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This collection of policy briefs has been prepared for publication by the Social Research Center (SRC) at the American University of Central Asia (AUCA), with financial support from the Foundation Open Society Institute "OSI-Zug" and the Aga Khan Development Network. The policy briefs cover four main research areas of SRC: Islam, Migration, Civil Society and Corruption.

This collection is addressed, first of all, to the governmental decision-makers, representatives of academia, international agencies and independent research institutes, as well as to the wide range of people who are interested in the political and socio-economic aspects of development of Kyrgyzstan.

The opinions of the authors may not necessarily reflect the views of SRC, the Foundation Open Society Institute "OSI-Zug" or the Aga Khan Development Network.

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The Social Research Center (SRC) at the American University of Central Asia (AUCA) presents for your consideration a collection of policy briefs focusing on the regulation of migration processes, strengthening civil society, development of Islam and fighting corruption in Kyrgyzstan. These issues, though topical in the nation, have rarely been studied. The question of systematic discussions on these issues also remains problematic.

In order to examine existing policies on migration, civil society, corruption and Islam, the SRC, with the financial support from the Foundation Open Society Institute "OSI-Zug" and the Aga Khan Development Network, has offered an opportunity to the expert community and practitioners to research the most significant problems in these areas and suggest their recommendations for changing conditions. The works were written in the form of policy briefs.

The Foundation Open Society Institute "OSI-Zug" has supported four policy briefs in each of the research areas. Another eight works on the development of NGO sector in Kyrgyzstan were supported by the Aga Khan Development Network.

The main ideas, arguments and conclusions of the authors of those policy briefs were originally presented for public discussion during roundtables and public lectures held by SRC (September-December, 2008). This collection is designed to interest a wider range of readers.

We hope that this collection will contribute to changes in existing policies, and development of constructive discourse in each research area. The collection will also serve as useful information and analytical material for researchers and specialists who are interested in the development of modern Kyrgyzstan.

Sincerely,

Director of SRC

Aida Alymbaeva

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PART I. CIVIL SOCIETY IN KYRGYZSTAN



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Benchmarking the process of democratization in Kyrgyzstan by defining the role and functions of NGOs

In Kyrgyzstan, as in other post-Soviet countries, one of the main strategies of democratization policies promoted by the international donor community has been the establishment of a strong civil society that promotes democratic ideas among the population and controls (counteracts when necessary) the actions of government. However, the question remains to what extent this project has been achieved and whether the country has a functioning civil society that has become an integral part of its societal system.

Defining the Scope

This paper draws on the Western liberal democratic model of civil society that has been promoted in Central Asia by the external donor community as a substantive component of its democratization policies in the region, thus; the concept of civil society in Kyrgyzstan is directly associated with democracy that will be built in the country.¹ The presumptions of external actors have been based on the belief that fostering civil society will promote democracy. In particular, it has been believed that NGOs as actors in civil society will promote democratic reforms and liberalize the government by raising public awareness, monitoring national and international laws on human rights and democratic governance and fighting repression and corruption.

Today, NGOs in Kyrgyzstan have become political actors that openly voice their opinions and have been able to play an active role in country's major political events such as constitutional reform, discussing poverty reduction aid programmes (e.g. HIPC) and the abolition of the death penalty, to name only some examples. Given the ambitious attempts of the NGO sector to play a role in internal political processes and define their local model, it would not be right to regard them as having a mere "Western" agenda.

¹ Suda Masaru, *The Politics of Civil Society, Mahalla and NGOs: Uzbekistan*, pp.335-336, in Ieda Osamu, Uyama Tomohiko (Eds.), *Reconstruction and Interaction of Slavic Eurasia with its Neighbouring Worlds*, No.10, the Slavic Research Centre, 2006.

What needs to be studied is whether a local concept of civil society has been formed relating to the history, social traditions and experience of state building in the country.

Thus, the aim of this policy brief is to reflect on the “translation” of universally recognized democratic concepts into the local context of Kyrgyzstan through highlighting the main characteristics and functions of NGOs as institutions of civil society established to promote these concepts. Analysis of problematic areas is followed by recommendations that address civic activists and propose ways to change the situation. The constructive criticism offered here is especially important at this point in time when the country faces a new phase of widespread disillusion with democratic values.

Local context

In Kyrgyzstan, the commonest civil society institution is a non-profit, non-governmental organization (NGO). NGOs as a form of social organization have been adopted in the region with the technical and financial support of American and Western European public and non-profit institutions. In the local perspective, the word “NGO” is often used synonymously with civil society, with both definitions being interchangeable.

Indeed, the concept of civil society is not limited to NGOs and embraces other types of social organization, such as community-based organizations, political parties, free media, political groupings, private sector and active citizens. However, in this policy brief, the focus is on NGOs, as international donors have mainly concentrated on developing this specific type of social organization while promoting their democratization policies in the country. Thus, NGOs in Kyrgyzstan are regarded as institutions of democracy that remain the most active and visible actors in promoting democratic values.

The majority of the early NGOs that appeared in the country did not have clearly defined goals that addressed *specific* social problems, because the objective of the donors’ institutionalization policy was to set up local NGOs. Support and resource centres for NGOs also appeared that provided them with the necessary organizational tools. When the phase of institutionalization was completed by 1999², the organizations had to choose their own sphere of activities and adhere to one of the following fields under the general framework of democratic initiatives and human rights: rule of law, gender, rights and needs of vulnerable groups (children, the elderly or people with disabilities), anti-corruption activities and environmental issues.

The types of activities and services provided by NGOs to the local population included free legal advice, monitoring and evaluation, awareness raising (civic education) and specialized training to international standards in the related fields. Indeed, international donors and NGOs made great efforts and spent a lot of funding on educational and training programmes for local NGOs to provide them with knowledge about international standards and working tools that they had to use in their work at the local level.

It should be noted that many representatives of the local intellectual community have joined the NGO sector in Kyrgyzstan, including scholars, academic workers, teachers, lawyers, medical staff, etc. The NGO sector has been seen as a new driving force for introducing new social principles based on self-initiative, participation and openness.

During the political changes in March 2005, many local experts remarked that this

² Review of the History of Establishing and Developing the NGO Sector in the Kyrgyz Republic, pp.59-61, Association of Civil Society Support Centres, Soros Foundation-Kyrgyzstan, Bishkek, 2006

sector had grown strong and now had the potential to become an important player in the political process, however, NGOs were not able to consolidate and address the political and social backlash that took place after the March 2005 events. They were incapable of influencing the outcome of important political processes, such as constitutional reform and parliamentary elections in 2007, to ensure the respect of democratic principles and the legislation; so today, the democratization strategy of the international community where NGOs have been considered major and effective advocates for democratic reforms has not been achieved in Kyrgyzstan. I will attempt to explain some of the shortcomings and limitations of this strategy in the following sections.

Democracy and state building

The process of democratization in Kyrgyzstan should be regarded as a particularly challenging task considering that its models of statehood and societal framework based on the idea of citizenship were originally shaped in the Soviet period, designed to assert the policy of the Soviet Union. The critical situation in which Kyrgyzstan finds itself now is the result of the continual destruction of the infrastructural arrangements laid down by the Soviet Union in the administrative, industrial, energy, financial and social sectors. Since independence in 1991, no effective attempts have been made in Kyrgyzstan to rebuild the conceptual and managerial framework of the state, and the government has failed to fulfill administrative reforms in accordance with modern standards of good governance. The country has a low level of education and healthcare and living conditions are worsening.

In Kyrgyzstan, the public sphere is not a space based on the ideas of common good and social justice, but a place where individuals strive for power, often for short-term reasons of personal financial enrichment. As the state fails to provide even basic social and economic guarantees to the population in face of high inflation and worsening living conditions, the structural systematic connection between citizens and the state has been almost lost. The factual connection between the state administration and citizens takes place mostly in matters that involve paperwork (arranging a passport, pension, civil status, property issues, etc.).

Nowadays, the authorities do not make any attempt to develop a relevant ideological framework to maintain the civil spirit (*grajdanstvennost'*) among the population, so civic relations between the state and citizens are also being destroyed. People have lost their faith in the ability of the state to provide security and decent living conditions, as the current state policy ignores the problems of its citizens. In such circumstances, democratization is not likely to be achieved. *Democracy* is closely connected to the concept of *state* that provides a framework for achieving democratic governance and civic culture. For democracy to become institutionalized, there should be a state built on the concepts of justice and common good that fulfills its functions of security and guarantees *vis-a-vis* its citizens.

Given that democracy is an inherent part of the moral principles shared in the community, democratic concepts can function only if the values and ideas they set up have become a part of the system of local social values. Democracy is associated with a developed political society of citizens that associate freely and interact and contest with the state to ensure the common good and individual rights. The population of Kyrgyzstan lacks experience in democratic relations. There are several reasons for this. First, the people of Kyrgyzstan used to live under a different state system with entirely different social relations. This experience was not based on self-initiative and public

policy, but on the politics of loyalty and obedience to the Soviet regime. Second, local authorities have been quite reluctant to construct a system of social values to develop the idea of citizenship among the population that would correspond to the new period of “democratic” independence.

In the light of populist promises of democratic governance that have never come into practice, and the deteriorating social and economic situation in the country, “democracy” has acquired a quite negative connotation among the population. Therefore, both for NGOs and donors, it is becoming more and more challenging to work with a democratic agenda. In general, the government brings up the discourse on democracy occasionally when it comes to international cooperation, or when some important political decisions are to be made, which leads to further devaluation of the concept.³

Without local changes in values and social experience towards the ideas of a democratic society and administration, the focus of external actors on building a civil society that will change people’s state of mind and bring reforms to the system of governance, cannot be considered a realistic project. Democratization is a continuous process that should be based on locally shaped public discourse and locally driven reforms in governance and the societal system – a type of structural development that cannot be achieved solely with external stimulation and strategies relying on international standards of democratic achievement.

Methods for promoting democracy: the problem of “translation”

Concepts of constitutional democracy and human rights are recognized as universally binding. They are codified in international conventions adopted under the auspices of international organizations, such as the United Nations or the Council of Europe. The international mechanism for their introduction into the national state system implies their ratification and subsequent incorporation into the national legal system. Accordingly, democratization policies of the international donor community have been oriented towards incorporating democratic principles in the legal framework of the state by means of legal and judicial reforms and supporting the development of the NGO sector that will monitor the actions of the government and make it respect its international and national commitments with regard to human rights and democratic governance.

In Kyrgyzstan, as in many other countries in transition, this approach has resulted in the creation of imitative forms of democracy⁴, when all the necessary legal norms are in place, but these norms do not constitute a functioning framework that regulates public and social relations within the state. It is clear that no genuine legal reforms can take place in the absence of political and social reforms, when both the judicial and political

³ Immediately after the March 2005 events, the individuals in power extensively used democratic rhetoric to justify their position vis-a-vis the former regime, but once their position in power was legitimized, the discourse on democratization vanished from their agenda. Constitutional reform has been impeded by the struggle between the president and the parliament, the authorities have restricted the right of citizens to peaceful demonstrations and civic activists who demonstrated against the results of the parliamentary elections in December 2007 and anti-constitutional actions of the new regime have been persecuted. See <http://hrw.org/englishwr2k8/docs/2008/01/31/kyrgyz17745.htm>, 15 June 2008

⁴ See Dmitry Furman, “Challenge 2008: Common and Specific Trends in Transition Processes of the Post-Soviet States” (Problema 2008: obšee i osobnoe v processah perehoda postsovetskih gosudarstv): <http://www.polit.ru/-lectures/2007/10/19/furman.html>, accessed 29 April 2008.

systems have been largely discredited by double standards and disrespect for the legal framework. NGOs cannot hold the authorities accountable, as they do not have local public workable mechanisms of checks and balances that would allow them to do so.

Another role assigned to NGOs was to promote knowledge of international human rights standards and democratic culture among the population. They have implemented numerous awareness-raising projects that consisted of training for different social and professional groups (young people, lawyers, teachers, public officials) based on the content of international human rights conventions. In their work, NGOs have relied almost exclusively on international experience and political and legal discourse, based on the specific language of human rights conventions. When there is no sound national agenda on democratization, this discourse is difficult to understand for local recipients due to the lack of experience in their own social environment and a lack of a liberal political culture.

Promoting international standards and their monitoring is, indeed, an important objective of civil society. The problem lies in the fact that the donor community formed local NGOs that take this legalistic approach in promoting human rights and democracy, without considering local political and social experience and the state of mind of the local population. One cannot expect that newly created organizations that are not derived from local social traditions will be able to liberalize the whole community, including public authorities. This is especially true when the authorities do not take practical initiatives to democratize the state and society. Developing a comprehensive framework in which the rights of individuals to the common good and justice are protected is the primary responsibility of the state, and cannot be achieved exclusively through external stimulation.

Civil Society Institutions

The model of liberal civil society adopted in Kyrgyzstan consists mainly of formally registered NGOs with paid staff; voluntary organizations, as a core component of civil society, have not been developed yet.

So far, no effective attempts have been taken to “localize” the concept of civil society in the traditional social network by establishing and rediscovering forms of social interaction in the local community, which would help people organize themselves, address their daily problems and take responsibility for their own lives. There are also no professional organizations that defend the working rights of professional groups such as underpaid public workers (i.e. teachers, medical staff or public transportation employees) and there are no socially-oriented organizations providing community services such as facilities for leisure time for children and no informal organizations such as reading and discussion clubs that help various groups of people socialize. Several political clubs and forums have been developed with the help of donors such as, for instance, the Women’s Political Discussion Club. However, all their discussions are based around political topics that target mostly a limited number of groups, such as the professional community of NGOs, consultants and public officials.

NGOs lack accountability and representation of the population at which their activities are aimed.⁵ When it comes to the perception of NGOs, local people often seem to assume that NGO workers have well-paid jobs in well-equipped offices, with many of

⁵ Portrait of NGOs in Kyrgyzstan: Opinions and Reality, pp.9-10, Soros Foundation-Kyrgyzstan, Bishkek, 2006.

them set up with the sole aim of acquiring grants. This attitude can be partially explained by the fact that NGOs are all exclusively professional entities that operate with external funding and have to orient their activities toward the priorities of donors.

The donors' aid programmes are based on their own pre-formulated presumptions, which often lack understanding of the local reality. For instance, many donors supported the government in adopting a large number of administrative and legislative acts that incorporated Western democratic experience, yet many laws and strategies did not work because the government lacked the relevant experience, managers and sometimes motivation to develop mechanisms for their implementation. For example, the laws on self-governance were supposed to create a basis for decentralization, but resulted in weak implementation. This also concerns the strategy on good governance that the government adopted in 2003 with the help of international experts and has never been implemented. The confidence of donors in the idea that NGOs can be the main actors in promoting democracy and free market relations is yet another illusion that has not produced feasible results. Donors have not paid attention to the fact that democratization requires socially driven reforms, the successful implementation of which depends on reforms in governance and the effectiveness of government in stimulating such reforms.⁶

Genuine localization of NGOs has not started yet. There are local forms of social organization (e.g. jaamats, councils of the elders - aksakals), but they have been not been effectively involved in the democratization activities run by NGOs. As the development of civil society in Kyrgyzstan was initiated by international actors with the focus on the creation of NGOs and democratization activities, it is quite difficult to link other traditional forms of social organization in Kyrgyzstan to the concept of a liberal democratic civil society. Nevertheless, the question as to how local social structures can be included in the process of democratization remains open. Islamic organizations, for example, have proved that it is possible to effectively promote their ideas by cooperating with traditional social institutions, speaking the language of values familiar to the local community and addressing people's needs. Indeed, if NGOs cooperate with local forms of social organization to promote democratic ideas among the local population, they will have to work on democratizing these institutions themselves.

Defining a common approach towards other sectors

Defining the position and role of civil society in the current political and social context has been a top issue for many NGOs in Kyrgyzstan. Such events as the National Forums of NGOs held in 2005 and 2007 represent practical attempts by local NGOs to discuss their agendas in the new political circumstances and define the position of the NGO sector *vis-a-vis* donors, the state and business, with the main focus on the relationship with public authorities.

The content of the forum discussions was often driven by attempts to find common positions that all NGOs should adhere to. Some human rights NGOs argued with their colleagues from the sector that NGOs should not cooperate with public authorities in order to preserve their independence and impartiality. The contesting watchdog approach of human rights NGOs is, indeed, valid when the goal of an NGO is to monitor and counterbalance the state in order to make it accountable for its actions. However,

⁶ See Kyrgyzstan: The Path Forward, by Talaipek Koichumanov, Joomart Otorbaev, S.Frederic Starr, Silk Road Paper November 2005, Central Asia-Caucasus Institute, Silk Road Studies Programme

this policy approach is not always applicable, for instance, for the service-delivery NGOs that work with the social needs of various target groups in the community, where coordination of efforts with the state helps optimize social assistance and ensure better outreach, so these NGOs try to advocate a constructive relationship with government agencies.

So far, the discussions initiated by the NGO community aimed at defining the relationship between the NGO sector and government authorities have not led to a forged vision of NGOs as actors that have various roles and, therefore, various types of relationship with the state. However, the fact that these discussions take place highlights attempts by NGOs to develop such an understanding. One of the recent developments is that the Law on Public Benefit (Socialnyi Zakaz) has been adopted by the Jogorku Kenesh⁷, setting up the framework for cooperation between state and civil society organizations in the social sphere this demonstrates the readiness of the authorities to build an inter-sectoral partnership with NGOs that specialize in social services. However, time will tell whether this law remains a mere document without practical implications, or if there will be examples of sustainable schemes of cooperation in place. Up to now, no effective forms of cooperation between the state and NGOs have been established besides common participation in round tables and conferences aimed at discussing draft laws or legal reforms, often organized with the support of international organizations. Numerous attempts by donors to promote the idea of social partnership to complement the watchdog approach of NGOs in relations with the state have not yielded any feasible results.

It is unlikely that a comprehensive concept of a civil society with its various roles and functions will emerge in the current situation when the authorities are extensively abusing their power and lack a constructive policy agenda *vis-a-vis* the people. In such circumstances, defining functions and areas of responsibility for civil society is an unfortunate undertaking, given the general reluctance of individuals in power to treat the state and its citizens as interrelated components that constitute one societal framework.

Conclusion

With the help of the international community, NGOs in Kyrgyzstan have managed to develop and nurture quite a critical public sphere, with citizens able to express their opinions and disagreements with state policies when they become unjust. Nevertheless, the current context shows that NGOs have so far been unable to defend the rights of citizens and liberalize society, and the state system. Democratization is a long-term and complex process that requires serious transformational changes in society and cannot be achieved solely through policies that have been shaped externally. Moreover, substantive political and societal reforms of this kind require the commitment of both the state and citizens to adhere to them. Therefore, it is quite unlikely that a relatively new actor for the local environment, such as civil society organizations like NGOs, will be capable of liberalizing the state in the situation when its societal framework has become fragile, and no agreement on the new state model that will correspond to democratic aspirations

⁷ V Kyrgyzstane prinyat zakonoproekt "O gosudarstvennom socialnom zakaze, 05-06-08, Nargiza Yuldasheva, Bishkek - IA "24.kg", <http://www.24.kg/parliament/2008/06/05/86689.html>, accessed 12 June 2008. According to the principle of public benefit (socialnyi zakaz), state authorities allocate public money to local non-governmental organizations through open competitions to carry out projects aimed at implementing state social policy.

has been made. As democratization implies, first of all, democratization of society that should be driven by local actors and institutions to promote and integrate democratic principles in the social traditions of the local community.

Policy recommendations for NGOs

- It is high time for NGOs to assess their projects in the field of democracy. Critical self-reflection will help understand why the implemented projects have not achieved their goals and identify potential scenarios for new activities.

- In order to localize, NGOs should become integrated in the local social system and actively engage in local social networks to spread a democratic culture by integrating it into traditional institutes. This will require working with local values and social norms that should always be based on the "language" of the people.

- The development of a political society is possible only when citizens are able to associate for non-political reasons in order to achieve common benefits. NGOs should find non-political approaches to promote forms of daily democracy that will help people associate to solve their problems in life.

- The types of civic associations and their functions should be diversified. There could be attempts to develop a culture of professional unions that defend the working rights of public workers and employees of private companies. Voluntary unions that provide community services can also be adopted. Organizations aimed at young peoples' needs and their civic education are also badly needed in order to create human resources for the upcoming generation of civic activists.

- NGOs should diversify their approaches to promoting democracy and complement their agenda, which so far is mainly aimed at specialized political and legal issues, by including more general approaches, such as promoting civic culture among the population, especially young people – i.e. knowledge of society, citizenship and how the state functions. This knowledge is vanishing due to the lack of a civic component in the educational system and political agenda.

- Critical assessment of the results of democratization policies is becoming a substantial part of the current discourse and research by scholars and practitioners worldwide. NGO representatives in Kyrgyzstan can contribute to this discourse, since they are the recipients and promoters of international standards of democratic society themselves.

- NGOs can learn a lot from critical interaction with civil society organizations in other countries on the various functions they fulfill in their communities and types of cooperation they have developed with the population, political parties, public institutions and businesses.



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Social Capital or Whether NGOs Are the Place for Collective Action?

Summary

The NGO sector in Kyrgyzstan has grown significantly in numbers, reaching more than eight thousand organizations in 2006. The rise in numbers has come with better quality through more focused work and better and more capacities acquired; however the social side of NGOs is experiencing problems because of the inadequate quality of relationships between them and others. NGOs' social capital has not yet developed sufficiently for them to become a place for collective action, which is viewed in this work as a main function of civil society.

The issue at stake

As one of the most modern sectors of civil society, NGOs in Kyrgyzstan have developed in a number of ways to serve society's needs but the NGO sector lacks sufficient social capital to enabling it to be an effective place for collective action. To be a collective action institution assumes empowering and enabling its members and partners to engage easily with each other for a common purpose. Currently NGOs in Kyrgyzstan are experiencing problems with common purposes, but most importantly they have difficulty coming together in a more innovative way – building more and newer internal and external links. Most NGOs tend to meet, talk and work almost all the time with the same people. Parochial networks tend to serve the self-comfort of their members rather than serving the needs of society. This is not a call to abandon “old friends”, but rather a suggestion to build new relations, which would be the basis for new ways to confront old problems.

Background

Numbers and links

Kyrgyzstan, with its population of more than 5 million people, has more than 14 thousand civil society organizations which reflects the significant level of initiative of its citizens, probability of support (largely from donors) and quite lax government regulations to register a non-profit organization. Of this number, more than 8,000 are non-governmental organizations, which (excluding trade unions, political parties, etc.) are a relatively new phenomenon for independent Kyrgyzstan. Many people, mostly women, during the last few years have decided to embark on new ways of working – beyond a too familiar state, yet not in an unfamiliar market.

For a country where the main active population (aged between 15 and 65) constitute around 60 percent of society, this comes to one NGO per 400 people or one civil society organization (by broader definition) per 230 people. That ratio would be even smaller taking into account increasing external migration and, thus, decreasing population. It's possible to imagine with such estimates that NGOs can reach out quite easily to other members of Kyrgyz society with less than 6 degrees of separation¹, but the number of organizations actually working constitute only a fraction of those registered.

However, besides sheer numbers, the most important dimension of Kyrgyzstan's NGO sector is the quality of its internal relationships. An effective sector could function properly even in smaller numbers, if relationships between organizations within and outside the sector were better and more intense. It could function better if we view it the same way as the human brain when it's measured not by the number of cells, but by the synapses among them (a billion cells can potentially produce a number of connections measured by more than eight hundred digit figure).

And this is only about links between NGOs themselves, not mentioning the way they connect with other non-profit, private or state partners, and most importantly with citizenship (e.g. volunteers). That side of the story is more important than internal relations in the sector. NGOs serve the needs of larger society in various ways of direct interactions with that society. The strength of these links is, eventually, the power of the NGO sector – whether NGOs are affecting policies in relation to central and local governments or by building advocacy coalitions engaging a large numbers of citizens.

NGOs in Kyrgyzstan had, by the late 1990s, started to form coalitions and networks focused on common issues: election monitoring, children's welfare or environmental issues. Some of them were long-term which, led to the creation of formal associations such as the Coalition for Democracy and Civil Society and some were short-term, aimed at campaigning on certain legislative changes, like a group of NGOs which worked in 2007 on the Election Code reform.

State and counter-movements

Assertive statehood promoted by the current country leaders, a vision of statehood where the role of civil society is bleak, at the moment puts the NGO sector in a vulnerable position. At worst the government is intentionally indifferent to NGOs and, at best, it does not have a coherent vision on the sector. On the one hand there is a laudable recent law on social order introduced by the government and adopted by parliament and yet, at the same time, there is the current draft tax code, which puts NGOs almost on a par with commercial enterprises. The government should be one of the most interested players (even if this government evidently does not support liberal views) in developing the social capital of NGOs from pragmatic, not to mention value-oriented, perspectives alone, to have, for instance, the means to mobilize human resources for government programmes.

Liberal values, subscribed to in the 1990s by many rhetorically and in considerable numbers genuinely, are now experiencing problems not only from the state, but from society at large where traditional and religious sentiments are on the rise. Islamic, patriarchic, conservative societies are gaining and regaining their positions and for many liberally oriented NGOs this presents a challenge, which requires new ways of confronting them and requires innovative ways of working with their constituencies.

¹ There were calculations that each person on the planet is separated from anyone else on the earth through no more than 6 consecutive links of relationship.

Current state of affairs in the sector

Among the numerous ways of describing what is happening in the NGO sector we are interested in seeing how they are nurturing their links. NGOs relatively recently started to massively self-reflect on themselves as a sector by holding NGO forums in April 2005 and summer 2007. The latter especially has focused on issues of internal cooperation. In a survey conducted in 2006 of NGOs, only 46.9 percent answered “yes” to the question “whether NGOs are cooperating enough with each other”.

Organizations

Quite a number of organizations are still one-person endeavours and they remain vulnerable to changes in leadership, which often leads to NGOs ceasing to exist. Whatever is accumulated by one person – knowledge, skills, and, most importantly, links – disappears. The above-mentioned survey has identified only five hundred out of eight thousand NGOs as systematically working and we can imagine that the rest did not manage to sustain relations beyond one or a handful of founders who did not think much of their own organization. We can assume that if there are people around you who remind you of the existence of your organization and the reason why it was set up, the greater the chances for this organization to exist longer. Besides, individually run organizations, even those working successfully, tend to produce ambitious leaders, which is an obstacle to cooperation between NGOs, according to the survey (46 percent of respondents).

Another issue is project based activities which dominate the life of NGOs, a life which becomes full of strictly prescribed roles and functions, which enable project efficiency but disable the smooth and wide engagement of others who are not named in the initial proposals, so many NGOs are running projects rather than appealing to the hearts of people to come together to undertake social change.

Organizations and their constituencies

Project based activities have led to NGOs having centralized links with their constituencies and most either provide services to those whom they see as recipients, or advocate something aimed at their constituency as enlisted supporters for their cause. Activities of other types of projects, which enlarge dynamic membership are rare, and were not viewed until recently as very important.

According to the same survey, 62 percent of NGOs engage volunteers in their work, but only 10 percent of these volunteers are professional specialists and the rest are students, beneficiaries, housewives, etc. Whether this is an issue for citizens of the country who, because of social, economic and other reasons are not volunteering, or the inability of NGOs to attract wider and professional membership, is seemingly one of the major problems.

Organizations and other organizations

Whenever the issue of more formal coordination among NGOs emerges, it's difficult to avoid “anti-hierarchical” sentiments by organizations, which fear that “the elite” can dominate the sector. The low level of trust between NGOs is one the major signs of the state of affairs of social capital in the NGO sector. According to the same survey, 75 percent of NGOs know about the activities of organizations working on similar issues at local level and 44 percent know about NGOs working nationally. Hubs of links

seemingly happen to form regionally or are concentrated in the country's capital city, yet, there are attempts to work together and only 9 percent of NGOs reported not having joint activities (though the survey focused on 2005 – an unusually dynamic year in terms of collective actions because of the March 2005 post-revolutionary movements).

Since the late 1990s coalitions and networks have formed as a way for NGOs to work together. Being part of a network or association is becoming fashionable and productive (only 9 percent reported that participation in associations/coalitions was of no use, while the rest stated that it helped to get to know each other, to spread information and increase outreach and to organize joint events). Going beyond collecting names on an association's list and moving towards regular members' participation in real social activities is still an issue for many associations and coalitions, although at the moment even tertiary and symbolic connectedness is important, though not sufficient.

Theoretically, more than five hundred currently active organizations could have come up with numerous ways of being connected and forming more diverse associations. There are new areas of public interest, which become the juncture for new connections, such as gold mining, which has brought together environmental and human rights organizations. However, there are areas, like public television reform, which were high on the rhetorical agenda, but have not translated into collective action, apart from a handful organizations specifically specializing in the issue. Links between the emerging experts/think tanks community and the NGO sector is only now being forged and is happening at too slow a pace for current civil society's policy activities.

Civil society as an associational society?

NGOs in Kyrgyzstan quite often serve as a place for individual actions of individuals working there and who come together with a relatively small number of other individuals in other organizations. There are of course examples when NGO leaders come together quickly to sign petitions or put together advocacy campaigns on election monitoring. The most notable example was in 2002 when women's NGOs gathered more than 30 thousand signatures to introduce a popular legislative initiative regarding domestic violence. Few examples highlight the general trend of non-sustained associational membership. It would be great from the social capital perspective if even a small number of those who signed the anti-domestic violence legislative initiative remained active and regularly engaged members for women's causes.

In times of crisis, a country produces social movements as a way for citizens to express their support for or the undesirability of social change in a sustained and long-term manner. Occasional blasts of dissent and protests have been part of NGOs' history, though in rare cases they can be called movements. The low level of trust between organizations, and them and their constituencies, is another factor hindering the development of wider collective actions.

Sector and wider society

Members of NGOs are members of society and quite often their personal stories of unhappiness with social reality led them into public activities. However, attachment to the cultural settings of either their previous background or their current environment has an impact on their activities as members of civil society. Divides are created by language, city/rural sub-cultures, generational differences and many other factors, and

not all of them can be overcome easily and they serve as an identity mask enabling or disabling cooperation.

Promising new spaces?

There are some hopeful signs for social capital in the realm of civil society and it is not only the realization by many activists that there is a need for better cooperation and coordination within the NGO sector as proclaimed in forums. For example, online *Diesel* forums brought together various people unknown to each other and then we saw these people marching together as a group in the reformist rallies of 2006. Another example was two years ago, when women's organizations organized a conference with NGOs working on the rights of sexual minorities to discuss a common agenda and there have been further promising attempts to strengthen these links. When some NGOs seriously started to address the issues of state budget transparency, there were surprising discoveries of new partners among mass media and finance professionals. Another demonstrative example is that people living with HIV see each other as clients of NGOs then start to form their own groups, which at some point become new organizations promoting the rights of their members. There are possibly numerous other emerging, uncounted attempts to link up within and outside the sector, which are not yet effective because the moment isn't ripe for NGOs to take social capital seriously.

What could be done?

by NGOs

- Continue to systematically organize nationwide self-reflective forums through regenerating organizing groups (or committees);
- Use frequent rotation of leadership of existing and potentially new associations/coalitions/networks to avoid a perception of internal hierarchy;
- When joint projects are arranged, equal access to resources for urban and rural NGOs should be ensured in order to avoid internal hierarchies;
- Use *ad hoc* groups more actively to react (or better still, to act proactively) to rapidly changing political and legislative processes;
- More actively engage professionals as volunteers of NGOs/associations as a way of regenerating membership of NGOs;
- Use the internet more effectively (wherever possible) through wider (national) mailing lists and put more emphasis on providing access to partners in rural areas to provide milieu for intersectional agenda building with more equal access for everyone.

by Government

- Develop a coherent vision of the NGO sector as part of Kyrgyzstan's society, otherwise the government sends ambivalent signals;
- Promote volunteerism for the sake of NGOs' development, but also to form a sense of citizenship through, e.g., introducing training for volunteers in university education, as students currently constitute the majority of volunteers;
- Support changes in the tax code that propose increasing to 10 percent nontaxable charitable giving by organizations and individuals with the aim of increasing links between NGOs and indigenous donors;
- Set up partnerships with NGOs whenever social mobilization is being planned, as civil society does this more genuinely and effectively than local authorities;

- Support the development of self-help groups through tax rebates and central and local governments' in-kind and financial contributions, not only as a way of resolving social problems, but also aiming at generating trust at local level.

by Donors

- Promote cross-sectional projects where professionalized NGOs are encouraged to develop synergetic relations with NGOs from other fields, e.g. through broader advocacy campaigns;
- Invest in NGOs and their associations, not only in projects as a way of instilling human capital into an attractive environment, which, in turn, will develop social capital;
- While supporting civil society, use more indicators related to increased and sustained membership when it comes to advocacy and other collective action activities.

Challenges Remain

The tension between liberal and conservative movements will significantly mark the development of civil society in Kyrgyzstan for the foreseeable future. The conservative movement usually has a wider social basis, and thus the possibility to increase social capital and this puts their opponents in a vulnerable position. If liberal organizations do not catch up, civil society's composition of social capital would be skewed. The current government's attempts to restrain mass protests, coupled with a lack of ability to channel public aggravation through engaging in policy processes, will provide a certain negative backdrop for NGOs' collective actions. There is still the issue of a dominating paternalistic culture, which affects NGOs in such a way that, in many cases, dependency on the state is replaced by foreign donor dependency and that inhibits their initiative beyond participating in calls for proposals. To attract other resources would require (besides, of course, an improved economic situation) NGOs' ability to broaden their social capital. The worsening economic situation is a challenge in itself, diverting human capital to better paid sectors, but this would also probably negatively affect volunteering and other types of social capital of civil society activities.

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Reflection as a Necessary Stage in the Development of Civil Society

Despite enormous support from the outside, Kyrgyzstan's society has not experienced a system-wide consolidation of democratic norms; neither has its system of state and social structure undergone a practical localization¹ of the model of a liberal-democratic civil society, which is being actively promoted in the country by the international community. The purpose of this article is to identify the characteristic traits of civil society in Kyrgyzstan, and to raise the subject of reflexivity², which can be used to make sense of the factors that prevent consolidation of democratic values and the integration of civil society into the local model of social interactions. This article also presents a concept of civil society that should interest all socially-conscious individuals, including members of non-governmental organizations and those who are simply considering their civic involvement.

The Specifics of Civil Society as a Concept in Kyrgyzstan

Civil society is a social construct³, which contemporary social sciences commonly examine in the context of the democratic state. The concept of the latter specifies that the key condition for the existence and development of civil society within a state is the formation and the presence of a liberal, democratic environment. From the moment of its independence, Kyrgyzstan, like other post-Soviet countries, saw the international community represented by various donor organizations aggressively promote the concept of civil society as the prerequisite for a democratic state and society. This approach focused on establishing non-governmental organizations that would implement democratization projects with the support of international organizations.

In Kyrgyzstan, where non-governmental organizations were well-represented and prioritized in the policies of international organizations, the term NGO became

¹ In this article, by *localization* we mean the transfer and adaptation of specific social institutions from one society, where they exist in an advanced form, to another society and the development of various forms of cooperation between these new institutions and the institutions that are typical of the local social structure.

² The term *reflexivity* pertains to any reflection or thought directed at oneself (self-examination), at one's condition, actions, and past events.

³ A *social construct* is a product of a specific culture or society that exists solely because people agree to act as if it exists or to follow certain conventional rules. Among some of the more obvious social constructs are language, education, money, government, and other institutions.

synonymous with civil society. These two concepts, one of which is merely a part of the other, are used interchangeably in the local context. This phenomenon can be explained by the fact that civil society is largely a non-governmental sector, and NGOs, widely represented as they are, began to be associated with civil society as a whole. Another explanation for the dominance of NGOs over other forms of civic associations is their access to the financial resources offered by the donor community to support their operations. Since Kyrgyzstan still lacks functional mechanisms for cooperation between NGOs and other sectors—government bodies, political parties, and businesses, which could fund NGO operations—international organizations remain the key partner of non-governmental organizations. For this reason NGOs' priorities and areas of focus are often contingent on international donor policies.

In view of the significant role played by NGOs in Kyrgyzstan, this article will focus on (1) identifying the distinctive features of local NGOs and examining their operations, and (2) the broader concept of civil society, which have yet to be put into practice.

The NGO Sector in Kyrgyzstan

Non-governmental⁴ organizations that operate in the Kyrgyz Republic include human rights organizations, women's organizations, organizations working for children's rights and the rights of the elderly, environmental organizations, support and development centers, and professional associations (e.g. Kyrgyzstan's Bar Association or business associations). Recently, they began to include consulting and analytical centers, along with political clubs. "Non-governmental organization" is a collective term; in reality, these organizations are often registered as civic associations, societies, or foundations. Nonetheless, the term NGO is most often used to refer to civic associations.

The types of NGO listed above all share the fact that they are legally registered as organizations. Many are involved in advancing democratic reforms and a democratic culture in the country through close cooperation with international organizations. The latter have played, and continue to play, a crucial role by extending funding to local NGOs and by offering training in work methods and institutional development through various workshops and exchanges. If we examine local NGOs' areas of expertise and objectives, we can trace how closely their emergence is related to the policies of international organizations and their priorities within the country. Subjects and concepts such as human rights, gender issues, and lobbying were introduced to Kyrgyzstan's society through various international organizations working in the region.

Examining the methods used by non-governmental organizations to address democratic reforms shows that these NGOs often serve as organizations with a narrow focus, offering training/educational or research (monitoring) services and relying on international standards in their operations. However, experience shows that specialization in international human rights principles and democracy did not automatically result in the integration of democratic norms with the values of local society; neither has it been able to win adequate popular support. However universal these norms may be, Kyrgyzstan's society is not yet ready to see such standards as part of its own values or a reference point for its development.

⁴ The term "non-governmental" is often supplemented by "non-profit" to emphasize the distinction between NGOs and for-profit organizations that seek to make profit from their activities.

This suggests that the meaning of civil society as a concept, and the types of work associated with it, depend on the context, or, more specifically, on the form of government and relevant social practices.

The “Failure” of Democratic Projects

Current circumstances show that, unfortunately, not only did the country fail to practically implement democratic reforms, but also that it lacks a vision of a governmental and social structure that would ensure social development, let alone consolidate the principles of democratic governance and culture.

The condition of Kyrgyzstan’s society and social processes is critical. Some of its obvious features include social disintegration, and an absence of social responsibility or public trust. This hinders social cohesion and individual aspirations. The public is increasingly resentful of the government, which is unable to guarantee social (or economic) stability and services, which results in a general public distrust. When trust is lacking in a society, it becomes immensely difficult to develop or reform any institutions – a problem faced by today’s NGOs. Moreover, the country is not experiencing any economic development, which usually encourages advocacy practices and, thus, contributes to the growth of public initiatives.

In this context, especially after the events of 2005, when a change of power was followed by a new governance crisis, issues pertaining to the identity of NGOs and the role of civil society in the country were raised with renewed urgency. These issues are relevant for both NGO members and for researchers. Problems that are frequently discussed are usually related in one way or another to the role of non-governmental organizations and the opportunities available to them. Through these, NGOs can influence the political process to protect citizens’ rights and guarantees, and to intensify democratic processes in the country.

Since the initial goal of NGOs was to promote democratic reforms, it is important to examine the successes and failures of the projects in this area. There is little demand, as yet, for this sort of reflexivity, although the outcomes of projects are not always comparable to the quantity of resources invested into their implementation.

NGOs’ Role in Democratization: An Attempt at Reflexivity

Since NGOs are democratic institutions, and in Kyrgyzstan these organizations are directly associated with the advancement of democracy, NGOs are often accused of a perceived inability to fulfill their responsibility of democratizing the country. To what extent, however, are these accusations justified?

In reality, the development and modernization of institutions dealing with social change require the informed participation of various sectors: government institutions, civil society organizations, businesses, and individuals. For reforms to occur, stakeholders must trust each other, and the success of these reforms is directly contingent on the degree of this trust.

For this reason it appears unrealistic for one sector– especially if it is one that is relatively new to the local context–to assume responsibility for restructuring the entire fabric of society. If NGOs are being charged with the failure of the democratic project, this only serves to demonstrate that the social structure, and the interdependence of sectors in its development, are largely misunderstood. The idea of unilateral responsibility may also be related to a misperception of the very concept of civil society and its functions–

and to the fact that it is popularly associated solely with non-governmental organizations (dealing only with democracy-related issues).

The absence in Kyrgyzstan of both a clear-cut development vector and a model of a government/social structure makes it impossible for non-governmental organizations to identify vectors for their own development. When civic involvement and civic education⁵ are not a national policy priority, this could have a very detrimental effect on the country's future, since public life and civic involvement are a fundamental condition for the emergence of civic consciousness in the country, and for the continued existence of the state as such.

In Kyrgyzstan, government institutions tend to overlook issues related to social norms. Society's values are now shaped primarily by religious organizations. Those organizations that seek to advance the ideas of Islam work closely with local communities: by helping them solve specific problems (e.g. improving village infrastructure, supporting low-income families) they enlist popular support. These organizations emphasize public morals, family and social relations, and people's spiritual orientations, and in this way help individuals see themselves as part of society with common ideas and values.

Experience shows that it is extremely difficult for NGOs, which represent civic (secular) culture, to collaborate with religious organizations, since their core ideas are vastly different. NGOs lack, therefore, strategic partners in promoting democratic values in society, other than international organizations. And yet, the involvement of donors in the country has decreased considerably in the past few years, intensifying competition for resources and stalling the growth of NGOs in terms of both quantity and of quality.

The question of the role and activities associated, with religious organizations remains unclear. Their role should not be underestimated, since they too are civil society organizations that seek to advance certain values, the only difference being that the values they advance are different from those promoted by NGOs as liberal, democratic bodies. Here we should turn to the concept of civil society, which encompasses a wide variety of institutions that operate in the public space and advance diverse goals and interests.

What Is Civil Society?

While NGOs are an integral, crucial part of civil society, the definition of civil society and its goals is not restricted to non-governmental organizations, or to direct links with democratization. The concept of civil society is significantly more complex than that, and its definitions are still being elaborated by social scientists in many countries.

In general, civil society refers to a range of voluntary, collective actions based on common interests and purposes. It includes a variety of institutional forms and actors, which differ from each other in the extent that they are formalized, their independence and strength. Charitable associations, development NGOs, professional associations, trade unions, community groups, self-help groups, social movements, religious organizations, and business associations... these are the organizations that comprise civil society. In theory, the concept of civil society is considered as separate from that of state, family, or market, although in practice the boundaries between these sectors are not always clearly drawn⁶.

⁵ By *civic education* we mean knowledge about what it means to be a citizen and ways in which citizens fit into the system of social values and into the state as a whole.

⁶ The definition of civil society is borrowed from the website of the Centre for Civil Society, London School of Economics. See: www.lse.ac.uk/collections/CCS/what_is_civil_society.htm

Unfortunately, alongside the emergence of formally-registered organizations (associations and network organizations), Kyrgyzstan has not yet developed a culture of non-formal movements or clubs, another important segment of civil society. One example of informal associations is the Liberal Youth Alliance, which started two major electronic mailing lists used as a source of information exchange and debate for multiple stakeholders. Another example of informal groups are self-help groups: informal networks of individuals working together to address infrastructural and other important issues of local significance. However, international organizations demonstrate a markedly lower interest in the activities of these groups compared to NGOs. International organizations' mandates often compel them to work with registered legal entities, explaining why they focus on supporting NGOs and why these types of associations became so popular.

Another often-overlooked area is trade unions, which are important advocates for the labor rights of various professional groups. This situation is all the more striking if we consider that the situation among the employees of state-financed organizations, such as medical workers and teachers, remains deplorable.

This is not to suggest that Kyrgyzstan must incorporate the specific types of civil society institutions listed above. However, an overall balance between informal and formal processes is essential for the successful development of civil society. Informal processes based on collective beliefs in particular political and social ideas tend to spur powerful social movements. In Kyrgyzstan, civil society emerged through the establishment of formal organizations that promoted values, which were not a product of local civic mobilization. So far, informal processes have not been given appropriate emphasis with the exclusion of public protests, which became popular during the coup of 2005 and for some time thereafter, but then lost their popularity since they were not particularly effective.

Civil Society: Who and What For?

New conditions encouraged civic activists to think about the future of their work in the country. It is becoming increasingly obvious that a professional focus on promoting democracy through specialized approaches is not sufficient. Work undertaken in this area must be reviewed and supplemented by other approaches. A greater diversity of public associations is also necessary, since professional, registered organizations are unable to perform all possible functions, or to replace informal associations based on the mobilization of small groups that want to address specific objectives for a specific target group.

This diversity informs the need for reflexivity among members of civil society sector (activists, NGO staff, and experts), and this, among other things, will enable them to find new work approaches that meet the challenges of the current situation. NGO forums held in 2005 and 2007 have demonstrated some attempts at self-examination by non-governmental organizations. However, this kind of reflexivity must focus on the state of the social system as a whole, not merely on what the future holds for specific types of civil society organizations. This should be a priority both for civic activists in a broader sense and for political parties and government institutions. Does Kyrgyzstan need a civil society? What kind of a civil society should it be, and who needs it? These are key questions.

