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ANTI-DISCRIMINATION Thematic Bulletin



Anti-Discrimination Centre

SO THAT FOREIGNERS ARE FEARED AND BLAMED FOR EVERYTHING

It's happened many times before: As soon as someone is rubbed the wrong way by something, they start screaming "Discrimination!" For many people, the word "discrimination" signifies everything they don't like, everything that bothers them personally. You failed a test? Discrimination! You lost your attendance bonus? Even more so! Everything that's offensive and humiliating is "unjust," and injustice is seen as discrimination. Even though the injustice of an evaluation or punishment must be proven, it is even harder to prove discriminatory grounds (on the basis of race, gender, religion, health, sexual orientation and gender identity, and so forth) for this injustice. But people regularly forget this and view discrimination as "I'm under attack!"

Allegations of discrimination against Russian media outlets by "foreign internet platforms" are a glaring example of this. The journal "International Affairs" (whose board is chaired by Russia's Minister of Foreign Affairs) published a pretty infographic on its website underlining that discrimination "has become systemic in nature." But do these international jurists even know what systemic discrimination is? What UN and Council of Europe experts mean by this term is the exclusion of minorities due to widespread but often unconscious discrimination based on a fundamental characteristic (ethnic and religious groups, women, persons with disabilities, LGBTI+ people). This type of discrimination is pervasive for the Roma population, for example. Clearly, the dramatic story of how YouTube "placed restrictions on five accounts" does not in any way fall under this definition. But something else does — the persecution of everything "foreign" and the disenfranchisement of the rights of dual citizens, foreign media outlets and internet platforms, and NGOs and natural persons who have been declared "foreign agents."

Constitutional Court judge Konstantin Aranovsky expressed this idea perfectly in a dissenting opinion to a decision on an appeal to the law on the media, which restricts the rights of foreign owners. There's a good reason why the government had the foresight to ban Constitutional Court judges from having a "dissenting opinion" before a slew of new laws against the media were adopted! Here I will quote large excerpts of Aranovsky's opinion: "The foreign origin of persons, capital, ideas, and so forth cannot in and of itself pose a threat to constitutionally important values. The multinational people of the Russian Federation adopted their Constitution and recognized themselves as a part of the world community, as explicitly set forth in the Preamble." And then: "Lawful restrictions on rights and freedoms are protective in nature and are specifically intended to safeguard constitutional values (objectives)...nothing can be 'more useful' in the Russian constitutional order than human rights, which are given the highest value in this system. No other benefit or public interest can be favored over them in the influential attitudes and intentions of the government."

Judge Aranovsky warned that if the authorities are allowed to control the distribution of information "with the right to ban 'suspicious people' (foreigners and dual citizens, for example) from distributing this information, then what arises is censorship and control over minds and opinions, which contravenes the provisions of Article 29 of the Constitution." Aranovsky demanded that the idea of a "threat" lurking in foreigners be "establish[ed] and prove[n] in constitutional proceedings in terms of actual existing dangers and sources of risk," otherwise, "restrictions on rights and freedoms will go beyond the constitutional framework."

Aranovsky also mentioned a different Constitutional Court decision regarding the law on NGOs. This decision stated that: "Russia 'does not imagine itself' outside of the world community" and that foreign financing of non-governmental organizations "does not put their loyalty to

the government in doubt." Anything else would contradict the Constitution, which obligates the state to safeguard, and not diminish, human dignity. Under the Constitution, even the status of "organization performing the functions of a foreign agent does not presuppose a negative appraisal of" or "a negative attitude towards the organization's political activities" and "cannot be taken as a manifestation of distrust or a desire to discredit," while a foreign residence permit does not diminish a citizen's rights or serve as a ground for denying the citizen the right to be a member of an election (territorial) committee."

Alas, there is no memory of last year's dissenting opinion, which directly stated that "xenophobia is an old and persistent reflex that is more likely to confuse than to point to actual risks... so that foreigners are feared and blamed for everything" (thus recognizing the disenfranchisement of the rights of foreign media outlets and other organizations connected with the "world community" as xenophobic and, consequently, discriminatory). The latest bills also void the Constitutional Court's cautiously-worded decisions, which, even though they did not find the stamp of "foreign agent" unconstitutional, did extensively explain that in and of itself this stamp "cannot be taken as a manifestation of distrust or a desire to discredit."

Now, when every person who ends up in the register has to demonstrate of themselves or another person that they are an agent or "affiliated with a person performing the functions of an agent," when this stamp does not allow people to run for election or hold municipal positions, when foreign media outlets and platforms can be blocked or "slowed," and when an NGO can simply be shut down (specifically because of distrust and a desire to discredit), all of the Constitutional Court's previous rhetoric seems like "a faculty of useless knowledge," just like the desecrated Constitution itself.

Stefania KULAEVA
December, 2020

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ADC MEMORIAL STATEMENT TO THE 102ND SESSION OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

In recent years, we have encountered many false concepts, double standards, and the use of terminology in the opposite sense. Those who fight for independence are claimed as “Fascists”. Indigenous communities protesting against industrial corporations are declared “obstacle for economic development”. Victims of pogroms – representatives of ethnic minorities – are accused of “nationalism”, while the actions of real nationalistic aggressors and haters are justified and even inspired by the state authorities. Freedom of speech and expression is restricted under the pretext of fighting for state security. The desire to find out historical truth and make public the facts is declared “falsification of history” and “discrediting the actions of the state” in a particular period of time. All this requires from either international experts and human rights defenders on the ground – on the one hand, more clarity in terms, theories and concepts, and on the other hand, an understanding of the complexity of the processes taking place in societies.

The discourse of opposing racial discrimination is not frozen; there is space for lively development both in theory and in practice. In this sense, it would be effective to apply some other modern concepts to the field of racial discrimination, as they have proven themselves well in other areas. For example, a gender-sensitive approach to discrimination in employment can be applied as racially sensitive, since often representatives of minorities are employed only in low-paid or less responsible positions. A gender-sensitive approach can be combined with a focus on the situation of ethnic groups, since many double and multiple forms of discrimination can still be seen in science, management, politics, etc. The concept of protecting women's rights is widespread, it is often more understandable to stakeholders, so it can be used as an example to make hidden forms of racial discrimination visible and clear to change and overcome. Following the example of policies to combat gender inequality, it is possible to create codes of ethics that include anti-racist norms; such ethical documents can be promoted in employment with the help

of trade unions or initiative groups; implementation of such policies can be monitored through various indicators, including numerable ones.

We hope that the challenges of today will not lead to a weakening of international control over the respect of human rights. First of all, this is the pandemic that has forced all of us to restructure our work, limiting in-person contacts. Second, it is a reform of the UN Treaty Bodies designed to optimize the consideration of state and alternative reports. Finally, this is the UN funding crisis, which also forces us to look for new ways to interact with the relevant Committees and Procedures. As representatives of civil society, we should not lose the opportunity to appeal to such high-level experts which we always find in the UN CERD. We must not allow the stated authorities to ignore this expert opinion. After all, often an appeal to the UN human rights bodies is the last opportunity to achieve justice for victims of racial discrimination.

16 November 2020

RUSSIA: NEW ‘FOREIGN AGENT’ LEGISLATION WILL FURTHER UNDERMINE CIVIL LIBERTIES

On 30 December, Russian President Vladimir Putin signed a series of laws that would allow individuals to be labeled as ‘foreign agents’ if they engage in politics – in the broad meaning of the term – in Russia and receive funds from abroad. FIDH and its member organisations ADC Memorial and Citizens’ Watch warn that the new amendments render any independent civic engagement in Russia impossible.

The new legislation allows to label ordinary citizens and organisations without legal personality (a group of activists, for instance) as ‘foreign agents’ if they engage in politics in Russia and receive funding from foreign countries. Those vulnerable to being smeared by the label include human rights defenders and journalists. The term ‘political activity’ is interpreted very broadly in the context of the law: printing out leaflets against illegal dumping or expressing an opinion about the authorities on social networks would fall under this definition. If a person engaged in such an activity works for a foreign company or receives a Christmas money transfer from a relative living in a foreign country, this would fall within the scope of the new law.

Under the new legislation – the latest in a series of progressively tightening anti ‘foreign agent’ laws – citizens who engage

in politics and receive funds from abroad must proactively apply for ‘foreign agent’ status from the Russian Ministry of Justice and regularly report on their activities. In the case of non-compliance, they will be charged with fines and prison terms of up to five years.

“The laws adopted last month establish control over any civil initiatives and allow any engaged person who receives money or assistance of any kind from abroad to be labeled as a ‘foreign agent’. The new legislation undermines the independence of civil society, as the dissemination of information and international cooperation are only allowed insofar as the authorities can control it.” - Stefania Kulaeva, head of ADC Memorial, a member organisation of FIDH

The laws and amendments ratified at the end of 2020 are the latest in a series of so-called foreign agent laws going back to 2012. A law passed in December 2019 stipulates that any individual receiving foreign funding and distributing or creating publications for a media outlet may be recognised as a media ‘foreign agent’. This law concerns not only journalists, but also those who share publications on social media or give a quote to a journalist. For the first time, on 28 December 2020, five people were labeled as ‘foreign agents’ under this law, including human rights defender Lev Ponomarev, activist Darya Apakhonchich, journalists Lyudmila Savitskaya

and Sergei Markelov of Radio Free Europe/Radio Liberty, and Denis Kamalyagin, editor-in-chief of newspaper Pskov Gubernia. FIDH and two of its member organisations are deeply concerned about this first – and arbitrary – application of the law against human rights defenders, activists and independent media outlets.

Other draft laws, restricting civil liberties even further, are under consideration by Russia's State Duma. One of the bills, if adopted, would oblige organisations recognised as foreign agents to request authorisation for planned activities from the Ministry of Justice. In case of non-compliance, the Ministry would be able to file a lawsuit for the organisation's dissolution.

FIDH, ADC Memorial and Citizens’ Watch deeply regret the adoption of the new batch of ‘foreign agent’ laws marking a new spiral of repression in Russia. Our organisations warn that this new legislation will be applied arbitrarily against the most active and engaged Russian citizens: against those who disagree with the government, criticise corruption, and organise environmental rallies. FIDH, ADC Memorial and Citizens’ Watch call on the international community to consistently and unequivocally condemn the mounting repression in Russia and take a firm stand in support of the vanishing Russian civil society.

January, 2021

"FEMALE FACES OF PRO-DEMOCRACY PROTESTS IN BELARUS AND RUSSIA": European Parliament's Human Rights Committee discussion on the initiative of ADC Memorial



On March 8, 2021, the International Women's Day, a discussion was held under the chairmanship of Heidi Hautala, Vice-President of the European Parliament. Among the participants of the discussion were MEPs Sergey Lagodinsky and Marketa Gregorova, representatives of human rights organizations and various European bodies. Speakers included Tatsiana Khomich, a Belarusian civic activist, sister of political prisoner Maria Kalesnikava, Anastasia Shevchenko, an activist of the pro-democratic movement in Russia, the first to have been prosecuted for participation in an "undesirable" organization, and Stephanie Kulaeva, head of the Anti-Discrimination Centre "Memorial".

Tatsiana Khomich recalled that after the active participation of Belarusian women in the protests of summer/autumn 2020, many of them were prosecuted: currently there are hundreds of people on the list of political prisoners of the Belarusian human rights center "Viasna", and dozens of them are women. At least 141 women are being currently persecuted in politically motivated criminal cases. The most famous of these women-political prisoners is Maria Kalesnikava, one of the leaders of the Belarusian movement for a democratic transition of power. Her sister Tatsiana Khomich said that she often had to find new lawyers for Maria because of the constant repressions even against the lawyers; thus, Lyudmila Kazak, the legal defender of Kalesnikava, had her lawyer's license withdrawn. Communication with the prisoners is also extremely difficult: letters from Tatsiana's

sister arrive with a long delay, their father had been denied a meeting for the six months of Maria's arrest. Tatsiana Khomich urged to write letters to Belarusian political prisoners and express solidarity with the Belarusian people.

Anastasia Shevchenko spoke about her criminal case, which had involved an absurd charge of participation in the activities of an "undesirable organization". Mrs. Shevchenko together with her children was under house arrest for 2 years despite the fact that the organization "Open Russia" itself, for the connection with which she had been persecuted, had not been recognized "undesirable" and continued to work in the Russian Federation. In 2021 she received a suspended sentence, although she had demanded a complete acquittal. During one of the first interrogations, Mrs. Shevchenko learned that her eldest daughter was dying in the hospital; the investigator did not let the mother go to her sick child for a long time. She only managed to say goodbye to her daughter, but was never able to bury her ashes.

Anastasia Shevchenko said that the number of women actively participating in politics in Russia was on the increase, as was the number of women who were under arrest for their political views: Lyubov Sobol and Kira Yarmysh of the Anti-Corruption Foundation, Lyusya Stein, a municipal deputy in Moscow, Pussy Riot's Maria Alyokhina, Anastasia Vasilyeva, the head of "Alliance of Doctors" trade union are all currently under house arrest, and Moscow's municipal deputy Yulia Galyamina is being prosecuted for exercising the right to peaceful assembly. Anastasia Shevchenko urged to pay special attention to supporting the activists persecuted in various regions of Russia, which are remote from the capital, where the persecution of dissenters was more terrible and less invisible. Anastasia Shevchenko urged to follow the legal cases of feminist Yulia Tsvetkova from Komsomolsk-on-Amur (she is being persecuted for alleged "pornography", which had been supposedly detected in very ordinary body-positive pictures depicting a woman's body), as well as Yana Drobnokhod from Novosibirsk, who had been imprisoned for peaceful solidarity actions with Khabarovsk activists.

