Humanisation of the criminal justice systems of Kyrgyzstan and Tajikistan

Establishing criminal legislative codes in line with international human rights standards: Project Factsheet

Main donor: UK Department for International Development / British Embassy

Key partners:
Voice of Freedom, Kyrgyzstan
Human Rights Center, Tajikistan

Duration: 17 months (November 2013 – March 2015)

Background

Kyrgyzstan and Tajikistan are still emerging from the effects of periods of conflict:

→ In 2010 in Kyrgyzstan, a violent change of government occurred overthrowing the President. Violence between ethnic groups has occurred across the country\(^1\) and the government has faced difficulties controlling areas with deep ethnic divisions.\(^2\)

→ In 1992-1997 Tajikistan suffered from civil war and there has been recent evidence of violence between government and insurgents.\(^3\)

These incidences of conflict have affected the functioning of the justice sectors in the countries. National and international observers have raised concerns over the use of torture, poor conditions in detention (including where minors are held), deaths in custody, limited access to

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doctors, lawyers and family while in detention, lack of judicial independence, a lack of independence of the Ombudsman and no transparency in drafting legislation.4

While both countries have relatively low prison population rates5, economic problems cause large budget deficits which impact on resources available for prison systems. Absence of proper public monitoring systems worsens the situation. The Governments’ efforts to solve the issue through amnesties have had little impact as general criminal justice policies are ineffective or inhumane.

A vital measure to address these problems is to establish legislation compliant with international standards which protects rights of people in conflict with the law throughout the criminal justice system.

Both countries have announced plans to review and amend their:

→ Criminal Code – which details crimes and the corresponding sanctions available
→ Criminal Procedural Code – which details court and trial procedures
→ Criminal Executive Code – which details the implementation of any punishments including conditions of detention etc.

The process of drafting legislation provides civil society with opportunities to influence the content of key documents and prevent limitations on human rights. The review of the Criminal Code and Criminal Executive Code provides a rare opportunity for considerable reform of the two countries' systems of punishment and their alignment with international standards. PRI will work with the Governments to draft appropriate legislation, specifically on:

→ Increased use of non-custodial sanctions
→ Proper protection of vulnerable groups in conflict with the law (eg children)
→ Prevention of torture and redress for victims

Project Details

Overall Objective

Criminal justice systems of Kyrgyzstan and Tajikistan are strengthened and more humane through establishing criminal legislative codes that comply with international human rights standards.

Specific Objectives

→ A variety of non-custodial sanctioning measures (ie alternatives to imprisonment) including allowing for the establishment of a probation system are established in legislation

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4 See, eg:
- KIC Report, op. cit., para. 277 et seq.;
- PRI, National mechanisms for the prevention of torture in Central Asia: Kazakhstan, Kyrgyzstan and Tajikistan, 2013
- UN Committee Against Torture, Conclusions and recommendations: Tajikistan (CA T/C/TJK/CO/1), 7 December 2006

5 Kyrgyzstan – prison population rate: 181; prison population: 9,828 (National Prison Administration data, 1.1.2012);
Tajikistan – prison population rate: 130; prison population: 9,317 (National Prison Administration, Dec 2010).
Legislation properly provides for the protection of children deprived of liberty (specifically: separation from adults in all facilities; prohibition of solitary confinement/isolation)

Torture is defined (in line with the UN Convention against Torture) and appropriate sanctions for perpetrators are provided for in legislation

Local civil society is better able to advocate for Government compliance with international human rights standards in the justice sector.

Activities

- Legislative needs / gap analysis of the current criminal codes including section of non-custodial sanctions and probation, protection of children, and definition and sanctions for torture.
- Expert factsheets on these topics produced and disseminated to local civil society, government working groups and relevant stakeholders.
- Narrow expert meetings to discuss gap analysis, factsheets, the most controversial points in the draft legislation and suggestion versions of potential articles / amendments to the legislation.
- Input and technical assistance to working groups on amendments to legislation.
- 2-day workshops in each country for local civil society on international human rights standards and national legislation and improving advocacy skills.
- Facilitation of local civil society engagement and participation in expert meetings.

Project contact details

The Project will be managed by Penal Reform International's office in Central Asia (PRI CA).

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