Another question altogether is how institutions that promote diverse ideas and values can coexist within the same social context. A pluralism of ideas is possible only

in a politically-advanced society whose members are capable of making choices along contrasting ideological lines while being able to negotiate and to form a shared, value-based framework that can guide the development of the country and its society. This model of social organization requires far-reaching reforms that must be implemented by both civic activists and by the government. Unfortunately, in the absence of a shared framework, it is highly likely that all attempts to address social development and civic involvement would be negated by the lack of common reference points, and would not result in the desired social change.

In view of the task's complexity and magnitude, the following sets of recommendations are offered for consideration by institutions of civil society and government. These recommendations can be used as potential guidelines or as aspects of a situational analysis.

For NGOs:

- View the NGO sector as a group of entities that may have different positions and goals, and diverse ways of cooperating with government bodies. Experience shows that forms of cooperation depend on the goals set by an organization, while approaches do not necessarily have to be the same.
- Systematically review how the selected work methods correspond to social norms, and how they help promote these norms among the public. More specifically, these reviews can help identify what prevents the NGO from disseminating democratic values and making them part of social norms.
- Contribute to the advancement of civic education (namely, civic and political culture) in order to build awareness of individuals' relationship to the state, and the possibilities inherent in this relationship.

For Civic Activists:

- Examine what determines individuals' interest in creating associations, and why there has been no development of voluntary associations based on local incentives and needs.
- Based on the results of this examination, try to identify civil society institutions that can be maintained or developed with the purpose of ensuring good communication within and between different groups, *etc.*
- Determine whether dealing with issues such as democratic governance, fundamental human rights, lobbying and advocacy is always necessary for those who want to encourage proactive attitudes among individuals, their commitment to certain ideas, and the ability to form interest-based associations.
- Identify possible incentives for forming and consolidating civic culture among young people, who are growing up in the context of a systemic, country-wide crisis and an overall collapse of shared values and norms.

For the Government and Political Parties:

- Identify social ideas that can be used as a basis for nation-building and social development in Kyrgyzstan.
- Produce a social policy that would address problems faced by common citizens and provide social guarantees. Without equitable social policies, no attempts to mobilize people around particular social ideas will bear fruit.
- Identify the best model of society for Kyrgyzstan, and to determine the place

- of civil society within this model. To develop methods of cooperation that enable various sectors to pool resources while addressing social problems and encouraging social integration.
- Produce a civic education policy and to ensure that the consolidation of social norms becomes part of public policy.

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Profile of an NGO Leader

Currently, Kyrgyzstan has several thousand NGOs: reported by Kyrgyzstan's Ministry of Justice, as of 1 April 2006. More than 8,000 non-governmental organizations were registered in the Republic. Most of these organizations are personified - that is, the operations of the NGO are commonly linked to its leader. During its formation and development, the country's NGO sector has gone through several phases, which institutionalized NGO leadership and contributed to its gradual transformation. Nonetheless, institutionalization of leadership and the rotation of leaders in the NGO sector remain highly relevant, posing challenges for continued development of non-governmental organizations.

Key Stages in the Development of NGO Leadership

The emergence of the first non-governmental organizations in Kyrgyzstan in the early 1990s, with support from international organizations, was largely a response to the problems of the transition period. During that time, energetic and charismatic individuals started to establish NGOs that addressed the socio-economic and political problems faced by newly-independent Kyrgyzstan.

The rise of NGOs was aided by technical and financial assistance from international donors, by a favorable legislative environment, and certainly by the proactive attitude of NGO leaders. The new nation had another important institutional prerequisite for civil society—the very real right of its citizens to establish independent non-governmental organizations.

During this period, non-governmental leadership was mostly spontaneous, impulsive, and situational, since during the emergence of NGOs, few leaders had any experience in managing organizations, planning (including strategic planning), or raising and managing funds.

The non-governmental organizations of that time were *problem-oriented*, i.e. they sought to address specific problems in society, such as environmental or gender problems, the problems of children or vulnerable groups, etc.

Research [1] shows that the civil society organizations of that period focused

mainly on the social sphere. Other popular areas of focus for NGOs were healthcare, civic education, gender issues, and the environment.

The abundance of social and economic problems, the support of international organizations, and the availability of trainable and skilled human resources eventually led to the establishment of NGOs as a social institution.

Between the 1990s and today Kyrgyzstan's NGOs, particularly those involved in environmental and human rights activism, functioned as a mechanism for ensuring that political relations (e.g. between the state and society, and among major social groups) remain democratic.

The focus of such institutions is not limited to specific issues: they tend to identify and formulate a range of social interests and values that are capable of bringing together large communities. These interests and values are then conveyed to the government. A democratic society is impossible without these institutions, since they form the basis of political and social democracy and can be defined as *structural* civic organizations.

In the late 1990s, Kyrgyzstan saw an increase in the role of environmental and human rights organizations. These organizations contributed considerably to the monitoring of development programs, the enforcement of human rights and freedoms, and also to the environmental monitoring of various issues.

Through educational, informational, advisory, methodological, and financial assistance, during this time the leaders of Kyrgyzstan's non-profits began to increase their organizational and individual capacities.

Also in late 1990s, many NGOs began to identify their missions, target groups, and generate goals related to fundraising, organizational development, and organizational sustainability.

Motivations for Joining NGOs

In characterizing the special nature of non-profits' social framework, it is important to identify key motivations for joining these organizations. Drawing on the comments of non-profit leaders who explained why they decided to do this kind of work, we can identify a range of motivational stances among active leaders in Kyrgyzstan's non-profit sector.

A survey of NGO leaders¹ has shown that people who decide to work in the non-governmental sector tend to be motivated by the desire to make the world a better place or to do good for others, by the wish to be independent, or by the desire to actualize their leadership or creative potential.

During this period, the NGO sector saw an influx of people with a high level of educational attainment (over 74 percent are university graduates, and 2 percent have a postgraduate degree), and who are committed, creative, and have a strong stance on particular issues.

Since the very beginning of civil society formation in Kyrgyzstan, women have comprised a considerable part of NGO leaders and activists. Importantly, most of these women were at least 30 years old. Some experts believe that the reason for this is that, unlike politics or business that tend to be dominated by men, the non-governmental sector is an area in which women can seek and find professional fulfillment.

¹ The survey of NGO leaders was conducted by the ACSSC for this article; 10 NGO leaders from Bishkek were interviewed for this survey.

For such individuals, personal satisfaction remains the main source of motivation; it is no secret that the number of donor-funded projects is now decreasing, and NGO funding is becoming increasingly problematic. This is why those who joined the NGO sector in search of well-paid positions soon left for the business sector. Those who remained are individuals who believe that they can be useful to the NGO sector and to the country. Non-governmental organizations certainly provide people with jobs and are a source of income, which (although sometimes unreliable) helps the NGO sector retain some of its popularity as a place of employment, especially in the provinces. However, people join an NGO not so much for the money it provides but rather for the idea that it brings people together. Some leaders establish “family NGOs” to create additional jobs for family members, while others see NGOs as a route to self-actualization or— even more often— as a way to jumpstart their career. In other words, motivations for joining NGOs are not as clear as they may seem initially, so this topic merits a separate discussion.

Expectations from NGO Leaders

Today’s world poses new challenges to NGO leaders. The qualities required of an NGO leader include professionalism, managerial and teamwork skills, and the ability to conduct a dialog with the government and with other non-governmental organizations.

In addition to a proactive stance, NGO leaders of today must be competent, creative, and capable of strategic thinking.

Importantly, today’s young NGO leaders face obstacles to obtaining additional training in effective management skills, NGO personnel management, social marketing, taxation and accounting for non-profits. This is related to the fact that very few programs, if any, focus on supporting the institutional development of NGOs. Furthermore, few donors offer assistance to the organizational development of Kyrgyzstan’s NGOs.

For this reason, new NGO leaders do not have the educational, methodological, and advisory opportunities that were once available to their colleagues. This inevitably affects the functioning of non-profit organizations. Therefore, the focus on improving NGOs’ institutional capacity and relevant earlier programs must be revived, at least in part.

A Charismatic NGO Leader: A Good Thing?

Now, just as during the emergence of the non-governmental sector, the nature of an NGO and its focal areas are largely contingent on the personality of its leader. In other words, the functioning of an NGO is in many ways linked to and is supported by the efforts, skills, energies, and often the reputation of its leader. This gives rise to specific associations in the public mind, such as “Edil Baisalov is the Coalition for Democracy and Civil Society.”

Leaders often make the NGO recognizable, so it is especially important for non-governmental organizations to ensure that their activities are primarily linked to a high level of professionalism, succession procedures, and institutional sustainability.

When a successful, charismatic leader leaves an NGO, since he or she has usually been at the center of decision-making and coordination, this can transform the organization, or even end the NGO’s operations. Everything that the charismatic leader had accumulated—knowledge, skills, social networks, and organizational sustainability—either dissipates completely or mean that the organization can barely survive, rather than move forward.

In today's world, it is increasingly necessary to make the transition from charismatic to rational-legal leadership, to use the terminology of famous German sociologist Max Weber. This is necessary because NGOs now face more stringent demands. To meet the criteria set by donor organizations, today's NGOs must be professional, must be capable of analyzing previous experiences and using the lessons learned to formulate new plans for development, and must have access to experts in order to function efficiently and to serve their beneficiaries. We see that the enthusiasm of community-based NGOs during the 1990s is slowly giving way to a more rational approach that includes a competitive edge. This requires the leader to be more than just a charismatic personality—he or she must also have good strategic and managerial skills. When describing this type of legitimacy, Weber wrote about “domination by virtue of ‘legality’, by virtue of the belief in the validity of legal statute and functional ‘competence’ based on rationally created rules.”² For this reason, it is essential that Kyrgyzstan's NGO sector creates appropriate conditions for basing any transition to leadership on established, rational practices and procedures.

The leader's legitimacy must be linked to clearly defined rules, policies and procedures within the organization. The leader's performance, meanwhile, must be based on principles of rationality, realism, and aspiration to high levels of professionalism.

Institutionalization of NGO Leadership Today

The current stage in the development of NGO leadership is related to institutionalization—i.e. the process of identifying and solidifying social norms, rules, and principles and combining them into a system to meet the needs of society. This necessitates a gradual replacement of spontaneous and experimental behaviors by behaviors that are expected, can be modeled, and are controlled.

The institutionalization of leadership in the NGO sector is currently taking place in a complex political, social, and economic environment.

Recently, staff turnover in the non-profit sector has been characterized by several important trends.

The first trend is the drain of professionals from non-governmental organizations into for-profit organizations and various government bodies, which leads either to long-term stagnation or to decreased efficiency of NGOs.

The second trend is the strengthening role of the state, which embodies the desire among some government officials to exercise strict control over non-governmental organizations, especially those working with human rights issues. This is also reflected in the draft Tax Code of the Kyrgyz Republic, which treats non-profit organizations in very much like for-profit organizations, and also in various regulations that limit human rights. Funding of NGOs by international donors is often an excuse by certain political forces and the mass media to attack non-governmental organizations and to negatively position them as something alien to Kyrgyzstan's society, e.g. as champions of foreign ideas and values. It can be said that the use of donor grants by non-governmental organizations continues to have a negative impact on the public perception of these organizations; however, this is not the fault of NGOs, but rather a very unfortunate development. Since Kyrgyzstan currently lacks mechanisms that would encourage businesses to offer financial assistance to NGOs, non-profit organizations are compelled

² *Translator's note:* Cited from Weber, Max. “Politics as a Vocation,” in H.W. Gerth and C. Wright Mills, eds. 1958. *From Max Weber: Essays in Sociology*. New York: Oxford University Press. p. 79.

to focus on donors' priorities, which is not always conducive to finding effective solutions to the country's social problems.

The third trend is that, for many NGOs, the gradual winding down of foreign donors' involvement, obvious in recent years, has resulted in a reduction or a complete termination of activities. Even financially successful organizations now face greater demands on their human resources, which brings about various negative consequences in human resource management.

The fourth trend is that many NGOs in Kyrgyzstan now accept the need to improve their members' professionalism and to build their capacities in the administrative, programming, and financial spheres. This issue, among others, was widely discussed at the National NGO Forum in July 2007.

One of the organizations that first advanced the idea of increasing NGO professionalism and sustainability by meeting the standards of strong, professional non-profits was the Association of Civil Society Support Centers. This was successful in implementing an organizational audit project, demonstrating that, in Kyrgyzstan, many NGOs not only consider the expansion of their organizational and leadership capacities, but actively pursue this goal.

In the current stage in the development of Kyrgyzstan's non-profit organizations, requirements for the professionalism and competence of NGO staff members increase as these organizations move from being funded solely by donors toward becoming financially diversified, independent NGOs. Another clear change is the transition from enthusiasm-based activities (informal groups of like-minded individuals) to the funding of long-term projects that implement project monitoring and impact assessment.

Some NGOs in Kyrgyzstan seek to improve leadership quality through leadership support initiatives.

- For example, for several years the ACSSC has worked closely with the Academy of Management under the President of Kyrgyzstan, which focuses on improving the professionalism of NGO leaders and providing them with academic training. This is crucial to the emergence of a new generation of professional leaders in non-profit organizations. ACSSC members teach courses in non-profit management, project and program management, fundraising and financial sustainability.
- The Interbilim International Center now implements a "School of Leadership", designed to shape a new generation of leaders in Kyrgyzstan. This generation would be democracy-oriented and have such leadership qualities as political decision-making skills, the ability to lobby the interests of one's organization and specific target groups, a proactive approach, and the ability to convince and motivate others by appealing to the intellect and/or to emotions. One of the project's objectives is to offer leadership training to 65-70 professionals from government institutions, businesses, civil society, and to young people who show strong leadership potential.

However, the challenges of nurturing professional NGO leaders, and ensuring that the turnover of leaders in Kyrgyzstan's NGOs does not affect organizational efficiency, remain high on the agenda. The future of the sector depends on how successfully this challenge is met.

Recommendations

To create an environment conducive to the emergence of a new generation of NGO leaders, it is necessary to do the following:

- Create mechanisms for training and nurturing leaders within each organization. For this effort, it would be useful to establish a leadership school or a mentoring relationship, in which in-house training would provide the means for a potential NGO leader to emerge. This person would be aware of the organization's strengths, weaknesses, and opportunities for growth, would be committed to the organization's values and mission, and other members of the NGO would not be wary of this person or treat him or her as a stranger. It would also be advisable to encourage and support creative initiatives among young people, such as generating new ideas and finding alternative solutions to problems.
- Develop and implement multi-organization projects that involve successful leaders from professional NGOs, so that the knowledge, skills, and experiences of several organizations could be transferred to a new generation of NGO leaders. If possible, a platform for discussion could be organized that brings together NGOs, youth groups, community members, etc. This idea should be widely promoted in universities and the mass media to attract talented young minds. By involving young people in decision-making, and implementing programs or projects that address problems faced by local communities, this would encourage young leaders to develop a sense of accountability for the decisions they make, to have respect for the law, to demonstrate their civic awareness, and to work to advance public interests.
- Make greater use of volunteer capacities within NGOs in order to identify potential leaders among volunteers.
- Produce an effective PR strategy that improves the perceived status of NGO employment in order to be able to recruit new professionals.
- Establish an experimental platform for young leaders. This platform would have three components: participation in mini-projects, opportunities to meet and work with government institutions, and training.

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Participation of Kyrgyzstan's NGOs in Public Decision-Making: Issues and Prospects

As of May 21st, 2008, Kyrgyzstan had 11,035 registered NGOs [9]. Experts estimate that in 2004 the NGO sector had over 20,000 full-time employees, as many as 10,000 part-time employees, and 8,000 volunteers. Other estimates suggest that the NGO sector employs approximately 100,000 people, which amounts to 5 percent of the country's workforce [1, p. 32].

The NGO sector represents a very proactive portion of the population and experts with high levels of competence. The question high on today's agenda is "how can the potential of NGOs be made relevant to ensure that the development goals of the country and society are achieved in an efficient and effective manner?"

Examples of successful cooperation between the NGO sector, on the one hand, and public administration and local self-government, on the other, demonstrate the possibility of collaboration in healthcare, education, social welfare, and improvements to social and economic conditions at the local level, at the same time as clearly defining goals, objectives, and desired outcomes.

The NGO sector, however, fails to systematically participate in producing and defining strategies and plans for national, sectoral, or regional development. Examples show that NGO participation in these processes is contingent on the will of officials in government ministries and agencies. Often, the purpose of such collaboration is to create a semblance of expert appraisal of a draft piece of legislation or strategy with the involvement of NGO members. The nation lacks a mechanism for incorporating alternative viewpoints, which would enable NGOs to become real actors in the process of defining appropriate avenues for development.

The purpose of this study is to examine NGO participation in decision-making with regard to issues of public concern. To understand this problem and attempt to solve it, we must address three tasks.

The first task is to define political decision-making, its strengths and weaknesses, and the stages at which the NGO sector can join the process.

The second task is to identify and demonstrate what is meant by the NGO sector, to outline its strengths and weaknesses, and to understand how it can join the process of political decision-making.

The third task is to give a brief overview of legislation related to political decision-making.

These three tasks will enable us to produce recommendations for increased

involvement of individual NGOs – along with NGO groups and associations – in the process of political decision-making.

The Decision-Making Process

The English language has two words – policy and politics – to refer to what is denoted by a single word in Russian (*politika*). “Policy” means those actions of political institutions that make decisions, which influence state and society. “Politics” as a concept has other goals and objectives. First and foremost, it involves a **power struggle**, a clash of divergent ideological forces that have different ideas about how power and resources should be distributed in the country. Policy is the outcome of this political contest, a coordinated and approved plan of action.

There is also the term *public policy*, which is translated into Russian as *obshchestvennaia politika*. Public policy is a systematic study of the nature and implications of alternative policies/plans and the making of policies for the efficient attainment of goals.

There are dozens of definitions for public policy. In Kyrgyzstan, two definitions are dominant. According to the first definition, public policy is a technology used to accommodate the interests of various groups when making various governance-related decisions. The second definition is based on the assumption that public policy is a governance mechanism designed to involve a variety of stakeholders in the process of policy- and decision-making.

These approaches do not concern public policy in general so much as they concern the process of decision-making, which is only one stage in the process of policy-making.

The most important aspect of public policy is its focus on solving a specific problem and on attaining a particular goal. This concept thus incorporates both decision-making and policy-making.

A real understanding of the differences between these approaches enables us to better identify points of contact and opportunities for cooperation between the NGO sector and public administration and local self-government.

Public policy has a direct impact on society; accordingly, various stages of this process involve different interest groups. These can include public administration and local self-governments, NGOs or public groups, legal entities and individuals, political parties and international organizations.

The NGO sector can participate in producing all key elements of public policy. Let us list these key elements [5]:

- Public policy entails the **actions of a government body** that has legislative, political, or financial power to carry out these actions.
- Public policy **responds to specific needs or problems of a society or a group**, e.g. a group of citizens, NGOs, or government bodies.
- Public policy focuses on **reaching specific, clearly-defined goals** that meet a particular need of the target group.
- Public policy is not a single solution, action, or reaction; usually, it involves a number of **developed approaches or strategies**.
- A policy may focus on **problem solving** or may be attainable in the context of existing policies and, therefore, may not call for further action.
- A policy is implemented by a single government body or by several government bodies.
- A policy incorporates a **rationale** for the actions that are taken.

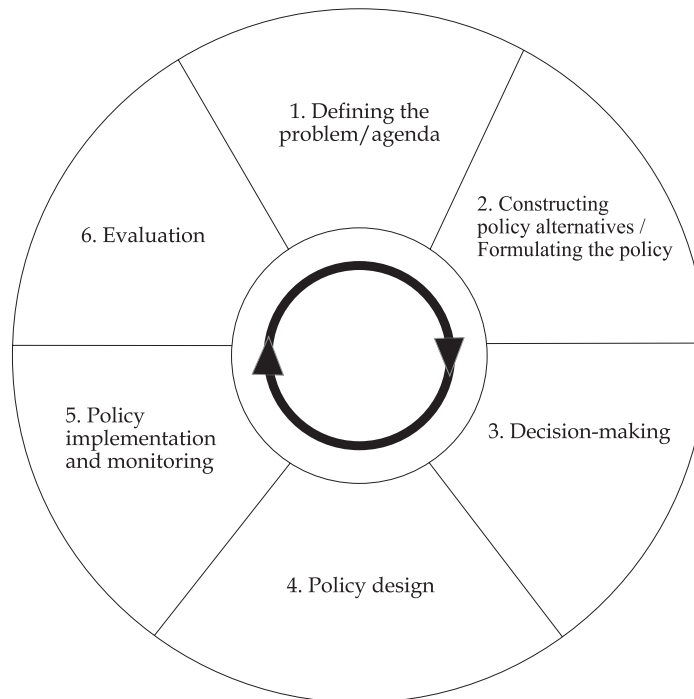
By having good knowledge and understanding of key elements of public policy, non-governmental organizations can improve the productivity of their participation in public decision-making.

Now let us examine the nature of the decision-making process.

The Policy Cycle

There are many approaches to decision-making, and they are determined by the purpose and the subject matter of a public policy. A commonly recognized model is called *the policy cycle* (see illustration below)¹.

The Policy Cycle



The policy cycle has both strengths and weaknesses. Its strength lies in the ability to set the direction for public policy-making; a weakness stems from the cycle's lack of flexibility. In other words, the model never describes the set of actions needed in a particular situation. This means that no one set of instruments can be used to elaborate different stages of the policy cycle. The model merely gives the direction in which someone wants to move.

In addition, the nature of the decision-making process is such that each of the six stages has a bearing on the stages that precede and follow it. For example, the third stage – decision-making– may call for an elaboration or development of additional policies under the second stage, formulating the policy. Therefore, simply ending one stage does not mean that the stage is completed. The weakness of this model is that there is no single opinion about how long each policy cycle must take. It has no clear criteria for defining the scope of the problem and its solution.

¹ Sources: Anderson (1994); Bardach (1996); Howlet and Ramesch (1996); Ohio University (1998); Open Society Institute (1999); Pal (2000); Smith (2000).

At the center of public policy is the government ministry or agency that is responsible for solving a given problem or issue. In any society, decision-makers seek to promote their own ideas. What prevents the NGO sector from actively promoting its ideas? Which is more fundamental for NGOs: to participate in decision-making or in the making and implementation of public policy? Each NGO leader must individually define the purpose of his or her organization's interaction with public administration and local self-government. However, NGO leaders must agree on the criteria they would use when dealing with government ministries and agencies. These criteria must be based on key elements of public policy.

NGOs' Potential for Policy-Making

The success of NGO participation in the making of decisions and policies is dependent on the participation of government and municipal officials of various ranks and on the NGOs' potential for producing alternative policies. NGO participation in public decision-making is limited by the degree of trust or distrust by the public authorities, public administration and local self-governments.

NGO Bias: Myth or Reality?

The involvement of NGOs in the making of decisions and public policy is obstructed by public officials' belief that NGOs are generally biased. For example, in his public statement made in June 2008 Kyrgyzstan's Minister of Justice, Mr. Marat Kaiypov, said: "There are NGOs that carry out orders because the money comes from another nation." [14] This statement implies that, when a non-governmental organization in Kyrgyzstan receives a foreign grant, it starts carrying out orders from a specific country. This belief in a certain bias of NGOs stems from the fact that, when non-governmental organizations receive thematic grants, they are often required to meet donors' conditions for awarding the grant.

Meanwhile, Kyrgyzstan has yet to award a grant to a local NGO. In the summer of 2008 the country's Parliament passed the Law on the Commissioning of Social Services, which entails the awarding of grants to non-governmental organizations with the purpose of carrying out social welfare programs. This law, however, has not yet come into force.

It is public knowledge that most NGOs focus on sustaining public interest in the process of national democratization, anti-corruption efforts, and the advancement of small and medium-sized businesses. Some experts estimate that these areas correspond to interests promoted by the USA [see 12, 13, and 14].

Traditionally, it was thought that Kyrgyzstan does not have any pro-Russian or pro-Chinese NGOs, but reality may be different. On the other hand, a large number of the country's leading public (non-governmental and non-profit) organizations have acquired a solid reputation of being pro-American. These include the Coalition for Democracy, Foundation for International Tolerance, Citizens Against Corruption, and Interbilim. These organizations receive grants from American and European sources and work with democratization issues.

The origin of funding has thus become the reason for accusing NGOs of bias. The belief that NGOs are biased is further reinforced by the fact that Central Asia is the region where divergent interests of Russia, the United States, China, and the EU converge. Meanwhile, some claim that up to 500 emissaries of Western special services are active in Kyrgyzstan, where they promote ideas of democratization [15].

In this context, the Kyrgyz state views the NGO sector as an instrument used by foreign countries to advance their interests. This belief is further supported by the fact that, in 2006, two staff members of the U.S. Embassy were deported from the country. At the U.S. Embassy these officers were responsible for working with NGOs.

In common speech this bias has been dubbed “grant-eating.” This kind of attitude toward NGOs creates distrust within public administration and local governments when public policy decisions have to be made. Meanwhile, at the local level nearly everyone welcomes cooperation with NGOs, provided that the project at hand addresses specific issues and unambiguous goals.

Characteristics of the Non-Governmental Sector

Nearly all local and foreign researchers and analysts point out that non-governmental organizations in Kyrgyzstan compensate for the weakness of government bodies and political parties. Yet, if an NGO is performing the functions of a political party, this contradicts the very nature of non-governmental and non-profit entities. The social element of constituencies is important to political parties but not to NGOs. This is one reason for the absence of a wide social base among NGOs. Nonetheless, current legislation classifies both NGOs and political parties as civic organizations.

One type of organizations is currently dominant among Kyrgyzstan’s NGO: these are the organizations that work primarily to promote democratization and human rights or to offer training in political technologies. These include the Assembly of the Peoples of Kyrgyzstan, trade unions, associations of political scientists, bar associations, etc. In terms of their work methods, some of these focus on political activities.

In the decision-making process, two types of decisions can be identified: expert decisions and managerial decisions. An expert decision comprises specialist recommendations on ways of solving a problem at hand. A managerial decision involves the choosing of alternative solutions to the problem by competent persons. Expert decisions are usually made on a regular basis by analytical centers, or think tanks, which as a type of NGOs are only beginning to emerge in Kyrgyzstan.

The heterogeneous definition of “civic organizations” and the absence of systematic efforts to develop expert decisions can be seen as opportunities for increased effectiveness of the NGO sector. NGOs wish to collaborate with the government; the government has also expressed its willingness to cooperate with NGOs (current laws, decrees, and orders welcome this collaboration, and relevant public statements are being made). However, those collaboration technologies and parameters that are currently proposed are all aimed at harmonizing the interests of all stakeholders rather than at addressing specific problems. The requirement to harmonize government’s policy decisions with all stakeholders could paralyze the country, which would find itself immersed in endless discussions as it tries to find the best solution to each problem.

Legislation

Today’s NGOs are capable of working with government bodies within two sets of laws. The first comprises norms that establish the rights of citizens to access information; the second deals with norms that regulate interactions between public authorities, public administration, and local governments on the one hand and NGOs on the other. The first unit is represented by Kyrgyzstan’s Law on the Guarantees of Free Access to Information. The second unit contains a larger number of laws, decrees, and orders,

compared to the first. These include the Constitutional Law on the Government of the Kyrgyz Republic, the Law on Regulatory Acts and the Law on the Commissioning of Social Services.

In June 2006 the President signed a decree on the introduction of public policy formats and procedures into the operations of public authorities and local self-governance bodies. This law stipulates new mechanisms and procedures for involving all stakeholders into decision-making by the government and local self-governance bodies. The decree has not yet been put into action.

On 20 December 2007 the Government enacted a decree on introducing methods of analyzing the regulatory impact of government decisions that regulate or change the business environment. This decree applies solely to the business sector, and therefore only those NGOs that work with businesses can participate in the making of government decisions that concern the business environment.

In addition to these laws, there is a wide range of regulations (e.g. Rules and Procedures of Government Operations, Document Processing Rules, Document Processing Rules for Government Ministries, etc.) that outline the procedure of internal and external document workflow for government ministries and agencies.

When it comes to cooperating with non-governmental organizations, however, these laws, decrees, and orders fail to offer a mechanism for implementing provisions contained in them. One of the regulations mentioned above states that "public participation is permitted." By using this wording, the law does not make it mandatory for the leader of a government ministry or agency to collaborate with NGOs. Furthermore, there is no definition of "public" in the phrase "public participation." The interpretation of this term is left up to the government ministry or agency, and there are times when NGOs are not considered to be part of this "public."

Nonetheless, the NGO sector may use two routes for launching the mechanism of its participation in decision-making.

The first route concerns the right to request any information. If the letter mentions a specific timeframe (usually, 10 days), it is placed on the follow-up list, and the body that receives this letter must reply to it. This route is not especially effective, since NGO members have to work with a decision that has already been made.

The second route is more useful. It involves building the NGO's skills in producing expert decisions in the context of analytical documents, which include recommendations and a pro-active advancement of these recommendations.

Recommendations

The NGO sector may join the policy cycle at any of its stages. To make a positive contribution to the decision-making process, non-governmental organizations need a framework for collaboration between NGOs and public authorities, public administration, and local self-governments. The framework must incorporate the following elements:

1. Define the goal and the objectives of NGO participation in the process.
2. Determine the value of cooperation (for individual NGOs or for the entire sector), i.e. the qualities that NGO members value in themselves and in others.
3. Address the real needs of the state in NGO projects. So far, the purpose of most projects is to spend or use the donors' money.
4. Develop standards for proposing solutions to problems.
5. Introduce a training program for NGO staff to discuss standards of working with public authorities, public administration, and local self-governments.

6. Produce a training program for government and municipal officials to discuss collaboration with the NGO sector.
7. Conduct an awareness campaign focusing on NGO participation in decision-making.

The next stage should involve the drafting of legislation concerning relevant amendments to the current laws of the Kyrgyz Republic. Amending the laws without a vision of the framework and parameters of cooperation between NGOs and the government is a waste of time, efforts, and resources. Such changes would be half-hearted and incapable of establishing a context for efficient and effective cooperation.

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Intersectoral Policy Making In Creating the New Middle Class: A Case Study of Internal Migrants of Bishkek Engaged in the Informal Sector

Overview and problem definition

Clear priorities face Kyrgyz national policies as Kyrgyzstan prepares for, and adapts to, a variety of modern world's challenges, which include global shortages of food and energy, rising food prices, and rapidly-spreading global financial crises. Perhaps the nation's survival should be linked to capturing the momentum and drawing on Kyrgyzstan's internal resources. This could involve nurturing and supporting small and medium entrepreneurs, increasing domestic investments, and motivating businesses to create jobs, products, and services for local consumption. Thus, it is increasingly important to clarify the role and place of entrepreneurs in Kyrgyzstan – specifically, those of internal migrant entrepreneurs (also referred to as rural migrant entrepreneurs) of Bishkek, which have grown both in numbers and in their widespread impact on the national economy.

This paper proposes an analysis of internal migrants as a social category whose qualities and historic tendencies could make it a new middle class. These qualities include their entrepreneurial potential and increasing role as producers and consumers of goods and services, a group that is interested in stability and steady economic growth. In Bishkek, where more than one third of the population of Kyrgyzstan resides, these internal migrants have changed the urban environment by joining the urban workforce that provides goods and services, as well as becoming consumers and voters. They continue being the most visible and effective actors in changing economic, social and, eventually, political practices in the Kyrgyz capital.

This policy paper draws mainly on the cooperation between the development consultancy DialectICON, public foundation Erayim, and the Bishkek mayor's office. This was possible during research and training projects called *Opportunities for Legalising Small Businesses of Self-Help Housing Districts of Bishkek (April-June 2008)*. This paper targets the key actors in the provision of economic development, business support structures, and urban services. It has several objectives: 1) to describe the internal migrants engaged in Bishkek's informal sector; 2) to raise public awareness of the small migrant entrepreneurs and micro-financing practices of local NGOs, which keep households out of poverty and help integrate rural migrants into the city life without state social programmes or municipal support; 3) to challenge the misconceptions

among decision-makers and in general public about the informal sector; 4) to propose a shift in policy perspectives that would achieve the formalisation of the informal sector by promoting a new understanding of migrant entrepreneurs as a new middle class.

The following is a case study of cooperation among private, non-governmental and governmental sectors in supporting the legalisation of the small business of Bishkek's self-help housing districts of rural migrants. It provides strong evidence of how various actors, knowingly or unknowingly, become involved in transforming internal (rural) migrants into urban middle classes.

Case study of three-sector co-operation in supporting the process of legalising the small business of Bishkek's self-help housing districts

Discussions on the "legalisation of business" among government institutions in Kyrgyzstan have continued for the past several years. Laws of various importance and applicability were adopted time and again, with a specific focus on all kinds of entrepreneurship and legalisation (including legislation on the amnesty of capital, adopted in 2007). However, the various stakeholders and commentators of business legalisation have yet to come to terms with the emergence of the diverse and rapidly growing informal economy in Kyrgyzstan, and decide whether the form of "legalisation of business" as policy makers know it, is the best option.

Migrants: facts and figures

It is safe to claim that the informal economy started developing in 1989, when more than 80 percent of the Kyrgyz Republic's population migrated out of rural areas. This resulted in more than 1.5 million people (of a national population of 5.4 million) becoming concentrated as labour and economic migrants in Bishkek, one third of whom were oscillating between home and abroad. During the past 20 years, the suburbs of the capital city Bishkek have swollen as land squatting resulted in more than 30 migrant settlements- the so-called self-help housing districts- with an average of 2,500-7,000 households in each. The poverty level among migrant settlements remains high, despite investing in the development of livelihood approaches and income generating activities among self-help housing residents. Informal trading, provision of services, and, most recently, production of light goods have all played a significant role in poverty reduction. Most micro-businesses in migrant settlements are conducted informally, so entrepreneurs are not ready to declare their business dealings and do not pay taxes and fees. Instead of becoming registered as a legal entity, many prefer to not keep any documentation so they avoid reporting to fiscal authorities. Most often, migrant entrepreneurs remain harassed by local police and officials, paying their way out of trouble with bribes or unofficial fees for small and big irregularities if caught or persecuted.

Good business practices within self-help housing districts

Poverty in migrant settlements is being overcome by the poor themselves, in two ways: through the engagement among internal migrants with NGO work and in private sector development: 1) through the self-help groups' mobilisation, microfinancing initiatives, and NGO campaigning and action migrant settlers form organisations and unions, channeling international donor funds to improve livelihoods and, in some

cases, to improve infrastructure and services. People attend training sessions and get organised with the help of methods that mostly come from international donors, some methods become localised and adopted in the Kyrgyz context; 2) migrant settlers engage in trade at the local markets, start small enterprises, and work as migrant traders and menial labour in neighbouring countries and markets (i.e., Kazakhstan, Russia, China, Turkey, Arab Emirates). In this case, organised groups or individuals try to gain access to the markets, internal and external, mostly in services and light industry production and trade, such as textile and cotton clothing, wooden furniture, ironwork, car and van repair, hair and nails workshops, bath house services, pharmacy and grocery trade.

Two influential NGOs have been The Public Foundation Erayim and NGO Arysh. These civil society organizations, which grew out of the self-help housing movement (such as the social movement of land squatters Ashar of 1989-1990s), have been effective in training rural migrants to adjust to urban dwelling, consider social services, unite into self-help groups and start family-run micro-enterprises. In their work, these organisations relied on training community leaders, entrepreneurs, and social service providers among the members of self-help groups. By creating self-help groups in the “konushtar” (self-help housing sites), civil society organisations achieved unprecedented results in community mobilisation, micro-finance service rendering, and facilitating the formation of the new middle class.

Micro-credit services have been provided to rural migrants by these NGOs since 2004. The so-called “self-help groups” of internal migrants (organised by the Erayim and Arysh NGOs) have become an instrument that gives the poor the “fishing rod” instead of a fish in the proverb “teach them to fish instead of giving them a fish to eat.” These self-help groups link people to mobilise and channel information. They drive small businesses to improve living conditions, which in turn gives rise to the important market initiatives that fuel unprecedented growth in the informal economy.

Misconceptions and misguided agendas

Research on the legalisation of small business has demonstrated that government agencies understand very little about the small enterprises of rural migrants in Bishkek, despite the National Programme for Legalisation of the Shadow Economy in the Kyrgyz Republic 2007-2010 (adopted in 2007). This programme seems to be concerned mostly with the evasion of taxes and customs duties by large businesses. Key decision-makers must recognise the specifics of legalising small business activities, which require a different set of policies than those of the medium and large enterprises.

It does not benefit the state or the private sector to ignore the economic potential of migrant entrepreneurs, who represent an underestimated sector for both governmental and private investments. When the small and medium market traders of Chinese imported textiles, copies of designer labels, and IT equipment flooded the Dordoi, Orto-Sai and Osh Bazar markets, they brought about new wealth to Bishkek. In addition, the momentum captured by sewing workshops that export ready-made clothing to Russia and Northern Kazakhstan has fuelled a long-awaited niche for export trade, opening up new opportunities for Kyrgyzstan’s textile and wool-producing industries. The volumes of undeclared labour and entrepreneurial activity, even just within the textile businesses and sewing workshops, are already large and growing quickly. In an interview with municipal officials, the number of undeclared employees in the sewing workshops of Bishkek were estimated at over 100,000 persons with average monthly wages of USD

200. This means that about USD 20 million are being earned per month, revenue that is not considered by taxation or social insurance. The profit margin of the workshop owners are estimated at 25 to 150 percent.

The implementation of many policies now in place remains questionable due to the fundamental misconception of migrant entrepreneurs and small business. For instance, at the national level, in Spring 2009 the Presidential Decree on Moratorium (freezing) of any inspections by “law and order” institutions until 31 December 2008 was an example of political will by the national leader to improve trust in the government by entrepreneurs. However, as of early September 2008 this Moratorium already seemed to be “hanging by a thread” facing a high likelihood of cancellation. At the local level, an attempt was made by the Municipality of Bishkek City to initiate a Unified Window for business registration similar to Moscow City Government of Russian Federation. A good practice by definition, it was designed to make business registration much easier. However, this service will now be monopolised by the Ministry of Justice and the City Justice Department. This may mean that private law firms that, in the past, dealt with the registration of businesses will no longer be allowed to provide these services. Again, the intended consequences of this policy are in doubt from the start.

The proposed shift in perspective: Bishkek's New Middle Classes

Three principles to frame policies for formalising the informal

A majority of entrepreneurs in self-help housing districts have admitted that they do not know how to conduct official business or declare their self-employment (Dialect-ICON research April-June 2008). A deep and widely-shared mistrust exists between the residents of the self-help housing districts and the government agencies. For many internal migrants, entrepreneurship is a way to survive and feed their families, and they feel that they do not need to ask the state for permission to do so. Yet they are afraid of potential intrusion in their activities by “authorised” individuals or institutions (such as tax inspectors, or electricity inspectors, sanitary and epidemiology inspectors), and having to pay bribes. When bribes and unofficial fees have become normalized and grow, it becomes too expensive to do unofficial business. Therefore, they feel that one day they would have to start declaring their business and revenue, yet they do not know where to start and how to gradually prepare for it.

To overcome existing mistrust between the government and small entrepreneurs, the self-help housing districts’ residents need to receive more support from the government and the municipal authorities. Yet the state has to shift its perspective and stop viewing rural migrants as “dependent masses” but instead encompass and support the identity of internal migrants as an emerging middle class that is engaged in markets of production and consumption. This is how the state can compete with the expansion of the informal sector and perhaps even compete against the interests of organised crime that makes use of the shadow sector as well.

Several policies have been formulated jointly by the business community and the government, and attempts have been made to implement them during 2008. However, there has not been much success in facilitating the process of formalising small businesses and making their activities more transparent and accountable. This is perhaps due to the nature of these policies. They do not allow for, or adjust to, the case of internal migrants becoming entrepreneurs and turning around at least USD 200 million annually in Bishkek’s undeclared workshops. Today it is clear that, to motivate and to legalize small business, the following principles should be used to frame discussion and policy making:

- **Professionalization:** small and medium entrepreneurs need to introduce good business practices and work ethics—specifically, through gradual introduction of the knowledge and use of key laws, accounting and financial reporting, social deductions and contributions, employee remuneration, benefits, training, and development, etc.
- **Encompassing Middle Class meaning:** capacity building for entrepreneurs should be offered that includes the perspective of state support to the “New Middle Class” formation by supporting the legalisation of small enterprises;
- **Benefits of formalising the informal:** government needs to be armed with key arguments on the benefits of formalising the informal sector. Small businesses need to be convinced that the process is thought-through and includes guarantees that the legalisation process will be standardized, transparent, and accountable.

The following discussion demonstrates the importance of these three principles in framing policymaking as part of the process of formalising the informal economy of Bishkek by shifting perspectives from “dependent rural masses” to “formation of a new middle class.”

Rural migrants' aspirations linked to urban middle classes

Undoubtedly, the process of elite formation in Kyrgyzstan since independence in 1991 has partly been driven by popular aspirations for living standards comparable to those in industrialised countries (i.e., modern urban utilities and employment/occupational structure) that have been diffused with globalisation (i.e., internet, television, consumer industry). During the Soviet era, when previous generational elites of Kyrgyzstan were formed, the middle class elites were produced through the production of national cadre policy. The modernisation project of the Communist Party brought about a middle class that “not only contributed its special skills to the economic development but also was generally committed to modern ways of living” (in Bottomore, 1993:75). Unlike the process of elite formation during the first industrial revolution in Britain, the formation of elites in Kyrgyzstan during the transformation to a market economy included concurrent formation of such groups as intellectuals, leaders of political movements, an established upper class, military officers, bureaucrats, business leaders (as in Bottomore 1993:83).

In developing countries, including Kyrgyzstan, the amalgamation of masses is formed much more by the identity created by people than their employment, labour status, occupation or wages, which have proven elusive in an economic crisis (as found by Manuel Castells [1983] in his study of South American development). A new class identity then gives people new tools and ideas for accessing the resources they need. In this paper, the definition of “class” is similar to Michael Lipton’s definition (1976:109) of class as a “politically relevant social group with lasting common interest, actual or potential awareness of it, and actual or potential capacity for action to further it.” Internal migrants represent a self-organising labour force in contemporary Bishkek and, besides aspirations for life improvements, they follow the example of the “chattering classes” taking on role models and following the lives of the successful, and celebrities: i.e., they aspire to the lifestyles and status in the Kyrgyz society that are not only limited to trading on the markets, selling used cars from abroad, and starting up “lagman” (noodle) cafes. Instead, recent-immigrant new urbanites aspire to becoming “entrepreneurs”, shuttling between markets in Kyrgyzstan and Russia, to leading business associations, power clubs, election-backing technicians and administrative resources, as well as voters.

New Middle Classes

Classes are antagonistic groups that struggle for access to resources. There are redistributive qualities to class struggle, in which the end game is the re-drawing of power and resource allocation, wealth, as well as various kinds of legitimacies. The classic division is between capitalists and labourers. The phenomenon of the “Middle Class” is, in itself, a sort of a mediation of the class struggle and creation of an intermediary between antagonistic classes struggling for access and control of resources and means of production. This is one of the most effective tools in the modern world’s successful economies to keep stability in society. Indeed, the internal migrants in Bishkek have been able to become integrated into the economy and society of the capital city through their initial mobilisation into social movement (such as “Ashar”, the land squatters’ movement), and gradual creation of livelihood systems and strategies of surviving and being resourceful in the economy of the city. Their identity and class consciousnesses have developed since 1989, when a peaceful revolution took place, which was followed by a decade of societal transformation from a command economy to an open market. However, internal migrants, especially those who reside in *konushtar*, are often the targets of political manipulation. As a group, the migrants represent a mighty force and also, if mobilised for collective action, a source of political threat to status quo (Jeenbaeva, 2003).

In contemporary Bishkek, class struggle is no longer about seizing or destroying power and wealth; it is about the use of force (i.e., uprising, protest) for political development and negotiations for a share of decision-making and resource allocation. The transformation “of coercion from a means of predation into a productive resource of safeguarding, promoting and, possibly, distributing wealth” was proposed by the neo-liberal market-orientated discussions of Robert Bates (2001) on development in poor countries. This process seems to be the tool of the New Middle Classes in Bishkek. Thus, acceptance of a middle class consciousness by internal migrants is vital for urban stability.

The government of President Akaev planned to create and support the formation of a social group similar to the bourgeoisie of the rich western countries (Rashid, 1998); this remains the implicit premise of the current government of President Bakiev. The idea that economic growth is closely linked to Kyrgyzstan’s entrepreneurs has been discussed by both leaders time and again through legislation, national strategy development, and over international tribunes. At the same time, several generations of young people have been trained through Western university and degree programmes in management, economics, and other disciplines. This has inevitably resulted in the formation of a bourgeois consciousness among elites, which is matched from below by mass entrepreneurial initiatives. Dialectically, rural migrants are often low-income people with bourgeois aspirations (a phrase coined by Perlman [1976] for communities in Latin America). They have the potential to become an urban middle class: a group of people with stable income, regular and sustained consumption, and interest in preserving the status quo – this is the class that generates stability in society. It is not completely improbable that such a bourgeoisie will be formed, for better or for worse. It has already become clear that internal migrants to Bishkek represent both active entrepreneurs in producing goods and services, as well as consumers of goods and services, bringing “Fordist” capitalism to the country.

