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Kyrgyzstan: Treatment of returnees, including failed asylum seekers, by authorities and society (2012-January 2015)

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1. Context

The UN Committee on the Elimination of Racial Discrimination (CERD) indicated in its April 2013 report on Kyrgyzstan that since the June 2010 ethnic conflict between Uzbek and Kyrgyz populations in Osh and Jalal-Abad [1], "a climate of discriminatory attitudes, racial stereotypes, suspicion between the majority ethnic group and the minorities, widespread nationalistic discourse and exclusion continue to exist," noting additionally the "absences of effective measures" to promote tolerance and understanding between these groups (UN 19 Apr. 2013, para. 14). Similarly, in correspondence with the Research Directorate, an associate professor of political science at the University of Toronto, who specializes in identity politics and social transformation in Central Asia, stated that since 2010, there has been a "steady rise of an unapologetic Kyrgyz ethnic nationalism that is intolerant of ethnic minorities" (Professor, University of Toronto 6 Feb. 2015).

In its 2013 report, the CERD expresses concern "at reports that a great number of persons, mostly from minority groups, in particular Uzbeks, have been detained and have been subjected to torture and other forms of ill-treatment on the basis of their ethnicity following the June 2010 events" (UN 19 Apr. 2013, para. 7). Sources report that ethnic Uzbeks in Kyrgyzstan are at particular risk of "torture" and other ill-treatment (AI July 2013, 48; US 27 Feb. 2014, 1; Human Rights Watch 8 June 2013). According to the US Department of State's Country Reports on Human Rights for 2013, although torture and mistreatment, as well as arbitrary arrest, and extortion by law enforcement officials are carried out against all demographic groups, this has occurred particularly against ethnic Uzbeks (US 27 Feb. 2014, 1).

2. Treatment of Returnees

In a telephone interview with the Research Directorate, an associate professor at the Institute of European Russian and Eurasian Studies at Carleton University, who specializes in minorities and nationalism in contemporary Central Asia and the Caucasus, stated that

[r]eturnees or people returning to Kyrgyzstan because of failed asylum claims are dealt with and assessed on an individual basis upon arrival. Upon arrival at the airport, the person would likely be taken for extensive questioning if they did not present proper travel and identity documents (especially in the context of the government's concern over Kyrgyzstan citizens having left to participate in fighting in Syria). The person would be put in a holding cell and questioned by police officials and/or jointly questioned by police and intelligence officials for an indefinite period of time. Returnees that are ethnic Uzbek or ethnic Uyghur are treated with an additional level of suspicion, especially someone from an urban region (as they are perceived as being more devote to Islamist groups). Additionally, young men would be more highly scrutinized. The treatment of the person may also be impacted by the quality of the officer at the border and whether that person may or may not accept bribes. Low salaries of officials incentivize police and judicial officials to take bribes as well.

...

As for knowing ethnicity at the airport, officials would likely know someone entering is of a certain ethnicity by his name (each ethnic group has distinctive first/ last names). Customs is extremely arbitrary, there is a chance he could go through but also one that he could be held for questioning and detained. If allowed to leave, it is doubtful Kyrgyzstan has the ability to surveil him heavily as they lack the capacity, but if they deem him a security threat, they would keep close watch on him. If deemed a security threat, he would be heavily questioned and face a high level of surveillance, but this is highly individualized, and dependent on the person's particular circumstances. (Professor, Carleton University 5 Feb. 2015)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the same source,

[p]articularly since the situation in Osh in 2010, the government has been increasingly vigilant of those involved in Osh, or of any individuals suspected of participating in Islamic resistance. (ibid.)

Similarly, in correspondence with the Research Directorate, a representative of the Public Foundation Legal Clinic Adilet, an organization that provides free legal assistance to vulnerable groups such as refugees and asylum seekers in Kyrgyzstan (Public Foundation Legal Clinic Adilet n.d.) [2], indicated that in the case of returnees to Kyrgyzstan who are ethnic Uzbeks or Uyghurs, there is cause for "concern" where these individuals have been previously prosecuted in connection with the 2010 ethnic clashes in the south of Kyrgyzstan, or "if they are suspected of belonging to a religious extremist group" (Public Foundation Legal Clinic Adilet 6 Feb. 2015). The same source added that "as a rule, they often face unfair trial" (ibid.). The Professor at the University of Toronto expressed the view that