Stephanie Kulaeva of ADC Memorial spoke about the persecution in Belarus of those who not only had not participated in protests, but performed their professional duties, including the repressed human rights defenders and journalists, such as Marfa Rabkova, Ksenia Syromolot and Tatsiana Lasitsa, volunteers of the Human Rights Center "Viasna", who had been under arrest under Article 342 of the Belaru-

sian Criminal Code ("collective actions that grossly violate public order"). Journalists Yekaterina Andreyeva, Darya Chultsova, Yekaterina Borisevich were also sentenced to real prison terms for doing their job: they had covered the events in Minsk and other cities of Belarus in the media.

In Russia, women are also prosecuted for merely speaking out in defense of freedom of association, freedom of assembly and expression. Among the recognized political prisoners are Zarifa Sautiyeva, an Ingush public and political activist who has been under arrest for over a year and had spent half of this term in a pre-trial detention center; Yulia Galyamina and Yana Drobnokhod, who had been prosecuted under the infamous article for repeated violation or regulations on public rallies now associated with activist Ildar Dadin, the use of which the Constitutional Court of the Russian Federation had found violating the right to peaceful assembly. Five more women were placed under house arrest for an alleged "sanitary violation" (allegedly, by calling people to out and protest, they had violated the existing Covid-19 quarantine restrictions), but, in fact, for the exercise of the right to freedom of assembly. Marina Litvinovich, a member of the Public Monitoring Commission of places of deprivation of liberty in Moscow, was stripped of her mandate for expressing her support for women political prisoners. Daria Serenko, who called on women to take part in the "Chain of Solidarity" campaign, was being harassed by dangerous extremists (who call themselves "the Male state"), and this had been clearly deliberately unleashed by the authorities and doesn't meet opposition from the latter. Women involved in professional defense of victims of domestic violence are also prosecuted: right on the eve of March 8, 2021 "Violence.net" Centre was officially entered into the register of organizations – foreign agents.

It is not only that the register of NGOs "performing the function of foreign agents" is being expanded, but Russia also introduced the list of "physical persons – foreign agents", which features people who are persecuted only for speaking out on their personal pages in social media, among them are women, two journalists and an artist from St. Petersburg, Daria Apakhonchich.

MEP Sergei Lagodinsky began his speech with words of support for activists and human rights defenders, saying that he considered it a great honor to join the courageous women defending human rights in Russia and Belarus, and assuring Anastasia Shevchenko and Tatsiana Khomich that he was ready to continue to defend women – political prisoners. Heidi Hautala and other speakers also spoke about this.

AND THIS IS WHERE ART ENDS

The creative work of feminist artists has become the subject of investigations by various forces—aggressive women-haters, opportunistic politicians, nationalist activists, religious figures, and criminal courts—and is viewed by these connoisseurs of the arts as (circle what applies) “depravity – indecency – pornography – mockery of our national culture / traditional values – an affront to national / religious / other pro-Putin sensibilities.” The result of this attention from such concerned viewers has been various persecutions of female artists, from online bullying and a thorough thrashing in the press to criminal charges and the real threat of physical violence.

Russian and global human rights organizations have asked Russia’s prosecutor general to put an end to the persecution of the artist and activist Yulia Tsvetkova for body-positive “artistic portrayal of the female anatomy dedicated to the openly stated goal of celebrating the beauty of the female body.” The obvious fact that “Living women have...” periods, body hair, gray hair, and so forth (this is how Tsvetkova signed her drawings, and it was also the name of an exhibition put on by other female artists to support her, which was organized by Katrin Nenasheva, who was recently re-arrested) is so offensive to Russia’s repressive system that Tsvetkova faces a criminal sentence of up to six years for “pornography.” “And how would the people persecuting Tsvetkova know that images of the vagina have long hung in museums? This means that we must educate people, organize virtual exhibitions and lectures,” said the female artist Aidan Salahova, who started a flash mob in support of Tsvetkova in 2020. And she has a point: How would they know?...

Some viewers of the work of Tajik artist Marifat Davlatova rejected her work, and not just because the models were nude; they also had an aggressive reaction to the national flavor of her paintings: “I had an exhibition devoted to women in Dushanbe in August 2018. I wanted to show the beauty of the female body, the female soul as a protest against harassment on the streets, violence, and stereotypes. I portrayed women in national costumes. There was a positive reaction, but also negative criticism along the lines of ‘this girl is sick, she didn’t get married and

is enraged that her parents allowed this’ and ‘things like this cannot be created in our society, girls cannot do that.’ There were also verbal threats (that I should be burned and hung), including from women, and they were entirely real—people threw stones at me on the street several times when they recognized me. One of the main complaints about me was that I portray real women. People would say, ‘These are our sisters, daughters, future mothers; you have disgraced them.’”

Alyon Saveleva, an artist from Ufa, was also subjected to harassment, which threatened to move from social media to “reality,” because she “portrayed various members of society, including sexual minorities, in the national costumes of Bashkiria.” In her words, all she wanted to show through the medium of art was that “My Bashkiri people are the same as all other peoples, and life here, as I thought, does not differ from the world community.” But the art only went so far before soil and destiny took over. Even though many viewers supported Saveleva, some were shocked by the portrayal of “the naked bodies of Bashkiri men and women,” and participants in the impassioned discussion (which included nationalist activists, members of the Public Chamber, representatives of political parties, and even the head of the republic) accused her not of “anatomy with pornography,” which was the case with Tsvetkova, but of “mockery of the Bashkiri culture,” since the anatomies of the men and women portrayed were covered with “elements of the national dress.” The audience was particularly sensitive to pictures of traditional fox hats.

This story brings to mind another story that is also about hats and women. Last year’s March 8 women’s march in the Kyrgyz capital of Bishkek was disrupted by the local version of the Russian Cossacks and SERBovtsy and Kyrk choro activists wearing ak-kalpaks (the national Kyrgyz head attire for men) after the police failed to act, or, more precisely, abetted. “I was walking there and saw stones flying at us, and these guys in ak-kalpaks running,” recounted artist Tatyana Zelenskaya, who participated in the march. She expressed her feeling—suffocation from injustice—in a bitter and expressive self-portrait where she is being led away by police officers and men in ak-kalpaks are destroying signs and attacking women in the background. Over 70 participants



in the Bishkek march spent the worldwide flash mob to fight violence against women, which was held on the streets and in the squares of other countries on March 8, within the walls of a police precinct. The actions of people who aggressively oppose gender equality are taking a positive symbol of Kyrgyz culture and transforming it into a symbol of patriarchal violence and the suppression of women. The ak-kalpak’s national holiday, which was officially introduced under a 2016 resolution of the Kyrgyz parliament “to preserve the importance of the national headdress,” is celebrated on March 5, which makes it seem to counterpose women’s day in terms of time. This year it was held on Ala-too Square in Bishkek, while officials again failed to authorize the March 8 women’s march, citing the pandemic, which did not appear to interfere with the holiday of men’s national headdress.

In 2018 ADC Memorial drew the attention of the UN Committee on the Elimination of All Forms of Racial Discrimination to how elements of national dress are zealously bestowed with holiness and sometimes even forced on people (in particular, in 2018 the Kyrgyz parliament submitted the draft law “On Assigning the National Headdress Ak-kalpak the Status of a Cultural Symbol” for public debate. This draft law included clauses such as “The procedure for wearing an al-kalpak shall be determined by the Government of the Kyrgyz Republic” and “An ak-kalpak cannot be used for anything other than its designated purpose.” The law also proposed that male civil servants would be required to wear it and stipulated liability for “desecration” of the al-kalpak). At the same time, national dress is already popular in Kyrgyzstan—many people wear it with pleasure and at their own

will, and human rights defenders have reported cases where it has been imposed and rejected (for example, in Osh Oblast, where a large percentage of the population is comprised of Uzbeks, the regional leadership forced schoolteachers to wear clothing with national Kyrgyz elements during work hours).

The “male state,” as represented by the eponymous group of women-haters and by other natural and legal persons, feels the full support of the state, and sometimes it seems that it acts at the orders of and certainly with the silent agreement of the latter, as was the case with the March 8 march in Bishkek or the threat against the female artist and activist Darya Serenko, who launched a “Day of Solidarity” with Yulia Navalnaya and female political prisoners during the recent protests.

Many of our female contemporaries are forced to live in the suffocating circumstances of the “male state.” Regardless of what side of the Caucasian or Ural ridge we’re on, this is our shared reality—when the police respond to domestic violence and promise to come only “when there’s a corpse,” when television programs transmit the embodiment of traditional values in the form of the forced marriage of a schoolgirl, when mothers are not allowed to raise their children: “Once upon a time, I don’t know in what century, a shepherd in a sheepskin hat who had sent his sheep to graze, sat down beside the fire and started coming up with fantastic stories, traditions, adats, where the woman is essentially not a person. Women aren’t worth anything here in Chechnya. Women have many rights under Islam, but actually for us, for the Nakh peoples, for Chechens and the Ingush, women are purely incubators, cleaners, servants, and nothing more. So you come into a family, you bear children, but these are not your children. They belong to the last name.”

“Your body is a battleground”—this is the oft-cited yet timely slogan of a Barbara Kruger silkscreen (1989), and this is far from a theoretical battleground—for the right of women to life, to liberty, and to art.

Olga ABRAMENKO
March, 2021

RUSSIAN HARASSMENT OF A “RUSSIAN WOMAN”

The song Russian Woman, which initially appeared to be a simple manifesto for moderate feminism and fashionable body positivity that was entirely appropriate for the Eurovision contest, where “politically correct” messages have triumphed for many years, provoked an outpouring of phobias in Russia that exceeded all expectations. There’s no doubt that this song was allowed to win during “viewer voting” on Channel One; Russia made the calculated decision to submit such a clear, straightforward, understandable, and politically-correct song with the refrain: Hey, Rashin Woman, Don’t be afraid, girl, You strong enough, You strong enough, Don’t be afraid. And the singer’s biography matches the words: Manizha is not afraid to speak out domestic violence or support women’s rights. She also supports the rights of migrants, refugees, and even LGBT+ people, but you have to be “pretty strong” for this. The nomination of this song, by this performer, could not pass without a scandal from opponents of the “new morality,” but the wish to win the competition, to show Europeans that we weren’t born yesterday, turned out to be more important. This courageous step in the direction of European values has worked for now – the song has garnered millions of views on Eurovision’s website and is one of the most popular.

But we also didn’t have to wait too long for the scandal. Manizha checked off all the boxes – born in Dushanbe, ethnic Tajik, singing in several languages. Nationalists from every party and every age group were terribly offended that a young Tajik woman – Okay, she grew up in Moscow, but that doesn’t matter to them – would be singing “for Russia.” As if that weren’t enough, she was not singing a song about “Persia, Persia, fruit heaven” or something about “Dark Eyes”; she actually composed and sang a song about a Russian woman, and the words “Rashin Woman” were written in capital letters on the back of her outfit. She could have somehow or other gotten away with words about the right of women to dress how they want, to have children or to not have children, and to not be perfectly slim, if not for this provocation about the non-Russianness of this “Russian woman,” who doesn’t try to hide this at all. After all, patriots love some performers, even though they can guess that they are also “national minorities,” but those performers try not to emphasize this. But Manizha does not just emphasize this, she builds her identity on the image of a “non-Slavic, non-Tajik woman.” We can say that she is declaring her cultural and

national fluidity, and this can’t be any better than gender! And it is this apparition of the non-binary world that makes traditionalists recoil. They cannot be convinced by some people’s attempts to deride her – hey, singing and dancing is exactly what migrants from the far reaches of the empire are supposed to do: “There were even special singing and dancing peoples, like the Georgians. Or the Jews playing on the violin or fortepiano. Like folklore. This is obviously objectification, but it’s not discrimination”. Apparently the author of these words understands objectification as assigning the violin and fortepiano to the Jews and, let’s say, the guitar and tap-dancing to the Roma or polyphonic singing to the Georgians. That’s objectification, “but not discrimination.” I have already had the opportunity to write specifically about discrimination and dances, the stigmatization of people, genders, and social role that are intended to please the eyes of the powerful in the world. A stereotype (what does objectification have to do with it anyway?) is obviously always discrimination, and the imposition of a role, generally degrading, even if it is “festive.” Georgians, Tajiks, Jews, Roma, Africans, Russians – they can sing or invent machines, they can play the violin or plow the earth, they can enter contests or drive trains. No one tells them – older women, younger women, or girls – what to do – and none of them have to move beautifully, look beautiful, or dress beautifully. Cultures and languages can be mixed on the stage, as they have long been in modern life. It is of these simple things that Manizha sings, challenging the mad flame of racism, sexism, and discrimination in all its forms and manifestations.

Protectors of the purity of Russian culture have conducted an entire expert evaluation of Manizha’s song, embellishing their text with such a large number of words unknown to simple Russian speakers that they have no business accusing the singer of using Surzhyk (which is understood to mean “Rashin”). What is the worth of the following expressions Dr. Ponkin and Dr. Slobodchikov used: “pejoratively offensive, dysphorically derisive (through the achievement of introjection)...also creating allusions to images...mixed with botanical exemplifications” and so forth.

How can we not make fun of you!

Stefania KULAEVA
March, 2021

THE STRUGGLE TO ABOLISH PROFESSIONAL PROHIBITIONS FOR WOMEN CONTINUES

RUSSIA

In Russia, starting January 1, 2021, a shortened list of professional occupations prohibited for women was introduced. Revision of the list had been facilitated through the cooperation of various human rights defenders with trade unions and the media. However, this largely is the merit of the women themselves, the heroines of the #AllJobs4AllWomen campaign, who had actively advocated giving them the right to work in their chosen professional occupations. Employment opportunities for women in the transportation sector in Russia have been significantly expanded this year: first women drivers of subway and electric trains have already started their work, while more and more women drive trucks now and work on maritime and riverine vessels. But not all professional occupations are yet available to women. It is necessary to abolish the prohibitions that continue until now, and the work for this purpose continues. In early March, Inna Syvatenko, head of the Federation Council's (upper house of Russian parliament) Committee on Social Policy, sent an appeal to the Ministry of Labor requesting a further revision of the list of professional occupations prohibited for women and expansion of the list of permitted types of work for women in civil aviation. On March 24, 2021, Deputy Labor Minister Andrey Pudov announced that the government was preparing a decree on the admission of women to work as aeronautical technicians and the possibility of further reducing the list of prohibited professional occupations (in case of positive results of a special assessment of labor conditions at the workplace).



