



REPORT OF

THE INDEPENDENT INTERNATIONAL COMMISSION OF

INQUIRY INTO THE EVENTS IN SOUTHERN KYRGYZSTAN

IN JUNE 2010

Executive Summary

1. The Independent International Commission of Inquiry into the Events in southern Kyrgyzstan was established after the President of the Kyrgyz Republic, H.E. Ms. Roza Otunbayeva asked Dr. Kimmo Kiljunen, Special Representative for Central Asia, OSCE Parliamentary Assembly to coordinate the preparation process to establish it. After broad consultation with numerous international bodies, including the UN, the OSCE, the EU, the CIS and the office of the High Commissioner for Human Rights, the terms of reference were established and endorsed. The KIC was mandated to investigate the facts and circumstances relevant to incidents that took place in southern Kyrgyzstan in June 2010, qualify the violations and crimes under international law, determine responsibilities and make recommendations, particularly on accountability measures, so as to ensure the non-repetition of the violations and to contribute towards peace, stability and reconciliation.
2. The present report is based upon extensive interviews and analysis conducted by the KIC in Kyrgyzstan and elsewhere. In excess of 750 witnesses, 700 documents and many thousands of photographs and video extracts were considered by the KIC. The KIC has been able to establish a detailed and accurate narrative of the June events in Osh and Jalalabad. The events must be viewed in the context of the historical and political background of the region, particularly the relationship between the communities of ethnic Kyrgyz and ethnic Uzbeks. In this regard the KIC notes the under-representation of ethnic Uzbeks in public life and the rising force of ethno-nationalism in the politics of Kyrgyzstan. The KIC notes further the power vacuum and consequent political rivalries, fragile state institutions and the weak rule of law in southern Kyrgyzstan in the wake of the 7 April overthrow of the Bakiyev government.
3. The events resulted in significant loss of life and injury, of which the majority of victims were ethnic Uzbeks. In total about 470 people died. It is expected that this figure will grow but not substantially. About 1,900 people received medical assistance at hospitals. Many thousands of people were displaced. About 111,000 people were displaced to Uzbekistan and a further 300,000 were internally displaced. There was also significant property damage, again to a disproportionately high number of ethnic Uzbek owned properties. In total about 2,800 properties were damaged. The KIC notes that ethnic Kyrgyz also suffered very significant losses, in terms of life, health and property. The KIC has found that both communities suffered loss.

4. The seizure, distribution and use of weapons during the events is a particularly disturbing feature of the events. In many instances crowds of attackers seized firearms and ammunition from the military and police in circumstances largely unopposed by troops or officers. Armoured Personnel Carriers (APCs) were also surrendered. The KIC notes, with some concern, that some 80 weapons and about 19,000 rounds of ammunition have not been recovered. The authorities of Kyrgyzstan have failed to carry out appropriate criminal and disciplinary investigations into the loss of weapons.
5. Further to the narrative of facts and circumstances, the KIC has qualified the violations under international law. It is the view of the KIC that the violence of June does not qualify as either war crimes or genocide. However, if the evidence of some acts committed during certain attacks against the *mahallas* in Osh on 11, 12 and 13 June was proven beyond reasonable doubt in a court of law, those acts would amount to crimes against humanity. These are murder, rape, other forms of sexual violence, physical violence (as an other inhumane act) and persecution against an identifiable group on ethnic grounds. The KIC is of the view that no acts of violence committed in Jalalabad would qualify as crimes against humanity. There were many other criminal acts committed in both Osh and Jalalabad during the events that fall under the Criminal Code of Kyrgyzstan.
6. Sexual and gender based violence committed during the events remains underreported and largely unacknowledged by the authorities. While the KIC has corroborated around twenty rapes and other incidents of sexual violence, the true figure is certain to be considerably higher. Women have continued to suffer sexual and gender based violence in the aftermath of the events. In the rare cases where victims have chosen to file claims for rape the response of the authorities has been inadequate if not obstructive.
7. The KIC was not mandated to conduct a criminal investigation, which remains the responsibility of the authorities of Kyrgyzstan. Neither is it a prosecuting authority or tribunal. The KIC is not in a position to identify named individuals as being responsible for the crimes that have been documented. This results in part from the limitation of its mandate, but other factors are also relevant, including: the short timeframe for its work; the limited investigative capacities available to it; and its inability to require individuals to testify. It is essential, both in fulfilment of domestic and international legal obligations and in order that justice be done and community wounds healed, that every effort be made by the authorities of Kyrgyzstan to establish individual criminal responsibility.

8. In addition to the documented international and domestic criminal acts, the KIC has found that there have been and still are serious violations of international human rights law committed by the State in the aftermath of the events. There is a consistent and reliable body of material which tends to show that acts of torture were committed in detention centres by the authorities of Kyrgyzstan in the aftermath of the June events. Of particular concern to the KIC is that such acts of torture are ongoing and that the response of the authorities to allegations of torture has been grossly inadequate.
9. Criminal investigations and trials which have resulted from the June events have been marked by breaches of the ICCPR fair trial rights. Large scale sweep operations conducted in Uzbek *mahallas* on 21 to 23 June and the smaller scale search operations which then followed have involved ill-treatment and arbitrary arrest and detention. There has been selective prosecution targeting the ethnic Uzbek minority. Defence lawyers representing ethnic Uzbek defendants have been subject to improper interference and intimidation.
10. The KIC has examined the institutional and political responsibility of various actors and institutions. The Provisional Government, which had assumed power two months before the events, either failed to recognize or underestimated the deterioration in inter-ethnic relations in southern Kyrgyzstan. Arguments advanced by President Otunbayeva that the eruption of violence was of such magnitude that it made it difficult for the Provisional Government to contain do not absolve the government of its basic responsibility to protect the population. The KIC finds that the violence of June was reasonably foreseeable and that the Provisional Government should have developed a contingency plan that would, in the event that it occurred, have contained it. Particularly, the Provisional Government had the responsibility to ensure that the security forces were adequately trained and appropriately equipped to deal with situations of civil unrest.
11. The KIC considers the actions of other actors to have been inadequate. General Ismail Isakov, the Special Representative of the Provisional Government for Southern Kyrgyzstan took effective command over the operational headquarters and security forces in Osh city and province. His failure to deploy the security forces with clear orders and rules of engagement providing for the use of non-lethal force on 11 June or subsequent days constitutes a serious omission. The Commandant of Osh city and province, Bakyt Alymbekov, unlawfully abdicated control over law enforcement in favour of General Isakov and failed in his duty to ensure that human rights were respected during the restoration of order. The Commandant of Jalalabad, Kubatbek Baybolov, failed to take all measures within his power to end the violence in Jalalabad. He is now the Prosecutor General and has failed to ensure that the investigation and prosecution of crimes committed during the events and aftermath

have been conducted in accordance with the domestic and international legal obligations of Kyrgyzstan. The nationalist rhetoric of the Mayor of Osh, Melis Myrzakmatov, was not conducive to the calming of inter-ethnic tensions.

12. The role of the security forces in the events was significant. The military personnel under the command of the Provisional Government numbered 2,000. The KIC is of the opinion that had those troops been properly instructed and deployed, it would have been possible to prevent or stop the violence and to block the access to Osh city by the attackers who moved from rural areas. The failure of members of the security forces to protect their equipment raises questions of complicity in the events, either directly or indirectly. Further, some members of the military were involved in some of the attacks on the *mahallas*.
13. In accordance with its mandate the KIC has made recommendations as to conflict prevention and reconciliation, accountability and impunity.
14. As to conflict prevention and reconciliation, the KIC recommends measures on inclusive state building; language, culture and education; good governance; women's rights and gender equality; the media; public safety and security; and the prevalence of weapons among civilians. Kyrgyzstan should take a strong public stand against extreme nationalism and ethnic exclusivity. The restoration of the name "Republic of Kyrgyzstan" would be a concrete example of how this may be achieved. The Uzbek language should be given special status at municipal and regional levels in southern Kyrgyzstan. Schools, theatres and other cultural facilities destroyed or damaged should be rebuilt and the educational curriculum should be inclusive of various cultural, language and historical traditions and perspectives. The government should establish an independent national body for the promotion of women's rights and gender equality and adopt a zero tolerance policy on violence against women. The security forces should execute their function according to law and without reference to extraneous loyalties. The Government should organise an effective disarmament campaign for the surrender of illegal weapons in Kyrgyzstan.
15. As to accountability, the KIC recommends measures on criminal and disciplinary accountability, gender based violence, violations of human rights and fair trial principles and on international follow up. The government should ensure the conduct of thorough, independent and impartial investigations into crimes or other human rights violations without reference to ethnicity and should consider seeking international assistance to do so. The government should undertake an immediate investigation into the actions of the security forces and, specifically, into the loss of military and police equipment and weapons. The Government should incorporate crimes against humanity in the Criminal Code of Kyrgyzstan and ratify the Rome Statute. The Government should ensure the prosecution of perpetrators of sexual

and gender based violence. The Government should immediately stop all arbitrary arrests, torture in detention and other human rights violations. The KIC recommends that the Government should request the assistance of the UN Office of the High Commissioner for Human Rights, the OSCE High Commissioner for National Minorities and other relevant international bodies to monitor and report on the implementation of the recommended measures.

16. As to impunity, the KIC makes recommendations on truth seeking and reconciliation and reparation. The Government should establish a truth and reconciliation commission to examine the June events, their causes and consequences with the support and active participation of the international community. A comprehensive reparation program to provide victims with adequate material compensation for loss and rehabilitation should be established as a matter of priority.

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Words and Abbreviations

<i>Adolat</i>	“Justice”, an Uzbek political movement of the late 1980s and early 1990s
<i>Azan</i>	Call to prayer
<i>Jogorku Kenesh</i>	Literally Supreme Council, but in common use, is the Parliament
<i>Mahalla</i>	Traditional Uzbek neighbourhood
<i>Manas Koomo</i>	Manas People’s Unity Association
<i>Microregion</i>	Administrative subdivision of urban area
<i>Kenesh</i>	City council
<i>Kurultay</i>	People’s assembly
<i>Oblast</i>	Region
<i>Philharmonia</i>	Concert hall
<i>Sart</i>	A name for the settled inhabitants of Central Asia that has acquired a derogative meaning to describe Uzbeks in Kyrgyzstan
AKM	Kalashnikov submachine gun
APC	Armoured Personnel Carrier (may also refer to infantry fighting vehicles)
CAT	Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment
CCKR	Criminal Code of Kyrgyzstan Republic
CMI	Crisis Management Initiative
GSNB	State Service of National Security
ICC	International Criminal Court

ICCPR	International Covenant on Civil and Political Rights
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
KIC	Independent International Commission of Inquiry into the Events in Southern Kyrgyzstan in June 2010
OSCE	Organisation for Security and Cooperation in Europe
PPS	Sentry Patrol Duty
SVD	Dragunov sniper rifle
SOBR	Special Rapid Response Unit
UNCC	Uzbek National Cultural Centre
UNHCR	United Nations High Commissioner for Refugees
UNOSAT	United Nations Operational Satellite Applications Program

Concise Chronology of main events

- 7 April 2010 The President Kurmanbek Bakiyev is overthrown after popular demonstrations. A Provisional Government headed by Roza Otunbayeva assumes power.
- 13 May 2010 Bakiyev's supporters seize administrative buildings in Batken, Osh and Jalalabad.
- 14 May 2010 Supporters of the Provisional Government re-capture the administration building in Jalalabad. A crowd of Kyrgyz and Uzbek marches to Bakiyevs' home village of Teyit. Houses belonging to Bakiyevs are set on fire.
- 10 June 2010 At 10pm, a clash near the casino sparks rioting around the dormitory, *Philharmonia* and various parts of the city. The authorities are unable to contain the crowds.
Unfounded rumour of rape at the dormitory mobilizes rural Kyrgyz at extraordinary speed.
- 11 June 2010 At 2am, the Provisional Government establishes a state of emergency and introduces a curfew.
At 4am, the burning and looting commence near the Frunze market in central Osh.
A delegation from the Provisional Government arrives in Osh.
Uzbek villagers in Nariman block the central road, which connects Osh to both the airport and Bishkek.
Mass Kyrgyz mobilization from villages to the west and east of Osh begins.
At noon, automatic weapons are distributed amongst civilian and military Kyrgyz in Furkhat. The Uzbek barricade is brought down and extensive burning and killing ensue.
At 1.30pm, an APC, followed by armed men, penetrates the Cheremushki *mahalla*. Many Uzbeks are beaten or shot, women raped and houses burnt.
Near midday, an APC followed by a Kyrgyz crowd enters the *mahalla* [near the Al-Hakim hospital] near the clothing market. Houses are burned and many are killed.
Tension rises in Jalalabad. Uzbeks begin to barricade their *mahallas*

and Kyrgyz rally at the Hippodrome.

12 June 2010 The rumour spreads that the Uzbekistan military will intervene. Kyrgyz start to withdraw from the *mahallas* in Osh.

At 7am, 2 APCs break through the Uzbek barricade into Majrimtal *mahalla*. Houses are looted and burned.

The looting and house burning continue in Cheremushki and Furkhat. Violence spreads to Onadyr, a neighboring part of Furkhat.

A Kyrgyz crowd attacks Navoi Street. Wholesale looting, murder and arson take place.

An APC breaks into the Teshik-Tash *mahalla*. The attack continues to the *mahalla* near the Shait Tebe mosque.

Violence erupts in Jalalabad. Uzbeks establish a barricade in Suzak and shot at Kyrgyz cars. The Kyrgyz-Uzbek University of People's Friendship is looted and set on fire.

13 June 2010 Scale and intensity of violence decreases in Osh, although attacks against *mahallas* continue. Hostage taking is particularly active.

During the morning, Kyrgyz crowds seize weapons and ammunition from several police and military locations in Jalalabad Province.

Uzbeks establish a roadblock at the Sanpa crossing. They burn cars and shoot Kyrgyz.

At 1.30pm, Kyrgyz crowd moves from the Hippodrome to Jalalabad city. The Tash Bulak *mahalla*, then Suzak, are attacked. Buildings and houses are burnt.

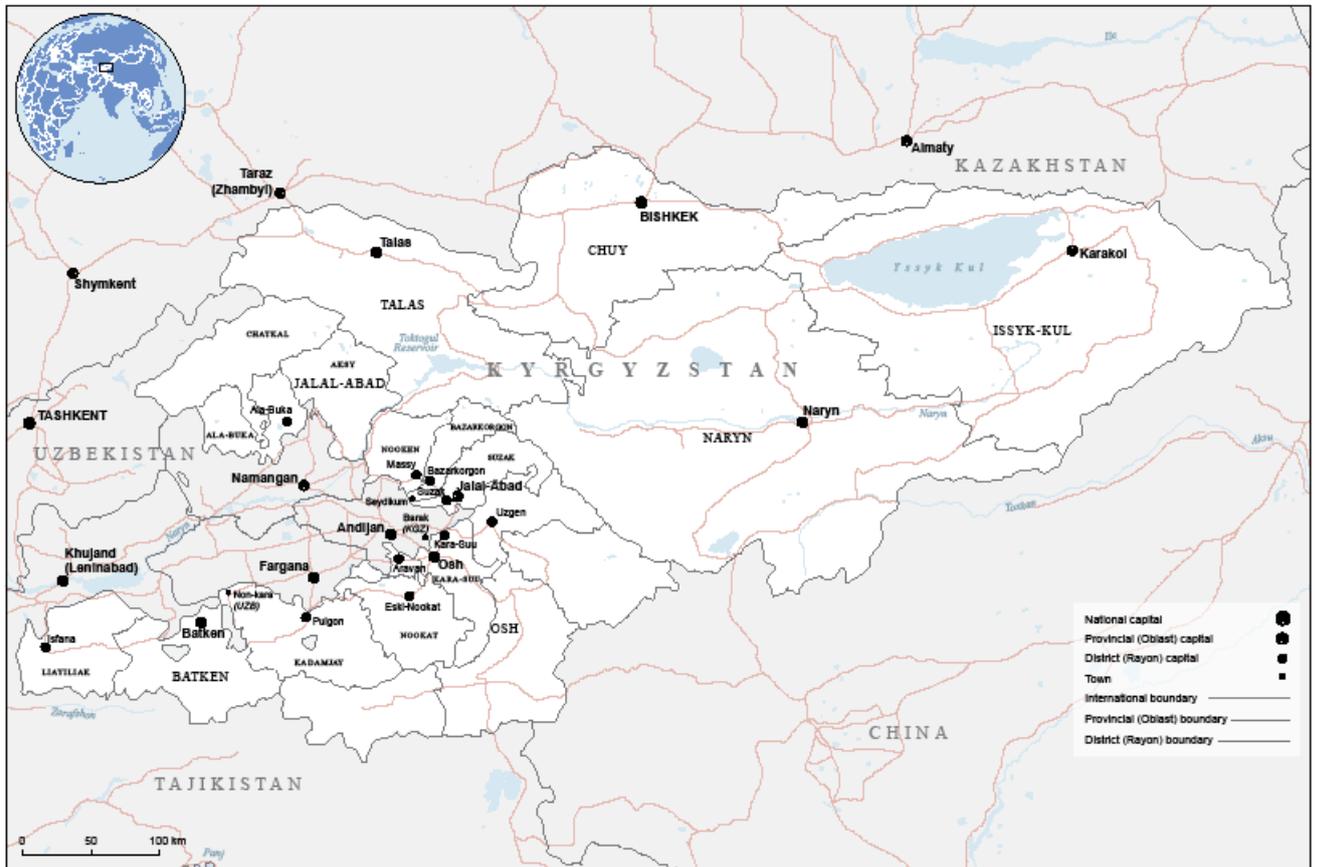
At 4pm, the police chief of Karasuu district and his driver, both Kyrgyz, are murdered in Nariman.

During the afternoon, the provisional government declares state of emergency across the Jalalabad Province and establishes a curfew.

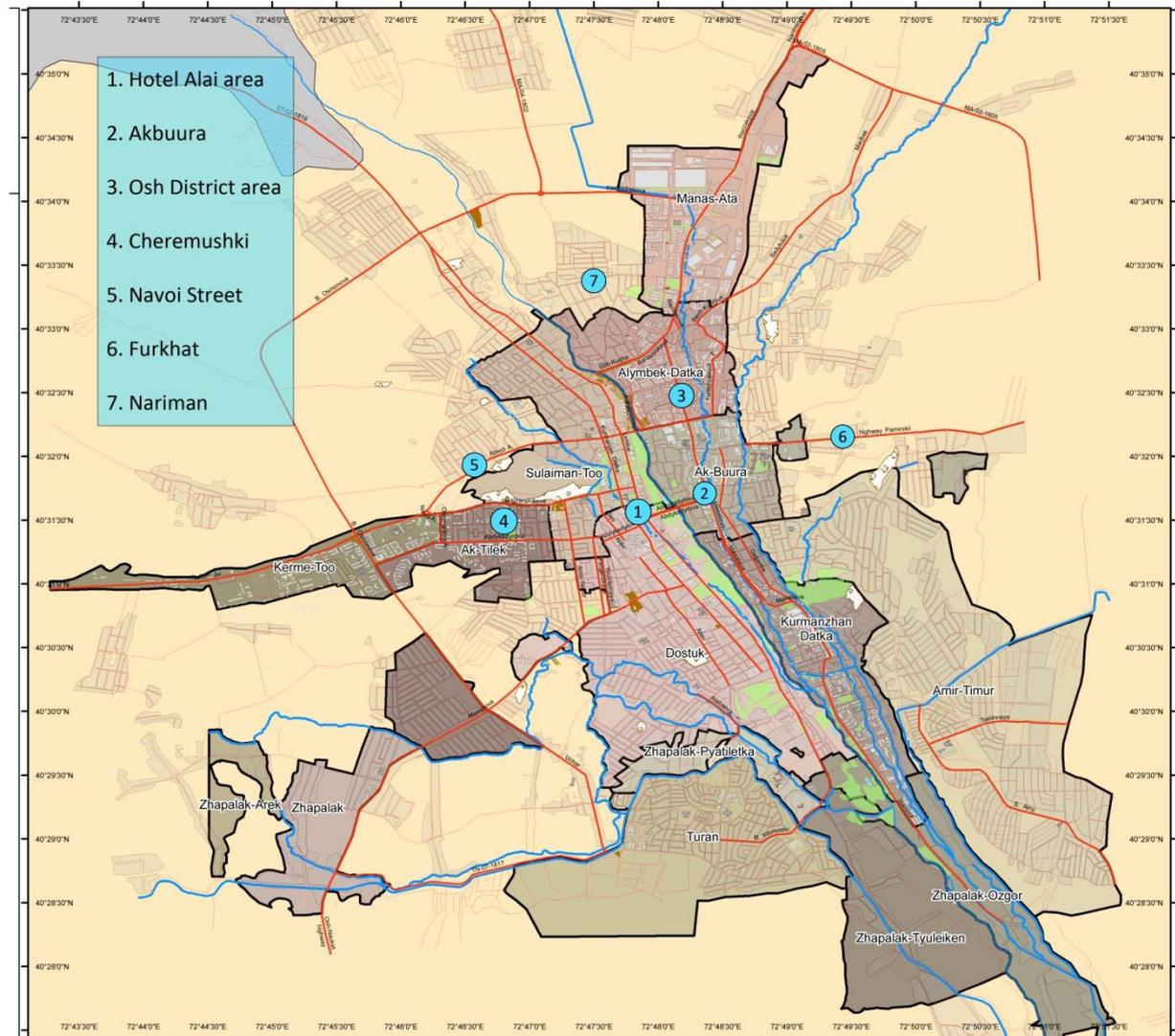
14 June 2010 Situation stabilizes in Osh. Sporadic incidents of violence, including looting, sexual violence and hostage taking, will continue in the next days.

Clashes continue in Jalalabad during the day and looting throughout the night. The situation stabilizes early the next morning.

Map of Kyrgyzstan



Map of Osh



INTRODUCTION

A Establishment of the KIC

1. Following the violent events in June 2010 in southern Kyrgyzstan, numerous calls were made for an international investigation. An initiative by the Nordic countries was accepted by the President of the Kyrgyz Republic, H.E. Ms. Roza Otunbayeva. On 6 July 2010, the President asked Dr. Kimmo Kiljunen, Special Representative for Central Asia, OSCE Parliamentary Assembly, to coordinate the preparation process for the International Independent Commission for Inquiry into “tragic events that have taken place in the South of the Region of the Kyrgyz Republic (KIC)”¹. In a letter from the Ministry of Foreign Affairs addressed to the United Nations (UN) on 21 July 2010, the Government of the Kyrgyz Republic requested the UN Secretary General to support the International Independent Commission of Inquiry headed by K. Kiljunen. There was broad consultation with numerous international organizations and entities including the UN, the OSCE, the EU and the CIS. Finally, after discussion with the office of the UN High Commissioner for Human Rights as to the appropriate terms of reference for such an exercise, the Government officially informed UN Secretary-General Ban Ki-Moon in its letter of 29 September 2010 that it had endorsed the proposed terms of reference which include a mandate calling upon the KIC ‘to investigate the facts and circumstances of these events [the outbreak of violence in June 2010]’².

B Terms of reference

2. The terms of reference establish the mandate of the KIC as follows:

“The KIC shall be mandated to:

- *Investigate the facts and circumstances of the events of June 2010 in Osh and its surrounding provinces in the Kyrgyz Republic including the causes and course of events as well as actions taken in the aftermath;*
- *Qualify the violations and the crimes under international law;*
- *Determine responsibilities and, where possible, identify those responsible; and*
- *Make recommendations, including, in particular on accountability measures, so as to ensure non-repetition of the violations and to contribute towards peace, stability and reconciliation.*

¹ Signed letter of Muktar Djumaliev, Deputy Head of the Secretariat of the President of the Kyrgyz Republic, dated 6 July 2010, on file with KIC.

² Letter submitted to the UN Secretary-General by the Minister of Foreign Affairs, Ruslan Kazakbaev in the name of the Government of the Kyrgyz Republic dated 29 September 2010, on file with KIC.

It is understood however that in determining responsibilities the Commission will not conduct a criminal investigation; the conduct of such an investigation will remain the responsibility of the authorities of the Kyrgyz Republic.”

3. The Terms of Reference (TOR) make clear that, “[i]n the conduct of its inquiry, the Commission shall enjoy the full cooperation of the Government and the National Commission for Inquiry. The Government, (including all relevant Departments) shall assist to the requests of the Commission for collection of the required information and testimony. In accordance with the laws of the Kyrgyz Republic, it shall, in particular, guarantee to the Commission:
 - *Freedom of movement throughout the territory of Kyrgyzstan;*
 - *Free access to all places and establishments relevant to the work of the Commission;*
 - *Freedom of access to all sources of information, including documentary material and physical evidence. Freedom to interview representatives of governmental, as well as community leaders and representatives of civil society and other institutions and, in principle, any individual whose testimony is considered necessary for the fulfilment of its mandate;*
 - *Appropriate security arrangements for the personnel, documents, premises and other property of the Commission;*
 - *Protection for all those who appear before or provide information to the Commission in connection with the inquiry; no such person shall, as a result of such appearance or information, suffer harassment, threats of intimidation, ill-treatment, reprisals, or any other prejudicial treatment;*
 - *Similar privileges and immunities necessary for the independent conduct of the inquiry as are enjoyed by UN experts on mission under article VI of the 1946 Convention on the Privileges and Immunities of the United Nations and to officials under articles V and VII of the Convention.”*

C Composition of the KIC

4. The TOR of the KIC stipulate that “[t]he International Independent Commission for Inquiry will be composed of a panel of eminent personalities as well as a group of experts. The Panel shall be chaired by Dr. Kimmo Kiljunen, Special Representative for Central Asia of the OSCE Parliamentary Assembly. In the overall composition of the panel and experts, there will be the requisite expertise in human rights, conflict analysis, international humanitarian law and international criminal law; and knowledge of the country and language skills. The need for gender and geographical diversity amongst members of the Commission will also be taken into account.”
5. The panel is composed of the following 7 members (Commissioners):
 - **Kimmo Kiljunen**, Chairperson of the Commission, a Member of Parliament and a Special Representative of the OSCE Parliamentary Assembly for Central Asia (Finland).

- **Philip Alston**, Sidley Austin Visiting Professor at Harvard University and former UN Special Rapporteur on extrajudicial, summary or arbitrary executions (Australia).
 - **Yakin Ertürk**, Professor of Sociology at the Middle East Technical University, Member of the European Committee on the Prevention of Torture, and former UN Special Rapporteur on Violence against Women, its causes and consequences (Turkey).
 - **Brigitte Horbette**, Judge at the Paris Court of Appeals, Chair of a division in the National Court of Asylum (France).
 - **Rein Müllerson**, President of the Academy of Law at Tallinn University and former UN Regional Adviser for Central Asia (Estonia).
 - **Valery Tishkov**, Director of the Institute of Ethnology and Anthropology, Russian Academy of Sciences and former Minister for Nationalities of the Russian Federation (Russia).
 - **Ralph Zacklin**, Former United Nations Assistant Secretary-General for Legal Affairs (United Kingdom).
6. As provided by the TOR, the Secretariat was established by the Crisis Management Initiative (CMI), a Finnish non-governmental organisation based in Helsinki. The main office of the KIC Secretariat was located in Osh, in southern Kyrgyzstan. The Secretariat consisted of experts in political science, ethnic relations, human rights, international law and gender based violence as well as military and media issues³. The social research component of the mandate was headed by Dr. Anna Matveeva. The human rights fact-finding component was conducted under the direction of Luc Côté, who was also the coordinator of the preparation of the final report. The field operation commenced on 21 October 2010 in Osh and concluded on 31 January 2011.