[i]n such a context, harassment and intimidation are ever-present possibilities [for returnees]. They become much more likely if a returnee is 1) from a minority community; 2) from a minority community under blanket suspicion of involvement in extremist and separatist activities, ... and 3) involved in activism in a visible way that brings the returnee to the attention of the regime and/or quasi-regime agents. If all three of these are true about a given returnee, it strongly predicts harassment or worse for her/him. (Professor, University of Toronto 6 Feb. 2015)

In correspondence with the Research Directorate, an independent researcher on the Uyghur minority, who also previously worked for the UNHCR as a Uyghur interpreter, stated that, in his view, Uyghurs born in Kyrgyzstan face the "open threat that they will be persecuted," if they return (Independent Researcher 8 Feb. 2015). He explained that, based on his experience, Uyghurs that fail to obtain asylum abroad are unlikely to return to Kyrgyzstan (ibid.). For information on the treatment of members of the Uyghur ethnic group in Kyrgyzstan, see Response to Information Request KGZ105071.

2.1 Extraditions of Failed Asylum Seekers Back to Kyrgyzstan

Sources report that Kyrgyzstan is part of a group of states called the Shanghai Cooperation Organization (SCO) [3] with other Central Asian states, Russia and China (AI July 2013, 15; EurasiaNet 11 Dec. 2014). Furthermore, according to sources, member states of the SCO coordinate extraditions of individuals suspected of terrorism, extremism (ibid.; AI July 2013, 15) and separatism (ibid.). In a 2009 report on the situation of migrant workers, asylum-seekers and refugees in Kyrgyzstan and Kazakhstan, the International Federation for Human Rights (FIDH, Fédération des ligues de droits de l'homme), states that security services in both countries "co-operate with their counter-parts in neighbouring countries, sharing information on the whereabouts of asylum-seekers and refugees" (FIDH Oct. 2009, 62). The same source reports that in Kyrgyzstan, Uzbek and Uyghur asylum-seekers have been "abducted, extradited, or forcibly removed" to countries from which they have "fled persecution" and face the "real risk of torture and other serious human rights violations" (ibid.). For further information on the SCO, see Response to Information Request ZZZ105073.

AI reports that Kazakhstan and Kyrgyzstan are the "most common first countries of 'refuge'" for Chinese Uyghur populations fleeing China, but are "possibly the most unsafe" due to efforts to cooperate with China on returning Uyghurs suspected of being "separatists, terrorists or religious extremists" (AI July 2013, 60). The US Department of State's Country Reports on Human Rights Practices for 2013 indicates that there were no reported incidents of deportation or extradition of Uyghurs from Kyrgyzstan to China during the year; however, Uyghurs remained "at risk" of this treatment, particularly those involved in political or religious activities in China, or if the Chinese government "requested their return" (US 27 Feb. 2014, 18). The Professor at the University of Toronto expressed the opinion that Kyrgyz authorities are under "pressure" from China with regards to their treatment of Uyghurs (Professor, University of Toronto 6 Feb. 2015).

According to Amnesty International (AI), Kyrgyzstan has "issued dozens of extradition requests for ethnic Uzbeks whom the authorities accuse of having organized or participated in the June 2010 violence in Osh and Jalal-Abad" (AI July 2013, 50). Sources report on the cases of five ethnic Uzbek men that fled Kyrgyzstan for Russia, following ethnic violence in southern Kyrgyzstan in June 2010 (ibid. 7 Mar. 2014; Human Rights Watch 6 Oct. 2013). Kyrgyzstan made an extradition request to Russia for the men on charges related to the 2010 situation, and Russian authorities arrested them (ibid.; AI 7 Mar. 2014). According to Human Rights Watch, all five men filed asylum claims in Russia following their arrests; however, their asylum claims were rejected (Human Rights Watch 6 Oct. 2013). The Russian Prosecutor General approved Kyrgyzstan's requests to extradite the men (AI 7 Mar. 2014; Human Rights Watch 6 Oct. 2013), although their rights to appeal had not been exhausted (ibid.). According to AI, one man's extradition was cancelled in December 2013 (AI 7 Mar. 2014). The same source reports that the defence teams for the five men "believe that the charges are fabricated and ethnically motivated" (ibid.). AI expressed the belief that the ethnic Uzbek men in these cases "will be at serious risk of being subjected to torture and other ill-treatment and sentences to long prison terms following unfair trials if returned to Kyrgyzstan" (AI 7 Mar. 2014). Human Rights Watch indicates that the men filed complaints with the European Court of Human Rights (ECHR) which issued an order to stay the extraditions until the appeals could be reviewed (Human Rights Watch 6 Oct. 2013).

