders. The prisons also lack rehabilitation programs and recreational facilities, and often have no access to reading materials, they said.²²²

A US government report described prison conditions in 2017 as “harsh and sometimes life threatening,” while the latest Committee Against Torture report on Kyrgyzstan, from 2013, described them as “extremely harsh.”²²³ A representative of an international NGO who has visited prisons in Kyrgyzstan said conditions continue to be “very harsh.” The representative said that prison authorities were working to improve conditions but remained chronically underfunded.²²⁴

A key issue raised by members of civil society and international organizations who spoke with Human Rights Watch was a lack of rehabilitation programs, including for those sentenced for possession of extremist material. A senior government official in Kyrgyzstan agreed, saying, “Unfortunately, there are no rehabilitation programs in prison. So people leave prison more radicalized than when they entered.”²²⁵

Those views were echoed in a 2017 US government report on counterterrorism in Kyrgyzstan. “The primary effort on penal reform to date appears to be segregation, rather than rehabilitation,” the report said.²²⁶

In 2018, the UNODC and prison officials began a pilot project in one Bishkek prison to teach extremism and terrorism detainees handicrafts but at time of writing it accommodated only a few dozen prisoners.

²²² Human Rights Watch interviews with two former prisoners, family members of three other prisoners, 11 human rights lawyers, and five representatives of international organizations and NGOs, Kyrgyzstan, June-July 2017 and May 2018.

²²³ US Department of State, Bureau of Democracy, Human Rights and Labor, “Kyrgyz Republic 2017 Human Rights Report,” 2017, <https://www.state.gov/documents/organization/277529.pdf> (accessed June 27, 2018); UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Mission to Kyrgyzstan, A/HRC/19/61/Add.2, February 21, 2012, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-61-Add2_en.pdf, para. 69; UN Committee against Torture, “Concluding observations on the second periodic report of Kyrgyzstan,” http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/KGZ/CO/2&Lang=En, para. 20.

²²⁴ Human Rights Watch Internet communication with representative of an international NGO, May 2018.

²²⁵ Human Rights Watch interviews with civil society members and with a senior government official, Kyrgyzstan, June-July 2017 and May 2018.

²²⁶ US Department of State, Bureau of Counterterrorism, “Country Reports on Terrorism 2016: Kyrgyz Republic,” July 2017, <https://www.state.gov/documents/organization/272488.pdf> (accessed June 26, 2018).

Another frequently voiced concern was lack of risk assessment. Part of the UNODC's work aims to improve risk assessments for detainees held on terrorism- or extremism-related offenses, two UN representatives and several local civil society members told Human Rights Watch.²²⁷

"You don't want put all of these people into one group—those who read or distribute leaflets, those who got involved for financial gain, and those who are seriously committed to violent extremism," one UN representative said. "But right now, the Kyrgyz authorities do not have the capacity to make those distinctions. By lumping together these different categories of prisoners, they could actually make the problem worse."²²⁸

Human Rights Watch recognizes that prisons can be fertile ground for recruitment to violent extremist causes and acknowledges the challenges this poses to government authorities. Nevertheless, any responses must comply with international legal norms that require people deprived of their liberty be treated with humanity and dignity, and to retain all their rights under human rights law subject only to such restrictions are demonstrably incidental to incarceration.

In particular, not only torture but all forms of inhuman and degrading treatment are strictly forbidden.²²⁹ International law also sets out that an essential aim of incarceration is reformation and social rehabilitation.²³⁰ Human Rights Watch is also concerned by the potential for unrestricted use of closed-circuit cameras in the segregated wards in a manner that could violate the rights to privacy and dignity, even taking into account the inherent conditions of incarceration.

The UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) detail additional obligations on prison authorities. Among other measures, prisoners should be individually assessed to identify not only risks they may pose to other prisoners or to staff

²²⁷ Human Rights Watch interviews with 13 members of local civil society groups and international organizations, Kyrgyzstan and via Internet communication, June-July 2017 and May 2018.

²²⁸ Human Rights Watch interview with member of an international organization, Kyrgyzstan, June-July 2017.

²²⁹ ICCPR, art. 7.

