

2016-09-27

Fråga-svar

Kirgizistan. Myndighetsskydd

Fråga

Hur är möjligheterna till myndighetsskydd för personer som hotas av kriminella gäng eller personer?

Svar

Polismyndigheten

I US Department of State (US DOS) årsrapport om mänskliga rättigheter förklaras hur polismyndigheten är organiserad. Rapporten tar även upp svagheter inom det kirgiziska polisväsendet. US DOS (2016-04-15):

The investigation of general and local crimes falls under the authority of the Ministry of Internal Affairs, while state-level crimes fall under the authority of the GKNB. The GKNB also controls the presidential security service. The Prosecutor General's Office prosecutes both local and state crimes.

Both local and international observers said law enforcement officers engaged in widespread arbitrary arrests, detainee abuse, and extortion, particularly in the southern part of the country. Authorities dismissed or prosecuted few Ministry of Internal Affairs officials for corruption, abuse of authority, extortion, or police brutality.

NGOs and other legal observers routinely noted the lack of ethnic minorities in the police force, and in all government positions. Officially, ethnic minorities (nonethnic Kyrgyz) made up approximately six percent of the police force. According to UN statistics, ethnic minorities made up approximately 27 percent of the population. (s. 6)

Chyngyz Kambarov, PhD och överstelöjtnent vid den kirgiziska polisen under Inrikesministeriet, skriver i artikeln *Organized Criminal Groups in Kyrgyzstan and the Role of Law Enforcement* att bland annat brister i lagstiftningen, gatuprotester som kräver resurser, korruption och kopplingar till kriminella nätverk negativt har påverkat effektiviteten och integriteten hos den kirgiziska polisen. Kambarov (2015):

Police chiefs have complained about the ineffectiveness of laws to combat organized crime. Georgia and Russia have laws that allow the authorities to apprehend known organized crime leaders based on their known criminal rank, but no such law exists in Kyrgyzstan. A new law for combating organized crime was passed by the Kyrgyz Parliament and endorsed by the President in May 2013. This law made changes and additions that have created better conditions for effectively combating organized crime. (s. 4)

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As B. Jusubaliev notes, 900 political demonstrations occurred in Kyrgyzstan during 2013. Police forces concentrate in maintaining street order during political demonstrations and this ongoing turmoil distracts them from focusing on combating crime and ensuring the security of peaceful people. Police forces are in difficulties also because of a lack of personnel. (s. 6)

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Kyrgyzstan's law enforcement agency, like those of other post-Soviet states, is structured and operates on the basis of its Soviet legacy. The police is more centralized, as compared to the United States, where police are decentralized into state and local agencies. The structure of the system is workable, but the public's perception has progressively worsened over last 20 years of independence. It sees law enforcement to be part of the corrupt state machine, not as an agency designed to protect people from crime. (s. 6)

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The Kyrgyz people used to have a positive image of "Uncle Styopa"—the police officer whom people trusted and admired—but this was erased with the collapse of the Soviet Union. Many qualified police officers have since retired, and those who remain face corruption, nepotism, moral degradation, criminals joining the police force, and the widespread abuse of power by police. This has created a feeling of "us vs. them" between the police and the public. Unprofessional behavior by many police officers in Kyrgyzstan and their attitude toward ordinary people has become an impediment to any reform of its law enforcement agencies. (s. 7)

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The greatest harm to the image of the police in Kyrgyzstan is caused by police becoming involved in criminal activities, very often by protecting and serving as a "roof" for various criminals, mostly covering for drug trafficking and prostitution. Some police officers may have close ties with leaders of organized crime groups. These images create a pessimistic mood among the public about the police's potential for fighting crime. (s. 8)

Artikeln går även in på hur den organiserade brottsligheten är strukturerad i Kirgizistan.

I Bertelsmann Foundations årsrapport konstateras att medan det fortfarande förekommer att polisenheter informellt kontrolleras av lokala politiker så har den typen av företeelser blivit ovanligare. Bertelsmann Foundation (2016):

Some local government officials still enjoy informal control over local police units, particularly in southern Kyrgyzstan. However, with the ouster of Osh city mayor Melis Myrzakmatov in early 2014, the central government has significantly reduced the number of enclaves where it lacked control. Since then, any operational inefficiency in law enforcement or military institutions has largely stemmed from corruption, nepotism and unprofessional conduct. (s. 6)

I en artikel från Institute for War and Peace Reporting (IWPR) beskrivs den organiserade brottsligheten som mer inflytelserik på den lokala nivån. Mutor anges även i vissa fall krävas av polis snarare än av kriminella. IWPR (2015-07-14):

The power of organised crime is particularly visible at local level, where government and policing are weaker. As people often mistrust the police and courts, they frequently turn to local gangsters to arbitrate in disputes.