AI reports that three other ethnic Uzbek men, who fled to Russia from the 2010 Kyrgyzstan ethnic violence and have been accused of a variety of criminal offences related to the events of June 2010, were approved for extradition by Russia in 2013 (AI 10 June 2013). According to AI, the men "would be at serious risk of grave human rights violations if returned to Kyrgyzstan, in particular incommunicado detention, torture, and other ill-treatment and imprisonment in cruel, inhuman and degrading conditions following an unfair trial" (ibid.). According to the Council of Europe's (COE) ECHR, one of the three men lodged his case with the ECHR, and the court determined in April 2014 that if he were to be extradited to Kyrgyzstan, there would be a violation of Article 3 of the European Convention on Human Rights ["prohibition of torture or other ill-treatment, including sending people to places where they would face a

real risk of treatment in violation of this prohibition" (AI July 2013, 50)] (COE 17 Apr. 2014). The other two men also lodged cases with the ECHR and the court concluded similarly that the applicants' extraditions to Kyrgyzstan would amount to a violation of Article 3 of the European Convention (ibid. 17 July 2014, 30).

The ECHR reports on the case of an ethnic Uzbek man of Kyrgyzstani nationality who had been arrested in Russia at the request of Kyrgyzstan on charges of embezzlement of public funds; he then applied for refugee status in Russia on the basis that due to his Uzbek ethnicity he would be subjected to torture upon his return to Kyrgyzstan, but the claim was rejected by Russia (ibid. 16 Oct. 2012). Sources report that upon lodging his case with the ECHR, the court determined that if the applicant were to be extradited to Kyrgyzstan, there would be a violation of Article 3 of the European Convention of Human Rights (ibid.; AI 7 Mar. 2014).

According to a Central Asia researcher for Human Rights Watch, quoted in one of its articles, "[e]thnic Uzbeks wanted for charges related to the June 2010 violence face a real risk of being tortured in Kyrgyzstan" (Human Rights Watch 6 Oct. 2013). A 2014 report by the UN Human Rights Committee 2014 expressed concern about "the ongoing and widespread practice of torture and ill-treatment of persons deprived of their liberty for the purpose of extracting confessions, particularly in police custody" (UN 23 Apr. 2014, para. 15). Similarly, Human Rights Watch's World Report 2015 for Kyrgyzstan indicates that "although the government acknowledges that torture occurs in Kyrgyzstan, impunity for torture remains the norm. Criminal cases into allegations of ill-treatment or torture are rare, and investigations and trials are delayed or ineffective" (29 Jan. 2015). According to the AI July 2013 report *Extradition, Forcible Returns and Removals to Central Asia*, "torture and other ill-treatment by security forces remain endemic in Kyrgyzstan" (AI July 2013, 48). Sources report that deaths in police custody have also occurred (ibid., 49-50; UN 23 Apr. 2014, para.15).

3. Government Programs for Returnees

According to sources, Kyrgyzstan has a "repatriation" policy that promotes the return of "ethnic Kyrgyz" people to Kyrgyzstan from other regions (FIDH Oct. 2009, 41; Ferrando 2013, 256). Sources indicate that the repatriation of ethnic Kyrgyz people is supported by a 2007 law on state guarantees to ethnic Kyrgyz returning to their historic homeland, and under a 2001 Presidential decree on "support to ethnic Kyrgyz returning to their homeland" (FIDH Oct. 2009, 41; Ferrando 2013, 256, 258). According to a chapter on Central Asian repatriation programs in the 2013 book titled *Migration and Social Upheaval as the Face of Globalization in Central Asia*, published by Leiden University, Kyrgyzstan provides that the status of *Kajrylman* (repatriate in Kyrgyz) is "granted to all 'ethnic Kyrgyz migrants (pereselentsev-etnicheskikh kyrgyzov) and stateless people of Kyrgyz ethnicity'" (Ferrando 2013, 258). Sources indicate that the status of *Kajrylman* provides these ethnic Kyrgyz returnees with access to social services (Ferghana 2 Dec. 2013; Ferrando 2013, 258), such as rights to temporary shelter, free medical care, access to real estate, and Kyrgyzstani citizenship" (ibid.). However, sources report that some ethnic Kyrgyz repatriates have had difficulty accessing these benefits (ibid.; Ferghana 2 Dec. 2013; RFE/RL 4 Jan. 2012), including citizenship (ibid.). According to an article by Radio Free Europe/Radio Liberty (RFE/RL), a migration expert in the Kyrgyz parliament stated that "the state program for resettling ethnic Kyrgyz from abroad [has] not been fully implemented" (4 Jan. 2014). According to the Professor at Carleton University, to the source's knowledge,