Conclusions and Recommendations

Perception shifts from “dependent” attitudes towards class consciousness. Today’s Bishkek is experiencing a strong drive by non-governmental and business collectives

of rural migrants to create a new equilibrium, through which impoverished masses gain more access to resources and opportunities and take advantage of the temporary social mobility. The state has yet to shift its paternalistic view of rural migrants as “dependent masses” towards viewing them as an emerging middle class that is engaged in production and consumption markets. The state, thus, would compete against the interests of organised crime for the expansion of the informal sector.

Good practices in rural migrant communities as a response to pressing issues that the migrant entrepreneurs faced in their efforts to become self-employed and create jobs for others have taken root. Micro-financing practices have helped keep many households out of poverty, while NGOs have been central in providing capacity building for professionalizing business. The government created laws and regulations that frame some ideas about entrepreneurship, and provide some general rules of engagement during market exchange. Self-help groups of internal migrants now represent the most primary level of association of citizens; they can be the most effective word-of-mouth marketing networks. The growing monetary power and well-rooted credit history in the local community prepare the members of self-help groups to become responsible borrowers and future employment generating units for communities in Bishkek suburbs and in the regions alike.

The growing influence of small entrepreneurs represents a force that can demand and achieve changes. At the same time, entrepreneurs may be the very individuals and groups with the strongest stake in societal stability, since their small household investments need stable and growing economy to produce returns. Thus, migrant entrepreneurs, once they identify themselves as a factor of stability, can use their newly-acquired middle class status to drive the economic growth of the country, producing and reproducing some of the most capable, rapidly learning and rapidly gaining wealth individuals and groups. They gain close access to elected officials during election campaigns, and can eventually create elite cliques through which major decision-making processes will be conducted. Examples include governmental appointments, resource allocation, resource control, intergovernmental and international business dealings, signings of international bilateral and multilateral agreements. There is hope that, at later stages, these entrepreneurs- given their history and evolution as the new middle class - will be the very people who can hold authorities accountable to the electorate.

It seems plausible that, once the key government agencies targeted by this paper are guided by these three principles (professionalization of business practices, encompassing of the Middle Class meaning, and explanations of the benefits of formalising the informal sector), it would be possible to conduct the process of legalisation of informal business in the country. All three principles are concerned to improve trust between the parties involved. Thus, the process of legalising small business will involve giving new meaning to the livelihoods of migrant labour that turn into entrepreneurial activities rendering stability and predictability. The small entrepreneurs, largely represented by the rural migrant labour- if understood and treated as middle classes of the Kyrgyz society - will acquire better opportunities to grow their businesses, add to the economic growth of the nation, and become active participants in the formulation of incremental and sequenced government policies. This will create a good business climate, support export development, and inform poverty-alleviation strategies that are linked to mobilising regional and national resources instead of depending on foreign aid packages.

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Non-Governmental Organizations and Political Parties in Kyrgyzstan: Routes to Productive Cooperation

During the past sixteen years, civil society in Kyrgyzstan has been formed and strengthened. Also during this period, it has undergone a number of significant changes due to both political and economic environment, and social-psychological characteristics of the civil society representatives.

As world experience has shown, the development of a country depends largely on effective interactions between important components of the political process: the state and civil society institutions. Modern political realities have made it crucial to both institutionalize political parties and enhance their credibility among the population, civil society and state, and to consolidate them with more stable institutions, such as NGOs and the media..

Currently, the NGO sector is one of the strongest institutions of civil society in Kyrgyzstan.¹ The emergence of this sector in the Republic began in 1992.

¹ In the broadest sense, NGOs may include all organizations that do not belong to the state apparatus and are based on voluntary actions of citizens. Most often the term refers to the public organizations that provide charitable, financial and technical assistance to the poor. Most opponents of NGOs say that the laws of 1991 and 1999 do not mention the term “Non-governmental organizations”, and thus try to ignore the very existence of such organizations.

An analysis of the emergence and development of non-governmental organizations in Kyrgyzstan allows for a number of points that define the essence of the term “NGO” in the context of the Republic. First, it should be emphasized that the first voluntary organizations, dealing with existing social problems, were created “from the top-down” by international donors and their programs. Methods, technology and other conditions were borrowed directly, mostly from American practices. Later, these organizations were established “bottom-up.” However, in the beginning people, accustomed to dependency and relying solely on the government, could not understand the nature and mission of NGOs. The public should have been informed about these. The NGO initiators and activists had to establish themselves in society. The general population, which had not previously had the opportunity to form organizations without state guidance or intervention, had to be told that NGOs “were not established by the Government.” That leads to another important point. Since the very beginning, the formation of non-governmental organizations in Kyrgyzstan was associated with the need to resolve acute social problems, which the Government was unable to resolve. In this regard, NGOs may propose alternative solutions in the social sphere.

The term “Non-Profit Organization”, it seems to the authors, does not reflect the entire spectrum of NGO activities. Perhaps this term was introduced to emphasize one of the specific characteristics of NGOs - “not to extract profit.” However, in our view, the fact that the founders of an NGO do not gain profit is not important for the understanding of NGOs, the main thing is that an NGO is established and operates freely, without government’s interference [see 14, pp. 38-42].

There were attempts to build the party system in Kyrgyzstan during the Perestroika period in the late 1980s. An example of this process was the “Democratic Movement of Kyrgyzstan” party (DMK). The legal conditions for the emergence of political parties in sovereign Kyrgyzstan were created by the relevant provisions of the Constitution and the law, adopted in 1999 [4]. However, the relative absence or weakness of existing political parties in Kyrgyzstan up until the last two or three years and, at the same time, self-sufficiency and decisive actions by the country’s NGOs in critical situations for the past five years, has led to increased credibility of NGOs among the population and the international community. At the same time, it has led to a bitter debate about the politicization of NGOs in Kyrgyzstan.

This article discusses possible ways to ensure effective cooperation between NGOs and political parties, and provides recommendations based on the analysis of such cooperation in Kyrgyzstan as well as the experience of other countries.

NGOs and Political Parties: Emergence of the Institutions and their Cooperation

Modern civil society in Kyrgyzstan, in particular NGOs, owe their emergence and formation to the international experience [14, pp. 64-65]. For the past fifteen years, international organizations such as USAID, the “Eurasia” Foundation, the “Soros-Kyrgyzstan” Foundation, Counterpart Int. and their projects have greatly contributed to the NGO sector development in Kyrgyzstan. In general, the projects of local NGOs, supported by international donors, may be divided into two groups. The first group of grants was aimed at strengthening the NGOs themselves (e.g., creation or strengthening their resource base, training of the staff). The second group of grants was aimed directly at addressing social problems. Analysis of the funding policies of international foundations also suggested some conclusions. For example, the “Eurasia” Foundation, an organization with private management [28, p. 2], supports the private, governmental and NGO sectors and is, perhaps, the second organization of this kind, following the example of USAID. Despite the large number of target groups, the international organizations had no idea of supporting the projects aimed to develop cooperation between the sectors, not to mention specific institutions. This trend existed until 2008 [19; 20; 38]. The reports of the above-mentioned and other international organizations had no information on the support of joint initiatives of various sectors or political parties. The only exception is an operating project of the Ethnic Program of the “Soros-Kyrgyzstan” Foundation (“Methodological Support of Ethnic Development of KR” [19]), which held a roundtable (21/11/2005), attended by the representatives of the Government and civil society, which recognized the role of political parties in solving ethnic problems [9, pp. 14-15].

Planning their grant activities, international organizations follow the principle of “non-interference in the country politics”, so they refrain from supporting any initiatives of political parties, because such support may be regarded as an “interference of foreign states and their organizations into the internal politics”, which is unacceptable [see 4, ch. 3, Art. 16].

Here the conceptual contradictions in determining the nature of political parties should be described. The generally accepted definition of “civil society” describes political parties as “an element or an institution” of civil society [see 1, p. 48; 8, p. 137; 13, p. 63; 16, p. 432; 22, p. 62]. Civil society is defined as a set of non-political voluntary associations of citizens, assisting the state in solving social problems. By their nature and purpose, “political parties are voluntary associations of citizens of the Kyrgyz Republic, who share common political objectives and tasks of implementing the political will of a

certain segment of the population. They participate in public affairs management through their representatives" [4, Ch. 1, Art. 1; Ch. 2, Art. 3]. Non-governmental organizations, unlike political parties, according to the Law of KR on NPO (non-profit organizations) of 11/02/1999 (Ch. 1, p.1) cannot have political goals or engage in politics.

Another question is: why didn't the NGOs and political parties themselves initiate cooperation or projects, establishing partnership relations between them, for such a long period?

The Practice of Kyrgyzstan: Were There Any Attempts of Cooperation?

As world experience has demonstrated, any successful transition to democracy requires consensus between three opposing socio-political forces: the national truce, the agreement on the "rules of the game"² and the recognition of the basic principles of the social organization model, which is supposed to be established [30, p. 97]. So far this consensus has not been achieved in Kyrgyzstan.

The history of social partnership in Kyrgyzstan may be divided into two periods: before 2000 and after 2000 [14, pp. 106-109]. If during the first period relations between different sectors had been strained [6, pp. 50-52], during the second period the Government made some attempts to establish a dialog with NGOs. The first roundtable discussions, for example "9-9-9-9" (8/04/2000) and "25-25-25-25"³ (17/02/2001), involving the Government, NGOs, political parties and the business sector, tried to establish links between these actors, maintenance of civil accord, societal consolidation and developing constructive solutions [12, pp. 4-5; 26, p. 2]. Unfortunately, the declarations adopted at that time proved unviable.

The attempts to invite Kyrgyz NGOs and political parties to joint discussion of the Comprehensive Development Framework and the social and political problems were made by the Counterpart Consortium project (February 2001) [17]. Despite an understanding and recognition of NGOs as a serious social partner after those events, there was no real cooperation [17]. The NGO Fair in Kyrgyzstan (17-19 July 2002, Osh), which was attended by the representatives of the Government and donors, also demonstrated their desire for constructive dialogue.⁴ Of course, the meetings themselves could be considered an example of cooperation between the Government and NGOs, but the forms of possible cooperation were still discussed during those events.

The latest NGO forums in Kyrgyzstan (May 2007), roundtables in seven regions of the country (October 2007) and the National Conference of NGOs (February 2008) attempted to rethink the role and activities of NGOs, the prospects for their development, as well as the issues of cooperation with the state and political parties [27]. Political parties were suggested as one way to use the humanitarian potential of NGOs as a contribution to cooperation [27].

In general, such events were initiated by NGOs and the Government, not political parties. This again demonstrates the weakness of political parties and their low influence on the society. Despite the large number of political parties for such a small country as

² Rather, it deals with the division of working activities and intervention/non-interference in each other's affairs.

³ The title means the number of participants from the Government, NGOs, business sector and political parties in these roundtables.

⁴ The fair was organized by the "Coalition For Democracy and Civil Society" [11, pp. 4-5].

Kyrgyzstan, they did not have a clear platform, social base and, consequently, support among the population. Their work was fragmentary, since the parties were in search of their identity.

Creation of any social institution usually takes many years. Important indicators of the institutionalization of political parties are their popularity, image and social base. Kyrgyzstan, unfortunately, has not yet been able to move away from the socialist experience, where a political party was created only from above, through both voluntary and forced membership in it. In the Soviet system, ideas and objectives of the party were clear, and they were maintained through ongoing public activity, which created a clear image of that institution in the minds of ordinary people. In today's conditions the activities of the parties in Kyrgyzstan are limited only to election campaigns, which actually creates an image of the party as a "user."⁵ In any case, consistent and continuous public work is prevented by a lack of internal unity and strategy. The political parties of modern Kyrgyzstan still remain a political springboard for incoming and outgoing leaders.

At the same time, the NGO sector in Kyrgyzstan has its problems. Although a sustainable and credible institution, this sector still has no internal unity. According to some informal criteria, NGOs may be divided into "capital" and "provincial", "politicized" and "normal", "fragmentary" (from grant to grant) and "stable", and "independent" and "pro-governmental." The ongoing disunity of NGOs will impede a) the further development of NGOs, b) NGOs' accountability for the role of a strong institution of civil society and consolidation of the efforts with other institutions [18].

The question of division of activities and methods of work remains a "stumbling block" in the relations of NGOs and political parties, and one reason for repeated attempts by the Government "to regulate the activities of NGOs" through special orders, thus causing public resentment of some political leaders in recent years. As mentioned above, the weakness or absence of political parties in the country until the past two years, and decisive actions by NGOs in critical situations during the past five years, have increased the credibility of NGOs. However, this has also generated a contentious debate on the "legitimacy" of NGOs intervention in "politics." In fact, the NGO normative base in almost all countries is still used as a tool for limiting the capacity of NGOs [25]. The Law of KR on Non-Profit Organizations of 11/02/1999 is no exception; it contains a special article (Chapter 1, p. 1), which clearly defines the non-political character of NGOs.

Theoretically, the mission of NGOs is to assist the Government in solving social problems. From this perspective, NGOs cannot organize and participate in political activities designed to take or maintain power and support for any political leader.

Actually, an NGO interested in solving social problems could influence the outcome of political decisions, formulate and propose its own solution of a problem in the form of an alternative bill, promote awareness and responsibility of the citizens, teach them to assert their rights and monitor the activities of state bodies. According to this logic, NGOs, having a formal legal status, indirectly participate in politics.

The purpose of political parties is the management of state affairs through their representatives [4, Ch. 1, Art. 1; Ch. 2, Art. 3], which means political power. Therefore, having the support of certain segments of the population, the political parties of Kyrgyzstan in today's environment have benefited from years of NGOs' activities in

⁵ The parties in Kyrgyzstan become active only during elections, and their activities are limited only to winning votes. Otherwise, the parties are passive.

raising civic engagement. If the NGOs continue their work in raising legal awareness, activeness and responsibility of citizens, the political parties will only benefit from this. Cooperation between NGOs and the parties is necessary because

1. according to the law, NGOs cannot directly engage in politics, but are entitled to make suggestions through alternative bills and other acts. NGOs have a great experience, expertise in addressing social problems and a strong human capacity;
2. since political parties represent the legislative and executive branches, they can support and lobby for the NGOs' proposals, which protect the interests of those social groups that are, in fact, the social base of the political parties.

Thus, the cooperation of these two institutions will enable

1. the parties to use the social experience and intellectual resources of NGOs, and thereby strengthen their position in the society and the state;
2. NGOs to continue to implementing their projects, enjoying the support of the political system through partnership with political parties, while respecting the existing Law on Non-Profit Organizations;
3. society and the state to carry out successful reforms and a purposeful policy and have real mechanisms for their implementation.

Foreign Experience: Estonia

The Government and NGOs in Estonia have consolidated efforts by state and civil society to make important public decisions since 1998 [39]. The purpose of these joint activities was to increase the active involvement of citizens and civil society that will contribute to positive changes in Estonian society, and speed up the process of Estonia's entry into the European Union. NGOs in Estonia have been working to strengthen the governmental support for NGOs. The latest achievement of Estonian NGOs is *the beginning of active cooperation with political parties*. The first step in this process was the establishment of a joint Cooperation Chamber. The idea and objectives of this Chamber were discussed in the framework of the first Memorandum on Cooperation between NGOs and political parties [39]. The President of the country and UNDP supported this initiative. Dialogs with the active involvement of international organizations began in 1999. Establishment of the Cooperation Chamber, and the signing of the Memorandum on Cooperation on December 14, 1999, consolidated the activities of political parties and NGOs in Estonia. Creation of the Cooperation Chamber became an important step toward "participatory democracy"⁶, through which ordinary citizens can express their will through such institutions as NGOs and political parties. The roundtables (held since 2000) and the working groups of the Cooperation Chamber worked out the development concept of the society. The consolidation of NGOs and political parties led to strengthening of the NGOs. The Advisory Committee of Estonian NGOs was established (26/11/1999), which further strengthened the position and unity of NGOs.

Moldova and Belarus

In Moldova, cooperation between political parties and NGOs has failed [32]. Mutual accusations of authority abuse and unwillingness to compromise made cooperation

⁶ Civil participation in improving political decisions through NGOs and other institutions.

impossible. Even though the Moldovan Parliament pointed to the need to strengthen the NGOs' influence in the political decision-making, and proposed to establish a parliamentary Committee working with NGOs, in practice neither the political parties nor the NGOs were ready to cooperate.

A specific feature of NGOs in Belarus is the unacceptable separation of civil and political sectors. As a result, NGOs are performing political functions which they actually should not do [23].

The situation in Moldova and Belarus is very similar to that of Kyrgyzstan, whose NGOs have to assume political functions due to the immaturity of the political parties. The experiences of these countries suggest a trend of politicization of NGOs in many post-Soviet countries, which primarily reflects the weakness of political parties.

The Arab Countries (Palestine, Jordan, Lebanon)

The experiences of civil societies in Palestine, Jordan and Lebanon are linked to struggles with "potentially democratic" political regimes [23]. At the initial stage of NGO development in these countries, the dispute between the NGOs and the state focused on the management of NGOs and their normative regulation. The state controlled the number of NGOs and their activities in the country ("Code of Conduct"), which caused dissatisfaction among NGOs. NGOs in these countries have been trying to follow the examples of the countries of South Africa, Bangladesh, Eastern Europe and the Philippines, where the state actively cooperates with NGOs [33].

In Jordan NGOs are seen as "participants" of all ongoing processes, but not as partners. In Lebanon, the NGOs have been able to become full partners with the state and the ruling party. Their work, designed to protect human rights and enhance the political activism of the citizens, fully satisfies the Government's expectations. Palestinian NGOs cooperate relatively actively with the state. In this case, the state understands the importance of the consolidating function of NGOs and is trying to use it for the good of the state and support of the regime. Both international organizations and the government support the Palestinian NGOs. In some areas, Palestinian NGOs play a more important role than governmental bodies; for instance, since 1996 the health services provided by NGOs amount to more than 60 percent.

In general, such a diverse experience of cooperation between political parties and NGOs in the Arab countries proves that the cooperation or confrontation do not depend on any religious or regional context. They are more dependent on the benefits that the government or the ruling party see in the activities of NGOs, especially in mobilizing the society under extreme conditions, raising the political awareness and the need for an objective criticism towards the existing policy.

Russia

The attitude of the Russian Government toward NGOs is mixed. Both the Government and political parties have repeatedly denounced the activities of international organizations and their projects to build and strengthen Russian NGOs. Unlike other countries, Russia imposed a ban on the activities of some international NGOs. Other organizations are under the strict control of the Russian state.

Russia is one of those post-Soviet countries whose political life never depended on the activities of NGOs. Therefore, the issue of politicization of NGOs has never been raised there. This is because, almost immediately after the collapse of the Soviet Union, the Russian political elite was able to restore the institution of political parties.

Political parties in Russia are the only more or less strong institutions. Nevertheless, there is now a trend toward cooperation between political parties and NGOs in Russia. This suggests that the parties are ready to use the capacity of NGOs, since they do not see them as political rivals. Remarkably, such attempts to involve NGOs are made by the parties that do not enjoy great public support. An example of it is a recent official consolidation of the party "Rodina" ("Motherland") with the "Motherland" NGO.⁷

Ukraine

Ukraine has a very interesting experience of cooperation between the NGOs and political parties. Typically, parties cooperate with public organizations to solve their political and technological tasks to demonstrate that these parties have public support [10]. There were incidents when the same person was a member of several NGOs. However, such a tactical alliance may only be a temporary phenomenon, needed by the parties and NGOs of Ukraine only to demonstrate the "massive" character of their influence.

Kazakhstan

The Constitutional Council of Kazakhstan has adopted two laws on NGOs ("The activities of Branches and Representative Offices of International or Foreign Non-Profit Organizations in the territory of the Republic of Kazakhstan" and "On Amendments and Additions to Some Legislative Acts of Kazakhstan on Non-Profit Organizations"), which influence the political development of the country [28]. These laws are designed to weaken the positions of NGOs and strengthen governmental control over the financial relationship between local NGOs and international organizations. Under these laws, NGOs are also forbidden to finance political parties and support Kazakh politicians. This special amendment suggests that such activities took place in Kazakhstan (in contrast to the experience of Kyrgyzstan and other countries beside Ukraine). In 2007, the President of Kazakhstan signed a third law, which imposes restrictions on the cooperation of political parties, religious organizations, NGOs and the media with foreign organizations and governments.⁸ In general, the laws on NGOs are a part of the broad campaign by Kazakhstan's government to prevent a local version of the "color revolutions" that happened in other CIS countries. According to Kazakh authorities, a crucial role in the revolutions that occurred in Georgia, Ukraine and Kyrgyzstan, was played by NGOs financed from overseas. "As a result, NGOs, together with the political parties, will become an element of Kazakhstan's decorative "democracy" that only creates an illusion of political pluralism" in Kazakhstan [28].

Thus, we briefly considered several options for the cooperation of NGOs with political parties. Despite the few examples of successful cooperation, there are models suitable for Kyrgyzstani conditions. Moreover, there are already initial positive results of the cooperation between NGOs and parties, such as the adoption of the Law "On the State Social Order" (11/01/2008) and the social movement "For Justice!"⁹

⁷ More detailed information: <http://rodina-nps.ru/news/regions/more/?id=675>

⁸ A similar situation with cooperation between political parties and foreign political parties and organizations exists in Kyrgyzstan. According to the Law of KR "On Political Parties", parties cannot be supported by foreign organizations.

⁹ In December 2007, nine opposition parties and ten NGOs of Kyrgyzstan established the first working body - Organizational Committee [21].

Summing up, it should be emphasized that NGOs and political parties are important institutions of civil society, the existence and development of which directly depend on consensus between them. As mentioned above, the purpose of both sides is to improve the living standard of citizens, who are the social base for both NGOs and political parties. The differences in approaches to addressing the important social issues should not influence the decisions; on the contrary, it should enrich the content of those decisions. In the experience of other countries, such as Estonia, consensus is necessary for the development of society, not for the demonstration of one's influence.

It is also important to remember the common purpose of all the institutions of civil society and the state: stability and strong statehood (as one example, Arab countries). It is important to identify common goals (like in Estonia) and not to act as opposing forces but rather as forces that should be consolidated for general improvements (for example, Russia).

Recommendations

In terms of the current situation, it should be noted that cooperation between political parties and NGOs of Kyrgyzstan must take several steps of testing and spreading throughout the country. In other words, the practices of private cooperation between individual NGOs and parties should first be introduced, and then may gradually spread to the national level.

1. Introduction and Testing of Models of Cooperation

- Enhance the internal integrity of both NGOs and political parties. It is necessary to solve internal problems and coordinate their activities (NGOs), to review the development strategy (NGOs and political parties), and develop a feasible program of actions, having identified the social base (political parties). As experience shows, no party in the country has a concrete social base due to its poor understanding and lack of a clear program. It is important to know whom to work with and rely on. Then a party can cooperate with those NGOs that work for the same social group.
- Develop a regulatory framework for relations between the parties. This may be an agreement or a contract between a political party and NGOs. Over time, this should become a national document of common and compulsory character.
- Develop and realize joint pilot projects, during the implementation of which it would be possible to introduce adjustments into the documents of cooperation.

2. Spread and Enhancement of Cooperation

- Initiate the establishment of an Advisory Board and develop, together with political parties and NGOs, a Memorandum of Cooperation.
- Discuss and adopt the Memorandum of Cooperation at the level of national coordinating body.
- Work out and implement the strategic joint plans for the country's development.
- Ensure joint and mutual monitoring activities.

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Participation of NGOs in the Monitoring and Evaluation of the Country Development Strategy (CDS)

Since the first days of independence, Kyrgyzstan has sought ways to increase economic growth. What is the country's leadership doing in the present conditions? It is looking for opportunities to attract investments from international donors, and developing programs to improve the socio-economic situation in the country. During its years of sovereignty Kyrgyzstan has developed many national and regional development programs, strategies and concepts. Currently, the Republic has over 275 conceptual and policy papers. The most important are the Comprehensive Development Framework (CDF) and the National Poverty Reduction Strategy (NPRS) [5].

The large number of NGOs in Kyrgyzstan (as of 21 May, 2008, 11,035 NGOs have been registered [2]) might seem to be enough to ensure the participation of NGO representatives in various monitoring and assessment activities, at not only national but also regional levels. The Country Development Strategy (CDS) in section VIII, paragraph 672, emphasizes that "Monitoring, based on alternative assessments, is initiated in the CDS for the first time. This will be its main difference from all previous programs and policies in the context of enhancing cooperation with civil sector." The same section states in paragraph 677 that "... the coordinated efforts of official institutions, civil society and donor community are a key to successful creation and strengthening an effective system of monitoring and evaluation of the country's development" [9, pp. 111-112]. Thus, the CDS provides for the participation of the non-governmental sector in implementing the tasks outlined in this document.

At an early stage of elaborating the Strategy, consultants of the Asian Development Bank's (ADB) project TP-4705, entitled "Support for capacity development and realization of CDS at the national and regional levels", analyzed the role of NGOs in preparing an alternative (independent) assessment of CDS. Forty NGOs were selected for this analysis. An assessment of the capacity of those NGOs revealed a number of positive and negative aspects.

Positive aspects:

1. Almost all the organizations have participated in an evaluation of programs and projects in specific areas of development;
2. High level of the technical base;
3. Individual organizations manage to conduct more than 20 independent studies (estimates) a year;
4. A wide range of studies;

- national programs and projects;
 - regional studies;
 - sectoral (industrial) programs and projects.
5. A wide range of constituents:
- governmental organizations;
 - private entities;
 - non-governmental organizations;
 - international organizations.

Negative Aspects:

1. The “closed character” of independent studies, i.e. conducted for a specific client.
2. Limited access for the parties concerned to the results of such studies.
3. Fragmentary knowledge of monitoring issues by NGO experts.

This analysis revealed a real need for NGOs to participate in an independent (alternative) assessment of CDS implementation, in such areas as:

- the quality of governance and fighting corruption;
- social priorities;
- environmental security;
- deregulation of economy.

Importance of the Problem

This article offers an overview of the existing problem of enhancing NGO activities to participate effectively in the monitoring and evaluation of the CDS. What do we expect as solutions to this problem?

First, NGO participation in monitoring and evaluating the implementation of the CDS and its regional programs would ensure their transparency.

Second, the participation of NGOs in this process would help work out a mechanism for joint work with governmental authorities.

Third, the participation of civil society in monitoring and evaluating the CDS would provide full and unbiased information on the progress of its implementation.

Fourth, on the basis of alternative (independent) estimates by NGOs, the government and local administrations would be able to make timely adjustments to these programs and make the right decisions.

A Brief Overview of the CDS

What is the CDS, and how does it differ from previous socio-economic development programs? Will NGOs be able to participate in the monitoring and evaluation of the strategy?

At the moment, opinions on the CDS are mixed. Some believe that the program does not receive adequate resources for individual events and areas, which leads to failure. Others believe that the CDS has a more solid financial basis than all previous programs. What does the nation’s official leadership say on this issue? In August 2007, a meeting between the President of the Kyrgyz Republic K. Bakiyev and the participants of the National NGO Forum-2007, emphasized the need to engage NGOs in the process of monitoring and evaluation of the Country’s Development Strategy. While welcoming the willingness by NGOs to participate in monitoring the implementation of the Strategy for 2008-2010, the Head of State stressed that the Strategy was very promising. As the

President concluded, "Earlier we had adopted many programs. But the CDS, obviously, has a better perspective, as it is a real program, which has been broadly discussed in our society and has a good financial support." [4]

What do donors say? The World Bank's 2005-2007 report on its activities in the Kyrgyz Republic noted that "the CDS has improved mechanisms for monitoring and evaluating the achieved progress, although they are still not fully formed; the Strategy includes the plans of involving civil society and development partners in the assessment of the implementation process." The report further stated that "The indicators for monitoring the CDS are largely focused on macroeconomic indicators, the results in public administration area and business environment. The document also has the indicators for monitoring several industrial sectors such as agriculture and energy, which will help in the implementation of the CDS. The CDS also proposes to monitor the Strategy both through official channels and with the involvement of civil society." [7, pp. 30-31] Thus, donors represented by the World Bank have also recognized the great importance of NGO participation in monitoring and evaluating the CDS.

Monitoring and Evaluation

To help consider the problem of NGOs participation in monitoring and evaluation of the CDS, it is worth defining "monitoring" and "evaluation."

These terms have often been defined in scientific and other literature.

Monitoring is observing a process or a condition of something. [8, p. 395]

Monitoring is a set of observations and studies that determine changes in the environment caused by human activity. [1, p. 343]

The term "monitoring" involves actions such as information collection, its evaluation, controlling an object and forecasting its behavior. [12]

Monitoring can be defined as "constant observing a process to determine its consistency with the desired result or starting position." [10]

Monitoring is the process of including regular collection and recording of data to track the impact of the key elements of the campaign on its implementation. The purpose of monitoring is a correction, ensuring efficient use of resources, achievement of the planned objectives and minimizing negative consequences. [11]

Evaluation, by one definition, is the systematic study of a situation, the progress of a campaign or its results. There are several types of evaluation: basic evaluation, process evaluation and impact evaluation. [11] For NGOs that intend to participate in the evaluation of the CDS, of greatest importance are such categories as expert evaluation and peer review present.

Expert evaluation is based on professional experience. It is a descriptive, qualitative or rough quantitative evaluation of events or phenomena, which address principles or cases that cannot be directly measured by strict calculation methods of natural sciences, or other normative instruments.

Peer review is conducted by independent experts who evaluate events that are beyond direct measurement. [see 1, p. 431]

The problems of NGO participation in monitoring and evaluating the CDS

The citizens of Kyrgyzstan expect the involvement of civil society in the process of monitoring and evaluating development programs designed to enhance public

awareness of implementation of these programs. This process would also increase the accountability of public bodies for the implementation of development programs, in general, and for monitoring and evaluation of the programs, in particular. Independent NGO experts might give their opinions supported by real figures on the implementation of the CDS. This, in turn, will create preconditions for making correct decisions by key government officials on certain issues. In addition, NGOs would provide people with objective information.

For effective NGO participation in monitoring and evaluation, it is necessary to solve the problem of professionalism among the NGO representatives. Very few professionals in our NGOs have sufficient knowledge and practical skills to monitor and evaluate the CDS and its regional programs. It is, therefore, necessary to organize the training of representatives of NGOs.

A three-day seminar on the use of statistical tools for monitoring and evaluating the social aspects was held in the Kostanai region of Kazakhstan. At the end of this seminar, one participant asked its organizers: "We have gathered here to discuss poverty reduction issues. Why monitoring and evaluation?" [6] He never understood the heart of the problem that had been discussed for three days at the seminar. Such attitudes, unfortunately, also exist in Kyrgyzstan. Many NGO representatives are accustomed to the tendency for seminars to address to general issues that do not require specialized knowledge. However, seminars on monitoring and evaluation should be attended by relatively trained NGO representatives with at least basic knowledge of this field.

At present, in relation to involvement by NGOs, it is necessary to analyze the potential by NGOs to monitor and evaluate the CDS and its regional programs. The experts of one ADB project conducted such an analysis and, in our view, future analyses should cover a larger number of NGOs. To facilitate this change, a special project should be initiated with invitations made to the "Soros-Kyrgyzstan Foundation", the Asian Development Bank or other interested donors. The Social Research Center at the American University in Central Asia, for example, together with our organization (the Public Foundation "Kalys Consult") could undertake this task. We should select NGOs whose employees are willing to participate in the process of monitoring and evaluating programs, and arrange special seminars and courses for them. These activities will, of course, require additional resources, including funding, so the support of internal and external donors will be important.

Training the employees of some NGOs in monitoring and evaluation would be very useful. In future, representatives of NGOs could participate in elaborating and monitoring Republican, provincial and municipal strategic development programs in collaboration with employees of state offices.

Donors in Kyrgyzstan are also interested in active participation by NGOs in monitoring and evaluating the CDS. For example, during a conference organized by the "Soros-Kyrgyzstan" Foundation, held on 12-14 April 2007, it was noted that "... monitoring and evaluation of the implementation of policies and programs would give civil society and other stakeholders a clear idea of how the common objectives of the country are implemented, what are the costs of implementation, effectiveness, and what measures are being taken to ensure the dynamic development." [3]

This resolution, adopted after the conference, was supposed to identify stakeholders, including government agencies and community organizations that could be involved in future pilot subprojects within the project "Monitoring and Evaluation of Development Programs." Introduction of these pilot projects, with the assistance of the "Soros-

Kyrgyzstan" Foundation, would provide a real opportunity for NGOs to participate in monitoring and evaluation of programs, including the CDS.

Currently, the Asian Development Bank provides financial assistance to develop a matrix of indicators for monitoring and evaluating the CDS and its regional programs. Among the consultants working in the regions of the Republic and in cities of Bishkek and Osh are representatives of the non-governmental sector. The early launch of pilot projects by the "Soros-Kyrgyzstan" Foundation and other interested donors would increasingly involve civil society in monitoring and evaluating the CDS and other socio-economic programs.

As indicated above, one important issue of NGO participation in the process of monitoring and evaluation is the training of NGO representatives. They should be able to use tools for monitoring and evaluating the CDS and the programs of regional development. Unfortunately, discussion of the issue with some representatives of NGOs has shown a low level of professionalism; i.e., they are unready to effectively use these tools.

It is well-known that the nation's development strategy was developed mainly by public bodies (Ministries, state committees, agencies and provincial and district state administrations). At the same time, independent experts, including representatives of the non-governmental sector, also participated in developing certain aspects of the CDS. For example, 14 members of the working group, established by the order of Bishkek's Mayor, participated in the work of the Bishkek development program "Favorite city" for 2008 - 2010. Half of them were experts from NGOs.

Those NGO representatives who participated in the elaboration of some components of the CDS and its regional programs could successfully participate in monitoring and evaluating these programs. Today, governmental bodies do not object to the participation of NGOs in monitoring and evaluation. However, they want NGOs to monitor and evaluate those parts of the program in which the human and financial resources of governmental bodies are insufficient. For example, the Bishkek Development Program contains 29 new indicators that have not been previously recorded. This caused difficulties in monitoring and evaluation by the specialists of municipal bodies. The specialists (in particular, the Office of Economic Development of Bishkek City Administration) asked program developers to help determine the values of those indicators. But neither the developers nor independent experts from NGOs were able to help in this effort. It turned out that the NGOs were not involved in developing a methodology to determine the values of these indicators, because it was not their task. Representatives from NGOs argue that this would have required additional resources, including financial, because determining the values of certain new indicators would require more work in the form of questionnaires and surveys of the population or specific target groups. Due to the lack of funding, governmental bodies were similarly unable to perform this work. They would like this to be done by NGOs, with financial support from external or internal donors.

NGOs already have enough work in the area of monitoring and evaluating the CDS. Experience has shown that many NGOs wish to participate in the process of monitoring and evaluation of the CDS and its regional programs. For instance, NGOs I work for tried to help develop the CDS. We participated in seminars organized by the President's Administration of the Kyrgyz Republic. By the end of one workshop, we sent to the President's Administration proposals and comments for inclusion in the CDS. However, we have still not received any response, neither positive nor negative. Other NGOs have

also tried to participate in developing the CDS, but their attempts were unsuccessful. What does this demonstrate? An inadequate response by a governmental body to an NGO initiative. Other government bodies have similar attitudes toward NGOs and their initiatives to participate in monitoring and evaluating the CDS and regional programs.

Unlike Kyrgyzstan, in Russia and Kazakhstan not only donors but also state authorities continually announce special competitions among NGOs that wish to participate in the process of monitoring and evaluating national and regional strategic development programs. This is, of course, a positive incentive for NGO participation in this process, and most importantly may help solve financial problems.

It should be noted that some Kyrgyz NGOs did indeed take part in developing indicators for monitoring and evaluating the CDS and its regional programs. For example, two non-governmental organizations participated in developing a regional development program of the Chui province. In Bishkek, one NGO expressed its desire to participate in this process, if financial support from the state or a donor could be provided.

Mechanisms of NGO interaction with parties interested in monitoring and evaluating the CDS

In the current situation of monitoring and evaluating the CDS and its regional programs, NGOs could work together with the government agencies on a contractual basis.

How would this happen?

An NGO signs an agreement with the appropriate government body to conduct monitoring and evaluation of the CDS or its regional programs. The agreement specifies organizational, methodological and financial matters. The NGO is responsible for the amount of work specified in the agreement, while the government agency, in turn, creates favorable conditions for the smooth functioning of the NGO in monitoring and evaluation. This increases the responsibility of NGOs for the quality of monitoring and evaluation, and of government structures for the process of monitoring and evaluating the CDS and its regional programs.

For regional NGOs, it is also important to participate in the process of monitoring and evaluation of regional development programs under such agreements. Local NGOs are now better informed about the situation in the regions and cities, and can monitor and evaluate regional programs at appropriate levels.

An equally important aspect of monitoring, evaluating and informing the public of the results is the accessibility of various sources of information, including the Internet. It is necessary to open a Web site for the CDS and its regional programs, and regularly inform the public through all available channels about implementation of the programs. NGOs should cooperate with the media, which will help to timely and promptly inform the public about the results of monitoring and evaluation of the CDS and its regional programs.

Conclusions

A number of conditions currently exist for the participation of NGOs in monitoring and evaluation:

- The availability of a developed and functional CDS, including its regional programs;

- The willingness of government bodies to cooperate with NGOs (although in the process of such cooperation, some difficulties with understanding and interaction may arise);
- The possibility of media involvement to inform the population about the implementation of CDS and its regional programs;
- The interest of some donors in bringing NGOs into the monitoring and evaluation process.

However, a full solution of this issue requires additional conditions. For this reason, the NGOs are not yet engaged in the process of monitoring and evaluating the CDS and its regional programs. To ensure NGO efforts in this direction, it is necessary to resolve some problems that relate to NGOs themselves as well as other participants in this process.

First, NGOs are not yet ready to effectively monitor and evaluate the CDS and its regional programs. They need additional knowledge and practical skills. Organizing training sessions and seminars requires resources, especially financial. In any case, a major problem is the insufficient number of qualified teachers of these skills, especially in rural regions.

Second, there are still no clear interactions between NGOs and government agencies in joint monitoring and evaluation of the CDS. Governmental authorities prefer to act independently, without involving NGOs. There is no established network between NGOs, government bodies and other interested parties.

Third, NGOs are still unable to inform the public about the progress of the CDS, because they do not have access to necessary information to make the results of monitoring and evaluation of the CDS and its regional programs public.

Fourth, mechanisms for partnerships with the media have not been developed, and the financial issues of joint activities have not been resolved.

Fifth, due to low activity by NGOs, donors are not yet interested in financing their work in monitoring and evaluating the CDS and its regional programs. Neither have NGOs yet approached donors with their suggestions and requests on this issue.

Sixth, monitoring and evaluation, as a category of NGOs activities, are not well developed in our country. These need deeper examination.

Recommendations

- Given that the NGOs are not yet ready to monitor and evaluate the CDS, their potential should be explored, and the professionalism of the representatives of these organizations should be improved, through training, workshops and other activities.
- Introduce a contractual basis for NGOs partnership with government agencies for joint monitoring and evaluation. The rights and obligations of each party need to be to clearly defined.
- Initiate pilot projects that monitor and evaluate the CDS and its regional programs, and establish contacts with donors interested in financing these projects.
- Organize roundtables, seminars and conferences with representatives of NGOs, government bodies, the media and donor organizations on how to implement the CDS. Also, public debates with the public participation should be organized.
- NGOs must establish partnership links with the media and use all their channels to inform the public of the progress of the CDS and its regional programs.
- Create an association of NGOs involved in monitoring and evaluating the CDS

and its regional programs, to develop policies that promote adoption by government, local government authorities and local administrations of effective means to implement these programs.

- With financial support from international donors or other financial sources, carry out a competitive selection of NGOs and trainers in order to:

- a) develop a training program for monitoring and evaluating the CDS and its regional programs;
- b) organize training and seminars for representatives of selected NGOs on monitoring and evaluation;
- c) conduct sociological research into the general public or selected target groups on implementing the CDS and its regional programs;
- d) in cooperation with software developers, analyze the CDS and its regional programs to adapt their activities to processes of monitoring and evaluation;
- e) provide opinions on changes to the CDS and its regional programs and transfer them to the state bodies and local authorities for appropriate action.

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Status of Social Partnerships between the Government and NGOs in the Kyrgyz Republic: An Assessment of Efficiency

The relevance of social partnerships between key actors in Kyrgyzstan's society—the government and NGOs – is clearly evident in the context of current reforms and the country's continued development. Civil society, institutions that comprise voluntary public associations, trade unions, charitable and other organizations, is crucial to social partnerships. Non-governmental organizations often bear the ultimate responsibility for formulating problems (particularly social and economic problems) and presenting them to social partners, i.e. the state and the capital sectors.

An ongoing efficiency assessment of social partnerships between the state and NGOs in the Kyrgyz Republic demonstrates that practices of successful cooperation exist alongside some obstacles. This is a natural result of the development of a social partnership system. At this time, efforts must be focused on optimizing laws that address socio-economic problems.

In this environment, an effective model of social partnership would involve broad participation of non-governmental actors in law-making through the deputies of the Jogorku Kenesh¹.

Context and Relevance of the Issue

“Social partnership” implies mutually-beneficial collaboration between governmental bodies, businesses, and non-profit organizations (sometimes called the first, second and third sectors). Efficient problem-solving by these partners is contingent on:

- using innovative approaches to solve specific local problems;
- learning from each other and exchanging experiences;
- developing an original understanding of phenomena;
- finding efficient ways to address social issues.

By reviewing the development of social partnerships in Kyrgyzstan, we identified opportunities for various types and forms of such collaboration. On the whole, social partnerships between government bodies and NGOs are experiencing dynamic

¹The Jogorku Kenesh, i.e. the Parliament of the Kyrgyz Republic, is a representative body that wields legislative authority and performs some supervisory functions.

development in both urban and rural areas. Yet, a number of factors hinder progress in this area.

International experience shows that the emergence of a social partnership system is a lengthy process. It requires a clear legal definition of stakeholders' responsibilities, and an accurate identification of the range of issues to be addressed at each stage of the social partners' relationship.

Usually, each sector has different ideas about its own responsibilities, opportunities and resources and, finally, diverse ideas about the nature of social issues. Despite all of these differences and contradictions, cooperation is essential: single-handedly, neither the government, businesses, or the public can overcome social injustice, resolve conflicts, or ensure equal opportunities for the pursuit of a dignified life.

It is clear that, at this point, Kyrgyzstan's non-governmental organizations have an enormous capacity for producing breakthrough ideas and are capable of extending invaluable assistance to the government in addressing a range of social issues. Cooperation between non-governmental organizations and the government in finding acceptable solutions for specific social challenges has recently been reaffirmed through legislation. The core document in the field of social partnership is the Cooperation Framework for NGOs and Government Bodies (approved on 25 March 2004 by Decision No. 200 of the Government of the Kyrgyz Republic [4]). This framework regulates the relationship between governmental and non-governmental bodies and identifies methods of streamlining joint efforts to address social issues. Specifically, its objectives can be described as:

- improved cooperation with NGOs;
- NGO involvement in addressing social issues;
- establishing advisory boards for interactive collaboration between the government and NGOs;
- seeking information, advice, methodological, organizational, and technical assistance from NGOs;
- enlisting the help of NGOs through the commissioning of social services by the state.

The basic principles and forms of assistance rendered to the state by NGOs, as outlined in the framework, include the rule of law, partnership, transparency, consistency, and accountability.

Through the lens of these principles, this article examines the best practices and achievements related to cooperation between NGOs and government bodies, on both the national and regional levels. It also identifies structural obstacles and reasons for limited partnership, which need to be addressed.²

Analysis of Current Policies

Current areas of NGO action include efforts to improve national laws and regulations for efficient cross-sectoral cooperation. One priority is to produce a program to implement the Cooperation Framework for NGOs and Government Bodies and enforce by-laws that pertain to the Law of the Kyrgyz Republic on the Commissioning of Social Services.

² This article draws on research conducted under the project entitled "Strengthening Sustainable and Effective Cooperation between Government Bodies and Civil Society Organizations in the Kyrgyz Republic", which was carried out by Counterpart-Sheriktesh within the framework of the Civil Society Program of the Aga Khan Foundation.

Today, cooperation between the sectors is still initiated primarily by civil society organizations. To be effective, however, the model of collaboration must be based on equal and proactive participation of all stakeholders within their realms of responsibility.

To sustainably and efficiently resolve both parties' dissatisfactions, a consensus must be reached by discussing the problems at hand and sharing best practices. For example, during public hearings on social partnership issues within the project "Strengthening Sustainable and Effective Cooperation between Government Bodies and Civil Society Organizations in the Kyrgyz Republic" [2], government officials and NGOs from across the country identified obstacles to efficient and long-term cooperation between governmental bodies and NGOs. Focus group discussions of relevant problems touched upon several areas, such as:

- on which factors is cross-sectoral cooperation currently based?
- which problems and/or obstacles stand in the way of efficient cross-sectoral cooperation?

The table below summarizes the obstacles that hinder efficient partnership, and suggests ways to overcome them.