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Some businessmen say that when they are intimidated into paying bribes, it is not gangsters who do it, but police and other officials.

I en rapport från Human Rights Watch (HRW) pekats korruption ut som ett problem, men även bristande resurser och träning lyfts fram som ett hinder. Liksom US DOS konstaterar HRW att få minoritetsgrupper finns representerade inom poliskåren. Notera att rapporten handlar om myndighetsskydd specifikt för våld i hemmet, men de svagheter inom polisen som anges är generella och påverkar även annan myndighetsutövning. HRW (2015-10-01):

Although the government of Kyrgyzstan has stated it is taking measures to tackle corruption, international monitoring groups have found that corruption remains a significant obstacle to effective rule of law and civilian trust of law enforcement and the judiciary in Kyrgyzstan. (s. 54)

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Inadequate or inappropriate police response may be partially due to limited material and human resources, and inadequate police training. Gulsara Alieva, a retired police colonel and former Ministry of Internal Affairs gender focal point, said that police struggle with material and logistical constraints due to insufficient funding. "Here the police are so poor they don't even have fuel in their cars, so they can't really take action," she said.

Police in Naryn and Osh provinces also told Human Rights Watch that neighborhood police are overstretched, covering large areas with villages that may be far from one another. According to a Deputy Minister of Internal Affairs, police capacity is in compliance with normative standards in Issyk-Kul and Chuy (which includes Bishkek) provinces; the Deputy Minister told Human Rights Watch that “two or three regions” are still not in compliance with standards. However, local police officers told Human Rights Watch that the number of neighborhood police is not sufficient to meet needs. The Head of District Police in Naryn city said that there are 10 neighborhood police officers covering 15 village municipalities, which include 38 villages and a population of 45,000. A neighborhood police officer in Naryn province said he covers four village municipalities.

Interviewees also said high turnover among police officers impacts enforcement of the Domestic Violence Law, as it increases the need for ongoing training. Aibek, a senior police officer in Osh, said that staff turnover is in part due to poor pay and benefits. He told Human Rights Watch that salaries for neighborhood police officers are approximately 15,000 to 18,000 KGS, or about \$244 to \$293, per month.²²⁹ According to the World Bank, Kyrgyzstan’s gross national income (GNI) per capita in 2013 was \$1,210, or approximately \$101 per month. (s. 54-55)

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Interviewees in both Bishkek and Osh told Human Rights Watch that police officers in Kyrgyzstan are almost exclusively ethnic Kyrgyz, which could deter reporting by people from other ethnic backgrounds. Alieva said that the police are “more or less mono-Kyrgyz.” /.../ The UN Peacebuilding Support Office’s 2014 project evaluation states: “Data... confirmed an overall low level of representation of minorities in the police (5.3 percent) and severe underrepresentation of minorities in those districts and cities where the composition of the population is ethnically diverse.”(s. 56)

Rättsväsendet

International Federation for Human Rights (FIDH) noterar att vare sig konstitutionen eller nuvarande lagstiftning garanterar rättsväsendets oberoende, samt konstaterar att de låga lönerna underhåller det korrupta systemet. FIDH (2016-06-01):

As noted above in Section I.1, neither the Constitution nor current laws contain sufficient guarantees to ensure the independence of the judiciary. There is no security of tenure.

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Other factors responsible for this lack of independence are poor salaries and benefits, which result in a high level of corruption, and a highly developed system of “telephone law” - a way that other government bodies can exert unofficial influence on judges.

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The population's level of trust in the judicial system and in the law enforcement system overall is extremely low. (s. 11)

Enligt US DOS lägger lagstiftningen grunden för ett oberoende rättsväsende, men korruptionen äventyrar rättssäkerheten. US DOS (2016-04-15):

The law provides for an independent judiciary, but judges were subject to influence or corruption, and there were instances where the outcomes of trials appeared predetermined. Multiple sources, including NGOs, attorneys, government officials, and private citizens, asserted judges paid bribes to attain their positions. Many attorneys asserted that bribe taking was ubiquitous among judges and described trying to use legal arguments to secure justice like "Don Quixote tilting at windmills."