[o]nce [people] are returned in country, there are no organized government programs ... to assist with reintegration of people returning to the country. There is a desire by the state that the Uyghur minorities, and other minorities learn Kyrgyz, but there are limited resources to provide this type of programming. (Professor 5 Feb. 2015)

According to the Austrian Federal Office for Immigration and Asylum's Country Fact Sheet on Kyrgyzstan for May 2014, the Kyrgyz Republic's Ministry of Youth, Labor and Employment is responsible for the "elaboration and implementation" of policies related to migration, labour migration, and work with refugees and returnees, and provides support for employment through regional units in each district of the country (Austria May 2014, para. 6.5.3). The same source indicates that, according to an expert interview with a

representative of the Kyrgyz employment centre, "in theory, all these institutions are in place; however, not many people know about these services" and the agencies are not doing enough to promote the programs (ibid.). While the CERD report notes the efforts of the state to provide assistance to those people that returned to the Osh and Jalal-Abad regions following the 2010 conflict, it states that these internally displaced persons "continue to face difficulties with regard to housing, properties, and reintegration (UN19 Apr. 2013, para. 11). Further information on programs for returnees to Kyrgyzstan could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] Sources indicate that for four days in June 2010, violence erupted between ethnic Kyrgyz and ethnic Uzbeks in southern Kyrgyzstan cities of Osh and Jalal-Abad (AI 7 Mar. 2014; Human Rights Watch 8 June 2013). Human Rights Watch indicated the clashes caused over 400 deaths and the destruction of nearly 2,000 homes (ibid.). AI describes the incident as causing hundreds of deaths and thousands of injuries and displacing hundreds of thousands of residents (AI 7 Mar. 2014). Sources report that ethnic Uzbeks were among the main victims of the 2010 ethnic violence, but also the most prosecuted group by authorities (UN 19 Apr. 2013, para.6; AI July 2013, 49; Human Rights Watch 8 June 2013). According to Human Rights Watch, several ethnic Uzbek men have been in pre-trial detention for a number of years on charges related to the 2010 violence (ibid.).

[2] Public Foundation Legal Clinic Adilet has also received support for its projects from various UN organizations as well as the Danish Institute for Human Rights, the Norway Helsinki Committee, the European Union and the US Embassy in Kyrgyzstan (Public Foundation Legal Clinic Adilet n.d.)

[3] The Shanghai Cooperation Organization (SCO) was founded on 15 June 2001 by the Republic of Kazakhstan, the People's Republic of China, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and the Republic of Uzbekistan (SCO n.d.). The SCO indicates that its goals are "strengthening mutual confidence and good-neighbourly relations among the member countries" (SCO n.d.).

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Additional Sources Consulted

Oral sources: The following were unable to provide information for this Response: professor of political science, French Institute for Central Asian Studies; professor of anthropology, Pomona College; Central Asia researcher at Human Rights Watch; Legal consultant on Central Asia and Russia; a representative of the World Uyghur Congress.

Attempts to contact the following were unsuccessful within the time constraints of this Response: Bir Duino Human Rights Movement; La Fédération internationale des ligues des droits de l'homme; International Uyghur Human Rights and Democracy Foundation; "Ittipak" Uigur Society of the Kyrgyz Republic; Kyrgyz Committee for Human Rights; Social Foundation Kylym Chamy; Soros Foundation - Kyrgyzstan; United Nations - UNHCR Kyrgyzstan Office.

Internet sites, including: AKI Press; BBC; Factiva; Freedom House; Institute for War and Peace Reporting; IRIN; Jamestown Foundation; Kyrgyzstannews.net; United Nations - Office of the Commissioner for Human Rights, Refworld, ReliefWeb.

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