БЕЛАРУСЬ

Belarusian "Her Rights" Centre for the Promotion of Women's Rights continues its struggle to abolish the list of professional occupations prohibited for women in Belarus. Earlier the Centre prepared joint report "Discrimination against women in the employment sphere in Belarus" in cooperation with the ADC Memorial for the United Nations' Committee on the Elimination of Discrimination against Women (UN CEDAW). "Her Rights" Centre currently is in correspondence with the state bodies of the Republic of Belarus concerning the possibility of canceling the list of professional prohibitions for women. In October 2020, Irina Kostevich, Belarusian Minister of Labor and Social Protection, announced the country's plans to cancel this list, but so far there no changes have been introduced into the national labor legislation.

Throughout February 2021, "Her Rights" Centre held discussions on women's labor rights and organized meetings with experts and female workers in the professional fields, where women rarely work.

The Centre believes that "through advocating the abolition of the list of professional occupations prohibited for women, we advocate better jobs and improved working conditions for all people, regardless of gender. Work should be safe for everyone, not just women. It is important to improve working conditions to the better level of safety for all people in all sectors. This process can last for years, but it can only begin when the protection of the health of all citizens becomes a priority for the state".

Belarusian Organization of Working Women currently carries out its information campaign "All jobs for all women in Belarus" (as part of the #AllJobs4AllWomen international campaign) in order to push for abolition the list of jobs and professional occupations prohibited for women in this country.

KYRGYZSTAN

Human rights movement "Bir Duino Kyrgyzstan" seeks to abolish the existing discriminatory bans on women's work in Kyrgyzstan. ADC Memorial in collaboration with the experts of this organization has submitted reports to the Committees of the UN Human Rights Council on numerous occasions, while the two organizations have also provided for national advocacy on the abolition of gender bans in the labor sphere. On March 3, 2021, "Bir Duino Kyrgyzstan" sent and published a public call to the new government of the Kyrgyz Republic, its Prime Minister Mr. U. Maripov, concerning the "Plan of Priority Government Measures for 100 Days", which also mentioned the need to cancel the list of professional occupations prohibited for women: "We ask you to pay attention to inequality in labor and the importance of supporting the partnership of government and business with independent trade unions in order to protect the rights of workers... It is important to urgently cancel the list of professional occupations prohibited for women and provide equal access to jobs through the governmental resolution of the Kyrgyz Republic, as there still exists open discrimination and humiliation of women's rights".

On March 5, 2021, during the online conference "The Right to Work: Combating Gender Discrimination and Violence" on the platform of the International monitoring mission on labor rights in Central Asia, BDK again stressed the need to abolish the list of professions prohibited for women in Kyrgyzstan.

Kyrgyzstan's Public Foundation "Insan Leilek" also joined in, carrying out its information campaign against gender discrimination in the professional sphere "Your profession is your choice".

KAZAKHSTAN

During the 43rd United Nations' Session one year ago the official delegation of Kazakhstan supported the UN recommendations to abolish the list of professional occupations prohibited for women. In early August 2020, Elvira Azimova, the Commissioner for Human Rights in the Republic of Kazakhstan, sent an official letter to the President of the Kazakhstan Mr. Tokayev with a proposal to exclude from the Labor Code of the Republic of Kazakhstan the legal norm on restricting female labor in heavy, harmful and hazardous types of work, while at the same time expanding the list of medical counter-indications for both men and women working in hazardous working conditions.

Kazakhstan's feminist initiative "Feminita" continues to carry out advocacy and information work for the abolition of the list of professional occupations prohibited for women, as the latter restricts professional choice of women in the country. Earlier "Feminita" together with ADC Memorial have raised the problem of discriminatory bans in Kazakhstan in a joint report to the UN CEDAW session. While demonstrating the vulnerability and economic insecurity of women in Kazakhstan during the Covid-19 pandemic, "Feminita" showed with arguments that by denying women the choice of a profession, the latter were not given equal opportunities to survive the global crisis with minimal losses for themselves.

STEPHANIA KOULAEVA ON DISCRIMINATION AND STATELESSNESS IN CRIMEA AND THE DONETSK BASIN

The online discussion “Neither here nor there: Life in Crimea and the Donetsk Basin,” which was organized by the international legal partnership Global Rights Compliance LLP, was held on March 18. The discussion was devoted to the human rights situation in Crimea and the Donetsk Basin after 2014. One of the speakers was ADC Memorial expert Stephanie Koulaeva:

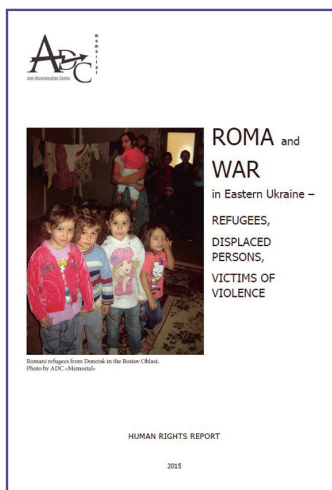
The focus of our work is people vulnerable to discrimination. We try to draw attention to groups that are especially vulnerable to discrimination and repressions, even though these groups may be totally apolitical and often do not have a civic position or even citizenship.

Everyone who finds himself in a conflict situation, or, to be more specific, a war, suffers from it. Many have lost their lives, even more have lost housing, and some have been subjected to persecution and repressions even when they did not take any actions. When we hear something about the Crimean Tatar population, it is usually about activists, who face political repressions because of their rejection of the Russian government's policies. But we have tried to show that the entire Crimean Tatar population faces discrimination, just like the entire Ukrainian-speaking population of Crimea. This means that people who do not have or even cannot have convictions (like children) still become the victims of discrimination and, accordingly, human rights violations.

We have attempted to document the events since the very start of Russia's aggressions. ADC Memorial's first report on these topics is called “Roma and War” (2014-2015) and describes violations of the rights of the Roma population in the eastern districts of the Donetsk Basin, which were open combat zones at the time. We recorded the situation of Roma people who came directly under fire and others who were forced to flee. Most of the refugees headed for Russia because they had heard on television that they would get support there. In reality, upon their arrival in Russia these people did not receive any actual assistance (with housing, medicine, and so forth) and found that their path to legal residence was closed.

Two years later, during a less active phase of the conflict, we prepared a second report, which we titled with a quote from one of our informants: “For today, they don't seem to be shooting...”. This report uses photographs to recount how the region's Roma population and refugees were living.

The Roma population is in a particularly difficult situation because someone in almost every family is undocumented.



For example, a child was born to one Roma family during the fighting. This was in a tabor near the village of Sartana, outside Mariupol. Everyone probably knows that there was active fighting there. So a child was born there, but all the vital records offices in Mariupol were closed and there was no way to get a birth certificate. The family had a terrible time getting through all the checkpoints with this child.

Another story is about a refugee family where the daughter-in-law had no documents. It unfortunately happens frequently that a young woman is given in marriage and starts living in a family without a passport from any country. These could be young women brought to Russia from Kazakhstan or from Russia to Ukraine, for example. I spoke with one such young woman named Cheryomukha, whose family brought her out in the trunk of the car, hidden under things.

We prepared a joint report with our colleagues from the Kiev-based organization Right to Protection titled “Statelessness in Russia and Ukraine.” Even though the report is not only about the Roma population of Russia and Ukraine, most of the people featured in it are of Roma origin. Another part of this report is devoted to people who actually did have citizenship but could prove it. These included Ukrainian citizens who left the eastern regions for work and lost their documents for some reason (theft, loss). They were detained by the Russian authorities and as they were prepared for expulsion, which happens all the time in Russia with migrants from any country, the authorities sent queries to the foreign ministry of the corresponding country. If a person says they are a citizen of Ukraine, a query is sent to Ukraine's Foreign Ministry. The Ukrainian government frequently does not confirm citizenship. We encountered this situation over and over again. Since Ukraine does not

control the regions these people are from (strange as it may seem, Ukraine does not have a central database of its citizens), the authorities cannot confirm citizenship. This situation dooms people to an extended stay in the prison-like conditions of foreign national detention centers and essentially makes it impossible for them to leave Russia legally, since they do not have documents. We recorded a number of these cases and helped people get out of these facilities. One case involved an orphan from Luhansk who ended up in Russia without documents during the war. Another case involved a woman whose common-law husband – a Russian citizen – was seriously ill, since they do not have documents. She took care of him and could not leave. In both cases, these people spent extended periods in detention facilities. The woman's common-law husband died before she was released. We also know of several cases where the Russian migration authorities communicated with the so-called authorities of Donetsk and Luhansk and obtained their consent to transfer these people across the border with these territories. In other words, Ukrainian citizens who call themselves Ukrainian citizens end up in a situation where it looks like they have no connection to Ukraine, and Russia hands them over to the DPR and LPR. This situation is changing now because more and more people are obtaining Russian citizenship, but rights violations still continue.

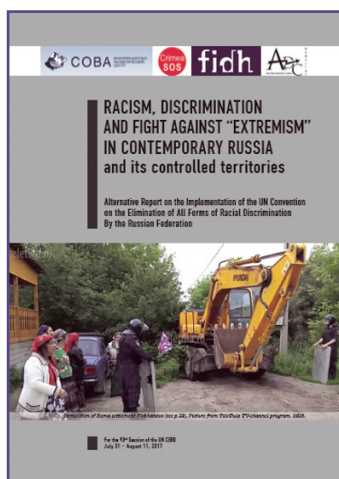
The next topic is our report (with support from the Center for Civil Liberties) “Violation of LGBTI Rights in Crimea and Donbass.” We attempted to compare the situation in both places. Crimea is now under Russian law, which is quite homophobic and bans so-called “promotion to minors [of a non-traditional sexual orientation].” This essentially put an end to any public activities by LGBTI+ organizations and activists. It turned out that similar laws were in effect in the Donetsk Basin and had been adopted by the de facto authorities.



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And our last report of 2017 was about racism in Russia. We wrote the section on the Crimean Tatar and Ukrainian-speaking populations of Crimea in conjunction with Crimea-SOS. The Crimean Tatar people experience cultural, linguistic, and religious discrimination with a political context. This applies not just to activists, but to everyone, including children in schools and day cares. This applies to people who are simply working with their culture, with their language. It is becoming harder and harder to receive an education in the Crimean Tatar language, and people are even sometimes prevented from speaking their native language at school or work. This shows signs of ethnic discrimination, which we have done a great deal of work on in relation to other ethnic groups in the Russian Federation. And this is also superimposed on Islamophobia, on how people perceive Crimean Tatar names and appearance. All this together can be called racism and ethnic discrimination (these terms are defined in contemporary international law, see the position of UN CERD).

We are preparing a new report on this topic, which will be published on our website on March 21, the International Day for the Elimination of Racism. This report will contain updated information about the current situation in Crimea, two to three years after the original report.



ROMA WOMEN AND GIRLS IN WAR ZONES NEED SPECIAL PROTECTION

On the eve of the International Roma Day, ADC Memorial informed the UN Human Rights Council about the situation of Roma women and girls affected by the military conflict between Russia and Ukraine. This information will be used for the thematic report of the UN High Commissioner for Human Rights on this topic.

The situation in the East of Ukraine remains unstable, and recently it escalated. During this undeclared war, thousands of military and civilians were killed; the Ministry of Social Policy of Ukraine reports about 1.46 million registered internally displaced persons; the Ministry of Internal Affairs of Russia reports about hundreds of thousands of Ukrainians who received Russian citizenship during the years of the conflict, including residents of the unrecognized “Donetsk and Luhansk People’s Republics”.

The number of Roma who left their former places of residence in the war zone was estimated at about 6,000 in 2014. All the problems typical of Roma communities in Eastern Europe (lack of personal documents, low level of education, poverty, risk of racist violence) were exacerbated by the war. Roma women found themselves in a particularly difficult situation, because in traditional communities they were the ones responsible for running the household, cooking and caring for children, and they were the ones who were looking for ways to survive in a situation of war and the daily risk of violence by military groups.

In Ukraine, Roma women face difficulties in obtaining the status of internally displaced persons and appropriate assistance; obstacles in accessing medical care, including assistance for children and pregnant women. The problem is caused both by the lack of personal documents and by prejudice, which is most widespread against Roma women.

In Russia, most of the Roma who fled the war in the Donbas did not meet the help and support they had expected. In particular, they could not manage difficulties of obtaining legal status and documents that allow



legal stay in Russia. Those Roma who joined their relatives found themselves in the conditions typical for compact Roma settlements: overcrowding, lack of basic facilities, risk of demolition and eviction, and the inability to safely and legally connect to electric, gas and water networks. Many women faced difficulties in accessing medical care, receiving pensions and social benefits, as cards issued by Ukrainian banks could not be used in Russia. There were also problems with birth registration and obtaining personal documents.

Displaced children in both countries were forced to drop out of school, and very few were able to continue their studies in a new place. Children from compact Roma settlements, even those with Russian citizenship, find it difficult to get an education; for migrant children the access to education is more difficult. Often, parents who try to survive in a new place of residence, do not have the resources and do not prioritize education, especially the education of girls. Local authorities and schools did not provide assistance to the displaced children, although they knew about families who came with children from the military conflict zone.

Various UN Committees have repeatedly referred to the problem of Roma in the war zone in Eastern Ukraine in their recommendations (CEDAW, CERD, CE-SCR on Russia and Ukraine). The problems of the Roma residents of Russia and Ukraine affected by the military conflict should be the subject of constant monitoring by international bodies, especially now, when the risk of military escalation is high again.