Authorities generally respected court orders.

Numerous NGOs described pervasive violations of the right to a fair trial, including coerced confessions, use of torture, denial of access to counsel, and convictions in the absence of sufficiently conclusive evidence or despite exculpatory evidence. International observers reported threats and acts of violence against defendants and defense attorneys within and outside the courtroom as well as intimidation of trial judges by victims' relatives and friends. Although the number of cases has decreased since 2010, NGOs reported these practices persisted. (s. 8-9)

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While the law provides for defendants' rights, including the presumption of innocence, the government regularly violated these rights. The customs and practices of the judicial system contradicted the principle of presumption of innocence, and pretrial investigations focused almost exclusively on the collection of sufficient evidence to prove guilt. If a court ruled it could not determine guilt or innocence and there was insufficient evidence to submit a case for trial, the case was returned to the investigative bodies for further investigation, during which time suspects could remain in detention. (s. 9)

Bertelsmann Foundation konstaterar att rättsväsendet är stadsapparatus mest korrupta sektor och att domare kan vara politiskt tillsatta. Bertelsmann Foundation (2016):

Although Kyrgyzstan embarked on an ambitious judicial reform process in 2010, the judiciary remains the weakest and most corrupt part of the state. The reform process has been highly politicized and marred by corruption. Both the president and parliament have tried to install judges who would serve their political needs. (s. 10)

Även Kambarov (2015) anser att 2010 år rättsliga reform inte åstadkommit självständighet för rättsväsendet:

The reformation of the court system in Kyrgyzstan began after the 2010 coup, but has not been completed. Many experts say that the new government, in place since 2010, could not ensure the true independence of the court system. Replacing older judges merely brought people who were even more incompetent and corrupt into the court system, actually increasing the level of corruption.

Organized crime groups use this corruption to pay their way out of detention when they are arrested. (s. 5)

IWPR undersöker i en artikel rättssäkerheten i Kirgizistan. I artikeln intervjuas Tamerlan Ibrahimov, ledare för Centre for Political and Legal Studies i Kirgizistan, som räknar upp korrupktion tillsammans med en svag stadsapparat och inflytande från kriminella strukturer som problem för rättssäkerheten. IWPR (2015-09-09):

Although Kyrgyzstan modernised its constitution in 2010, its laws continue to be applied unevenly and are often outweighed by power and privilege.

The country has a much more democratic system of government compared with other Central Asian states, but state institutions are weak, corruption is endemic and organised crime plays a powerful role.

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If the government itself does not comply with the law and just makes everyone else do so, society will respond with disrespect and mistrust because it doesn't understand why some people have to obey the law and others don't. It is logical that when laws are not upheld by top-ranking officials, society falls into a state of semi-chaos in which people live by criminal rather than law-based values. These are simple values, the survival of the fittest. And who holds the power? Criminals, "sportsmen" [hired thugs], and officials with underworld connections. They, rather than the state, begin to control everything, and of course they do it for their ends, not for the benefit of state or society.

The mafia, the criminal world is generally the most resource-rich and well-organised structure after the state itself. They have a hierarchy, a system for issuing commands and the power to enforce them. Power thus passes from the state to the underworld because if the state fails to tackle issues, people will seek help from criminal forces. People don't care who solves their problems, and quite naturally, criminal values prevail where the law fails.

Korruption

Enligt Freedom Houses årsrapport genomsyras kirgiziskt samhälle av korruption, flertalet konstitutionella reformer till trots. Freedom House (2016-03-11):

Corruption is pervasive in Kyrgyzstani society. Despite multiple rounds of constitutional and statutory changes, the country has long been trapped in a cycle in which predatory political elites use government resources to reward clients – including organized crime figures – and punish opponents. The nepotistic practices of former president Kurmanbek Bakiyev, whose sons and brothers held powerful positions in business and government, were a significant factor leading to his ouster amid antigovernment protests in 2010. The subsequent government charged some members of the Bakiyev regime with corruption, but the results in the largely unreformed courts have been inconclusive.

A new anticorruption office within the State Committee of National Security (GKNB) was formed in 2012. The office has primarily been used to target the administration's political enemies in the parliament and city governments.

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Kyrgyzstan was ranked 123 out of 168 countries and territories surveyed in Transparency International's 2015 Corruption Perceptions Index. An opinion survey conducted in early 2015 by the International Republican Institute found that 42 percent of Kyrgyzstanis believe that their parliament is "very corrupt," and another 37 percent consider it "somewhat corrupt."