²³⁰ Ibid., arts. 10-1 and 10-3.

but also any risks they might be exposed to or special needs they may have.²³¹ No discrimination is allowed, including on a prisoner's religion, or political or other opinion.²³² Every prison must have clean facilities in the interests of dignity and hygiene.²³³ Prisoners must be provided with nutritious food as well as drinking water whenever they need it.²³⁴ Proper heating and ventilation, air, light, and minimum floor space must be provided, without exception.²³⁵ Healthcare must be provided at the same level as in the community.²³⁶

Inadequate Medical Care

Several defense lawyers as well as family members complained of inadequate medical care in prisons. One former prisoner, “Tohir,” who alleged GKNB members seriously injured his head during severe beatings during his arrest in 2014 (see previous chapter), told Human Rights Watch that he did not receive proper medical treatment for ten months during his imprisonment that year and in 2015.

“Because of my head injuries it’s been three years that I cannot properly do namaz, I cannot touch my head fully to the floor,” he said.²³⁷

An Osh Province Mental Health Center examination in 2015 concluded that Tohir had developed “mixed anxiety depressive disorder” after his arrest that was “consistent with alleged torture and violence.”²³⁸

Open Toilets in Cells

“Maksud,” who is serving a 9-year sentence for possession of extremist material, was sharing a cell in Prison No. 27 near Bishkek with three other prisoners that had an open toilet in the corner and no recreational facilities, according to a family member, “Bobur.”

²³¹ UN Commission on Crime Prevention and Criminal Justice, UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), E/CN.15/2015/L.6/Rev.1, May 21, 2015, http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/resolutions/L6_Rev1/ECN152015_L6Rev1_e_V1503585.pdf (accessed June 27, 2018), rules 89, 93, 94.

²³² *Ibid.*, rule 2.

²³³ *Ibid.*, rules 15, 16, and 18-21.

²³⁴ *Ibid.*, rule 22.

²³⁵ *Ibid.*, rules 12, 14, and 42.

²³⁶ *Ibid.*, rules 24-29, and 31.

²³⁷ Human Rights Watch interview with “Tohir,” Kyrgyzstan, June-July 2017.

²³⁸ Copy on file with Human Rights Watch.

The window is very small. Inside it really smells. They only go outside for a half-hour to an hour a day. They take turns emptying the toilet with a bucket. This is the only time they go out from the cell. The food is very bad, like dry food. We brought him a television because there was nothing there. No radio. No newspapers. I brought him an Uzbek translation of the Quran. They sent it back. There is no exercise equipment, no work or job training. My brother, he gets sick because the cell is very cold [in the winter]. He is not active. He looks like a robot.²³⁹

“Dilmira,” a woman from southern Kyrgyzstan, began crying and buried her head in her skirt as she described to Human Rights Watch what had been her most recent visit with “Hassan,” a close family member, in Prison No. 3 near Bishkek in May 2017:

It was cold in the cell and he got sick. He had scratches all over his body. They only give out basic medicine for things like a headache. If he needs real medicine, we have to supply it. He is always so happy to see us. He cries. They are three or four men in that cell. They have nothing to do all day they just lie there in their cold cell. In that one room the toilet is in one corner and they eat in the other corner. It is very difficult for them to eat something knowing they are so close to the toilet. We take turns bringing food. Sitting in that cold cell all day they become hungry quickly.²⁴⁰

Solitary Confinement

Solitary confinement is used in prisons in Kyrgyzstan as a punishment for infractions of prison rules, including for prisoners serving sentences for article 299-2. For example, “Nuriddin,” an ethnic Uzbek man who was serving a seven-year sentence under article 299-2 in Prison No. 47 in Bishkek, was punished three times in 2016 with three to five days of solitary confinement in a basement cell, said a female relative, “Gulnora.”

The first time Nuriddin was sent to solitary confinement was for breaking prison rules by using a cellphone, Gulnora said. “They locked him up alone in the basement for five days.

²³⁹ Human Rights Watch interview with “Bobur,” Kyrgyzstan, June-July 2017.

²⁴⁰ Human Rights Watch interview with “Dilmira,” Kyrgyzstan, June-July 2017.

Then they returned him to his regular cell and a couple of days later they returned him to the basement for three days. I don't know what he did that made them send him back.”²⁴¹

The third time, Nuriddin was sent to the basement for shouting at a nurse after she refused to give him any medication stronger than fever-reduction pills when he got sick, Gulnora said.