April 7, 2021

DISCRIMINATION AND BUREAUCRACY IN PLACE OF SECURITY AND DEVELOPMENT: ADC Memorial Discusses the Situation of Russia's Roma Population at the Sova Center Conference

«Организованные» и «неорганизованные» формы дискриминационного поведения

Плеханово (Тула), снос домов по решению суда. 2016. Фото: Lenta



Усть-Абакан (Хакасия), погром. 2018. Фото: АДЦ «Мемориал»



‘Organized’ and ‘unorganized’ forms of discrimination: the destruction of Roma homes in Plekhanovo declared “illegal structures” by a court and anti-Roma pogrom in Ust-Aбакан

ADC Memorial expert Olga Abramenko spoke about the situation of Roma people in Russia at the conference *The Cost of Security*, which was organized by the Sova Center for Information and Analysis. The discussion was titled “Discrimination in Russia Today. On Unorganized Forms of Discrimination.”

Recent years have seen a spike in spontaneous anti-Roma actions when pogroms occurred following conflicts or crimes suspected of having been committed by a Roma person and Roma residents were forced to flee. The most notorious cases occurred in Urazovo (Belgorod Oblast, 2018, when a Roma person was accused of a terrible crime and almost 70 Roma residents had to flee); in Ust-Aбакан (Khakassia, 2018, when over 500 residents of a dense Roma settlement were forced to flee and their homes were subsequently looted after the police failed to take action; the Roma were not able to settle in another place and the administration filed a lawsuit to demolish the illegal structures); and in Chemodanovka (Penza Oblast, 2019, when a mass brawl ended in a fatality and over 900 Roma residents were forced to leave).

Russia's Federal Agency for Ethnic Affairs (FAEA) reports that “the state system for monitoring interethnic and interconfessional relations and preventing conflicts before they escalate has recorded a high level of potential for conflict in dense Roma communities in a number of constituent entities of the Russian Federation.” The FAEA recorded 48 such events in the second half of 2020 alone.

In the case of the Roma minority, “unorganized” forms of discriminatory behavior have become possible largely because “organized” forms of discrimination are widespread and condoned by the government. These forms of behavior include the destruction of Roma homes declared “illegal structures” by a court, the segregation of children in “Roma classes,” and the presumption of guilt and ethnic profiling in the law enforcement and judicial systems (for example, 28 people – all of them Roma – are still on trial after the notorious ethnic conflict in Chemodanovka).

Prejudice against Roma people and legal nihilism in relation to them is transmitted from the very top (for example, the Russian president justified

the mass demolition of homes in the Roma settlement of Plekhanovo in 2018 by alleging that the residents were engaged in the drug trade). Local authorities understand such “messages” if not as guidelines for action, then at least as a way to justify structural discrimination that the Roma minority has traditionally faced in Russia.

Meanwhile, in recent years the “ethnic question” has acquired a cumbersome bureaucracy in the form of the Strategy for State Ethnic Policy of the Russian Federation Through 2025 (2018), the attached State Program of the Russian Federation “Implementation of Ethnic Policy” (2018), the Comprehensive Roadmap for the Socioeconomic and Ethnocultural Development of Roma People in the Russian Federation (the current version was approved in 2019), and the FAEA's Best Practices for Working with the Roma Population for executive bodies of Russia's constituent entities and local self-government bodies (2019).

These documents provide for a certain amount of funding, contain assessment indicators, and require results and reports from local authorities and

the responsible authority (the FAEA). For example, the FAEA must report to the government twice a year on its implementation of a comprehensive “Roma plan” and gather information for this purpose from the regions. We can agree with many of the points made in the FAEA reports, particularly in regard to response to ethnic conflicts and ways to prevent them:

“An analysis of the situation at the local level shows that **local government bodies often start taking meaningful measures to settle conflicts only after** news about an escalating situation spreads beyond the regions, and they sometimes quietly attempt to squeeze Roma communities out of the area...

In addition, planned **regional measures to socialize Roma people are often superficial and declarative in nature** and do not have any direct impact on the main causes of social tension....

The unilateral and often biased way in which the media presents materials and the fact that Roma people are not very involved in measures to harmonize ethnic relations factor into this to a great extent....

Materials from constituent entities and government bodies rarely provide a full picture. It is **impossible to take meaningful measures that could improve the situation without a deep understanding** of the ongoing processes.”

However, neither the FAEA nor the Russian government recognizes racism as one of the causes and constant backgrounds of structural discrimination against the Roma in Russia. The agency’s reports contain one-sided criticism of the Roma population for “lacking a common set of values and low involvement in social institutions,” “poor legal literacy, widespread archaic traditions, a welfare mentality, and mass violations of the right of children to an education.” This last point is very revealing: Responsibility for the fact that the absolute majority of Roma children do not finish school and that many only receive an elementary education in the best cases is put entirely on the parents. Moreover, the FAEA completely ignores the problem of segregation in schools and the absence of normal access to a school education for thousands of Roma children.

Russia also denies segregation in its reports to international bodies, but in these reports the FAEA does not criticize the Roma and instead shows “respect” for Roma traditions and for their

former nomadic lifestyle. In its most recent report to the UN Committee on the Elimination of All Forms of Racial Discrimination (2020), it reports in its typical manner that “There have been no established cases of the segregation of Roma children. In some rural schools, so-called Roma classes have been organized in response to requests by parents, taking into account the ethnic traditions and nomadic lifestyle of this ethnic group. For the same reasons, in some educational institutions, distance learning and after-hours classes are arranged for these children.... The Procurator General of the Russian Federation has received no reports of violations of the right of Roma children to receive an education in accordance with federal education standards, nor of discrimination against Roma children in the field of education or the establishment of separate classes or remedial classes for Roma children in general education establishments.” He who has eyes to see, let them see: the segregation and discrimination of Roma children is still widespread in dozens of Russian schools, as are other violations of the right to education. This problem is well-known and characteristic not just of Russia, so it is distinctly unprofessional of the FAEA to conceal this problem from itself or justify it by citing the proverbial “nomadic way of life.”

As far as preventing ethnic conflicts is concerned, the State Program to implement the ethnic policy includes a special subprogram: subprogram 7 “Preventing extremism on national and religious grounds.” This subprogram contains a quantitative assessment of effectiveness and sets the tasks of increasing the number of ethnic conflicts identified by the monitoring system and settled in their early stages and decreasing the number of conflicts that “flare up” and reach the federal or regional levels. Judging by the events in Chemodanovka, Ust-Abakan, and other places, local authorities have chosen the path of denying the ethnic nature of the conflicts and the problem of racism, preferring to suppress information and interfere with the work of journalists and human rights defenders. This is probably why many conflict situations (at least of the 48 recorded by the FAEA in the second half of 2020) did not become known to the wider public. This means that rosy statistics can be created, but the causes of the conflicts will not disappear without systemic measures.

The Strategy for State Ethnic Policy and the State Program for its implementation also include quantitative indicators for efficiency like level of civic identity (as a Russian national); share

of citizens who have a positive view of the state of ethnic relations; share of citizens who do not feel discriminated against on the basis of ethnic, linguistic or religious identity; share of citizens who do not have negative feelings about foreign nationals; and number of ethnic and religious conflicts.

The state report to UN CERD (2020) cites data from the Russian Public Opinion Research Center (RPORC) showing that “overall satisfaction with the state of interethnic relations in the country among the general population stands at 78 percent, with 22 percent considering relations to be friendly and 56 percent describing them as smooth and conflict-free. Among those polled, 87 percent said they bore no resentment or hostility towards members of any ethnic group. The overwhelming majority (96 percent) had not experienced hostility or enmity based on their own ethnicity within the past year.”

It is difficult to believe these excellent results. In 2015, a comprehensive sociological study by the very same RPORC and FAEA titled “Socioeconomic, Ethnocultural, and Legal Problems of the Roma People in Russia” showed that 50 percent of respondents had negative feelings about Roma people (35 percent felt distrust and fear and 15 percent felt irritation); 74 percent of respondents believed that Roma people disregard the law and live by their own rules; 27 percent agreed with the statement that many Roma people are honest workers, while 55 percent disagreed; and 48 percent believed that Roma people do not have permanent residences.

A 2018 Levada Center poll showed that the Roma are the most “undesirable people.” As Nadezhda Demeter, head of the Federal National Cultural Autonomy of Russian Roma, put it, 43 percent of respondents would “not allow them in Russia.” The situation had worsened somewhat by 2020, when this figure stood at 44 percent of respondents (as compared to 35 percent in 2010).

The increase in xenophobia in relation to Roma and the explosive ethnic conflicts and anti-Roma actions of recent years force the question of how effective the “bureaucratic” work of the state bodies responsible for ethnic relations in Russia has really been. As long as they are going to sugarcoat reality and suppress problems for the sake of some pretty numbers in their reports and the appearance – on paper – that they are implementing plans and strategies, the situation with ethnic relations will not improve.

June 23, 2021

VERDICT ANNOUNCED IN THE CASE OF ANTI-DUNGAN POGROMS IN KAZAKHSTAN

The longest terms of imprisonment (15-20 years) were received by the attackers, whose actions (including the use of firearms and running people over with cars) led to the deaths of several people.

Among the ethnic Dungans, who were among the defendants in this case, the most severe punishments were given to Schimar Sangui and Yubur Cheshanlo, who were charged and sentenced for murder (16.5 years in prison), and Ersä Daurov – for shooting at police officers (16 years in prison). Three Dungans, who also had been charged with murder, were acquitted from these charges, but they were sentenced to 5 years in prison each for participating in the riots.

The majority of convicts (a total of 31 persons) have received suspended sentences (5-6 years) for participating in the riots and inciting the riots. These include six ethnic Dungans, who had been forced to defend themselves and their families from the rioters.

Of the 51 defendants, only one – Ismar Ushirov, an ethnic Dungan – was acquitted, since his guilt was not proven.

Khusey Daurov, chairman of the Dungan Association of Kazakhstan,

called the verdict “relatively fair”. He welcomed the imposition of a suspended sentence on both the ethnic Dungans and the convicted Kazakh pogromists, as most of them had been tricked into engaging in the conflict. “The true culprits have not been convicted, the root causes of this conflict have yet to be unearthed,” he said. Mr. Daurov attaches particular importance to a private ruling, which the court should issue to the Kazakhstan’s State Committee for National Security, the police, the prosecutor’s office, and the local akimats [local self-government], due to the inaction of which the pogromists freely traveled to the Dungan villages and went back together with the looted property without any restraint.

“It is important for us that such conflicts never happen again in any part of Kazakhstan,” Mr. Daurov said. *“The worst thing is what people have endured, – he added. – The women, who had stood all night in a ravine and had covered the mouths of their babies so that they would not cry and the thugs would not hear them. Our people have not yet recovered from the stress, from the shock they had endured. People are at a loss. Unfortunately, about 200 families left for Kyrgyzstan, for Russia, many others are thinking about packing up their suitcases. Sentencing several Dungans to real prison terms will not keep people from leaving. We will appeal this verdict in court.”*

Mr. Daurov emphasized that during the trial the lawyers of Schimar Sangui and Ersä Daurov have proved their innocence. In addition, further claims for damages will be filed, since the compensation paid to the Dungans, who had suffered from the pogrom (213 million tenge), is much less than the damage that had been originally estimated by the first government commission (1.7 billion tenge).

Mr. Daurov pointed to the one-sided coverage of the conflict in the media and concealing of facts about its organized nature of pogroms:

“We must call things by their proper names. In order to solve the problem, you need to find the reasons, to admit the existing deficiencies. Unfortunately, nationalistic sentiments have intensified in Kazakhstan. This does not do any good to Kazakhstan, which was famous for its peacefulness and friendship between people of various ethnicities”.

April 27, 2021

ONE YEAR AND A HALF SINCE THE ANTI-DUNGAN POGROM IN THE KORDAY DISTRICT OF KAZAKHSTAN

One year ago, on the night of February 7-8, 2020, the largest ethnic conflict in recent years took place in Kazakhstan – the pogrom of Dungan villages of Masanchi, Sortobe, Bular Batyr and Aukhattı. According to official reports, as a result of the pogrom, ten Dungan and one Kazakh persons were killed, hundreds of people were injured, while damage to property belonging to the Dungan people, both destroyed and damaged (including houses and other buildings, trade facilities, vehicles), amounted to millions of dollars. Thousands of Dungans were forced to leave their homes and flee to the neighboring Kyrgyzstan.

Despite the obvious fact that it was the Dungans who have become the victims, the Kazakhstan authorities are still in no hurry to recognize the interethnic nature of this conflict and failed to classify the incident as mass riots. On March 11, 2020, the Prosecutor’s Office of the Republic of Kazakhstan reported that 120 criminal cases had been initiated in connection with the pogroms in the Korday region, but it is still unknown whether all suspects in crimes against the Dungan people, which had included murders and bodily harm, destruction of property and theft, had been properly identified and detained. In September 2020 Kazakhstan reported that about 60 persons had been charged and the courts have already sentenced 7 pogromists, but later the actual prison terms were replaced by other restrictions of freedom.

At the same time, residents of Dungan villages reported intimidation and psychological pressure, searches and detentions at night with the participation of servicemen of special military units in these actions. The military were hiding their faces behind masks, carried interrogations for hours, resorted to torture and beatings during these interrogations. Many of the Dungans who had faced the courts on various charges, claimed that they had been tortured during the investigation. In particular, at a hearing on January 18, 2021, one of them shouted: “We were beaten, tortured with electric shock!” After the trial another Dungan prosecuted person inflicted bodily harm on himself, explaining his act by the fact that the convoy had beaten one of the accused in front of him.

In August 2020, as part of the urgent response procedure, the UN Committee on the Elimination of Racial Discrimination considered the situation of the anti-Dungan pogroms and stated that Kazakhstan, as a signatory state of the Convention on the Elimination of All Forms of Racial Discrimination, was obliged to ensure an effective and independent investigation of the events of February 7-8, 2020, as well as effective protection of the Dungan minority, reparation and support for victims, access of independent observers to the Korday region. There was no official response from the Kazakhstan authorities to this statement since then.