D Interpretation of the Mandate

7. The Commissioners agreed that the first component of the mandate - “*to investigate the facts and circumstances of the events of June 2010 in Osh and its surrounding provinces in the Kyrgyz Republic including the causes and course of events as well as actions taken in the aftermath*” - meant that the KIC was required to act as a fact-finding body. The KIC was obliged to examine events prior to June 2010 in order to set out the background and identify some of the causes of the violence, to establish a clear narrative of the courses of events of June 2010, as well as consider the actions taken in the aftermath.
8. The second component of the mandate required the KIC to “*qualify the violations and the crimes under international law*”. The KIC considers that the expression “international law” refers to international human rights law, international humanitarian law and international criminal law. Therefore the KIC must establish whether the actions constituted violations of international human rights as well as international crimes and, if so, under what categories of

³ Experts came from Armenia, Australia, Austria, Belgium, Canada, Finland, France, Germany, Kazakhstan, Tajikistan, Russia, United Kingdom and United States of America. The local assistants and support staff were from different ethnic backgrounds: Kyrgyz 8, Uzbek 4, Russian 4, Kazakh 1, Korean 1 and Tatar 1.

crimes they fall. Although the KIC was in express terms not to conduct a criminal investigation, which is the “*responsibility of the authorities of the Kyrgyz Republic*”, it nevertheless considers that its mandate required it to also qualify generally the crimes committed under Kyrgyz law in order to make appropriate recommendations “*on accountability measures.*”

9. The third component of the mandate called for the KIC to “[d]etermine responsibilities and, where possible, identify those responsible.” The KIC believes that the concept of ‘responsibilities’ involves both individual and institutional/political responsibility for the events. Given that KIC has not conducted a criminal investigation and is not endowed with the capacity of a court or a prosecutor, its powers are limited to the identification of those responsible and recommendation that these individuals be subject to a full criminal investigation that may lead to prosecution under domestic criminal law and/or accountability under any existing institutional mechanisms of a disciplinary nature.
10. Finally, the KIC was requested to “*make recommendations, including, in particular on accountability measures, so as to ensure non-repetition of the violations and to contribute towards peace, stability and reconciliation*”. In order to fulfill this component of the mandate as well as that which requested it investigate “*actions taken in the aftermath*” of the June events, the KIC considered it necessary to analyze the response of the domestic justice system of Kyrgyzstan to those events.

E Working Methods

11. The KIC first concentrated in gathering and assessing the information contained in the various reports and documents made by other organizations and government bodies in relation to the June events. Other background materials were also collected and analysed. Altogether, the KIC collected an excess of 700 documents⁴, nearly 5,000 photos and 1,000 video extracts.
12. In order to assess the veracity of the information collected and to establish the facts and circumstances of the events of June 2010, the KIC conducted in excess of 750 interviews. The majority was with victims and witnesses, but extended to officials and other persons occupying positions of authority, as well as persons in police custody or detained in prison. Of the victims and witnesses interviewed, 45% were Uzbek, 40% were Kyrgyz and 15% were of other or unknown ethnicity. Field visits were conducted in places where crimes were allegedly perpetrated or other incidents took place. Interviews were conducted in many different locations both in Kyrgyzstan and in other countries⁵.
13. Apart from the interviews conducted by the KIC experts, a group of 7 researchers were trained by the research Secretariat in October 2010 to conduct

⁴ There were 170 reports, 250 records (death certificates, hospital records, loss of property records) and more than 300 victim statements and complaints addressed to the KIC.

⁵ Including Uzbekistan, Russia, France and the United Kingdom.

interviews in Russia of representatives of Kyrgyz and Uzbek diasporas who moved there after the June violence⁶. A total of 90 witness interviews were taken by these researchers. They were sent to the KIC and analysed.

14. Following a visit of three Commissioners and some experts of the secretariat to Tashkent, Uzbekistan, the Uzbek authorities agreed to hand over numerous documents and statements. In particular, the KIC analysed 132 statements from the files of the Prosecutor's Office. These statements were taken mainly from Uzbek people who had fled Osh and Jalalabad to seek refuge in Uzbekistan during the June events. The information contained in these statements was, in very large measure, corroborated by evidence gathered directly by the KIC. The KIC considers this material as being truthful and reliable.
15. The KIC established 2 public offices, one in Osh and the other in Jalalabad, to which members of the public could and did voluntarily attend and talk about their stories of the events, and also submit their information, documentation, complaints and appeals. The information given by these individuals or families was classified and later used as appropriate, while maintaining the confidentiality of the people concerned. In excess of 212 complaints were received by the KIC in this manner. The two offices (Osh, Jalalabad) had the following number of visitors: 137 Kyrgyz (65%), 73 Uzbek (35%), one Russian and one foreigner.
16. The KIC notes that throughout this report the terms Uzbek and Kyrgyz are used to connote two major ethnic communities among the residents of Kyrgyzstan.
17. The standard of evidence applied by the KIC in its investigations was that of reasonable suspicion. The standard necessitates a reliable body of material consistent with other verified circumstances tending to show that an incident or event did happen⁷ or that a person may be reasonably suspected of being involved in it. All factual findings in this report have been made applying this reasonable suspicion standard. All facts that are not corroborated by other evidence have been excluded from the Report.
18. The KIC conducted its work in an impartial and independent manner in accordance with international standards. These principles have governed the working methods of the KIC in its interaction with Governments, international organizations, NGOs and individuals.

F Activities of the Commissioners of the KIC

19. The Commissioners held meetings in Helsinki, Finland, on 2 occasions prior to the field deployment of the experts in order to discuss the mandate and the work

⁶ Interviews were conducted in eight locations in various cities to where people from southern Kyrgyzstan had fled or moved. These were Moscow, St. Petersburg, Tyumen, Nijny Novgorod, Saratov, Yekaterinburg and Krasnoyarsk.

⁷ Another formulation would be "reliable and consistent indications tending to show that the incident did happen".

to be accomplished⁸. Other meetings of the Commissioners were held during their January 2011 group visit to Kyrgyzstan. Conference calls were regularly convened by the Chair to inform the other Commissioners of the progress of the work and to facilitate decision making on different issues as they arose. The Commissioners held their last meeting in Helsinki from 17 to 21 February 2011 to prepare and adopt the Final Report of the KIC.

20. The Chair of the KIC, Kimmo Kiljunen, travelled to Kyrgyzstan on 10 occasions⁹ and had meetings with the Kyrgyz authorities in both Bishkek and Osh, the National Commission of Inquiry, UN representatives, OSCE representatives and numerous NGOs. During these visits he also met with diplomats from the EU, France, Germany, Kazakhstan, Russia, Turkey, United States and Uzbekistan. The Chair also made numerous visits to different countries in preparation for and during the work of the Commission.¹⁰ One of the main purposes of these visits was the consultation with various governments for political and financial support. On one visit (1-3 November), the Chair was accompanied by Commissioner Rein Müllerson in Bishkek, Osh and Jalalabad.
21. Between 3 and 6 November, the Chair was accompanied by Commissioner Rein Müllerson and Commissioner Brigitte Horbette on a visit to Uzbekistan including Andijan province and Tashkent.
22. Between 23 and 28 January, all of the Commissioners undertook a mission to Kyrgyzstan. In Bishkek, meetings were held with the President, the Chairs of the National Commission and the Parliamentary Commission, the Attorney General, the Minister of Defence, the Governor of Osh Province and the Mayor of Osh city. Two roundtables were held with representatives of civil society and human rights organizations and the Diplomatic Corps. On 26 January, the Commissioners travelled to Osh in southern Kyrgyzstan to visit places where the incidents took place.

G Cooperation with Authorities of Kyrgyzstan, of Uzbekistan and Other Groups

23. The KIC acknowledges the excellent cooperation of the authorities of Kyrgyzstan, both civilian and military, the authorities of Uzbekistan, the diplomatic community in Bishkek, the UN, OHCHR, the OSCE, the EU Delegation, and NGOs. The KIC received numerous documents requested from the authorities of Kyrgyzstan and state institutions, namely the State Security Committee, the Ministry of Interior, the Ministry of Health, State Statistics Committee, Office of Mayor of Osh, Osh provincial police and city police, Jalalabad provincial police and city police, Alay district hospital and others.

⁸ Commissioners' meetings were held in Helsinki on 14-15 October and 16-17 November 2010.

⁹ First visit on 21-24 June, 2010; second visit on 1-4 July 2010; third visit on 19-24 July 2010; fourth visit on 16-20 August 2010; fifth visit on 15-18 September, 2010; sixth visit on 7-11 October, 2010; seventh visit on 17-19 October, 2010; eighth visit on 1-3 November 2010; ninth visit on 1-5 December 2010 and tenth visit with all Commissioners on 23-28 January 2011.

¹⁰ Cities visited by Dr. Kimmo Kiljunen were Vienna, Moscow, Geneva, New York, Washington, Astana, Paris, Brussels, Oslo, Stockholm, Copenhagen, Minsk and Vilnius.

24. The KIC had access to most individuals they wanted to interview and to all places it required. Finally, the KIC extends its gratitude to all individuals from Kyrgyzstan and abroad who agreed to be interviewed by its members or to provide documents.
25. The KIC was financially supported by the EU, the United States, Finland, Norway, Germany, Switzerland, Sweden, Denmark, Turkey, Estonia and France.

H Reporting

26. The TOR of the KIC stipulate that “[t]he Commission will submit its report by the end of 2010”. On 28 September 2010 a new deadline of 31 January 2011 was agreed upon between the Chair of the KIC and the President of the Kyrgyz Republic. *“The results of the inquiry will be presented to the Government of the Kyrgyz Republic giving it opportunity, within reasonable time, but not exceeding one month, to present comments to the findings and recommendations of the Commission. The Commission will make the report, with the comments of the Government, public by presenting it to the United Nations (UN), the Organization for Security and Cooperation in Europe (OSCE), the European Union (EU) and the Commonwealth of Independent States (CIS).”* Factual errors pointed in the Government’s comments have been taken into consideration by the KIC and relevant changes were made. The said comments are included as an Annex to the present report.

I HISTORICAL BACKGROUND and POLITICAL CONTEXT

A Historical Background

Introduction

27. Kyrgyzstan is a small, beautiful mountainous country located in the heart of Central Asia. Its neighbours are China, Kazakhstan, Tajikistan and Uzbekistan. The capital Bishkek is located in the Chui Valley in the north. In 2010 the population just exceeded 5.5 million. Historically, the population has been of multiethnic composition. It is a poor country with the 2009 per capita income at US\$2,200. This figure masks considerable inequality in the distribution of wealth. Labour migration to Russia, Kazakhstan and other countries is a common phenomenon, resulting in about one third of the economically active population working abroad and a high dependence on remittances.
28. The north-south divide in Kyrgyzstan is not only a geographical reality but also a political and social one. The capital has been in the north in Bishkek (formerly Frunze) since the 1920s. The institutions of government are in Bishkek and it serves as the fulcrum of political and economic power. Osh in the south is the other principal city. According to national statistics, the ethnic mix is 69.2% Kyrgyz, 14.7% Uzbek, 8.3% Russian, 1.2% Dungan and 1% Uighur and other smaller groups¹¹. Nearly all Uzbeks live in the south, while the north is predominately populated by Kyrgyz.
29. Southern Kyrgyzstan is essentially defined by the fact that it lies in the eastern reaches of the Fergana Valley. Here the mountains of Kyrgyzstan give way to the irrigable and more fertile lower lands of an area which has been settled, farmed and urbanised since time immemorial. The valley is surrounded by harsher landscapes of mountains, steppe and desert. Accordingly, it is an area *par excellence* where the pastoralist of the mountains and steppe has interacted with the sedentary farmer and urbanised trader.
30. The Fergana Valley is on the silk route linking Central Asia with both the Middle East and China. Throughout history it has been incorporated into various empires, including the ancient Persian and Hellenic empires. Later it was conquered by the Arabs, by Genghis Khan's Chagatai Khanate and Timur's Mongol-Turkic empire. It became predominantly Muslim in religion. The last transformation of the Fergana Valley (as well as greater Central Asia) commenced in the latter half of the 19th century when the area was first conquered by Tsarist Russia. It then underwent Soviet transformation in the 1920s when the valley was delineated by the Soviets tasked to institutionalize ethno-territorial federalism by creating borders for republics within the Soviet Union. This endeavour resulted in a division that was both ethnically and

¹¹ Source: National Statistics Committee of the Kyrgyz Republic, 2009 data, <http://www.stat.kg/rus/part/census.htm>

geographically incongruent, but was of little consequence while it remained under the Soviet Union. The multiethnic makeup of Kyrgyzstan acquired a new character when, upon independence, the divisional boundaries became State borders and the basis of national identity.

31. In 1990, prior to the dissolution of the USSR, the Soviet-era legislature elected Askar Akayev to the newly created post of President of Kyrgyzstan. He became the President of the new State in 1991 and remained so until spring 2005, when he fell in the 'Tulip Revolution'. The presidential election in July 2005 was won by the former Prime Minister Kurmanbek Bakiyev. Bakiyev remained as President until he was ousted in April 2010.
32. Since then Kyrgyzstan had a provisional government led by the then Transitional President Roza Otunbayeva, a constitutional referendum on 27 June 2010 and parliamentary elections on 10 October 2010. The new government was established in December 2010.

The End of the Soviet Regime and the June 1990 Clashes

33. The evolution of Kyrgyzstan, Tajikistan and Uzbekistan from inter-related, centrally coordinated Soviet Socialist Republics within the Soviet Union to separate sovereign nation states was complex. It gave rise to ethnic differentiation, its institutionalisation and territorial aspiration.
34. The population of the Fergana Valley that falls within Kyrgyzstan had traditionally consisted of a significant number of Uzbeks. From the 1960s towns and centres like Osh began to industrialise. The Kyrgyz were encouraged to move from the Kyrgyz populated countryside to the cities to work in industrial jobs and public administration. Social stresses emerged between the two groups.
35. The situation was complicated by the preponderance of Kyrgyz holding positions of authority in government. This resulted in a skewed patronage system which, together with informal, often criminal commercial organisations, existed to mutual advantage. Additionally, clan structures existed amongst all ethnic groups. These structures, based on kinship ties and locality rather than merit, sought to protect and expand their economic, social or power interests.
36. Towards the end of the 1980s there were a number of conflicts amongst various ethnic groups in the Fergana Valley. They arose in part from the terminal decline of the Soviet state, the weakening of Moscow's central power over regions in Central Asia and the introduction of Gorbachev's reforms. One of the most serious incidents erupted in 1989 in Fergana City between Meskhetian Turks (who had been deported from Georgia by Stalin) and Uzbeks. Several hundreds were thought to have died, and many more injured. Turks were evacuated by Soviet troops and resettled in Russia. At the same time there were localised incidents between Kyrgyz and Uzbeks in the Fergana Valley, including in southern Kyrgyzstan and between border communities in Tajikistan.

37. As the process of the disintegration of the Soviet Union started, the socio-economic situation in southern Kyrgyzstan was depressed. Competition for economic resources became strong and latent ethnic antagonisms more pronounced, particularly in the south where the Kyrgyz and Uzbek populations were relatively equal in number. The Uzbek community in Jalalabad through the *Adolat* (Justice) movement had made representation to the USSR Supreme Soviet in March 1990 for the establishment of an autonomous region within the Kyrgyz Soviet Socialist Republic. Some members made the more radical demand of separating from Kyrgyzstan altogether and integrating with Uzbekistan. *Adolat* also called for the Uzbek language to be made official and sought a certain degree of economic independence.
38. The Kyrgyz community established a counterpart organisation called *Osh Aimagi*, which promoted the transfer of land to ethnic Kyrgyz. The attempts by *Osh Aimagi* to transfer plots of agricultural land from a primarily Uzbek-inhabited collective farm to Kyrgyz occurred with the tacit agreement of the authorities. It served as the spark that ignited widespread violence in Osh and Uzgen between 4 and 8 June 1990.
39. The 1990 riots occurred over six geographical areas throughout Osh city and Osh province. There were about 1,200 casualties, including over 300 dead and 462 seriously injured. A great deal of property was destroyed. The heaviest casualties were suffered and the most atrocious crimes were committed in and around Uzgen, where resistance of the Uzbeks was the strongest. Soviet paratroopers were deployed within hours. They had orders to use lethal force and did so when other options failed. At the end of the crisis over one thousand troops stayed for six months to keep peace and allow investigations to take place. Proper prosecution and fair trials followed.
40. Approximately 4,000 incidents were investigated and 3,215 acts of crime registered. About 1,500 prosecution cases were launched. 300 cases went to courts and about 300 individuals were put on trial. The efforts led to trials, in which 48 individuals, 80% of them Kyrgyz, were convicted to lengthy prison sentences for the crimes of murder, attempted murder and rape.
41. The parallels between the June 1990 and June 2010 events are similar and instructive. Both outbreaks of violence occurred at a time of political ferment, when political leaders were manoeuvring to replace old elites and when the central government had been suddenly and drastically weakened by political changes. Rumours of rape and torture played a crucial role in the mobilization of participants in each event. The conclusion that the dispute over title to land and the unlawful seizure of property were the basic cause of the 1990 clashes is probably too simplistic.
42. The 1990 clashes were followed by major political change. The Communist leadership fell. Apsamat Massaliyev, the first secretary of the Communist Party of Kyrgyz Soviet Socialist Republic was removed and Akayev was democratically elected. After independence an amnesty resulted in the release of prisoners convicted of offences arising from participation in the violence.

The Akayev Years 1990 -2005

43. Kyrgyz independence gained international recognition after the dissolution of the USSR in December 1991. During his first years in office, Akayev received the plaudits of the international community. He undertook market-based economic reforms, promoted a political system in which opposition voices were expressed and a civil society emerged. Kyrgyzstan was known as a progressive republic in Central Asia, albeit one with ongoing human rights issues.
44. However, by the mid-1990s Akayev's internal reputation had declined. His critics accused him of benefiting personally from the export of gold, the principal export of Kyrgyzstan. After his re-election in 1995, the powers of the presidency were expanded. A handful of prominent opponents, notably Felix Kulov, were arrested.
45. In the late 1990s, the Islamic Movement of Uzbekistan infiltrated Kyrgyzstan's territory several times. They were responsible for some explosions as well as international hostage taking in the mountains near Tajikistan. These acts of terrorism made Akayev quick to offer assistance to the United States after the September 11 attacks. In December 2001, the United States established an air base outside Bishkek at Manas. This airbase became and remains a critical logistical element in the US supply route to Afghanistan. It has also been the source of corrupt enrichment for the Akayev and the Bakiyev families through the preferential granting of supply (mostly fuel) contracts.
46. While Kyrgyzstan moved closer to the United States and the West, Akayev's reputation at home was further damaged by the signing of a border delineation treaty with China. It prompted demonstrations in Jalalabad province. Member of Parliament Azimbek Beknazarov, a sharp critic of the treaty, was arrested. Akayev was nearly forced to resign after six demonstrators were killed by local police in March 2002. However, then-Prime Minister Bakiyev resigned instead. Although weakened, Akayev was unwilling to cede presidential power. He strengthened his strategic partnership with Russia and gave the Kremlin its first new base in Central Asia since the collapse of the USSR.

The Tulip Revolution

47. Parliamentary elections were held in February 2005 with run-off elections in March 2005. Over 400 candidates ran for the new 75-member unicameral legislative assembly, and only six seats were won by the opposition. International observers stated that the election fell far short of international democratic standards. A widespread belief that the election had been rigged by the government led to protests. Public demonstrations against Akayev started in Osh and Jalalabad. The United Opposition, led by Bakiyev, Otunbayeva and Omurbek Tekebayev convened mass demonstrations in Bishkek for what they termed the Tulip Revolution. On 24 March 2005, several thousand people besieged the country's White House¹². Akayev fled the country.

¹² The seat of the Presidential Office and the Government.

48. In a political compromise fashioned to ensure a peaceful transition, Bakiyev was named interim head by Kyrgyzstan's *de facto* new leaders. He recognised the newly elected members of parliament despite the irregularity of their election. In turn, they recognised his authority as interim prime minister and interim leader. Bakiyev nominated Otunbayeva as foreign minister and Kulov as head of security then prime minister. Tekebayev became the speaker of the parliament. Akayev, by then living in exile, negotiated the terms of his resignation and sought immunity from prosecution for himself and his family.

The Bakiyev Years: 2005-2010

49. Bakiyev was elected president in August 2005, attracting nearly 90 percent of the vote. The relative unity among the country's leading political figures proved short-lived. Otunbayeva's nomination as foreign minister was not approved by parliament. Beknazarov was sacked from his post as prosecutor general in September 2005. Tekebayev quit as speaker of the parliament in February 2006 and then led the opposition to the new constitution proposed by Bakiyev. In November 2006 thousands of protesters demanded that the Tulip Revolution fulfill its promise to sharply restrict presidential powers. The constitutional amendment adopted on 9 November did limit the presidential office somewhat, but a subsequent amendment on 15 January 2007 restored the power to the president. In the interim, Kulov had resigned as prime minister in December 2006.
50. In September 2007, the Constitutional Court declared both amendments of the constitution invalid. A further amendment in October 2007 strengthened Bakiyev's hand by mandating new elections for a parliament chosen exclusively through proportional representation.
51. The parliamentary elections in December 2007 were seriously flawed. The pro-presidential *Ak-Jol* party gained firm control of the legislature, obtaining 71 of the 90 seats. Tekebayev's *Ata-Meken* party was not awarded any seats despite coming in second in the popular vote. It was penalized by a failure to meet a controversial rule on a minimum threshold of votes per region. In the July 2009 presidential election Bakiyev was easily re-elected, securing 76 percent of the vote. Almaz Atambayev, leader of the Social Democrats and a United Opposition candidate, criticised the election as fraudulent.
52. Atambayev had served as prime minister in 2007, but had fought with Bakiyev over nepotism. In November 2009 Bakiyev appointed his son Maxim as the head a new Central Agency for Development, Investment and Innovation (TsARII). The position provided the Bakiyev family preferential access to privatized industries and foreign investment projects. Bakiyev's brother Janysh was deputy chairperson of the National Security Service which was used to provide protection. The government of Kyrgyzstan had effectively become a family controlled business.

The Fall of Bakiyev

53. The rise in the Bakiyev family fortunes coincided with the growing frustration of large portions of the Kyrgyz population. Many had anticipated improvement in their economic fortune following the fall of Akayev. In fact, the Kyrgyzstan economy performed relatively well until the onset of the global economic crisis. The GDP had risen. The percentage of the population living in poverty declined. However, increasing global energy and food prices had rendered purchasing power stagnant. The financial crisis slowed economic growth and remittances received from Kyrgyzstani workers employed in Russia and other foreign destinations dropped.
54. Bakiyev played Russia and the United States against each other. He initially declared that the US airbase would be closed and on that basis was able to negotiate with Russia to provide Kyrgyzstan with more than 2 billion dollars in loans and aid. Bakiyev then retracted and agreed to keep Manas open, securing from the United States a higher rent and an enhanced assistance package in the process and retained the Russian aid.
55. Domestically, political violence started and increased in seeming response to growing criticism of Bakiyev's rule. Political opponents were threatened and several were killed. Bakiyev's former Minister of Defence Isakov was arrested.

The April 2010 Uprisings

56. The immediate trigger of the April demonstrations was rising utility prices. Household electricity and heating costs had more than doubled. Cell phone charges imposed by a company tied to Maxim Bakiyev had risen. On 6 April 2010 protesters seized government buildings. Bakiyev responded by declaring martial law and issuing arrest warrants for opposition leaders who had called for his removal.
57. Despite Bakiyev's measures, on 7 April, a crowd of several thousand gathered around the White House in Bishkek. The security forces used live ammunition to disperse the crowd. The violence there and in other places left 86 people dead and more than a thousand injured. Bakiyev went to his home in Jalalabad. Otunbayeva, joined by Tekebayev, Atambayev and other prominent opponents of Bakiyev, declared themselves to be the provisional government. Bakiyev went into hiding briefly until 15 April when he left for safe haven in Belarus.
58. The political vacuum in southern Kyrgyzstan left in Bakiyev's wake engendered a three-way power struggle between supporters of the Provisional Government, supporters of the ousted President Bakiyev and representatives of the Uzbek community. The Provisional Government sought support in the south with the Uzbek population. A former member of parliament, wealthy businessman and founder of the People's Friendship University, Kadyrjan Batyrov was the most prominent of the latter group. As an Uzbek politician he appealed to his constituency, the Uzbek minority. On 15 May, Batyrov gave a speech urging Uzbek participation in the political process. Whatever his intention, the speech contributed to the conflation of politics with ethnicity. The message was

deliberately misinterpreted by some leaders of the Kyrgyz community as a call for autonomy and to mean that the Uzbeks should unite against them.

59. In April and mid-May, Bakiyev supporters seized government buildings in Osh and Jalalabad. The buildings were retaken with a minimum of force in Osh, but led to more serious stand-offs in Jalalabad.

Prelude in Jalalabad

60. On 13 May supporters of ex-president Bakiyev gathered at the hippodrome in the outskirts of Jalalabad, which is administratively part of Suzak district. They marched to the city centre and occupied the provincial administration building. Some of the Bakiyev supporters went even as far as to demand an independent southern Kyrgyzstan. Governor Asanov, who had refused to support Bakiyev, was driven out and beaten. Former Bakiyev loyalist Masirov was installed as governor. Law enforcement authorities did not intervene.
61. The Provisional Government mobilized its supporters, particularly the *Ata-Meken* party and followers from Jalalabad, Suzak and Bazar Korgon. Batyrov told the KIC that he kept regular contact with the members of the Provisional Government. Batyrov, together with other community leaders and Muslim clergy, began mobilisation of Uzbeks from Jalalabad and Osh provinces.
62. On 14 May supporters of the Provisional Government, mobilised by the *Ata-Meken* and *Ak-Shumkar* parties, the former led by Tekebayev's brother Asylbek, marched into Jalalabad and towards the provincial administration building.
63. Batyrov and his supporters joined the Provisional Government forces in the early afternoon. Batyrov, his bodyguards and other Uzbeks who had gathered at the University advanced towards the main square. Bakiyev's forces had erected barricades. Those forces fired warning shots at the Kyrgyz and Uzbek supporters of Provisional Government. Batyrov stated that law enforcement forces were present but failed to intervene. Armed supporters of the Provisional Government attacked and recaptured the administration building. The ousted governor was reinstated. Bakiyev supporters fled. KIC evidence suggests that all parties were armed. The governor assessed that the crowd numbered between 1,500 and 2,000 people, about 30% of whom were Uzbeks.
64. After calls to destroy the Bakiyevs' headquarters, a crowd of 1,000 people, both Kyrgyz and Uzbeks, marched to Bakiyevs' home village of Teyit. The KIC received conflicting information as to the exact role of Batyrov. While some information suggested that Batyrov led the march to Teyit and gave orders to loot and burn the houses, he denied it. In spite of the presence of police, special forces and high ranking security officials including the Head of the Provincial Department of Internal Affairs Stalbek Bakirov and Deputy Minister of Interior Suyun Omurzakov, three family houses belonging to Bakiyevs were set on fire. According to Batyrov and other Uzbek witnesses, known criminals were present and Bakiyev's house was already on fire when they arrived. Subsequent accounts suggested that the national flag of Kyrgyzstan had been burned and trampled upon, but the KIC has no evidence to that effect.