While Kyrgyzstan is not unusual in retaining solitary confinement as a form of punishment, the Mandela Rules emphasize that solitary confinement should only be used in exceptional cases, as a last resort, given its devastating impact on physical and mental health. In such cases, solitary confinement should be for as short a time as possible, after authorization by a competent authority, and subject to independent review.²⁴² The UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has called for an end to use of solitary confinement as a punishment. In 2011 he noted “[s]olitary confinement, when used for the purpose of punishment, cannot be justified for any reason.... This applies as well to situations in which solitary confinement is imposed in response to a breach of prison discipline, as long as the pain and suffering experienced by the victim reaches the necessary severity.”²⁴³

²⁴¹ Human Rights Watch interview with “Gulnora,” Kyrgyzstan, June-July 2017.

²⁴² The Mandela Rules, rules 43-46.

²⁴³ UN General Assembly, Interim Report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, A/66/268, August 5, 2011, http://www.un.org/ga/search/view_doc.asp?symbol=A/66/268.

National and International Legal Standards

Kyrgyzstan is bound under its constitution and international law to respect the rights of those living within its jurisdiction. These rights include rights to freedom of religion, opinion, expression, assembly, and association; freedom from arbitrary detention and ill-treatment including torture; and rights to fair trial, due process and non-arbitrary treatment and application of the law, and privacy.

International law provides clear criteria for justified limitations on human rights, as well as on when and how derogations (temporary restrictions or partial suspension) of rights can be made. Derogations—in contrast to justified limitations—are allowed only during times of genuine emergency, and should have minimal duration and scope, commensurate with the gravity of the emergency.²⁴⁴ Certain rights, such as the right to be free from torture, inhuman or degrading treatment and arbitrary detention, are never derogable.

The prosecutions and detentions documented in this report violate several rights protected under domestic law as well as Kyrgyzstan's international human rights obligations.

National Standards

The Kyrgyzstan government's criminalization of possessing materials it deems to be extremist under article 299-2 of the Criminal Code is overly broad and inconsistent with the protection of several rights under the country's constitution. To the extent that article 299-2 is used to target non-violent adherents of a particular religious denomination or disproportionately used against ethnic minorities, it may also be discriminatory.

The constitution recognizes the right of every person to freedom of thought, opinion, speech, belief, assembly, religion, and association.²⁴⁵ It establishes the separation of

²⁴⁴ The ICCPR stipulates that states parties may derogate from certain human rights obligations during a "time of public emergency which threatens the life of the nation," but only "to the extent strictly required by the exigencies of the situation" and in a manner that does not discriminate solely on the basis of race, color, sex, language, religion, or social origin. See ICCPR, art. 4.

²⁴⁵ Constitution of the Kyrgyz Republic, arts. 31-35.

church and state and bans the pursuit of political goals by religious associations.²⁴⁶ It prohibits discrimination on any grounds, including ethnicity or beliefs.²⁴⁷

The constitution categorically prohibits torture and “all other forms of cruel, inhuman, and degrading treatment and punishment.”²⁴⁸ Torture is also a criminal offense under national law.²⁴⁹ However, the UN Committee Against Torture has found that the definition of torture in the Criminal Code of Kyrgyzstan does not meet international standards because it limits criminal responsibility to public officials, excluding others who may act in an official capacity. The Committee also found that domestic law in Kyrgyzstan fails to provide appropriate penalties for torture and warned that its statute of limitations on torture complaints may preclude investigation, prosecution and punishment.²⁵⁰

International Standards

The criminalization under article 299-2 of acquiring or possessing vaguely defined extremist materials, many of which are not posted on the government’s official website of banned material, contravenes the human rights requirement that states must define all criminal offences precisely and in a foreseeable manner. It also violates the rights to freedom of religion, expression, and association. All these rights are guaranteed under the International Covenant on Civil and Political Rights (ICCPR), to which Kyrgyzstan is a party.

Imprisoning members of Hizb ut-Tahrir and other individuals who have not engaged in criminal behavior, but who may engage in peaceful acts or opinions such as opposing the government or discussing their religious and political beliefs, may constitute misuse of the criminal justice system for political ends.

Principle of Legality

The basic principles of fairness and legality are inherent to human rights standards and the rule of law and require the law to be foreseeable and predictable. Article 15(1) of the

²⁴⁶ Ibid., arts. 7, 4(3).

²⁴⁷ Ibid., art. 16(2).

²⁴⁸ Ibid., art. 22.

²⁴⁹ Criminal Code of the Kyrgyz Republic, art. 305-1.

²⁵⁰ UN Committee against Torture, “Concluding observations on the second periodic report of Kyrgyzstan,” http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/KGZ/CO/2&Lang=En, para. 10.