THE UN CERD AGAIN REQUESTS INFORMATION FROM THE GOVERNMENT OF KAZAKHSTAN ABOUT THE ANTI-DUNGAN POGROMS HAPPENED IN FEBRUARY, 2020

Under its early warning and urgent action procedure, the UN Committee on the Elimination of Racial Discrimination again requested information from the government of Kazakhstan on the current situation of the Dungans living in the south of the country and the measures taken by the authorities to overcome the consequences of the conflict.

In particular, on April 30, 2021, Yanduan Li, the CERD Chair, addressed the Permanent Representative of Kazakhstan in the UN with a letter of request on the results of the investigation of the events of February 7-8, 2020; on the sentences (convictions, acquittals) issued to the representatives of the Dungan minority and the aggressors; on what the government has done to ensure transparency of the investigation and the trial, as well to ensure the access of all interested parties to participation in court hearings; on the investigation of reported torture and arbitrary actions of police officers; on the verification of reports on the pressure of the authorities on local Dungans in order to prevent their claims; on the restoration of property in Dungan villages and compensation for damage; on measures aimed at strengthening tolerance among the involved communities and their trust to state institutions.

The Committee expects a response from the authorities of Kazakhstan by July 14, 2021.

30 April 2021

Excellency,

I write to inform you that in the course of its 103rd session, the Committee considered further the situation of the Dungan minority in Kazakhstan under its early warning and urgent action procedure. In this regard, the Committee refers to its previous letter of 7 August 2020 relating to the same matter and thanks the Government for its reply of 30 October.

The Committee takes note of the information provided by your Government, particularly in relation to: (i) the ongoing investigations of the violent events of 7 and 8 February 2020 against

persons belonging to the Dungan minority committed by non-Dungan persons in the Korday district; (ii) the measures adopted to ensure reparation to the victims of these events; and, (iii) the creation of a special authorized body within the Ministry of Information and Social Development to take concrete actions to ensure the safety of all the citizens of Kazakhstan, regardless of ethnicity, race, religion, or other factors.

Since its previous letter of 7 August 2020, the Committee has received and considered further information on the matter, according to which the court proceedings on the above-mentioned violent events were held in the city of Taraz, located approximately 300 km from the villages where the events took place. It is alleged that this distance made it difficult for relatives of victims, witnesses and other relevant parties to attend the court sessions. It is also reported that some villagers have been beaten during the investigations, and that there have been cases of self-infliction of bodily harm by defendants during the court proceedings.

The information received further alleges that in December 2020, law enforcement officers collected signed guarantees from members of the Dungan community stating that they would not participate in court sessions, which according to local Dungans would mean abandoning their claims for compensation for the lost property.

Additionally, according to information received by the Committee, the relevant authorities of Kazakhstan have not responded to the allegations of arbitrary arrests and torture despite an open letter by members of the Dungan community addressed to the high officials of Kazakhstan, on 8 May 2020. In this regard, the Committee notes that your Government's reply provides no information regarding the allegations of torture against persons belonging to the Dungan minority and their defendants.

Reportedly, despite some positive efforts by the authorities of Kazakhstan to find solutions in response to the events of February 2020, many persons belonging to the Dungan minority are still afraid of the possible recurrence of violence against them. They are also concerned about possible obstacles, such as denial of access to rented lands and water supply that may prevent them to carry out their traditional agricultural activities fully.

In accordance with Article 9(1) of the Convention and article 65 of its Rules of Procedure, the Committee would be grateful to receive a response to these additional allegations outlined above by 14 July 2021. In particular, it requests the State Party to provide information on:

(a) The results of investigations initiated on the above-mentioned events of February 2020. Please specify whether those convictions, acquittals and sentences involve persons belonging to the Dungan minority or non-Dungan persons;

(b) If available, the steps the Government has taken to make information on the results of these investigations accessible to all persons and communities affected;

(c) Measures taken to investigate allegations of torture and violence by law enforcement officers on the Dungan defendants that reportedly took place during police investigations in Dungan villages in 2020 as well as in the course of the court proceedings;

(d) Measures taken to ensure the participation of all interested parties in the court proceedings held in the city of Taraz;

(e) Measures taken to investigate allegations that law enforcement officers solicited signed guarantees from Dungan persons that they would not participate in court proceedings related to the events in Dungan villages referred to above;

(f) Any progress achieved in rebuilding houses and businesses and in providing compensation and assistance to the Dungan victims of the violent events of February 2020;

(g) Measures taken to strengthen trust in State institutions as well as to enhance tolerance among the communities affected.

Allow me, Excellency, to reiterate the wish of the Committee to continue to engage in a constructive dialogue with the Government of Kazakhstan, with a view to ensuring the effective implementation of the Convention.

Yanduan Li

Chair Committee on the Elimination of Racial Discrimination

ADC MEMORIAL INFORMED THE UN ABOUT VIOLATIONS OF THE RIGHTS OF ETHNIC MINORITIES IN THE EX-USSR COUNTRIES

Submissions from civil society will be used for preparing the report of the UN High Commissioner for Human Rights “Effective promotion of the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”. The report will be presented at the 76th session of the UN General Assembly.

In its submission, ADC Memorial provided an overview of the situation of some ethnic minorities in the region of Eastern Europe and Central Asia: the Crimean Tatar people in the annexed Crimea; the Roma population of Russia; the indigenous peoples of Russia; the Mugat (a Roma-like group living in Central Asia); ethnic minorities of Tajikistan (Pamiri peoples, Yaghnobi minority); the Dungan minority in Kazakhstan; the Uzbeks in Kyrgyzstan.

In all the situations considered, violations of the rights of ethnic minorities occur due to the state's “national policy”,

contrary to the guarantees and agreements listed in the Declaration on the Rights of Minorities, the Convention on the Elimination of All Forms of Racial Discrimination and other respective international documents. These violations are systemic in nature, so the UN Human Rights bodies should call on the authorities of these countries to respect the rights of ethnic, linguistic and religious minorities. Special attention should be paid to the rights of indigenous peoples and those minorities who do not have statehood / autonomy and are therefore not sufficiently recognized by the authorities of the countries where they live.

The report pays special attention to the situation of Dungans living compactly in the south-east of Kazakhstan. In the absence of a proper integration policy, linguistic, cultural, religious and other differences between the local Kazakhs and Dungans became factors of alienation of these two ethnic groups that turned into an open conflict. A year ago,

on the night of February 7 to 8, 2020, there was an armed pogrom against several Dungan villages; as a result 10 Dungans and 1 Kazakh were killed, hundreds of people were injured, and huge damage was caused to the property of Dungans. This conflict has not been recognized by the Kazakhstan authorities as having ethnic grounds, and the Dungans have not yet been recognized as victims of it. Despite some positive efforts of the authorities in 2020-2021 (reconstruction of roads, gasification of villages, restoration of a number of houses and buildings destroyed during the pogroms), the social climate in the area leaves much to be desired. Many Dungans are afraid of possible obstacles to their traditional agricultural work (refusal to rent land and water supply, which creates risks for investment in this business).

April 2021

ADC MEMORIAL INFORMED THE UN SPECIAL RAPPORTEUR ON THE RIGHT TO ADEQUATE HOUSING ABOUT DISCRIMINATION FACED BY ETHNIC MINORITIES AND PEOPLE WITH DISABILITIES IN RUSSIA

The UN Special Rapporteur on the rights to adequate housing will include information received from civil society in a report to be presented at the UN General Assembly in 2021 and at the UN Human Rights Council session in 2022. The report of the ADC Memorial highlighted violations of the rights of the Roma population of Russia; the indigenous inhabitants of Southern Siberia (Khakas, Shors and Teleuts); persons with disabilities.

Discrimination in the sphere of housing has different forms in case of these groups. For example, in compact Roma settlements the houses and land are not or partly registered; the Roma inhabitants often become victims of forced evictions and demolitions of houses although this is their only housing. The practice of forced evictions contradicts the guarantees and agreements listed in the Declaration on the Rights of Minorities, the Convention on the Elimination of All Forms of Racial Discrimination and other international instruments, and should be immediately stopped. The Russian authorities should take legislative measures

against forced evictions in accordance with international law, and provide alternative housing to Roma families in case of demolition.

The ancestral lands of the indigenous peoples of Southern Siberia – the Khakas, Shors, and Teleuts – are located in areas rich in coal. Coal mining in the Kemerovo region where Shors and Teleuts live, takes place since the 1970s and continues to expand, destroying the natural and cultural environment of local residents. In the last decade, coal companies have come to the territory of the Koibal steppe – a unique natural complex in Khakassia. Coal mining has already caused irreparable damage of the environment; rivers and water objects, air and land were seriously polluted, and indigenous peoples can no longer hunt and carry out their traditional activities of agriculture. Recently, the territories of compact indigenous settlements have become subject to the increased development of the coal industry. By deceiving, blackmailing and intimidating the indigenous people, the authorities transfer these lands to coal companies for commercial use in violation of current legislation.

The report pays special attention to the situation of people with disabilities, in particular, people with mental disabilities living in psychoneurological institutions (PNI) that are closed, usually located behind a high fence, accessible with a pass system. These institutions systematically violate human rights and freedoms guaranteed by the Constitution of the Russian Federation and the International Convention on the Rights of Persons with Disabilities ratified by Russia in 2012. People are doomed to remain there for life, they are deprived of the opportunity to live independently and exercise their right to adequate housing. An alternative to PNI can be accompanied living, a practice of home living of small groups of people who need help, with the support and supervision of specialists and provision of all the necessary assistance and services (medical, educational, etc.). The Russian authorities should as soon as possible adopt a law on “distributed guardianship” that is pending under consideration by the State Duma since 2016.

Maj 2021

THE APPEALS COURT SUPPORTED INDIGENOUS PEOPLE OF KOYBALSLEY STEPPE

On November 5, 2020, the Eighth Appeals Court of General Jurisdiction annulled two resolutions (No. 151 and No. 152) of the Government of the Republic of Khakassia dated April 15, 2019. According to these resolutions, a total of 17 land plots belonging to Khakassian farmers had to be seized in favor of two coal companies, Mairykhsy Mine and Arshanovsky Mine, which are exploiting coal in Koibalskaya steppe. During the court hearings, it was proven that both resolutions had been adopted contrary to the legal requirements concerning provision of public services, as well as without taking into account numerous violations of land and environmental legislation by the coal companies.

Anti-Discrimination Centre "Memorial" has repeatedly raised the problem of violation of the rights of indigenous peoples by various coal mining operating in Southern Siberia, noting in its human rights report "I won't Have Any Life Without This Land" that "over the last decade, coal companies have come to the territory of the Koybalskaya steppe, a unique natural complex in Khakassia. Coal mining has already caused irreparable damage to the environment, and local rivers and water reservoirs, air and land have been seriously polluted".

A large Beysky Coal Deposit is located in Khakassia, where a total of seven open-pit mines have been developed. Four of them – Arshanovsky, Vostochno-Beysky, Kirbinsky and Mairykhsy – are used for mining coal by open pit method on the territory of the Koybalskaya steppe, the place of residence of the indigenous Khakassian communities. Most of the local indigenous people are farmers, and agriculture is their only source of income. These lands, which are also rich in coal, are currently used by farmers for grazing livestock and making hay. Understandably, the local residents oppose the coal industry and refuse to transfer their land plots to coal companies, which, in turn, are trying to get new territories by various means, including illegal ones, while violating the individual and collective rights of indigenous people.

In the spring of 2019, two coal companies, Mairykhsy Mine and Arshanovsky Mine, tried to seize 17 private

plots from farmers in order to expand their coal mining area.

In order to do this, representatives of coal companies with the support of the regional authorities, had held public hearings in the settlements located in the immediate vicinity of coal mines in order to get approval for the transfer of agricultural lands into lands for industrial use. The vast majority of the local population was opposed to the use of these plots by coal companies, but the local deputies and officials ruled in favor of the latter, having falsified the results of the public hearings. After the end of the hearings, on April 19, 2019, the Deputy Governor of the Republic of Khakassia Yuri Kurulayev signed two decrees of the regional government: No.151 ("On the transfer of land plots located in the Beysky district from the category of agricultural land to the category of industrial and other special purpose land") and No.152 ("On the transfer of a land plot located in the Beysky district from the category of agricultural land to the category of industrial and other special purpose land").

In the fall of 2019, activists of the "Rodnaya Step" public environmental association, which defended the interests of the local indigenous people of Koybalskaya steppe, filed a lawsuit with the Supreme Court of the Republic of Khakassia demanding to annul both of these resolutions. In substantiating their claims, lawyer Viktor Azarakov, who represented "Rodnaya Step" in court, stated that the contested decisions didn't comply with the provisions of two Russian federal laws (No.101-FZ "On the turnover of agricultural land", which requires to ground the transfer of agricultural land on the principle of preserving the intended use of land plots, and No.172-FZ "On the transfer of land or land plots from one category to another", which states that the transfer of land plots from one category to another is not allowed in the event that the requested designated purpose of the land plots does not correspond to the approved documents of territorial planning and other documentation on the mapping of the territory). The plaintiff drew the court's attention to the fact that the coal mining companies had not provided land reclamation projects, which had to pass through the state environmental expertise. The lawsuit also indicated that the transfer of agricultural land plots into the category

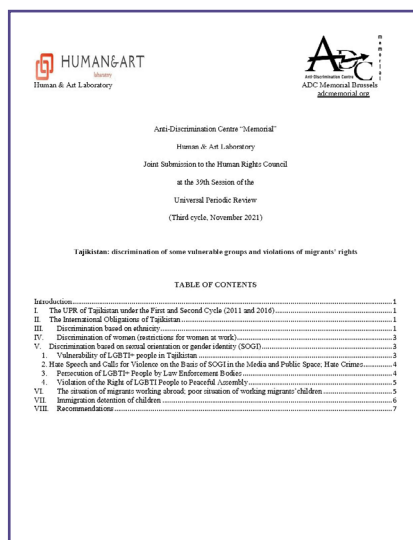
of lands for industrial use would have a negative impact on the unique ecological systems of Koybalskaya steppe, which violated the rights of local residents for a healthy environment. Despite the numerous arguments, which proved the illegality of the decisions adopted by the Government of Khakassia, the ruling of the Supreme Court of the Republic of Khakassia dated November 11, 2019 nevertheless refused to satisfy the administrative claim.