Obstacles to efficient cooperation between governmental bodies and NGOs	Ways to overcome obstacles
Inadequate social partnership legislation. Absence of legislative enforcement at a local level, resulting in work inefficiency.	Revise current laws and regulations. To develop efficient mechanisms for the execution of laws. Legal awareness must be systematically raised within government bodies and NGOs.
Failure of NGOs to fully comprehend the operations of government agencies. Government bias against NGOs.	Discuss and identify partners' mutual interests. To assess the resources and capabilities of each party, to identify strengths and weaknesses, and to join forces to address specific tasks.
High staff turnover in local governments that results in low levels of awareness about the local civil sector.	Improve compensation of civil servants; to prepare and train reserve staff; to conduct joint events.
Lack of sustainability of many NGOs due to their focus on individual projects.	Find opportunities for long-term cooperation and to identify areas of sustainable collaboration (instead of engaging in cooperation within a single project, a long-term plan for collaboration consistent with the NGO's charter can be developed).
Government institutions and specialist/area-specific NGOs sometimes fail to produce joint activity plans that address specific issues.	Produce joint activity plans.
Failure to jointly discuss the monitoring and evaluation of NGO projects and/or government operations.	Introduce transparency systems and sustainable information exchange mechanisms throughout. To conduct regular meetings between partners.

During public hearings, the participants also talked about coordination councils as a form of social partnership. These councils, composed of government officials and civil society members, are usually established under public governance bodies. According to

the participants of public hearings, these councils are extremely helpful in coordinating activities in a variety of sectors; yet in some places, they gradually started to turn into an instrument of government officials to control NGOs who even exercised dictatorship over them. Over time, this mechanism of cooperation began to deteriorate.

While addressing social problems, it is important to use innovative, participatory approaches. For example, the Alga NGO routinely signs “memoranda of partnership” with government officials, bearing in mind the maxim “People come and go; agreements remain.” The city of Karakol has an efficient Public Municipal Council, whose members include members of the city’s Kenesh (Council) and civil society organizations.

All stakeholders in the process benefit from this form of cooperation and this, in turn, ensures all-round social development.

Public Hearings on Social Partnership Issues

To evaluate the status of social partnership between government bodies and NGOs, the results of several discussions were used. These discussions occurred during a variety of events, including:

- social partnership roundtables and focus groups with government officials and various civil society members, held in October 2007 in seven provinces of Kyrgyzstan (participants included governmental bodies, NGOs, businesses, trade unions, and the media);
- the National Conference on Social Partnership (February 2008);
- groundwork carried out by an interdepartmental working group to review Kyrgyzstan’s legislation pertaining to social partnership and to produce recommendations on ways to optimize current laws (January-June 2008);
- awareness campaigns (e.g. quarterly newsletters, informational booklets, and a report on the National Conference on Social Partnership that took place in 2008);
- a survey of 52 experts who represented government bodies and NGOs on the national and local levels.

Active participation by government officials and NGO members in public hearings clearly helped make cooperation between partners more efficient, particularly with regard to the most pressing socio-economic issues. Some of the best examples of effective problem-solving include:

- the campaign to promote the Law of the Kyrgyz Republic on the Commissioning of Social Services [1];
- ARIS projects, carried out within the framework of the Public Investment Program;
- the development of a State Program for Ensuring Gender Equality and the approval of a National Plan of Action to Achieve Gender Equality in the Kyrgyz Republic for 2007-2010;
- partnership projects to eradicate the worst forms of child labor, with the involvement of government bodies and civil society organizations (the 2008 State Program);
- the establishment of a Public Municipal Council in Karakol, bringing together members of the City Council and local civil society organizations.

Following public hearings conducted throughout the country in the autumn of 2007, on 14 February 2008 a National Conference on Social Partnership was held in Bishkek. The conference was organized by the Kyrgyz President’s Administration and Counterpart-

Sheriktesh [3]. This brought together members of the President's Administration, the Office of the Government, the Parliament of the Kyrgyz Republic, relevant ministries and departments, along with the business community, trade unions, the media, and NGOs from all parts of Kyrgyzstan. Conference participants who represented diverse sectors of civil society and the government examined the outcomes of locally conducted roundtables and focus groups, and discussed ways to optimize cooperation on the local and national levels.

Due to the importance of further developing social partnerships between the government and civil society groups, a working group of legal experts was formed to evaluate current legislation in this area. After reviewing proposals made by the participants of locally conducted public hearings (autumn 2007) and the National Conference on Social Partnership (February 2008), the working group developed and submitted suggestions regarding a number of legislative documents, which include:

- the draft Law on the Commissioning of Social Services;
- the draft of the new Tax Code of the Kyrgyz Republic;
- the draft of the new Law of the Kyrgyz Republic on the Registration of Legal Entities.

The success of the working group's efforts is evident. For example, in July 2008 the President of Kyrgyzstan signed the Law on the Commissioning of Social Services, while the second version of the Draft Tax Code and the Law on the Registration of Legal Entities (with a "one-stop shop" system) now incorporate all the suggestions.

Another positive aspect of cooperation is the improved competence of partners, from both government bodies and civil society organizations.

Example of Best Practices in Social Partnership

The "expert community" unanimously acknowledges that the campaign to promote the draft Law on the Commissioning of Social Services is a best-practice example of partnerships between governmental bodies and NGOs. More specifically, after the Law on the Commissioning of Social Services was enacted, a new mechanism of interaction between the government and NGOs emerged, helping them address a variety of social issues. The law aims to develop civil society institutions in the Kyrgyz Republic, ensure a more efficient use of funds from the national budget allocated to solving socio-economic problems, and involve non-profit organizations in efforts to resolve these problems. Essentially, the law means that the principles, rules, and regulations that guide the formation, placement, and execution of commissioned social programs shall be carried out within a competitive framework.

All those who helped to draft and promote this law, including the Government of Kyrgyzstan, the Parliament, and civil society, made valuable contributions.

The operating procedure of the Parliament defines the legislative process as making legislative decisions in a manner that is strictly regulated by the law. This process incorporates a number of procedures in creating legislation, such as drafting, discussing, signing adopting and publishing it. The legislative process only involves those who have the right of legislative initiative: the President, the Government, members of the Parliament, and the people (30,000 citizens). Others who are not on this list may contribute to law-making, such as lobbying their interests through those with the right to make legislative initiatives.

In the case of the Law on the Commissioning of Social Services, the initiative came from the Government of the Kyrgyz Republic (with the Minister of Labor and

Social Development as the spokesperson). However, the law was initially drafted in close cooperation with civil society members who do not have the right of legislative initiative.

The draft Law on the Commissioning of Social Services was submitted to the Parliament in 2006 and was passed in its first reading, on 11 January 2008. The text of the draft law was amended following a proposal by a group of members of the current Parliament, and the amendments included suggestions from civil society members. Later, the amended draft law– a product of the combined efforts of MPs, the Ministry of Labor and Social Protection, and civil society– was passed by the Parliament of the Kyrgyz Republic on 5 June 2008 and was then signed by its President on 21 July 2008. The legislative process in this case continued for two years, and experts claim that the document’s quality improved considerably after it was revised by the members of the fourth Parliament (post-December 2007). This probably reflected the fact that the current Parliament includes members who represent civil society, and who thus initiated and proposed valuable suggestions for ensuring the transparency of state support for social services.

As a result, the Law of the Kyrgyz Republic on the Commissioning of Social Services, a product of successful social partnership between members of government bodies (the Ministry of Labor and Social Protection, the Parliament, and the Government of Kyrgyzstan) and civil society organizations, now incorporates several important features, including:

- the country’s budget will provide funding for projects related to commissioning social services (the same right granted to local self-governance bodies);
- projects to address social issues will be selected on a competitive basis (50 percent of the tender board will be comprised of civil society representatives);
- non-profit organizations who win competitive tenders will receive grants from government and local self-governance bodies to implement social programs, etc.

Conclusions

- **Overall, there is a satisfactory level of social consensus**, and the perception by the government and NGOs of reform strategies and methods of addressing social issues. In view of significant consolidation between government bodies and civil society, the Government of Kyrgyzstan recently established an office responsible for working with non-governmental organizations. At a local level, the resources of local self-governance bodies (*aiyl okmotu*) are being used at a higher rate. For example, 472 *aiyl okmotu* now engage 1,700 *aiyl bashchysy* (elders) who are elected by local communities.
- **Opportunities available to stakeholders, including NGOs, have been expanded considerably: they have more chances for making their voices heard and participating in social policies and decisions.** This is evidenced by the importance and popularity of public hearings– organized both by the government and by NGOs– to discuss draft laws that pertain to the socio-economic sphere. Nearly all government programs are now produced with the significant involvement of civil society. At all levels, the expert community recognizes that, when drafting is done by only one party (either a government body or a civil society organization) the result is a lopsided document that does little to reflect reality.
- In 2008, **the efficiency and effectiveness of partnership efforts in the social sphere** was considered good by 52 experts from all parts of the country: 60

percent of respondents rated partnership efforts as *good*, while two groups of 19.2 percent each gave these efforts the rating of *excellent* or *fair*, and 2 percent viewed them as *poor*. The results of this survey encourage us to look forward to the dynamic development of social partnership in the future.

- **New ideas and methods for solving tasks**, along with participatory approaches to addressing social issues at a local level, are being introduced in almost every region of the country.

Recommendations

Clearly, social partnerships can ensure equal opportunities for a dignified life. In view of this constructive collaboration of different forces, partners' efforts must focus on efficient, standard-setting action. This, we believe, necessitates the following:

1. Systematic public evaluation of draft laws that address socio-economic issues through the participants of the National Network for Social Partnership. This network would consist of members of civil society and the legislature from all parts of the country. The network's mission would be to carry out a competent, efficient, and fully open discussion of draft laws on socio-economic issues, and ensure feedback between civil society representatives and members of specialized parliamentary committees and their locally-based assistants.
2. Ensure mutual respect and recognition of equal status by all members of society, which would improve the efficiency of cooperation, including the performance of coordination councils as a form of social partnership.
3. Systematic monitoring and evaluation of NGOs' suggestions on amendments to laws being reviewed by the Parliament. If members of the National Network for Social Partnership collaborate in the legislative process with members of the Parliament, this would clearly help increase public accountability.

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Taxation of Non-for-Profit Organizations in the Kyrgyz Republic: Recommendations for a New Draft Tax Code

Introduction

The following is required for not-for-profit organizations (NPOs) to exist in any state: (1) legislation that would allow establishing NPOs with no difficulty, (2) lack of significant obstacles on the part of public offices for NPOs to implement their activities, and (3) possibility of financing NPOs legally.

Are there any legal ways to finance the activities of not-for-profits in Kyrgyzstan? To answer this question, it is important to first analyze the terms under which NPOs receive their funds from various sources.

What we have seen worldwide demonstrates that today the revenue of NPOs can be divided into three types, such as:

- 1) Internal income (membership fees, income arriving as a result entrepreneurial activities, and income that comes from securities and invested capital);
- 2) Assistance received from the state;
- 3) Donations by physical and legal entities and grants.

The efficiency of funding among not-for-profits is contingent on tax regime for each of the above-mentioned items in a particular state.

Sources of NPO income exempt from taxes

At the present time, in accordance with the Tax Code of the Kyrgyz Republic (hereinafter referred to as the Tax Code), any income arriving from membership and entrance fees, gratuitous and charity donations, grants, and humanitarian aid is exempt from profit tax. In most of European countries, these are traditional sources of income among NPOs.

However, in some cases definitions of these sources of income in the Tax Code don't let NPOs enjoy tax exemption. For instance, Article 9 (68) of the Tax Code defines membership fees as "assets provided by entities that are part of a non-for-profit organization based on membership, whose amount and transfer procedure are outlined in articles of association belonging to this organization, provided that the member of this organization does not enjoy reciprocal services for free or below cost." As a result of this definition, tax authorities oblige, for example, associations of water users or garage cooperatives, which are non-for-profit organizations, to pay 4 percent of tax for providing paid services to the public using membership fees. Thus, tax authorities view all membership fees of such NPOs as income for the services they provide. Needless

to say, internationally such income would be regarded as membership fees, and such organizations would be exempt from profit tax.

The Tax Code defines entrance fees¹ in a similar fashion. Entrance fees are “assets provided by entities upon entering a non-for-profit organization based on membership, whose amount and transfer procedure are outlined in articles of association belonging to this organization, provided that the member of this organization does not enjoy reciprocal services for free or at a lower cost.” Similar to membership fees, entrance fees should be exempt from taxes.

At the present time, a number of traditional sources of NPO profits exempt from taxes in many other countries, such as profit received as a result of charity dinner, or selling out private property, are subject to taxes in Kyrgyzstan. The same is true of any other NPO profit brought by any entrepreneurial activity. Income received as a result of providing social services, which both the state and society need badly at the moment, is also liable to tax. This applies to cases when any such income is totally reinvested in the activities of social significance outlined in an organization’s articles of association. For instance, these are museums and libraries which don’t bring any profit and thereby have little attention by businessmen. At the same time, such organizations are extremely unprofitable. Currently, very few non-for-profits provide such services, simply because they can’t afford it. If all profits received by NPOs as a result of providing such services are exempt from taxes, and if certain requirements are followed, more and more NPOs will be providing such services.

Another traditional source of income which is traditionally exempt from tax internationally is profits gained as a result of investment activities (the so-called *passive*, or *interest-based* profit). We are not talking about vigorously trading securities in stock markets or acting as a realtor. We are talking about any income coming from deposit accounts, securities, or mutual funds belonging to NPOs, and some other similar sources. Now, such income is liable to tax in Kyrgyzstan, while such world famous institutions as the Soros Foundations, MacArthur Foundation, and Ford Foundation finance their charity activities using the income they receive from their investments, since it is free from tax.

Sources of NPO income liable to tax

Different countries have different forms of income taxation regarding entrepreneurial activities by NPOs. However, many developed states allow NPOs to be engaged in such activities. Normally, any income received as a result of these activities is liable to tax, except for clearly defined cases, when income coming from certain types of business activities can, under certain conditions, be freed from tax.

In Kyrgyzstan, any income received as a result of business activities is taxable, except for cases when such income is gained by charity organizations from their charity activities (i.e. selling goods and services at or below cost without any intention to generate profits).

As far as the profit tax is concerned, the Tax Code does not provide for separate account of income and expenses related to taxable and non-taxable income, which is a necessity in the event of tax-payers using different taxation regimes for income coming from various sources. If NPOs are involved in business activities with all relevant income liable to tax, and at the same time enjoy certain traditional non-taxable income (i.e.

¹ Article 9 (69) of the Kyrgyz Tax Code.

membership fees, donations, grants), the only way to administer it would be a separate account of income and expenses.

As an example, the following approach can be recommended. All expenses related to business activities, such as the cost of producing goods to be sold later, should be totally deducted. However, the deduction of general costs related to the whole organization, like office rent, overheads, and salaries should be contingent on the amount of income received from business activities and income gained from other, not business-related sources (membership fees, donations, grants, etc).

As far as taxation of business-related activities is concerned, NPOs may use different approaches, depending on the goals and objectives of an organization, the amount of business-related income, and the connection between commercial and non-commercial activities in an organization. To learn more about the general discussion of various approaches, please check Section 9.3 of Guidelines for Development and Application of Laws Regulating the Activities of Civil Organizations².

Taxation of charitable institutions

Kyrgyzstan adopted a Law “On Sponsorship and Charitable Institutions” (hereinafter referred to as the Law “On Charity”) and introduced some tax benefits for charitable institutions. Nevertheless, the number of NPOs that received the status of a *charitable institution*³ is very low, which has several reasons. Firstly, the Law “On Charity” contains very strict criteria for any given NPO to be regarded as *charitable institution*. In accordance with this law, NPOs have to spend 98 percent of their income on charity activities, with the remaining 2 percent meant for their administrative purposes, which is, in fact, impossible to accomplish. Secondly, according to the Tax Code, compared to other NPOs charitable institutions do not enjoy significant benefits, although they have to comply with much more stringent requirements.

As a rule, the only ground for the status of a charitable institution is a special tax regime for such organizations. The tax regime is determined by tax legislation. Therefore, it is recommended that the Law “On Charity” be regarded as no longer effective, and additional norms on the status of a charitable institution be included in the Tax Code.

Taxation of donations from physical and legal entities

According to the Tax Code, the total annual income of physical and legal entities can be reduced by 5 percent, which is the amount of assets gratuitously transferred to a charitable organization. This percentage is quite high, and is in line with international practices. However, it turned out that physical and legal entities in Kyrgyzstan don't use this benefit to the full extent. Part of the reason is many legal entities don't have taxable income which can be reduced each accounting year. At the same time, many legal entities have some property (i.e. old computers or goods) which they are willing

² Guidelines for Development and Application of Laws Regulating the Activities of Civil Organizations (Second edition, 2006, Almaty) was formulated by the International Center for Non-for-Profit Law at the request of Open Society Institute.

³ Article 9 (4) of the Kyrgyz Tax Code: Charitable institution is a non-commercial organization (1) established and implementing its activities in accordance with legislation on non-commercial organizations and charitable activities, (2) which is not involved in the production and sales of excisable goods and gambling industry, (3) and which has, in accordance with all relevant procedures, received a document from tax authorities confirming its rights to tax benefits pursuant to Articles 112 and 145 of this Code.

to transfer to schools, hospitals, and other charitable institutions as charitable gifts. To make such donations more attractive for business, it can be advised to calculate the amount of donations based on gross proceeds, i.e. 0.1 or 0.2 percent, which is practiced in Germany (5 percent of taxable income or 0.2 percent of proceeds), Finland, and Portugal. However, this alternative will make sense only if such deductions can be waived until the next tax period. If a business doesn't have taxable income in the accounting year when a donation was made, such income may come one year later.

As far as in-kind donations are concerned, there are a few issues that need to be considered for businessmen to develop some interest in charity activities. In-kind donations can be services (i.e. office rent or legal consultations), transfer of securities, old equipment, floating funds (goods), land, property, items of historic, artistic, or cultural value, transfer of copyright, etc.

Internationally, the amount of charity deductions is normally higher for physical entities with an average of 10 to 15 percent. Unlike legal entities, natural persons enjoy more freedom when it comes to spending their income.

However, there are a few difficulties when dealing with donations from physical entities. Firstly, this benefit is, as a rule, enjoyed by very few individuals who fill in income statements. Those receiving salaries from employers are not able to use it, since there is a lack of clear mechanisms in the legislation. Secondly, what we have seen demonstrates that only people with a high level of income are interested in this benefit, whose income comes not from salaries, but mostly from interests. However, they find it difficult to use the benefit because of a lack of clear legislative mechanisms.

Single tax or simplified taxation regime for NPOs

Only small-sized enterprises (individual entrepreneurs and small companies whose annual income is less than 3 million KGS) enjoy a simplified tax regime in Kyrgyzstan at the moment⁴. The law envisages a single tax for small-sized enterprise paid instead of the following:

- income tax;
- deductions to the Emergency Prevention and Elimination Fund;
- road tax;
- paid service tax and retail sales tax.

It may be advised to let NPOs enjoy a similar regime, allowing them to choose between the standard and simplified tax regimes when implementing their business activities. This approach is common in the international arena, and is widely practiced in the Russian Federation. If NPOs obtain the right to use a simplified tax regime, they will be more involved in economic activities, for the most part providing different services to the public. Currently, NPOs are reluctant to deal with any business activities, since any income resulting from such activities is taxed heavily.

Conclusion

To sum up, we can say that there are significant drawbacks in the area of legal financing of NPOs in Kyrgyzstan, which are as follows: (1) the existing Tax Code is not conducive in terms of allowing NPOs to receive income from business activities,

⁴ Kyrgyz Law "On Simplified Taxation System for Small-sized Enterprise" as of December 7, 2001, Ref. No. 102.

and (2) the Law on Charity doesn't allow for charitable institutions, which makes the benefits and incentives for physical and legal entities making donations to charitable organizations useless. As a result of these drawbacks, NPOs do not receive any financing inside the state.

Currently, there tax reform is going on in Kyrgyzstan. The Parliament developed and adopted, at the first reading, a new draft Tax Code. In the fall of 2008, the draft law will be reviewed by parliamentarians at the second reading. This is when the Parliament will consider proposals from the public and organization. To remove the aforementioned drawbacks in the Tax Code related to taxation of NPOs, the International Center for Non-for-Profit Law has, based on international taxation practices among NPOs, developed its recommendations and submitted them to the Parliament (see Appendix). To make the recommendations easier to discuss in the Parliament, they were presented as a draft Parliament resolution on amending the new Tax Code.

Also, we would advise other NGOs in Kyrgyzstan to be more active in analyzing, discussing and lobbying the amendments to the new draft Tax Code of the Kyrgyz Republic. This will help improve taxation among non-for-profit organizations.

**Resolution of KR Jogorku Kenesh
On Amending the Draft Tax Code of the Kyrgyz Republic and Draft Law of the
Kyrgyz Republic “On Making the Tax Code of the Kyrgyz Republic Effective”**

I. To introduce the following amendments to the Tax Code of the Kyrgyz Republic approved by the Resolution of the Kyrgyz Government, Ref. No. 270, as of June 6, 2008):

1. To remove the following words from paragraph 4, Article 153: **“[...] only if such transfer is not caused by reciprocal services, works, or goods provided to the member of this organization for free or below cost.”**

2. To replace the words **“[...] not pursuing any political goals”** from paragraph 6, Article 153: with **“not involved in supporting political parties or election campaign candidates.”**

3. To remove the following words from paragraph 29, Article 153: **““[...] only if such transfer is not caused by reciprocal services, works, or goods provided to the member of this organization for free or below cost.”**

4. To add the following words as Item 16 to Article 153:
“16. Entrepreneurial activities are goods, services, and works sold or provided on a regular basis for the purpose of obtaining profit. Entrepreneurial activities do not include income coming from gifts, donations, investments, and non-regular activities (i.e. fund-raising activities), as well as any activity which involves voluntary labor, fees from members and founders, and income coming from goods, works, and services sold at or below cost with no goal to obtain profit or when such activities are connected with the non-commercial goals specified in articles of association.”

5. To add the following words as Item 20 to Article 153
“20. Related persons are individuals related to stakeholders (founders, members, participants, board members and employees) by blood or in any other specific way in cases when such relations can affect the conditions or economic outcomes of organization’s activities. These relations include:

- relations between founders/ partners in one enterprise;
- when one person reports to another due to working or entrepreneurial activities;
- individuals exercising control over the third person; and
- individuals are relatives.

In the Tax Code, the following types of relations refer to relatives:

- spouse, children, parents;
- siblings (by blood or marriage), grandparents; and
- non-married partners living together and having one budget.

6. To change numbering of items in Article 153 as follows: Items 16-18 to Items 17-19, and Items 19-30 to Items 21-32.

7. To remove paragraph 3 of Article 189. To change numbering of paragraphs in Item 1, Article 189 from 4-9 to 3-8.

8. To remove Article 208 and change numbering of Articles in the draft code accordingly.

9. To remove paragraph 1 in Item 1, Article 212. To change numbering of paragraphs in Item 1, Article 212 from 2-6 to 1-5.

10. To remove Article 251 and change numbering of Articles in the draft code accordingly.

11. To remove Article 252 and change numbering of Articles in the draft code accordingly.

12. To remove paragraph 4 in Article 315.

13. To remove the words “organizations of people with disabilities” and “charitable organizations” from paragraph 5 in Article 343.

14. To add Articles 394-401 to *Chapter 58 “Taxation of non-for-profit organizations (NPOs). Specific features of legal and physical entities with regard to their connection to NPOs”* in SECTION XVI (SPECIAL TAX REGIMES) of the draft Tax Code with the following wording:

Chapter 58. Taxation of not-for-profit organizations (NPOs). Specific features of legal and physical entities with regard to their connection to NPOs.

Article 394. Sources of income among not-for-profit organizations liable to tax.

Similar to commercial organizations, not-for-profit organizations pay all taxes on income received from entrepreneurial activities, except for cases specified in Article 396 of this Code, as well as entrepreneurial activities implemented by not-for-profit organizations which gain the status of charitable institutions following the requirements outlined in this Code.

Article 395. Income and cost account of not-for-profit organizations.

1. If involved in entrepreneurial activities with taxable income, not-for-profit organizations conduct a separate account of their income and costs pertaining to such activities, as well as any other income and costs coming from other sources which are not related to business activities.

2. When calculating profit tax, all costs directly related to entrepreneurial activities of not-for-profit organizations, such as the costs of producing goods for sale, should be deducted completely. The deduction of general expenses related to the organization as a whole, such as office rent, overhead costs, salaries, and others should be contingent on the amount of profit received from entrepreneurial activities and income coming from other sources which are not related to entrepreneurial activities.

Article 396. Sources of income among not-for-profit organizations exempt from taxes.

1. The types of income received by not-for-profit organizations which are exempt from indirect tax, i.e. VAT, sales tax, etc, are listed below:

- 1) membership and entrance fees if they are specified in the organization’s articles of association and if the organization keeps record of its members;

- 2) grants;
- 3) assets transferred on a gratuitous basis (donations), including goods, services, and works, if they are used as specified in articles of association;
- 4) subsidies received from the national or local budgets, state target funds, or as part of humanitarian or technical aid;
- 5) humanitarian aid;
- 6) payment for the following services provided by NPOs in accordance with non-commercial goals specified in articles of association, if this income is reinvested in these activities or any other non-commercial activities specified in articles of association:
 - a) supply of goods, works, and services provided by not-for-profit organizations to public offices and institutions;
 - b) supply of goods, works, and services provided by not-for-profit organizations for the purpose of social security and protection of children, people with disabilities, and low-income persons;
 - c) supply of services provided by not-for-profit organizations in the area of health care, education, science, culture (services of museums, picture galleries, theaters and libraries) and amateur sports;
 - d) services to supply irrigation water and other services specified in articles of association which are provided by water users associations for their members;
 - e) services to renovate and maintain apartment buildings provided by house owners associations, housing and construction cooperatives, house management offices, as well as public utilities provided by the above-mentioned not-for-profit organizations to those living in apartment buildings.

2. When determining the taxable amount of profit tax, all income received by non-for-profit organizations from sources specified in part 1 of this Article is not included in their total annual income. This is done to exempt not-for-profit organizations from profit tax.

3. Interest/investment income of not-for-profit organizations, including but not limited to income from bank deposits, debt instruments, negotiable securities, rent, royalty) is exempt from tax if used to achieve the organization's non-commercial goals specified in articles of association.

4. Income received from non-regular income-generating activities, such as transfer of property belonging to an organization, to be used to achieve the organization's non-commercial goals specified in articles of association, or gained as a result of voluntary labor, is exempt from profit tax and other taxes.

5. Interest yields accrued by credit unions for providing credits to their members are exempt from tax.

Article 397. Status of charitable organization.

1. Not-for-profit organizations, legally registered public associations, foundations, institutions, associations of legal entities, and *jamaats* (community associations) can be regarded as "charitable organizations" (hereinafter referred to as COs) if (1) they have at least one year of experience in socially useful activities from the day of their registration with tax authorities, (2) their articles of associations specify that any income received by an organization as a result of its activities is not transferred to

its founders, members, participants, those who initiated its foundation, employees and other related individuals, (3) one year before applying for the status of CO they didn't have any tax debts and were not subject to administrative penalties, (4) the main purpose of their foundation and major goals of their activities are one or several socially useful activities listed below, and (5) at least half of their income goes to the following socially useful activities:

- 1) charity, including social support and protection of the public, improving the welfare of low-income citizens, social rehabilitation of the unemployed, people with disabilities and others who, due to certain physical, intellectual and/or other circumstance, are not able to exercise their rights and protect their legal interests independently;
- 2) assistance to victims of natural, environmental, industrial and other disasters, as well as social, ethnic, and religious conflicts;
- 3) assistance to refugees and internally displaced persons;
- 4) strengthening peace, friendship, and agreement between nations, preventing social, ethnic and religious conflicts;
- 5) promoting the development of education, science, culture, arts, as well as personal and spiritual development;
- 6) social and economic development;
- 7) protection of children, youth, and other socially vulnerable groups;
- 8) protection of consumer rights;
- 9) poverty alleviation;
- 10) medical aid;
- 11) building of democracy, protection of human rights and civil liberties, and promoting the development of a legal state;
- 12) eliminating racial, gender, ethnic, religious or any other illegal type of discrimination;
- 13) health protection and disease prevention, promoting health behavior;
- 14) development of physical education and sports;
- 15) environmental and animal protection;
- 16) protection and maintenance of buildings, sites and territories of historic, religious, cultural or environmental significance, as well as historic monuments and burial sites.

2. The CO status is granted to a not-for-profit organization by the tax office where this organization is registered as a tax-payer upon submission of an application. The application should contain the following information:

- name of organization;
- organization's legal form, date of registration and registration number;
- organization's mission and activity goals;
- organization's address and a contact person.

3. The application should have the following documents attached to it:

- copy of organization's articles of association;
- copy of a legal entity registration certificate.

4. Local tax authority, after receiving the appropriate application from a non-for-profit organization, provide it, within ten business days, with a certificate, according to which this organization is regarded as CO.

5. Tax authority does an independent check of whether or not a not-for-profit organization was subject to any administrative penalties. If a not-for-profit organization

was subject to some administrative penalties which it didn't object to, it may re-apply for the CO status one year after facing administrative fines.

6. Finances to be used for social purposes may include salaries and other expenses directly related to achieving social goals.

7. CO is not entitled to spend its funds or use its property to support political parties, election campaign candidates, and commercial enterprises.

8. Annually, no later than April 15 each year, CO should produce a written financial report that should be submitted to the public at its request. This report should reflect the sources of funds received, amounts obtained from different sources, and information on how these funds were used by CO.

9. If it becomes known that a not-for-profit organization that received a CO status does not meet the requirements, tax authorities may recall the certificate according to which this non-for-profit organization is regarded as CO. In this case, (1) the organization is stripped of special tax benefits granted upon COs, and (2) the organization and its management may be brought to justice in compliance with the Kyrgyz legislation.

10. The decision of a tax authority on recalling the certificate according to which a non-for-profit organization is regarded as CO, depriving this organization of tax benefits and bringing it and its management to justice can be appealed in a higher-level tax authority or in court.

11. A not-for-profit organization that obtains the CO status can, at any time, reject the CO status by submitting an appropriate written request to a local tax office and by returning its certificate. In this case, the not-for-profit organization loses its CO status from the day of submitting its written request.

12. If, upon voluntary refusal or recall of the certificate, the certificate is rescinded, a not-for-profit organization is stripped of special tax benefits devised for COs, but is not freed from its obligations with regard to money and property gained at the time of being a certified CO, nor is it freed from reporting the use of this money and property. Donations made by physical or legal entities to such a CO before the certificate was rescinded are subject to deduction.

Article 398. Taxation of COs.

1. A zero-rate tax is levied upon CO income.
2. CO is exempt from value-added tax (VAT) on imported goods, materials, and equipment brought in by CO or for CO and (1) used by CO for its social purposes, (2) used by CO for at least three years for its social purposes, or (3) disseminated free of charge as part of its social activities.
3. CO is exempt from sales tax, property tax and land tax.

Article 399. Taxation of donations from physical and legal entities.

1. The total annual income of legal entities, if they pay profit tax, is reduced by an amount which is equal to the cost of gratuitously transferred assets, including money and property at its balance-sheet value, as well as costs incurred as a result of works or services provided to CO on a gratuitous basis within one taxation year. This amount should not exceed 5 percent of taxable income or 0.2 percent of gross profit, provided that these assets were not used for the benefit of the legal entity that transferred them.

2. Total annual income of physical entities, if they pay income tax, is reduced by the amount which is equal to the cost of gratuitously transferred assets, including money

and property at its balance-sheet value, as well as costs incurred as a result of works or services provided to CO on a gratuitous basis within one taxation year. This amount should not exceed 10 percent of taxable income, provided that these assets were not used for the benefit of the physical entity that transferred them.

3. Justification for reducing annual income of physical and legal entities are copies of the CO Certificate and a written document confirming the transfer of assets for the benefit of this CO (cash payment receipt, payment order, property delivery-and-acceptance act, etc).

4. Donations exceeding the permitted amount of taxable income to be reduced one fiscal year can be reserved for coming years and deducted from taxable income of taxpayers within five years.

5. In cases when physical entities have to fill out an income statement, they can use the benefit of deducting donations from their taxable income when filling out the income statement. In this case, a copy of CO Certificate and a receipt from CO confirming that this CO received a donation from the physical entity has to be attached to its income statement.

6. Physical entities whose income tax is deducted and transferred to the state budget by their source of income payment (i.e. individuals working based on work contracts or those receiving interest rates on bank deposits or securities) can use tax reduction from donations to COs as follows:

- (1) submitting a request to the source of income payment about transferring some of their income to a CO as a donation on their behalf and deducting this amount from their taxable income. A copy of the CO Certificate should be attached to the request letter. The request letter should contain the name of CO that will benefit from this donation, the purpose of the donation (not required), and the size of the donation. The physical entity's source of income payment should transfer the appropriate amount of money as a donation on behalf of this physical entity and deduct this amount from their taxable income as specified in this Code.
- (2) transferring the donation to a CO in cash and submitting a request to the source of income payment about deducting this amount from their taxable income. A copy of CO Certificate should be attached to the request letter. The request letter should contain the name of a CO that will benefit from this donation, purpose of the donation (not required), and the size of the donation. Based on the request letter and other attached documents, the source of income payment has to recalculate the amount of taxable income to be transferred to the budget in the reporting period and deduct the amount equal to the size of the donation as specified in this Code.

7. VAT paid by legal entities and individual entrepreneurs for the supply of all goods, works and services to COs on a gratuitous basis should be registered as if it were a regular commercial supply.

8. Legal entities are exempt from property tax provided this property was given to the CO on a gratuitous basis.

9. Physical entities are exempt from property tax and land tax provided this property or land were given to CO to be owned or to be used on a gratuitous basis.

Article 400. Exemption of physical entities from tax on any income received from the state or NPO in the form of assistance or compensation for being involved in non-commercial activities

The following types of income received by physical entities are not included in the total taxable income when calculating their income tax:

1) assets (donations) transferred gratuitously by the state or CO to individuals who require social rehabilitation or adaptation and medical aid, as well as individuals whose income is below the minimum subsistence level, including:

- a) people with disabilities, WWII veterans, Afghan war veterans, veterans of wars in other countries, people with Type I and Type II disabilities⁵,
- b) victims and their family members who suffered as a result of war or military operations, accidents, natural or man-made disasters, epidemics and epizootics,
- c) senior citizens,
- d) children without parents,
- e) families that lost their breadwinner,
- f) refugees and internally displaced persons,
- g) individuals who require medical assistance, and
- h) gifted or talented individuals to help them further develop their abilities.

2) assets transferred gratuitously by not-for-profit organizations to physical entities meant to reimburse their costs for one-time participation in the organizations' non-commercial activities specified in their articles of association (for example, reimbursing transportation costs, cost of meals, stationery and other costs to take part in training conducted by a not-for-profit organization).

Article 401. Simplified taxation regime based on single tax for not-for-profit organizations.

If involved in entrepreneurial activities, non-commercial organizations, similar to small-sized enterprises, have the right to run their business by opting for single tax or simplified tax regime under the same conditions as small-sized enterprise.

II. To introduce the following amendments to the draft Law of the Kyrgyz Republic "On Enforcing the Tax Code of the Kyrgyz Republic":

1) To add the following new paragraph to Item 1 of Article 10, which has the words "when the new Tax Code comes into force, the following laws become no longer effective":

- Law of the Kyrgyz Republic "On Sponsorship and Charity" as of November 6, 1999, Ref. No. 119.

⁵ In post-Soviet countries, as in the former USSR, people with disabilities are split into three categories, Group I, II and III (*Translator's note*)



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Enhanced Government Commitment: A Key to an Effective Government-NGO Relationship in Kyrgyzstan

Executive summary

The government and non-governmental organizations (NGOs) in Kyrgyzstan have achieved positive results in working together. Nonetheless, they still encounter a number of barriers which hinder them from having a more productive relationship. The major problem is that the government does not have a unified and coherent policy on cooperation with NGOs. At present, the government-NGO relationship is developing chaotically and fragmentarily. Donor-funded projects are the main factor bringing these actors together. Furthermore, the previous experience of the government in developing an NGO support programme suggests that the government needs more commitment to and control over the implementation of its initiatives on working with NGOs. Based on this, this policy brief proposes creating a State Department on NGO Relations. Its key aim would be to ensure that a proper legal basis for the government-NGO relationship is in place and implemented accordingly by coordinating the development and implementation of legal documents on the cooperation of the government and its institutions with NGOs.

Introduction

In Kyrgyzstan, the government-NGO relationship is in a nascent stage. Although there has been considerable progress in the collaboration between these actors, there are still obstacles impeding the development of a more effective relationship between them. Based on recent research⁶ into the government-NGO relationship in Kyrgyzstan, this policy brief discusses the barriers that prevent the government and its institutions from establishing a successful partnership with NGOs.

The research revealed that the government and its various institutions at all levels (national, regional, and local) encounter a common problem in that they lack a clear

⁶ This policy brief is based on doctoral research, which explored the NGO sector and its relationship with the government in Kyrgyzstan. The research was conducted from September 2007 to May 2008. Around 50 different NGOs from Bishkek, Osh, Issyk-ata and Karakulja regions were interviewed. In addition, a number of documents on the government-NGO relationship in Kyrgyzstan were reviewed.

state policy on cooperation with NGOs, which would provide them with essential principles of how to work with them. Put differently, there are no basic rules to which the government institutions regardless of the area and scale of their activities can refer when working with NGOs.

Furthermore, a detailed investigation of available legal documents on the government-NGO relationship has suggested that a lack of a state policy on NGO relations is half of the problem. It was discovered that the government has already attempted to create a state programme on NGO support. However, this initiative failed since the government had a poor commitment to and control over the implementation of the initiative. Therefore, it was concluded that, in addition to a bare initiative, the government should have increased responsibility for its implementation accompanied by regular monitoring.

To sum up, there are two interconnected problems, that the government and its institutions face in all areas and at all levels. They need a common state policy on working with NGOs, which would offer them the basic rules of working with NGOs. Furthermore, the central government needs proper mechanisms to implement its policies and programmes on NGO relations. With reference to this, this policy brief suggests creating a State Department on NGO Relations. Its key responsibility would be to coordinate the development and implementation of the legal documents on the government-NGO relationship such as concepts, decrees, programmes, policies, and laws. In this way, the Department would ensure that a proper legal basis for the government-NGOs relationship is in place and implemented accordingly. It would also provide the various government institutions at all levels with information about and advice on the legal documents on NGO relations.

In addition to these main functions, to contribute to the development of a more effective relationship between the government and NGOs, the State Department on NGO Relations would fulfill two additional tasks: a) disseminating information about the legal documents on the government-NGO relationship to NGOs through representatives of the NGO sector to ensure that they are also aware of them and can refer to them when working with government institutions; and b) providing all government institutions with information about NGOs through maintaining an NGO database to increase their awareness of NGOs and their activities.

Problem Statement: Government-NGO Relationship in Kyrgyzstan

It is true that Kyrgyzstan has the most advanced relationship between a government and the NGO sector in Central Asia. The Kyrgyz government has created conditions quite conducive to the emergence and development of NGOs: NGOs can easily register and carry out their activities. Furthermore, the government and its institutions have been working with NGOs over the last decade. There have been successful cases of government-NGO collaboration on various issues (gender, poverty, environment, and others) and at all levels (national, regional, and local) (Berk et al 2007).

However, the number of these cases is limited and dispersed all over the country. Research has revealed that the reason for this is that the government lacks an integrated policy for working with NGOs. According to the research, most collaboration between government institutions and the NGO sector, regardless of the area and scale of their activities, takes place within projects funded by donors. Since donors prefer to fund one-off and short-term projects, the government-NGO relationship tends to be temporary and unsustainable. In fairness to the donors, it should be pointed out that, by requiring

NGOs to involve the government and its institutions in their projects, donor grants have acted as a massive incentive to establishing the government-NGO relationship in the first place.

Furthermore, research findings have indicated that the government institutions at all levels have few guidelines to refer to when working with NGOs, both on policy-making and social services delivery; therefore, they do not know how to work with NGOs more effectively. The research has also suggested that, for the most part, the government institutions distrust NGOs and are not interested in working with them because they are poorly informed about NGOs and their activities. All in all, the idea of working with NGOs has been a new phenomenon for the government and its institutions since NGOs emerged only after independence. For these reasons, the government needs to develop a clear policy on working with NGOs, which would provide government institutions in various areas and at all levels with core principles on how to build relationships with NGOs.

The lack of state policy on NGOs has led to a desultory and sometimes discriminatory government-NGO relationship. The government and its institutions tend to work more with social service NGOs than with civil activist groups since the latter are considered to be more active in advocacy and policy-making processes. Research has shown that civil activist groups which criticize the government and its activities, especially those infringing rights of citizens, are treated differently by the government and its institutions. Compared to social service NGOs, civil activist groups tend to encounter more problems created by government institutions, such as undermining NGO initiatives, refusal to re-register and others. For example, one of the interviewees from a civil activist group said that they were blacklisted for over-criticizing a government institution responsible for people in detention and had been refused cooperation in future.

Furthermore, the government and its institutions, especially at the ministerial level, involve NGOs in different working groups and committees to make joint decisions; however the process of selecting NGOs for such committees is unclear. A number of NGO interviewees noted that they had participated in different state committees, but could not explain how and why they were chosen to serve on these committees. The absence of clear selection procedures undermines the principles of democratic decision-making and indicates an unfair attitude of the government to NGOs since one would expect that NGOs would be selected for these committees by open competition.

Previous Experience: Concept of Government-NGO Collaboration

The government has made an earlier effort to establish an NGO support programme. In 2004, the President of the Kyrgyz Republic signed a Decree approving a Concept on government-NGO collaboration (Decree, 2004), the main aim of which was to improve government support for NGOs. For this purpose, it established a number of objectives: a) improving the system of government-NGO interaction and collaboration; b) creating conditions conducive to increasing civil initiatives; c) funding public oriented programmes of NGOs through state contracting; d) establishing consultative councils on government-NGO interaction; e) conducting joint government-NGO events (conferences, roundtables, seminars, training on social problems, charities, cultural-mass campaigns and others); and f) providing information support to NGOs (i.e. supporting NGOs in publicizing their activities).

All in all, the concept has great potential and could serve as a sound legal basis for effective government-NGO collaboration. However, it has had little success since

it has been only partly carried out. The concept has presented too-general aims and objectives on improving government support for NGOs, but no real actions. According to the concept, the Cabinet of the Kyrgyz Republic was meant to develop the state NGO support programme and an action plan to implement it; unfortunately, this did not happen. A lack of these key documents made the concept more declarative than actual. It can be assumed that this happened because the Cabinet, which was responsible for developing the documents, lacked commitment. Furthermore, no one from the government followed up the implementation of the concept.

Nevertheless, different government institutions and NGO representatives have contributed to the implementation of some objectives of the concept. The Ministry of Labour and Social Protection, jointly with NGO representatives, has been lobbying for a law on social contracting since 2006 (the third objective of the concept). This law is an institutionalized mechanism, which delineates how the state can provide funding to NGOs. In June 2008, the law was finally adopted by the Kyrgyz Parliament. NGOs have high hopes for it since they consider state funding as a way to financial sustainability.

The fifth objective of the concept encourages the government and NGOs to conduct joint activities such as conferences, roundtables, and others. According to the research, this is the most widespread form of government-NGO interaction in Kyrgyzstan at all levels and in all areas; however, it is difficult to claim that it was due to the impact of the concept because other factors might have had a greater impact. The first factor is donor grants, which encourage NGOs to work with the government in order to influence decision-making.

The second factor is that NGOs have come to understand that any problem can be solved only by working closely with the government; therefore, their interaction with the government and political activeness have increased. Most NGO interviewees said that, no matter how hard they tried to solve problems, they could not solve them because they were addressing the consequences of the problems and not the reasons creating them. On the whole, the main reason for most problems is poor legislation or policy, therefore, the interviewees noted that now they concentrated more on influencing policy-making processes. Examples of this were the demonstrations conducted by civil activist groups throughout 2006 and 2007 (winter).

Besides the above-described concept, one more legislative document touches on government-NGO interaction. It is a law on non-commercial organizations (NCOs), adopted in October 1999 (Law on NCOs, 1999, according to which the government can support NGOs by providing them with funding to carry out their programmes aimed at the public interest and in any other ways, which are not prohibited by the legislation (Law on NCOs, article 5, 1999). However, the law does not provide any details on how the government should provide funding. In other words, it lacks implementation mechanisms.

To sum up, the government and NGOs have had quite positive experience in working together, however this has been small-scale and short-term in most cases. To date, government-NGO collaboration has been mainly within donor-funded projects. Unfortunately, the government has not had a clear state policy on cooperation with NGOs; consequently the relationship between two actors has developed unsystematically and disconnectedly.

The attempt of the government to create a state programme on NGO interaction and support failed due to the poor implementation of this initiative. This indicates that, in addition to a bare initiative, the state needs enhanced commitment to and control

over the implementation of its initiatives. In other words, there is a need not only for legal documents such as concepts, decrees, laws, and others on NGO relations but also for an institutionalized mechanism which would coordinate the development and implementation of these documents.