65. Batyrov told the KIC that local and central government representatives expressed their gratitude for his support. However, a rumour that the burning of the Bakiyevs' houses was done by Uzbeks only at the direction of Batyrov started among the Kyrgyz in Jalalabad and surrounding villages. Such rumour had the potential to trigger mobilization of Kyrgyz as a force against the Uzbeks.
66. A public rally on 15 May was held at the University. Batyrov gave a speech accusing the security services of being incapable or unwilling to uphold security and raised the issue of Uzbek standing. He claimed that Uzbeks were needed to re-establish order, that 'if anything, we will give it back' and that the Uzbek community could help to guarantee public order by organising citizens' patrols, as other options did not seem to be working effectively. Governor Asanov was present and filmed alongside Batyrov. This contributed to the public impression that the governor was behind Batyrov. The Governor told the KIC that no radical demands were made by Batyrov, but that the tone of the speeches expressed intense frustration and inspired the Uzbeks to be more bold in their aspirations. In the wake of the Teyit incident, the speech was seen by many Kyrgyz as an act of aggression against Kyrgyz and the statehood of Kyrgyzstan.
67. Uzbeks continued to rally at the university, reiterating their concerns and demands. Tekebayev tried to impress upon Batyrov that it was inopportune for Uzbeks to attempt to gain influence when Kyrgyz were competing for power. In the afternoon a joint staff headquarters of the security services and police forces was established in a tent in front of the provincial administration building. Plans as to the re-establishment of public order were developed.
68. On 16 May police detained 11 organisers and participants of the 13 May events from amongst the former Bakiyev officials. Police also held talks with Batyrov and other community leaders to prevent escalation of inter-ethnic tensions.
69. On 17 May local opponents of the Provisional Government who had established the *Manas Koomo* group (Manas People's Unity Association) embarked on mobilisation of the Kyrgyz from rural areas. The group was allegedly linked to Kamchybek Tashiev.
70. An estimated 3,000 supporters of *Manas Koomo* gathered. They included Deputy Minister of Interior Suyun Omurzakov, Provincial Prosecutor Turdumambetov, City Prosecutor Latyp Jumabaev, Deputy Head of Regional Police Joroyev, and head of Jalalabad City Police M. Mamashev. Bekbulat Ibragimov, a deputy of Suzac district council, was elected to chair the movement and a *kurultay* was announced for 19 May at the hippodrome. The participants formulated four demands to the Provisional Government and made a call for 'unity, friendship and peace.'¹³
71. Batyrov, Uzbek leaders and the local authorities tried to prevent the hippodrome rally, fearing that it would end with an attack on the administration and the

¹³ *Manas Koomo* meeting protocol

University. The hippodrome is within the administration of Suzak district, rendering municipal authorities powerless to prevent the event. Suzak district authorities supported the enterprise. The governor received a warning from police and GSNB that the crowd wanted to kill him.

72. On 18 May over 1,000 Kyrgyz assembled at the hippodrome demanding an immediate criminal prosecution of Batyrov and the management of Osh TV and Mezon TV for ‘incitement of inter-ethnic hatred.’ Rumours about the demands for autonomy by Uzbeks gained strength. During the evening General Ismail Isakov, the Provisional Government’s Special Representative in the south, arrived in Jalalabad by helicopter with a delegation from Bishkek.
73. On 19 May between 5,000 and 6,000 Kyrgyz assembled at the hippodrome. They were addressed by speakers who demanded the removal of governor Asanov, the prosecution of Batyrov and the closure of the University. Those assembled at the hippodrome demanded Isakov and Asanov address them. Asanov was detained and beaten by the crowd. Isakov asked for time to consider the demands of the protestors. He later returned to the hippodrome and told the crowd that the Provisional Government had agreed to meet some of their demands.
74. The crowd then marched towards the city and the University. The University was protected by special forces. Batyrov ordered the evacuation of students from the university. Violence erupted. Shots were fired. The police and special forces failed to intervene. A state of emergency and a curfew were announced for the town of Jalalabad and Suzak district from 19 May to 1 June. Four Kyrgyz and two Uzbeks were killed in May events and 72 were wounded.
75. The Office of the Prosecutor General opened criminal investigations against Batyrov and five other Uzbek leaders. Altogether 12 criminal cases arose from the May events. Batyrov was not arrested because he had left the country.
76. The May events in Jalalabad affected the atmosphere in Osh. Both civilian and security authorities became concerned. Beknazarov believed that a show of strength would help and informed the Osh prosecutor of that view. The police arrested another Uzbek leader, Abdurasulov, on 21 May for possession of a gas pistol. This had the effect opposite to that anticipated by Beknazarov. Several hundreds of young Uzbek men gathered at the police premises where Abdurasulov was detained and demanded his release. In response, groups of Kyrgyz men started to assemble in Kyrgyz neighbourhoods. The police released Abdurasulov to dispel the tension.
77. The subsequent inter-ethnic fighting during June was on a scale that had not been seen in Kyrgyzstan since 1990.

B Political Context

78. Like all incidents of conflict and violence, the causes of the June events in southern Kyrgyzstan are complex and not easy to dissect. This part will

establish the political context for those events by analyzing the causes of conflict. Some of these causes can be described as structural, being integral to the policies and fabric of the society. Others are linked to the specific situation in 2010. All create pre-conditions and context for violence or its escalation.

Structural causes

➤ *Status of Uzbek Minority*

79. As noted above, the population of southern Kyrgyzstan had traditionally been largely Uzbek. Migration of Kyrgyz to the newly industrialized southern cities commenced in the 1960s. After independence in 1991 new waves of migration started. In the shadow of the demise of the USSR, the decline in the social welfare state, swift transition to a market economy and the rise of ethno-nationalism, the situation became more chaotic. The competition over scarce jobs and housing in the cities, and over land and water in the countryside, significantly changed the terms of engagement among ethnic groups, giving rise to social tensions.
80. The present Osh and Jalalabad provinces in the South are a product of Soviet ethno-territorial construction. Administrative borders of the cities and their surroundings were drawn in such a way as to create a semblance of a roughly equal standing of Kyrgyz and Uzbek communities. About 55% of Kyrgyzstan's Uzbeks live in Osh and 32% in Jalalabad provinces. Batken province is also ethnically mixed. There are small numbers in the north, most of whom are recent migrants. In Osh province, 68% of the population is Kyrgyz while 28% is Uzbek. In Osh city, the last national census reported its residents to be 47% Kyrgyz and 44% Uzbek.
81. The Uzbeks started to unite to pursue their political agenda in southern Kyrgyzstan in the late 1980s when *Adolat* (Justice) movement was formed. In reaction to the 1990 riots, concessions to the Uzbek communities were made. One of them was the creation of the Uzbek National Cultural Centre (UNCC) at the national level, with branches in all significant areas of Uzbek settlement. The centres became the main outlet for Uzbek political participation and the expression of minority demands.

➤ *Uzbeks in public life*

82. Uzbek minority issues were raised continuously throughout the Akayev period, albeit cautiously. The first Uzbek public rally since 1990 took place in Jalalabad on 28 May 2006. The participants called for greater representation in power, national legislature, law-enforcement and judiciary, and for allocation of an official status to the Uzbek language.
83. Tensions within the UNCC persisted until Batyroev emerged on the political scene. Leader of the party *Rodina* and former deputy, he was the founder of the University of Friendship of People in Jalalabad. The university became the centre of the political activity of his party although Russian was the medium of instruction and students were drawn from all ethnic groups, as well as from

outside Kyrgyzstan. In 2008, Batyrov facilitated the election of Jalalutdin Salakhutdinov as the national chair of UNCC replacing Mahammadjan Mamasaidov, who had been considered as too aligned with the Kyrgyz authorities.

84. A new wave of leaders, wealthy and influential businessmen, stepped forward and started to marginalise the more moderate UNCC figures.¹⁴ UNCC leaders were present among administrators in the south. These included the chair of the UNCC of Osh province Ahmad Rakhimov, who became Karasuu mayor in 2008.
85. As the ‘revolution’ was accomplished in Bishkek in April 2010, political conditions in the south altered. The Uzbek leaders saw an opportunity to articulate their needs and to have them addressed.
86. Pursuant to the 2007 Electoral Law, Kyrgyzstan has reserved quotas for minorities. This mechanism allows the Uzbek community to be represented in both the national parliament and local legislative bodies in the south. However, Uzbeks’ lack access to the decision-making functions of the executive branch. The last ethnic Uzbek cabinet-level minister was Zafar Khakimov, dismissed in 1996 under Akayev. Bakhtiyor Fattakhov is the director of the agency for local and regional development, a position more technical than political. The only Uzbek governor of Osh province, Anvar Artykov, came to power as a result of the March 2005 Tulip revolution, but was dismissed after a few months by Bakiyev. In the period before the June clashes there was not a single Uzbek administrator at the highest levels.
87. There are limited numbers of Uzbek officers in the police force, the army and the national security service. Uzbek numbers are even lower in the judicial and prosecution services. Of the 110 judges in the 28 courts of southern Kyrgyzstan, only one is Uzbek. In December 2010, only one Uzbek investigator held a position at the national security agency. The question arises whether there are formal barriers to participation or merely disinclination. The truth probably lies somewhere in the middle.
88. Barriers exist in the judiciary, prosecution, law enforcement and intelligence services where Uzbeks are regarded with suspicion. The situation in other civil service sections is less clear-cut. Entry-level public sector jobs are generally not financially attractive to the Uzbek community.
89. As a result of the educational and cultural infrastructure¹⁵ inherited from the Soviet era Osh remains a multilingual city with State-funded education in both

¹⁴ This includes Batyrov, Salakhutdinov and deputy chairperson of Osh provincial UNCC Inomjan Abdurasulov, one of the *Rodina* party leaders and ex-head of Kashkar-Kyshtak municipality, and former Uzgen mayor Mahammadrasul Abakjanov, Uzgen *Rodina* leader and a deputy of Uzgen city council. The latter’s brother-in-law was the leader of Uzgen UNCC.

¹⁵ There existed an Uzbek Music and Drama Theatre named after Babur in Osh and more Osh Uzbek actors and musicians than Kyrgyz received various state commendations for outstanding achievements. Uzbek-language media is given state support: *Osh Saadosi* newspaper and an Uzbek page in provincial newspaper *Osh Shamy* are funded by the provincial budget. *Garant-TV* studio at the Kyrgyz-Uzbek University always had a post for a

the Russian and Uzbek languages and it continues to be a higher education hub for the south. Two State-supported universities offer education in the Uzbek language, and each has been headed by Uzbeks. But the maintenance of these policies in the future does not seem assured, as illustrated by the fact that there are currently no Uzbeks employed by the Ministry of Education in the important functions of curriculum development.

90. Uzbeks are under-represented in the public culture and historical record of contemporary Kyrgyzstan. Museums in Osh fail to make reference to Uzbeks and their culture. Aside from entries in population statistics, the local history museum mentions Uzbeks twice: as participants in 1930s demonstrations and the 1990 clashes.¹⁶ The Kyrgyzstan history textbooks do not mention Uzbeks. These omissions have not gone unnoticed by the Uzbek community.

➤ *Language Issues*

91. In 2004 the State Language Law was adopted. It resulted in the exclusion of the Uzbek language from public notices, even inside Uzbek language schools. The Language Law created a link between proficiency in the Kyrgyz language and civil service employment. Uzbek leaders protested openly and vocally that the Law undermined their standing in administration and public life. Uzbek leaders affiliated with the *Rodina* party raised the issue of the status of the Uzbek language in the course of discussions of the Language Law.
92. A Ministry of Education Decree in 2007 stipulated a reduction in the number of hours dedicated to the teaching of 'Uzbek language and literature' in Uzbek schools and an increase in the hours of teaching in the Kyrgyz language. This caused discontent among Uzbek educators and the Uzbek community. The Decree was eventually abolished due to insufficient numbers of Kyrgyz language teachers and textbooks.
93. However, the state provides support for Uzbek language and for training facilities. For example, in Osh Province, there are 413 Kyrgyz speaking schools, 59 Uzbek speaking schools and 7 Russian speaking schools. In Osh city in the 2009/2010 school year, Kyrgyz and Uzbek speaking schools were equally divided.¹⁷
94. The terminology used by the Kyrgyz political class is also noteworthy. The language used by politicians and state authorities reflects their attitudes and intentions. It is perceived as such by the public. For example, the Uzbeks are

director reserved for someone from the Uzbek community. Many of Uzbek educationalists have received state awards, defended PhDs, became professors and even academicians.

¹⁶ A Soviet era monument in Karasuu in Kurmanjan Datka (former Frunze) *sovkhos* dedicated to the WWII victory is comprised of two soldiers: one Russian and another Kyrgyz-looking, while the names of the dead are mostly Uzbek, with Frunze *sovkhos* being in an Uzbek area.

¹⁷ 14 Kyrgyz schools, 14 Uzbek schools, 9 Kyrgyz/Russian mixed schools, 8 Uzbek/Russian mixed schools, 2 Kyrgyz/Russian/Uzbek schools and 1 Kyrgyz/Uzbek school.

often referred to as the ‘Uzbek Diaspora’, implying that they are outsiders. The use of the term ‘Kyrgyz Republic’ rather than the ‘Republic of Kyrgyzstan’ as it formerly was also suggests the ethnically exclusive character of the State.

➤ *Two Communities: Perceptions and Stereotypes*

95. The cultural background of the two ethnic groups are significantly different, as reflected in the historically largely nomadic lifestyle of the Kyrgyz, compared to the more sedentary lifestyle of the Uzbeks. These different histories, combined with continuing differences in attitudes and interests, have given rise to negative stereotypes on both sides. An awareness of these perceptions and stereotypes is helpful to an understanding of the current polarized situation.
96. According to one stereotype, Uzbeks consider their community to be the original urban residents and cultural guardians of Osh, and thus view the Kyrgyz as outsiders. Their tendency to live in largely self-contained mono-ethnic communities (*mahallas*) is seen as a way of recognizing this particularity, while the fact that they are more entrepreneurial as a group and hold strong positions in trade, catering, service industries, construction and small-scale manufacturing is seen as giving them a right to prominence in community governance. They are also considered to under-value Kyrgyz culture.
97. According to the opposite stereotype, the Kyrgyz are said to consider the Uzbeks as outsiders who are insufficiently grateful for the well-being that they have achieved in Kyrgyzstan and for the extent to which their cultural and other preferences have been accommodated. They cannot understand why Uzbeks consider themselves to be mistreated given their relative wealth, schools and universities, parliamentary deputies, cultural institutions and both private and state-supported media in their language. Taken to its extreme, Uzbeks and their ‘foreign’ cultural traditions are viewed as a threat to Kyrgyz nationhood. This is then contrasted with the fact that the Kyrgyz are dominant in public service positions, including in the police and other security agencies, the prosecution services and the judiciary.
98. As is evident, these perceptions and stereotypes reflect certain realities but also descend very quickly into exaggerations and caricatures, and lend themselves readily to manipulation by populist politicians. The reality in southern Kyrgyzstan is that by June 2010 both communities considered themselves to be deprived and unfairly treated in various respects in relation to the other. In this respect, as in others, it was an echo of 1990. Even if otherwise dormant, such mutual perceptions can crystallize at moments of direct confrontation and serve as rallying cries to encourage ethnic resentments and tensions.

Contextual causes

➤ *Political actors*

99. Following the fall of Bakiyev in April 2010, the growing volatility in the south was not the main focus of the Provisional Government. Rather, it concentrated upon the re-division of power and Bakiyevs’ assets and the proposed new

Constitution. The state almost completely withdrew from inter-ethnic policy. It offered no effective model of ethno-political integration.

The Bakiyev Clan

100. Jalalabad province is a homeland of the Bakiyev clan. Its members were far from giving up on power. The Bakiyevs' supporters took advantage of the weakness of the Provisional Government to mount a serious attempt to seize power in April and mid-May. They seized government buildings in Osh and Jalalabad. The buildings were retaken with a minimum of force in Osh, but led to more serious stand-offs in Jalalabad, where the Provisional Government needed the support of the Uzbek community to regain control.
101. The May events were destabilising. However, there is no conclusive evidence to incriminate the Bakiyevs in the concrete planning of the June events. In this context, a telephone conversation intercepted by the security services between, allegedly, Maksim and Janysh Bakiyev, was publicly released on 19 May. During the conversation the participants discussed the hiring of 500 gunmen to organise a coup d'état in Bishkek.
102. As the influence of the Bakiyev family declined, a new generation of southern Kyrgyz politicians emerged. Among them were Kamchybek Tashiev and Akhmatbek Keldibekov, now the leaders of the radically nationalist *Ata-Jurt* party; Adakhan Madurmarov, leader of another nationalist party, *Butun Kyrgyzstan*, and the Mayor of Osh, Melis Myrzakmatov. These new politicians actively opposed the Provisional Government.

The Provisional Government

103. The Provisional Government failed to appreciate the situation in southern Kyrgyzstan nor did they have effective political control in the region. In facing the attempt of the Bakiyevs' supporters to seize power in May, the Provisional Government resorted to asking Uzbek leadership for help. Its own resources had proved inadequate. Local Kyrgyz interpreted the Uzbek resurgence as a threat to statehood. Public pronouncements of the Provisional Government created fear that the Kyrgyz would be collectively viewed as Bakiyev supporters and that the Provisional Government would make the Uzbeks its power base in the South.
104. In Bishkek, the 'Uzbek issue' became part of the 'return to democracy' project. Politicians leading the constitutional reform were ideologically committed to a clear break with Bakiyev and a different *modus operandi*. The Provisional Government encouraged Batyrov, with whom several members of the Government had close relations, to come up with demands.
105. The Provisional Government had no sense of the effect which its engagement with the Uzbek leaders produced on the southern Kyrgyz. Instead, it viewed the Uzbeks first as an additional resource in its power struggle with opponents and, subsequently as a scapegoat for political problems after the burning of the Bakiyevs' houses. This angered the Uzbeks, failed to pacify the local Kyrgyz, and left respect for the central authority at the lowest point in Jalalabad.

The Uzbek leaders

106. Even if some Kyrgyz politicians were prepared to make concessions, they were not ready to accept the Uzbeks as equals.
107. Within the next few days after the April ‘revolution’, *kurultays* of Uzbeks, sponsored by Batyrov and other UNCC leaders, commenced. In response to the invitation of the Provisional Government to formulate demands, the *kurultays* considered issues including the renaming of the state to ‘Republic of Kyrgyzstan’, recognition of Uzbek as a regional language in the areas of compact Uzbek settlement, an increase in representation in power and law-enforcement bodies, such as the police, tax inspectorate and prosecution, and the removal of limits on the use of the Uzbek language.¹⁸ Despite rumours to the contrary, there was no request for autonomy formulated during the *kurultays*.
108. The *kurultays* were also an expression of Uzbek strength and solidarity that triggered different reactions. The sudden expansion in participation by ordinary community members alarmed the Kyrgyz. They considered that Uzbeks always make demands when Kyrgyz are weak.
109. Batyrov managed to inspire the Uzbek community, especially the Uzbek youth that they should take an active part in the politics of Kyrgyzstan and that they should organize themselves in order to guarantee public order and security given the inefficiencies of the security services in May. This message was interpreted as having an ethnic connotation. Batyrov inadvertently created divisions in the society by drawing a line between ‘us’ and ‘them.’ If Batyrov meant by ‘us’ the supporters of the Provisional Government and by ‘them’ its political opponents among the Bakiyevs and their entourage, southern Kyrgyz society heard ‘Kyrgyz’ and ‘Uzbek’ behind the terms.
110. Two particular events seem to have angered the Kyrgyz: the Teyit burning, attributed only to the Uzbeks portrayed as a symbolic act of aggression against Kyrgyz statehood, and the transmission of Batyrov’s speeches by Uzbek TV channels. Even if most people did not see either, rumour did its job by describing the speeches as a call for autonomy, a word that was never pronounced by Batyrov.

➤ ***Role of the Media***

111. The media is not a mirror that simply and objectively reflects events in society. Choices are inevitably made as to what to cover, how to present the relevant material, and how to relate to different audiences and constituencies. While the media in Kyrgyzstan did not play a significant role in relation to the actual events of June 2010, they clearly bear a significant responsibility for shaping the relationship between the different ethnic communities. By default, the media is the principal interlocutor in such contexts. It has the power to convey or correct

¹⁸ *Kurultays* took place in Jalalabad, Kashgar-Kyshtak, Onadyr and in Aravan. Batyrov was the most charismatic leader, matched by Karamat Abdullayeva, the chairperson of Congress of Women and an owner of trading business, who was also a committed Uzbek ideologue from Osh.

distortions of the truth, to carry or expose unfounded rumours, and to report or not report on efforts to either build or undermine constructive inter-ethnic relations.

112. There is some evidence to suggest that the media played a negative role in the sense of fuelling the flames of ethnic antagonism in advance of the events. Similarly it all too rarely contributed in constructive ways to discussions of inter-ethnic issues within the society. In the aftermath of the June events the media facilitated the dissemination of ethnically-charged rumours and seems to have done rather little to ensure that certain stories were grounded in reality.

➤ ***Criminal Activity and Lawlessness***

113. The UN has identified Osh as Central Asia's leading drug trafficking centre. The UN Office on Drugs and Crime refers to the "Osh Knot" which links the Kyrgyz, Tajik and Uzbek provinces of Osh, Murgab and Andijan respectively. Reference by the Head of the State Service on Drug Control on "*the alarming situation*" of increased drug trafficking as an important factor behind the country's recent political turmoil: "*Its financing of destabilising forces and corruption have only worsened since the events of June 2010*"¹⁹.
114. The "Centre for the Control of Narco-trafficking", was the only joint organisation dealing with the drug trafficking problem. Its closure by Bakiyev allowed the drug trade to flourish and criminal groups to strengthen. This added to the general instability in the south and, to some extent, to the conflict that broke out in June 2010.
115. After the Bakiyevs' demise, the established relations among criminal groups, particularly those involved in the narcotics trade, were challenged. The new rivalries started to affect larger society. As the Provisional Government did not try to control crime in the South, asset-grabbing became rampant.
116. Racketeering had an ethnic dimension as the membership of criminal networks was primarily Kyrgyz whereas southern businessmen were mainly Uzbek. Small and medium entrepreneurs in particular were in a vulnerable position. Café owners and car repair shopkeepers suffered the most. The money they were required to pay to criminal groups rose constantly and threatened to make the businesses unviable. 'Raiding', the forced sale of a profitable business for a token sum, was also widespread.
117. In response, young men exchanged mobile phone numbers to mobilise quickly in case of threat. Citizens' patrols were organized by territorial councils in Uzbek *mahallas* as a self-defence measure. Uzbeks set up makeshift checkpoints to stop and search suspicious cars. Inevitably, such operations would sometimes degenerate into arguments which had the potential to lead to the escalation of inter-ethnic violence.

¹⁹ Vitaly Kerimovich Orazaliev, Head of the State Service on Drug Control.

118. An atmosphere of lawlessness and permissiveness settled in Osh after April. Taxi drivers, who were mostly Uzbeks, were dragged out of cars, beaten and insulted because of their ethnicity. Kyrgyz passengers were beaten and harassed by Uzbek street gangs. Kyrgyz youth felt uncomfortable going into Uzbek neighbourhoods. Uzbek men felt they could not walk in peace past a group of young Kyrgyz. Elders of both communities tried to intervene, but young men no longer listened to them, preferring the wisdom of ‘sportsmen’ and businessmen.

C Conclusion

119. In the lead up to June, not once did any national politician made any explicit commitment to a multiethnic state, even during the discussions of the referendum on the new constitution. The state almost completely withdrew from interethnic policy. It never offered any effective models of ethno-political integration. This leaves unanswered the question of whether the Uzbeks and other minorities are a part of the political community in Kyrgyzstan, or whether it is available only to the Kyrgyz.
120. Kyrgyz politicians, even those who were well-disposed towards addressing minority problems, were not prepared to embrace the Uzbeks as genuinely equal citizens. It is hard for Kyrgyz to imagine that an Uzbek could be a prime minister or a minister of defence. By contrast, Akayev and Bakiyev both had Russian prime ministers (Tanayev and Chudinov respectively) without causing comment by the Kyrgyz majority.
121. Many Kyrgyz politicians continue to talk about ‘us’ and ‘them’ in relation to the Uzbeks. Politicians, Kyrgyz and Uzbek alike, often talk about ‘people’ (*narod*), in the name of whom actions are justified and who have the power to accept or reject certain actions. By the ‘people’ they mean representatives of their own ethnicity: when a Kyrgyz politician says ‘people would not understand us,’ he or she hardly refers to ‘Uzbek people,’ with ‘Uzbek’ being ‘the other.’ The same is true the other way round.

II FACTS AND CIRCUMSTANCES RELEVANT TO EVENTS OF JUNE 2010 IN OSH AND SURROUNDING PROVINCES

Introduction

122. The following narrative of events is the result of the fact-finding component of the mandate of the KIC. The course of events described is based upon all of the information that the KIC received, being in excess of 400 statements of witnesses interviewed by the KIC and 1,800 other documents and materials received by it in both Kyrgyzstan and Uzbekistan. The KIC has received and considered information from both Kyrgyz and Uzbek witnesses. Conclusions about the facts and circumstances of the events have been made using the reasonable suspicion standard adopted by the KIC. Where the KIC has been unable to form a conclusive view using this standard, this is stated explicitly in the text.
123. The June events were concentrated in a number of zones in Osh and Jalalabad. While the narrative follows a chronological rather than geographical order, it is necessary to refer to particular provinces, regions and municipalities as well as buildings and streets that were the scene of significant or repeated episodes of violence. Accordingly, the narrative adopts the following standard classification and nomenclature²⁰.
1. **Hotel Alai area**
This is in central Osh city, west of the river and includes:
 - a. The casino
 - b. The *Philharmonia*
 - c. Shait Tebe
 - d. Teshik-Tash
 2. **Akbuura**
This is a District in Osh city, east of the river and in central Osh, and includes (for the purposes of this report):
 - a. Frunze market
 - b. Majirimtal Street
 - c. Al-Bukhari Mosque
 - d. Turan microregion
 3. **Osh District area**
This is in central Osh city, east of the river, and includes:
 - a. Masalieva Street
 - b. Cosmonaut Square
 - c. Hosiyat clinic

²⁰ This classification is based upon but is not identical with the true political boundaries. In particular the Akbuura group is expansive. It is used to include the Akbuura district and places of other city incidents not covered by the other categories.