Having disagreed with the opinion of the Supreme Court of Khakassia, the lawyers of "Rodnaya Step" filed another legal complaint with the Fifth Appeals Court of General Jurisdiction. In addition to the already indicated grounds for their legal claims, it was also indicated that Mairykhsy Mine, when filing its application for the transfer of land plots, had not stated in the project documentation that it had intended to use the lands for coal mining, while at the same time referring to placement of industrial facilities as the basis for the transfer, although in reality its plans had been different. In addition to that, the plaintiff drew the court's attention to the fact that there was no evidence of registration of the application of Mairykhsy Mine for the transfer of land from one type of use to another in the electronic document database, which proved the existence of a gross violation of existing regulations concerning provision of public services when resolution No. 151 had been adopted.

Having considered the arguments of both parties, the court agreed that the resolutions of the Government of the Republic of Khakassia No.151 and No.152 did not comply with the legal norms of the federal legislation and declared them annulled.

Representatives of the coal company, not wanting to put up with this court decision, filed another complaint with the Eighth Appeals Court of General Jurisdiction, which, having considered this case on November 5, 2020, dismissed the coal mining company's complaint and finally declared the resolutions of the Government of Khakassia annulled.

A NEW REPORT BY ADC MEMORIAL AND HUMAN & ART LABORATORY WITHIN THE UN UPR OF THE SITUATION OF HUMAN RIGHTS IN TAJIKISTAN



The report raised the issues as of non-recognition and insufficient support for ethnic minorities (Pamir, Yaghnob, Mugat (Jughi)); discrimination against women at work (the list of professions prohibited for women); discrimination against LGBTI+; insufficient support for Tajikistan migrants working abroad and their children; non-compliance of the procedure for the repatriation of migrant children with modern standards of children's rights.

ADC Memorial and the Human & Art Laboratory raised the problems of ethnic minorities in need of recognition and support measures. The Pamiri peoples represent a specific cultural and linguistic community, but it is not taken into account even during the census; their languages, even those having literacy and developed textbooks, are not included in the education system; not enough is being done to expand the scope of the Pamiri languages (mass media, radio and television broadcasting). The same can be said about the small ethnic group of Yaghnob people who need support both in the places of their historical residence in the highlands, and in the territory where they were resettled in the 1970s. The Mugat (Jughi) remain a marginalized ethnic group and face structural discrimination in all spheres of life: the problems of personal documents, access to quality education and employment, social and medical care, and adequate housing

have not been resolved. Improving the situation of Mugat requires systematic state efforts, which, in particular, was recommended to Tajikistan by the UN Committee on the Elimination of Racial Discrimination (2017). The situation of the above mentioned ethnic minorities had been described in an alternative report of ADC Memorial to the UN CERD (2017).

The problem of gender equality, including equal rights of women at work, is acute in Tajikistan. The Labor Code and a special government decree (2017) explicitly prohibit women from working in 326 jobs, including the highly paid transport sector. Such discriminatory prohibitions were inherited by independent states from Soviet legislation, and recently abolished in some countries (Ukraine, Uzbekistan) or reduced (Russia) as a result of the efforts of both women workers and Human Rights defenders. The *#AllJobs4AllWomen* campaign of ADC Memorial and its partners on elimination of the lists of prohibited professions is going on.

The report of ADC Memorial and Human & Art Laboratory raises the issue of discrimination against LGBTI+ in Tajikistan: homophobic prejudices widespread in society, hate speech in the statements of public figures and in the media, hate crimes, repressions by law enforcement agencies (special raids, maintaining LGBTI+ lists, violence and arbitrariness). The situation of LGBTI+ in Central Asia is described in detail in the report of the ADC Memorial, the Human & Art Laboratory and other partner organizations: "LGBTI+ in the Central Asian region: repression, discrimination, exclusion" (2020).

Tajikistan is a donor of huge labor migration, while the rights of Tajiks working abroad are not sufficiently protected not only due to the harsh migration policies of the recipient countries (mainly Russia), but also the insufficient response of the Tajikistan authorities to such violations of the rights of labor migrants as non-investigation of hate crimes, police brutality, arbitrariness of employers, refusal to accept children of labor migrants in schools, separation of migrant children from their parents. The children of migrants who remain in Tajikistan without sufficient parental care also require special attention.

The return to Tajikistan of children who left without care abroad is still carried out within the framework of the law enforcement system and is regulated by the outdated Agreement on Cooperation of the CIS member States on the Return of Minors to their States of Permanent Residence (2002). It is necessary to humanize the procedure of the return of children in line with modern standards of children's rights in order to stop the practice of immigration detention of children in closed institutions. ADC Memorial raises this issue as part of the *#CrossBorderChildhood* campaign.

The human rights situation in Tajikistan will be considered in the framework of the Universal Periodic Review for the third time (the 39th session of the UPR is expected to be held in October 2021). Within the previous reviews (2011, 2016), there were addressed general recommendations to Tajikistan on support for women and children, on the adoption of anti-discrimination legislation and measures to ensure gender equality, but there were no specific recommendations on the observance of LGBTI+ rights. The problems of ethnic minorities in Tajikistan have not been raised in the framework of the UPR before.

April 2021

CONCERNS VOICED ABOUT THE SITUATION OF ETHNIC MINORITIES IN KYRGYZSTAN

Press Release of ADC Memorial and the Human Rights Movement Bir Duino Kyrgyzstan, November 2, 2020

In alternative information submitted to UN CERD in October 2020, ADC Memorial and Bir Duino Kyrgyzstan expressed their concern about the plight of ethnic minorities in a time of social and political instability following mass protests, the president's resignation, and the postponement of parliamentary elections.

One cause for alarm is a recent initiative announced by the country's new prime minister to start listing ethnicity (nationality) in passports again. A measure like this may heighten discrimination against and even persecution of members of ethnic minorities. The requirement to document one's national identity is founded on a return to the Soviet principle of "nationality in passports" (which was previously known as Item 5—in Soviet passports this item listed nationality, which resulted in mass discrimination against members of non-titular groups). However, people can have diverse identities, including national, religious, and linguistic identities, which may be manifested in one way or another (in blog posts, clothing, artistic work), while a passport only concerns citizenship, which is dangerous to compartmentalize into nationality.

ADC Memorial and Bir Duino Kyrgyzstan also noted that ethnic minorities living in dense settlements have faced additional risks during the COVID-19 pandemic: They have been poorly informed about the dangers of COVID-19 and prevention measures because they do not speak the Kyrgyz or Russian languages to an adequate degree, do not use the internet or social media, and follow religious and traditional practices. The groups called on the Government of the Kyrgyz Republic **to consider the specific needs and lifestyles of ethnic minorities to minimize the risk of the spread of COVID-19 in these communities.**

The groups believe that the developing situation in Kyrgyzstan requires the attention of and a response from international bodies: Kyrgyz authorities during the transitional period and in the future must guarantee observance of the rights of ethnic minorities and maintain ethnic peace and harmony.

The alternative information prepared by ADC Memorial and Bir Duino Kyrgyzstan **relates to the implementation of prioritized recommendations made by the Committee on the Elimination of All Forms of Racial Discrimination to the Government of Kyrgyzstan in**



Photo by Markus Meier

2018 following Kyrgyzstan's report on its implementation of the Convention. There were three recommendations: guided by Views of the UN Human Rights Council and humanitarian reasons, release the human rights defender Azimjan Askarov from prison; create a hybrid national/international mechanism to review all cases connected with the June 2010 ethnic violence and restore justice for those convicted with bias; and reintroduce instruction and exit exams in the Uzbek language and ensure a non-discriminatory policy in the areas of education and use of mother tongues. The Kyrgyz government reported to the Committee on its implementation of these recommendations in July 2020.

The Government of Kyrgyzstan has not implemented the prioritized recommendations of the UN Committee on the Elimination of All Forms of Racial Discrimination:

The death of Azimjan Askarov in custody was the tragic result of many years of the Kyrgyz government ignoring calls for his release from Kyrgyz civil society, international organizations, heads of states, and public figures. The 69-year-old human rights defender and journalist sentenced to life imprisonment died on July 25, 2020, five days after the Kyrgyz authorities informed the HRC that "the state of A. Askarov's health is satisfactory; he is being monitored by medical personnel at the prison and is periodically receiving the medicine he needs" and two days after his last meeting with his

lawyer and another appeal from Bir Duino Kyrgyzstan for his release. The State Penitentiary Service categorically refused the official request of Bir Duino Kyrgyzstan to call a private ambulance for Askarov in spite of his critical condition: he could not move on his own, had lost a great deal of weight, and was coughing and having trouble breathing. The recommendations of UN CERD (2018) and the decision of UN HRC (2016) have not been implemented, even though Bir Duino Kyrgyzstan worked for many years through the court system to achieve Askarov's release. After reviewing Askarov's case in light of new circumstances related to the UN HRC decision, on May 13, 2020, the Supreme Court upheld the life sentence issued by the Bazar-Korgonsky District Court of Jalal-Abad Oblast. On June 12, 2020, the Administrative Court of Bishkek rejected Askarov's procedural appeal, in which he requested that the actions of the Government of the Kyrgyz Republic be found ineffective in relation to implementation of the HRC's Views in his case; on August 20, 2020, the Bishkek City Court dismissed the claim of Askarov's widow, Khadicha Askarova, requesting that she be recognized as the claimant's legal successor in this administrative case and upheld the previous ruling issued by the Bishkek Administrative Court. On October 30, 2020, the Supreme Court rejected the cassation appeal. The Kyrgyz authorities did not view Askarov's advanced age and critical state of health, his detention conditions, which did not met the minimum standards for prisoner

treatment, or the COVID-19 pandemic as reasons sufficient to pardon him and release him for humane reasons. Bir Duino Kyrgyzstan has initiated a forensic medical expert review and an investigation into the causes of Askarov's death in custody.

UN CERD's recommendation to create a hybrid national/international mechanism to review all cases of persons convicted in connection with the June 2010 violence has not been implemented. For example, convicted person Fakhridin Ashirov is still serving his sentence even though the HRC found that Kyrgyzstan violated Article 7, in conjunction with Article 2 (3) and Article 14 (1), of the International Covenant on Civil and Political Rights. The Views of the UN HRC on review of the cases of Kh. Erbaev, A. Davudov, A. Saydarov, and E.K. Vasilov, who have served their sentences, and payment of compensation in connection with torture, illegal arrest, and unfair trials have not been implemented.

Justice has also not been restored for ethnic Uzbek entrepreneurs, who were deprived of their businesses and property following the 2010 events. For example, Gafurzhan Dadazhanov, an entrepreneur from Nookat District, Osh Oblast who lost his land plot, garden, and business, still cannot use his land 10 years after the ethnic conflict, even though a court and the State Agency for Land Resources have recognized his ownership rights.

No provisions have been made to implement the recommendation to offer secondary exit exams in Uzbek—the Kyrgyz authorities explain that this is not economically feasible because few graduates want to take the exam in Uzbek and because parents do not want this option anyway. Prior to the ethnic conflict, there were schools in South Kyrgyzstan that provided Uzbek language instruction; now instruction is predominantly in the Kyrgyz and Russian languages. But the small number of people wanting to take the exam is the result of the educational policy of recent years, the narrowing sphere of Uzbek language use, and a decline in the status of this language. This sharp drop in Uzbek language instruction following the 2010 events has lowered the quality of education, and not just because Uzbek children are no longer able to receive a mother tongue education, but also because teachers who taught in Uzbek often do not speak Kyrgyz or Russian well enough to teach in these languages. This means that students from former Uzbek schools do not perform well on the state exit exam and are not prepared to enroll in an institution of higher education. Very few Kyrgyz universities offer a specialization in Uzbek philology, so it's likely that teachers of Uzbek will age out of the workforce and that no new, young specialists will take their place.

The Special Rapporteur on minority issues: "INTERETHNIC RELATIONS IN KYRGYZSTAN REMAINS FRAGILE"



In February 2021 the report of the Special Rapporteur on minority issues Fernand de Varennes on the situation in Kyrgyzstan following his official visit to the country in December 2019 was published.

ADC Memorial welcomes the report and the recommendations of the Special Rapporteur that are extremely actual these days after the recent elections and preceding mass protests.

The UN expert has highlighted the achievements of Kyrgyzstan in the harmonization of interethnic relations – in particular, attention to the recommendations of the Committee on Elimination of Racial Discrimination (2018) and adoption of an Inter-agency plan to implement the recommendations, that includes the elaboration of comprehensive anti-discrimination legislation and improvement of education at the languages of minorities.

Together with that, the Special Rapporteur has highlighted that the mentioned legislation has not been adopted yet, and the efforts of the government are insufficient to keep the interethnic relations stable.

There are several ongoing risk factors, such as the underrepresentation of minorities in the civil service and law enforcement, a signifi-

cant decline in the number of schools teaching the Uzbek language, and their massive transfer to the Kyrgyz and Russian language of teaching at the south of the country and few lessons of mother tongues of minorities in the school curriculum (1 hour per week).

The Special Rapporteur has expressed deep concern regarding the situation of the Mugats and has highlighted, in particular, the lack of access to education of Mugat children and bad study conditions. ADC Memorial has described this problem in its joint report with Bir Duino to the UN CERD (2018), and in the joint report with "Kyrgyz Indigo" to the UPR (2019).

The expert emphasized that the government of Kyrgyzstan has not fulfilled the decision of the UN Human Rights Committee to release human rights defender Azimzhan Askarov, a representative of the Uzbek minority who has been unfairly sentenced to life imprisonment and who died in the prison in May 2020.