Recommendation: The More Government Engagement, the Better the Government-NGO Relations

The study of the government-NGO relationship in Kyrgyzstan has suggested that a lack of state policy on working with NGOs is a major barrier to building more productive collaboration between the government and NGOs. A solution to the problem might seem evident. The government needs to develop a clear policy for its various institutions at all levels, which would give them basic guidance on how to work with the NGO sector on an undiscriminating, systematic and regular basis. However, it is necessary to take into account the lessons learned from the previous experience of the government with the concept on government-NGO collaboration.

The above overview of the concept and its outcomes indicates that the government should be more committed to the implementation of its legal documents on cooperation with NGOs. Put differently, the government should have not only initiatives, but also an institutionalized mechanism that would coordinate their development and implementation.

Based on this, this policy brief suggests creating a State Department on NGO Relations. From an administrative perspective, the Department would be part of the government. Its key mission would be ensuring that the proper legal basis for the government-NGOs relationship is in place and implemented accordingly. The main functions of the Department would be:

- 1) to coordinate the development and implementation of legal documents such as laws, concepts, policies, decrees and others on government-NGO collaboration;
- 2) to provide government institutions in all areas and at all levels with information about and advice on the legal documents on the government-NGO relationship.

To contribute to establishing a more effective partnership between the government and NGOs, the State Department on NGO Relations would also have two more subsidiary functions. The first function is to cooperate with representatives of the NGO sector (e.g. the Association of Civil Society Support Centres) to disseminate information about the legal documents on the government-NGO relationship to NGOs so that NGOs are also aware of them and can refer to them when working with their government institutions in their field and at their level.

The second function is to maintain a database on NGOs and their activities in cooperation with representatives of the NGO sector and competent government institutions (e.g. National Statistical Committee and Ministry of Justice) to increase awareness of all government institutions of NGOs and their activities so that they would be properly informed about NGOs and could cooperate with them easily.

Challenges of the Proposed Initiative

Notwithstanding its great potential to improve the government-NGO relationship, there are some risks to the proposal to establish a State Department on NGO Relations. The first risk is that the Department might merely promote the interests of the government and its institutions when developing and implementing the legal documents on the government-NGO relationship, without taking the interests of NGOs into account. The

second risk is that the government could abuse its Department on NGO Relations and use it for a different purpose, such as intervening in and controlling activities of the NGO sector. The third risk is that NGOs and their representatives might not want to collaborate with the Department out of fear of potential state control.

Despite these risks, for the time being establishing this department is the best option that the government has to improve the government-NGO relationship in Kyrgyzstan. As has been made plain, the problem is that the government does not have an overall policy on working with NGOs, so government institutions tend to work with NGOs in an uncoordinated and unplanned manner. Furthermore, the previous attempts of the government to establish such a policy has shown that there is a need for an institutionalized mechanism which would coordinate the development and implementation of legal documents on working with NGOs. The State Department on NGO Relations would serve as this mechanism and ensure that the proper legal documents on the government-NGO relationship are developed and implemented. Furthermore, it would also disseminate information both to all government institutions at all levels and the NGO sector so that both actors are aware of them. Finally, the Department would keep the government institutions informed about NGOs and their activities by collecting information for its NGO database and disseminating it to government institutions.

Conclusion

In conclusion, the government and NGOs in Kyrgyzstan have made some positive steps towards effective collaboration over the last decade. Nevertheless, there are some barrier, which hinder the development of a more productive government-NGO relationship. The key problem is that the government does not have a unified and coherent policy on NGO collaboration, which would provide the government institutions in all areas and at all levels with basic principles on NGO collaboration. Currently, the relationship between these actors happens mostly within donor projects and, all in all, the state-NGO relationship can be characterized as selective, chaotic and fragmented.

The government tried to create a NGO support programme in the past. However, it came to naught due to the lack of government commitment to and control over the implementation of its initiative. Taking all this into account, this policy brief has suggested creating the State Department on NGO Relations. The main aim of this institution would be to ensure that the legal basis for the government-NGOs relationship is in place and implemented accordingly. It would coordinate the development and implementation of legal documents such as laws, concepts, policies, decrees on government-NGO collaboration and provide government institutions in all areas and at all levels with information about and consultation on the above-listed legal documents.

To contribute to establishing more successful cooperation between the government and NGOs, the State Department on NGO Relations would also inform NGOs about the legal documents on the government-NGO relationship so that they can refer to them too when working with the government institutions. It would also provide information about NGOs to all government institutions by maintaining an NGO database to keep them informed and open to all collaboration with NGOs.

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Institutionalizing Dialogs between Non-governmental Organizations and the Government

Summary

The question of institutionalization of dialogs between government and non-government organizations has become an important issue in ensuring the effectiveness of the policy-making process. At the same time, no model of institutionalization has been well-established and widely accepted. The forms of dialog depend on a specific country context.

In most cases, the institutionalization of dialog implies three major elements as the basis of productive cooperation between government and non-government organizations. These are 1) the existence of government unit or official position responsible for working with the third sector; 2) a policy document or strategy, which sets out the government vision of relations with NGO sector; 3) agreements or other written covenants between the first and third sectors.¹

This briefing considers these elements of institutionalization by analyzing the case of Kyrgyzstan, using Poland's experience to draw some relevant policy lessons. It aims at outlining concrete agencies, structures, procedures and mechanisms and providing recommendations on improving the dialogue between concerned actors.² These policy recommendations may be of interest and use for government officials, and equally important to NGO managers and activists and others who have academic or practical interest in this field.³

The problem

The main problem is the absence of any formalized, stable, systematic and legally prescribed forms and procedures of inter-sector dialog. The question remains: will the

¹ UNDP, Europe and the Commonwealth of Independent States, "Policy process reform: institutionalization of consultations between government institutions and non-government organizations in the CIS countries," Bratislava, August 2002, p.20.

² The policy brief defines "civil society" as the unity of three sectors of society: government, commercial and non-government (non-commercial). Within a broad range of civil society organizations, the policy brief will focus on the role and practices of non-governmental organizations, since the latter is the most socially active and represented actor within the civil society in Kyrgyzstan.

³ The author expresses her sincere thanks to the Institute of Public Affairs, Poland, and to the Center for Public Policy, Kyrgyzstan as well as to all interviewees in Poland and Kyrgyzstan. This policy brief would not have been possible without their support and cooperation.

presence of those major elements of institutionalization mentioned above ensure an effective institutional framework for dialog?

Background

Unquestionably, many factors help explain the existence of this problem. Within such a variety, one can identify contextual and substantial reasons that depend on one's perspective and analysis.

"Substantial" causes

From the first years of independence and until today, the relationship between government agencies and NGOs has an *ad hoc* character. During the first 5-6 years of independence, a state and non-government sector had emerged. In this period of mutual non-recognition, each sector was concerned with its own agenda. In those days non-recognition was explained by the absence of prior experience of cooperation, and the immaturity of state and NGO institutions. This explanation is no longer true. Nowadays, both state and NGOs have enough institutional capacity and practical experience to meaningfully interact. And yet, systematic cooperation is still not present. This is because of the absence of 1) a comprehensive normative basis (the current legislation does not prohibit the state/civil society cooperation, but it also does not encourage or regulate it), 2) channels of succession (the high level of political instability, often changes of leadership and as a result the non-continuation of agreed policies) and 3) joint strategic vision of country's future.

"Contextual" causes

Some argue that another important characteristic of state/civil society relationship is the presence of contrasting logic. This logic implies that "the stronger the civil society, the weaker the state." This view results not only in an unhealthy atmosphere for cooperation and partnership, but also encourages short-sighted approaches and policies with real consequences for society.

The state/NGO relationship may also be generally characterized as contradictory. Such contradiction is expressed through paternalistic expectations that the state "must help or must do" *vis-a-vis* growing doubts about the state's capacity to address socio-economic problems.

Having said that, one must not forget that both state and civil society in all post-communist countries "are derived from the same social and political structures"⁴ and in most respects are mutually reflective. Such "contextual" causes are important to consider, but cannot and must not be viewed as factors that prevent cooperation; rather, productive inter-sector cooperation may wipe out such thinking. At the same time, the dynamics of this relationship since independence shows that the state does not consider NGOs as equal partners for cooperation, first of all because of the belief that NGOs have insufficient competence and capacity. Obviously, such beliefs cannot be justified either theoretically and practically. The social domain consists of three independent elements that are equally important to build an open society that is based on democratic principles. In practice today, not only in Kyrgyzstan but across the developing world,

⁴ Tessa Brannan, *From 'Antipolitics' to Anti-Politics: what became of East European 'civil society'?* Working Paper Series, Development Studies Institute, January 2003, p.16.

a trend exists in which civil society organizations replace the state in providing social services and strengthening the social welfare of a country.

Relevant legislation

The national legislation of Kyrgyzstan is largely vague and inconsistent in defining the status of a civil society and its organizations. The law that regulates activities of non-governmental organizations is the Law on Non-Commercial Organizations, adopted on October 1, 1999.⁵ This law does not define the widely used concept of “NGO,” but instead defines the nature of a “non-commercial organization” and points out its two main characteristics. These are a) making a profit is not a major objective and b) the obtained profit is not distributed among members, founders and official persons.⁶ Unlike the earlier Law of Public Associations, this law is not applied to political parties, trade unions, religious organizations and cooperatives. However, according to this law, one can see what a non-commercial organization shall not be rather than what it shall be.

It is well-known that no commonly accepted definition of NGO exists. The definition used by the World Bank is too wide-ranging but, since it is comprehensive, deserves full citation to offer a broad sense of what it is:

“The diversity of NGOs strains any simple definition. They include many groups and institutions that are entirely or largely independent of government and that have primarily humanitarian or cooperative rather than commercial objectives. They are private agencies in industrial countries that support international development; indigenous groups organized regionally or nationally; and member-groups in villages. NGOs include charitable and religious associations that mobilize private funds for development, distribute food and family planning services and promote community organization. They also include independent cooperatives, community associations, water-user societies, women’s groups and pastoral associations. Citizen Groups that raise awareness and influence policy are also NGOs.”⁷

Obviously, this description cannot serve as a working definition to enable analysis of the relationship between government and NGOs. Therefore, the author proposes understanding “NGO” as an organization that is officially registered in a form of public associations, foundations and institutions (i.e. in accordance with the Law on Non-Commercial Organizations of KR, 1999), is democratic in its organization, and attempts to serve the people without profit for itself. It is timely to mention another two problems that are important in understanding NGOs as independent actors within the public policy process. These are the issue of representation: i.e., whose interests NGOs represent and the more general question of NGO legitimacy. These two questions are interconnected and very theoretical. For the purposes of clarity, it is sufficient to suggest that NGOs may represent the interests of various groups of the population, but also exist as independent interest groups when they represent the general interests of the entire non-government sector. In this case, the problem of internal integrity and consolidation

⁵ For the on-line version of the law, see <http://www.legislationline.org/legislation.php?tid=220&lid=1230&less=false> (Accessed June 10, 2008).

⁶ *Ibid.*, Article 2.

⁷ Accessed at “*Role of Nongovernmental Organizations in Development Cooperation*,” by Prof. Bradford Gentry and Olena P. Maslyukivska, UNDP Public-Private Partnerships for the Urban Environment, May 10, 1999 [<http://www.undp.org/pppue/pppueold/library/files/maslyu01.html>]

arises; this problem is now apparent and must be addressed by the non-governmental organizations of Kyrgyzstan.

As mentioned above, the central problem is the absence of any comprehensive normative basis that regulates cooperation between government and NGOs. One good sign is that recently– on June 5, 2008– the Kyrgyz parliament adopted the Law on State Social Contracts, which was signed by the President on July 21, 2008. Some predict that problems will emerge during the stage of actual application of the law, but this is a matter that can and should be analyzed and evaluated later. At the moment, we can look to the experience of Poland to draw some timely lessons.

Lessons to learn:

At this stage of the development of government/NGO relations in Kyrgyzstan, it could be instructive to examine Poland's normative documents. Its Law on Public Benefit Activity and Volunteerism was adopted on April 24, 2003.⁸ This law is a good example of how to regulate relations between public sector and the third sector. In particular, this law a) provides a procedural framework for NGO cooperation with local government; b) establishes an NGO Council (an advisory body to decision-makers on issues concerning public benefit status); c) sets forth basic provisions related to volunteering; d) introduces the "1 percent system"⁹ in Poland, and e) provides for more liberal investment opportunities for public benefit organizations.¹⁰ The procedural framework envisioned by this law may serve as a useful model for proposing cooperation at the national level.

The domain of public tasks mentioned in the Law on Public Benefit Activity and Volunteerism of Poland (article 4), and the spheres of state social contracts realization of the Law on State Social Contracts of Kyrgyz Republic (article 5), are largely similar. Both normative documents regulate the relations between state and non-government (non-commercial) units to perform tasks that are for public benefit.

Two additional documents that may serve as models for consideration by Kyrgyz NGOs are the Operations Standards of Non-governmental Organizations¹¹ and Charter of Principles for Non-governmental Organization Activity.¹² These documents are oriented toward improving the capacity and professionalism of the NGO sector, especially by more or less standardizing their activities. Such standardization of major principles and provisions of NGO activities would not only improve their accountability, legitimacy and capacity, but would also make their relations with government structures easier, more predictable and consistent.

⁸ The law can be accessed at [<http://www.legislationline.org/legislation.php?tid=220&lid=836&les=false>]

⁹ This system means the transfer 1 percent of taxpayers' income tax to organizations of their choice that serve the public good. The new Polish percentage system is intended to encourage citizens to play an active role in resolving social problems by contributing to the financing of such organizations. For more information, please see [www.onepercent.hu/Dokumentumok/Chapter_4_Golinski_PL.pdf]

¹⁰ The data on the law is accessed at Igor Golinski, "Poland Adopts New Law on Public Benefit Activity and Volunteerism," International Center for Not-for-Profit Law, May 9, 2003, [<http://www.icnl.org/knowledge/news/2003/05-09.htm>]

¹¹ The law can be accessed at [<http://www.legislationline.org/legislation.php?tid=220&lid=833&les=false>]

¹² The law can be accessed at [<http://www.legislationline.org/legislation.php?tid=220&lid=832>]

Government unit responsible for the third sector

The first attempt to create a special government body to work with the non-governmental sector occurred on April 19, 2001. This resulted from a meeting between representatives of almost hundred NGOs and the Head of President's Administration. The idea was to establish a Council of NGO Affairs. At that time, 21 representatives of various NGOs entered the Council.¹³ Unfortunately, this progressive step was not properly formalized and did not develop further, mostly because of the lack of interest from the state.

Before and since this progressive but unsuccessful initiative, inter-sector cooperation had taken place at the level of specific areas of social welfare (healthcare, migration, unemployment, support of the most vulnerable, etc.) where and when possible. This format of cooperation, based on concrete cases rather than on strategic and commonly-agreed programs, remains the common practice today. Without doubt, it would be much better to have a single government body that is responsible to coordinate government activities and projects with respect to the non-governmental sector.

Recently (at the end of 2007), the Government Department on Public Complaints and Public Organizations was created under the direction of the office of the Prime Minister. This Department is intended to facilitate cooperation and interaction among sectors. Civil society organizations are barely aware of this Department, which could be explained both by its brief existence and the nominal nature of its establishment. Some NGO activists expressed the view¹⁴ that the government unit that will work with the third sector has to be affiliated with pertinent agencies and ministries, such as the Ministry of Labor and Social Protection or the Department of Economic and Social Policy of President's Administration. These have proved to be the most active and willing to cooperate with the third sector.

Gulnara Derbisheva, a member of the Kyrgyz parliament and a member of the Parliament's Committee on migration, labor, social policy and healthcare, stated¹⁵ that this group is working on the creation of a Special Commission on NGO Support. The Commission will work to facilitate the implementation of the Law on State Social Contracts, as well as of the anticipated Law on Social Partnership. It will regulate distribution of state grants and work closely with NGOs to improve the legal framework for inter-sector cooperation.

Lessons to learn:

Parliament member Derbisheva mentioned that the idea of creating a special Commission was borrowed from the experience of Hungary. A committee with a similar name, established in the early 1990s, significantly contributed to the consolidation of the non-governmental sector and helped strengthen dialogue between the sectors.¹⁶ Poland's experience can be similarly instructive. The adoption of the Law on Public Benefit Activity and Volunteerism stipulated the establishment of a special Council for Public Benefit Activities. This Council is

¹³ "Review of the History of Establishment and Development of the NGO Sector in the Kyrgyz Republic," by Elmira Shishkaraeva and others, Bishkek, 2006, p.115.

¹⁴ From semi-structured interviews with NGO activists in Kyrgyzstan.

¹⁵ Stated at the round-table "Interaction of state and NGOs in policy-making," June 25, 2008.

¹⁶ "The European Policy and Practice in cooperation between state and NGO," collection of materials, the International Center of Non-commercial Law, Almaty 2005, p.31 (accessed in Russian).

not a decision-maker, but rather “an opinion, advising and supporting body” for the Minister responsible for social security. There is also the Department of Public Benefit Activity, part of the Ministry of Economy, Labor and Social Policy. This Department is responsible for establishing institutional and legal conditions that promote development of the Polish NGO sector and of NGO-government cooperation.¹⁷

It must be noted, referring again to the experience of Hungary, that in 2003 the parliament’s Committee on NGO Support delegated its functions on managing state social grants to a specially-established agency named the National Civic Fund (NCF)¹⁸. The NCF was set up as a separate state fund under the Prime Minister’s office, governed by the Minister of Equal Opportunities, to coordinate state funds allocated for social projects to be implemented by non-government organizations, and was designated a unit of the executive branch.

These two lessons are instructive in the sense of identifying the primary agency of state power that will be responsible to implement the Law on State Social Contracts. The implementation of laws is the prerogative of the executive branch of government. Therefore, it is sensible to consider establishing a government unit that will work closely with the anticipated Commission on NGO support of the Jogorku Kenesh’s (the Kyrgyz parliament) Committee on migration, labor, social policy and healthcare.

Policy document or strategy
Agreements or other written covenants

The Concept on Cooperation between Public Associations, Public Foundations and state authorities was adopted and enforced by a Governmental decree of March 25, 2004. This Concept includes an analysis of the current situation in the non-government sector in the Kyrgyz Republic, outlines the principles and forms of government support to NGOs, identifies major government measures to support NGOs, considers the state social contracting as the most effective form of government support to NGOs, and concludes with a recommendation to form a Program on government support to NGOs.

The first thing to say about the Concept is that it exists. Unfortunately, it appears that this conceptual document has been forgotten, mainly by the Kyrgyz government that itself originated the Concept.

Secondly, the Concept is not concerned with forms of inter-sector cooperation, but with forms of government support to NGOs. Even so, it was a good attempt to conceptualize the problem of relations between government and NGOs. The new leadership of the country may find it useful to revise this Concept and, on the basis of its changes, to develop a Program on Cooperation between the Government and NGO sectors of the Kyrgyz Republic.

Another normative document designed to regulate NGO-government relations is the President Decree #241 on measures to enhance, legally formalize and implement in practice all forms of interaction between government agencies, bodies of local self-government and civil society, signed on 11 May 2006. This decree stipulates:

¹⁷ “The Liaison Office as a Tool for Successful NGO-Government Cooperation: An Overview of the Central and Eastern European and Baltic Countries’ Experiences” by Maria Gerasimova, the International Journal of Not-for-Profit Law, Volume 7, Issue 3, June 2005 [http://www.icnl.org/knowledge/ijnl/vol7iss3/special_1.htm].

¹⁸ For more information on the National Civic Fund of Hungary, see [<http://www.efc.be/cgi-bin/articlepublisher.pl?filename=HI-SE-10-03-1.html>] accessed 25 June 2008.

- a) setting up an expert community to decide on formats and standards underpinning procedures for the interaction of the state and civil society;
- b) inculcate in the public a sustainable and conscious interest in the formulation of the country's course, provide for information coverage of public policy-making;
- c) institutionalize forms of contribution by the public, and plan for coordination of interest groups.¹⁹

The only problem with this Decree is that it is not being implemented in practice. Again, this problem results from the absence of any single government body responsible to secure its proper and timely implementation, and to take responsibility in case of its non- or improper implementation.

Lessons to learn:

If we turn our attention to the experience of Poland, we will return to the same Law on Public Benefit Activity and Volunteerism.

Above all, this law further develops the constitutional "principle of subsidiarity." Subsidiarity is "an organizing principle that matters ought to be handled by the smallest competent authority." The Oxford English Dictionary defines subsidiarity as the idea that a central authority should have a subsidiary function, performing only those tasks which cannot be performed effectively at a more immediate or local level."²⁰

The most important provision of the law is the obligation by organs of public administration to cooperate with NGOs in the non-financial sphere. This includes the importance of consulting with interested organizations on normative acts and the creation of joint, advisory teams. More generally, it requires both public administration organs and non-government organizations to work together on annual programs of cooperation.

Critique of current policies

The Kyrgyz government now has no clear vision of the development of its cooperation with the third sector of the country. From another perspective, the non-government sector itself is neither integrated nor well-coordinated. For this sector, what is problematic is the question of representation, i.e., who has the authority to represent NGOs collectively in cooperative efforts.

Despite some incidents of successful cooperation between NGOs and public authorities, in general local level cooperation can occur only in individual cases, rather than as a national trend.²¹

Conclusions and policy recommendations

When people discuss civil society, they think about trust and cooperation in a society. The trust and cooperation between and among all elements of the society are two fundamental characteristics and indicators of society's health and democratic maturity.

¹⁹ The Decree may be accessed in Russian through the on-line *toktom* system for a small fee paid electronically. [<http://online.toktom.kg/>]

²⁰ Accessed at [<http://en.wikipedia.org/wiki/Subsidiarity>] 27 June 2008.

²¹ A significant work was done by a group of researchers on this matter. Please see the book "Kyrgyzstan Case Study Sourcebook: Partnership and Collaboration between Government and Civil Society Organizations," AKDN, Counterpart-Sheriktesh, Bishkek, 2007. it may be accessed and downloaded for free at [http://sheriktesh.org/html/publications_en.html]

Some believe and argue that Kyrgyz civil society organizations have been strengthened enough, and can interact with the State as an equal partner. Others consider civil society as inherently inferior and dependent on the state. Such debates take place in every area of the world, and constitute a discourse that is present and significant at the international level.

Professor Robert Putnam of Harvard University, who undertook important research on civil societies in the U.S.A. and Italy, demonstrated that the strength of the state is directly proportional to the strength of its civil society. In other words, he proved that a strong society equals a strong state.²² This briefing is based on the assumption that the findings of Professor Putnam are correct, and that the success and welfare of a country should be worked on jointly by the government, business and non-government sectors.

This briefing generally concludes that in Kyrgyzstan, a significant level of interaction exists between government and non-government sectors. State institutions and NGOs have strengthened their institutional capacity since 1991 and are therefore ripe for meaningful and systematic cooperation in the interests of citizens. One key constraint on such long-term and strategic cooperation is the absence of institutionalized mechanisms of inter-sector dialog. In this view, the experience of Poland appears both relevant and timely.

The following summarizes recommendations for solving the major problem stated above. Their successful implementation depends on one condition: genuine willingness of government/NGO institutions to cooperate on the basis of equal partnership.

The legal framework for the government-NGO cooperation must be improved. The Law on State Social Contracts, to be signed by President, together with the bill on “Social Partnership” that is now being drafted, must constitute the backbone of any such legal framework. Parliamentarians and NGOs who are actively involved in this legislation must ensure that the Law on Social Partnership will have sections and clauses on concrete mechanisms of partnership. In addition, other laws of the Kyrgyz Republic must be reviewed to improve and harmonize the normative basis of regulations, so that the actual application of the law will be feasible and sustainable. As an example, tax incentives could encourage the business sector to financially support NGOs.

A special department on NGO Affairs must be established as a part of the Ministry of Labor and Social Protection. This government body would coordinate interactions among state bodies, as well as interactions with non-governmental organizations. The Department must develop an action plan to implement Presidential Decree #241, whose measures enhance, legally formalize and implement in practice all forms of interaction between government agencies, bodies of local self-government, and civil society. This Department must also cooperate closely with the anticipated Parliament’s Commission on NGO Support. Ultimately, there needs to be a division of labor. The parliamentary commission must be responsible to the legislation on NGOs, and work directly with NGOs with an expertise to elaborate new laws, while the Department must be responsible for the executive aspects of inter-sector cooperation, and work on the systematic implementation of agreed provisions and succession of decisions made by the previous government officials.

²² “*Democracies in Flux: The Evolution of Social Capital in Contemporary Society*,” Robert Putnam, UK: Oxford University Press, 2002.

The Program on Cooperation between the government of the Kyrgyz Republic and the non-government sector of the Kyrgyz Republic must be adopted. This must be a strategic policy document that incorporates all steps necessary to form strategic cooperation between government and non-government sectors. The Program must be developed on the basis of the Concept on Cooperation between Public Associations, Public Foundations and state authorities, as adopted and enforced by the Government decree on March 25, 2004. Additionally, the Program shall identify the areas for cooperation with prioritization, the long-term action plan, clear formats of inter-sector cooperation and a concrete set of indicators that help measure the success or failure of joint actions.

The NGO sector must be consolidated through centralization around the network-type and large non-governmental organizations, such as Interbilim and Association of Civil Society Centers Support and other similar organizations. Leading NGOs shall initiate the adoption of the document that will regulate the principles and purposes of NGO activities, similar to the Operations Standards of Non-governmental Organizations and the Charter of Principles for Non-governmental Organization Activity, adopted by Polish NGOs in 2003. This change will improve the credibility and legitimacy of NGOs.

The major issue remains whether the presence of major elements of institutionalization, mentioned above, will or will not ensure an effective institutional framework for a dialog. This policy brief concludes that the presence of these three elements represent an institutional framework that would greatly facilitate the process of cooperation. However, the quality of cooperation, and its effectiveness, depend on the level of institutional development of each sector which can, in turn, be strengthened through inter-sector dialog.

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PART II. INTERNAL AND EXTERNAL MIGRATION IN KYRGYZSTAN



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The Policy of Exporting the Labor Force: Challenges for Kyrgyzstan

During the past decade, Kyrgyzstan has come to supply significant manpower to the labor markets of Russia, Kazakhstan and other CIS countries. Acknowledging the weakness and vulnerability of the national economy, the Kyrgyz government has rested its hopes on labor migration, believing this will reduce tension in the domestic labor market while returning stable cash remittances to the Republic. The nation is currently taking measures to protect the rights of migrant workers in the countries of their work, along with steps to regulate and legalize emigration. At the same time, there is an increasing focus by the government on regulating the export of manpower to ensure migrant workers have the skills to be competitive in the most in-demand professions of recipient countries. This article examines the factors that determine the prospects of improving policies related to the export of skilled manpower.

Previous studies identified the many challenges of achieving efficient implementation of policies of labor migration. The main challenges are a) problems of marketing the labor force and studying trends of development in domestic and foreign labor markets, and b) the problem of the high cost and complexity of reorienting the vocational-education system to reflect market conditions. Concurrently, labor migration removes from Kyrgyzstan many workers of high-demand trades; the domestic labor market is characterized by this kind of increasing distortion.

Clearly, in the present circumstances the most appropriate measures to increase the benefits of labor migration include a preliminary explanation to potential migrants of the problems of work activities, and improving their knowledge of the Russian language. To develop the domestic labor market, and to implement more effective marketing of manpower for export, the nation must create and systematically use analytical tools to research labor markets in Kyrgyzstan and the CIS. The reform of

the vocational-education system should focus primarily on the requirements of the domestic labor market.

Labor migration from Kyrgyzstan and trends in its regulation

In the past decade, Kyrgyzstan has actively supplied a labor force to Russia, Kazakhstan, other CIS countries and some foreign countries. An analysis of the current situation predicts a continuation in the trend of the outflow of “new” emigrants, along with significant numbers of “old” emigrants. It also suggests that the destinations of migrants will remain the same, albeit with some diversification. For example, the destinations chosen by potential migrants recently have included Turkey and Korea.¹ The main flow of migrant workers remains beyond organized, regulated migration. According to various estimates, 80 to 90 percent of migrant workers have been leaving the country through unofficial channels.

Currently, demographic factors have meant that 70-100,000 people annually enter the labor market of Kyrgyzstan, although the absorption capacity of the domestic labor market is limited. In the current situation, in which the economy is developing slowly, the living standards of the population remain low while the level of poverty remains high. This explains why the state encourages citizens to find work abroad, earn more money, and return remittances through official channels.

Along with such efforts to legally regulate foreign labor migration, the government of Kyrgyzstan has taken some steps to protect the rights of migrants in the countries of their work, based on international conventions and various bilateral and multilateral agreements. Those efforts to control labor face serious difficulties.

The following argument has become nearly axiomatic: in connection with the inevitability of emigration from Kyrgyzstan for work because of the national economic conditions, efforts should be made to maximize the benefits of migration— for both the state and for migrants. The expected benefits include the possibility of reducing tension in the domestic labor market (due to the outflow of a part of the working population), and significant cash remittances sent by emigrants back into the country. To maximize the benefits of migration, some suggest making the labor resources of Kyrgyzstan more competitive in foreign labor markets, in particular Russia and Kazakhstan.

It is well-known that migrants from Kyrgyzstan (and from the whole of Central Asia) are employed in Russia and Kazakhstan, mainly in low-paid, undervalued jobs. These jobs, using international terminology, fit the so-called “Three Ds” category: dirty, difficult, dangerous. In other words, the jobs that citizens of recipient countries do not want to do. Managing the export of the labor force means that migrant workers should have the knowledge, skills and qualifications demanded by foreign labor markets. This training may improve their competitiveness, allowing them to apply for work that calls on specific skills that are, consequently, better paid. Higher wages mean greater incomes of migrants and larger transfers of money to home. It also implies that skilled workers are better protected from exploitation and violations of their rights.

Kyrgyzstan is not alone in choosing the strategy of focused, managed export of skilled manpower. Many poor countries with an abundant labor force implement such policies, improving the marketing of their workforce. One of the most vivid examples

¹ Here and later the author refers to the data of the study “Utilization of human resources of Kyrgyzstan”, which is yet to be published. The research was conducted on the order of ILO in May-July 2008 by a team of researchers under the supervision of the author of this article.

is the Philippines, often described as a successful example of maximizing the benefits of migration.

In accordance with the selected policy, the government of Kyrgyzstan is now working to legalize labor migration from the Republic, and is concluding bilateral agreements with some countries. An example is the treaty with Korea, concluded in 2007, which established a quota of 5,000 people. It is difficult to say whether this program will be successful, since few specialists in Kyrgyzstan now know the Korean language well enough.

In formulating and discussing the policy of exporting a labor force, one should understand that the success of the strategy depends on the demands of the labor market in the CIS and other countries chosen by migrants in search of employment.

The success of this strategy demands certain conditions: identifying the needs of the labor markets of recipient countries, predicting changes in these markets, and taking measures to meet the specific needs of customers, i.e. providing foreign employers of workers who have a desirable profile and quality. This represents a kind of marketing of domestic human resources.

Although the strategy of regulated export of skilled manpower from Kyrgyzstan might seem very attractive at first glance, realizing it is problematic.

Challenges for the strategy of exporting skilled manpower

As mentioned above, effective marketing of a labor force requires identifying the needs of the labor markets of foreign countries. This involves determining which countries, in which segments of the labor market, and in which industries and geographic regions have a demand for manpower. It is also necessary to better define which occupations are in demand, and the size of the gap between demand and supply of labor force in the targeted trades. The next step should be a serious analysis of the prospects of the labor market- in particular, how stable the identified trends are, the future demand for labor force of particular trades, and the dynamics of the labor market and the economy as a whole. Having in this way determined the niches that migrant workers might occupy, it is necessary to evaluate the condition and quality of the workforce who now enter foreign labor markets, and to determine what is needed to ensure that workers will meet current and anticipated requirements of foreign employers.

Which instruments do Kyrgyzstan presently have to market its human resources? We must recognize that Kyrgyzstan is now only in the initial stages of working to market its labor force, as well as conducting labor market analyses, forecasting and tracking of the dynamics of its development in modern labor conditions.

This area has little development of the institutional mechanisms of regulation, as well as policies on migration and employment in a transitional economy. In addition, specialists have limited analytical tools to understand the labor market, including regional statistics. While in other parts of the world, economics of labor is an applied science in great demand, in CIS countries the economics of labor are only now evolving, and faces many difficulties. These countries, whose policies include exporting labor force, pay considerable attention to the study and constant monitoring of foreign labor markets, the main recipients of manpower. Kyrgyzstan, in that sense, has minimal potential, because it does little to systematically study even its own domestic labor market. After the USSR collapsed, the system of statistical and scientific tools of analyzing labor market collapsed into a crisis. For example, planned economies had time-tested methods to study and analyze trends in the labor market. It was very easy to keep track of employment, labor

force and its profile, since all the enterprises were public. Information on the balance of labor resources was based on a strict system of reports prepared by each enterprise. With the emergence of the private sector, a “black labor market” and other changes that accompanied the transitional economy, old methods no longer reflected the real picture, yet new methodology and tools for analyzing the labor market were not yet developed.

The National Statistical Committee of the Kyrgyz Republic, with support from DFID, conducted a labor force research in 2002. Based on household data, it was the first research that used a new methodology for analyzing employment and labor throughout the country. Unfortunately, such studies have not become systematic. Unsurprisingly, currently labor market analyses are based on very rough estimates or judgments, not on more-reliable statistics.

For similar reasons, studies of foreign labor markets face even worse conditions. These are mostly a variety of research projects supported by international organizations. Such projects are clearly valuable when there is a general lack of information and data. However, they tend to have a particular focus, narrow scope and limited resources, as well as imperfect methodologies, because of the novelty of the issue and various organizational difficulties. In the same way, almost no organizations monitor the dynamics of the labor markets.

Private employment agencies in labor-exporting countries play an important role as intermediaries in the labor market, and possess information and tools for analyzing foreign labor markets. Kyrgyzstan has few employment agencies, which are not institutionally developed and do not always have the necessary information and links to employers. In most cases, their resources are insufficient to maintain affiliates in recipient countries, or to keep constant contact with the employers there. Another difficulty is that private employment agencies, which face bureaucratic obstacles to their work, must often work illegally. Thus, Kyrgyzstan has few effective tools for analyzing labor markets as the basis for a sound policy of labor export.

Efforts to train competitive personnel, with the knowledge and skills demanded and recognized in recipient countries, also experience many problems. A recent ILO study of the use of human resources has conducted interviews with employers in Moscow, Yekaterinburg, Almaty and Astana. Employers were asked which trades are in demand, the extent of the gap between demand and supply of workers in these occupations, whether they employ citizens of Kyrgyzstan, which types of work the migrants do, whether qualifications granted in the emigrants’ nation are recognized, etc. Judging from the responses to this survey, the trades in greatest demand in Russia and Kazakhstan are construction workers, housing and communal services, catering and clothing manufacture.

The list of occupations in demand among Kyrgyzstan’s employers was very similar. It is interesting that, in the domestic market, demand for many trades is only partially satisfied, and employers constantly complain that there are not enough workers of many professions. Thus, the domestic labor market in Kyrgyzstan essentially competes with the labor markets in the CIS countries in trying to get workers with comparable skills. Kyrgyzstan loses in this competition because it loses desirable human resources to foreign labor markets where the pay is several times higher, although this pay does not meet the expectations of migrant workers.

However, the ILO study raises the paradox that employers in Kyrgyzstan, despite complaining about a shortage of workers, are unwilling to pay higher wages. Proposed

salaries are usually 100-200 US dollars, which does not meet the basic needs of people given the current inflation rate. This forces them to seek better wages in other nations. Also employers, who constantly say that the vocational education system must be reformed to meet the needs of the market and employers, are reluctant to collaborate to develop a system of specialized vocational training. Almost 80 percent of the employers who participated in the study do not invest their resources in training. They are only nominally involved in joint discussions and development of curricula that reflect changes in the labor market, and tend to place all responsibility on the state. In addition, the local employers admitted hiring new employees based on the recommendations of relatives or friends. They did not mention hiring on the basis of qualification. This raises the question whether the "manpower shortage" problem is fictitious? In other words, is there a true shortage in the labor force, or is this issue more related to cultural and historical employment practices? Such paradoxes and questions offer rich potential topics for researchers of labor migration.

It should be noted that in the practical world, technical and vocational education is expensive, especially when related to learning and using advanced technologies. Industrial trade associations and employers' organizations are actively involved in developing qualification standards, certification, and accreditation of educational institutions.

In recent years, discussions of labor migration tended to emphasize the quality of training in Kyrgyzstan, and the need to reform primary vocational education, because the quality of the latter has a great impact on the prospects for effective utilization of labor resources, both within the country and outside of it. Responsible governmental organs and international agencies are taking some steps in this direction. However, the education of working staff continues to be based on outdated programs and qualification standards adopted during the Soviet era. In general, the system of vocational training still plays the social role of an undervalued "shelter for the orphaned."²

Burdened by an outdated logistical base and technical equipment, and with a stronger emphasis on theoretical training, the vocational education system requires major modernization. Even with effective use of grants provided by international organizations, it is impossible to improve vocational training in the near-term. Statements by politicians on the necessity to restructure the system of vocational education, so it can train the workers in those occupations demanded by Russia or Kazakhstan, are somewhat naive. Primary restructuring of the system requires enormous resources and time. Orientation of the system of vocational training to external labor markets is also controversial, since many industries in the domestic market also experience a workforce shortage. Another option is short-term courses that teach potential migrants basic skills or qualifications. These courses might play a positive role in improving the quality of labor exported from Kyrgyzstan. However, it seems reasonable to ask "how much retraining or short-term training can be justified? Will the job qualifications of Kyrgyzstani workers be recognized in foreign countries, and how can such courses increase the likelihood that migrants will get well-paying jobs?"

An analysis of the current situation shows that a large portion of migrants (65.5 percent of people working in Kazakhstan, and 37.2 percent of those working in Russia)

² The "shelter for the orphaned" expression was used in the material: "Vicious pen" on education: Vocational technical schools - shelters for the orphaned, or a forge of middle class?". Source: "AKIpress" news agency, 11 July, 2006. <http://www.akipress.org>.

is employed in jobs that do not require any qualification. Approximately 33 percent of emigrants to Russia, and 19 percent of emigrants to Kazakhstan, had to be retrained in the workplace. In five cases out of ten, employers in Russia are not interested in an immigrant's qualifications. Moreover, when asked about the prospects for the labor market and future demand for workers, employers in both Russia and Kazakhstan noted that, in the coming decade, the demand for workers with limited or with low qualifications (handymen, cleaners, janitors, etc.) will largely remain unchanged. These data show that Kyrgyzstani migrant workers are employed in unskilled work; these include those who have secondary, primary vocational or even higher education. Because of the nature of labor migration, where migrants occupy those niches that are not occupied by the citizens of recipient countries, qualified specialists engaged in unskilled jobs, lose their skills and qualifications. Those migrants who can compete with labor forces from other countries are likely to face increasing competition.

The problem of recognition of qualification is serious. In most cases, employers in Russia or Kazakhstan do not recognize qualifications awarded in Kyrgyzstan. If a migrant claims to deserve work that requires certain qualifications, his certificate is not important, since his skills are checked in practice. The biggest problem of migrant workers, especially those in the "new" wave, is poor knowledge of Russian language.

Kyrgyzstan is simply unable to train its workers with internationally-recognized qualifications, especially since labor migration occurs on a mass scale and in such a short time. Meanwhile, among "new" migrants an increasing proportion of those who completed only high school or have incomplete high education- that is, those who had no time or did not want to get any qualification. In such circumstances, it would be better to focus primarily on improving language training and intensifying orientations for the migrants on various issues of their work activities.

As for reforming the system of vocational education, this priority must be given to the interests of national, rather than foreign, labor markets. To effectively regulate the labor market, reforms in the area of statistical records of employment and labor market analysis are needed.

In general, to optimize the migration processes and to use human resources more efficiently, and to confront challenges in the case of Kyrgyzstan's continuing policy of exporting skilled labor, some recommendations may be suggested.

Conclusions and recommendations

- A successful strategy of export of skilled manpower requires the marketing of labor in relevant foreign labor markets. To do this effectively, systematic research must be conducted in the domestic and foreign labor markets where most emigrants head for, to determine the trends and the dynamics of supply and demand for various labor categories. Present tools of labor market analysis are fragmentary and unsystematic, and face many challenges both in terms of their financial security and methodology, including the governmental statistics.
- It is necessary to study the international experience and select those tools of market analysis that are realistic and do not require large resources. Many studies in Kyrgyzstan are now funded by international organizations, but the state should also assume some responsibility for carrying out systematic studies of the labor market. For example, monthly or quarterly analytical newsletters

describing the trends in the economy and labor market can be based on secondary sources, which do not require large resources. Appropriate government authorities, in cooperation with research organizations, employer's associations and other partners, should initiate such publications. In addition, employers and professional associations can be engaged in sectoral assessment of changes in the labor market.

- Introduction by Kyrgyz embassies and consulates of individuals in an "attaché" position and working on labor market issues, especially in Russia and Kazakhstan, could also play a positive role. Labor attachés could not only analyze the trends of development of foreign labor markets, but also help public and private employment agencies to establish connections with employers.
- Today Kyrgyzstan, with its limited resources, cannot conduct proactive marketing of its labor force in Russia and Kazakhstan. Comparing Kyrgyzstan with many other nations that export their labor forces is not very constructive, because the population of Kyrgyzstan is so small compared with, for example, the Philippines, India, Sri Lanka or Pakistan. Some problems could be solved through measures to develop the domestic labor market. Analysis of the current situation in Kyrgyzstan's labor market shows the origins of such phenomena as growing unemployment and an increasing proportion of partial, secondary employment and self-employment. Clearly, these changes may be caused not only by the surplus of labor force *per se*. Instead, these phenomena emerge due to the imbalance between various sectors of the economy, hyper-urbanization, conservative system of vocational education; these do not meet the requirements of the labor market under such new conditions as a lower quality of education and problems with legal regulation of labor relations.
- It is important to locally create and develop the science of labor economics. For example, a current topical issue that deserves serious consideration is the problem of wage formation. Despite a shortage of specialists in many professions, Kyrgyzstan is unable to keep workers with high-demand skills in the country, losing them to emigration pressures caused by significant wage differentials. Moreover, the decisive role in the process of hiring is not the qualifications of the worker, but rather relationships or other social ties. This makes it essential to discover whether the problem of unmet demand for labor is truly a problem of a shortage of specialists, or it is connected with other properties of the local labor market. This is an outstanding field for social scientists who want to study the dynamics of the labor market at the micro level- i.e. the enterprise level.
- In the near future, Russia and Kazakhstan will remain the main destinations of labor migration from Kyrgyzstan. Since poor knowledge of Russian remains a major problem, recognized by both employers and emigrants, a high priority remains improving language training among potential emigrants. This is an initial, very practical step towards the marketing the labor force and thus improving the situation and working conditions of migrant workers.
- Analysis shows that cooperation between employers of Kyrgyzstan and vocational training system remains weak, exacerbating the problem of broken linkages of vocational training with the labor market. For example, employers who criticize the system of vocational education are often reluctant to help

educational institutions elaborate new curricula, introduce new qualification standards, and establish certification and accreditation. The vast majority of employers do not invest in the system of vocational education, tending instead to consider the state responsible for this reform. In this context, it is important to build real relationships between employers and educational institutions; as part of this effort, planners should consider mechanisms that increase multilateral interest in such cooperation. It is necessary, at least sectorally, to begin forming a new system of qualification certification and standardization of the labor force.

- Modernization of vocational education should be considered a national priority that focuses on the needs of the domestic labor market, accompanied by reforms of all levels of the educational system.



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Where to Return to? Rural-urban Interlinkages in Times of Internal and International Labour Migration

Summary

Economic and social activities of migrants transcend internal and international as well as rural and urban divides. Migration circuits are not bipolar but rather develop towards a multi-local network of family members putting into question “return” as an often assumed conclusion to a successful migration.

This briefing explores the multi-local migration patterns of Kyrgyzstan’s mobile population placing return in a wider context and providing recommendations how to facilitate circular migration and ties to places of origin and new places of work and living.

The problem

In Kyrgyzstan, labour migration of the young (rural) population is mainly perceived as temporary and return is often seen as the successful conclusion to a migration. Migrants, however, return only under certain circumstances and not necessarily to the rural areas where they originally come from. This calls for policies acknowledging increasing complex multi-local settings of households transcending the rural-urban and national and international divide.

Background

Defining return and the migration development nexus

Despite the impact of remittances on consumption and investment, return migration is supposed to hold huge potential for human development and positive social change. “Return” often implies that the cycle of migration will be ended and people will be economically and socially better off. But in many cases the “return” is the beginning of a new or an extension of the existing cycle as migration patterns in Kyrgyzstan show.