ICCPR states that “no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.”²⁵¹ This means that for a criminal law to be legitimate it should be precise and target specific conduct accompanied by the requisite intent. Article 299-2 in its current wording and application do not meet this test, and as Human Rights Watch research has documented, a suspect may legitimately be unaware that he or she is committing a criminal offense by possessing literature that has not been officially listed as banned.

Freedom of Religion

The ICCPR guarantees the right to freedom of thought, belief, and religion. This right includes the freedom to practice one’s religion or belief either individually or in a community, privately or publicly, in worship or in performing religious or spiritual practice and teaching.²⁵² The ICCPR allows restrictions on the freedom to practice a religion or belief in certain instances such as when it is necessary to protect public safety, public order, health or morals, or the rights and freedoms of others. Absent any intent to cause such harm, the mere possession of religious material is protected under international law.

The UN Human Rights Committee has determined that the concept of belief and religion “should be interpreted broadly.” It expresses concern “about any tendency to discriminate against any religion or belief on any grounds, including because they are newly created or that they are professed by religious minorities, to which the predominant religious community may be hostile.”²⁵³

Freedom of Expression

Freedom of expression constitutes one of the essential foundations of a democratic society. It extends not only to information or ideas that are favorably received, but also to those that are “deeply offensive,” including in the domains of journalism and religious

²⁵¹ ICCPR, art. 15(1).

²⁵² Ibid., art. 18.

²⁵³ UN Human Rights Committee, General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion), CCPR/C/21/Rev.1/Add.4, July 30, 1993, <http://www.refworld.org/docid/453883fb22.html> (accessed June 27, 2018), para. 2.

discourse.²⁵⁴ Arresting or threatening to prosecute journalists for reporting on inter-ethnic strife and crackdowns in the name of security in Kyrgyzstan violates this right.

The ICCPR imposes positive and negative legal obligations on governments to protect freedom of expression and information.²⁵⁵ These include the obligations to refrain from non-permissible interference with the rights to expression and exchange of information, to protect freedom of expression and information from harm including by private persons and entities, and to facilitate their exercise.

Article 19 of the ICCPR provides:

Everyone shall have the right to hold opinions without interference; [...]
Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.²⁵⁶

The UN Human Rights Committee has stated that journalists include “bloggers and others who engage in forms of self-publication in print, on the Internet or elsewhere.”²⁵⁷ In a 2012 resolution adopted by consensus, the UN Human Rights Council affirmed that “the same rights that people have offline must also be protected online.”²⁵⁸

Freedom of Association

The ICCPR states that “everyone shall have the right to freedom of association with others.”²⁵⁹ The ICCPR allows narrow restrictions on the rights to freedom of assembly and association subject to a rigorous test. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a

²⁵⁴ ICCPR, art. 19; UN Human Rights Committee, General Comment No. 34: Article 19 (Freedoms of Opinion and Expression), CCPR/C/GC/34, July 29, 2011, www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf, para. 11.

²⁵⁵ ICCPR, art. 19.

²⁵⁶ *Ibid.*, art. 19(1,2).

²⁵⁷ UN Human Rights Committee, General Comment No. 34, para. 44.

²⁵⁸ UN Human Rights Council, “The promotion, protection and enjoyment of human rights on the Internet,” A/HRC/20/L.13, June 29, 2012, <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G12/147/10/PDF/G1214710.pdf?OpenElement/>.

²⁵⁹ ICCPR, art. 22.

democratic society in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.²⁶⁰

Prohibition Against Torture and Ill-Treatment

The prohibition against torture as well as other cruel, inhuman or degrading treatment is protected under an array of international and regional human rights treaties including the ICCPR and the Convention Against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture), to which Kyrgyzstan is a party.²⁶¹

The Convention Against Torture defines torture as both mental and physical, and specifically prohibits torture for the purposes of obtaining a confession, calling it:

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.²⁶²

The prohibition on torture is absolute, in that it cannot be justified under any circumstance including a state of war or a threat of war, internal political instability or any other public emergency.²⁶³

²⁶⁰ Ibid., art. 22(2).

²⁶¹ Ibid., art. 7. UN Human Rights Council, “Convention Against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment,” Resolution 39/46 (1984), entered into force June 26, 1987, in accordance with article 27(1), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx> (accessed June 27, 2018).

²⁶² Convention Against Torture, art. 1.