The Special Rapporteur has also reported that civil society organizations, human rights defenders, and journalists, including those who protect the rights of minorities, often face persecution and are forced to work in a hostile environment.

13th UN Forum on Minority Issues: PANDEMIC-DRIVEN RISE IN HATRED MUST BE STOPPED

In November 2020, the 13th UN Forum on Minority Issues took place, this year it was held online and dedicated to hate speech and overcoming it. Presented there were the recommendations developed during previous regional forums, including the European Regional Forum on Minority Issues, in which the experts of Anti-Discrimination Centre "Memorial" had taken part. More than 70 regional recommendations had been adopted concerning international legal and institutional regulations in order to create a safe information environment for minorities. Regional recommendations will be taken into account in the report of the Special Rapporteur on minority issues to the 46th session of the UN Human Rights Council, which will be made in March 2021.

The European Commission against Racism and Intolerance (ECRI) in its general recommendation No. 15 considers hate speech as statements containing advocacy, promotion or incitement of enmity, denigration, vilification of the whole communities or their particular representatives, hatred or harassment of them, spreading negative stereotypes about them, which are stigmatizing or threatening. The Commission points out that hate speech can take the form of public denial, justification or condonation of hate crimes, glorification of persons for having committed hate crimes; can reflect or promote superiority over those to whom such statements are addressed; be aimed at inciting violence, threats or discrimination. ECRI is going to update the standards regarding protection of minorities from hate speech by the end of 2021.

The COVID-19 pandemic also gave rise to a new wave of hate speech and discrimination: in media and on social networks, ethnic Chinese and Asians, representatives of ethnic and religious minorities have been accused of spreading the virus, anti-Semitic conspiracy theories flourished, migrant-phobia and anti-Romani/Gypsy stereotypes were stirred up.

Addressing the short-term and long-term impact of the COVID-19 pandemic, the UN guidance note on addressing and countering COVID-19 related to hate speech (May 2020) is aimed at providing guidance for authorities, social media, mass media and civil society in addition to the earlier adopted Strategy and Plan of Action on Hate Speech.

The problems of increasing inequality of groups more vulnerable to the impact of the pandemic were reflected in the European Commission's Anti-Racism Action Plan 2020-2025, which had been issued on September 18, 2020. The Council of Europe noted that gender inequality lead to intersectional discrimination against women and girls belonging to minorities, and the Council gave special attention to the latter in its new anti-sexism standards, Recommendation "Preventing and Combating Sexism".

Earlier, the European Commission against Racism and Intolerance called on governments to ensure that vulnerable groups have access to all necessary services during the lockdown and recommended to include human rights specialists in working groups or advisory councils working to overcome the difficulties and consequences of the COVID-19 pandemic. The Commission noted that the authorities had a primary responsibility to protect and support victims of hatred, especially during this difficult period when marginalized groups became ever more vulnerable.

Social media has become the most popular tool for spreading hate speech during the pandemic. For example, in 2020, hate speech on Facebook grew drastically from 10 million to 23 million noted cases, and this data is only from automatic identifiers that work in just a few dozen languages, while this social media platform supports a total of more than a hundred languages. It is not always possible to remove inappropriate content from social networks in time; representatives of vulnerable groups often do not know that they can contact the administration of the social network for protection. According to experts, of the three types of minorities – ethnic, religious and linguistic – it is the latter that are most often deprived of protection from hate speech on social networks.

The fundamental principles of the international legal response to online hate speech are contained in the report of the UN Special Rapporteur for freedom of opinion and expression. In early 2020, a new Committee of Experts on Combating Hate Speech was established within the Council of Europe to prepare draft recommendations on combating hate speech, including in online environment.

Social media have been known to play a key role not only in spreading hate speech, but also in inciting hate

crimes. Thus, in Kazakhstan, during the pogroms of the Dungan minority's compact settlements in the south of the country in February 2020, social networks were used not only for insults, but also calls to join the pogromists, and after this conflict, the number of hate messages and disinformation has only increased. The lack of adequate response by the government officials to the actions of the criminals actually meant tacit approval of the pogromists, thereby increasing the risks of attacks on other ethnic minorities, for example, Uighurs, Kurds, etc.

In Uzbekistan, social networks are being systematically used as one of the main means for not only bullying, threats and extortion, but also organizing attacks on LGBTI+ people. ADC "Memorial" wrote about this in detail in its report "LGBTI+ in the region of Central Asia: repressions, discrimination, exclusion".

Hate speech coming from public and religious leaders, government officials and other influential individuals is most dangerous because it shapes public opinion. In addition, hate speech is becoming a tool of dirty political campaigns and technologies: for example, in Kyrgyzstan, opponents of one of the political parties widely sent out SMS messages that this party would "continue to defend and promote gay rights", using the high level of public homophobia to reduce the public rating of their opponents.

Hate speech often prevails on the Internet when discussing certain groups, such as the Romani minority, especially in the Eastern Europe and Central Asian region. Members of right-wing groups also use it for their propaganda, which leads to hate crimes. Thus, compact Roma settlements are systematically subjected to pogroms in Russia and Ukraine.

In the OSCE region, about 70-80% of hate crimes in 2018 were committed against religious and ethnic minorities. In most countries, punishment for hate crimes formally exists but is rarely applied. This problem is especially relevant for the countries of Eastern Europe and Central Asia, in most of which there is no comprehensive anti-discrimination legislation, while law enforcement and judicial authorities rarely include a hate motive when qualifying the crimes.

“REVERSE RAINBOW”

Violations of the rights of LGBTI+ people in Eastern Europe and Central Asia

Publication for the International Day Against Homophobia, Transphobia, and Biphobia on May 17, 2021

Russia has enshrined discrimination against LGBTI+ people in the law in the form of a ban on “the promotion of non-traditional relationships between minors,” which effectively places restrictions on any serious conversation about sexual orientation and gender identity (SOGI), on the distribution of information, and on events (gay pride marches, demonstrations, protests). In the Republic of Chechnya, LGBTI+ people face arrest, violence, and murder (both within the family and in prison), and gay and lesbian Chechens who leave for other regions of Russia are threatened and sometimes kidnapped and taken back to Chechnya, where they are tortured in prison..

Turkmenistan and Uzbekistan still have criminal prosecution for homosexual relations. Hundreds of men in Turkmenistan have been convicted under these charges, sentenced to extended prison terms, and subjected to torture and humiliation. In Uzbekistan, dozens of men are prosecuted under a similarly discriminatory article of the country’s Criminal Code. The Uzbek government is considering revoking this article, but there are fears that the criminalization of same-sex relationships will persist in one form or another.

In Tajikistan, it is impossible to publicly discuss LGBTI+ rights, register human rights organizations and combat discrimination on the basis of SOGI, or speak openly about orientation and identity. Both society and the government reject LGBTI+ people and practice various types of “traditional treatment” for homosexuality, “rebukes,” and so forth.

LGBTI+ activists in Azerbaijan are persecuted; any attempt they make to appear in public space (in the media, at any demonstration) is suppressed, and human rights defenders are subjected to repressions.

In Belarus, restrictions on freedom of speech and expression have peaked in the past year, with independent NGOs, activists, and journalists facing persecution. Most LGBTI+ human rights defenders have been forced to flee the country or conceal their activities.

Kyrgyzstan and Kazakhstan have LGBTI+ initiatives that have been able to help some victims of discrimination, but it is extremely difficult and even often impossible for them to speak out publicly at pride marches, in the media, or on political platforms. Like activists, the entire LGBTI+ community is under constant pressure from the conservative and religious part of society, and many suffer from being rejected by their families and at work and have to deal with danger on the streets and bribery and extortion by the police.

Armenia is discussing a comprehensive antidiscrimination law, but the request of the LGBTI+ community and human rights defenders to add SOGI as one cause of discrimination has been met with resistance from both legislators and the church. Patriarchal relationships in many families and communities and, often, harassment result in exclusion, loneliness, and psychological trauma for many LGBTI+ people. However, there have been cases when Armenian courts have recognized discrimination on the basis of SOGI. In one case, people were denied access to sports clubs and other public places because of their gender identity.

Ukraine has an antidiscrimination law, and Moldova has a similar law on equality, but SOGI is not listed as a ground for discrimination in either country. Both Ukrainian and Moldovan societies have regular discussions about the need to enshrine protection from discrimination on the basis of SOGI in the law, but this is met with resistance from conservative parts of society and the church. Amendments to laws and codes are being developed to bring them into line with international antidiscrimination law, and LGBTI+ rights are being protected in courts. Demonstrations and pride marches are held in the capitals under police protection, but appearances by LGBTI+ people in other cities are often disrupted by aggressive homophobes.

Georgia’s antidiscrimination law contains a ban on discrimination on the basis of SOGI, and its courts and ombudsman’s office review complaints about this, often finding that discrimination has occurred. Nevertheless, Georgia’s LGBTI+ community faces rejection and aggression from the conservative and patriarchal part of society and homophobic attacks at LGBTI+ demonstrations and pride marches. And, just like in other East European and Central Asian countries, Georgia does not allow single-sex relationships or marriages to be officially registered and does not recognize children in LGBTI+ families as common to both parents.



UZBEKISTAN: STOP PUNISHING HOMOSEXUALITY AND RESPECT THE HUMAN RIGHTS OF ALL

"When I remember the things that happened to me my heart stops beating." — A former prisoner recalls his time in detention.

The NGOs jointly issuing this statement urge the Uzbekistani authorities to live up to their international human rights obligations by decriminalizing homosexuality. Article 120 of the current Criminal Code punishes consensual sexual relations between adult men by up to three years' imprisonment. Uzbekistan is currently drafting a new Criminal Code and should take this opportunity to improve its human rights record and remove legislation that punishes individuals for the peaceful exercise of their fundamental human rights.

We call on the Uzbekistani government to repeal legislation that punishes consensual sexual relations between adult men and that is used to repress individuals' freedom, personal security and privacy and persecute them for peaceful exercise of human rights including the right to life. The authorities should also combat existing stigma and discrimination of LGBTI persons by actively increasing public awareness about human rights.

As a party to the International Covenant on Civil and Political Rights Uzbekistan has committed itself to ensure that everybody can exercise their rights without distinction of any kind, "such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." In their concluding observations issued in January and May 2020, both the United Nations (UN) Committee against Torture and the UN Human Rights Committee called on Uzbekistan to repeal Article 120.

"When I found out that my son is gay, I was thrown into a blind panic. I dragged him to imams, and to psychologists to try to "heal" him. But all I did was hurt him and spoil his life. Now I understand that homosexuality is not an illness. He is still the same handsome, clever and peaceful person. He simply happens to love people of his own sex, that's all! But because of this, many want to kill him, burn him, stone him. As long as Article 120 exists my son and other LGBT people will not be able to live quietly and be happy. I believe that revoking Article 120 will only lead to good – for everyone." — Mother of a young gay man calling on her fellow citizens not to be afraid of people with same-sex relations.

A young man who in recent years was imprisoned under Article 120 and has since been released, reports that he does not know how to live with the trauma of having been beaten and treated with hatred and contempt each day. In pre-trial detention he was regularly subjected to violence by other detainees while the guards looked the other way. He recalled that the days spent in pre-trial detention "were the most awful and disgusting in my life" and that officers beat and attempted to rape him with a truncheon when he first arrived at the prison colony.

about violence and discrimination to which they are subjected, for fear of revealing their sexual orientation. Groups defending the human rights of LGBTI persons are unable to operate safely in Uzbekistan and the authorities suppress all attempts to draw attention to human rights violations affecting LGBTI persons.

It also provides the ideal breeding ground for corruption. As long as this article exists, we will have to live in fear and homophobes will have power over us."

Police do not press charges against all the gay and bisexual men whom they track down, but often threaten to imprison them or disclose their sexual orientation to their families for blackmail and financial extortion purposes. Police also coerce LGBTI people to collaborate with them to identify wealthier gay and bisexual men. In this way many LGBTI persons in Uzbekistan feel they have no option but to lead double lives – they stand to pay a steep price if their wives, husbands, parents, other relatives or neighbours learn about their sexual orientation or gender identity.

Homophobic mobs frequently target LGBTI individuals and those perceived to be gay, subjecting them to physical abuse and extortion. On internet-

A gay man from Uzbekistan said on condition of anonymity:

”Article 120 gives people the right to abuse and discriminate with impunity against persons with a non-traditional sexual orientation or gender identity. It also provides the ideal breeding ground for corruption. As long as this article exists, we will have to live in fear and homophobes will have power over us.”

Article 120 poses a constant threat to gay and bisexual men in their daily lives and makes it impossible for them to lodge complaints with the authorities

based messaging services homophobic activists disseminate the names and contact details of gay and bisexual men and those perceived to be gay and call for them to be "punished" and killed.

Videos of such beatings have been disseminated and there are credible reports that several gay men have been murdered or severely injured by homophobic mobs in recent years.

Police are also known to exploit the fear of being labelled as “gay” (an accusation perceived as extremely shameful in Uzbekistani society) by extending the threat of imprisonment under Article 120 beyond gay and bisexual, to heterosexual and pious Muslim men. The NGOs jointly issuing this statement are aware of several cases in recent years when police forced individuals to hand over large sums of money or property or to “confess” to serious crimes including “terrorism” or “attempting to overthrow the constitutional order”, to avoid being charged with Article 120.

Human rights violations including sexual violence against gay and bisexual men and those perceived to be gay, are particularly egregious in penitentiary institutions. These men are frequently victims of torture and other forms of ill-treatment inflicted by police officers, National Security Service officers, prison guards and fellow inmates. Torture methods include rape with bottles and truncheons, attaching heavy water bottles to the detainee’s genitals, wrapping newspaper around the genitals and setting the paper on fire. Gay and bisexual prisoners and those suspected or accused of same-sex relations have the lowest status in the informal but strictly imposed prisoner hierarchy. They are regularly used as “slaves” by guards and other inmates and, for example, are forced to clean dirty toilets with their bare hands.