- d. Al-Hakim hospital
 - e. Café Nostalgie
 - f. The clothing market
4. **Cheremushki**
This is in western Osh city and includes:
- a. Kalinina Street
5. **Navoi Street**
This street skirts Sulaiman Mountain and connects the Alai Hotel area and the west of the city.
6. **Furkhat**
This is a District in eastern Osh city and includes:
- a. The regional hospital;
 - b. Pamirskaiia-Monueva Street;
 - c. Onadyr municipality
7. **Nariman**
This is a District in northern Osh city, close to the Uzbekistan border and includes:
- a. Nariman village
 - b. Nurdar village
8. **Jalalabad**
This is a Province and includes:
- a. Jalalabad city
 - b. Suzak village
 - c. Tash-Bulak village
 - d. Bazar Korgon region
 - e. The Hippodrome
 - f. The Kyrgyz-Uzbek University of People's Friendship

A Narrative Chronology

The First Ten Days of June: Early Skirmishes

124. The atmosphere of heightened Uzbek-Kyrgyz tension in southern Kyrgyzstan, evident since April 2010, thickened considerably in the first week of June. It manifested in a number of inter-ethnic clashes, particularly amongst young men, characterised by both rapid onset and rapid diffusion. The triggers of such clashes were unremarkable: disputes over taxi fares and gasoline and the like. These commonplace arguments provided vehicles for the expression of mutual ethnic suspicion and aggression and attracted increasing numbers of supporters from both sides. There is no evidence that firearms were used during such clashes.
125. As the days wore on, the frequency as well as the scale of these incidents increased. One clash occurred at the Farhad Teahouse in the western part of Osh shortly after midnight on 9 June. It attracted an Uzbek crowd of several hundred. At about 6pm on 10 June, a dispute outside the Al-Bukhari mosque near in the Osh District attracted Kyrgyz and Uzbek crowds of about 500 each. At about 9pm, shops on Masalieva and other streets in the Osh District were looted and a fight involving about 30 Uzbeks and 20 Kyrgyz took place.

126. Against this background there were localised attempts to calm the situation. Police sought and received the assistance of elders of the Uzbek community to do so. Certainly, police intervention resolved the immediate clashes. On 6 or 7 June, police conducted a weapons audit of registered hunting guns held within the Uzbek *mahallas* that resulted in the confiscation of some weapons. This was perhaps fuelled by the unfounded rumour of weapons stockpiled within them.

10 June: Trigger Event at the Hotel Alai area

127. At about 10pm on 10 June, a further clash near the *24 Chasa* casino in central Osh finally ignited the incandescent Kyrgyz-Uzbek tension. What marked this incident as different from those which had preceded it was the inability of the police to contain and defuse it.
128. A dispute about money either lost or won grew, within about 30 minutes, to a riot centred on the nearby Alai Hotel and *Philharmonia* involving about 1,500 Uzbek people. A significant portion were armed with sticks, stones and iron bars. As this Uzbek crowd grew, a smaller Kyrgyz crowd nearby also gained numbers. By about 11pm the Uzbek crowd had swelled to about 3,000 and approximately 20-30 police from two different stations attended. The crowd responded to police attempts to negotiate with it by throwing stones and chanting anti-Kyrgyz slogans. The police engaged by shooting into the air and using truncheons. They lacked both riot equipment and reinforcements. The roads to the City Police Office had been blocked by the crowds. Police were injured. Police vehicles were burnt. So too were the casino, *Philharmonia* and nearby shops. At midnight the Osh City Police, PPS battalion, SOBR and Interior Ministry troops were brought in.
129. Given the ongoing failure to control the crowd, an armoured personnel carrier (APC) carrying troops was called in at about 1am. An accompanying fire truck was refused entry by the Uzbek crowd. Shots were fired by one of the security authorities present. Troops and APCs were also deployed to push newly gathering Uzbek crowds off other streets and back into the *mahallas*. Two such containment exercises were conducted at about 1am on Navoi Street and Masalieva Street.
130. Accounts of these incidents divide almost exactly along ethnic lines. Uzbek witnesses stated that shots were aimed at the Uzbek crowd. Kyrgyz witnesses stated that shots were fired into the air. Certainly, some Uzbeks present sustained gunshot injuries.

Dormitory Rape Rumour

131. The female dormitory of the Osh State University is adjacent to the casino and opposite the Alai Hotel. Close to midnight the Uzbek crowd began to throw stones at the dormitory. Between 1am and 2am the students were evacuated and given mobile phones at the administration building to contact relatives in the external districts.

132. The significance of the dormitory to the narrative is that it featured as the site of an alleged incident of the rape and murder of Kyrgyz women by Uzbek men. The speed with which the rumour of this incident spread throughout Osh city and Osh Province in the very early hours of 11 June was, even in the age of mobile telecommunications, extraordinary. So too was its power to then act as a motivator for subsequent Kyrgyz participation in the events. The pivotal role of various rumours in the events is a recurrent theme.
133. The KIC is satisfied that no incident of rape or murder of Kyrgyz female students occurred in the dormitory during the late evening of 10 June or early morning of 11 June.

11 June: Midnight to Daybreak

134. The violence metastasised with alarming speed. The KIC notes that many of its witnesses anticipated not simply violence, but war. An *azan* (call to prayer) called, irregularly, from at least 4 mosques at about 2am and warned people to take care. Uzbek men travelling in cars in the *mahallas* shouted that the war had begun. The same message was conveyed in innumerable telephone calls. Immediately following the trigger incident at the Hotel Alai, an expectation of Kyrgyz attack on the *mahallas* was shared by the Uzbeks, Kyrgyz and the Government.

Government Response

135. After receiving information about the events in Osh, members of the Provisional Government met in Bishkek and a state of emergency was declared at 2am. At 4am the Mayor of Osh gave a public address urging calm. At 6.30am a curfew was introduced from 8pm to 6am. A delegation from the Provisional Government arrived from Bishkek before 7am. Approximately 50-70 riot police accompanied the delegation. It included Beknazarov (Deputy Chair of the Provisional Government responsible for security and law enforcement), Tekebaev (Deputy Chairperson of the Provisional Government), Fattahov (an Uzbek leader), Alisher Sobirov (an Uzbek leader), Kursan Asanov (head of Osh city police, later appointed Commandant of Osh city) and Alymbekov (Deputy Minister of Interior and Commandant of Osh city and province). The delegation went to the Mayor's office.
136. On arrival the delegation from the Provisional Government, the Mayor and the Governor of Osh held an emergency meeting. The Governor stated that thousands of men from the rural areas had gathered in Furkhat already and that many more were approaching the city outskirts. Beknazarov took charge until the arrival of General Isakov, Special Representative of the Provisional Government in the South, at 11am.
137. He assumed and retained overall command of crisis management. A headquarters was established during the afternoon. The creation of evacuation routes for Uzbeks was discussed. Throughout the day further troops were deployed to Osh. The total available force numbered about 2,000. At 5pm, the curfew was extended to operate from 6pm to 6am.

Uzbek Defences

138. By about 3am many Uzbek *mahallas* responded by erecting barricades with rocks, trees and the shipping containers that otherwise house street-side commercial enterprises. Uzbek villagers in Nariman blocked the central road, which connected Osh to both the airport and Bishkek. Deputy Minister of Interior and Commandant of Osh city and province Alymbekov issued an order to keep the *mahallas* closed as a measure against hostile penetration.

Kyrgyz Mobilisation

139. At about the same time, large crowds of Kyrgyz began to gather, concentrated in two major areas. In the western district, hundreds of local Kyrgyz assembled at the roundabout at the crossroads of Osmonova and Podgornaya Streets. By mid-morning on 11 June, their number had grown to about 5,000, supplemented by from villagers from Leilek, Kadamjai and Kyzylkiya regions in Batken Province and Nookat and Aravan regions in Osh Province. In the east, at the Furkhat roundabout at the entrance to Osh city, again local Kyrgyz numbering in the hundreds in the early hours of the morning, were augmented by Kyrgyz villagers from outside, in particular from Mady, Gulcha, Chon-Alai and Kara-Kulja. By mid-morning, according to some estimates, their numbers reached several thousand.
140. A number of the Kyrgyz witnesses so mobilised from areas external to Osh city told the KIC that they had been told of the attack on the dormitory via mobile phone and felt honour bound to participate. Others said that they were concerned for their city dwelling relatives.
141. The civilian provincial authorities appreciated the danger of rural mobilisation. The Governor of Osh Province told the KIC that he called all district heads to establish roadblocks to prevent the mobilisation of Kyrgyz. Given both the numbers of Kyrgyz who entered the city and the rate at which they did so, such roadblocks were ineffective. Perhaps it was easier to let potential violence flow downstream rather than catch it in a dam. There was, however, a temporary pooling in Uzgen on 11 June. Kara-Kulja men who had gathered there only advanced en masse on 12 June.
142. In areas outside the jurisdiction of the Governor, there was no serious attempt to stop advances, although the Alai district head made a later, futile attempt to persuade Alai men to depart from the Furkhat roundabout. In both Alai and Chon-Alai, the mobilising men seized weapons from the border guards. Those from Alai then also seized cargo lorries for transport.
143. On 12 June all heavy armoured vehicles were concentrated in the square in front of the Governor's office rather than dispersed throughout the city. The rural mobilisation of Kyrgyz men continued unimpeded into the second day of the violence.

Continuing Violence

144. While the major Uzbek and Kyrgyz positions were established, violent clashes between smaller groups erupted in various parts of the city. Hospital records show the presentation of gunshot injuries from about 2am. Countless witnesses from all districts told the KIC that throughout the night they could hear gunshots and shouting, especially of ethnic slurs, and see smoke from burning buildings. By daybreak, Uzbek women and children started to leave the city for Uzbekistan. Their numbers greatly increased later in the day after the attacks on the *mahallas* had commenced.
145. From about midnight, Kyrgyz men looted and burnt Uzbek owned property in the Osh District. In Cosmonaut Square, shots were fired from a Kyrgyz crowd of about 60-80 towards an Uzbek crowd of about 10-15. Nearby, an Uzbek crowd beat Kyrgyz passers-by. At about 1am a Kyrgyz man was beaten to death by an Uzbek crowd in Akbuura. At 2am an Uzbek crowd guarding the barricade at the Shait Tebe *mahalla* intercepted cars and beat Kyrgyz occupants. At the same time, a Kyrgyz crowd tried to provoke a fight with an Uzbek crowd on a Cheremushki street. At about 4am a crowd of about 200 Kyrgyz youth gathered near the Frunze market. They clashed with a group of about 50 Uzbeks who emerged from the *mahalla*. The Kyrgyz group began looting and burning Uzbek property. At the time of the morning prayer, a large Kyrgyz group had gathered around the Hosiyat medical centre in Osh District.
146. The KIC notes that the violence that occurred throughout the night and early morning of 10 and 11 June, like the waves of violence which followed, exhibits a dual character. First, there was undoubtedly opportunistic crime. Some of the looting, arson, injury, rape and even murder was *ad hoc*. Second, there was a clear pattern to other incidents which suggests some element of planning, particularly the attacks on the Uzbek *mahalla* barricades by APCs and armed Kyrgyz which began after daybreak on 11 June and the targeted burning of Uzbek owned property thereafter.
147. In that regard, the KIC notes that it is still possible to see painted signs of ethnicity – UZ, KG and RUSSKIE– on some buildings in Osh. Both domestic and international commentary since the events has considered whether the painting of these symbols was a protective or aggressive measure. The KIC is of the opinion that it is most likely that these signs were a mixture of both. Other painted ethnic slurs, in particular those referring to Uzbeks as “*sarts*” were clearly aggressive.

11 June: Attacks on the *Mahallas*

148. Attacks on the Uzbek *mahallas* commenced shortly after daybreak. However, seemingly concerted attacks occurred from about the middle of the day. These incidents displayed a certain pattern. First, the removal of the barricade, usually with an APC. This phase was often accompanied by “sniper” gunfire from a lone gunman (or woman) on a multi-storeyed building nearby. Second, an advance into the *mahalla* by armed men and the APC. Third, the looting and burning of houses. The looting was sometimes co-ordinated by groups of women. Looted goods were often removed *en masse* in dedicated vehicles. Many Uzbeks were beaten and/or killed in their houses, or as they attempted to

extinguish fires or flee. Some Uzbek women and girls were subjected to particularly violent sexual assault. Witnesses consistently stated that some of the attackers wore camouflage clothing while others wore civilian clothing, irrespective of whether they were travelling in a military vehicle or walking.

149. By so describing the attacks on the Uzbek *mahallas*, the KIC does not suggest that no acts of violence were committed by Uzbeks during the events. It is incontrovertible that Uzbeks used firearms, killed and beat Kyrgyz and took Kyrgyz hostages. The KIC has evidence that at least five Kyrgyz women were raped by Uzbek men. The KIC notes, however, that this violence lacked the pattern evident in the Kyrgyz attacks against the *mahallas*.
150. Applying its evidentiary standard to the evidence, the KIC considers that there was some military involvement in these attacks. This arises from presence of expertly driven APCs carrying men in military uniform, the apparent readiness with which the military surrendered APCs, weapons and ammunition, the repeated system and order to the attacks and the evidence of planning in the specific targeting of neighbourhoods, people and property. Such discipline and order is not commensurate with the normal actions of spontaneously rioting civilian crowds.

Akbuura

151. At about 6am, the burning and looting that had commenced near the Frunze market in central Osh two hours earlier continued. Elders of the Kyrgyz community had tried, unsuccessfully, to deter the younger attackers. They and other local Kyrgyz were instrumental in defending the *mahalla* when an APC later arrived followed by a crowd of about 200 Kyrgyz. A violent clash ensued, but the attackers did not penetrate the *mahalla*. The APC and an associated crowd of Kyrgyz remained near the Frunze market until about 8pm.

Furkhat

152. Furkhat district in Karasuu region was a key area given the close proximity in which Kyrgyz and Uzbeks lived. As noted above, thousands of Kyrgyz had been gathering at the Furkhat roundabout throughout the night. A large Uzbek crowd also gathered nearby. The interaction between the two groups was, at that stage, limited to the exchange of insults and stone throwing. At some stage during the morning, the Uzbek crowd forced the Kyrgyz crowd to retreat to Kyrgyz neighbourhoods near the roundabout. Kyrgyz were killed and injured. Kyrgyz women and children began to evacuate.
153. Early in the morning, soldiers who had been ordered to move 3 APCs to Osh from an outlying region lost the vehicles and all their arms, ammunition and uniforms to a Kyrgyz crowd in Furkhat. This included a SVD 7.62mm sniper weapon and its ammunition. At about 6am, Karasuu police present at the roundabout surrendered 12 semi-automatic weapons to the Kyrgyz crowd.
154. At about 6.30am Askar Shakirov, a member of the local assembly together with the deputy chairperson of the village council attempted unsuccessfully to

negotiate peace between the Uzbek and Kyrgyz crowds. He was killed by a shot from the Uzbek crowd. A later attempt at negotiation at about 11am by members of the Provisional Government, including Isakov who had arrived by helicopter, also failed.

155. At about 11am, about 300 Kyrgyz, some carrying the flag of Kyrgyzstan, attacked Uzbek residents on Pamirskaya-Monueva Street. The Kyrgyz crowd was armed only with sticks and stones. The Uzbeks, who had established a barricade at the regional hospital, repelled the attack. At about noon, an APC and a number of other vehicles arrived. Automatic weapons from within them were distributed to the Kyrgyz crowd, which was dressed in both camouflage and civilian clothing. The barricade was attacked and removed. Extant strike marks from high velocity bullets show that the firing was from one direction only – that of the Kyrgyz incursion. The APC accompanied by gunmen advanced into the *mahalla*. Houses behind the APC were then burned. Many Uzbeks were killed: either shot or burned alive. The attack also involved a sniper located on the flat roof of a multi-storey building less than 500 metres away from the entrance to the *mahalla*. The location is well within the range of a sniper weapon and afforded good visibility. The KIC observed strike marks on a building consistent with sniper fire. At 7pm more armed Kyrgyz arrived in about 6 trucks. More houses along Pamirskaya-Monueva Street were burned. The fighting lasted until about 8pm.
156. As the regional hospital attack progressed, another Kyrgyz group of about 200 accompanied by an APC travelled from Furkhat to Onadyr, burning houses en route and attacking an Uzbek crowd of about 100 at their destination.

Cheremushki

157. The first attack in Cheremushki occurred at about 10am. A crowd of about 200-300 young Kyrgyz armed with batons, sticks, knives and hunting guns were repelled. An hour later the situation was calm enough to allow the evacuation of some Uzbek women and children to shelters in border villages. By noon, a crowd of several thousand Kyrgyz moved from the western district roundabout to Cheremushki. Most of the crowd gathered near the *Kirgiziya* cinema, where unidentified persons distributed weapons and gave instructions in how to use them. Part of this group attempted to breach the barricade to the Uzbek *mahalla*. Violence and shooting resulted in deaths and injuries, but the barricade remained unbroken. About 20 police from Akbuura police station were present and were unable to control the attackers.
158. At about 1.30pm, a further attack was made by thousands of armed Kyrgyz with the aid of an APC. The barricade was breached. The APC continued into the *mahalla*, breaking down gates to Uzbek houses. The APC was followed by armed men. Many Uzbek residents were beaten or shot. Some women were raped and others gang raped by the intruders. The armed Kyrgyz entered houses, stealing goods. Some residents were taken hostage. Some women amongst the Kyrgyz crowd were involved in the looting and hostage taking.

159. The attackers began to burn houses. By about 7pm, nearly three quarters of the houses had been destroyed. One family of 7 was burnt alive in the basement of their home. By 8pm, the attackers had left.

Navoi Street

160. Reports of the successful 10am defence of the Cheremushki *mahalla* reached the residents of Navoi Street shortly thereafter. A group of about 30-40 Uzbeks armed with sticks, stones, slingshots and probably hunting guns moved along Navoi Street towards the roundabout at the crossroads of Navoi and Aitiev Streets in order to reach the Cheremushki *mahalla*. At the roundabout they encountered a military vehicle and about 100 Kyrgyz, some of whom had automatic rifles. Four men armed with automatic rifles also sat atop the vehicle. The two groups fought. Many were killed and wounded.
161. When reports of the later violence in Cheremushki reached residents of Navoi Street from about 1.45pm onwards, large numbers of women and children began to depart for Uzbekistan through the border village of Suratash.

Nariman

162. As noted above, the road to the airport from Nariman had been blocked at about 3am in the morning. At daylight, about 250 Uzbek men had assembled in the centre of Nariman village. An APC with military troops entered the municipality without incident. An inspection was made and the APC departed. Throughout the day, evacuation routes through Nariman to the border villages and Uzbekistan were established.
163. At about 2pm Commandant Asanov arrived to negotiate the opening of the airport road and access to the nearby fuel tanks. The Uzbek crowd agreed, but warned that if Nariman was attacked, they would explode the oil tanks. One fuel truck, escorted by 2 APCs, obtained fuel.

Hotel Alai area

164. Teshik-Tash, on Lenin Street, was subject to an attempted attack by Kyrgyz crowds between about 1pm and 8pm. Uzbek defences held and the incursion could not penetrate the *mahalla*.

Osh District

165. At about 8am, an Uzbek crowd of about 800 armed with rifles, pistols, sticks and iron bars approached a Kyrgyz crowd on Masalieva Street. An APC and about 25 soldiers arrived and pushed the Uzbek crowd into the *mahalla*. The military fired both warning shots and then shots into the Uzbek crowd. The Kyrgyz crowd then destroyed property on Masalieva Street and at the clothing market. Kyrgyz crowds gathered around the Hosiyat clinic began throwing stones. The special forces present did not intervene. When the clinic and other property was set on fire, the special forces did not allow fire trucks to combat the fire.

166. Near midday an APC and an armed crowd of 200 to 300 Kyrgyz approached the barricade built near the Al-Hakim hospital near the clothing market. The initial attack was accompanied by sniper fire from a nearby multilevel building. The APC reached the middle of the *mahalla* before retreating. Houses were burned and many were killed. Women were gang raped. Uzbek men who arrived later after evacuating women and children were shot by men in military uniform from an APC.

12 June: Renewal of Attacks on the *Mahallas*

167. Although the attacks on the Uzbek *mahallas* were renewed after daybreak, the course of events during the day was shaped by several external developments. The most significant was the afternoon rumour that the Uzbekistan military would intervene. In response, Generals Isakov and Alymbekov instructed the police and Interior Ministry troops to defend their premises. As the rumour gained strength, Kyrgyz participants began to withdraw from the *mahallas*. Perhaps some calming effect also arose from an SMS message urging unity sent on the authority of the provincial government by both major telecommunications companies to registered telephone numbers. During the day, Transitional President Otunbayeva appealed for international help, particularly for Russian troops. Seemingly in response, many Uzbek residents painted “SOS”, the internationally recognised distress signal, on horizontal surfaces such as roofs and roads. The KIC considers it likely that the residents expected immediate, airborne assistance.

Akbuura

168. From about 6am, Kyrgyz crowds grew outside the Old Bus Station next to Majrimtal Street. At about 7am, 2 APCs broke through the Uzbek barricade and then through house gates inside the *mahalla*. Armed Kyrgyz followed. Houses were looted and then burned.
169. In the Turan microregion, Uzbeks successfully defended the *mahalla* from an attack from behind a barricade made from cars and a decommissioned APC.

Furkhat

170. Large numbers of Kyrgyz had remained in Furkhat district overnight, sleeping on looted mattresses and fed by the local Kyrgyz residents. At about 5am one group travelled along Masalieva Street, burning Uzbek stores, cafés and restaurants before travelling south along Pamirskaia-Monueva Street towards the regional hospital. The second group travelled north along Pamirskaia-Monueva Street and merged with the first group at the hospital. Reunited, they entered the *mahalla*. An APC was again employed to breach Uzbek built barricades. The violence continued until about 8pm.
171. Another group of Kyrgyz travelled to Onadyr, where rifles and semi-automatic weapons were distributed to them from a car. Uzbeks had been killed along the way. Uzbeks retreated inside their barricaded *mahalla* and shot at passing vehicles. An APC employed in the attack attempted to break the Uzbek

barricade, but fell into a ditch. Nonetheless, the Kyrgyz penetrated the *mahalla*. Many houses were burnt and many people were killed.

Cheremushki

172. By 8am a second wave of looting and house burning commenced in the Uzbek *mahalla*. Throughout the morning Kyrgyz but not Uzbek residents were evacuated with the assistance of an APC. Kyrgyz crowds started to retreat at about 3pm when the rumour about the expected intervention of the Uzbekistan military acquired currency.

Navoi Street

173. The *mahallas* behind Navoi Street had been barricaded, but the street itself was impossible to block. Between 8am and 1pm, all houses on Navoi Street to the Jomii mosque were destroyed. The attack commenced from the roundabout at the crossroads of Navoi and Aitiev Streets in the western district, being one of the two rallying points of Kyrgyz crowds. The initial crowd of 500 Kyrgyz was repelled and retreated to the military office near the roundabout. About an hour later, a Kyrgyz crowd in excess of 1,000 returned with an APC. Wholesale looting, murder and arson took place. Many residents were killed in their houses. Hostages were taken. Many witnesses described additional sniper gunfire, particularly near the Jomii mosque, which ceased when Kyrgyz crowds or military vehicles were present.

Nariman

174. During the morning, Uzbek crowds continued to use the threat of the explosion of the fuel tanks to deter Kyrgyz attackers. At about 10am an APC attempted to enter Nurdar village, seat of the local administration and then the villages of Jim and Zhidalik. Uzbeks were killed.

Hotel Alai area

175. Shooting recommenced near the Teshik-Tash *mahalla* at about 6am and by about 8am a full attack was underway. An APC broke the barricade and automatic rifle fire commenced along the street. Kyrgyz crowds, dressed in both camouflage and civilian clothes followed. The attack continued to the *mahalla* near the Shait Tebe mosque. People were killed and burned. Shortly thereafter, Kyrgyz crowds accompanied by the APC tried to break through further barricades at the Shait Tebe *mahalla*. However, Uzbeks manning the barricade returned fire and an Uzbek man reversed a dump truck into the APC, lifting it off the ground. Several Kyrgyz participants were killed as the APC regained its footing. The APC and the Kyrgyz crowd retreated.
176. A police brigade from Batken arrived at the Teshik-Tash and Shait Tebe *mahallas* at about 10am. They were given an oral order not to shoot. They failed to intervene at all.

Osh District

177. In the early morning, an APC carrying men in military uniform shot and killed Uzbeks in the street. Later in the morning, a Kyrgyz headquarters was established in *Café Nostalgie*. This location has acquired a distinct notoriety in the narrative of the events. Numerous accounts establish that Uzbeks were taken to that location, held hostage and beaten. Other accounts establish that women and girls were raped and sexually abused.

12 June: Reaction in Jalalabad

178. While tensions in Osh had begun to ease by the start of the curfew on 12 June, the tension in Jalalabad had risen during the day. Just prior to midnight the Provisional Government adopted a Decree permitting the use of deadly force.
179. The KIC is of the opinion that the violence in Jalalabad occurred as a reaction to the events in Osh. If the events in Osh exhibited some degree of planning or organisation, those in Jalalabad were more in the nature of highly armed vandalism.
180. When news of the violence in Osh had first reached Jalalabad on 11 June, the head of the provincial police discussed the situation with the district and community heads. Meanwhile, Uzbek residents began to barricade their *mahallas*. Kyrgyz residents began to rally at the Hippodrome. Riots in some villages led to looting and arson.
181. On 12 June, Uzbek men at a barricade in Suzak shot at, stopped and burnt passing cars. Kyrgyz in those cars were killed. In Bazar Korgon, about three quarters of the women and children were evacuated and Uzbeks refused access to police. Indeed, Uzbeks set up roadblocks and conducted car checks. In Kerben, a Kyrgyz crowd demanded transport to Osh from the District administration and, when it was refused, attacked local Uzbek business. The flow of Kyrgyz to Jalalabad from the villages increased, adding to the numbers at the Hippodrome. The attempts of others to leave Jalalabad contributed to a marked increase in traffic. The bazaar closed. At about 3pm, a crowd of 500 attempted to take over the Jalalabad military camp and gain weapons. They were rebuffed, but the Interior troops abandoned the post. Later, a Kyrgyz crowd seized weapons, uniforms and an APC from the camp.
182. A Kyrgyz crowd of about 1,000 took the captured APC towards the centre of Jalalabad and the Kyrgyz-Uzbek University of People's Friendship, where an Uzbek crowd had gathered. Police and special forces prevented a major clash between them, but the Kyrgyz crowd attacked the University. It was looted and set on fire, as were surrounding Uzbek houses. Uzbeks burnt the customs and police buildings and some Kyrgyz owned cafés.

13 June: Jalalabad

183. Throughout the very early hours of 13 June, both Uzbeks and Kyrgyz continued to arm themselves and attack others. In Chatkal, a crowd of several hundred Kyrgyz seized weapons and ammunition from the district police station. A later fire fight between this crowd and an Uzbek crowd resulted in deaths. Uzbek

properties were destroyed. As some other authorities had done previously, district heads gave the Kyrgyz crowd transport so that the problem might move elsewhere. At the Sanpa crossing a group of Uzbeks established a roadblock, burnt cars and shot Kyrgyz. At Dostuk, a clash between armed Kyrgyz and Uzbek crowds resulted in injuries and death.