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The judiciary is not independent and remains dominated by the executive branch. Corruption among judges is widespread. Defendants' rights, including the presumption of innocence, are not always respected, and there are credible reports of torture during arrest and interrogation.

Även US DOS bedömer att korruptionen existerar på alla nivåer och att mutor förhindrar rättssäkra brottsutredningar. US DOS (2016-04-15):

Corruption remained endemic at all levels of society. While the law provides criminal penalties for conviction of corruption by officials, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year. The payment of bribes to avoid investigation or prosecution was a major problem at all levels of law enforcement. Likewise, law enforcement officers, particularly in the southern part of the country, frequently employed arbitrary arrest, torture, and the threat of criminal prosecution as a means of extorting cash payments from citizens (see section 1.d.). (s. 20)

President Atambayev uttalade kamp mot korrupktion har enligt Bertelsmann Foundation främst använts som ett verktyg mot politiska opponenter. Bertelsmann Foundation (2016):

Shortly after his election in 2011, President Atambayev declared corruption to be a top priority and a matter of national security. In 2013, the president's fight against corruption impacted members of almost every political party — except his own SDPK. /.../ Atambayev, however, continues to insist that his anti-corruption campaign has been successful. Indeed, the last couple of years have seen an unprecedented high number of corruption charges brought against public officials, although the record has been much less remarkable with respect to conviction rates. The president has accused journalists of falsely portraying Kyrgyzstan as a corrupt country. (s. 10)

IWPR anger att kopplingar finns mellan politiker och kriminella nätverk, något som även inrikesministeriets egna undersökningar visat. IWPR (2015-07-14):

Ahead of Kyrgyzstan's parliamentary election later this year, a former top security officer has warned of the continuing links between politics and organised crime.

Kyrgyzstan is unique among Central Asian countries as it has a range of political forces competing in a fairly democratic system, rather than having elections fixed in favour of one ruling party. But revolutions in 2005 and 2010, and enduring economic problems, have resulted in a weak state. That has created the space for organised criminals to play an exceptionally powerful role, from running protection and extortion rackets to engineering election wins for their political clients.

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"Organised crime groups will [influence elections] in exchange for guaranteed freedom of movement, material benefits, and early parole for their gang-mates," he added.

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In March 2015, a policy paper adopted by Kyrgyzstan's interior ministry in March acknowledged that some officials and public servants maintained corrupt ties with criminal networks.

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Despite this damning assessment, the interior ministry official in charge of fighting organised crime, Mirlan Kanimetov, insisted the situation was under control.

"We don't believe that organised crime groups present any threat to business or society," Kanimetov told IWPR.

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Others disagree, and argue that the link between organised crime and government remains as close as ever.

Denna sammanställning av information/länkar är baserad på informationssökningar gjorda under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

Källförteckning

(alla källor hämtades 2016-09-26)

Bertelsmann Foundation, *BTI 2016; Kyrgyzstan Country Report*, 2016,
http://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Kyrgyzstan.pdf

Freedom House, *Freedom in the World 2016 - Kyrgyzstan*, 2016-03-11,
<http://www.refworld.org/docid/56e813a624.html>

Human Rights Watch (HRW), *'Call Me When He Tries to Kill You': State Response to Domestic Violence in Kyrgyzstan*, 2015-10-01,
<http://lifos.migrationsverket.se/dokument?documentSummaryId=36081>

Institute for War and Peace Reporting (IWPR), *Kyrgyz Politics Still Too Close to the Mob?*, 2015-07-14,
<http://www.refworld.org/docid/55af66574.html>

Institute for War and Peace Reporting (IWPR), *Rule of Law vs Rule by a Few in Kyrgyzstan*, 2015-09-09,
<http://www.refworld.org/docid/55f69f844.html>

International Federation for Human Rights (FIDH), *Kyrgyzstan at a Crossroads: Shrink or Widen the Scene for Human Rights Defenders*, 2016-06-01,
<http://lifos.migrationsverket.se/dokument?documentSummaryId=37545>

Kambarov, Chyngyz, *Organized Criminal Groups in Kyrgyzstan and the Role of Law Enforcement*, Central Asia Program 2015,
<http://centralasiaprogram.org/blog/2015/01/01/7353/>

US Department of State (US DOS), *Country Report on Human Rights Practices 2015 - Kyrgyz Republic*, 2016-04-15,
<http://lifos.migrationsverket.se/dokument?documentSummaryId=37175>