The Uzbekistani authorities have on several occasions stated that homosexuality is contrary to Islam and the country’s traditional values and cultural norms, and that the public is not ready to repeal Article 120. However, governments cannot use religion, tradition and culture as an excuse to circumvent their human rights obligations. Muslim majority countries that have legalized homosexuality include Uzbekistan’s neighbours Kazakhstan, Kyrgyzstan and Tajikistan, as well as Azerbaijan and Turkey.

December 10, 2020

ECTHR FOUND VIOLATION OF THE RIGHT TO FREEDOM OF ASSEMBLY AND SOGI-BASED DISCRIMINATION

The European Court of Human Rights (ECtHR) found violation of several articles of the European Convention on Human Rights in relation to Elena Berkman, one of the participants of the Coming Out Day in St. Petersburg in 2013. These include Article 5 (the right to liberty and security of person), Article 11 (the right to freedom of assembly) and with discrimination (Article 14).

The rally in support of the LGBTI+ community was authorized, but the police did not protect its participants from aggressive behavior of homophobes. On the contrary, the activists, including Elena Berkman, were taken to the police station and charged with hooliganism (they allegedly had been swearing, police officers said).

Subsequently, Russian courts dismissed the legal cases of administrative violations against all participants of the Coming Out Day, considering their guilt unproven. After the St. Petersburg courts dismissed Elena Berkman’s complaint about her illegal detention, she then appealed to the ECtHR.

The European Court considered Mrs. Berkman’s arrest and further detention at the police station arbitrary, unlawful and in violation of Article 5 of the European Convention. Earlier, the Court has already noted, for example, in the case “Navalny and Yashin v. Russia”, that if police officers suspected an administrative offense, they must draw up a protocol about the matter on the spot, and only if this could not be done, they could resort to bringing the offender to the police station (Article 27.2 of the Administrative Code of the Russian Federation).

When reviewing the observance of the right to freedom of assembly, the Court referred to the Venice Commission’s and OSCE/ODIHR Guiding Principles on Freedom of Peaceful Assembly, which stipulate a positive obligation on the state to “promote and protect the exercise of the right to freedom of peaceful assembly” without discrimination. Given that the state has a duty to act as the supreme guarantor of the principles of pluralism, tolerance and broadmindedness, genuine and effective freedom of peaceful assembly cannot be reduced to a simple duty of the authorities not to interfere. Such an approach, according to ECtHR, is incompatible with the object and purpose of Article 11 of the ECHR, where some cases require the adoption of positive measures, including those concerning interactions between citizens.

The positive obligation, as the Court has noted, is of particular importance for people in more vulnerable situations: those holding unpopular views or belonging to minorities. In such cases, the state should help implement the right to peaceful manifestation by ensuring that participants are not physically abused by opponents. Otherwise, some groups of people will be forced to refuse to openly express their opinions on controversial, but socially important issues.

The Court pointed out that Article 14 applied not only to protection against discrimination, but also provided for the right not to be discriminated against in the enjoyment of the rights guaranteed by the European Convention. Thus, the state, not taking into account the considerably varied situations of different people, also violated Article 14.

ECtHR considered that the passive behavior of the police officers at the initial stage of the rally, the apparent absence of any preliminary measures (such as official public statements promoting tolerance, monitoring the activities of homophobic groups or communicating with the organizers of the event) and the subsequent arrests in relation to the alleged administrative offenses demonstrated solely the police’s concern with the maintenance of public order, but not with the need to facilitate the rally.

According to the ECtHR, Russian national courts took a narrow view of the state’s positive obligations under the European Convention: although there was an obvious homophobic motive behind the counter-demonstrators’ behavior, the authorities did not help to facilitate the planned public event. As a result, those protesting against discrimination became victims of homophobic attacks themselves, which the authorities failed to prevent.

The court found that the Russian authorities had failed to fulfill their positive obligations under Article 11 of the Convention, both taken separately and in conjunction with Article 14. Moreover, the unlawful detention of the applicant and other participants of the Coming Out Day led to the latter’s inability to participate in the planned public event. Thus, there was an interference with the rights protected under Article 11 of the Convention.

December 1, 2020

CRIMES AND IDENTITY

Is it possible to speak of one people's guilt before another? Is it necessary? Is it correct? The 20th century saw the emergence of the concept of collective national guilt and the need for "atonement." This concept was extremely important in postwar Germany, although the people atoning were often not the ones who committed war crimes, published racist laws, herded Jewish and Roma people into concentration camps, or gassed children, but people born after these terrifying events who felt responsibility for the immeasurable amount of collective guilt.

In the 21st century there have been increasing discussions about the historical guilt of one people before another, and today's politicians are condemning crimes of the colonial era and extending official apologies to the ethnicities that suffered. The latest example is Canada, where a mass burial site of children was discovered on the territory of a former Indigenous residential school in British Columbia. Children from local communities that followed a traditional lifestyle were forcibly sent to these kinds of residential schools in Canada in the 19th and 20th centuries. Such was the policy of forced assimilation, which destroyed families, communities, and, as we now know, the lives of many of these children (the school did not even register the deaths of the hundreds of children whose remains have now been found). Canada has previously apologized to Indigenous peoples for this brutal policy. Now the prime minister has stated that this grim find is a "a painful reminder of the tragic and shameful history of our country," and the Minister of Crown-Indigenous Relations tweeted that "Residential schools were part of a colonial policy that stole Indigenous children from their communities. Thousands of children were sent to these schools and never returned to their families"

Another big story is Germany's recognition of its responsibility for the Herero and Namaqua genocide. These peoples lived on the territory of what is now Namibia and were subjected to brutal persecution in 1904-1908, when they were wiped out by the German Kaiser's troops, who drove them into concentration camps and tormented them with hunger, thirst, and back-breaking labor. Germany has expressed its readiness to extend an official apology and give Namibia one billion euro "as a gesture of recognition of the intolerable suffering" of the ancestors of Herero and Namaqua people living today. Interestingly,

however, Germany categorically refuses to call this "coordinated development aid" reparations, which is to say that it is taking moral – but not legal – responsibility for the genocide. Germany previously refused to extend an official apology for decades and only expressed its willingness to gradually return the victims' remains – dozens of skulls were taken to Germany in the early 20th century, where they were placed in museums or "used for research" (long before the Nazis adopted their notorious "racist laws").

Germany is not the only country to face the problem of returning the human remains (which are stored in the museums and other similar places of the colonizers) of peoples who have been enslaved and discriminated against for centuries (). In the same way, the problem of acknowledging guilt before Indigenous peoples for poisoning children in residential schools and destroying traditional communities, languages, and ways of life is not only Canada's problem.

Obviously, the guilt of Europeans before Africans – for both past and current sufferings – does not just concern the Germans, or even just other countries (Great Britain, France, Belgium, Italy, Spain, Portugal, the Netherlands, the US) that divided Africa up into colonies and turned Africans into slaves. Aside from these countries, the Soviet Union and China were also involved in post-colonial wars, battles for resources, exploitation, and ethnic conflicts in 20th-century Africa. For now it's difficult to imagine what gestures the heads of these states could make today to recognize "intolerable suffering" and express their guilt before peoples (and not just African peoples) who have suffered from colonial and post-colonial policies, from racism, from discrimination, and from mass murder

Crimes should be called crimes. This is important. And what can still somehow be fixed should of course be fixed (returning stolen items, burying the dead, acknowledging previously denied cultural, social, and economic rights and supporting the exercise of these rights). So then do we still have to talk about the guilt of one people before another? Should the descendants of racists and slaveholders make amends? I think that in today's deeply interblended world, it's not so important who is whose descendent and what our distant ancestors did personally (and what people they even represented anyway). We have inherited not people of the

19th and 20th centuries, but ideas, a value system, which need to be judged severely. Until very recently, the people of the civilization that we all belong to (be they German, Canadian, French, or Russian) believed that children could be taken from "Indians" (the Chukchi, the Kamchadals, the Evenki, various Indigenous peoples) "for their own good," even though they never would have allowed their own children to be treated in the same way. That skulls and other remains of "savages" could be taken off to faraway countries and displayed in museums. That, in the end, a land populated by other peoples can be "discovered," that the flag of another country could be raised over it, and that these peoples could be driven off into the desert, herded into a concentration camp, or made into slaves.

There is only one explanation for these utterly savage notions of civilized people: racism, that is, the depraved and criminal idea that one people is somehow better than another, that there is some kind of collective abnormality or collective guilt. This guilt can be found in things that are completely made up: Christians sometimes rationalized slavery by saying that Africans are the descendants of Ham, who insulted his father, Noah (cf. the argument of anti-Semites that "Christ was crucified"). In the US, lynch law was most often inflicted on the African American population – this also reflects the racist presumption of collective guilt for individual crimes (people often speak wrongfully about "ethnic crime" in our times, too).

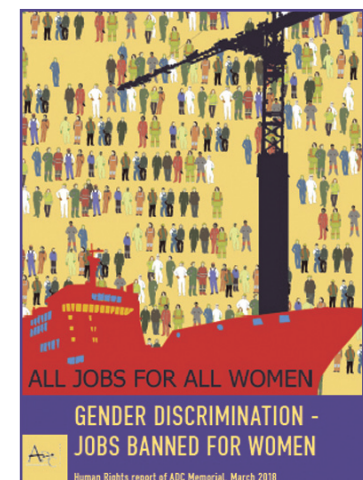
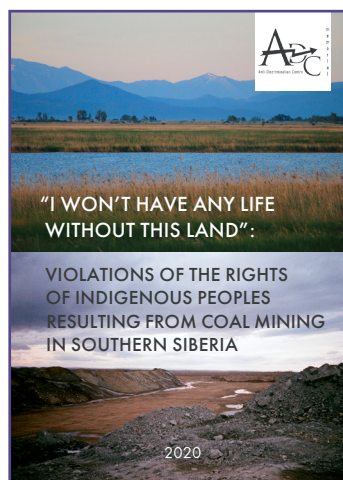
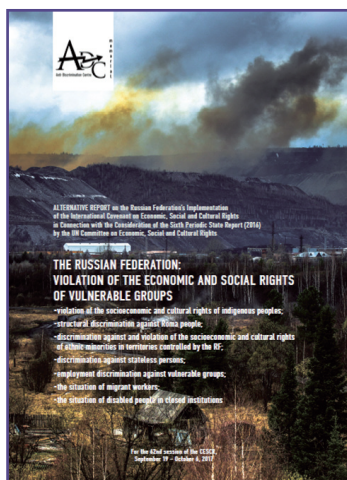
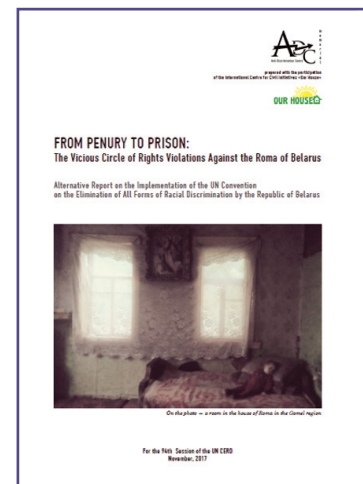
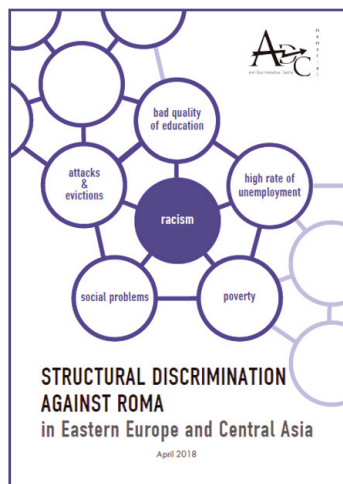
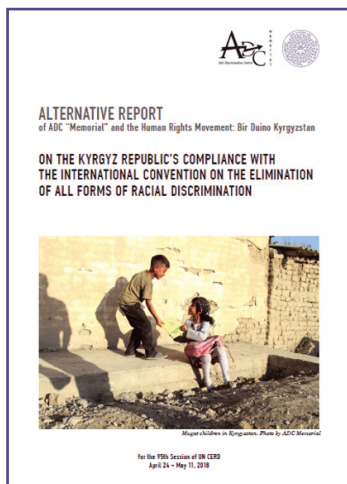
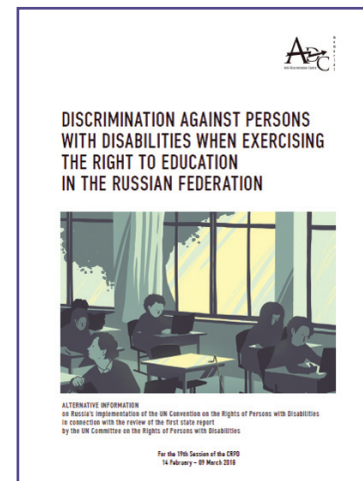
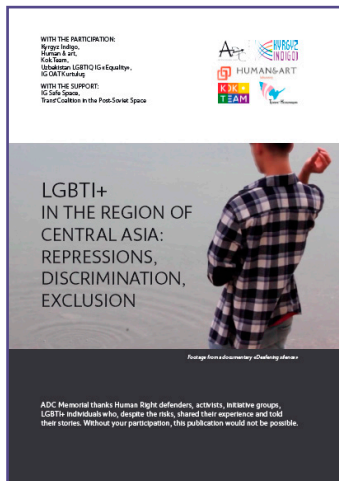
It seems more correct to place responsibility for made-up or real events in the distant past not on entire peoples, but on those individuals, regardless of nationality and ethnicity, who now assert that they are better than others solely by birthright and who tolerate hate crimes, which they justify with their open or concealed racism. When we see frontier justice and pogroms in our time, we should not deceive ourselves and assume it's the victims "own fault" ("savage," "dangerous," "interlopers") – it's better to stop the crimes of racists now and condemn not just their actions, but the fallacy of superiority (which is still often shared by most of the other people around) than it is to later apologize and make "gestures to recognize intolerable suffering."

Stefania KULAEVA
June 2021

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