Up to 20 percent of Kyrgyzstan’s population seeks better economic opportunities in Russia and Kazakhstan, sending remittances worth 30 percent of the GDP especially into rural areas (Zentralasienanalysen 2008). What is often overlooked in this international migration discourse, is that international movement is strongly linked to internal rural to urban migration mainly from the South to the North, the capital Bishkek and its surroundings. In addition people of different age groups or generation reveal different ideas and plans about where to exactly return to in Kyrgyzstan. While the elderly often

naturally expect to return to their home villages, younger people increasingly place their identities and perspectives for future at urban places rather than the village where they were born. Only at the age of retirement they could imagine a return to their rural place of birth. People with enough income send remittances to their family members. Remittances are invested in daily survival, life-cycle events, cars, housing, cattle and land. Although investment in cattle and land in rural areas is also a fallback strategy for migrants themselves they also invest in city centres or in areas with more fertile land within Kyrgyzstan. Often they do it stepwise, leading to an even more diverse pattern of internal and international migration. Thus multi-locality becomes part of peoples' life. Even if migrants have no finances for investments but decide to return, Bishkek would be the first choice. Having relatives in urban Bishkek also provides networks for accessing medical care and social services.

Problems of return

While it is generally acknowledged that the return of migrants can be beneficial for the development of countries of origin, it is likely to be so only under specific circumstances. Most migrants wish to return to Kyrgyzstan, but reasons not to return to rural areas include: lower salaries and poorer economic opportunities, frustration with the business climate, concern about corruption or different ways of doing things in rural setting, lack of social, medical and training services, shopping facilities and technical infrastructure, traditional settings and rules but also inadequate savings to be able to return and to be able to invest in consumption and production.

Among the small number of migrants who permanently return to rural areas are successful ones who mainly managed to invest in livestock and a future living on it.

The other segment of returnees – those less likely to contribute to development - has also been described in many other studies. They return home disappointed, ill, and often unexpectedly because of deportation, problems with family members or sudden need for work force at home.

Nevertheless, the majority of migrants do not plan a definitive return, but keep on working in Russia and Kazakhstan and in many cases try to establish a mid- and long-term place to live and work in Bishkek. Under these conditions a number of socio-economic and politically induced factors become problematic, with segmented migrants and nonmigrants, national and international and rural and urban areas alike.

Brain gain and/or brain drain

Despite remittances, the international "brain drain" is seen as a significant obstacle to achieving national Millennium Development Goals (MDGs) and equitable poverty reduction in Kyrgyzstan (UNDP & CIS 2005). Post-socialist countries such as Kyrgyzstan share a characteristic different from the usual "low-skilled" migration discourse. Educated and skilled people from the rural South of Kyrgyzstan now work undocumented in cities of Russia and Kazakhstan and are not able to practise their skills. Many younger people interrupted their educational career for the sole need to earn money for survival. Therefore migration caused a lack of labour force in all ranges of jobs in the source region. Although often argued that migrants will return with new ideas and skills ("brain gain and circulation"), the decision to work abroad is overwhelmingly economic, with little intention to learn new skills or acquire new profession. Remittances, however, are partly spent on children's education, and especially young internal migrants try

to combine work and study in Bishkek. However, the quality and fees for colleges and universities vary enormously, and the achievement of degrees as well as acquirement of a job position often require bribes. In any case, it remains unlikely that young people find employment in their rural homes and instead stay in Bishkek or as in many cases end up migrating to Russia or Kazakhstan.

Social protection for the non-migrating population

Young and middle-aged men and women who migrate to Russia or Kazakhstan leave their children with their parents or parents-in-law. It is the old and very young population who does not migrate. Existing migration regimes make it hard for parents to have recourse to other family members and especially children back home. Those migration patterns have changed the structure of the family care relationship. Caring at a distance involves relying on older children, grandparents and relatives and absence of parents for longer periods of time. First studies indicate long-term negative impacts on family separations such as decrease in school enrolment and performance, medical care and general psychological consequences. Another concern is who will in the long run take care elderly if also the traditional set-up of the youngest son staying at home declines. It is also not clear yet if the full responsibility towards parents and elderly family members may hinder the younger generation from investing in their own children, family and businesses.

Social protection for migrants

The current international migration regime, combined with an increasing overlap of legal and illegal practices and a flourishing grey economy, let migrants overwhelmingly work under unauthorized conditions including all the vulnerability, risks and stigma that “illegality” implies.

Insecure working and living conditions make it hard for migrants to recover financial costs associated with migration (debts, placement fees, travel), secure support of the family back home and save enough money to invest in the future. In the absence of secure employment alternatives, strategic employment planning and tactical migration management in countries of origin, migrants prioritize improving their immediate conditions.

Critique of current policies

Kyrgyzstan so far has no clear policy to encourage circularity and creating positive incentives for migrants to maintain ties with their countries of origin.

The current securing of borders fails to prevent unwanted migration, while resulting in a number of negatives consequences such as forcing migrants to invest in high amounts of overcoming barriers to migration and discouraging return and circular migration.

For migrants in lower-skilled jobs, policy prescriptions mainly focus on time-limitations of stay and narrow or in many cases non-existent-pathways to permanent status. In reality workers do not leave the country and often continue to work without authorization. They lose their legal status and are subject to arrest and deportation.

Generally, past development strategies by policy makers as well as (international) donors have been based on a spatial dichotomy between the national and international the same as the urban and the rural. That paradigm has contributed to the fact taking

remittances for granted at the backbone for the rural economy without questioning the mobility patterns behind it. A large proportion of the population representing the future of the country is absent in processes of trainings, capacity building and infrastructure rebuilding.

Policy recommendations

Effective circular migration arrangements call for policies that strengthen ties to places of both origin and destination, including foreign countries as well as rural urban linkages within the home country.

Flexible programmes for investments back home

Rather than placing the burden for co-development on individual migrants, investment in community and migrant networks is seen as the better option, as not all migrants are ideal candidates to become development agents. Therefore, flexible programmes for accessing the positive contributions that can be made by diasporas and potential returnees should emerge.

Facilitating circular migration

Facilitating circular migration requires the removal of disincentives to circulation, primarily by providing flexible residency and citizenship rights, portable benefits, and access to information. Those open borders are coupled with internal control systems mainly left to the labour market, while demands to the welfare state are strictly tied to contributions such as social security payments, pension accounts, taxes. Once registered people could not arbitrarily be excluded from the territory reducing irregular migration and human trafficking. It allows migrants to limit expenses associated with migration and save the money and the skills found critical in more successful return (e.g. the IOM initiative Framework for a Central Asian free movement of labour provides positive directions).

Building skills and entrepreneurship

For migrants going abroad: Policy makers and the private sector should facilitate skills and vocational training in making temporary workers more competitive. Those skills also facilitate them to make informed decisions concerning their rights, obligations and options (e.g. Eurasia Foundation Central Asia is planning such a project, personal information). *For non-migrants and migrants who wish to return:* Helping rural development effective and sustainable vocational education systems play a major role. People have to get the knowledge, skills and attitudes to manage private farms, as well as other businesses, helping to raise the incomes in rural areas. Ongoing initiatives (e.g. Agricultural and Rural Vocational Education Project by Helvetas, Tacis Income Generating and Social Inclusion Projects) should specifically address migrants and potential returnees.

Strengthening urban – rural interlinkages

Policies should support urban-rural integration and provide public investment to encourage the flow of goods and resources across sectors and locations. A more integrated economy offers more choices and allows individuals and households to pursue their own best paths out of poverty. Circular, less-permanent and less risky internal rural-to-

urban migration gives rise to a more diversified non-farm economy, and can thus result in positive transformation rather than a desperate coping strategy.

Development of small towns and investment in rural infrastructure and services

Small and medium-sized towns are important intermediary points along rural-to-urban continuums, linking both urban and rural areas. Combined with vital rural infrastructure they provide social and economic services that not only make a return of migrants more likely but also offer non-migrants access to health care, childcare and education.

Migration mainstreaming

Mainstreaming migration means systematically taking migration-specific factors into consideration in the planning, implementation and evaluation of programmes, projects and measures and encouraging collaborations among institutions that are formally in charge of migration issue and others who are not.

Monitoring and evaluation

The permanent settlement paradigm not only define policy but also data collection systems. Thus data systems have to capture contemporary movement of people (internally and internationally) providing the basis for safe policy making and monitoring and evaluation.

Challenges and trade offs

None of these recommendations are targeted at significantly reducing migration or a complete lifting of migration controls. Rather, the proposal suggests new policy mixes of policy instruments and control tools, shifting from physical exclusion and border securing towards facilitating circular migration within and outside of the country. Even more, the recommendations take a life-time perspective on migration and acknowledge the multilocal settings of many households and the different generations involved in Kyrgyzstan. Taking into consideration the complexity of migration trade-offs between policy recommendations and realities are unavoidable. For example, accepting migration as a reality, and encouraging circular migration negative impacts on integration and family life, do not dissolve but need to be facilitated in the best possible way. Moreover temporary migration programmes may fall short when incentive structures change, family ties are newly established or a second and third generation of migrants occurs. However, even if innovative policies might not fully solve some of the major dilemmas of current migration regimes, it reduces the social and economic costs of migration for individuals and administrative control mechanisms, and paradoxical consequences of current regulations, alike.

What is also needed but a challenge to achieve is a broad consensus on goals and instruments of migration policy, which implies agreements on regional and global scale.

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Discrimination Against Internal Migrants in Bishkek

Introduction

High rates of unemployment, low incomes, desperate poverty in rural areas and political instability have set almost a quarter of the country on the move, making internal and external migration in Kyrgyzstan the most important current political, economic, social and cultural process effecting the lives of people in all regions. Two major gravitational forces form the flows of migrants: first one is shaped by the pool of big cities in Russia and Kazakhstan that draw more than half a million citizens out of the country, and second is the capital – Bishkek – which is the major gravitational pole for all internal migrants.

This project focuses on the category of migrants who come to the city of Bishkek in search of employment. The break-up of the Soviet Union, followed by the economic crisis of early 1990s, led to a huge wave of migrants running from the rural poverty in various regions of Kyrgyzstan to more job and income opportunities in Bishkek. In the past 15 years, the population of Kyrgyzstan's capital has increased almost twofold leading to chaotic urban sprawl and congestion of its center and its major traffic routes. The inflow of migrants added to the dynamics and economic vitality of Bishkek, and brought in rural and Southern cultures. For example, merchants in such city markets as Dordoi, Osh and Alamedin bazaars are mostly internal migrants from other regions of Kyrgyzstan, and Dordoi bazaar today is considered the biggest market not only in Central Asia, but in the whole of Eurasia (Nasritdinov, 2007). Its role in Central Asian economies and its contribution to the economy of Kyrgyzstan is enormous.

Migrants are among the most hardworking people in the city; they work more than 12 hours a day without weekend breaks. In spite of this, they are not always welcomed in the city. Long existing North-South and urban-rural socio-cultural differences have added to tension between city old-timers and its newcomers. Hard economic conditions, everyday struggle for survival, and increased competition evolved into negative attitudes towards migrants on the part of city dwellers. The informal nature of migration and migrants' illegal status made them frequent objects of abuse by police, authorities and employers, and also deprived them of some basic rights, such as rights for medical and social services.

Understanding the patterns of discrimination, requires looking into various aspects of migrants' lives. Many negative aspects of life in this metropolis are hidden at its outskirts and in some marginalized enclaves within the city, where regular residents hardly go. The city governors, common public, media, and even people who form these

marginalized communities, do not like to talk about these negative issues. For those at the top, this only creates headaches; those in the middle have enough of their own problems, and for those who actually suffer this is a matter of dignity and shame. This is why they prefer to keep their troubles to themselves, rather than bring them out for discussion. That is why many shameful practices live in parallel dimensions to regular city life, bright and loud city holidays, and glamorous luxury- many people don't even hear about such problems.

Research objectives

This study analyzes the major ways in which migrants are discriminated and seek ways to improve their situation. From a number of possible directions, the research has chosen to focus on four major domains of possible discrimination: 1) employment, 2) social and medical services, 3) law-enforcement, and 4) interaction with city residents.

Almost all migrants come to the city looking for jobs; therefore, employment is the number one issue they face. Because of their illegal status, they cannot be officially hired and a majority works without contracts, which gives the employers powers to abuse them since employees cannot complain. Their illegal status is caused by a lack of residential registration; this illegality removes their rights to some basic medical and social services, which all city residents are entitled to, such as social security and hospital treatment. Except for specialized hospitals, almost all clinics in Bishkek treat people living in their vicinities and residence is verified through the residential registry stamp in passports. Without such a stamp, migrants have to offer bribes or rely on self-treatment at home. Absence of residential registration gives almost unlimited power to yet another agent of discrimination: Bishkek city police. Patrol officers have the right to check migrants' documents and, if there is no stamp, they have the right to arrest them. Arrest can, again, be avoided by giving bribes, which many migrants are forced to do. There are cases of physical force being used for extracting money during patrols and inside police precincts. The final discriminating body is people who were born or have lived in the city for a long time. They often envision migrants as uneducated, rude and ill-mannered "invaders" of "their" city and there is hidden tension between the old-timers and new-comers, which often turn into open conflicts, arguments and remarks made publicly in buses, at the markets, etc.

Each of these four directions for research has its unique qualities and requires special attention. Therefore, this research identifies and explores each as fully as possible. By breaking the focus into these four directions, then looking for shared trends and differences in each, the research tries to create a complete picture of discrimination against migrants in Bishkek.

This research aims to identify in which ways migrants who come to Bishkek from other regions of Kyrgyzstan are discriminated against. The main research question is: How are internal migrants discriminated against by their employers, by medical personnel in hospitals, by police officers and by city residents? The research team proposes a hypothesis that internal migrants suffer discriminated in Bishkek on the basis of: residential registry, origin by regions, knowledge of Russian language, and financial situation.

The research team conducted a questionnaire survey of some 120 respondents. Several sites were identified in Bishkek for one-day trips with a team of researchers, who went out every Saturday and worked for half a day for about two and half months. Fieldwork was conducted in Oshskii bazaar, Dordoi bazaar, Batken bazaar, near the

Labor Registry, and in some factories. Purposive and snowball sampling strategies were used to select migrants for this survey.

Findings and recommendations

Given limited space, we omit the main body of the report and jump to the findings and policy recommendations. The overall impression one forms after all this analysis is that internal migrants are genuinely discriminated against. The police force is the strongest discriminating agent, followed by medical workers. Employers discriminate in short-term employments. As for city residents, there is no really direct discrimination, replaced by individual cases of dislike and/or disagreement. The analysis section answered the research question in detail, and confirmed the research hypothesis: factors like origin, language, residential registry and financial situation of migrants contribute to discrimination. Migrants rely on the help of relatives to offset the impacts of discrimination.

Based on their research findings, the authors offer some policy recommendations. A strong opinion, especially among many government and police officers and among city residents, is that the way to overcome the problems of discrimination is through strengthening and reinforcing passport and registry regimes to keep migrants away from the capital. That is to say: if they are not allowed to come they will not be discriminated against, and there will be fewer troubles for the city. These research results strongly contradict this perspective. Migrants do not come to the city looking for an easy life. The main reason for their migration is extreme poverty in the rural areas, especially in Southern Kyrgyzstan. The situation has been exacerbated in the past ten years due to the steadily progressing degradation of the natural environment, increased competition for natural resources, and lack of land. What should a family do to survive when their homes were destroyed by a landslide, who were relocated to places without water to cultivate land or pastures to graze animals, and who don't get any extra support from the government? Migration, of at least one member, is the only way for such a family to survive. Closing off the capital to such families means leaving them to die from hunger. This would be simply inhumane. The research proposes that the only way to stop people from migrating is by improving the situation in the regions and creating local incentives for people to stay there. Among those who come to the city, their right for free movement within the country and to a share of the city's wealth and economic opportunities should be acknowledged and legalized. These and other recommendations are described individually in the following sections.

Changing legislation on the residential registry

Acknowledging migrants' presence in Bishkek cannot be accomplished without giving migrants a legal right to stay in the city. By giving migrants such rights, the government would provide them with the opportunity to demand other civil rights when dealing with police officers, medical personnel in hospitals, and employers. This can be solved only by changing the current legislation. The main problem with current legislation is the contradiction between laws of a higher legislative power, such as "The Law on Internal Migration" adopted in 2002, which introduces a notifying principle of registration, and the many laws of lesser significance used by such agencies as Ministry of Internal Affairs, Ministry of Education, Ministry of Health, State Committee on Labor and Migration, and the Electoral Committee, which are still based on old principles.

Simplifying the process of getting temporary registration

Ideally, a long-term policy would be to get rid of the institution of registration completely. However, given the present realities, it is more feasible to suggest ways to simplify the process of getting temporary registration. Recently, a group of researchers from AUCA and two legal experts developed a proposal to allow much easier and more effective way of registering in the city. Currently, a working group has been created in the Mayor's Office to analyze this proposal and seek the ways of its implementation.

Improving the financial situation of migrants: Social Enterprise

However, as the results of this study show, it is not enough to simply legalize migrants' presence in the city. There is a strong need to address the financial aspects of migrant's lives. Among those Bishkek migrants who are relatively homogeneous in many characteristics, but economically diverse, one group is the most disadvantaged. This group does not have stable jobs or initial capital to start a business; many of them do not have the support of relatives. To help this marginalized group of the migrants' community, the research proposes to introduce and disseminate the concept of a *Social Enterprise* as one way to help migrants smoothly find their niche in the city. The practice of social enterprises is quite common and popular in many countries around the world. Such enterprises give people the opportunity to gain special qualifications while working and earning money. Social enterprises are often offered a number of economic incentives, like tax holidays or donor contributions, to offset the costs of establishment and maintenance. By targeting its efforts, the chain of such enterprises could engage a large body of poor newcomers to the city and offer them a gradual and meaningful transition. The skills offered at such enterprises could be based on the city's demand for specific types of labor. This would be beneficial for both the city and for migrants.

Improving language skills

One other aspect that social enterprises could address as a part of their program is Russian language courses. As shown by the results of this study, migrants with better Russian language skills experience less discrimination. Setting up a network of evening courses on the Russian language could help migrants learn the basics or improve their current Russian skills. This would significantly increase their chances of getting better jobs and establishing better communication with city residents, Russian-speaking medical personnel in the hospitals, police officers, government office workers, etc. If the government cannot itself fund such an initiative, collaboration could be sought with international development agencies and funding bodies to establish and run such networks.

The contrary/additional language policy would be to recommend government, police and medical officers to start learning Kyrgyz. The Kyrgyz language will inevitably be the most widely-spoken language in the country. Therefore, the nation needs policies and programs that encourage and enable non-Kyrgyz speaking groups to start learning Kyrgyz.

Medical treatment for migrants

The research also recommends changes in the ways that migrants are treated in Bishkek hospitals. If the residential registry issue is solved, then this problem is solved automatically and migrants will have the same rights as city residents. However, if the

migrants' status is not legalized, or while lobbying is in progress, the migrants' rights to receive proper medical treatment should be addressed. Perhaps a special clinic could be set up that is open to everyone; even better, a special status of a temporary patient could be created to allow migrants without registration to receive treatment in local neighborhood clinics.

Police treatment

The research suggests working with human rights experts, lawyers and top management in the police department to change the behavior of police officers toward migrants. Some monitoring and control measures should be introduced that stop police officers from abusing their powers. As suggested above, police should focus their efforts on real criminals rather than on those migrants who work hard to feed their families.

Media campaign

Finally, an effective media campaign should bring the discussion of issues of migrants into the public gaze, instead of hiding them from everyone's eyes. A series of films about migrants' life in the city, publications in the newspapers, regular *Migrants' News* on TV with latest updates, lectures and round-table discussions open for public, would all help bring the issue "out of the closet" and become everyone's concern. Of course, this should be done ethically and thoughtfully, not with the goal of damaging reputations, but to achieve public awareness and motivation towards improving the situation.

The researchers believe in the great potential of the Bishkek community at all levels - from a top government official to a simple city resident- to accommodate and integrate fellow citizens from other regions. In this time of difficulties and dramatic transformations, the last thing Kyrgyzstanis want is to "eat" each other and force people out of "our" territories. Instead, we should look for models in which incomers (who play such an important role in the life of the city) would be better integrated into the general urban community.



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Analysis of Violations of Migrant Workers' Rights in the Russian Federation and the Kyrgyz Republic

Labor Rights Violations in the Russian Federation

The processes of globalization, various changes in political, economic, social and cultural life of the CIS countries, have all affected the migration flows that occurred immediately after the collapse of the Soviet Union. Suffering from needs and unemployment, people from the former Soviet republics were left to the mercy of fate. Recently, Russia has held a special attraction for migrant workers. Above all, this is due to positive trends in stable development of Russian economy and relatively high living standards. These factors, together with favorable conditions for business, attract thousands of migrant workers from other countries to the Russian Federation every year.

Moreover, the migration flows are increasing every year. Hundreds of thousands of people from Central Asian republics, receiving no support from the state during this difficult period, keep leaving their homeland in search of livelihood. The true number of visitors to Russia is hard to count, since there is a visa-free regime between the countries.

Admittedly, Russia itself has been unable to get by without foreign labor. Russian citizens are reluctant to become mini-bus drivers, plant workers and market vendors. In addition, a considerable number of companies in the repair and construction industries prefer to employ illegal guest workers. If all of them were dismissed, the construction market would be paralyzed. The migrants themselves do not hide the fact that, in most cases, they are working illegally. The main reasons for that are the long periods involved in processing a large number of documents and a fairly high fee for a work permit. Many businessmen use illegal labor since they can pay lower wages to illegal migrants, who are not socially protected.

According to various estimates, more than 450,000 citizens of the Kyrgyz Republic are working abroad; more than half work in Russia, 50-80 thousand work in Kazakhstan, while the rest work in other countries. Few guest workers from the former Soviet republics in Russia can protect their rights and legitimate interests, such as free movement within the territory of the host country, registration in immigration records, obtaining work permit, legal employment registration (that is, signing a labor contract), the right to get a medical examination, and these workers appeal to the relevant authorities to protect their rights that have been violated by governmental bodies and private individuals.

This violation is largely due to the fact that most migrants are residents of rural and remote regions of Kyrgyzstan, and have poor language and legal knowledge, making them dependent not only on employers but also on the official bodies that control the

legality of their stay and work. To date, according to various expert estimates, more than 10 million illegal immigrants are in Russia, and the annual damage that Russia suffers because of illegal migration is about 200 billion rubles. At the same time, according to the Ministry of Finance of the Kyrgyz Republic, in 2007 migrant workers sent about 1 billion US dollars to the Republic. However, this money goes to the families of migrant workers who buy food and essential goods for living.

Despite such huge losses from illegal migration, combating it is a very difficult and expensive process. For example, the cost of the administrative deportation of an illegal migrant is, on average, about one thousand dollars. This amount does not include the cost of wages for law enforcement officials and judges.

According to paragraph 5 of Article 34 of the Federal Law "On the legal status of foreign citizens in the Russian Federation" of 25 July 2002, foreign nationals, subject to administrative expulsion from the Russian Federation by the decision of court, must be kept in special premises of the internal affairs or security bodies, or in special institutions created in accordance with the procedure prescribed by law of a subject of the Russian Federation, awaiting administrative deportation from the Russian Federation. However, this provision is not always implemented in practice. For instance, as the migrants themselves say, most have been deported not through court decisions, but through the "decisions" of persons who exercise control over their stay in the country; this includes border and other controls, placing an appropriate stamp in a migrant worker's passport and without detention in special premises. Deportation entails the entry restriction into the country within five years; of course, such decisions of deportation should be taken by a court. At the same time, court decisions of administrative expulsion are hard to appeal, since there have not been such practices in the past.

An analysis of legislation shows that, in the post-Soviet space, there are still restrictions for those who wish to work abroad. Major amendments have been made to Russian migration legislation, visible in the Law of the Russian Federation "On the legal status of foreign citizens in the Russian Federation" of 25 July 2002 # 115-FZ, and in the Law of the Russian Federation "On the migration registration of foreign nationals and stateless persons in the Russian Federation" of 18 July 2006 # 109-FZ.

The law-enforcement procedures for all participating departments and agencies have been optimized at the legislative level. One may see a transition from prohibitory measures to socio-economic and humanitarian ones. For example, a notification procedure for immigration records was introduced. One may simply send a notification by mail to "legitimize" his/her stay in the territory of Russia. We should not forget that, earlier, all the hardships to obtain numerous permits, including work permits for foreign specialists, were assigned to employers. But were employers interested in this? Of course not. As a result, many businessmen employed migrant workers illegally, hiding them from inspection agencies, which allowed them to set their own working conditions. In other words, they fully exploited migrant workers. Currently, a migrant is free to obtain a work permit himself and choose where he would like to work. Such conditions would help a migrant worker avoid getting into bondage and choose the most suitable employer. In doing so, a migrant will have to wait for the work permit no longer than 10 days from the date of presenting all the necessary documents. However, according to the reports of migrant workers, there have been cases of delays in issuing the permits from three days to three weeks. In addition, the provisions of subparagraph 11, paragraph 8 of Article 18 of the Law of the Russian Federation "On the legal status of foreign citizens in the Russian

Federation”, which requires migrant workers to provide medical certificates within 30 days after receipt of a work permit issued for a period exceeding 90 days, are not always observed. For instance, almost everywhere the agencies of the Federal Migration Service of the Russian Federation are required to provide the certificates together with the application for work permit.

Repeated examinations of the enterprises that employ guest workers, conducted by prosecutors and state labor inspections of the Russian Federation, have shown that the territorial migration agencies themselves violate the laws – not always complying with the procedure and terms of issuing work permits to foreigners. As for employers, they keep on hiring illegal workers, despite enormous fines.

The various violations of the migrant workers rights, and the problems they face, start at the moment of crossing state borders and occur quite frequently. In particular, the frontier posts, internal affairs and customs agencies of Kazakhstan often require those who travel by train to Russia through the Republic of Kazakhstan to show a work invitation, a certificate of the absence of a criminal record or tax debts. The lack of an international passport, in conjunction with failing to show these documents, may become a reason to detain this passenger.

Numerous violations of the migrant workers rights have occurred during work. There are no labor contracts, guest workers do not go through medical examination and are not protected socially. There are periodic violations of wages, which can be either delayed or not paid at all.

Such serious violations of migrant workers’ rights include forcing them to work overtime, seven days a week, without extra payment, in terrible working conditions, with high intensity, to perform a kind of work to which a migrant did not consent, restrictions on freedom (control of movement, isolation, etc.), physical and psychological abuse, debt bondage, taking away the documents, sex exploitation (of women migrants) and others.

Nevertheless, legal residence and work in the territory of Russia is not as unclouded as it might seem at first glance. It is no secret that guest workers in Russia remain the cheapest and most powerless labor force.

Most violations are related to protection of labor, processing of employment contracts, and setting the time for work and rest.

Payment procedures have been violated very often, including non-payment of wages and violation of the timing of payments. In addition, there have been cases of paying wages that are lower than the subsistence minimum established by law. Accordingly, these facts may indirectly show that wages are usually hidden.

People cannot ask for help from the law enforcement agencies because of basic legal illiteracy and/or poor language skills. What about illegal migrant workers?

In any case, the legal status of residence and work for migrants is a key condition or starting point for protecting their rights and freedoms. Without doubt, the most effective means of combating illegal migration, and hence the violation of the migrant workers rights, is legalization of migrants, which is now being carried out in Russia. In many ways, legal information campaigns play a great role in this.

Southern Part of the Kyrgyz Republic as a Hotbed of Violations of the Rights of Migrant Workers from Neighboring Countries

The situation of the rights of migrant workers who want to work in the Kyrgyz Republic, particularly in the Osh region, is not much better than that in Russia. Every day, from 600 to 1,300 people cross the border through the “Dostuk” frontier post of the

Karasu district.¹ They are mostly citizens of Uzbekistan who come to work, crossing the border posts or using illegal routes. Migrants from neighboring countries are mainly employed in trade, catering services and also in the construction of individual buildings. These people usually do not have work permits, while the employers, in turn, do not have permits to use foreign labor.

Field staff meetings of the Public Foundation “Labor Migrant Assistance Center Network” with the citizens of the Kyrgyz Republic, traveling to the Republic of Uzbekistan through the frontier and customs posts, as well as with citizens of the Republic of Uzbekistan, i.e. with “pendular” migrants, have shown that more than 70 percent of migrant workers are unaware of the Intergovernmental Agreement “On the mutual trips of citizens” of 2 July, 2000 that requires a work permit. This problem mainly affects “pendular” migrants. But there are other categories of migrants, such as Chinese citizens, who are able to receive legal advice. Most of them are registered as individual entrepreneurs or operate as a legal entity.

The most vulnerable layers of the population remain the unemployed and “pendular” migrants from neighboring countries, coming for seasonal work; they have to face the problem of late issue or refusals to issue the required work permit.

In addition, there is the imaginary problem of “registration of international passports.” According to the law of the Kyrgyz Republic “On the external migration” of 17 July 2000, citizens of a foreign state, subject to a visa-free regime, may enter, leave, transit, travel and stay in the territory of the Kyrgyz Republic without a visa, provided they have a valid document (passport or an alternate document). During their stay in the Kyrgyz Republic, citizens of foreign countries are exempt from the registration of international passports, if the period of their stay in the Kyrgyz Republic does not exceed 60 days (90 days for citizens of the Russian Federation and the Republic of Kazakhstan).

Migrant workers say that border and customs officials nag them, saying that foreign nationals who arrive in Kyrgyzstan for more than five working days ostensibly must be registered at their place of residence by the Ministry of Foreign Affairs of the Kyrgyz Republic and its territorial offices, and by the Ministry of Internal Affairs of the Kyrgyz Republic and its territorial bodies, or in hotels.

Of course, there have been almost the same violations of the migrant workers’ rights during the process of working activities.

Preconditions for violations of the migrant workers rights

Violation of migrant workers’ rights is, to a great extent, a consequence of illegal residence in the country and illegal labor activities, and also of corruption of officials and their failure to comply with national and international legislation. It is hard to imagine any effective measures to eradicate corruption and bribery because, as long as there is money in the country, these phenomena will remain.

Other preconditions are the socio-economic standard of living and, at the same time, very high unemployment rates and attractive immigration population policies of other countries. Equally important are the poor language and legal skills of migrants.

¹ Analytical report by the Public Foundation “Labor Migrant Assistance Center Network”, September 2008.

Recommendations

- Improve the immigration legislation of the Kyrgyz Republic:
 1. Reduce the set of documents required to obtain permits and the time needed to consider the applications for permission.
 2. Introduce a system of computerized control over border crossings by border and “pendular” migrants.
 3. Take into account that, during periods of seasonal work, the number of “pendular” and border migrants greatly increases, so it is necessary to establish their individual quotas.
- Reduce unemployment by creating new jobs.
- Regulate the processes of attracting foreign labor.
- Cooperate with NGOs and international organizations in protecting the migrants rights.
- Take into account that the majority of migrants illegally work in the territory of the Kyrgyz Republic and the Russian Federation, which makes it necessary to legalize their stay and work, and relieves them of any responsibility.
- Strictly supervise officials of public authorities in general, and the Federal Migration Service of the Russian Federation and the State Migration and Employment Committee of Kyrgyzstan in particular.

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PART III. ISLAM AND MODERNITY



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Religious Studies in Schools and Universities of the Kyrgyz Republic: Problems and Solutions

The issue of religious competence is very important for modern Kyrgyzstan from political, social, educational and pedagogical standpoints.

There are religious schools in Kyrgyzstan today, but there is no system of religious education, and the priorities in designing the school curricula have not yet been defined. There is no due attention to the problem of improving the educational level of practicing clergy, nor the training of new specialists with sound knowledge of religion and secular sciences. There is an urgent need to develop the curriculum for a course of "Religious Studies" for secular schools and universities of the country, and to educate people in religious matters, in order to prevent religious extremism and eliminate stereotypes about various religious schools. This lack of basic knowledge of religion among Kyrgyzstan citizens makes religion a source of political, social and other conflicts.

According to Kyrgyz legislation, every citizen has the right to acquire knowledge about the religion he professes. However, the Government, the Ministry of Education or the Muftiyats and Kazyys do not have specific, well-planned, long-term or short-term programs in the field of religious education. The schools and universities of the country do not offer courses that can teach the basic principles of religions to students. The curriculum of "Adep Sabagy" (The course of morality), introduced in secondary schools of Kyrgyzstan in 1992, contains several topics related to Islam in the context of ethno-pedagogy and a brief overview of world religions. However, such a curriculum does not meet today's requirements, and does not contribute to solving the problem of religious education in the country. Some universities, at the initiative of their administration, teach the subject "The history of religions", but there is no common curriculum for this course.

Religion, especially Islam, is one of the most important components in the life of Central Asian nations. Seventeen years of independence after the collapse of U.S.S.R. have shown that stability in Central Asia depends largely on the religious situation in the region. We should also take into account the fact that there are many foreign religious missions.

In Kyrgyzstan, there are the Spiritual Board of Muslims, 9 kazyyats, three missions of foreign faiths, 50 centers, foundations and associations, the Islamic University of Kyrgyzstan, 8 institutes, 50 madrassas and 1667 mosques. Also, there are 46 Russian Orthodox churches and one nunnery. There are two organizations of the Orthodox faith (not part of the Russian Orthodox Church), 292 Christian religious organizations, three communities of Catholics, 49 Baptists communities, 30 communities of Seventh-Day Adventists, 49 Pentecostal communities, 41 communities of Jehovah's Witnesses, 21 Lutheran communities, 27 non-denominational Protestant religious organizations, 36 Presbyterian communities, 18 Christian organizations of charismatic character, 21 foreign missions, 15 religious schools, 26 centers and foundations and an organization of Judaists and Buddhists.

The total of number of foreign missionaries (from 54 countries of the world) registered by the State Commission on Religious Affairs reached 1,300 since 1996.

There are also 16 religious organizations of other religious schools in Kyrgyzstan (12 Bahai communities, the universal church, church of Scientology, the "Concordia" Lutheran church, Messianic Jewish community "Beit Ieshua"). Solving the religious education problem in Kyrgyzstan is important for resolving conflicts in the country, which often arise on religious grounds. A person who has a level of religious knowledge cannot be such easy prey for those who use religious sentiments of uneducated citizens for political purposes. Everyone is well aware of the negative impact of the spread of Wahhabism. Sunni Islam (in particular, the Hanafite school) has been dominant in Central Asia for many centuries, and its traditions and principles are alien to the practices of Wahhabism. However, poor knowledge of the basic religious principles has turned many citizens of Kyrgyzstan into supporters of Wahhabism. To solve existing and prevent possible conflicts, which arise on religious grounds as a result intolerant attitude toward the representatives of other religions, it is necessary to take urgent and effective measures to develop religious education in the country.

The following questions need to be addressed: Why do our schools need to introduce the course of "Religious Studies"? Which positive results would this bring in achieving the educational goals of school curricula?

It is well - known that the purpose of schools is the education of children, providing them with the knowledge and skills needed to exercise social, professional and other activities in modern society. Schools cannot neglect the ideology of the society in which it exists - but, at the same time, a secular educational institution should not assume the function of religious education. The school curriculum includes a set of courses that give students an opportunity to assess the surrounding world, which includes the ability to analyze the country's religious situation. A child should be able to learn the society as a whole, rather than its individual parts. A child should be provided a full picture of society, therefore, we must teach children the basic principles and beliefs of Islam [1, p. 67] and other religions. Comprehensive education in modern society cannot ignore the issue of religious education. This issue cannot be solved by itself. It is impossible to transmit knowledge about religion only with the help of courses such as philosophy, ethics, etc. There must be a special course: "Religious studies." It should be introduced into school curricula, taking into account the significance of the specific religion, which is important for a society [1, p. 68].

There are six reasons why any school curricula that does not contain a course on the basics of religion, cannot be considered comprehensive.

1. **Anthropological reason.** As the Soviet experience demonstrated, religion cannot be completely eliminated. There has never been a nation in the history that had no religion. Respect and veneration of the saints are very strong feelings in human minds. On the basis of these feelings, religious education, in fact, influences the memory of an individual and his or her dogmatic thinking, which may create a grounds for fanatical sentiments. The possibility of reducing such sentiments has been proved today, which is why the teaching process should be directed toward developing logical and creatively thinking person. The learning of secular subjects contributes to the general cultural development of a person.
2. **Social reason.** We live in a society. To be in harmony with the surrounding world, we must adhere to certain ethical standards. Each religion puts forward a set of basic principles, in accordance with which people and society should live. For example, a special branch of Islam teaches the ethics of Islam: Ahlaq.
3. **Cultural reason.** Religion affects every culture to varying degrees. The worldview of people, to some extent, is shaped by religious influences. For example, to understand the images created in epics, poems, songs, ornaments – as well as the rituals, customs and history of the Kyrgyz people – one should know Islamic philosophy as well as pre-Islamic beliefs. Indeed, pre-Islamic beliefs are still strong in some customs and rituals.
4. **Global reason.** Today's technologies make nations closer to each other. We live in the Information Age. Thanks to new opportunities, people from different societies get to know each other better. Mutual understanding is very important in this process, and it is not enough to have only religious knowledge for that. For comprehensive and fruitful relations with other cultures and religions, it is necessary to know and respect the history, beliefs, attitudes and habits of other people. The basis of mutual understanding and mutual respect among people, nations and states is their knowledge of each other.
5. **Philosophical reason.** Each state determines its own educational policy. This policy is based on the spiritual values existing in a country.
6. **Legal reason.** A citizen of Kyrgyzstan has the right to learn about the religion he professes.

A person with basic knowledge about their religion can immediately recognize a situation that contradicts the principles of his faith. The state must assume responsibility for teaching its citizens the basics of religion. Following the examples of secular states in Europe, as well as Turkey and U.S.A., the curriculum of a course must be developed that provides basic knowledge of religion. This is the only way to block the road to various fundamentalist and political currents, emerging on religious grounds, that have an aggressive nature.

Curriculum Development

Curriculum development, methodological foundations and teaching models are the tasks of pedagogy. In religious education, these tasks are assumed by religious pedagogy. It develops the methodology, curriculum and methods used in religious education. This young branch of science has already had some significant achievements in the religious teaching. It has several units, developed on a well-established scientific basis.

Following are some examples of models of religious education offered by religious pedagogy. Based on these models, an effective curriculum for religious education in Kyrgyzstan can be developed.

1. The model of religious education based on the principles of a major religious school. This model is used in countries whose population adheres to one religious school. Examples of this model are the schools of Germany (Catholic or Protestant model) and in Iran (Shiite model).

2. The model of religious education not based on the principles of a particular religious school. This is an interdisciplinary model, based on several religious traditions. This model can be used in countries whose citizens profess different schools of a religion.

3. The model of religious education not based on the principles of a particular religion. This interdisciplinary model is based on the principles of several religions. This model can be used in countries whose citizens profess different religions. An example can be the model of religious education in England. Here, students first learn the basics of their own religion and then explore other religions. This model contributes to the process of objective learning of society by students and developing respect for other citizens who profess different religions.

4. The model of religious education based on the phenomena of religions. The term "Phenomenological religious education" includes the study of phenomena of different religions in general. The model is used in England. Its founder, John Shepherd, says the following of the model: "The society of England is a pluralist society, where different religions and currents exist, there are also atheists and citizens, not practicing religion. The curriculum of the religious studies course is based on the phenomena; here the overall phenomenon of each religion is studied. It does not choose some particular religion. All phenomena are analyzed in an objective manner" [3].

The model used in the U.S.. In this secular state, the issue of religious education has been clearly settled. Every U.S. citizen has the right to receive religious education. There are both public schools and private religious schools and colleges. No matter if it is a public or a private religious school, a student has the opportunity to study all the required social science courses, approved by the Department of Education of a U.S. state, as well as to study in detail the basic principles of religion. In public schools, the basics of religion are taught during the courses of the history of world religions, world literature and geography. Private religious schools, along with religious courses, are required to teach all the courses of the general curriculum, approved by the state's Department of Education of a state. It should be noted that the standards and quality of education in private religious schools are much higher than those in public schools. In both cases, the Department of Education of the United States of America, and of any particular state, clearly determine the standards and guidelines for teaching religion in schools.

Recommendations

1. The Ministry of Education and Science of the K.R. should establish a department of religious education. The responsibilities of the working group, headed by a specialist in religious education, should include analysis and monitoring of programs of religious education, in accordance with the standards and norms of general educational policy in Kyrgyzstan.

2. The issue of qualification of "Religious Studies" teachers is no less important, because teachers are a key element in the process of religious education. The teachers

of religious studies, both in high schools and universities, should have the necessary knowledge of pedagogy, psychology and teaching methods. It is very important for a teacher to be objective; i.e. his teaching method should not violate the law and educational policy in Kyrgyzstan. It is worth mentioning that today the departments of theology in the universities of Kyrgyzstan already train teachers of religion who are supposed to work in high schools and universities.

3. Specialists in religious education must work in the State Agency for Religious Affairs, in Muftiyats and kazyyats. They will develop and monitor the quality of various long- and short-term programs offered to various segments of the population.

4. For religious education in secondary and high schools, the experience of the United States and Turkey should be followed as the most suitable example for the Republic. In these countries, religious institutions are separated from governmental institutions. Both in the U.S. and Turkey, the Ministries of Education clearly define the teaching standards of religious knowledge in public educational institutions. Teachers with an appropriate license (in the U.S.) and graduates of theological schools (in Turkey) teach the courses. In both countries, the level of pedagogic training is taken into account.

5. Teaching a course of "Religious studies" should start in secondary school, rather than primary school. This is most efficient. From fifth to eighth grades, a course "Introduction to Religious Studies" should be taught. The course should focus on Islam and Orthodox Christianity, the most widespread religions in Kyrgyzstan. The curriculum of this three-year course may be developed using the models of Turkey and Russia. As for the course of "Introduction to Religious Studies: fundamentals of Islam", taught in the schools of Kyrgyzstan, the experience of Turkey should be taken as a model, since the majority of Muslims in Turkey follow the Ahli Sunna val zhamaa of the Hanafite school. This is a very important context for understanding the culture and beliefs of Islam. Public schools in the Turkish Republic teach a course of "Morality and Introduction to religious studies (basics of Islam)."

For the three-year course "Introduction to Religious Studies: basics of Orthodox Christianity" a special curriculum, developed in Russia, may be taken as a model.

For the students of ninth to eleventh grades, the "Religious studies" course should be mandatory. The curriculum of this three-year course should include the history of world religions, basic rituals, concepts, the influence of religion on world history and literature, etc.

6. All the university departments in the Kyrgyz Republic should introduce a mandatory course of "Religious studies" that teaches the basics of religion, as well as a course of "History of World Religions" for students of the first and second years.

In conclusion, I would like to stress the importance of research, examining different ways to solve the problems related to religious education in Kyrgyzstan. A professional approach to this issue is very important today.

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Searching for Solutions to the Problems of Islamic Education in Kyrgyzstan

The spread of Islam in Kyrgyzstan has a long history. This process was complex and protracted for several centuries.

Historically, Sunni Islam has dominated in the Republic. Sunni Islam of the Hanafite School is the most moderate of local groups of Islam. It is characterized by tolerance toward dissenters, compliance with local customs and traditions in daily life, and freedom of individual judgments in legal issues.

The onset of Perestroika in the USSR in the 1980s initiated the revitalization and “revival” of religious life, especially in the Muslim republics. Since then, regional perspectives on religion have changed dramatically. In Kyrgyzstan, as in all the republics of Central Asia, processes began of sovereignization and separation of the republican kazyiyats from the CASDM (Central Asian Spiritual Directorate of Muslims).

After Kyrgyzstan gained independence, fundamental changes in its spiritual life have taken place. The religious spaces of Kyrgyzstan were revived. This resulted in the formation of new state-religious relationships, an increasing number of religious sites, a dramatic increase in the number of pilgrims, greater publication and distribution of Islamic literature, emergence of a spiritual educational system, and the involvement of religious organizations in social processes to better meet the spiritual needs of believers.

Non-believers, Muslims, Christians and representatives of other religions form a multinational society in Kyrgyzstan, which consists of 30 major ethnic groups and representatives of more than 80 nationalities.

The population of Kyrgyzstan is much more diverse than those of Uzbekistan and Tajikistan. Only 79.9 percent of Kyrgyzstan’s population consider themselves Muslims. These include all the representatives of Uzbek and Tajik ethnic minorities, and 94.1 percent of the ethnic Kyrgyz, although religious beliefs among the ex-nomadic Kyrgyz have not historically been strong. Among those who consider themselves Muslim, 70.9 percent are Moslems because of family traditions, while 14.8 percent believe that being Kyrgyz means being Muslim. Nevertheless, 40.3 percent rarely or never perform “namaz”, and 17.6 percent perform namaz only during religious holidays. Only 20.7 percent perform namaz at least, once a day.

Few people in Kyrgyzstan have formal religious education (6.4 percent). Most Moslems (24.9 percent) received basic religious education from their parents or relatives, while others did so individually (11.9 percent) [2, p. 5].

Currently, progressive traditions of Islam, associated with knowledge of moral values, have been revived; there is a tendency for broad and deep penetration of Islam in the masses.

Representatives of the clergy, prominent scientists, theologians of the Republic are carrying out educational work in local communities about the Islamic faith, basing it on historical traditions and the attitudes of the population. In addition, mosques have become more active in their religious and educational activities.

The population in the south of Kyrgyzstan has more actively explored the foundations of Islamic religion, and engaged in more religious activities. During Soviet times, religious people conducted religious rites in secret, while they now do it openly at home and in mosques [5]. At the same time, there remain cases of parents not bringing their daughters to secular schools, instead sending them to small religious schools. In other cases, boys do not go to school but instead attend hudzhuras at a mosque, which teach the basics of Islam.