²⁶³ Ibid., art. 2(2).

The ICCPR also states that all people deprived of their liberty shall be treated with humanity and dignity.²⁶⁴ The UN Standard Minimum Rules for the Treatment of Prisoners set forth additional obligations.²⁶⁵

Fair Trials

The ICCPR also states that no one shall be subjected to arbitrary arrest and that everyone is entitled to a fair trial before a competent, independent and impartial tribunal, and shall not to be compelled to confess guilt.²⁶⁶

²⁶⁴ ICCPR, art. 10.

²⁶⁵ The Mandela Rules.

²⁶⁶ ICCPR, art. 9, 14(1) and 14(3)(g).

Recommendations

To the Kyrgyz Republic

All Government Authorities in Kyrgyzstan

- Ensure that all those accused of terrorism or extremism charges are afforded their full rights at all stages of criminal investigation, prosecution, and, if applicable, sentencing and detention;
- Ensure all allegations of abuse are promptly investigated, and perpetrators are held to account;
- Transfer the mandate to screen material for extremist content from the State Commission for Religious Affairs to the State Service for Forensic Expertise. Prioritize training and adequate staffing at the forensic center to allow it to impartially and independently screen material for extremist content, based on clearly defined and objective definitions of extremism that include the element of a deliberate intent to incite violence, in line with international standards;
- Ensure anyone accused of offences involving prohibited material has a right to effectively challenge expert categorization of materials as extremist;
- Include civil society and independent experts in the full review of policies and implementation of reforms set forth in the government Action Plan on Countering Extremism and Terrorism from 2017 to 2022;
- Facilitate visits by UN special procedures whose mandates cover the issues detailed in this report. These include the Special Rapporteurs on counterterrorism, freedom of religion or belief, torture, freedom of expression and association, and the independence of judges and lawyers, as well as the UN Working Group on Arbitrary Detention;
- Ensure unfettered access to Kyrgyzstan for independent human rights defenders.

Prosecutor General and Ministry of Justice

- Immediately halt any prosecutions under article 299-2 that are solely for possession of proscribed material. Ensure prosecutions under this provision focus solely on cases in which material was used or intended to be used to incite or commit violent acts;

- Promptly conduct an independent review with the participation of independent international legal experts of all article 299-2 cases. Drop criminal charges and take steps to vacate convictions in cases involving possession of material classified as extremist that do not involve use or intent to use such material to incite or commit violent acts;
- Improve oversight aimed at preventing the planting of evidence, extortion, torture, and other ill-treatment of suspects by law enforcement forces, as well as serious violations of defendants' fair trial rights. Conduct impartial and thorough investigations into all such allegations. Review criminal proceedings for all suspects accused or found guilty based on tainted evidence;
- Ensure prompt and independent forensic medical examinations of detainees who allege that they have been subjected to torture and other ill-treatment;
- Hold to account, including where appropriate through criminal prosecutions, those responsible for torture and other acts of ill-treatment as well as other serious abuses and violations of individual's rights;
- Promptly post all proscribed material on the Ministry of Justice website and ensure meaningful rights to appeal decisions that categorize the material as proscribed.

Parliament and President

- Ensure amendments to article 299-2 of the Criminal Code—to prohibit prosecution for possession of extremist material absent evidence of distribution or intended distribution—enter into force as scheduled on January 1, 2019 and are effectively implemented. In the meantime, freeze all pending prosecutions of persons for the offence of mere possession of proscribed material;
- Revoke or substantially amend national Law No. 150 on Countering Extremist Activity of 2005 to excise overly broad or vague definitions of extremism and extremist acts. These include provisions that criminalize acts such as “affronts to national dignity” and “hooliganism” that may fall far short of direct incitement to terrorist or violent extremist offenses;
- Restore the option of conditional sentences for individuals convicted of extremism- or terrorism-related offenses in cases where they do not pose a security threat;
- Ensure individuals convicted of terrorism- or extremism-related offenses can access bank accounts and other financial assets upon completing their sentences, unless new evidence establishes such assets are intended for criminal use.

Prime Minister, Ministry of Internal Affairs, and State Committee for National Security (GKNB)

- Immediately enforce a zero-tolerance policy for torture and other ill-treatment in detention, as well as the planting of evidence and extortion by any security or law enforcement member or agency. Ensure that the package of judicial reforms that includes the requirement to photograph and carry out audio and video recordings of all searches and confiscation of evidence enters into force as scheduled on January 1, 2019;
- Appropriately hold to account police and other law enforcement forces responsible for any wrongdoing including through suspensions, dismissals, or referral for criminal prosecutions;
- Increase efforts to diversify the ethnic composition of law enforcement forces, including the counterterrorism forces of the 10th Department and the GKNB.