184. Kubatbek Baybolov, appointed Commandant of Jalalabad on 12 June, arrived with 130 troops. A headquarters was established in the provincial police building.
185. At about 8am, a crowd of 400-500 Uzbeks blocked the Osh-Bishkek road at Bazar Korgon. Police who tried to clear the blockade were beaten. A little later, a Kyrgyz crowd seized firearms from the Bazar Korgon police headquarters and moved towards Jalalabad. Uzbek houses were looted and burnt.
186. In Jalalabad city, Kyrgyz crowds had gathered in two locations by about 11am. Several thousand were at the Hippodrome and several hundred were in the centre of the city. Some of the Kyrgyz crowd demanded weapons from the Jalalabad military base. Commanders distributed 19 AKM-74 guns with ammunition. The KIC was told that the distribution was to prevent greater numbers from being seized. Nonetheless, 7 other AKM guns were seized. Further firearms were seized from a military base in Kamar Ata.
187. At about 1.30pm the crowd from the Hippodrome moved to the city. Shortly thereafter intensive gunfire was heard at the intersection of Sovetskaya and Gorkogo streets. Fires in the area burnt the *Taj Mahal Café* and houses. The Tash Bulak *mahalla* was attacked with the assistance of APCs. Throughout the afternoon, more buildings were burnt, including the hospital, the Asia Universal Bank and houses on B. Osmonov Street.
188. At 4pm, the provisional government declared a state of emergency across the entire Jalalabad Province. A 6pm to 6am curfew was established. Despite the curfew gunfire continued in both Tash-Bulak village and Bazar Korgon region past 6pm. At about 7pm, a Kyrgyz crowd of about 1,500 and an APC gathered at the *Café Altyn Ordo* in Jalalabad. The crowd looted and burnt Uzbek owned houses and business. The University was again attacked. Houses in Suzak *mahalla* behind the University were burnt.

13 June: Osh

189. While attacks and violence continued in Jalalabad, 13 June witnessed a significant decrease in the scale and intensity of violence in Osh, as groups of Kyrgyz first dissolved then trickled back to their homes in the outlying areas. The Ministry of Interior called upon Afghan veteran soldiers to assist the stabilisation process. They were used to maintain checkpoints and enforce the curfew. The KIC notes that only small numbers of Uzbek Afghan veterans were mobilized and, unlike their Kyrgyz counterparts, were not provided with arms.
190. Public displays of unity between Kyrgyz and Uzbek elders began. In Cheremushki, respected men from both communities walked together publicly

and, jointly, urged the crowds to reunite. Leaflets urging peace and unity were thrown from helicopters around the city. Residents of affected areas, both Kyrgyz and Uzbek, emerged and began to leave the city. Nonetheless, attacks against some *mahallas* did continue. One against the Shait Tebe *mahalla* at about 7am was repelled. Near the regional hospital in Furkhat and in Onadyr, attacks against the *mahallas* again involved shooting and arson.

191. At about 4pm the chief of Karasuu district police and the vice chief of Karasuu local administration arrived in Nariman village. There was an Uzbek crowd of about 150. Three masked men emerged from the crowd and murdered the police chief and his driver. The incident excited high feeling in the community, as the corpses were mistreated and the driver was decapitated.
192. Looting and burning also continued in other areas, including in Navoi Street and Cheremushki. The looting was often the work of the retreating Kyrgyz and lacked the organization of the preceding days. “Sniper” fire continued in Navoi Street. Sexual violence continued, particularly in the Osh District.
193. Hostage taking was a notable feature of the continued lawlessness. *Café Nostalgie* in the Osh District was used as a base by some Kyrgyz participants in the violence. It was also used to house Uzbek hostages taken from the *mahallas* during the attacks. The hostage taking was most active on 13 June. The hostages kept in *Café Nostalgie* were badly treated. Nearly all were beaten. Nearly all of the women and girls were raped, sometimes gang raped. The KIC has uncorroborated evidence of other centres where Uzbek hostages were held by Kyrgyz participants. The KIC has received allegations that Kyrgyz hostages were held by Uzbek captors but was unable to corroborate these.
194. Certainly hostage exchanges took place, although the details remain unclear. The KIC has scant information as to how contact was made between groups to organise the exchange of people. Some local government officials acted as mediators. It appears possible that, the *Café Nostalgie* events aside, hostage taking and exchange was a process designed to create personal profit. Many hostages were exchanged for money rather than people. On 13 June some Kyrgyz men took Uzbeks hostage in Cheremushki before they were quickly exchanged for money. Some individual members of the security forces were involved in the practice. Such opportunistic hostage taking continued for some days after the events had ceased.

14 June: Return to Stability in Osh and Jalalabad

195. 14 June witnessed further displays of public reconciliation in Osh. At the Mirzaalym mosque in Furkhat, the Osh Commandant met with representatives of both communities. The day also witnessed another rumour, namely that the Russian military would intervene. The last of the Kyrgyz who had mobilised from the surrounding areas left the city.
196. Nonetheless, the calm was fragile. Residents of the Shait Tebe *mahalla*, which had successfully resisted a 12 June attack, remained barricaded until 17 June.

Sporadic incidents of violence continued in the next days. Of note, looting, sexual violence and hostage taking in particular continued.

197. The stabilisation was slower in Jalalabad. A Kyrgyz crowd of several thousand had again gathered at the Hippodrome and clashes continued until the early afternoon. Looting continued throughout the night, particularly in Kurmanbek and Dostuk districts of Jalalabad city.
198. Throughout the day, various government officials, including Tekebaev, Tashiev and Asanov attended the Province and urged calm, both directly to the crowds and through leaders of the Uzbek and Kyrgyz communities. An agreement was reached for the surrender of weapons shortly before 5pm. At about the same time, helicopters flew above the city dropping leaflets in the Russian, Uzbek and Kyrgyz languages urging unity.

To the End of June: “Sweep Operations”

199. In the days that followed the restoration of civil order, inter-agency criminal investigation groups were established. Members of the military were involved. These “sweep operations” which took place from 21 to 23 June were characterised by violence against and maltreatment of their largely Uzbek targets. The execution of the operation in Nariman, conducted under the authority of Asanov, the scene of the murder of the Karasuu Chief of Police, was particularly severe. In its wake 2 people died and about 45 people required hospital treatment. Other notable sweep operations took place on Kalinina Street in Cheremushki and Shait Tebe.
200. Those detained in the operations were beaten and, under duress, signed confessions to murder and other crimes arising from participation in the events. About 90% of the subsequent completed criminal cases relied mainly upon confessions. The property of those detained was confiscated. Indeed the Governor of Jalalabad told the KIC that he protested against the treatment of Uzbek detainees, but was told not to interfere.
201. The large scale sweep operations were replaced by frequent smaller security operations. Security officers who did not identify themselves conducted arbitrary, unauthorised searches and arrested mostly young Uzbek men, the subsequent detention of whom was not registered or used to extort money.

Investigation and Prosecution

202. Official information given to the KIC stated that as at December 2010, 5,162 criminal investigations had commenced in regards to the June events. Of the investigations which resulted in criminal charges, the ethnic division of the accused according to ethnicity is 79% Uzbek, 18% Kyrgyz and 3% other. Particularly striking are the ethnic disproportions in murder cases. Murder charges were brought against 27 defendants, 24 of whom were Uzbeks and only 2 were Kyrgyz. Given the number of victims, it follows that the Uzbeks are more than 30 times more often accused of murder than the Kyrgyz.

203. The current investigation of the crimes committed during the June events are conducted by inter-agency crime investigation groups consisting of investigators of the Prosecutor's Office, Ministry of Internal Affairs (Militia) and State Service of National Security. Such groups were established in the city of Osh, the province of Osh and the province of Jalalabad. Deputy General Prosecutor Bakytaev coordinated activities and operations of the inter-agency crime investigation groups.
204. Based on the report given by the General Prosecutor's office on 21 December 2010, the investigators of the inter-agency crime investigation groups had opened 5,162 criminal cases by 17 December 2010²¹ relating to the June events in southern Kyrgyzstan. The process is ongoing. In the city of Osh there were 2,990, in Osh province there were 1,227 and in Jalalabad there were approximately 900 cases. In most of those cases (3,553) the investigation was suspended as no suspect had been identified.
205. Based on the same information, 426 corpses with signs of violence were registered, of whom 89.4 % were identified. Among the identified corpses 105 were Kyrgyz and 276 were Uzbeks. Of the 1,930 persons injured, 925 had gunshot wounds. Property damage is officially estimated to be 3,757,661,429 soms. The sum of compensated damages is 11,419,654 soms. The number of demolished and stolen property is 3,671, mostly private properties (3,414 units).
206. During the investigations 306 persons were arrested. Of the 271 taken into custody, 39 were Kyrgyz, 230 were Uzbeks and 2 were other. In one of the pre-trial detention facilities of the city of Osh, 160 persons were detained, of which 132 were Uzbeks, 22 Kyrgyz, 4 Uighur, 1 Russian, 1 Tajik²². The majority of the detainees were accused of participating in mass disorder (art. 233 Criminal Code of the Kyrgyz Republic "CCKR"). The proportion of those kept in pre-trial detention on the basis of at least mass disorder was 79 Uzbeks, 5 Kyrgyz and 2 Uighur.
207. In the city of Osh, 210 criminal cases of homicide (art. 97 CCKR) were opened and 27 suspects were arrested. The 27 homicide suspects were also charged with mass disorder (art. 233 CCKR). Of the 27, 24 were Uzbeks, 2 were Kyrgyz and one is not specified. The inter-agency crime investigation group opened 2,668 criminal cases based on victims' complaints regarding property crimes. Of these, 1,423 concerned theft (art. 164 CCKR) and 960 concerned intentional destruction or damaging of property (art. 174 CCKR). The number of suspects in this category is only 17, of which 11 suspects are Uzbeks and 6 are Kyrgyz. Among the victims there were 1636 Uzbeks and 1032 Kyrgyz.

²¹ Five weeks later, during the KIC Commissioners meeting with the Prosecutor General, Baybolov on 25 January 2011, the numbers of criminal cases had climbed to 5,225, an addition of 63 cases.

²² Information received from Osh city pre-trial detention No. 25 in Osh (SIZO 5) on 19 November 2010. It should be noted that the State Service of National Security has its own pre-trial detention facility.

208. By December 2010 the investigation of 170 criminal cases was completed and submitted to court in both Osh and Jalalabad to be examined. These cases involved 311 accused and 447 victims. The proportion of accused person is approximately 79 % Uzbeks, 18 % Kyrgyz, and 3 % other or not indicated. Although the 66 cases submitted for examination in the court of Osh city do not specify the number of accused persons, information provided by the authorities to the KIC reveals that out of the 44 persons charged of homicide or destruction of property in Osh city, 33 are Uzbek (75%) and 8 are Kyrgyz (18%). This reflects the cumulative proportion of the court of Osh and Jalalabad provinces.
209. Finally, in analyzing the information provided by the authorities in December 2010, it appears that nearly six months after the events, of the 71 persons charged or accused of homicide for the June events, 59 are Uzbek (83%) and 7 are Kyrgyz (9.8%). There were 184 trials held in the courts of Osh and Jalalabad provinces; 177 accused were sentenced, 2 were acquitted and 5 cases were sent to the prosecutor's office for further investigation. All trials were conducted in front of ethnic Kyrgyz judges.

B Some Particular Issues

Weapons: Seizure, Distribution and Use

210. The Kyrgyz crowds who attacked the Uzbek *mahallas* were armed with firearms and ammunition seized from military installations or convoys and from police in circumstances largely unopposed by troops. This included the capture of 3 APCs, with all weapons and equipment, near Furkhat early on 11 June. This incident was particularly serious given that an SVD 7.62mm sniper weapon and its ammunition were seized. As noted above, it is possible that this weapon was used in the attack near the regional hospital in Furkhat at about 11am the same day. Other seizures occurred in Batken, Teshik-Tash, Jalalabad and at the Osh Traffic Police Office. In Jalalabad, the KIC has observed damage commensurate with that caused by a 73mm cannon mounted on an APC that had been taken from troops of the Ministry of Interior.
211. According to official information received by the KIC the total number of weapons seized in both Osh and Jalalabad was 168 automatic weapons, including 5 pistols and 2 SVD 7.62mm sniper rifles with telescopic sites, plus 33,494 rounds of ammunition of various calibres. In Osh region alone at least 134 rifles, 2 sniper rifles, 2 machine guns, 1 mortar, 3 pistols, all with ammunition, 1 grenade F-1 and 2 APCs were either seized by or given to the crowds by military officers. The KIC notes, with some concern, that 80 weapons and 19,079 rounds of ammunition have not been recovered. The KIC notes that there is no evidence that the relevant authorities took any steps immediately following the first seizure / surrender on 11 June to recover the weapons lost, or to prevent further similar incidents.
212. The subsequent distribution of seized weapons to participants remains more opaque. Evidence suggests that semi-automatic and automatic weapons were distributed to the Kyrgyz crowd that had gathered outside the *Kirgiziya* cinema

prior to the 11 June attack on the Cheremushki *mahalla* and that there was some *ad hoc* training in their use. There is other evidence of such weapons being distributed from cars, such as in Onadyr on 12 June, or by helicopter, such as near the clothing market on the same date. Certainly, both Uzbek and Kyrgyz residents had access to guns other than seized automatic and semi-automatic weapons, given the high level of both legal and illegal gun possession within the society.

213. The KIC notes that many witnesses described sniper fire in their accounts of the events. Some witnesses said that there was a sniper or snipers on Sulaiman Mountain during the night of 10/11 June that were targeting and killing Uzbeks. An analysis undertaken by the KIC has determined that it was possible that gunmen (or women) could have been located on the mountain and reached targets in both Navoi Street and Cheremushki. However, given the extreme difficulty of a sniper's craft, particularly against moving targets in the dark, the KIC is of the view that it is unlikely that trained snipers using dedicated sniper rifles were situated on the mountain at that time. The shooting that occurred is likely to be of the same variety as the "sniper" fire described in the later attacks against the *mahallas*. That is, lone gunmen (or women) using hunting weapons. The exception is, as noted above, the likely use of a seized SVD 7.62mm sniper rifle in the 11 June attack against the *mahalla* near the Regional Hospital in Furkhat. However, the KIC notes that on the following day the National Border Guard Service posted 2 snipers on Sulaiman Mountain at about 11.15am. The KIC has no further information as to any activity undertaken by those snipers.

Burning

214. The targeted destruction of property by burning was a signature of the attacks on the Uzbek *mahallas* in Osh. Witnesses described the use of an incendiary device different from a Molotov cocktail, often described as being spherical. The limited analysis undertaken by the KIC in the remains of burnt buildings concluded that the burning was caused by some device or material other than a Molotov cocktail.
215. The KIC notes that this is different from the burning in Jalalabad. For example, the University of People's Friendship burned at a lower intensity than the buildings in Osh. The burning at the University was, in all likelihood, caused by a Molotov cocktail.

Sexual and Gender Based Violence

216. Sexual and gender-based violence committed during the events remains underreported and largely unacknowledged by the authorities²³. Women were killed, raped, mutilated, internally displaced and forced to flee abroad. In the aftermath women victims continued to suffer. Some raped women were rejected by their husbands. Some unmarried raped women were exiled or rapidly married off. Raped women, particularly Uzbeks, had little access to medical and

²³ Neither the report of the Ombudsman nor the report of the National Commission of Inquiry have documented any case of sexual and gender based violence.

psychological help. The stigma attached to rape created a reticence in victims to confide in friends or relatives.

217. The evidence of sexual and gender based violence during the events shows a recurrent pattern of gang rape against Uzbek women. Credible evidence from multiple sources suggests a high level of sexual violence during and after the June events. The KIC has corroborated around twenty rapes and other incidents of sexual violence but the true figure is certain to be considerably higher²⁴. The majority of cases involved sexual violence committed by Kyrgyz men against Uzbek women. The KIC has five confirmed incidents of sexual violence against a Kyrgyz woman by Uzbek men. The rapes generally took place in houses in the *mahallas* where the woman resided or had temporarily hidden. Some rapes occurred in places of temporary detention, notably in *Café Nostalgie*. Most evidence of sexual and gender based violence arose in the Osh District, Furkhat and Cheremushki.
218. Most of the incidents involved gang rape either in front of family members or publicly. At *Café Nostalgie* and other places of detention, girls and women were separated from others and raped, sometimes gang raped. Almost all rapes were accompanied by additional physical violence, sometimes even mutilation, as well as ethnic-related insults and threats. Some women were raped and then murdered and/or burnt. Women accounted for a little less than 10% of the people killed in the events. Some Uzbek women were forced to undress and walk through the streets. On one occasion an Uzbek woman was forced to dance naked in front of Kyrgyz men. Female sex workers were also kidnapped and gang raped.
219. Women have continued to suffer sexual and gender based violence, including gang rape and kidnapping, in the aftermath of the events. Some women detained by the authorities have been offered medication or release in exchange for sexual intercourse. The scope of the sexual violence, which extends beyond the fighting itself, did not take place in isolation or as an unintended consequence of the conflict. Rather, it is closely linked to both the subordination of women to gender based discriminatory customs and practices and to the perceptions of women as markers of group identity and honour.
220. Even before the June events, the international community has expressed concern at the low level of reporting of sexual and gender based crimes. Against the broader backdrop of discrimination against the Uzbek community after the June

²⁴ The Committee on the Elimination of Discrimination against Women (CEDAW) and the Special Rapporteur on violence against women, its causes and consequences both expressed concerns that many cases of sexual violence against women were not reported to law enforcement officials. Key obstacles to reporting included widespread mistrust in the authorities and social stigma associated with sexual violence in particular. These factors also reportedly prevented women from seeking medical treatment and psychological support. See Concluding observations of the CEDAW, Kyrgyzstan (/C/KGZ/CO/3, 14) November 2008 and Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo (A/HRC/14/22/Add.2 III), 2009.

events, the mistrust amongst Uzbek women in institutions has intensified and resulted in even less chance of reports of gender based violence being made to the authorities²⁵. In the rare cases where victims have chosen to file claims for rape the response of the authorities has been inadequate if not obstructive, often forcing the victims to withdraw their claims.

221. Women's rights groups from around the country organized immediately in response to the events. They have been active in documenting the incidents of sexual violence, providing support for women in need of help and advocating for the protection and promotion of women's rights in times of conflict and in peace.

C Impact of the Events

Deaths and Injuries

222. The human toll of the June events was considerable. The official number of deaths varies between 418 (Ministry of Health) and 426 (Office of the Prosecutor General). Figures soon to be released by the local NGO Kylym Shamy, calculated by a methodology considered by the KIC to be reliable, puts the figure at about 470. It is expected that this figure will grow but not substantially.
223. Of the 470 killed, 74% were Uzbek, 25% were Kyrgyz and 1% were other ethnicities or nationalities. Over 90% were men. About 67% of the dead had gunshot wounds (80% Uzbek, 19% Kyrgyz). Most Uzbek died of gunshot wounds (72%), while fatal injuries of Kyrgyz were equally from gunshot wounds (51%) and other means (49%). More than 50% of the deaths occurred in Osh on 11 and 12 June. Of these, the overwhelming majority (nearly 70%) were Uzbek. However on 12 June in Jalalabad, the trend was reversed: six Kyrgyz and one Uzbek died.
224. Thousands of people were injured during the course of the events. Ministry of Health figures stated that 1,900 people received medical assistance in the hospitals. Of these 57.7% were Kyrgyz and 40.2% were Uzbek. A little over 60% of those who attended a hospital had a gunshot injury. The true number of people injured is likely to be much higher. Some hospital treatment was not registered. Other people received medical assistance in *mahalla*-based clinics, makeshift hospitals in mosques and at home.
225. The Ministry of Health has stated that ethnicity was irrelevant to the availability of hospital treatment. KIC evidence confirms that Uzbek victims of the Sanpa incident were well treated in Suzak district hospital. Others were admitted and treated without discrimination at the Osh regional hospital.

²⁵ Ibid.

226. There was nonetheless some differentiation of hospitals according to ethnicity explained largely by location of the facility. The oncological hospital, Tuleiken, Onadyr and Nariman hospitals are located in predominantly Uzbek areas and received mostly Uzbeks. The city, regional and Mady hospitals received primarily Kyrgyz patients. Mady hospital is located in a Kyrgyz area. The city and regional hospitals are geographically proximate to both Kyrgyz and Uzbek areas. Nonetheless, when the city and regional hospitals became overwhelmed by casualty numbers, Kyrgyz patients were given preferential treatment over Uzbek patients.
227. Information received from Uzbekistan authorities stated that of those who crossed the border to Uzbekistan, more than 200 had gunshot wounds and a total of about 2,800 people were hospitalised.

Property Damage

228. Arson caused extensive damage to buildings in both Osh and Jalalabad provinces. UNOSAT counted that 2,843 buildings were damaged in the cities of Osh, Jalalabad and Bazar Korgon.²⁶ Among those, 2677 buildings were totally destroyed and 166 severely damaged. There was damage to industrial warehouses, government buildings, police stations, health and education facilities, although more limited than to private dwellings.
229. The damage primarily affected Uzbek *mahallas*. The majority of damaged residential buildings consisted of one-storey houses situated inside compounds. UNHCR counted 1,943 compounds that were damaged. Amongst these, 90% suffered major damage or needed total reconstruction. About 14,000 people had lived in these compounds.
230. Thousands of commercial premises like shops, cafes, restaurants and markets were also damaged. The Ministry of Economic Regulation has received nearly 1,350 applications for compensation arising from damage to commercial premises.

Displaced Persons

231. The mass internal and external displacement of the population during and immediately after the June events created a serious humanitarian crisis. Uzbek authorities indicated that they received nearly 111,000 displaced persons, the majority of whom were women and children. Uzbekistan opened the border on 11 June.
232. The Uzbekistan Ministry of Emergencies established numerous tent camps. Medical assistance and humanitarian aid were supplied there and also across the border in Kyrgyzstan to Uzbeks who had assembled at the border but were not allowed through. Officials from Kyrgyzstan did not visit the Uzbekistan camps until more than a week after the events.

²⁶ UNOSAT, *Damage Analysis Summary for the Affected Cities of Osh, Jalal-Abad and Bazar-Kurgan, Kyrgyzstan. Damage Analysis Based on Post-Crisis Satellite Imagery Recorded on 18 & 21 June 2010, 9 July 2010.*

233. An estimated 78,000 displaced persons crossed back over the border in advance of the referendum on the Constitution on 27 June.²⁷ Although these people signed letters stating that they were leaving for Kyrgyzstan voluntarily, their departure was motivated by intense pressure from the Kyrgyzstan and Uzbekistan authorities to return to Kyrgyzstan and concerns that they might lose their home or their citizenship if they did not.²⁸
234. UNHCR estimated that 300,000 people were internally displaced during the events. Most had returned by mid-July. The Rapid Joint Shelter Assessment conducted in July suggests that half of the affected households lived in tents erected next to their damaged houses at that time.²⁹ As of January 2011, UNHCR claimed 169,500 people remained displaced. Many other people permanently left Kyrgyzstan, particularly for neighbouring countries³⁰.
235. The displacement and dislocation created urgent humanitarian needs. The Rapid Emergency Food Security Assessment of the World Food Program conducted in Osh and Jalalabad in July 2010 estimated that 83% of households living in transitional housing were food insecure. The figure was 43% for those who were hosted by relatives or friends.³¹ The June events have also taken a psychological toll on the population.³² Livelihoods have been severely disrupted.

²⁷ Newsagency 24kg, “78 675 refugees came back to Kyrgyzstan after the tragic June events” available at: <http://www.24.kg/osh/77632-v-kyrgyzstan-posle-iyunskix-tragicheskix-sobytij.html>, 27 June 2010.

²⁸ UNHCR, “UNHCR cautions that returns in Kyrgyzstan must be sustainable”, available at: <http://unhcr.org/4c230b759.html>, 26 June 2010.

²⁹ ACTED, UNHCR, *South Kyrgyzstan Rapid Joint Shelter Assessment 03 July 2010/23 July 2010*, 2 August 2010.

³⁰ UNHCR, *Kyrgyzstan Situation: 2011 Supplementary Budget Requirements (January 2011)*, p.3, at <http://www.unhcr.org/4d4aae999.html>

³¹ World Food Programme, *Rapid Emergency Food Security Assessment in Osh and Jalalabad – Kyrgyz Republic*, July 2010, p.i.

³² World Health Organisation, UNICEF, UNFPA, *Inter-Agency Health and Nutrition Assessment: Jalal-Abad and Osh, Kyrgyzstan*, 16 July 2010, p.4.

III LEGAL CLASSIFICATION OF ACTS OF VIOLENCE UNDER INTERNATIONAL LAW

236. The following analysis is given in completion of the second component of the mandate of the KIC, namely to qualify the violations and the crimes under international law. The bodies of international law relevant to this report are international human rights law, international humanitarian law and international criminal law. Consequently, the KIC must establish whether the incidents of violence identified in the previous section constitute violations under international law and whether they amount to international crimes and, if so, under which category. It is impractical for the KIC to consider each occasion or scene of violence separately. Accordingly, the KIC identifies below the legal framework applicable to the main incidents of violence in order to draw conclusions as to the overall classification of those incidents or groups of incidents.
237. As noted elsewhere in this report, Kyrgyzstan is a party to many of the core international human rights treaties and is also obligated to comply with customary international law in this field. These obligations require it both to refrain from any violations of the relevant standards, and also to take all possible measures in response to activities of non-state actors which violate human rights standards. In the present context this means that the Government is responsible not only for the actions of its own officials and security forces, but also for the actions of private individuals or groups in situations in which the Government failed to do all that it could to stop these actors or subsequently to investigate, prosecute and punish their actions.
238. During the June events, it is clear that significant violations of human rights took place. These are documented and analysed in detail both in Section II above and in Section IV below.

A Crimes under international law

239. International law has long dealt with war crimes, genocide and crimes against humanity. As a result there is an extensive body of customary international law on each of these subjects, and that law is applicable to Kyrgyzstan. While Kyrgyzstan is not a party to the Rome Statute of the International Criminal Court (ICC), the relevant formulations adopted in the Statute can for the most part be considered for present purposes to provide a convenient and appropriate definition of the content of the relevant crimes.

War crimes

240. In broad terms, war crimes are any serious violations of international humanitarian law directed at civilians or enemy combatants during an international or internal armed conflict³³.
241. The existence of an armed conflict is the threshold element of war crimes. International jurisprudence has established that an armed conflict will exist, “whenever there is resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State³⁴”. Internal disturbances and tensions “such as riots, isolated and sporadic acts of violence and other acts of a similar nature” are generally excluded from the notion of armed conflict³⁵. In order to distinguish internal (non-international) conflict from mere internal unrest, internal tensions or banditry, international humanitarian law imposes measures of duration, potency and design. The armed conflict must be prolonged and assume at least a minimum level of both intensity and organisation.³⁶ Further, in order to apply Article 1 of Additional Protocol II to the Geneva Conventions of 12 August 1949, the armed group must exercise control over part of the territory.