In the early years of the Republic's independence, many mosques were constructed, thanks mainly to foreign investment. Currently, local sponsors now pay for the construction of mosques. If Osh once had only a small number of mosques, it is now impossible to say how many mosques are there. All of the city's neighborhoods and makhallyas have mosques.

The spread of Islam in post-Soviet Kyrgyzstan has been rapid. But it is difficult to predict the impact of this process on Kyrgyz society. In our view, the spread of Islam among the population happens casually- i.e. unsystematically. We believe that this process should be regulated at the level of education. There should be a clear national or social program of Islamic education. Finding a solution to this problem is now more crucial than ever.

The American researcher E. Koliha noted that, since October 1991 (when the first madrassa in Bishkek opened), formal Islamic education in Kyrgyzstan has been initiated. However, no one agrees which subjects of Islam should be taught, nor the relationship between Islamic educational institutions and the Kyrgyz state. These questions are crucial not only for the nations of Central Asia, but also for most countries in the world. However, for Central Asian countries- recently released from the suppression of religious feelings and ideas - these issues are even more acute than in other regions of the world [1, p. 119].

Two of the Republic's state universities now have Departments of Theology. One of these was opened in 1993 jointly by Osh State University and the University of Ankara. In the beginning, the department trained qualified religious scientists, but it now turns out bachelors of Theology.

Before the establishment of Soviet power, the Osh district, had 88 madrassas with thousands of students [4, p. 83]. Today one Islamic University, 6 institutes and 46 madrassas operate in Kyrgyzstan. According to the State Agency for Religious Affairs of the KR, between 700 and 1,000 people study in these educational institutions. Yet there are also private courses, organized by imams at mosques, that teach the fundamentals of Islam. One cannot say how many people are enrolled in the courses and educational institutions in the mosques (hudzhuras), because these educational entities are not officially registered.

Of course, these schools have problems that need to be solved. The following problems are, in our view, the most pressing:

1. Course curricula and logistics, and qualification of teachers, do not meet modern standards. However, we should point out that logistics in some schools have been recently updated due to the initiative of internal and foreign sponsors. Islamic institutions do not work according to the same curricula as other centers of learning.

2. These problems are also typical for madrassas. In addition, the faculty and staff in madrassas usually comprise only two or three people.
3. Some madrassas and short-term courses are not controlled by Muftiyat and the State Agency for Religious Affairs.
4. Education in many madrassas is based only on three or four classic books, written during the Middle Ages.
5. Some madrassas experience the strong influence of their sponsors or international religious organizations, and this influence is often contrary to the traditions and religious practices of Kyrgyz society.

Some specialists believe that religious subjects could be taught through accredited programs in public and private universities and institutes- such as departments of History and Philosophy- or in specialized departments such as the Department of Theology of Osh State University. However, educational institutions with religious studies are excluded from the formal educational system, and the diplomas they issue are not recognized elsewhere [1, p. 120].

During the academic year 2001-2002, students of the Department of Theology in Osh State University, together with their teachers, conducted a survey among religious leaders (imams) in Osh region. This research identified their level of knowledge, recognizing that imams play an important role in society and in the formation of religious relations within the population. The survey revealed unexpected facts. For instance, in answer to the question "What education do you have?", 4 percent of those surveyed responded that they did not even have secondary education. Among high school graduates 70 percent have not continued their education in higher educational institutions, and only 7 percent have graduated from higher educational institutions, 15 percent graduated from madrassas, and 8 percent received religious education at an Islamic institute.

In response to the question "Where did you study Arabic?", 39 percent of the surveyed responded that parents had taught them the language, 15 percent learned it in madrassas, and 46 percent learned Arabic privately from mullahs. To the question "Do you have a complete Islamic education?", only 27 percent agreed.

Teachers of religious schools were asked the following questions: "Did you write any articles or books? If not, could you write new books that meet modern requirements?" Most of the replies resembled the following: "Nothing is written. The available literature is inherited from our ancestors and it is considered sufficient. There is no need to change the content of these books or write new ones." Nevertheless, some opposed such views. These respondents believe that religious books should be reprinted because they do not meet modern standards.

Primary religious education had, for some time, been provided in secular schools through classes called "Yyman Sabagy" (The lesson of morality). During the first years after the Republic became independent, mullahs taught such "lessons of morality" in rural schools, but then, for various reasons, were suspended from teaching. Currently, the course "Yyman Sabagy" has been replaced by "Adep Sabagy", which does not cover religious topics.

In order to solve such problems of Islamic educational institutions, one must take several factors into account. These include financial and personnel problems, relations between the state and religion, and the development of curricula and governmental programs. Of course, the creation of a modern logistic base in Islamic schools is also impossible without the support of State and donor organizations.

The Ministry of Education and Science of KR, the State Agency for Religious

Affairs of KR and the Spiritual Directorate of Muslims of Kyrgyzstan, together with the representatives of Islamic educational institutions, should arrive at a consensual approach to formulating curricula. Each of these groups must make concessions.

It is well-known that a curriculum includes four or five cycles. These are HSE (the humanities, social sciences and economics), MNS (mathematics and natural sciences), GS (general subjects) and SS (specialization subjects). Those subjects should be taught in all universities of the country. The Ministry of Education provides education in HSE and MNS; the courses within these cycles take 45 percent of the total number of hours. The heads of religious schools do not want the HSE and MNS course to be taught in their schools. Obviously, the Ministry of Education and Science could have taken into account the specificity of religious education, and reduced the requirement of teaching the courses of HSE and MNS, lowering their proportion of the educational process from 45 percent to 20 percent, and including only the most popular courses. In addition, Islamic educational institutions should be granted appropriate licenses to implement the educational process. The experience of the Russian Federation should be considered, since this problem has been solved at the Russian Islamic University in the city of Kazan. This University received a license from the Ministry of Education which enables it to train students who, after graduation, receive a Certificate of Education issued in accordance with state standards. The Tajik Republic also solved this problem in 2007 at the Tirmizi Islamic University in Dushanbe.

If the problems of Islamic education are to be solved, it is necessary to ensure support from the state budget. Aware of the importance of this problem, many countries, including secular Germany, began to allocate funds from their state budgets to provide religious education. In the U.S.A., thanks to the initiative of President Bush, a federal law that finances religious schools through state budgets was enacted, although the law has not been accepted in all states.

The researcher T. Papuashvili reported the views of Canadian experts, who believe that religious schools should be financed from the state budget but under no circumstances receive funding from private foundations, which may lead to serious problems in the future [3, p. 35]. Prominent Tajik theologian and politician H. A. Turajonzoda concurred, arguing that the state should support religious schools and thereby benefit both the state and society.

Solving the problems of Islamic education in Kyrgyzstan is clearly not the task of theologians alone, but also of the state as a whole.

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Women's Religious Identity in the Traditional Makhallas of Modern Uzbekistan: Problems and Ways to Resolve Them

In the post-Soviet Uzbekistan, as well as in other countries of Central Asia, for about two decades there have been process of comprehension and justification of certain directions of state formation, including the process of national identification. Twenty years is a sufficient period to identify and analyze the outcomes of independent existence of Central Asian countries. Those outcomes are not only a result of planned and expected steps of authorities, but also a consequence of those processes that were quite spontaneous, contrary to the intentions of the government or emerged as a result of insufficient thinking and consecution in carrying out reforms. Women's identity is one such unexpected consequence, which has become an attribute of religious identity of Uzbekistan population.

Women's Moslem religiousness, and its transformation in modern Uzbekistan, is a vital issue, which needs analysis and expert assessment. The topic is important because it covers all sides of life, from the routine life of people to state policy. It most-comprehensively displays a new role of Islam in the region and also one of the most likely perspectives and tendencies of Uzbek society development in general.

The problem is the fact that the changes that took place during the last decade have provoked a drastic separation of people into religious and secular groups; whereas, under the conditions of the transitional period, a separation into the rich and poor was more expected. Contradictions between the religious and secular parts of the Uzbek population, with women's rights and freedoms frequently being central, can lead to destabilization of the situation and grow into a critical social conflict.

To comprehend the importance and essence of the problem, it is necessary to consider how women's religiousness was displayed in *makhalla*, a traditional space of an Uzbek society, and the perspectives and dynamics of the phenomenon. In turn, this will help considering peculiarities of women religious identity, the role of Islam in a social structure of Uzbek *makhalla* and, in particular, people's insight about the Moslem ethics, the importance of those ideas during the formation of women religious identity.

First, I will provide some general statistical data. In reference to materials of the State Statistics Center of Uzbekistan, 26 million people now live in Uzbekistan, more than 60 percent are young people from 16 to 29 years old, and women constitute 55 percent of the population. According to available data, there are 9750 *makhalls* in Uzbekistan and 2.5 to 10 thousand people live in a *makhalla*. After independence, *makhalla* committees were established - even in modern urban areas in Uzbekistan, where traditions and

customs were not observed very strictly. Thus, a majority of the modern population of Uzbekistan is under the *makhalla* system.

The modern *makhalla* in Uzbekistan is an object of close attention and examination [13]. In particular, it is caused by the fact that nowadays *makhalla* plays an important role in the domestic policy and ideology of the Uzbek state, which through the *makhalla* system tries to influence public opinion and public thinking, effect reforms, influence family and social relationships, including the status of women. One more reason for close relationships between the state and *makhalla* committees is the desire of the state to both exercise control over religious emotions in the society, and prevent oppositional groups emerging through *makhalla*.

The Uzbek *makhalla* is a traditional social micro institution, based on an environment of self-governance, collectivism and subordination. *Makhalla* members are subject to strictly regulated and ritualized norms and principles of existence, violation of which leads to public sanctions. A considerable proportion of those rules and regulations regulate women, their status in the family, behavior in public places, rights and responsibilities with regard to children and men. Specifically, its social micro environment is one of the main institutions of reproduction of mass ideas about Islam and also the routine practices connected with Moslem dogma.

In the works of such famous Soviet era authors as S.P. Polyakov and G.P. Snesev [5; 6; 7], religious and community ritual rites in Central Asia, in particular the territory of Uzbekistan, were studied directly in connection with religious practices of women's ritual. The same approach is seen in the works of modern researchers Kandioti D. and Azimova N., Fatkhi H., Kamp M. [8; 9; 11; 12]. In those works, the convenience and efficiency of a study of various aspects of religiosity in Central Asian society is highlighted as a generally-recognized fact, using as examples women's status and women's identity. This is frequently justified by a special readiness among women to accept Islam. The historical roots of the phenomenon are connected with the fact that for centuries, as the custodians of home and family, women were to a larger extent engaged in practicing various religious rituals, various beliefs and cults.

A social survey conducted by the Union of Young Scientists of Uzbekistan in 2004 demonstrated that this arrangement remains in force in modern times¹. In the responses of many survey participants asked to characterize the religious beliefs of youth, religiousness among women was reported very strongly. In respond to the question "What assistance would you render to a dear-to-you person when he/she is in a difficult situation?" 33 percent of female respondents answered "We would appeal to God for assistance" and of those asked to suggest the characteristics of a religious person, 51 percent selected the answer "patience." At the same time, male respondents: 25 percent, answered the same for the first question and 41 percent to the second question. In response to the question "What or whom do you need when you are in a bad mood?" More than 60 percent of women responded "God", while 50 percent of men responded in the same way. This leads to the conclusion that, under equal political conditions, women are traditionally more religious than men, i.e. think more about God and religion.

Analysis of respondents' answers also demonstrated that women who know which *mazhab* (religious legal school) they belong to are numerous than men, though this ratio for men is also relatively low (47 percent among men and 39 percent among

¹ 700 students from different higher educational establishments of Uzbekistan participated in the survey, 50 percent of respondents were female students.

women). About 50 percent of students who participated in the survey received their initial religious knowledge from parents, grandparents and among the male students interviewed, this proportion was 38 percent. Taking into account that parents of the younger generation were brought up under the Soviet system of education, with its ruling atheistic ideology, one can conclude that young women's faith is not based on fundamental religious knowledge.

The religiosity of modern women cannot be explained only by referring to traditions and history. Marianna Kamp in her book "The New Woman in Uzbekistan" fairly noted that the new religious clothes *khydjab*, popular since 1991 among young Uzbek girls and women, is not an element of national culture. Modern *khydjabs* do not have any relation to the traditional veil, which women wore until 1930. [11, c. 233-237]

Rejection of an atheistic ideology, and a loyal attitude to proclamations in the Republic's freedom of conscience, promoted a certain type of "religious renaissance" expressed in the accelerated development of religion and religious organizations. Openness to the external world, intensive communication between the Central Asian region and important Islamic centers of the Arab world, Southern Asia, Turkey and Iran was one consequence of the post-Soviet transitional period. To a certain extent, it was also promoted by an ideological and spiritual vacuum that emerged after the collapse of the Soviet Union. Official bodies' attempts to create some new national ideology have not been successful so far, due to emerging sharp discord between declared goals and the conditions of an uneasy transitional period.

Intensive construction of faith-based institutions was one of the most recent splashes of Moslem revival in the Republic. During the first three years of independence in Uzbekistan alone, 5,000 mosques were erected. The local population stick strictly to the old rule: each *makhalla* shall have its own mosque.

My field studies, conversations with chairmen of *makhalla* committees in the Fergana valley and Tashkent oblast conducted from 1999 to 2008, demonstrate that the national revival is most often perceived by the population as a religious revival, and construction or re-construction of mosques was mainly financed by *makhalla* residents. For the majority of the population of Uzbekistan, Islam was and still is to a considerable extent an element of national and cultural identity, which is expressed in lifecycle rituals, visits to sacred places, and various forms of religious healing.

As mentioned above, wearing a *khydjab* first meant strengthening women's religiosity and a "return" to traditions; however, this phenomenon itself started influencing a transformation of the structure and nature of religion itself. At some point, Islam started dictating the spiritual, everyday and ritual behaviors and way of life of women. Respectful *makhalla* women, who are called *otyn*, play a special role in propagating religious rules. They know the religious literature, can read the Koran, and interpret *khadisys* and religious stories [1, c. 77-79; 10, c. 27-43].

Many modern or "new" *otyn* received a good religious education. Ritual practices in *makhallas* started to change considerably under their influence. Nowadays, many women consider the religious ceremonies *Bibimushkul-kushod* and *Bibiseshanbba*, (intensively described by ethnographers and historians² and which represent a traditional form of women's communities) as outdated forms of religious ceremonies or rituals that were not part of Islam. Currently, women's communities constantly practice devotions, now

² During those very popular rituals women pray about addressing some of routine life problems [2, c. 17; 3, c. 56].

called *ekhson*, i.e. “give, treat in the name of Allah.” Funeral rites, which start with a death of a person and end with the last ritual after a year of his/her death, also started to be called *ekhson*, and practicing those rituals as funeral rites on the seventh, twentieth and fortieth days started being perceived as non-Islamic. If, in the rituals *Bibimushkul kushod* and *Bibiseshanbba*, former *otyn* were mostly engaged in ritual details such as preparation and distribution of ritual food and reading *duo*, modern *otyn* focus their main attention on educational and informational activity in the religious area – in particular, they are involved in activities to persuade women to wear *khydjab*.

In the everyday life of the modern Uzbek people, *ekhson* has become an influential institution used to manage women and dictate certain behaviors, clothes style, religious thinking and even routines of life. The views and behaviors of *otyn* and very religious (islomi) women are more caused not by “traditions” and traditional” religiousness but by ideology, policy, and borrowed ideas about Islam and women-Moslem.

The identity of people of a traditional Uzbek *makhalla* today reflects a more and more evident religious character. In particular, it explicitly prescribes practicing ritual wedding ceremonies. During recent decades, secular weddings started being replaced with religious weddings, which are called by people *islomi tui*, i.e. “Islamic wedding.” At such weddings, a bridegroom and a bride do not sit together at a wedding party (*nikoh*) with the guests, but spend the wedding evening surrounded by women. Such innovations have led to popular separation of practices into *islomi* and not *islomi*. As a result, Islam has changed from a “people’s” routine level of activities to the level of official, or near-official, ideology.

The transformation of religious rites, and related changes in modern Uzbek society, demonstrate that Islam is no longer considered a marker of personal piety and cultural identity, but is more likely perceived as an assertion of political and ideological confrontation.

Recently, secular Uzbek power has taken advantage of the huge spiritual opportunities of Moslem religion to open new facets of its peace-keeping and constructive, creative and humanistic capacity. We believe that appealing to positive Islam principles, as well as to principles of other religions, will allow the nation to positively address the issue of integration of people’s frames of mind into an official ideology of the state. At the same time, it will allow the salvation of Islam as a part of the spiritual life of the nation, and protect it from numerous unjustifiable attacks caused by the actions of ignorant followers.

Recommendations

1. International institutions and the international community should support the efforts of Uzbekistan’s leadership to preserve the secular regime in the Republic, as long as believers’ rights are observed. Religious identity and religious activities shall remain a personal right of every citizen, who is obliged to observe secular rules and laws of the state.

2. The series of terrorist acts in Uzbekistan, and the Kyrgyzstan–Batken events of summer-autumn 1999–2000, the events at the end of March, 2004 in Uzbekistan and events in May 2005 all confirm that a group of international terrorists work to destabilize the political situation in the entire region of Central Asia, and involve the local population in conflicts and wars using the “Islamic revival” shield. International institutions and international community should help the Government of Uzbekistan to counteract those plans and combat extremists.

3. International institutions and international community should pay special attention to the activity of makhalla committees as initial civil society units in Uzbekistan. The efforts of politicians, experts, mass media, non-government organizations should target educational and informational activities with chairmen of *makhalla* committees, and explanations of the principles of a secular state directly with makhalla residents.

4. International institutions and international community should pay special attention to observing the status of women's rights. It is necessary to create and improve special programs for informational, consultative and legal work with women. It is necessary to strengthen the Uzbek government's attention to the social and economic needs of women, and strengthen gender equality in labor activity, culture, science, public administration, electoral system and so on.

5. International institutions and international community should promote a comprehensive dialogue between believers of various directions and collaboration between believers and non-believers. Programs should be developed to explain the peculiarities of historical and national traditions of peoples of Central Asia, to demonstrate ways to achieve tolerant co-existence among various cultural and religious groups.

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Righteous Woman: Blessing of This World!

*The Prophet Muhammad said:
"All of this world is a utility
and the best utility is a righteous wife".*

The process of an active revival of religion has recently been evident. The number of believers among youths is increasing, and many believers are women. In this context, the question of religion's attitude toward woman becomes topical. Of particular importance is the question of women's place in society.

One view holds that there is some contradiction between the principles of religious regulation of a woman's life and her desire to achieve equality in modern society. In my view, the main reasons for that view are stereotypes that prevail in today's world about women in general and women in Islam in particular.

The conflicting trends in the modern world include the clash of Western and Oriental traditions and resistance to Westernization of cultures and traditionalism in the East. Those trends have also affected the distribution of social and family roles between man and woman, as well as women's place in society.

As part of the process of historical development, in every nation the views of women have changed depending on her social situation and social dependence, which perhaps stem from economic, political or religious dependence. The status [see 2] of women have been both high and low.

Context and Importance of the Problem

Public interest in gender issues in Europe and the U.S.A. emerged around the mid-1960s [7]. Today the wave of this interest has reached us. In the West, this interest later evolved into a broad interdisciplinary research area. Research in that area are based mainly on the material of European and American cultures [7]. However, it should be noted that every nation has its own view of the place and role of woman in society, and her situation has a specificity that depends on various factors.

At this time in Kyrgyzstan, a problem of "Westernization" is found in all spheres of life, including gender issues. Westernization has brought "feminist" stereotypes about women to the East. There have also been attempts to assess an Eastern woman by Western standards [8]. An example is the stereotype that the most important thing in the life of a girl is a giddy career, using all the arsenal of sexual attractiveness and stunning appearance, has been increasingly spread. The media and glamour couturiers

present this image of woman as an ideal. In the long run, there is a risk that such a shift in values may lead to the disappearance of the cultural aspect of an entire nation, and even the State itself.

Current policies of the KR in general do not oppose Westernization; on the contrary, they support such ideas that come from abroad under the guise of the beautiful title “Gender Policy” [8].

Criticism of Existing Policies

The problem is, first and foremost, that the principles of the “gender policy” of the West are being transferred to the East, which has a different world of values. Besides, there are certain stereotypes about Islam, about Muslims in general and the status of woman in Islam in particular. For instance, according to these stereotypes, Islam gives woman a subordinate role, granting her only duties and no rights.

Perhaps earlier, before the emergence of the Soviet Union, some issues were crucial, such as whether a woman should work or not, whether she has the right to education or property, if she could testify, inherit, buy and sell property, if she should marry a man she desired or a man her parents found for her, as well as other issues related to social relations. Many of these issues are no longer relevant, but some of them remain pertinent to this day. For example, the phenomenon of stealing a bride was not eliminated during the years of Soviet rule, despite the fact that there was (and still is) a legal penalty for that. This means that the law does not work [3]. Such social phenomena should be the subject of attention to the “gender policy” of the State and international organizations. No one infringed on a woman’s right to participate in the political and socio-economic life of society, which is certainly necessary for democratic development of the government and society.

While the legal penalty for forced marriage continues to be inactive, the “gender policy” has focused on the facts that women are underrepresented in public and political life and that, in the new parliament, there are virtually no women and that very few women occupy high official posts [8]. Kyrgyzstan has ratified over 30 international conventions and protocols on human rights, including the Convention on the Elimination of All Forms of Discrimination against Women [8]; however, the gender issue remains unsolved. There is a problematic gap between law and reality, which negatively affects the politics and, in turn, affects society.

One of the negative aspects of modern society is the double burden placed on women’s shoulders. As a result of the “feminist gender policy”, aspects such as a woman’s right to choose became insignificant. In other words, the right to work is purposefully imposed on a woman as an obligation to work. As a result, a woman-mother, instead of breastfeeding her child and cultivating trust in God, love of homeland and other high values in her child, hurries to work, competing with her husband and defending herself by the right to work. Thus, women have to manage housekeeping and simultaneously pursue a successful career, working full-time and in full force. In doing so, very often they have to justify themselves in their choice before others, risking the blame of choosing an “easy way” or being “lazy” if they prefer to stay at home and bring up children. Another extreme view is blaming women for being “uncaring” wives or mothers, thinking only about money, if they prefer to work. Of course, here the Eastern notion of family plays a role, since it is very different from that notion in the West or in America, where the family, as we understand it, is virtually non-existent.

Islam and Islamic law have had a profound influence on the history of legal development in many states, in particular on the situation with human rights and

freedoms and the status of women in society. The scope of Islamic law in our time remains very broad, and is crucial in formation of people's worldview in countries with Muslim populations. It seems, therefore, appropriate to look at the social status of woman in Islam from the perspective of Islam itself – in other words, from within Islam – since a discussion on the status of woman in Islam from outside perspective would be biased without the knowledge of what Islam really says about it.

In terms of Islam, a woman is a free and independent individual. But freedom should not mean the freedom from moral obligations or responsibility. Freedom, according to Islam, is inseparable from justice and respect for human dignity and righteousness. Freedom from these values is fraught with such consequences as anarchy and corruption [4]. The Holy Koran stresses the fundamental equality of men and women, not only in social terms but also in all spheres of life. However, the Koran sees the issue of gender equality at another level and in another dimension of guarantees of rights and duties, which are fundamentally different from those addressed by “gender policy.” It is a very different philosophy, another distinction of rights and duties between men and women, which actually does not allow speaking of inequality between them. For example, the most sacred duty of a woman in Islam is that she is a mother and wife because, according to Islam, she shapes the future of a nation. It is not the only woman's responsibility, but the fact that she must raise children does not oblige her to lead an isolated life.

Many people who talk about equality suggest that it should be applied to both sexes equally. But, obviously, this is not always correct. There should not be a common standard for human needs, strengths, capabilities and weaknesses. For example, it would be unfair if a husband demanded that his pregnant wife worked just as hard as he did. Fairness here means helping to accept the burden of pregnancy, and the husband must understand it. There are obvious biological differences: men do not have menstrual periods and do not give birth but, unlike women, they have more health problems in their older age and lower life expectancy. Comparing men and women, it is worth pointing out that Islam granted them equal duties and rights in accordance with their inherent natures. In other words, there are basic capabilities and capacities in which men and women are equal and do not differ from one another. At the same time, there are other capabilities and capacities in which man and woman are equal, but only in terms of complementing each other [5].

Islam, as a legal system based primarily on the Koran and the Sunna, pays great attention to the regulation of family and marriage relationships; it opposes any form of discrimination based on sex, race or national origin and, in particular, it focuses on the legal status of women. It should be noted that in Muslim society religion was, and in some countries of the Muslim world remains, the basis for those relationships. Islam gives man and woman universal rights and to each of them individual rights, which are based on their natural essence and capabilities. In the same manner, Islamic law grants duties to man and woman. Islamic law is universal as it applies to people of all nationalities, races, sex, origin and social status, regardless of physical and temporal location. The universality of rights in Islam is based on the fact that they are not created and granted by the State. In this sense, those rights are innate basic rights that belong to everyone, as a person, regardless of the State [5].

Here is what the Meccan Koran says of the rights, based on basic principles: “Oh mankind! Verily, We have created you men and women and have made you people and nations so that you may know one another”, “O mankind! Fear your Lord, Who created

you from a single person created of like nature his mate and from them twain scattered countless men and women." It obviously does not make any distinction between the status of man and woman, because both sexes were created from a single soul, and there is no question of preference of one another, just as there is no difference in addressing both sexes with orders, bans and regulations.

At the same time, the Koran (in the Sura "Women" of the Medina period) makes the distinction between man and woman in the varieties of capabilities and capacities: "Men are the maintainers of women because Allah has made some of them (i.e. husbands) to excel others (i.e. wives) and because they spend of their wealth (for the support of women)." It also refers to the principle of "kauama", according to which men excel in the status and right of maintaining women. But this in no way should be interpreted as a direct restriction of the rights of woman, or disparagement of her role in the family and society, as woman also excels man, but in another aspect. For example, God granted motherhood to woman who has more access to the child than man, and thus she has an opportunity to bring up her child the way she wants. In the case of divorce, the child stays with his mother until adulthood [9].

Sunna in Islam performs the function of explaining the Koran's conclusions, and also has explanations about the types of capabilities and capacities. For example, there are the following words: "Each of you is a shepherd and is responsible for your flock ..." Sunna also explained that women have no fewer and no more duties than men. It is said that a group of Muslim women sent Asma' bint Zaid to the Prophet with the request to solve their problems. The woman addressed the Prophet with these words: "I have brought a message from the Muslim women. All of them and I believe that Allah has sent you for the guidance of men and women both. Although we have followed your guidance and have embraced Islam, our physical condition is different from the men folk. We stay behind curtains and cannot take part in the Friday prayers and other congregational prayers. The men folk can visit the sick and join funeral prayers. They perform Hajj pilgrimage and fight in the cause of Islam. We sit at home to nourish and look after their children, we guard their property. Oh, Allah's Messenger! Are we entitled to good reward for all that we do as household women?" The Prophet turned to his associates and asked: "Have you ever heard a woman asking about her religion better than this woman?" They answered: "We swear by Allah! We have not." Then the Prophet said to Asma: "Go and tell those women that if woman sincerely performs her duty as a wife and follows the good pleasure of her husband, she will be entitled to as much reward as the men are entitled to." [9].

Given the impossibility of covering all the issues concerning the topic of "Woman in Islam", it seems appropriate to highlight a few aspects of the social and legal status of woman in Islamic law [9]:

1. The family status of man and woman have their own specifics. For example, a marriage contract is not legally recognized without mutual consent. However, the mutual consent is not necessary for divorce: a husband has the right of "talaq" (Arabic "divorce, the release from marriage contract"), while the wife retains the right to divorce through the court.
2. A marriage is invalid without a premarital gift, which could serve as insurance for a woman during the first period of time in the event of her husband's death or divorce (Further on, this gift is the property of the wife; in quantitative and qualitative terms it is determined in accordance with local customs and traditions.).

3. The wife is entitled to full material maintenance by her husband, and he has the right to demand complete obedience from his wife, according to Shariah. The right to work, to have business and earn money is granted both to husband and wife, provided that they perform their obligations to each other. The right of woman to own property, the property received as a gift and all that she has earned, does not contradict the right of her husband to demand full obedience from his wife according to Shariah; it also does not contradict the wife's right to the full maintenance by her husband.
4. In the event of termination of the marriage, the wife is entitled to material maintenance in the home of her husband until the end of "idda" (Arabic: a waiting period of three menstrual cycles after "talaq", which ends with the beginning of the fourth cycle, taking into account that "talaq" is not valid during the menstrual cycles. It is also applied in the funeral-waiting period after the death of her husband for a period of 4 months and 10 days).
5. The wife has the right to retain her maiden name and not to take her husband's name.
6. The wife has the right to require her husband to pay for her education, if it was previously stipulated in their marriage contract.
7. A woman has the right to inherit from her husband and all relatives of first and second degrees of kinship on her side.
8. A man is granted the right to have up to four wives, but that does not restrict the rights of any of his wives. The judge may grant permission for second and subsequent marriages only on certain conditions, which practically make it difficult for subsequent marriages for an orthodox Muslim [1, p. 7].
9. And here is the most interesting. According to the opinions of the Muslim law school of al-Shafii and the most recent Muslim scholars, woman is not obliged even to work at home: laundry, cleaning and cooking. This is a voluntary service of the wife. If she does not agree to do this work, her husband should hire a servant.

Conclusion

It becomes clear from the above-mentioned that Islam does not restrict the activities of a woman, limiting her role only to cooking, cleaning and other household work. Islam encourages her to spiritual, educational and creative growth, her demonstration of enthusiasm in public and political life. But Islam requires this compliance with a delicate condition: granting a woman the right to participate actively in social, cultural, political and economic life, Islam does not turn her into a manlike brutal creature.

Therefore, when it comes to the social status of woman in Islam and her rights, the following phrase comes to mind: "One's human rights end where another's rights begin." It raises the question: how can we determine where the rights end and begin? From the perspective of Islam, rights are determined by performance of duties, and the duties are determined by natural capabilities (cumulative sense of the Koranic conclusion; Bakkarat: 286), both in basic capacities and their variants. In other words, these rights are fully consistent with the duties according to quantitative, qualitative and even temporal criteria, and all that is based on natural capabilities of man and woman, both in basic capacities and their variants [5].

This approach is determined by the fact that Islam considers life in all its completeness and diversity, not excluding any its aspect with regard to women. From the

standpoint of such an approach, one can better understand the development prospects of Islamic law and the importance of women's role in society.

In connection with what was previously said, it seems appropriate to suggest for consideration, and, perhaps, even as a solution of this problem, the methodology of Islamic law that takes into account the capacities of men and women and their variants, which yields a real outcome.

Righteous woman is that real outcome, which the Prophet refers to in his Sunna: "All of this world is a utility and the best utility is a righteous wife" [6].

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PART IV. CORRUPTION IN KYRGYZSTAN: MAJOR FEATURES, IMPLICATIONS AND CHALLENGES



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Judicial Corruption in Kyrgyzstan: Magnitude, Types and Countermeasures

Introduction

The Annual Report on corruption worldwide in 2007, prepared by the well-known international anticorruption organization Transparency International, focussed on corruption in the judicial system. It was fortunate that this issue was examined, since it is extremely important today.

The main conclusion of the report is that corruption in the judiciary undermines chances of the international community to combat transnational crime, obstructs access to justice, and blocks changes in human rights laws. Corruption in the judiciary means that the voices of innocent victims are not heard, and criminals may go unpunished [14]. Moreover, corruption undermines judicial systems globally, depriving people of an opportunity to access justice and violating a key human rights: the right to a fair trial.

It is worth mentioning that corruption in courts is especially detrimental to all of society, since people often view courts as their last resort when they seek justice. It is well-known that, in many respects, unfair court rulings in favor of particular pro-presidential parliament candidates forced people to revolt. This led to the 2005 collapse of the existing regime. Furthermore, experience demonstrates that foreign, and even domestic, investors refuse to do business in the country because of over-lengthy and unpredictable judicial procedures [13]. Obviously, the corrupt judicial system makes it impossible to tackle corruption in other government institutions.

Therefore, studying judicial corruption and the efficiency of countermeasures, as well as developing and implementing relevant recommendations, are key elements to strengthening the state.

Types and scale of judicial corruption

In recent years, almost all documents that describe the socio-economic and political situation in the Kyrgyz Republic mention corruption. One resolution of the Kyrgyz Security Council concluded that "Corruption activities and other related crimes go deeper into such areas as economy, finances, public administration and services, which significantly impedes social, economic, political and democratic reforms in the Kyrgyz Republic" [11].

The escalation of corruption and its qualities goes hand-in-hand with depreciation of spiritual values, admissibility of means to increase prosperity, and elimination of the regulators of civilized social behavior, such as morality, law, and public opinion. This is where the greatest danger of corruption lies as a form of social pathology lies [1, p. 5]. Another dangerous trend in the development of corruption is increasing public tolerance of corruption.

One of the main causes of the change of the political regime in Kyrgyzstan in 2005 was rampant corruption, including corruption in the judiciary, which covered the entire country and was largely condoned and even encouraged by authorities.

Before evaluating corruption in the judiciary, it is crucial to clarify terms. In a broad sense, by corruption we mean a social institution, one aspect of the management system that is closely related to other social institutions, mostly political, economic and cultural ones.

Corruption is a complicated and complex social phenomenon with multiple layers and structures, and expressed through various corrupt actions. Such actions are profit-oriented, and they damage the functioning of society and the state in general. In legislative terms, corruption may be briefly defined as: violating the law, mostly through crimes, by taking bribes, abusing authority and so on for unofficial purposes [6, p. 1]. Therefore, using this logic one can say that judicial corruption is using the status of a judge for unofficial purposes.

Rasma Karklins talks about the following types of corrupt actions in the judiciary:

- trade in court decisions;
- falsified legal prosecution, using scapegoats;
- absence of legal prosecution.

This classification seems too narrow. Corruption in the courts includes any type of illegal influence that undermines the impartiality of court proceedings and court decisions, from giving bribes to judges to arranging court decisions in favor of one litigant or refusing to make a ruling at all. Corruption in the courts includes the abuse of funds allocated for the functioning of the judiciary and judicial authority. An example is a case when a judge hires his or her family members as court employees, or manipulates contracts on constructing or furnishing courtrooms. Corruption can be manifested in biased distribution of judges to handle specific cases, or to conduct pre-trial procedures, for example when a court clerk ostensibly loses cases or evidence in exchange for certain remuneration. Corruption can be a factor in any proceeding or court decision, as well as in executing court decisions and verdicts, or the lack thereof [14].

The experts¹ surveyed identified the following features of judicial corruption:

- existence of concrete subjects involved in corrupt relations (a corrupt judge and a client), distribution of social roles (e.g., bribe-giver, bribe-receiver, mediator);

¹ The method of expert evaluations was used for the purpose of this article. The experts who were surveyed are court employees, law enforcement officers and defense attorneys.

- existence of certain rules of the game and norms which are known to the subjects of corrupt activities;
- established terminology of corruptive actions; e.g. “to get things settled” means to solve the issue through a bribe or a common friend;
- an established fee for services known to those involved in it. According to a number of experts, there are set fees for not initiating a criminal case, for release from custody, or for remission of a penalty. Normally, fees depend upon the resolution and category of cases; e.g. in economic cases, the fee for settling the issue depends on the cost of the specific action. However, other experts say there are no fixed bribe rates, since every case is looked at individually.

Some authors talk about such corrupt actions as rule-based corruption, “when judges ask for a bribe to fulfill their duties which they should fulfill by law” [10, p. 111]. Such cases are very common in the judiciary (making a legal court decision or announcing a legal sentence for a bribe), which involves no visible violation of the law.

The issue of judicial corruption is common in all post-Soviet countries. For example, in 2004 V. Zor’kin, Chairman of the Russian Constitutional Court, said that bribery in the courts had become one of the most severe sites of corruption in Russia. Judicial corruption is integrated into various corrupt networks functioning at different power levels, e.g. in the network of destroying criminal cases and taking over someone’s business [15]. Journalists from the newspaper *24*, in a study of different court cases, interviewed prominent Ukrainian lawyers and human rights activists, who helped them reach almost the same conclusion: “Ukrainian courts are stuck in corruption. There a certain scheme in the existing judicial system through which money reaches its beneficiaries, with concrete rates for the services of judges” [12]. Many publications in other CIS countries publish the same information.

Top-ranking officials also recognize the existence of corruption, although indirectly. The president of Kyrgyzstan, K. Bakiev, speaking at a gathering of judges, said that the community of judges should get rid of inappropriate staff who view the position of a judge as a business, and thus severely damage the image of justice. We should part with such judges, he said, with no regret [2, p. 11].

In 2000, a large sociological survey on corruption was conducted in Kyrgyzstan, when 2,100 respondents were interviewed. According to the survey data, gathered from the public, the courts and prosecutor’s offices are number two in the list of most corrupt organizations (83 percent of the respondents said corruption is spread widely there) [8, p. 28]. Most experts interviewed believe that the situation is not likely to have changed drastically since that time, although in recent years (starting in 2005) the level of public trust toward courts and law enforcement agencies has become somewhat higher.

In 2000, those who researched corruption reached the conclusion that, when corruption permeates uniformed services, and particularly law enforcement agencies (police and prosecution), it is especially dangerous for society. In the long run, this may lead to the merging of corrupt elements in the state with economic crime, and result in the following:

- launching “complex brigades” that making money from destroying criminal cases;
- pressure of law enforcement agencies on business rivals in return for bribes;
- precedents of law enforcement officers who also join commercial structures and embrace both roles [8, p. 32].

The evidence demonstrates that the researchers' forecasts were accurate.

It is worth mentioning that it is not possible to identify the scale of judicial corruption accurately, because such crimes are typically well concealed.

Judicial corruption schemes

The system of corruption in Kyrgyzstan is similar to other such schemes in other countries. Often, a professional lawyer who acts in the interests of his client also becomes a mediator in bribing a judge, and sometimes even initiates this process. An experienced lawyer does his best to make his client's case go to a particular judge (usually decided by a Chairman of court), who is already bribed by the same lawyer. In the area of combating corruption among law enforcement agencies, there is a notion called a pocket lawyer.

Normally, a pocket lawyer hints to his or her client about personal contacts, saying that all issues could be settled if the client pays for it. More often than not, pocket lawyers become permanent intermediaries in bribery between corrupt judges and prosecutors, on the one hand, and their clients, on the other. Garmaev speaks about such a set of judges (investigators, prosecutors) and pocket lawyers as a criminal group that extorts large amounts of money from suspects and their relatives, and members of criminal groups, for making decisions in their favor. This might include either legal and illegal decisions [3].

Sometimes relatives, friends or assistants of a judge may act as go-betweens. Intermediaries guarantee that a case will end in favor of the person who gave the bribe. Typically, part of the money is transferred before the hearing and the rest afterwards. If, for some reason, the person giving the bribe is not satisfied with the ruling, he or she may get the money back through the same intermediary. This happens in cases when a judge is bribed instead by the other litigant, or higher-ranking officials use administrative pressure.

Corrupt judges rarely take bribes, though this happens in extreme cases, or when they are too self-assured. For example, in August 2008, officers of the National Security Committee arrested the Chairman of the Jungal rayon court in his own office at the moment of receiving a bribe of twenty thousand Kyrgyz soms.

Some judges fulfill their duties in good faith. However, even individual cases of corrupt judges may blemish the entire judiciary.

Peculiarities of judicial corruption

For a number of political and economic reasons, the level of corruption varies across different regions of Kyrgyzstan. Since Bishkek, the official capital, and Osh, the southern capital, are the locations of major financial flows, money and human resources, or the so-called business centers, certain markets of corruption-oriented services emerged in these two towns (mostly in Bishkek). The existence of corruption networks is logical, as are the numerous clashes of interests between business structures, criminal groups, controlling and supervisory organizations. The overwhelming majority of large business structures is located in the capital. Since the regions develop differently, there is a clear difference between provincial areas and the capital, including the level and scale of corruption.

According to experts, the scale of corruption varies across the range of court levels. Clearly, judges in the courts of review and courts of appeal where cases are reviewed

collectively are normally not involved in corruption cases. However, this does not mean that corruption is not an issue at this stage; it just proves that it is more difficult to reach an agreement with a few judges at the same time. In those cases when a judge works single-handedly, he becomes more prone to corruption.

Another pattern is as follows. During their first term in office, judges try not to be involved in corruption, since they want to be appointed for a second term without any time limit (known as “appointment for life” in informal language). Indeed, if they have any blemishes on their reputation, they run the risk of not being appointed for a second term in office.

The Russian scholar Enyutina researched organizational and legal preconditions of judicial corruption, which helped her generalize the violations committed by judges who announced “ordered” decisions. The following circumstances may imply that a case involves corruption:

- judges receive complaints or lawsuits outside working hours;
- cases are reviewed at the last minute, sometimes on the same day when all materials get into court and legal proceedings officially begun;
- printing the decision on a standard form with handwritten date, case number, name of the secretary and other required information;
- not notifying all those involved in legal proceedings, or not inviting those individuals whose rights will be infringed upon by a judicial act to participate in the proceeding;
- egregious procedural violations in the course of legal proceedings, such as: refusal by one of the litigants to demand case evidence, a protracted refusal to get familiar with the court transcript, deliberate omission of certain statements by people involved in the proceedings in the court records which may seem crucial for the litigation;
- courts take measures to secure a suit which seem inadequate to the claim;
- courts make decisions where the resolution part is different from another judicial act, which leads to the discrepancy of executive sheets;
- unsubstantiated transfer of a certain civil or criminal case from one judge to another;
- reviewing the case with violating jurisdiction rules stipulated by law;
- judges violate the rules of internal territorial location of judges set in the court [5, p. 16].

These circumstances are also true of judicial corruption in Kyrgyzstan. One such example can be the behavior of a judge from the Kara-Kulja rayon court who released a woman, though she had no right to leave her domicile. Accused of storing and trading in counterfeit currency, the woman had been a fugitive for a long time. The judge released her without any court hearing, and in the absence of a prosecutor or an investigator (whose participation is legally mandatory in such cases). In keeping with the decision of the judicial council, this judge was dismissed from his position.

In another case that took place in February 2008, the Chairman of the Ton rayon court was reprimanded for reversing the previous decision and releasing from custody a detainee suspected of raping a 15-year-old. As a result, the suspect disappeared, and the investigation was never finished.

Such actions on the part of judges should be analyzed thoroughly. In one of the above-listed features, the reviewed criminal or civil case requires greater attention, and the circumstances under which the decision was made should be analyzed. Furthermore,

other indirect features of judicial corruption may include the sudden purchase by judges of real estate, luxury items, expensive and fancy cars, frequent visits to saunas, casinos, etc.

Recommendations on minimizing judicial corruption

To diminish the level of judicial corruption, a set of measures is required, because complex problems do not have easy solutions. The following may be viewed as comprehensive measures to tackle corruption:

1. Ensuring transparency of the entire judicial system [9]. Transparency includes not only public access to any judicial decision or judicial practice on different categories of cases, but also availability of certain information on any judge in any court.

When electing the legislative bodies and some executive officials, the public has the right to become familiar with the biography of candidates, information about their property, etc. As far as judges are concerned, very few people have access to any information about who will be responsible for justice: some unknown former investigator, court clerk, or someone who has earned a good reputation with the public through their professional activities and gained a wealth of experience working with people [5].

To increase transparency in the judiciary, it is important to take every opportunity of informing the public about criminal cases and lawsuits submitted to the courts, as well as about the decisions made, cases submitted to courts of review and courts of appeal, and dates of case review. This can be done through the Internet, official websites of the courts, and private web-portals. Any physical or legal entity should be able to receive information about the status of their case at any time.

Another way to increase transparency in the judiciary is to publish an annual report on judicial activities and expenses, while judges should be obliged to provide information about their property and income.

2. It is important to narrow the scope of corruption as much as possible. This can include minimizing judicial judgments when handling the case, and excluding factors which are conducive to corruption. Corruption can also be reduced by introducing a system for distributing cases among judges, which can be done by casting lots, through a computer, or creating a strict order of case assignments. For example, to certify a number of deals, notaries were forced to use special forms with a few protection levels and a registration number. The same system should be introduced for judges, who should use special forms for their decisions, as well as registration sheets where they have to write their decisions or the sentences they announce. This measure will be a positive step in many ways. In particular, it will be difficult to make decisions long after they have to be made, or to hide certain cases from the management and prevent them from being registered in order to make their own rulings single-handedly [5]. Also, it is crucial to speed up the work of the Supreme Court Assembly of developing standard judicial policies, in order to eliminate contradictory judicial practices and the ensuing corruption [7].

3. Control by civil society may be a strong instrument, particularly if not-for-profits focus on one or several issues using a long-term perspective. If journalists start attending court hearings, judges will have to think carefully before taking a bribe or announcing a verdict that was ordered by someone else. Civil society should have the opportunity to monitor the activities of the courts and to research the causes and manifestation of corruption in this area.