State Penitentiary Service (GSIN)

- Improve screening of prisoners detained for terrorism- and extremism-related offenses with the aim of separating non-violent offenders from violent offenders;
- Treat all prisoners with dignity, ensure adequate hygiene, nourishment, medical care, housing, recreation and rehabilitation, and refrain from solitary confinement or use it only in exceptional cases as a last resort, in line with international human rights law and the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

To Kyrgyzstan's International Partners

All partners including the UN and its counterterrorism bodies, the EU, the OSCE and their member states, and donors

- Condition counterterrorism assistance to Kyrgyzstan on the measurable improvement of human rights protections in counterterrorism and counter-extremism arrests and prosecutions, including under article 299-2;
- Continue to document and publicly report on the human rights situation in Kyrgyzstan. Speak out publicly against ongoing and past abuses including the practice of torture and call on the government to effectively address them;

- Prioritize the provision of legal assistance and other capacity building to Kyrgyzstan on revoking or substantially revising counterterrorism and counter-extremism measures such as article 299-2 that fail to comply with international human rights standards;
- Offer increased training to help ensure amendments to article 299-2 of the Criminal Code enter into force as scheduled on January 1, 2019 and to improve the capacity of the State Service for Forensic Expertise to impartially and independently review allegedly extremist material for criminal content;
- Prioritize technical and financial assistance to Kyrgyzstan for screening of prisoners detained for extremism- and terrorism-related offenses and for recreation and rehabilitation programs that comport with international human rights law and the Mandela Rules;
- The UN Counter-Terrorism Office should monitor and include in its public reports to the Security Council and General Assembly concerns about the possible abuse of counterterrorism measures in Kyrgyzstan to target ethnic, religious, political or other groups. All UN agencies operating in Kyrgyzstan should assist in this process;
- The UN Special Rapporteur on counterterrorism should seek to visit Kyrgyzstan and include in her public reports and to the UN Human Rights Council any concerns about use of counterterrorism measures to target ethnic, religious, political or other groups. The UN Special Rapporteurs on torture and on the independence of judges and lawyers should also request access for visits to the country;
- The EU should ensure that genuine adherence to international human rights standards is a core element of any counterterrorism measures in Central Asia and in the bilateral Enhanced Partnership and Cooperation Agreement that at time of writing it was negotiating with Kyrgyzstan;
- Encourage and call on Kyrgyzstan's other partners, including Russia, China, the Collective Security Treaty Organization (SCTO) and the Shanghai Cooperation Organization (SCO), to adopt counterterrorism approaches in Kyrgyzstan and elsewhere in Central Asia that comply with international human rights standards.

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“WE LIVE IN CONSTANT FEAR”

Possession of Extremist Material in Kyrgyzstan

Law enforcement officials in Kyrgyzstan are prosecuting hundreds of people for possession of videos, pamphlets and books that the authorities consider extremist, regardless of whether the accused intend to distribute the material or use it to incite violence. Convictions carry mandatory prison terms of three to 10 years. *“We Live in Constant Fear”* finds that the prosecutions, under article 299-2 of Kyrgyzstan’s Criminal Code, violate fundamental rights and freedoms including freedom of religion and the right to a fair trial.

Counterterrorism police and intelligence agents plant banned material during searches, then demand payoffs to not bring criminal charges, according to suspects, lawyers and family members. Some suspects told Human Rights Watch that law enforcement officials tortured them to extract confessions. Almost no rehabilitation and re-integration services exist for article 299-2 prisoners.

“We Live in Constant Fear” finds that Kyrgyzstan’s planned reforms to article 299-2 are insufficient. The report calls on the authorities to revamp relevant provisions of its Criminal Code and its overly broad definition of extremism to end abusive application of article 299-2.

Similar crackdowns on extremist material are taking place across Central Asia as governments express concern over the potential for extremist armed groups such as the Islamic State to take root in the region. While governments have a responsibility to protect those on their territory from harm, abusive responses are unlawful and can backfire by alienating local populations.



Counterterrorism police carry out a search in Bishkek, Kyrgyzstan on October 16, 2015.

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