➤ *Application to the June events*

242. Although the June events were violent and resulted in a high number of victims, it is difficult to characterise the duration of the conflict as prolonged or protracted. Upon the most inclusive reckoning, the violence occupied 5 to 6 days.
243. There is no doubt that at its height, the armed violence was intense. However, that intensity was variable. In Osh, the violence was at its peak in the 48 hours from the very early hours on 11 June to the late night of 12 June. The violence was significantly less vigorous in the following days. By way of example, the KIC notes that of the some 470 people killed in the incidents more than half were killed in that 48 hour period. In Jalalabad, not only was the overall intensity level of the violence lower than it was in Osh, but its peak was confined to about 36 hours, from about midday on 12 June to the end of 13 June.
244. Although there is evidence of pattern and planning in the attack against the Uzbek *mahallas* as well as some evidence of discipline by the participants, that evidence does not reveal a “high degree of organization”, the “existence of a clear command structure” or the capacity to “carry out sustained and concerted

³³ Such crimes are derived primarily from three sources: the Geneva Conventions of 12 August 1949, their Additional Protocols I and II of 1977 and the Hague Conventions of 1899 and 1907.

³⁴ ICTY Appeals Chamber, Tadić, Interlocutory Appeal on Jurisdiction (1995), § 70.

³⁵ See Additional Protocol II, Art. 1 (2) and the ICC Statute, Article 8(2)(d) and (f).

³⁶ See sect. *d* and *f*, para. 2 of article 8 of the Rome Statute of the ICC; see article 3 common to the Geneva Conventions of 12 August 1949; article 1 of Additional Protocol II adds that the armed group must control part of the territory; see also ICTY *Fatmir Limaj*, no. IT-03-66-T, 30 November 2005, para. 94 to 134, or D. Schindler, *The Different Types of Armed Conflicts According to the Geneva Conventions and Protocols*, RCADI [Collected Courses of the Hague Academy of International Law], vol. 163, 1979-II, p. 147.

military operations”³⁷. This is so notwithstanding the evidence of some military (direct or indirect) participation in the violence. That participation was not ubiquitous and was concentrated in the 7 zones identified in the previous section. The majority of the incidents are best characterized as distinct but related, and in which one group of individuals attacked and another group of individuals defended. It follows that no armed group controlled part of the territory of the Kyrgyz Republic.

245. It is the opinion of the KIC that these events do not qualify as an armed conflict under international humanitarian law.

Crimes against humanity

246. Since its original formulation in the Statute of the Nuremberg Tribunal, the definition of crimes against humanity has become much more specific. Its recent codification in Article 7, Paragraph 1 of the Rome Statute of the ICC enumerates 11 acts which, when they are committed “as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”, constitute crimes against humanity. In contradistinction to war crimes, crimes against humanity need not be committed during an armed conflict. Accordingly, in addition to the mental element requiring knowledge of the attack, the three physical elements of crimes against humanity are:

- **An act** (included in the list) such as murder, rape or serious injury to body or physical health;
- Committed as part of a **widespread or systematic attack**;
- Directed against any **civilian population**.

- *The commission of an act included in the list*

247. The 11 acts listed in the definition of crimes against humanity essentially reflect the most serious crimes committed against a person’s life, or physical or moral integrity. Notably they include:

- Murder;
- Torture;
- Rape, sexual slavery or any other form of sexual violence of comparable gravity;
- Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious or gender grounds;
- Enforced disappearance of persons;
- Any other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

- *Widespread or systematic attack*

³⁷ICRC Commentary on the Four Geneva Conventions of 1949, p. 1352

248. While it does not necessarily have to consist of a military attack or armed conflict, the Rome Statute stipulates that an “attack against a civilian population” is a course of conduct involving the multiple commission of the enumerated acts.³⁸ Nonetheless, a single act can constitute a crime against humanity if it is part of a larger attack. The widespread nature of the attack is based upon its scale, the number of people targeted or “the cumulative effect of a series of inhumane acts or [through] the specific effect of a single, large-scale act”.³⁹ Its systematic nature is inferred from the “organised character of the acts committed and [from] the improbability of their being random in nature”.⁴⁰ “Patterns of crimes – that is the non-accidental repetition of similar criminal conduct on a regular basis – are a common expression of such systematic occurrence”.⁴¹ The ICC Statute also includes the requirement that the attack must be committed “pursuant to or in furtherance of a State or organizational policy”.⁴² But in the jurisprudence of the ICTR and the ICTY this requirement has been interpreted not to constitute “a separate legal element of a crime against humanity”, although it is still “evidentially relevant” in proving the widespread or systematic nature of an attack.⁴³ In relying upon customary international law approaches to crimes against humanity the Commission does not need to take a position on current debates surrounding the approach to be adopted by the ICC. Instead, in conformity with existing law it adopts below a relatively demanding standard in order to assess whether a sufficient degree of organizational policy existed in relation to the June events.

➤ *Directed against any civilian population*

249. The protection of civilian populations is central to the concept of crimes against humanity. It is from this that the requirement that the widespread or systematic attack be directed against them arises. A civilian population is defined to include not only people who are not in uniform and have no link to the public authorities, but all people who are “out of combat” and thus are not, or are no longer, taking part in the conflict.⁴⁴ A population may be classified as “civilian” even if it includes non-civilians, provided that civilians comprise the majority.⁴⁵ Thus the expression “civilian population” must be understood in its broadest sense.

➤ *Application to the June events*

250. The KIC considers that there is a consistent and reliable body of material which, if proven beyond reasonable doubt, would show that the attack against the

³⁸ See Rome statute, Elements of Crimes, under article 7. See also *Nahimana, Barayagwiza and Ngeze*, ICTR Appeals Chamber, November 28, 2007, par. 918

³⁹ See *Kordić and Cerkez*, ICTY, Appeals Chamber, no. IT-95-14/2-A, 17 December 2004, para. 94.

⁴⁰ *Ibid.*

⁴¹ *Nahimana, Barayagwiza and Ngeze*, ICTR Appeals Chamber, November 28, 2007, par. 920

⁴² ICC Statute, Art. 7(2)(a)

⁴³ *Kunarac, Kovac and Voković*, ICTY Appeals Chamber, 12 June 2002, par. 98; see also *Seromba*, ICTR Appeals Chamber, March 12, 2008, par. 149; *Nahimana, Barayagwiza and Ngeze*, ICTR Appeals Chamber, November 28, 2007 par. 922; *Gacumbitsi*, ICTR Appeals Chamber, July 7, 2006, para. 84

⁴⁴ See *Mrkšić and Šljivančanin*, ICTY, Appeals Chamber, 5 May 2009, para. 32 and 33.

⁴⁵ See *Fatmir Limaj*, ICTY, Trial chamber, no. IT-03-66-T, 30 November 2005, para. 186.

Uzbek *mahallas* in Osh during the June events as described in Section II satisfy all three physical elements of crimes against humanity.

251. The KIC notes that although, as stated previously, there is a consistent and reliable body of material which tends to show that individual Uzbeks committed crimes during the events, including some of the enumerated crimes within the crimes against humanity definition, that material fails to satisfy the remaining two physical elements of the definition.
252. The KIC further notes that it does not consider the events in Jalalabad fall within the definition of crimes against humanity. The violence there was more in the nature of a reaction to the events in Osh and lacked the evidence of planning and method so evident in Osh.

➤ *Acts*

253. Of the enumerated acts listed in the definition of crimes against humanity, the KIC considers that the following crimes were committed during the attacks against the *mahallas*: murder, rape, other forms of sexual violence, physical violence (as an other inhumane act) and persecution against an identifiable group on ethnic grounds.
254. While the enumerated acts are generally well known crimes in domestic law, the crime of persecution requires further elaboration. Persecution is a crime encompassing a large number of acts including, amongst others, those of a physical, economic or judicial nature that deprive an individual of the exercise of their fundamental rights.⁴⁶ The act of persecution must be a manifest or flagrant denial, for reasons of discrimination, of a fundamental right protected by international customary or treaty law and be of the same degree of seriousness as the other acts listed in the definition of crimes against humanity.⁴⁷ In this respect, the KIC considers that many of the acts committed, including the targeted burning of Uzbek property, falls within the definition of persecution.

➤ *Attack*

255. The KIC considers that numerous incidents of violence were part of an attack against a civilian population. The fact that members of public authorities numbered amongst the victims does not alter that position.
256. In assessing whether the attack against the Uzbek population in Osh was widespread or systematic, the KIC has followed the methodology established by the ICTY Appeals Chamber. That is, to “first identify the population which is the object of the attack and, in light of the means, methods, resources and result of the attack upon the population, ascertain whether the attack was indeed widespread or systematic.” In doing so, the KIC has considered “[t]he consequences of the attack upon the targeted population, the number of victims,

⁴⁶ *Tadić*, ICTY, Trial chamber, *Jugement*, 7 May 1997, par. 697 to 710.

⁴⁷ *Kupreskić*, ICTY, Trial chamber II, 14 January 2000, para. 621.

the nature of the acts, the possible participation of officials or authorities or any identifiable patterns of crimes ... to determine whether the attack satisfies either or both requirements of a 'widespread' or 'systematic' attack.⁴⁸”

257. Numerous incidents described in the preceding section show that the acts of violence targeted Uzbek *mahallas* and the Uzbek individuals, groups and property contained within them. The hallmarks of ethnic membership in southern Kyrgyzstan are for those who live there, literally written upon the face or in a residential address. Witnesses told the KIC that Kyrgyz or Uzbek facial features are distinct and readily identifiable. Further, a fairly safe generalisation is that Kyrgyz people live in multi-storey apartment buildings, whereas Uzbek people live in single storey houses within compounds.
258. The targeting of the Uzbek population is, at its most simple, reflected by the fact that 75% of the people killed and the overwhelming majority of the destroyed property belonged to the Uzbek community. Further indicia include the painting of ethnic identifiers on houses in neighbourhoods which came under attack and the seeming power that those identifiers had in the selection for or preservation from looting and destruction; the use of ethnically derogatory terms towards Uzbek victims; the public gang rape of Uzbek women by Kyrgyz participants; the cessation of sniper fire when Kyrgyz crowds massed; and the power of ethnic-centric rumours on Kyrgyz participation in (alleged rape in the dormitory) or withdrawal from (intervention of the Uzbek military) the violence.
259. The attacks on the Uzbek *mahallas* exhibited pattern and order of several days duration. Attacking Kyrgyz crowds unable to penetrate Uzbek barricades often withdrew, regrouped and relaunched the attack with the aid of an APC. The APC was used to clear the barricade. This phase was often accompanied by “sniper” fire directed towards the Uzbek defenders. The armed Kyrgyz crowd would advance into the *mahalla* with the APC. The APC would then be used to break down gates to compounds, following which Uzbek owned houses would be looted and burnt. The looting was often co-ordinated and looted goods removed in dedicated vehicles. Uzbek residents of the houses were beaten and/or killed in their houses or as they attempted to extinguish fires or flee. Sometimes residents were also raped. This pattern was repeated in Akburra district at different locations on 11 and 12 June, at Pamirskaiia-Monueva Street and regional hospital in Furkhat district on 11, 12 and 13 June, in Onadyr on 12 and 13 June, in Cheremuskhi on 11 and 12 June, in Teshik-Tash on 11 and 12 June, in Shait Tebe on 12 and 13 June, in two locations in the Central Market area on 11 June and in Navoi Street on 12 June. As stated previously, this sustained behaviour of specific targeting and some kind of discipline and order is not commensurate with the normal chaotic actions of rioting civilian crowds.
260. The KIC also notes the unexplained device used to start a number of the fires. Witness descriptions of a spherical device were consistent across all zones of violence. While the KIC is not in a position to make any conclusion about the

⁴⁸*Kunarac, Kovac and Voković*, ICTY Appeals Chamber, 12 June 2002, par. 98, also *Nahimana, Barayagwiza and Ngeze*, ICTR Appeals Chamber, November 28, 2007, par. 920

exact nature of that device nor its source, its limited analysis supports the view that at least some of the burning was at a high intensity and unlikely to have been caused by a Molotov cocktail. The distribution of an unusual incendiary device supports the evidence of pattern.

261. The evidence also suggests at worst participation and at least complicity in the events by some military personnel. In this regard the KIC notes the following factors. First, the military made no meaningful effort to protect its equipment, weapons, ammunition and uniforms from Kyrgyz participants in circumstances where it should have been known that the equipment would be used in immediately subsequent attacks on the Uzbek *mahallas*. Second, some of that specialist equipment was used with a skill greatly in excess of what might be expected from civilians, even those from a society which practiced hunting widely. It is not reasonably expected that a civilian population would contain numerous individuals capable of expertly manoeuvring APCs. Third, men in camouflage clothing were present at every attack on an Uzbek *mahalla*. While some uniforms were surrendered by the military to Kyrgyz participants, that fact is unlikely to account for every sighting of a uniformed man, particularly those manoeuvring APCs or firing automatic and semi-automatic weapons.
262. The KIC further notes that the police were complicit in so far as they chose the role of observer over that of intervener.
263. Acts of sexual violence may be considered as acts of torture, of persecution, of inhuman acts, of cruel or inhuman treatment in the context of crimes against humanity⁴⁹. It is well established that even an individual case of serious sexual violence may constitute a crime against humanity if it was committed as an integral part of a more widespread and systematic attack on a civilian population.⁵⁰ While the KIC has corroborated evidence of around twenty incidents of rape and other sexual violence, it is noted again that this figure is likely to be vastly lower than the reality.
264. As noted in the previous section, almost all evidence of sexual violence involved gang rape. Usually that rape occurred in front of either male family members or publicly. Almost all rapes were accompanied by extreme physical violence such as beatings, knife injuries and even mutilation, as well as ethnic related insults and threats. Additionally Uzbek women (and men) were sometimes undressed and forced to walk through the streets. On one account Uzbek women were forced to dance naked in front of Kyrgyz men. The KIC is satisfied that this sexual violence was integral to the widespread and systematic attack on the civilian population.

⁴⁹ Patricia Viseur Sellers, *The Prosecution of Sexual Violence in Conflict: The Importance of Human Rights as Means of Interpretation*, OHCHR, 2008.

⁵⁰ According to the decision issued by the ICTY in the Kunarac case, it is sufficient to show that the act took place in the context of a series of acts of violence which, individually, could vary enormously in their nature and severity, *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic*, Case No. IT-96-23-T and IT-96-23/1-T, para. 419.

265. The massive destruction of houses and other buildings that largely belonged to Uzbeks was also clearly part of a systematic and widespread attack on the civilian population. It had a detrimental effect on the liberty and livelihood of those people, forcing their displacement outside the area of violence. The destruction was carried out unlawfully and wantonly. That the overwhelming majority of the buildings destroyed belonged to Uzbeks indicates that it was carried out in a discriminatory manner. More so considering the fact that in many *mahallas* property owned by Kyrgyz or Russian residents was spared. The KIC is satisfied that it amounts to an ‘intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity’, which constitute a crime of persecution, as a crime against humanity.⁵¹
266. In light of the above factual findings, the KIC considers that if the evidence of the acts identified above committed during of the attacks on the *mahallas* were proven beyond reasonable doubt in front of a competent court of law, that court would conclude that they constituted crimes against humanity. Therefore the KIC is of the opinion that these acts would qualify as crimes against humanity.

Crime of genocide

267. The original 1948 definition of genocide in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide, has remained substantially unchanged. The crime prohibits ‘acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such’⁵². This specific intention to destroy is the key element in the crime of genocide, which is often described as a crime of intent requiring a specific aggravated criminal intent (*dolus specialis*).⁵³ It is this element that distinguishes the crime of genocide from a crime against humanity.
- *Application to June events*
268. Following an analysis of the evidence concerning the June events, the KIC is of the opinion that the numerous crimes exposed in the reported incidents in Section II, despite their discriminatory and violent nature and the high number of victims, do not reveal the specific intention to destroy, in whole or in part, a group as such, and consequently do not qualify as crimes of genocide.
269. The intention to destroy a named group, even in part, requires that the section of the group targeted must be substantial and thus reflect “both the mass nature of the genocide and the concern expressed in the Convention as to the impact that the destruction of the section of the group targeted would have on the survival of the group as a whole.”⁵⁴ Its substantial nature is established on the basis “not

⁵¹ See Art 7(1)(h) and Art. 7(2)(g) of the ICC Statute that define persecution as a Crime against Humanity

⁵² See Art. 6 of the ICC Statute

⁵³ See in general the case on the application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia-Herzegovina v. Serbia and Montenegro*), ICJ, 26 February 2007, para. 186 to 201, (hereafter ICJ, decision on genocide).

⁵⁴ *Krstić* arrest, ICTY, Appeals chamber, no. IT-98-33-A, 19 April 2004, para. 8; see also *Krstić*, ICTY, Trial chamber, no. IT-98-33-T, 2 August 2001, para. 590: The physical destruction may only be targeted at a

only of the numerical size of the fraction of the group targeted, but also its position within the group as a whole.”⁵⁵

270. In reaching its view that there was no specific intent on the part of the Kyrgyz attackers to destroy a group, in whole or part, the KIC has considered the following factors. First, the limited number of attacks and of areas targeted. Second, the absence of a policy encouraging the destruction of a group. Third, that in large measure individuals fleeing the zones of violence were not pursued. Fourth, the limited duration of the most violent events and the rapid decrease of the number of incidents in the following days.

B Continuing human rights violations

271. Numerous incidents of violence that occurred during both the June events and in the aftermath were not part of a widespread and systematic attack. Therefore, they do not qualify as crimes against humanity under international law. Nevertheless such incidents can be classified as serious violations of international human rights law if they were committed by or involved the government authorities and their agents. Violations can also result from situations where a state fails to prevent, prosecute or punish actions carried out by non-state actors.
272. In this report the KIC notes particularly issues of torture and procedural guarantees to a fair trial.

Torture

273. Apart from constituting a crime against humanity when it is part of a widespread and systematic attack, torture is also a serious violation of human rights. The ban against torture is one of the most fundamental prohibitions in international human rights law. Numerous international instruments prohibit the use of torture. These are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of the Child. Kyrgyzstan is party to the last three instruments, and as such is legally bound by them⁵⁶. The prohibition against torture is absolute and non-derogable. It is also recognized as part of international customary law. It applies even in situation of public emergency.

geographically limited areas of a wider group, because the perpetrators of the genocide considered that the destruction envisaged was sufficient to annihilate the group as a distinct entity in the geographical area in question”; confirmed by the Appeals chamber, decision of 19 April 2004, para. 6 to 23; ICJ, decision on genocide, para. 198 to 2001.

⁵⁵ Ibid. para. 9. See in general ICJ, decision on justice, para. 198 to 201.

⁵⁶ Kyrgyzstan is party to the ICCPR since 07/10/1994, to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since 05/10/1997 and to the Convention on the Rights of the Child since 05/09/ 1997.

274. As a state party to the CAT Kyrgyzstan is not only obliged to stop and prevent torture. Kyrgyzstan must investigate all allegations of torture and bring to justice suspected perpetrators, exclude evidence obtained through torture in subsequent legal proceedings and ensure redress for victims. The UN Committee against Torture has made plain that public officials cannot avoid accountability or escape criminal responsibility for torture committed by subordinates where they knew or should have known that such impermissible conduct was occurring, or was likely to occur, and they failed to take reasonable and necessary preventive measures.⁵⁷
275. Article 22 of the Constitution expressly prohibits torture and “all other forms of cruel, inhuman and degrading treatment and punishment.” The intentional infliction of physical or mental suffering in order to obtain a confession is banned under the Criminal Code of Kyrgyzstan⁵⁸.
276. Article 10 of the Criminal Procedure Code of Kyrgyzstan protects the right of the individual not to be subjected to threats, violence, or other illegal measures during interrogations. The detainee has the right to file a complaint against those in charge of his case. Any claim of physical abuse, filed by or on behalf of the detainee must be followed by a mandatory medical examination⁵⁹.
277. The KIC considers that there is a consistent and reliable body of material which tends to show that acts of torture were committed in detention centres by the Kyrgyz authorities in the aftermath of the June events.
278. The evidence presented to the KIC shows that the ill treatment of detainees by authorities in the first place of detention, irrespective of the precise location, has been almost universal. Most of the torture was targeted towards the obtaining of a confession or the incrimination of others prior to the sanctioning of the arrest and detention by a judge. Indeed the KIC has evidence of but one instance where a detainee was not ill treated. In that case the detainee confessed voluntarily at the beginning of the interrogation.
279. The ill-treatment consisted of different methods. These included beatings all over the body with fists, batons, metallic rods and butts of weapons, electric shocks, asphyxiation by forcing the detainee to wear a gas mask and then cutting the flow of oxygen, placing a plastic bag over the head of the detainee, burning with cigarettes and extracting fingernails. In one instance a detainee was hit and kicked by the prosecutor in the corridor of the court building.
280. Statements of detainees made during trials that their confession was made under duress have been disregarded by trial judges, even where detainees have shown visible signs of ill treatment. While State appointed lawyers have not paid attention to allegations of torture, other lawyers have been prohibited by judges from raising the issue either as a ground to exclude evidence obtained by torture or at all. These lawyers have been attacked by crowds in court rooms. Some

⁵⁷ UN Committee against Torture, General Comment no 2, CAT/C/GC/2, January 24, 2008.

⁵⁸ Article 305-1.

⁵⁹ Article 40, paragraph 5.

detainees who raised the issue of torture were then further ill treated by officials at times when the court was in recess or following the completion of trials, seemingly as a form of punishment.

281. As at 31 January 2011 there has been not a single prosecution resulting from ill-treatment in custody following the June events. This is despite a number of successful appeals against conviction where the original conviction rested essentially upon a confession obtained under duress.

Procedural guarantees to a fair trial

282. Basic procedural safeguards are rules that must be applied to ensure a fair trial. In matters of criminal law, this relates in particular to the rights of the accused and to exercise of judicial power by a competent, independent and impartial court. The rules are designed to ensure due process. The Kyrgyz Republic is a party to the ICCPR which enshrines those rules.
283. Article 4 of the ICCPR establishes that a party to the ICCPR may, if a state of emergency is declared, take measures which derogate from their obligations under that convention to the extent strictly required provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. A state wishing to avail itself of this right of derogation must immediately inform the Secretary-General of the UN of the provisions from which it has derogated. At no stage during 2010 did the Kyrgyz Republic make any such notification. Therefore the ICCPR applied in full.
284. The rights of a fair trial are:

- **The right to be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law:** ICCPR, Art. 14(1);
- **The right to be presumed innocent:** ICCPR, Art. 14(2);
- **The right to a defence:** ICCPR, Art. 14 (3);
- **The right not to be held guilty of an act or omission that did not constitute a criminal offence at the time when it was committed:** ICCPR, Art. 15;
- **The right to liberty and security of person, including not being subjected to arbitrary arrest or detention:** ICCPR, Art. 9;
- **The right to effective remedy in case of serious human rights violations:** ICCPR, Art 2(3);
- **The right to reparation for human rights violations:** ICCPR Art. 2(3), 9(5) and 14(6);⁶⁰
- **The obligation to bring the perpetrators of human rights violations to justice:** ICCPR, Art. 2(3);⁶¹ Art. 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment.

285. The KIC considers that there is a consistent and reliable body of material which shows that multiple violations of fair trial rights were committed in the aftermath of the June events.

Arbitrary Arrests and Detentions

286. The ICCPR protections against arbitrary arrest or detention, “except on such grounds and in accordance with such procedure as are established by law” are enshrined in the constitution of Kyrgyzstan⁶². The Constitution guarantees that a detainee must be immediately informed of the reason for his or her detention, the right to have a medical examination and assistance, to be represented by a lawyer from the moment he or she is deprived of his or her freedom, and the right to judicial review of the detention.⁶³

⁶⁰ According to General Comment No. 31 of 26 May 2004 of the Human Rights Committee, “Article 2, paragraph 3, requires that States Parties make reparation to individuals whose Covenant rights have been violated. Without reparation to individuals whose Covenant rights have been violated, the obligation to provide an effective remedy, which is central to the efficacy of article 2, paragraph 3, is not discharged.” (CCPR/C/21/Rev.1/Add.13, para. 16).

⁶¹ See General Comment No. 31 of the Human Rights Committee, the terms of which state: “A failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant. Cessation of an ongoing violation is an essential element of the right to an effective remedy” (para. 15), and “Where the investigations [into alleged human rights violations] reveal violations of certain Covenant rights, States Parties must ensure that those responsible are brought to justice. As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant. These obligations arise notably in respect of those violations recognized as criminal under either domestic or international law, such as torture and similar cruel, inhuman and degrading treatment (article 7), summary and arbitrary killing (article 6) and enforced disappearance (articles 7, 9 and, frequently, 6)” (para. 18).

⁶² See also Principle 16(1), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), adopted December 9, 1988, G.A. Res. 45/111, annex, 45 U.N. GAOR Supp. (No.49A) at 200, U.N. Doc. A/45/49 (1990).

⁶³ Constitution of the Republic of Kyrgyzstan, Article 24

287. Under the State of Emergency Organic Act 2003⁶⁴, the initial detention may be extended beyond 48 hours, but only in clearly defined circumstances. It may be extended up to 72 hours (3 days) if a person violates curfew, and up to 15 days if a person violates certain measures (such as forced or restricted movement, the ban on large public gatherings and protests, the prohibition of the use of weapons, and the limitation or ban on the use of telecommunications).
288. The Criminal Procedure Code of Kyrgyzstan further stipulates that suspects have the right to know the charges being brought against them⁶⁵ and that a lawyer must be present at all times during the interrogation⁶⁶. The law also protects against illegal searches of dwellings and property. Except in special circumstances, private residences may only be searched during the day, in the presence of the inhabitants and with their consent.⁶⁷ If a search is conducted against the will of the inhabitants, the Prosecutor's Office must be notified within 24 hours⁶⁸.
289. The KIC considers that the sweep operations of 21 to 23 June that targeted Uzbek neighbourhoods, in particular those of Nariman, Cheremushki and Shait Tebe, involved serious violations of international law and the law of Kyrgyzstan. Security forces used excessive force. Hundreds of men, the majority of them Uzbek, were beaten or otherwise ill-treated and tortured during the raids and subsequently arbitrarily arrested and detained. The accused did not know what the allegations against them were or where they were taken. Security forces also illegally searched private homes, smashing fixtures and taking property from the residents. Personal documents were destroyed or seized.
290. Large scale search-and-sweep operations were replaced by frequent smaller scale security operations once the barricades from the Uzbek neighbourhoods had been removed and the curfew lifted. Security officers (or at least groups of armed men in camouflage uniforms usually driving civilian vehicles) conducted arbitrary, unsanctioned searches of people's homes. These men failed to identify themselves or explain the reasons for the searches. They arrested young Uzbek men without articulating any grounds for doing so. The security forces often held relatives of the detained, mainly women and children, at gunpoint and threatened to shoot them if they protested. In most cases, the security forces did not tell the relatives where the detainees were being taken, and several families said they could not establish the location of their relatives for hours or even days.
291. Most persons detained were taken to the Osh City Police Department, Osh Province Police Department, Osh city traffic police building and Aravan district police station. The security forces habitually failed to register those detained. Lawyers and others later found it impossible which agency was responsible for

⁶⁴ Articles 28 and 29.