4. One of the most effective tools for controlling the courts may be the introduction of a mechanism for electing judges by territorial communities. However, recent experience has shown that public elections are not the most reliable method of removing corrupt individuals from power. On the other hand, if the territorial community elects a criminal or a bribe-taker for the position of a judge, they have only themselves to blame[4].

In this regard, a democratic procedure is currently used to elect judges in many U.S. states. In this procedure, local level judges are elected by general vote for ten years in office, with the right to be re-elected.

5. Strengthening the competitive nature of court hearings will also help prevent corruption. A clear norm should be added to the Civil Procedural and Criminal Procedural Codes, specifying that during an open hearing of a case, litigants and all those present are free to use equipment to record the hearing without permission of the presiding judge.

6. There should be a reasonable balance between a judge's independence and the availability of a specific mechanism that enables physical and legal entities to submit an objective, open complaint against the judge and have it reviewed by relevant authorities. In turn, the judge should also enjoy the right to protection, including the possibility of inviting a defense attorney to the meetings of the judicial council, perhaps as well as journalists and any public organizations. The judge should also have a clearcut resignation mechanism.

7. Increasing judicial independence to prevent the courts from turning into a sub-branch of the executive, and reducing the pressure of the executive branch in the judiciary. In this regard, it is crucial to strengthen the role of the courts within the framework of the most drastic qualitative reform of the overall law enforcement system.

8. Finally, if the political will exists, comprehensive measures should be taken to prevent individuals with unacceptable thinking and behavior from becoming judges. Other conditions for improving anti-corruption measures in the judiciary include legislative improvements, provision of sufficient resources, appropriate qualification of judges, reducing the number of circumstances conducive to corruption, and supporting public opinion.

Future trends of corruption development, including judicial corruption

In a forecast of corruption development in Kyrgyzstan, three scenarios are possible: pessimistic, optimistic, and most probable, implying half-developed solutions to corruption.

The first scenario looks quite sinister, but it shouldn't be excluded. Unless appropriate practical measures are taken to minimize corruption, above all in the judiciary, Kyrgyzstan will ultimately find itself in a mire of corruption. If all branches of power are totally corrupt, it will be almost impossible to solve even one significant social, economic or political issue. In this eventuality, we can speak about the African model, in which authorities completely submit to the major economic clans that reach an agreement among themselves, and ensures their safe existence through political leverage. The judiciary becomes a basic and submissive sub-branch of the ruling clan.

A more optimistic scenario implies establishing order, ensuring the fundamental principles of the rule of law, improving the vigor of moral and psychological environment in society, and increasing the role of civil society and state agencies, while narrowing the legal scope and organizational aspects of corruption. This scenario is the most desirable,

albeit very unlikely. However, many people retain positive thinking and still believe that it is possible to curb corruption².

As always happens, the truth usually lies in the middle. History, and the current status of corruption, do not allow the luxury of treating this phenomenon as something that may disappear.

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² It is worth mentioning that about half of all interviewed experts believe in the optimistic scenario. Factually, this opinion quite conforms to the opinion of the respondents who took part in the 2000 survey (77 percent of civil servants and 64 percent of businessmen said that it is possible to "significantly decrease the magnitude of corruption" in Kyrgyzstan [8, p. 50].

³ Not alphabetized in English to avoid confusion with in-text numbering (*Translator's note*)



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Corruption in Higher Education: Sources, Scale and Solutions

Corruption has become a global problem. It poses a serious threat to social stability and security and undermines democratic institutions and values, ethical values and the rule of justice, as well as damaging sustainable development and law and order.

In Kyrgyzstan, corruption is one of the most urgent issues because it hinders the solution of most of the crucial economic and political tasks. It also tarnishes the reputation of authorities among citizens, and leads to social degradation by blemishing the image of our country in the modern world.

According to the *Information for Democracy Foundation* (INDEM), the spread of corruption in the former Soviet countries has reached a major scale in a short period [12].

A number of financial, political and moral consequences of corruption, which have grown rampantly in our country in recent decades, has become intolerably obvious and dangerous for our political system and further development. As a result, the need for strengthening anticorruption measures and increasing their efficiency is not only a legal issue, but it is also one of the most pressing political issues. This situation is aggravated by the fact that corruption has also pervaded the system of higher education, jeopardizing all areas of human activities in the future.

Corruption in Higher Education

Corruption has permeated all areas of public life, which makes it more difficult to counteract this phenomenon.

One area where corruption wreaks havoc is education. Corruption cases in higher education facilities are well represented in the mind of the public. Although such cases are extensively covered in the media, there are no accurate data about the scale of bribe-taking in universities. As revealed by sociological surveys of university students in Bishkek and Osh, most respondents had been involved in corrupt deals with their instructors.

According to some estimates, education today is number three on the list of most corrupt areas of social life. Corruption in this field is a particularly grave, complex and multi-layer issue, which touches upon the educational component and university management¹.

¹ Sociological research on *Impact of corruption on business activities* conducted at the behest of the Kyrgyz National Agency on Corruption Prevention and Business Association Congress, supported by GTZ (Bishkek, 2006).

Many factors contribute to this corruption. As a country in transition, Kyrgyzstan developed additional conditions that foster multi-layer corruption in higher education. As the state reduced its financial support of educational institutions, the latter were forced to look for their own sources, which was conducive to various types of corruption in universities. Facing these new conditions, many higher-education facilities started looking for money from sources other than their budget, which was most effectively realized through introducing popular new study programs and charging tuition. However, the commercial overtone in public education, or the so-called contract-based study, failed to ensure a desirable quality of education. Not only did the rapidly-increasing scale of contract-based study lead to a deterioration in quality, but it also resulted in uncontrolled financial management. The pursuit of profit nurtured even greater corruption.

The reduction in state financing during the transition period increased the number of channels through which high-skilled professionals left universities. As a result, corruption was a way to preserve the faculty of higher education facilities, and not let it disappear completely.

However, as the faculty situation became somewhat stable, two negative factors came into play.

First and foremost, given the high rate of corruption in higher education facilities and cases of bribes determining enrollment, taking examinations and receiving diplomas not based on personal merit, universities become places of corruption-related socialization. Young graduates get comfortable with the idea that corruption is an appropriate and convenient tool for solving problems, and also a way to enrich themselves. Secondly, as corruption remains active, grows and takes root in the system, it may lead to the establishment of organized corruption networks. By developing a market of corruption-oriented services, such networks tend to negate the profile activities of higher education institutions, which are professional socialization, and the selection and advancement of the most skillful, talented students. More often than not, those who can pay have more opportunities to enter a university than others who deserve it more. This may have disastrous long-term consequences, such as de-intellectualization and deprofessionalization of the nation.

The most important source of administrative corruption in higher education facilities is the lack of transparency in both managerial decision-making and in budget-related issues. Students who contribute most to the budget in their universities have no access to the information about many activity areas of their educational facilities. The faculty, too, has restrictions in participating in the management, including financial management. Surprisingly, since the tuition paid by students is quite high, instructors are still paid low salaries, and universities are poorly equipped and furnished. This, of course, affects the quality of education. Another concern is that students remain loyal to corruption, since they are directly involved in various illicit activities.

The economic causes of corruption in universities are considered some of the most important. At the same time, low salaries among the faculty encourage a poor-quality education. Many experts conclude that, if subjects are taught properly, it is due to professionalism and the personal initiatives of the faculty. The existing system does not provide any incentives for high-quality education.

The system of education is a marketplace. Often, young people buy their seats on university benches, and then buy working places upon graduation. It is another source of corruption, referred to as "staff corruption." The higher education system should

provide a student with all the necessary skills to meet the labour market's requirements. Many graduates with diplomas are ill-prepared to look for a job in the labor market, since their educational background does not have any practical application and does not meet market demand.

Students first face the system of corruption during their entrance examinations. Due to a lack of up-to-date methods and technologies for selecting enrollees, bribes become the major form of corruption. Bribes may be so high that not even mid-level income families can afford them. In this situation, there is no difference between contract and budget-based applicants.

While instructors receive money while preparing students, the university management takes bribes from enrollees through intermediaries. In reality, this is a well-organized criminal activity at the university level, in which corruption is a tool for gaining money.

One anticorruption measure introduced during entrance exams was all-national testing. However, this move gave rise to another type of corruption: giving bribes for receiving high scores. One more kind of corruption during enrollment- particularly for contract-based applicants- is selling entrance exams, although university managers try to convince the public that corruption is not possible when using computer-based testing to assessing the level of knowledge among applicants. Certainly, we should also consider cases in which highly- proficient applicants pass their exams successfully without any connections or bribes.

Students have a favourable attitude toward the corrupt system, since all that many are concerned about is obtaining a diploma to enable them to get a prestigious position. This may be viewed as another source that forces corruption to grow. Everyone benefits from the current status of corruption, including instructors and university management, which receives benefits from a system eroded by corruption. It is also convenient for students, who can obtain a diploma without studying hard.

For the purpose of this article, the author interviewed people from the higher education system, including professors and instructors from a number of universities, employees of the Ministry of Education and Science of the Kyrgyz Republic, and students and civil society activists. According to the results, the highest rate of corrupt practices is observed during the exam period. Absolutely wrong values are prioritized, with low significance attached to receiving an education, and high importance attached to obtaining a diploma. As estimated by experts, only 5 to 10 percent of graduates can be regarded as qualified specialists. The existing corruption system does not help students improve their knowledge, which increases the number of non-qualified or low-skilled specialists. The latter causes other, even more serious, problems for society and the state.

The most important factor in providing high-quality education is sufficient textbooks and study materials, as well as stimulating and financing the faculty in writing and preparing such materials. Since the Ministry of Education and university management pay little, if any, attention to solving these problems, another type of corruption has emerged, related to publication and further distribution of textbooks and scholarly materials.

Given the fact that libraries are poorly equipped and experience a shortage of textbooks, the existing practice of selling books may also be viewed as corrupt. In Soviet times, funds were allocated for publishing textbooks, methodology guidelines, and scholarly works, along with the centralized system of distributing new publications among all libraries in the country. After the dissolution of the Soviet Union, this system

also collapsed, and the academic community had to find ways of solving these problems independently. As a result, students started buying textbooks and study materials, often by force.

A number of instruments used by public officials to interfere with education are conducive to corruption, such as the state educational standards, attestation, accreditation and licensing of universities. Such measures are introduced because existing structures no longer conform to new demands. Essentially, public officials used these instruments to take control of educational facilities. In countries with a developed higher education system, all of the above are instruments of public control. For instance, standards are referred to as national, i.e. public and professional. The same is true of attestation, accreditation, and certification.

Finally, because of inappropriate management methods and sanctions, professional offenses are not rare. University professors, accustomed to abusing their authority, receive presents for performing their duties and take bribes in order to treat certain students favourably.

Such actions would have grave implications no matter where they take place. However, the fact that they occur in education raises particular concern. The definition of corruption in education includes both financial and professional elements. Education is a guarantee of the nation's social unity and, if the public understands that the system is corrupt, it will lose faith in the nation's future. If that happens, the nation will no longer be able to operate on a par with developed societies. Ultimately, corruption results in a low quality of education, uselessness in the market, and loss of private and state investments in education. In turn, this may lead to other social, political, moral and psychological problems.

The quality of education is one of most reliable indicators of future development for any nation. In places where the quality of education is high, achievements are typically high as well. A well-developed system of higher education has a positive impact on state security the economy and the efficiency of the government.

In contrast, corruption in higher education destroys and obliterates the national foundation, stripping the state and the people of a chance to implement changes, and to establish and strengthen democratic and other values in society and its institutions.

Corruption prevention and anticorruption measures in the system of higher education

In light of the information above, it may seem important to develop a systematic approach to counteract corruption in higher education. According to the author, the following steps need to be taken:

I. At the national level:

1. To conduct anticorruption expert analysis of all regulatory acts on higher education.
2. To check all instructions, provisions and draft laws in the area of higher education for potential corruption elements.
3. To amend the legislation on education with anticorruption norms that provide for disciplinary liability for corruption-related offenses by those working in higher education.
4. To provide the highest possible transparency of the enrollment procedure through legislative, organizational and technical means, including examinations, testing, and the provision of state support to acceptees.

5. To develop a salary scheme for the faculty and others working in higher education, which would include not only their academic degree, but also their years of experience.
6. To develop a system of social services and protection for the faculty.
7. To find additional funds in the state budget in order to increase salaries of university instructors.
8. To develop a course on combating corruption and introduce it in the curricula of higher education facilities.
9. To formulate and to adopt a Code of Ethics for people working in the area of education.
10. To develop a standard contract on providing education services to students.

II. At university level

To university management:

1. To consider various ways of improving the management system in a given university.
2. To increase salaries of the faculty using tuition fees paid by students.
3. To develop a system of stimulating instructors for their creative approaches to education (e.g., bonuses).
4. To facilitate development of a course on combating corruption and introducing it into the curricula of higher education facilities.
5. To introduce trust lines and hotlines to report cases of corruption in these universities.
6. To establish standing commissions in universities comprised of university management, mostly dealing with human resources and educational work, as well as instructors and students in order to study cases of corruption.
7. To strengthen internal disciplinary and administrative liability of administrative workers, instructors and students of these universities for committing corruption-related crimes.
8. To establish commissions comprised of instructors, students, parents, university management and stakeholders (profile NGOs, public organizations, etc.) that would implement continuous control over budget and equipment allocation and the use of university infrastructure.
9. To establish a system of informing the faculty and students about managerial decisions made in their university, and to ensure the transparency of such decisions.
10. To involve and stimulate active participation of students in combating corruption in their universities.

To the faculty of universities:

1. To fully comply with anticorruption legislation and Code of Ethics for people working in the area of education, and to facilitate colleagues to also do so.
2. To talk to students about the negative impact of corruption in general, and in the higher education system in particular, as well as the penalties for corruption-related offences, and to involve students in combating corruption in their universities.
3. To suppress any attempts of bribes offered by the students.
4. To participate actively in the public life of universities on the issue of combating corruption, and to make proposals for improvements in this area.

To university students:

1. To change their approach to education by giving top priority to receiving a high-quality education.
2. To demand high-quality education from the faculty.
3. To increase their knowledge about corruption and different types of its manifestation, and about their rights and opportunities in combating corruption.
4. To resist someone's attempts to involve them in corruption-related offences, and in the case of pressure, to report the offense to either internal or government institutions.
5. To participate actively in the public life of universities on the issue of combating corruption, and to make proposals as for any improvement in this area.
6. To unite with other students to counteract corruption in universities more effectively, as well as through youth committees, students trade unions, etc.

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Hotbeds of Corruption in Kyrgyzstan's Financial System

In the economic sectors of Kyrgyzstan, the magnitude of corruption varies. The most corrupt areas are the system of relations related to the collection and distribution of state revenue and property, as well as the system of licensing and permissions. On the other hand, the banking sector, a progressive area in terms of reforms, is least affected by corrupt factors.

The main danger of corruption in the country's financial system is that it destroys economic security. This is aggravated by the fact that Kyrgyzstan already has a huge external debt and holes in its budget, which makes it an attractive off-shore financial center for money laundering.

General roots of corruption in financial system

One of the nation's priorities is to provide national security, including for its economic component. However, the financial system is subject to constant exposure to a large number of factors that may destabilize financial situation/reliability in the country. Of these factors, the biggest threat is corruption since it resonates most destructively in the financial sphere. That is why it is sometimes discussed as a financial security indicator in any country.

Corruption is quite complex, particularly in the financial market. Along with trivial bribes are other forms, such as abuse of official position while "transferring" government funds, benefits to "friendly" companies, redeployment of government resources, abusive practices during privatization process, government tenders, issuance of permits, etc.

Improper and contradictory legislation in the sphere of economic regulation, and a non-transparent complicated tax system that leads to the appearance of shady businesses, are the bases for corruption. Existing legal norms suffer from the ambiguity of law enforcement practices, which results in low capacity of their implementation and constructs an excessive number of administrative barriers.

The economic consequences of corruption emerge in various ways. Competitive environment decreases, the shady economy increases because it is one shelter from bureaucratic pressure, government budget stops being a management tool, and instead becomes a mechanism for the distribution of corruption. Prices for goods and services grow as sellers must include unofficial payments into the price of goods or services. Potential investors lose confidence in their future profits and slow entrepreneur initiatives. This is due to bureaucratic delays in solving productive-economic issues, the inability of the government to safeguard manufacturers' activity, corporate raiding,

protectionism, unfair competition, an excessive number of regulations and government inspections. The result of all this is the growing cost of government projects, a decrease in economic efficiency, and the development of the shadow economy.

Corruption in budget relations

The highest level of corruption can be seen in the spheres of budget and government property. This process is fostered by the inefficiency of the government sector, inconsistency of the actions of its bodies, unmanageable administration, and the low level of transparency in the process of government decision-making. The handling of unclear legislation actions also results in the growth of corruption crimes. That is why corruption is undoubtedly present in practically all interactions between entrepreneurial companies and the government.

Governmental bodies still carry the burden of “old” problems, such as a lack of division of authorities and responsibilities at the level of decision-making and implementation, duplication of functions by different government bodies. Subjective factors that encourage corruption due to an inability of the government to comply with market conditions include low salaries that provoke official bribe-taking.

Declared counter-corruption measures are actually only measures to fight its outcomes, and not its causes. The multiplicity of government bodies is also a basis for corruption: Kyrgyzstan is similar to China in the number of its different ministries and agencies.

Basic corruption schemes in budgetary relations are the deduction of government resources, overestimated costs of services, goods and materials provided to the government, allocation of budget resources on non-target issues, participation of only “friendly” companies in tenders. Government procurement and logistic procedures seem to be a gold mine for corrupt elements.

Another widespread technique of plundering budgetary resources is a “cut economy” (a corruption tool when a certain part of budget money is transferred to an official for a positive or favourable decision). In the sphere of government procurement/ logistics alone, the percentage of stolen funds via “cuts” is at least 15 percent. A very vivid example may be the purchase of cars for newly-elected Jogorku Kenesh (Parliament) of Kyrgyzstan. In accordance with the data from the Chamber of Accounts that made an audit of Jogorku Kenesh at the end of 2007, they had announced a tender for the purchase of “Toyota Camry” cars 75 each at 836,000 KGS each (only 55 were purchased), at a total cost of 62.7 million KGS. It should be noted that the price for each car was approximately \$22,600, and, according to Internet sources, the price for each of these car in the UAE is \$20,000, which indicates an obvious cost overestimation.

Another corruption technique is the sale of government property at underestimated values. We can offer the outcomes of Chamber of Accounts audit, made in JSC Kyrgyztelecom, as an example. One infringement was that this JSC sold their industrial base without the permission of the State Property Fund- a proprietor- at 5 million KGS, which is 75 million KGS lower than the market price. Thus, the underestimated amount was 70 million KGS or 2 million USD [1].

Entrepreneurship also suffers from the pressure of government bodies that have the authority to hold inspection and auditing procedures. According to Taalaybek Koychumanov (Chief of Investment Council under President of the Kyrgyz Republic, Doctor of Economy), “they carry out more than 65 thousand of absolutely unnecessary, and from our view point economically inexpedient or even harmful, audits and inspections in the country” [2].

As for governmental audit and inspection activities, estimates provided by the Investment Council Secretariat are instructive: for ten government inspection bodies', the efficiency ratio to gross national product is negative, equaling minus 0.1 per cent. Taking into consideration that efficiency, the GNP ratio of this government (tax bodies) audit, inspection of private sector for the years 2004-2005 was minus 0.6 per cent, total GNP losses as a result of audits/inspection are minus 0.7 percent. Government inspection bodies (excluding tax bodies and social fund) held 23,918 inspections during year 2006. Total budget expenses, both direct and indirect, are 78.1 million KGS, and 88.2 thousand man-days were spent on inspections, compared to budget revenues of 2.8 million KGS. Inspection efficiency was minus 75.3 million KGS, or minus 0.067 percent to GNP.

There are also examples of low efficiency among inspections by Law Enforcement bodies. Thus, according to the data from the General Prosecutor Office, such law enforcement bodies as the Ministry of Internal Affairs, National Security, Finance Police, State Customs Committee and Drug Control Agency completed investigation of 987 economic crime and corruption cases. The cumulative damage amount was 448.2 million KGS (or \$12.1 million); 293.4 million KGS or \$7.9 million of this was repaired. Can one call the activities of law enforcement ministries and agencies efficient?

The Investment Council Secretariat also made a negative note after a recent license system assessment: "During current years the scope of paid services of government bodies is constantly growing. Government bodies are actually doing business when providing such services. In addition, government bodies establish norms and standards and it is also they who monitor these norms. Permit documents registry issued by the government bodies include a list of 136 permits. The actual number of different permits, sublicenses and other documents is much bigger, and most of them do not comply with the current legislation" [3].

Corruption in tax and fiscal interrelations

The second largest area of corruption is the tax system. Gaps in the current tax system open the way for different corruption deals with no punishment. This happens because government officials who are responsible for budget levies collection and payment allocation (and who are considered by the public the most corrupt officials, along with customs officers) abuse their authorities quite legally for personal gain. Tax administrative bodies developed a Tax Code for themselves, inspect themselves and punish themselves.

Newly-introduced taxes mentioned in the current edition of the Tax Code argue for an increase of tax burden on both entrepreneurs and the nation's general population. For example, a newly-established tax such as a real estate tax, scheduled for implementation in the beginning of 2009, is a potential risk of growth in corruption. This conclusion reflects the fact that there was no identification of the government body that would be in charge of assessing and evaluating the real estate to be taxed. If such assessment is the responsibility of the tax service, this will become another tool of corruption. We can compare this with the restrictions of traffic rules that allows fines to be charged for traffic rules, when infringement became high. High traffic fines did not result in quick road accident rate reduction, but merely made it possible for road police officers to increase the size of unofficial levies. The same thing will happen with tax real estate tax introduction: it will not increase budget revenues but will enrich some tax officials.

During a meeting held on June 24th, 2008 between the International Business Council and the Union of Entrepreneurs of Kyrgyzstan and USAID, new Draft Tax Code issues were discussed. According to participants of this meeting, tax bodies are given excessive

authority to levy tax backlogs without any court decision; despite the fact that this Draft Tax Code is a systematized document that levies a smaller number of taxes, the tax burden is not reduced, and administrative control becomes harder.

Another evidence of corrupt procedures is that the tax bodies are trying to restart practices of their increased authorities to inspect and audit entrepreneurs. Thus, on September 8th 2008, the president of the country signed his Decree [4] that enlarges the list of inspections for tax services performed during a moratorium. This invites the question, "why should there be a moratorium if, four months later, the tax inspectors again had the authority to carry out desk inspections?"

Such interaction between, and sometimes merging of, criminals and government officials is worrisome. It is not a secret that young people try to find jobs in inspection and law enforcement bodies. These young people do not think of lofty goals or service or creativity; in most cases, they only have in mind quick profits from taking bribes. One example is the current murder of tax inspection personnel. The police statement, published in the mass media on September 13th 2008, reported that two tax inspection officers in the Lenin district of the capital of Kyrgyzstan were killed. The car they were shot in held more than 20 reports on private trade inspection made by a tax inspection employee who was also a member of an organized criminal group [5].

Corrupt elements in banking system

The banking system is relatively transparent in the financial arena, and they have managed to reduce the impact of this negative factor on their activities. Thus, if at the beginning of developing the banking system in 1990, this sector was totally corrupt, but the level of corruption in this sphere has significantly decreased. In previous years, the general problem in banking system was the difficulty in obtaining credits, and the high proportion of government banks in the system. At the same time, limited credit resources created a situation in which a positive decision that granted credit, the credit receiver had to make a so-called "hat payment" (in other words, interest or commission share).

Non-target credit granting, credit granting without mortgage with further credit non-repayments, resulted in mass bank bankruptcy in the mid-1990s. As a result of non-repayments of government credits granted to agriculture workers Agroprombank went bankrupt; such banks as Mercury, Insan, Orient, Maksat, KRAMDSbank, Adil-bank and Central Asian Bank of Development and Cooperation were liquidated due to low level management and removal of assets.

With the beginning of bank reform in 2000, the level of corruption started to drop in the banking system because of measures taken by the National Bank of Kyrgyzstan: e.g., introduction of international standards of accounting and reporting, liquidation of banks with problems, strict bank inspection. At the present time, we can state that the banking system in Kyrgyzstan is the most transparent of all financial systems. It especially refers to the system created by the national bank regulator in the area of bank inspection, i.e. direct government interference in the activity of commercial banks. During this period, no cases of bribe-taking by bank inspectors were detected. This is evidence of a highly efficient government bank inspection system that should be incorporated into the inspection-auditing system that exists between business and the government.

However, over time the banking system has fallen under the influence of other negative factors: government inspection of banks became very weak [6]; and growing risk when the banking system takes a leading role in money-laundering. Measures such as adopting the Law On Counter Money Legalization and Terrorism Financing,

establishment of a Finance Inspection Service, and introduction of the principles of monitoring dubious operations; all of these current action are not, in our view, effective at the moment. As with most government bodies, these measures aim at fighting the consequences but not the causes, which are based on close and corrupt relations between government officials and entrepreneurs.

It is obvious that many proposals to overcome an extremely difficult situation in the national economy are rather contradictory. The counter-corruption system is losing its capacity. The fight against individual cases is not conducted on a complex, regular basis. The public is practically unable to fight emerging negative processes. In this situation, only a joint effort by all free of corruption management bodies under strict public control, and free access to information, can preserve the capacity of the national economy, and provide for its sustainable growth.

Recommendations

1. Corruption is an inevitable component of any developing economy at the stage of reconstruction and reform. However, corruption levels could be lowered in specific ways. One evident measure in the current situation is to abandon the development or establishment of any new government structures. One required measure is administrative reform, which should be initiated primarily by the Republic's President. However, this reform should deal not only with reorganizing or reconstructing government bodies. Moreover, liquidating multiple government bodies that are authorized not only to make inspections, but also to duplicate each other and overlap the activity of other executive bodies, would be a radical but appropriate step forward.

2. The existing executive authorities should be prohibited from making new laws, while the Prosecutor-General's Office and the Ministry of Justice have to check whether or not new and old government regulations may provide leeway for corruption.

3. In the area of tax administration, it would be feasible to introduce a moratorium on new taxes and levies. Ministry of Finance of the Kyrgyz Republic and State Tax Inspection should closely collaborate in this area. With growing inflation and a higher cost of living, the introduction of high taxes will become an unbearable burden not only for entrepreneurs, but also for the general population. Newly-introduced taxes will not have a considerable economic effect, but will forge public instability and will discourage and intensify the growth of poverty.

4. The National Bank of Kyrgyzstan should continue its efforts to produce strict legislation in the area of money laundering, and provide correct monitoring over any commercial banks that are suspected to be involved in money laundering and legalization.

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Reducing Regulatory and Administrative Barriers for Private Enterprise Development in Kyrgyzstan: Key Results and Unsolved Issues

In Kyrgyzstan, private enterprise has long been one of the most important areas subject to reforms that are intended to establish an effective economic system as a key component of the country's successful development.

At the beginning of Kyrgyzstan's transition period, the following economic reforms aimed at private enterprise development were adopted:

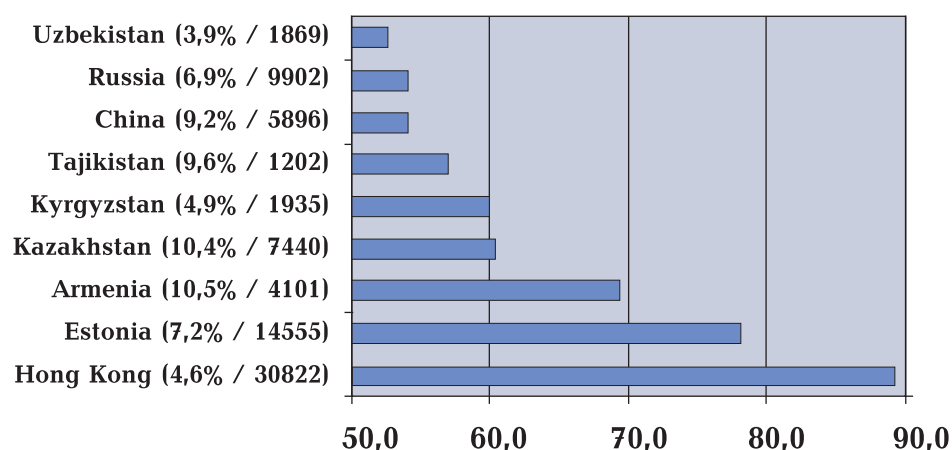
- Introducing private land ownership;
- Privatization (trade and service delivery facilities, small and medium-sized enterprise);
- Trade liberalization;
- Rigorous credit and monetary policy;
- Establishing a two-level banking system.

It is worth mentioning that, in recent years, the private sector of the economy has been developing, although slower than previously. According to official data of the National Statistics Committee, the private sector accounts for about 90 percent of GDP. Private sector also dominates in agriculture and service delivery (over 90 percent of the total production and services), as well as in industry (over 20 percent).

According to research by the Heritage Foundation¹, Kyrgyzstan's economy is 60.1 percent free (scores of at least 60 percent indicate a "moderately free" economy), which is also conducive to the development of private enterprise (See Chart below).

¹ The Heritage Foundation, 2007

Index of Economic Freedom for 2007



The World Bank estimates that it takes 15 days to start a business. Additional information: 26 days in the region, 14.9 days in countries that are part of the Organisation for Economic Co-operation and Development, with a global average of 48 days.

Notably, trade liberalization in Kyrgyzstan has brought positive results. Freedom of trade in the country is 71.4 percent, which is higher than the world's average. These statistical data tend to become even better since they relate to mostly non-tariff barriers, which include excise on imported goods, rigorous state regulation of commercial enterprises, restricted licensing of entrepreneurial activities, as well as ineffective and corrupt custom clearance.

The extent to which business can be done in Kyrgyzstan is clearly demonstrated in Table 1 (source: *Doing Business*, World Bank).

Table 1

Ease of...	Doing business in 2009, Country ranking	Doing business in 2008, Country ranking	Change in ranking
Doing business	68	99	+31
Starting a business	31	50	+19
Dealing with construction permits	58	170	+112
Employing Workers	81	80	-1
Registering Property	52	54	+2
Getting Credit	28	25	-3
Protecting Investors	11	33	+22
Paying Taxes	155	152	-3
Trading Across Borders	181	180	-1
Enforcing Contracts	52	51	-1
Closing a Business	137	131	-6

On the subject of barriers, it is also important to consider a number of additional difficult issues stipulated by the following major adverse characteristics of Kyrgyzstan, both physical and economic:

- Small internal market;
- Remote geographical location (no access to sea ports);
- Relatively poor mineral resources.

The major issues that have not yet been solved are:

- High tax rates;
- Rigorous tax administration;
- Frequent and unjustified inspections by authorities;
- Imperfect legislative and regulatory frameworks in the area of private enterprise;
- Unstable and unpredictable policy of regulating private enterprise;
- Bureaucratic customs procedures (for example, long customs examination and other delays at the border);
- Corruption that permeates all public offices.

Recommendations

With the goal of ensuring business development in Kyrgyzstan, the first priority should be creating ways to help decreased the influence of existing administrative barriers.

1. **High tax load.** The tax rates in Kyrgyzstan are two to approximately six times higher than average rates in the region and in the world, respectively. The tax burden is extremely unequal across the types and forms of businesses: currently, 60-80 percent of taxes are gathered from 180-200 enterprises, out of a total of nearly 500,000 formally-registered business entities. These include 782 medium scale enterprises, 7,689 small ones, more than 163,000 individual entities, and 300,000 farms. Current state fiscal policy does not favor the accumulation of the means that enterprises need for their investments, nor does it favor competitive production. The current tax code, with its high level of tax payments, significantly contributes to an increase in domestic production costs, prices, and inflation, and also locks down export development. Unfortunately, the current fiscal policy of Kyrgyzstan is the main cause that corruption is flourishing in the economy, and explains why small and mid-scale enterprises decide to change to the “shadow economy.”

The conclusions above have been confirmed by the World Bank’s study as part of its Doing Business Project (See Table 2 for data on the taxes, payable or deductible by mid-scale enterprises for a number of years).

Table 2

Indicator	Kyrgyzstan	Region	OECD
Payments (quantity)	75	47,2	13,4
Time (hours)	202	366,8	210,5
Profit tax (percent of profit)	3,0	11,8	17,5
Salary taxes/ payments (percent of profit)	23,7	26,1	24,4
Other taxes (percent of profit)	34,7	10,2	3,4
Total tax rate (percent of profit)	61,4	48,1	45,3

2. Tax administration. Tax administration reform is needed to balance the rights of tax payers and tax authorities, to decrease corruption in tax authorities, and to increase the efficiency of fiscal officers. The following measures should be taken to reorganize the Tax Service:

- optimize organizational structure and functions;
- introduce modern information technologies;
- exclude conditions for corruption in fiscal bodies by reducing their contacts with tax payers through the “one window” approach for registering entities and submitting their tax reports;
- submit tax reports through electronic communication channels;
- reduce the number of tax checks as a way to assess risks of tax non-payments by operating entities;
- optimize the system so it is also applied to large taxpayers.

3. Frequent and unreasonable checks. Many potential advantages of a market economy have not been realized because enterprises that engage in commercial activities are exposed to repeated checks, and face many requirements from various authorities, all of whom issue more than one check for the same aspects of an enterprise’s activities. Numerous and inconsistent tax instructions and rules are subject to constant change. Discrepancies of the current Tax Code provides tax inspectors, auditors, and tax police officers with the opportunity to “hunt for rent” from taxpayers.

4. Imperfections of the legislative and legal normative bases. The newly-developed Tax Code has not been adopted for more than two years. Quite often, statutory acts contradict each other or are duplicated. In general, the legislation of the Kyrgyz Republic complies with principles of market economy and the economic strategy, which the Government of the Kyrgyz Republic has developed. However, the implementation process complicates more than promotes the development of a market economy. The key problem in promoting the rule of law is the excessive intervention from the State in private business, as well as failure to observe the law.

5. Instability and unpredictability of the business regulation policy. There is low transparency in the ways that the State makes its decisions on legal and economic regulations. These impact the market environment and the rights and interests of businessmen, on the one hand, and the complexity of permit and license procedures and imperfection of business tax administration, on the other hand. The resulting uncertainty makes business activities more complicated and increases the costs. Serious obstacles arise as state bodies duplicate their activities while granting permissions.

During recent years, the scope of paid services that public authorities render has constantly increased. In reality, public authorities make their own business while rendering paid services. In addition, state structures have the right to establish norms, and then control on their own their performance; this leads to conflicts of interests. Officials are always developing laws that maintain their own supervisory functions and, thus, justify the existence of the public authorities themselves. That was the way many departmental normative legal provisions had been accepted, and are now accepted. Legal provisions have been developed in interest of the state structures managed by the authors of these projects and then the same state bodies and structures supervise and render the newly-introduced paid services. The register of permission documents issued by state bodies amounts to around 100 different permit names. The actual quantity of all departmental permissive documents, sublicenses, confirmation papers,

and other similar is ten times greater, and their considerable role mismatches the force of current legislation. Instructions issued by various ministries and departments also need to be improved.

6. Reducing and improving licensing and permissive procedures. The newly-introduced licensing, or its cancellation for some types of activities, can take place to meet the following criteria:

- environment protection, property and life security, health care;
- state security;
- implementation of state monopoly;
- law and order maintenance.

The introduction of license procedures, or new license requirements and conditions, should not unreasonably limit the freedom of businesses. The areas of technical regulation in the Kyrgyz Republic, which constitutes more than 70 percent of the state regulatory system, is also seen by the business community as overflowing with absolutely unnecessary requirements. However, some actions are already in effect to help improve the situation. Thus, on December 1, 2004, the KR Law on Basic Technical Regulation in the Kyrgyz Republic came into force. A five-year period of transition for technical regulations in the form of laws is called for by the document. After December 1, 2009, those state requirements that were introduced by departments but which have been not replaced with relative technical regulations will be cancelled.

7. Customs administration. The main objective of improving customs administration should create conditions that are as favorable as possible for mobilizing the foreign-economic activity of operating entities in Kyrgyzstan, and bringing a substantial flow of investments into the national economy.

The customs administration procedure is given in Table 3.

Table 3

Indicator	Kyrgyzstan	Region	OECD
Export documents (quantity)	13	7.1	4.5
Export period (days)	64	29.7	10.7
Export costs (US\$/container)	3,000	1,649.1	1,069.1
Import documents (quantity)	13	8.3	5.1
Import period (days)	75	31.7	11.4
Import costs (US\$/container)	3, 250	1 822.2	1132.7

Measures to increase the efficiency and transparency of customs duty administration include:

- simplify customs procedures and checks on the border;
- arrange customs registration, control, information exchange, collection, and analysis as well as allow the possibility of submitting import and export declarations in an electronic form;
- ensure transparency of customs services by granting to all concerned access to the information they need, by developing partnership between the Customs Service and the business community, as well as arranging unimpeded and prompt information exchange between the Custom Service of Kyrgyzstan and its major trading partners.

The following measures should be taken to simplify and speed up the customs registration procedure:

- develop and introduce a mechanism for notification in advance, i.e. to inform the Customs Service about any consignment imported into Kyrgyzstan prior to its arrival to the border, to reduce the time involved in customs procedures;
- introduce the “one window” approach for arranging joint control from authorities in charge of radiating, veterinary, sanitary, phytosanitary and other control to be in one location;
- collect customs duties and payments in strict conformity with the WTO Agreement on Customs Valuation, which requires customs values to be designated either in *ad valorem* terms or as shown on the invoice, rather than on the basis of the minimal prices set by the KR Government. This procedure needs an effective and functional system of information exchange between the Customs Services of countries that are the main trading partners of Kyrgyzstan. In addition, customs officers should be trained.

8. Closing of businesses. Procedures and costs to close businesses in Kyrgyzstan are burdensome. This is confirmed by the data in Table 4, taken from the 2006 study that was part of the Doing Business Project. Similar studies were carried out on an annual basis within the same project of the World Bank. The studies investigate the time and the financial means required by the bankruptcy procedure, and suggest measures to solve gaps in bankruptcy-related laws.

Table 4

Indicator	Kyrgyzstan	Region	OECD
Period (years)	4.0	3.1	1.7
Costs (percent of average income per capita)	15	13.4	8.4
Collecting factor (cents per dollar)	14.2	28.3	68.6

9. Incomplete administrative reform. In relation to reorganizing ministries and administrative departments within the KR Government, an essential step in recent years has been carried out by international organizations such as UNDP and TACIS. On the basis of functional analysis approaches, the duties and functions in most ministries were reviewed and recommendations were made to remove superfluous and duplicate functions. However, the absence of monitoring and assessment has prevented comprehensively tracing the implementation of the given recommendations. Most conflicts of interests that lead to corruption remain, especially in regulatory processes.

It is also necessary to note that this horizontal functional analysis was casual; it resulted in an irrational distribution of functions between ministries and departments. It also led to the uneven use of human resources between state bodies and within ministries and departments themselves. The functional analysis of local state administrations and local governments was conducted only in pilot regions, and its results have not yet been methodically assessed. No financing mechanism has been identified that would assure the implementation of functions that are delegated to local governments.

One of the main goals for government is management reform. The reorientation of state bodies' and departments' functional tasks should be from direct inference and

participation in economic activities related to market regulation and granting public benefits. It is also necessary to achieve a clear separation of functions between state bodies and local governments, in accordance with legislatively-defined goals and objectives.

10. Corruption. According to the Business Environment and Enterprise Profitability Study (BEEPS) made in 2007, 59 percent of entities consider corruption as a fundamental obstacle to their business activities. This indicator is the highest in the region, and confirms that the situation is changing for the worse in comparison with the BEEPS 2002. Moreover, in accordance with the corruption index ranking of 2008. (produced by the international organization Transparency International), Kyrgyzstan is at 166th place among 180 countries. Corruption has entered and influenced many areas of activities.

2005-2008 Transparency International Corruption Perceptions Index

Country	Country rank			CPI score		
	2005	2006	2007 2008	2005	2006	2007 2008
Georgia	130	100	79 67	2,3	2,8	3,4 3,9
Armenia	96	94	100 109	2,9	2,9	3,0 2,9
Ukraine	107	104	122 134	2,6	2,8	2,7 2,5
Kazakhstan	107	113	156 145	2,6	2,6	2,1 2,2
Russia	126	127	145 147	2,4	2,5	2,3 2,1
Azerbaijan	137	130	150 158	2,2	2,4	2,1 1,9
Tajikistan	144	148	161 151	2,1	2,2	2,1 2,0
Kyrgyzstan	130	142	157 166	2,3	2,2	2,1 1,8
Total	159	163	179 180			

A score on the Corruption Perceptions Index (CPI) of a country or region shows the degree to which businessmen and experts perceive corruption to exist in the country or region. The scores range from ten (squeaky clean) to zero (highly corrupt).

2008 Corruption Perceptions Index.

Major data by region: South-East Europe and Central Asia (7 countries of South East Europe and 13 post-Soviet states)

Country rank	Country rank in the region	Country/territory	2008 CPI score	Confidence range	Surveys used
58	1	Turkey	4,6	4,1-5,1	7
62	2	Croatia	4,4	4,0-4,8	8
67	3	Georgia	3,9	3,2-4,6	7
72	4	FYR Macedonia	3,6	2,9-4,3	6
85	5	Albania	3,4	3,3-3,4	5
85	5	Montenegro	3,4	2,5-4,0	5
85	5	Serbia	3,4	3,0-4,0	6
92	8	Bosnia and Herzegovina	3,2	2,9-3,5	7

102	9	Mongolia	3,0	2,6-3,3	7
109	10	Armenia	2,9	2,6-3,1	7
109	10	Moldova	2,9	2,4-3,7	7
134	12	Ukraine	2,5	2,2-2,8	8
145	13	Kazakhstan	2,2	1,8-2,7	6
147	14	Russia	2,1	1,9-2,5	8
151	15	Belarus	2,0	1,6-2,5	5
151	15	Tajikistan	2,0	1,7-2,3	8
158	17	Azerbaijan	1,9	1,7-2,1	8
166	18	Turkmenistan	1,8	1,5-2,2	5
166	18	Kyrgyzstan	1,8	1,7-1,9	7
166	18	Uzbekistan	1,8	1,5-2,2	8

To reduce corruption in Kyrgyzstan, what is most required is to seriously revise the legislative process.

Taking into account that Kyrgyz legislation strives for international unification and application of those standards, it should become a business practice to conduct mandatory examination of drafted laws and ensure current legal provisions for terms of corruption.

These actions will essentially reduce the possibility of corruption among civil servants. The examination should reveal corruption preconditions and help block them at the point when draft law is being developed. It is no secret that public officers have a vested interest in breaches of the law. Through these mercenary motives, public officers at various levels maintain illegal actions by accepting bribes. As a result, the State effectively merges with shadow business.

The scale of quasi-state activities remains high, and many “private” for-profit enterprises are linked to high-ranking officials, thus creating a large, informal public sector in which officials receive their “rent” as regular income.

11. Shadow economy. The shadow economy, which reaches 50 percent of the gross national product (according to the UNDP study), negatively influences the tax and social base and leads to a vicious circle of mutual tax increases and shadow sector activities. The shadow economy creates unfair competition for registered enterprises and deforms official statistics. This results in inefficient decisions that guide the country’s economic policies.

Therefore, the shadow economy cannot be considered merely a temporary phenomenon. It will increase whenever there is no economic growth as well as during employment increases and relatively fair income distribution. The judicial system plays a significant role for reducing the shadow economy. If the rule of law does not work, and businessmen cannot rely on the law and legal protection of their property, they will find it more favorable to work in a shadow sector that has its own traditions and mechanisms.

To legalize the shadow economy, it is necessary to develop and carry out a number of reforms:

- create a favorable legal and business environment by decreasing costs for business registration and strengthening the benefits of official registration;

- adopt laws that recognize and protect businessmen and workers in informal economy with special focus in entrepreneurs' rights;
- adopt a unified tax system that is fair and simple in its administration, and that will not incite enterprises to leave the sphere of legal business.

Final steps

To remove unreasonable burdens of checks from businesspeople, it is necessary to reduce the number and duration of these tax checks and to increase their efficiency. For this purpose, the "Law on Tax Check Procedure for Entrepreneur Entities" has already been adopted. This law introduced a procedure for checking entrepreneurs' activities by authorized bodies, and specifies mutual rights and responsibilities as well as protecting the rights of business entities to carry out their activities without illegal interference. In late April 2008, the "Presidential Decree on Moratorium on Checks conducted by the Tax Service of the Kyrgyz Republic" and "Decreasing Checks of Entrepreneurs Entities Carried Out by Other Authorized Supervising Bodies of the Kyrgyz Republic" have been adopted. The decree was in effect until December 31, 2008.

In October 2008, the new Tax Code was adopted; it was designed to solve many problems related to systematically developing all business areas. The new edition of the Tax Code includes:

- simplified taxation: taxes have been reduced by half, from 16 to 8;
- VAT is reduced from 20 to 12 percent. The rate of a single tax for small-scale businesses working with the simplified system of taxation is lowered from 10 to 6 percent;
- A real estate tax was introduced;
- responsible taxpayers are encouraged.

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KYRGYZSTAN TODAY

Policy briefs on

CIVIL SOCIETY
MIGRATION
ISLAM
CORRUPTION

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