⁶⁵ Article 40.

⁶⁶ Article 100.

⁶⁷ Article 177.

⁶⁸ Article 184.

the arrest and detention. The authorities often corruptly demanded money in exchange for release.

The Right to a Defence

292. Article 40 of the Criminal Procedure Code of Kyrgyzstan implements the Article 14 ICCPR rights. It states that a suspect has the right to a defender from the moment of the first interrogation or his (or her) bringing to investigation facilities. Lawyers must be able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference. If their security is threatened, the authorities should provide adequate safeguards⁶⁹.
293. These rights have been systematically ignored. Interrogations have occurred in the absence of legal representation. The majority of detainees were allowed access to a lawyer only after a confession had been obtained and, even then, were not allowed to consult the lawyer in private. Many detainees have not been allowed to choose their own lawyer, even when one had been retained on their behalf by their family. State appointed lawyers have consented to matters being sent for trial, making it more difficult for private lawyers to gain access to the prosecution evidence. The KIC has also confirmed one case in which an Uzbek defendant who did not speak Kyrgyz was tried in the Kyrgyz language without the assistance of an interpreter. That man received a life sentence for aiding and abetting murder.
294. Lawyers representing Uzbek defendants have been subject to improper interference and intimidation. This has resulted in a fear to question prosecution witnesses, call defence witnesses or submit arguments. Judges before whom they have appeared have commenced action to have those lawyers stripped of their right to practice. Security authorities have attempted to confiscate their documents. In several instances defence lawyers have suffered physical violence from sympathizers of the alleged victim. Law enforcement and judicial authorities have failed to intervene, even when the violence occurred inside a court room.
295. Authorities have also failed to prevent the public from verbally abusing both lawyers and defendants. In one trial the public shouted racial insults at a lawyer speaking in Russian, namely “speak Kyrgyz, *sart*”. In another case a defendant, whose murder charges were remitted for further investigation due to the absence of a corpse, was subject to public chanting of the word “killers”. Further, relatives and witnesses of defendants have been threatened and sometimes prevented from entering court rooms, sometimes by organised groups of Kyrgyz women. The failure of a trial court to control the hostile atmosphere and pressure created by the public in a court room, if it impacts upon the proper

⁶⁹ See Principles 16 and 17 of The Basic Principles on the Role of Lawyers, adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 1990. The preamble states that the principles “should be respected and taken into account by Governments within the framework of their national legislation and practice.”

presentation of a defence, may well in and of itself amount to a violation of the right to a fair trial⁷⁰.

The Right to an Effective Remedy

296. The KIC has received evidence that health services have refused to issue medical certificates for people subjected to torture or ill-treatment as well as death certificates for Uzbek persons who died during the June events. Death certificates which have been issued are inaccurate in so far as they fail to state the cause of death. As a result, Uzbek relatives face enormous difficulty in claiming compensation and/or inheritance.
297. According to figures received by the KIC, investigations have been opened in only 3 cases of sexual violence. One concerns a Kyrgyz victim and 2 concern Uzbek victims. Only the case concerning the Kyrgyz victim has proceeded to prosecution. The trial failed to respect fair trial procedures, as highlighted above. The Uzbek victims, whose cases have not proceeded to trial, have been threatened and put under pressure by the authorities to withdraw their claims.

Competent, Independent and Impartial Tribunal

298. Kyrgyz and Uzbek defendants have received disparate sentences for similar offences. The weakness of presented evidence and the speed of both trials and appeals of Uzbek defendants also raise concerns.
299. Every judge who has heard a case arising from the events is Kyrgyz. While the KIC does not suggest that this fact alone founds an allegation of bias against Uzbek defendants, the KIC notes that given the context of the cases it would have been preferable if the bench had been comprised of members from different ethnic groups.

Conclusion

300. In light of the above factual findings, the KIC concludes that serious human rights violations have occurred and are still occurring within Kyrgyzstan.

⁷⁰ See *Gridin v Russia*, Human Rights Committee UN HRC, Communication No 770/1997, 20 July 2000, CCPR/C/69/D/770/1997, paragraph 8.2.

IV RESPONSIBILITY

301. The third component of the mandate called for the KIC to ‘*[d]etermine responsibilities and, where possible, identify those responsible*’. The determination of responsibility is directly linked to the last part of the mandate which requires the KIC to “*[m]ake recommendations ...in particular on accountability measures, so as to ensure nonrepetition of the violations and to contribute towards peace, stability and reconciliation*”. As stated in the Introduction of this report, the KIC believes that the concept of responsibility involves both individual and institutional/political responsibility for the events. It is necessary to first explain the legal framework applicable during the June events before examining the role played by different actors in the events and, lastly, analyzing both individual and institutional/political responsibility.
302. The KIC recalls that its mandate to determine responsibilities for the events of June expressly excluded the conduct of a criminal investigation as being a matter within the jurisdiction of the appropriate authorities of Kyrgyzstan. The KIC is not endowed with the capacity of a court or a prosecutor, its powers are limited to the identification of those responsible and recommendation that they be subject to a full criminal investigation that may lead to prosecution under domestic criminal law and /or accountability under any existing institutional mechanisms of a disciplinary nature. Furthermore, the standard of evidence of ‘reasonable suspicion’ used by the KIC to establish the fact is lower than the required standard of ‘proof beyond reasonable doubt’ necessary to establish individual criminal responsibility in a court of law.

A Legal framework

Constitutional provisions

303. Throughout 2010 three different constitutional frameworks were applicable in rapid succession in Kyrgyzstan. Prior to 7 April 2010, the 1993 Constitution (as amended in October 2007) was in force. On 7 April 2010 Decree No. 1 of the Provisional Government conferred all powers on itself, but maintained in force the constitutional provisions not affected by the Decree. On 27 June 2010 a new Constitution was adopted by referendum.
304. Each legal regime is relevant to the mandate of the KIC: the first two to the June events themselves and the latter to the aftermath. Each is explained briefly below.
- *Before 7 April 2010: the 1993 Constitution, as amended in 2007*
305. The Constitution of Kyrgyzstan was first adopted on 5 May 1993. Modified on numerous occasions since that date, its last version was adopted by referendum

on 27 October 2007. Although the constitutional text referred only to the people of Kyrgyzstan, the Kyrgyz Republic and its citizens irrespective of ethnicity, the Preamble of the Constitutional Act adopted at the 2007 referendum and the Preamble of the Constitution itself referred to the “statehood of the Kyrgyz” and the “unity of the Kyrgyz”. In other words, the Preamble references were to ethnicity.

306. The Constitution provided for a mixed presidential-parliamentary system with a powerful, directly elected President and a government accountable both to the President and the 90-member Parliament (*Jogorku Kenesh*)⁷¹. The Constitution also provided for a Supreme Court, a Constitutional Court and an independent judiciary.
307. The President had the power to appoint and dismiss the Prime-Minister, members of the Government and heads of all executive agencies. The President also had the power to determine foreign policy and negotiate treaties, promulgate or veto laws, appoint referendums and declare states of war or emergency and mobilization. Further, the President commanded the Armed Forces. Ministers of Defence, National Security, Interior and Foreign Affairs were directly subordinated to the President.
308. Following the overthrow of President Bakiyev, the Provisional Government exercised the powers of the President between 7 April and 19 May 2010. On the latter date the Provisional Government issued a decree conferring the constitutional powers of the President on the Chair of the Provisional Government, Otunbayeva. This decree was approved by the referendum of 27 June 2010. Consequently, under the Constitutional Transition Act, the powers of the President were exercised according to the amended 1993 Constitution until 10 November 2010. On that date the newly elected *Jogorku Kenesh* held its first seating.

➤ *7 April – 2 July 2010: Provisional Government*

309. On 7 April 2010 President Bakiyev was overthrown. The Provisional Government came to power. Under Decree no. 1 issued on the same date, the Provisional Government acquired both the executive power which belonged to the President and the Government, and the legislative power hitherto exercised by the *Jogorku Kenesh*. The latter was dissolved. New elections were to be announced by the Provisional Government at a later date. Under the same decree, the Central Electoral Commission was suspended. (Later, its composition was completely renewed.) By Decree no. 2 of 12 April 2010, the Provisional Government dissolved the Constitutional Court.
310. The Provisional Government retained the constitution, save for the provisions concerning the separation of powers and the respective powers of the President, the Government and the *Jogorku Kenesh*. On 19 May the Provisional

⁷¹ Literally “Supreme Council”.

Government transferred the powers of the President delineated in the 1993 constitution as amended to its chairperson Roza Otunbayeva, who was then declared Transitional President. The powers of the government and the *Jogorku Kenesh* remained with the Provisional Government. General principles and basic rights remained intact. Notably, article 9(3) of the 1993 Constitution as amended prohibited recourse to the military forces in order to solve internal political issues.

311. On 28 April 2010, following the work of the Constitutional Commission, a new draft Constitution was proposed by the Provisional Government. Until its adoption on 27 June 2010 by referendum, the Provisional Government ruled by decree.

➤ *The 2010 Constitution*

312. The new Constitution was approved by the referendum and entered into force on 2 July 2010. Like the previous Constitution, it mentions “Kyrgyz [ethnic] statehood” in the Preamble, but made no reference to ethnicity in its text. The general principles of the Constitution include democracy, separation of powers and political pluralism. The Constitution also contains a long catalogue of fundamental human rights. Article 6 of the Constitution states that “[i]nternational treaties to which the Kyrgyz Republic is a party that have entered into force under the established legal procedure and also the universally recognized principles and norms of international law shall be the constituent part of the legal system of the Kyrgyz Republic. The provisions of international treaties on human rights shall have direct action and be of priority in respect of provisions of other international treaties.”
313. Despite the numerous declarations by the members of the Provisional Government (including the vice-Prime Minister Tekebayev, chair of the Constitutional Commission) that the Constitution would provide for a parliamentary republic, the constitutional text establishes a mixed presidential-parliamentary system. The President, as Head of State, has significant powers. The President is directly elected and “embodies the unity of the people and the State power”. The President plays an important role in appointment of the Prime Minister, has a right to veto laws, negotiates treaties, declares state of emergency and commands the Armed Forces. The President appoints the ministers responsible for defence and national security.
314. The *Jogorku Kenesh* is composed of 120 members elected by a proportional system. The parliamentary majority determines the composition of the Government. The Parliament votes on laws and budgets, determines the administrative structure of Kyrgyzstan, appoints the Ombudsman and may impeach the President. The *Jogorku Kenesh* must approve any presidential decree declaring a state of war or emergency.
315. The Government is appointed by and responsible before the *Jogorku Kenesh*. The Government exercises the executive power, in particular with respect to law enforcement, national security, budget, finance and taxation.

316. The highest judicial level is the Supreme Court, within which a Constitutional Division entrusted with the judicial review of legislation is created.

➤ *Rules applicable in June 2010*

317. From the above, it can be determined that throughout June 2010, the following legal norms were applicable in Kyrgyzstan:

- Decrees of the Provisional Government, which enjoyed legislative and executive powers;
- General principles and basic rights provided for in the 1993 Constitution as amended;
- Powers of the President of Kyrgyzstan, as set out in the 1993 Constitution as amended, exercised by the Transitional President Ms. Roza Otunbayeva; and
- Legislation of Kyrgyzstan, particularly the Criminal Code.

Use of armed force under the law of Kyrgyzstan

➤ *State of Emergency*

General Rules

318. Under the State of Emergency Organic Act 2003, a state of emergency must be introduced by the President of Kyrgyzstan. The *Jogorku Kenesh* must approve or annul the President's decree within 3 days. Temporary entities may be created in the territories subject to the state of emergency, as well as operative headquarters for the coordination of the work of the police, military and national security services. The Armed Forces, Internal Troops of the Ministry of Interior, Emergency Combat Ministry and National Guard may be called upon to protect civilians. Article 22 of the Act provides for an exhaustive list of measures that may be implemented during the state of emergency. Notably, the list does not provide for the unrestricted use of firearms against civilians.

Decrees of the Provisional Government

319. Decree No. 65 introduced a state of emergency in the cities of Osh and Uzgen and the districts of Karasuu and Aravan on 11 June 2010 at 2am. Curfew hours lasted from 8pm to 6am. Deputy Minister of Interior Alymbekov was appointed Commandant of the territories with powers to introduce any of the measures listed in the 2003 Act. The ministries of Defence and Interior as well Internal Troops and the National Security Service were instructed to organise joint operative headquarters under the powers of the Commandant and to assist him in carrying out the functions of prevention of mass disorders “by all available means”. On 19 June the state of emergency was extended until 25 June.

320. The Ministry of Interior adopted Decree No. 312 on 11 June authorizing unrestricted use of lethal force by police and Internal Troops in order to prevent counter attacks against civilians, protected sites and personnel of the Ministry of

Interior and of the Armed Forces. On 12 June the Provisional Government authorized all law enforcement bodies and armed forces to use lethal force in the territories covered by and during the state of emergency (Decree No. 68).

321. On 12 June 2010 the Provisional Government declared partial mobilisation in Kyrgyzstan (Decree No. 69). Some regiments of the Armed Forces prepared for engagement. A “voluntary people's guard” was created to contribute to the stability in the country (Decree No. 66). The Commandants of Osh and Jalalabad and the Special Representative for South Kyrgyzstan were ordered by the Provisional Government to use “all available forces and means” in order to undertake “severe and exhaustive measures aimed at stabilisation of the socio-political situation” in the south of the country (Decree No. 70).
322. Also on 12 June the Provisional Government introduced the state of emergency in the city of Jalalabad and Suzak district of Jalalabad *oblast*. A curfew was introduced between 6pm and 6am. Emergency powers were conferred on the Jalalabad city Commandant Baybolov (Decree No. 67). On 13 June 2010 the Provisional Government declared the state of emergency in the entire Jalalabad *oblast*. Emergency powers were conferred on the appointed Jalalabad *oblast* Commandant Baybolov. The state of emergency was originally to end on 22 June, but on 21 June it was extended until 25 June.
323. On 13 June Decree No. 71 reiterated that military officers disobeying the orders of the Commandant would be dismissed from service.
324. On 27 June at 10pm just after the polling stations of the constitutional referendum closed the state of emergency was reintroduced in Jalalabad *oblast* and the cities of Osh and Uzgen. A curfew was established from 9pm until 6am. It remained in force until 9 August 2010.

➤ *Rules of Engagement*

325. The Rules of Engagement of the Armed Forces are set out in the Field Combat Manual (*Boevoy Ustav Vooruzhennykh Sil*). It is inapplicable to the June events as its regulations do not extend to the rules concerning the use of force and firearms in order to disperse crowds, or to restore law and order during civil strife. Rather, they are limited to those applicable in battle against enemy armed forces.
326. The situation is different in respect of the Ministry of Interior. Under paragraph 49 of the Field Combat Manual of the Internal Troops of the Ministry of Interior, firearms may only be used during operations aimed at maintaining public order as a matter of last resort. They may be used in order to protect individuals from attacks threatening their life or health, to counter attacks aimed at important infrastructure, in self-defence, or to arrest convicted or alleged criminals if they try to escape or resist. Unless there is an imminent threat to human life, the use of firearms must be preceded by a warning and a shot in the air (paragraph 51). Paragraph 52 expressly forbids the use of firearms in

crowded streets and squares, and against women, minors and individual accompanied by minors.

327. In the context of the state of emergency, on 12 June the Provisional Government by decree and with reference to the State of Emergency Organic Act 2003 authorised the use of lethal force. The conditions imposed referred to self-defence, the need to counter an attack against law-enforcement personnel or public and privately-owned buildings, and to arrest alleged offenders or those who refuse to surrender arms.

B Role of security forces and armed non-state actors

328. These paragraphs will look at the part played by armed groups (both state and non-state) in the violence of the events in the South of Kyrgyzstan in June 2010. The use of weapons as well as how they ended up in the hands of civilians will be briefly examined. The KIC will underline some issues described in Section II that involved the security forces and/or armed groups, and their responsibility.
329. In the years that Bakiyev was in office, formal control over security forces in the South of Kyrgyzstan weakened. Officials, including military leaders, were chosen more for their ethnicity and allegiance to the regime than for their professional competence. They became unrepresentative of the population as a whole and particularly of the Uzbek population. Some security structures in the country were closed down with the result that critical security threats were allowed to grow.

Security Forces

330. 'Security forces' is a generic term. It includes the Land Forces and the Air forces of the Ministry of Defence, as well as the Police and the Internal Troops, including their armed subdivision Special Task Forces (*spetsnaz*) of the Ministry of Interior, and the Border troops and the Armed Anti-terrorism Division ('Alpha group') of the National Security Service.
331. The KIC notes that it is not possible to attribute a particular act or omission to one of the specific unit of the security forces mentioned above, since most testimonies gathered do not clearly identify which group was involved in a particular incident. The same APCs, camouflage uniforms and firearms may belong either to the Land Forces of the Ministry of Defence or to the Internal Troops of the Ministry of Interior. Nevertheless, following the adoption of the State of Emergency decrees both in Osh and Jalalabad provinces, all members of the security forces were subordinate to the Commandants of the respective territories.
332. The Army and Interior Troops who were deployed to Osh and Jalalabad in June lacked sufficient equipment and training. None were equipped to deploy less than lethal force. None had been trained in dealing with violent civil disorder. The Rules of Engagement appeared to be either non-existent or confined to an order given to Police and militia units who were called up to 'fire in the air' to

deter and disperse crowds. The only training in crowd control techniques had been carried out under an OSCE training programme for Kyrgyz police units. However, the numbers involved in the training were too small to be of any significance in the context of June 2010.

Military

333. General Isakov, the Minister of Defense and the Special Representative of the Provisional Government for Southern Kyrgyzstan during the June events told the KIC that ‘nobody knew what was going on’. Other evidence suggests that the threat to security from Uzbekistan was the main, if not only, mission for the armed forces of the Ministry of Defence. This is reflected in their training and equipment and also in the evident bias against the ethnic Uzbek minority in southern Kyrgyzstan, who are often regarded not as citizens, but as foreign nationals. Yet under the State of Emergency Decree, Ministry of Defence troops were given the function of prevention of mass disorder “by all available means”.
334. The military and law-enforcement bodies, both stationed in Osh and flown in from Bishkek, should have been trained and prepared to use non-lethal force in situations of civil unrest as the State of Emergency Organic Act 2003 envisioned the involvement of the military in the restoration of law and order.
- *Loss of military weapons, ammunition and equipment*
335. The KIC finds the evidence of loss of military weapons a particularly disturbing feature of the June events. The surrender by security forces of these weapons which included sniper rifles to civilians is of particular concern to the KIC. So too is the surrender of APCs (BTR-80 and BMP-1). These vehicles were used to knock down barricades at the entrances to *mahallas* in Osh. In three incidents in Jalalabad the medium and heavy armaments mounted in the turrets of APCs were also reportedly used.
336. The Security Service told the KIC that in Osh region alone at least 134 rifles, 2 sniper rifles, 2 machine guns, 1 mortar, 3 pistols, all with ammunition, 1 grenade F-1 and 2 APCs were either seized by or given to the crowds by military officers. Evidence suggests that commanders tried to negotiate with crowds but, in all but one reported case, there was no resistance by security forces to the demands to surrender weapons. In one incident Border Guards, after returning to their barracks to guard weapons and property, ultimately surrendered some of their weapons to civilians.
337. The loss of weapons is attributable not only to the commanders of the military units who allowed the distribution or surrender, or took no measures to prevent or recuperate it, but also to the Minister of Defence. The Minister has subsequently failed to launch an appropriate investigation. The KIC is of the view that the inability of members of the security forces to protect their equipment also raises questions of complicity in the events either directly or indirectly.

➤ *Participation in criminal acts*

338. The KIC considers that there were some members of the military involved in the attacks on Uzbek *mahallas* in Osh. In this regard the KIC notes the following attacks:
- On 11 June in Akbuura at 6am, Furkhat at noon;
 - On 11 June near the Al-Hakim hospital at about noon and in Cheremushki at 1.30pm;
 - On 12 June on Majrimtal street in Akbuura at 7am;
 - On 12 June on Pamirskaya-Monuyeva street in Furkhat between 5am and 8am;
 - On 12 June on Navoi street between 8am and 1pm and in Nariman at about 10am.
339. Not only were APCs, weapons and ammunition surrendered, but the APCs carrying men in military uniform were expertly driven. All the circumstances indicate that the APCs were operated by soldiers rather than civilians.
340. The military also observed violence and failed to intervene. When troops from the Interior Ministry and Ministry of Defence were deployed in the early hours of 11 June, they were able to push crowds of Uzbeks off the streets and back into the *mahallas*. Despite the rumour of stockpiled weapons, the *mahallas* posed little threat. Military checkpoints were set up around the city. Kyrgyz began to assemble in large numbers. Both civilian and official witnesses have told the KIC that it became apparent that the Kyrgyz intended to move on the *mahallas*, some of which were then in the process of constructing barricades. By midday on the 11 June, Kyrgyz crowds moved into the *mahallas*, having first armed by seizing weapons and ammunition from military installations or convoys.
341. The military personnel under the command of the Provisional Government numbered 2,000. The KIC is of the opinion that had those troops been properly instructed and deployed, it would have been possible to prevent or stop the violence and to block the access to Osh city by the Kyrgyz moving from rural areas.

Police

342. The degree of involvement of police in the June events was different from that of the military. Immediately prior to the outbreak of hostilities, police officers had defused the less substantial clashes between members of the two communities. However, on 10 June when crowds gathered at the Alai hotel and in other parts of Osh, police became observers. They did not attempt to control the growing number of people on the streets. They were outnumbered, untrained for the task and lacked suitable equipment. Evidence suggests that police morale was low and personnel were frightened.
343. As events unfolded, the police failed to intervene when deadly clashes broke out. One particular omission concerns the attack on Shait Tebe *mahalla* in Osh on 13 June 2010. Kyrgyz broke through the Uzbek barricades. Police officers

present did nothing to stop killings and looting. The day before in Jalalabad, the police were able to prevent an attack directed against a *mahalla* in Suzak district, but not the attack on the Uzbek University. Furthermore, when the police participated in the evacuation of persons from *mahallas*, as on 13 June 2010 in Cheremushki, only Kyrgyz were evacuated. Uzbeks who wished to evacuate were not.

344. Like the military, the police were not equipped with non-lethal arms suitable for the dispersion of crowds. Unlike the military, it is a statutory function of both the police and the Internal Troops of the Ministry of Interior to intervene in situations threatening public order. It is reasonable to expect that such bodies would at a minimum possess non-lethal weapons. The KIC was told that the lack of non-lethal weapons was attributable to the severe funding cuts under the Bakiyev administration. However, the Ministry of Interior had just experienced a State of Emergency in Jalalabad between 19 May and 1 June 2010. The Ministry was aware of on-going tensions in South Kyrgyzstan. The KIC is of the view that the Ministry of Interior should have acted in the immediate aftermath of the May events in Jalalabad to procure such weapons and equipment.
345. The police surrender of weapons during the events was on a smaller scale than that by the military. Nonetheless, the surrender of any weapon is a matter of concern. The KIC repeats its observations made about the military surrender of weapons *mutatis mutandis*.
346. The police were actively involved in the sweep operations which followed the hostilities. They were marked by arbitrary ethnically-based arrests. Many of those arrested were tortured in detention. The sweep operation in Nariman on 21 June 2010 is of particular concern given its brutality, scale and the death of two people. The Commandant of Osh city and its chief of police, Asanov, failed to instruct the police to conduct themselves according to law. Instead he sought to explain the character of the operations by reference to the anger of his men at the casualties among policemen. The KIC is of the view that there is no excuse for law enforcement authorities to act otherwise than in strict compliance with the law.

Armed non-state actors

347. The KIC has information that groups of people, identifiable by coloured bandannas or T-shirts of the same colour, with or without emblems, were present at and participated in a number of the incidents described in Section II above. The KIC has further information that members of these groups may have distributed weapons, perhaps from cars without licence plates and perhaps to Kyrgyz external to their fraternity. Some witnesses have told the KIC that these groups operated at the behest of one or another individual. Asanov told the KIC that he himself organized groups of sportsmen and young men serving under his authority and used them to face the crowds with him in tense situations.
348. It appears to be accepted wisdom that criminal gangs and other nefarious “sporting” organizations are permanent threads in the social fabric of southern

Kyrgyzstan. The informal organisation of non-state groups in Kyrgyzstan and in other former Soviet states are part of the problem of sectarianism (ethnic and otherwise) which is often characterised by the ownership of weapons. Amongst others the following groups are present in southern Kyrgyzstan. They are mostly Kyrgyz in ethnicity and may have tendencies to militancy:

- The *Druzhina*, is understood to be an organisation that has its roots in the soviet era where it provided ‘back up’ to law enforcement agencies in helping to control the community. Today members of the Druzhina are reportedly young Kyrgyz members of ‘sports clubs’ some of which have links to criminal gangs;
- *Afghantsi* are a group of former military veterans as the name suggests. In the past they would have included Uzbeks in their ‘society’. Today they reportedly act as a self-defence organisation. Only the ethnic Kyrgyz war veteran were called in Osh and provided with weapons to enforce the curfew during the June events;
- Criminal gangs which overlap with the other groups probably also have links to political elites. They are important links in the drug trade, offering impunity to traffickers through their political connections.

349. Numerous witnesses reported that there were ‘groups’ of individuals involved in the events, some wearing specific colours or garments. However, the KIC does not possess enough evidence to make any conclusion as to whether gangs were directed to participate or were under the control and command of any person or authority or not.

C Individual criminal responsibility

350. The KIC’s mandate asks it to “determine responsibilities and, where possible, identify those responsible” for the events of June 2010. At the same time, it was instructed not to “conduct a criminal investigation”, which remains “the responsibility of the authorities of the Kyrgyz Republic.” In response to the violence that took place, it is indispensable that all possible steps be taken to ensure that those responsible are held fully to account, and in particular, that individual criminal prosecutions take place.

351. Hundreds, perhaps thousands, of crimes were committed during the events. These crimes were perpetrated by hundreds of individuals, mainly acting in large groups. Many of those involved wore sport clubs logos or dressed in black, and some had their faces covered by a mask. Many witnesses reported that attackers were wearing military type uniforms or fatigues, and some suggested that groups linked to organized crime were involved. But none of this information makes it easy to identify by name the specific individuals responsible. For example, many people wear black or display logos on their every-day clothing, and military or camouflage gear is readily available in local markets.

352. The KIC is not in a position to identify named individuals as being responsible for the crimes that have been documented. This results in part from the limitation of its mandate which instructed it not to carry out a criminal investigation. But other factors are also relevant, including: the short timeframe for its work; the very limited investigative capacities available to it; and its inability to require individuals to testify.
353. It is essential, however, both in fulfillment of domestic and international legal obligations and in order that justice be done and community wounds healed, that every effort be made by the authorities of Kyrgyzstan to establish individual criminal responsibility. Accordingly, the focus of this part of the report is on the procedures and mechanisms which can facilitate such an outcome.

Domestic Crimes

354. The events described in Section II of the report reveal the commission of a multitude of crimes under the Criminal Code of the Kyrgyz Republic as amended on 10 February 2010 (CCKR). The most serious crimes committed under domestic criminal law include:

- *Crimes committed against life and physical integrity*
 - Homicide (art. 97);⁷²
 - Homicide of personnel of law enforcement agency (art. 340);⁷³
 - Intentional causing of grave harm to health (art. 104);⁷⁴
 - Torture (art. 111);⁷⁵
 - Stealing of Person (art 123);⁷⁶

⁷² (1) Homicide, that is, the intentional causing of death to another person, (2) Homicide of two or more persons, homicide committed in a way that is dangerous for life of many people, homicide with special cruelty, homicide accompanied by rape or forcible action of a sexual character, in other forms, homicide committed on the basis of ethnic or religious hatred or enmity, homicide for hooligan motives, homicide accompanied by stealing of a person or taking of a hostage, homicide committed by a group of persons, homicide committed by a group of persons by prior collusion, homicide committed by a organized criminal group or criminal organization are all particular forms of homicide that are punishable of a maximum of imprisonment for life.

⁷³ Homicide of personnel of a law enforcement agency, military serviceman, and likewise their relatives, for the purpose of obstructing the legal activity of the said persons with regard to the protection of public order and ensuring public security or for revenge for such activity.

⁷⁴ Intentional infliction of physical harm, dangerous to life or resulting in loss of vision, speech, hearing, or any part of the body or loss of its functions, mental illness or other health disorder, coupled with persistent loss of not less than one-third of working ability or resulting in termination of pregnancy or expressed in a lasting disfigurement of the person.

⁷⁵ Intentional infliction of physical or mental suffering to any person in order to obtain from him information or a confession, punishing him for an act he has committed or is suspected of having committed, or intimidating and coercing to commit certain acts, when such action is carried out by an official or with his knowledge or consent of any other person.

⁷⁶ The stealing of a person against his will, entailed with a transfer from his permanent or temporary place of residence and keeping him in a place separated from his place of residence when there are not elements of a crime of article 227 [hostage taking in relation to terrorism or targeting the state] of the present Code, committed by hostage-taking, fraud or other way or with the application of force which is not dangerous for life or health. Under par. (2), The same act committed by a group of persons by prior collusion with the application of force dangerous for life or health or with the application of a weapon or articles to be used as a weapon, or with respect to two or more persons is punishable of a heavier sentence.

- Application of force with respect to representative of power (art. 341);⁷⁷
 - Assault with intent to rob (art. 168);⁷⁸
- *Crimes committed against property*
- Intentional destruction or damaging of property (art. 174);⁷⁹
 - Open stealing of another's property (art 167);⁸⁰
 - Theft (art. 164);⁸¹
 - Unlawful taking possession of automobile or other means of transport (art. 172);
 - Extortion (art. 170);⁸²
- *Crimes committed against State and public order*
- Participation in mass disorders (art. 233.2);⁸³
 - Incitement of National, Racial, Religious or Interregional Hatred (art. 299);⁸⁴
 - Hooliganism [Disorderly acts] (art. 234);⁸⁵
 - Desecration of Bodies of Deceased Persons and Places of Burial Thereof (art. 263);⁸⁶
 - Organization of Illegal Armed Formation or Participation Therein (art. 229);⁸⁷

⁷⁷ *The use of violence not dangerous to life or health, or threat to use violence against an official or his relatives in connection with the execution of his duties.*

⁷⁸ *that is an attack for the purpose of stealing another's property committed with the application of force dangerous for life or health, or with the threat of the application of such force. Under par. (2), The same act committed by a group of persons, or by a group of persons by prior collusion for the purpose of stealing a significant amount of property are punishable of a heavier sentence.*

⁷⁹ *if these acts entailed the causing of significant damage, (1); (2) The same act committed by means of 1) arson; 2) other generally-dangerous means; 3) by causing of grave consequences.*

⁸⁰ *Under par. (2), the same act committed by a group of persons, or by a group of persons by prior collusion; on a large scale is punishable of heavier sentence.*

⁸¹ *the secret stealing of another's property. Under par. (2), the same act committed by a group of persons, or by a group of persons by prior collusion; on a large scale is punishable of heavier sentence.*

⁸² *Extortion, meaning demand of transfer of another's property or rights to property or commit other property-related actions under threat of violence or destruction or damage to property of others, as well as under the threat of dissemination of information defaming the victim or his relatives or any other information that may cause substantial harm to the rights or legitimate interests of the victim or his relatives.*

⁸³ *(1) The organization of mass disorders accompanied by force, pogroms, arsons, the destruction of property, the application of a firearm, explosive substances, or explosive devices, and also the rendering of armed resistance to a representative of power.*

⁸⁴ *Actions directed towards the incitement of national, racial, religious or interregional hatred, demeaning the national dignity, and also propaganda of exceptionality, superiority or inferiority of citizens on the basis of their affiliation to religious, national or racial group, if these acts were committed publicly or with the use of the mass media. Under par. (2), the same act committed with the application of force or with the threat of the application thereof, or as a member of a group of persons or criminal group is punishable of heavier sentence.*

⁸⁵ *Intentional or grossly violation of public order or rules of conventional behavior associated with violence or the threat thereof, as well as the destruction or damage of property - shall be punishable by a fine of up to one hundred estimates of the public works or a period of one hundred twenty to one hundred and eighty hours, or by imprisonment for a term not exceeding two years.*

⁸⁶ *Desecration of dead bodies or the destruction, damage or desecration of graves, gravestone facilities, as well as theft of objects lying in or on the grave.*

⁸⁷ *Illegal creation of armed groups (associations, detachment, squad, or other group), as well as guiding the formation of such*

- Negligence (art. 316);⁸⁸
- *Crimes in relation to weapons*
 - Illegal acquisition, transfer, sale, keeping, carriage, or wearing of weapon, ammunition, explosive substances, and explosive devices (art. 241);
 - Theft or extortion of firearms, ammunition, explosives (art. 245).
- *Military crimes*

Chapter 33 of the CCKR is titled ‘Military Crimes’. Article 354 defines military crimes as: offences under this chapter against the established order of military service, committed by military personnel serving in the Armed Forces, Military detachments (parts), other troops and military formations of the Kyrgyz Republic, as well as citizens in the reserve, while carrying out military duties.

 - Non-execution of an order (art. 355);⁸⁹
 - Unauthorized abandonment of a military unit or place of service (art. 359);⁹⁰
 - The loss of military property (art. 369);⁹¹
 - Violation of the rules of handling the weapons and objects, posing an increased danger to others (art. 370);⁹²

International crimes

355. As stated in section III, the KIC is of the view that certain crimes committed during the attacks against the Uzbek *mahallas* in Osh during 11, 12 and 13 June 2010 were of sufficient gravity and were systematic and, if proven beyond reasonable doubt in a court of law, would qualify under international law as crimes against humanity.
356. Crimes against humanity have not been incorporated into the domestic law of the Kyrgyzstan. Nonetheless Kyrgyzstan has the capacity to undertake such an investigation and, if appropriate jurisdiction is conferred, to launch prosecutions.

⁸⁸ *that is failure to perform or improper performance of official duties due to dishonest or negligent attitude to service, if this caused major damage or substantial violation of the rights and lawful interests of individuals or organizations or interests of the society or the state protected by law.*

⁸⁹ *Failure of the subordinates to abide the orders of the superior, given in the prescribed manner, causing substantial damage to the interests of the service and Failure to execute an order due to a careless or dishonest attitude to service, resulting in grave groups.*

⁹⁰ *(1) Willful abandonment of the duty station or military unit, as well as the failure to appear on time without good reason in the service during the dismissal from the military unit, with the appointment, transfer, from a business trip, holiday or a medical institution in excess of three days, but no more than a month - shall be punishable by custody in a disciplinary military unit for up to six months or imprisonment for up to two years.*

⁹¹ *Violation of the rules of storage of entrusted weapons, ammunition, if it resulted in their loss.*

⁹² *Violation of the rules of handling the weapons and ammunition, radioactive materials, explosives and other substances and objects which represent increased danger to others caused by negligence, causing serious or less serious harm to the victim's health, the destruction of military equipment or other grave consequences .*

357. The KIC is of the opinion that prosecutions for crimes against humanity may be possible even pending amendment of the Criminal Code to incorporate such crimes. Indeed, article 6(3) of the 2010 Constitution stipulate, in particular, that “generally recognised principles and norms of international law are part of the legal system of the Kyrgyz Republic”, just as did article 12(3) of the amended 1993 Constitution. This provision covers international customary law, of which crimes against humanity are part. For the definition of crimes against humanity, a reference must be made to article 7 of the Statute of the International Criminal Court (signed by Kyrgyzstan on 8 December 1998, but not ratified) as being the most recent codification thereof.

Ongoing investigation and prosecution of June events crimes

358. The KIC is of the view that there has been and still is selective prosecution targeting the Uzbek minority in regards to the June events. Despite the fact that they accounted for 75% of the casualties and 90% of property losses, Uzbeks represented approximately 80% of the persons accused for crimes related to the June events; 83% of the persons accused of homicide in relation to the June events are Uzbeks. In late November 2010, out of the 22 persons in the pre-trial detention facility of the city of Osh that were charged with destruction of property (arson), 21 were Uzbek. The Prosecutor offered various justifications to explain the ethnic discrepancies in the prosecutions launched, including the arguments that crimes against civil servants had to be prioritized, and that the crimes committed by Kyrgyz participants were more difficult to attribute to individuals, because they were committed en masse. But these explanations are contradicted by the very one-sided approach adopted to investigations and evidence-gathering during the sweeps. In addition, many months after the events the results achieved by the policies pursued by the Prosecutor are clearly unsatisfactory and indefensible.
359. There is a seeming inequity in charges proffered against and sentences given to Uzbeks and Kyrgyz for comparable incidents. With regard to property offences, Uzbeks most often face charges of open stealing (Article 167 CCKR), which has a maximum penalty of 12 years imprisonment, whereas Kyrgyz most often face charges of theft (Article 164 CCKR), which has a maximum penalty of 7 years. Where Kyrgyz and Uzbeks have in fact faced the identical charge based on comparable circumstances, Kyrgyz defendants have received conditional prison sentences, whereas Uzbek defendants have received sentences of 20 years or life. Unlike convicted Kyrgyz prisoners, convicted Uzbek prisoners have also been the subject of forfeiture orders to the State. If the convictions are confirmed on appeal and implemented, the family of the prisoner, particularly women and children, will lose their house, given that real property is usually registered in a man’s name.
360. Given the level of violence, the number of people killed and injured and the number of houses and other buildings destroyed, the KIC notes that extensive investigative and prosecution action is appropriate. However that action must be undertaken in accordance with procedural guarantees. The KIC is of the opinion

that these guarantees have been largely ignored in the investigations and prosecutions undertaken in both Osh and Bishkek.

361. The KIC noted that following the riots of 5-7 June 1990 in which at least 330 people died, many hundreds were injured and great deal of property destroyed in six geographical areas, adequate and balanced investigations and prosecutions were conducted. About 1,500 prosecution cases were launched. There were about 300 trials, in which 48 individuals, 80% of them Kyrgyz, were convicted. This more even handed approach stands in stark contrast to the legal actions undertaken in relation to the June 2010 events.
362. The KIC is of the opinion that if the situation in terms of investigations and prosecutions of the numerous crimes committed by all parties and groups in June 2010 is not radically improved in terms of fairness and impartiality, the exercise will lack legitimacy in the eyes of numerous victims and observers. The lasting impunity will deprive most of the victims of both justice and a remedy for their losses. These are essential ingredients for reconciliation and lasting peace.
363. The particular issue of weapons seized from or surrendered by the military during the events has received scant attention by domestic authorities. Prosecutor General Babylov told the KIC that 87 criminal cases had been opened against law enforcement and military personnel, without identifying the nature of the charges against the suspects.
364. The KIC received official information not only as to the large numbers of automatic weapons and ammunition lost during June, but the subsequent failure to regain control of about half of them. Even if some of the unaccounted for ammunition was in fact expended during the violence, there is still an unacceptable number of high powered weapons and ammunition available in the community for future use. Further, the apparent surrender of weapons to Kyrgyz civilians known to be set on attacking *mahallas* amounts to complicity in what followed.
365. Neither a disciplinary nor criminal investigation into the loss of military weapons has occurred.

D Institutional Responsibility

366. The June events cannot be considered in isolation. They arose within the context of particular institutional weaknesses and decisions made by those in positions of authority. This section examines the contribution of those factors to the events. The KIC reiterates that it interpreted its mandate as including both individual and institutional responsibility. Institutional responsibility has been taken to attach to acts and omissions of institutions which materially contributed to the events.

The Provisional Government and the Transitional President

367. The actions of the Provisional Government and the Transitional President must be viewed through the prism of the constitutional framework, both legally and politically. In the two months between assuming power and the June events, the Provisional Government focused upon the reform to be achieved at the constitutional referendum and the danger of Bakiyev's supporters engineering his return to power. The KIC considers that the Provisional Government either failed to recognize or underestimated the deterioration in inter-ethnic relations in southern Kyrgyzstan.
368. In the immediate aftermath of the events, members of the Provisional Government made public statements that the events were a complete surprise and that prior to the trigger event on 10 June, they had limited information about the situation in southern Kyrgyzstan. They stated that the information available was confined to an indication of sporadic criminal clashes. These statements were reiterated by members of the Provisional Government to the KIC.
369. Arguments advanced by Transitional President Otunbayeva that the eruption of violence was of such magnitude that it made it difficult for the Provisional Government to contain, do not absolve the government of its basic responsibility to protect the population.
370. The KIC notes that on 23 April the Provisional Government had established a Commission on Maintaining Security and Law and Order⁹³. In doing so it expressly cited not only the tense situation in Osh and Jalalabad provinces, but also the danger of civil war. Atambayev was appointed its chair. Other members included Minister of Defence Isakov and Deputy Minister of Interior Alymbekov. It remains unclear whether the Commission ever met. It did not visit southern Kyrgyzstan either before or after the events. It did not communicate with the Mayor of Osh, Myrzakmatov. It seems that the Commission particularly targeted the supporters of Bakiyev and the spectre of his return to power.
371. However, Myrzakmatov was careful to inform the KIC that he communicated with the Provisional Government specifically about the deteriorating security situation in the south. In late April he wrote to the Transitional President expressing concern at increasing inter-ethnic tension there.
372. The KIC further notes that violent ethnic clashes occurred in both Osh and Jalalabad in May. Those in Jalalabad were sufficiently serious for the Provisional Government to declare a State of Emergency between 19 May and 1 June and appoint its Minister of Defence Isakov to be its Special Representative for southern Kyrgyzstan.
373. Members of the Provisional Government met in Bishkek in the early hours of 11 June immediately following reports of the violence in the Hotel Alai area, declared a state of emergency at 2am and organized for a delegation and troops

⁹³ Provisional Government Instruction No. 170, 23 April 2010, signed by Roza Otunbayeva

to be sent to Osh on a specially chartered flight before daybreak. This indicates that the Provincial Government appreciated that the incident was something different from yet another example of group violence. The KIC recognizes that the speed with which the State of Emergency was declared at 2am on 11 June with respect to Osh was laudable⁹⁴.

374. The KIC finds that it was reasonably foreseeable that violence of the type that occurred in southern Kyrgyzstan between 10 and 14 June was a likely outcome. The KIC finds that the Provisional Government should have foreseen that likelihood and taken measures to lessen it. Further, the Provisional Government should have developed a contingency plan that would, in the event of violence, have contained it.
375. Although Isakov, the Minister of Defence and Special Representative for southern Kyrgyzstan stated that the military was under his control, he also told the KIC that not all the troops in Osh obeyed lawful commands. This included both the military stationed in Osh and two companies of troops flown from Bishkek to Osh on 11 June. The KIC notes that the troops that had been deployed in Jalalabad during May had displayed no insubordination.
376. The KIC considers that the Provisional Government had the responsibility to ensure that troops were adequately trained in the protection of their weapons and equipment. In this context the KIC notes Order No. 312 of 11 June 2010 issued by the Ministry of Interior adopting specific firearms regulations for police operations during the state of emergency. That Order authorized the use of firearms by the police to prevent seizure of arms, armed attacks against civilians, buildings, policemen and Internal Troops⁹⁵.

Special Representative of the Provisional Government for Southern Kyrgyzstan

377. The Provisional Government declared its Minister of Defence, Isakov, to be its Special Representative for Osh, Jalalabad and Batken *oblasts* on 13 May 2010. He was empowered to take binding decisions regarding the “socio-political and economic situation”. During the June events, Isakov took effective command over the operational headquarters and military and law-enforcement bodies in Osh city and province. In particular, he oversaw the preparation of the plan of action during the state of emergency. According to the Decree on the state of emergency his powers were more limited. The Decree conferred all powers upon the Commandant of Osh city and province, Alymbekov.
378. General Isakov told the KIC that he was in command and that he had 2,000 armed men, both military and police, under his control. He established a Headquarters and acquired knowledge of the situation on the ground. He moved

⁹⁴ Under then extant constitutional arrangements the state of emergency declared by the Transitional President needed to be approved by the parliament. Given that the Transitional President was also the Chair of the Provisional Government and the Provisional Government exercised the role of Parliament, it is unsurprising that the state of emergency was introduced by decree of the Provisional Government rather than the Transitional President.

⁹⁵ The KIC notes that the text of the Order was not available to it. The Order and its contents were reported in the media. See, for example, <http://www.for.kg/ru/news/124159/>, accessed on 22 January 2011.

across Osh in both an APC and a helicopter. The KIC considers that the only reasonable conclusion open to General Isakov on 11 June was that his troops needed to intervene. His failure to employ any force on that day or subsequent days constitutes a serious omission.

379. The KIC considers the refusal to employ any force to re-capture APCs or disperse crowds because it would endanger the lives of the civilians an inadequate explanation for the failure of Isakov to act. The KIC is of the opinion that General Isakov could have stopped violence sooner by deploying the forces with clear orders and rules of engagement providing for the use of non-lethal force. He should have reinforced all check points on access roads to Osh in order to stop the attackers coming from outlying rural areas.

Commandant of Osh city and province

380. Commandant Alymbekov told the KIC that he was powerless to intervene in the June events. He arrived in Osh as part of the Provisional Government delegation early on 11 June. He stated that the only troops he could control were the 50-70 strong riot police regiment flown from Bishkek. They had been deployed to the city borders to prevent mobs from entering Osh and were consequently unavailable to control the situation within the city. Alymbekov stated that he was confused and did not know what to do.
381. The KIC notes that Commandant Alymbekov was not inexperienced in situations of civic emergency. Indeed he had been the Commandant of Jalalabad and Suzak district during the 19 May to 1 June 2010 state of emergency where, under his authority, a plan of action was drawn up in order to restore law and order. A similar plan of action was prepared in Osh at a meeting which he formally chaired on 11 June 2010. It appears that the Commandant abdicated all control over law enforcement in Osh city and province in favour of General Isakov. The KIC finds that this was in breach of the Decree on the state of emergency which had conferred powers on him.
382. The Osh plan of action prepared on 11 June contained three stages. First, restoration of law and order. Second, sweep operations, seizure of arms, and arrest of alleged criminals. Third, distribution of humanitarian aid. The second of these stages was later carried out in serious violation of international and national human rights norms. The KIC considers that Commandant Alymbekov had a duty to ensure that human rights were respected during the execution of the plan of action.

Commandant of Jalalabad

383. Commandant Baybolov did not arrive in Jalalabad until about 10am on 13 June. A curfew had been introduced the day before. It had not prevented looting and burning of Uzbek houses throughout the night, nor the seizure of weapons from Chatkal police station. There is a lack of evidence as to any measure adopted by Baybolov to end the violence, save as to an order on the afternoon of 13 June to shoot over the heads of the crowd that had gathered in front of the regional police headquarters, then being used by Baybolov as his own headquarters.

384. The KIC considers that the Commandant of Jalalabad failed to take all measures within his power to end the violence in Jalalabad.

Mayor of Osh

385. Under both the amended 1993 and the 2010 Constitutions, the cities of Bishkek and Osh enjoy a special status equal to that of an *oblast*. Osh is governed by the Osh Act 2003 which provides, in particular, that the Mayor is chosen by the City Council (*kenesh*) from candidates nominated by the President of Kyrgyzstan. The Mayor is responsible for the coordination of activities of the State executive bodies in Osh. Under the combined effect of the Osh Act 2003, the Local Government Act 2008 and the Osh City Statute, the Executive Committee of the Mayor's Office must establish and implement the General Urban Plan.
386. Melis Myrzakmatov has been Mayor since January 2009 and played a key role before, during and after the events of June 2010. He was relieved of his legal responsibilities for coordinating the response to the events by virtue of the declaration of the state of emergency and the appointment of interim authorities. He was nonetheless very active during the crucial period, including in hosting the briefing given by the delegation of the Provisional Government and the Governor on the morning of 11 June.
387. Myrzakmatov is widely perceived to exercise influence far beyond his formal powers. This was reinforced by his ability to resist the attempts of the Transitional President to remove him in August 2010. On 19 August he was quoted in *Kommersant* as stating that “the Provisional Government directives have no legal force in the south”.
388. Views of his role in terms of inter-ethnic relations vary widely. He and his supporters present him as a peacemaker, while his detractors present him as a divisive character, bent on promoting a nationalist solution to the problems.
389. As a self-avowed nationalist politician, Myrzakmatov has publicly asserted his love of “my people” and his preparedness to use all means to fight for their well-being. In an interview after the June events he stated that “the Uzbeks attacked the sovereignty of the Kyrgyz Republic, but we rebuffed them.” In a meeting with the KIC, he warned of the dangers of an Uzbek separatist agenda being spearheaded by Islamic fundamentalists within the Uzbek community. No evidence of this agenda was presented, but the Mayor made clear that he considered the threat to be very real and to require a strong response on his part.
390. The KIC received allegations according to which unidentified Uzbek elements in southern Kyrgyzstan were seeking to introduce radical fundamentalist approaches to Islam, including policies sympathetic to Al Qaida. No evidence of any kind was adduced to support this contention and the Commission does not accept it. Nevertheless, it is concerned that such claims could become self-fulfilling prophecies, if appropriate steps are not taken to remedy the underlying causes of the June 2010 events. In addition, the KIC encourages Islamic religious leaders in the south to avoid ethnic cleavages in the umma's activities

and to ensure full consultation with the members of the relevant umma when appointing imams.

391. When asked by the KIC about problems of criminality, narco-trafficking, and corruption in Osh, Myrzakmatov asserted that such problems emanated from Bishkek and not Osh. Various allegations were brought to the attention of the KIC in relation to the Mayor's involvement in both the mobilization of rural Kyrgyz and the distribution of weapons during the June events, but the KIC has no evidence to this effect. Similarly, he was influential on the security forces in Osh.
392. While the KIC thus has no evidence to support allegations of the Mayor's direct involvement in the activities of the Kyrgyz mobs, it is clear that his nationalist rhetoric is not conducive to the calming of the inter-ethnic tensions, about which he professes strong concern.

Governor of Osh Province

393. Prior to the events, Governor Sooronbai Jeenbekov met with leaders of the Uzbek community. In response to their requests, he appointed of Uzbeks to positions within his administration.
394. Governor Jeenbekov surrendered legal power to the Commandant of Osh following the declaration of the state of emergency at 2am on 11 June. Thereafter the Governor responded appropriately. He gave instructions to prevent the mobilisation of rural Kyrgyz and was present at the meeting of the Provisional Government delegation and Mayor.

The Prosecutor General

395. On several occasions the KIC met with Prosecutor General Baybolov and his staff regarding the conduct of investigations and prosecutions arising from the June event. As a party to both the ICCPR and the CAT, the authorities of Kyrgyzstan have an obligation to conduct an effective investigation whenever there are reasonable grounds to believe that an act of torture has been committed. The obligation is not dependent upon the lodging of a formal complaint.
396. Senior government officials in Bishkek are aware of the issue. On 9 July 2010, President Otunbayeva held a meeting with heads of the law enforcement agencies to discuss the situation in the south and emphasized the need to "rigorously observe the rights of ordinary people", and ensure the objectivity of the investigation. The following day, the Office of the Prosecutor General of Kyrgyzstan issued an order "[o]n measures of ensuring observance of the law during the special operations, operative measures and investigative activities," which, among other things, called on law enforcement officials to scrupulously observe the law during investigative activities, immediately inform the

prosecutor general of any violations, and, in cases of violation, “raise the question of accountability of responsible officials.”⁹⁶

397. The Office of the Prosecutor General told the KIC that defendants who were examined by or under the supervision of doctors of the Osh Bureau for Forensic Medicine either showed no signs of physical violence or had injuries received prior to arrest or as a result of beatings by other inmates. The KIC rejects this statement. The KIC also notes that failure to take all necessary measures to prevent and/or end violence amongst inmates is, in itself, a violation of the ICCPR.
398. The office of the Prosecutor General published an official report about the Nariman sweep operation⁹⁷. It stated that 39 people received hospital treatment and two men died as a result of the operation. The report said that “no measures” would be taken to investigate the circumstances of the wounded and that a “preliminary inquiry” into the deaths was being handled by the military prosecutor’s office. However, Kyrgyzstan’s chief military prosecutor, Aibek Turganbaev stated that no criminal investigation would be opened into the Nariman events, because he believed the actions of the law enforcement agencies during the Nariman sweep were “lawful and adequate.” The KIC does not share the view that the sweep was lawful and adequate and that an investigation into these events remains important.
399. The KIC has received credible evidence that groups of Kyrgyz civilians have allegedly committed offences against witnesses, lawyers and supporters of Uzbek defendants in court rooms, police stations and other locations associated with the criminal process. The KIC is of the opinion that it is an essential function of the Prosecutor General to ensure that criminal investigations and trials are conducted in a manner conducive to the full participation of the defence and free from intimidation.
400. The KIC has noted its concern about the seemingly selective prosecutions against Uzbek defendants. The KIC is of the view that the investigations and prosecutions must be undertaken impartially and are based on lawfully obtained evidence.

96 “Leadership orders that law be upheld during special operations,” Voice of Freedom – Central Asia, July 10, 2010, <http://www.vof.kg/kg/news/?news=3000> (accessed August 9, 2010).

97 “Prosecutor General Provides More Details on the Operation in Nariman,” Svodka Akipress, June 20, 2010, <http://svodka.akipress.org/news:52421>

V RECOMMENDATIONS

401. The mandate of the KIC requires it to make recommendations targeted towards the non-repetition of the violations to contribute to peace, stability and reconciliation. The KIC makes recommendations under three broad headings: reconciliation, accountability and impunity. Most of the recommendations are directed towards the government of Kyrgyzstan. The KIC also makes recommendations towards the international community.

A Recommendations on conflict prevention and reconciliation

On inclusive State building

402. The state should take an explicit stand on improving the relations between various communities. It should publicly acknowledge that Kyrgyzstan is a multiethnic society, and that the government is committed to the notion of a multiethnic state. Unless the Kyrgyz political class accepts the Uzbeks and other groups as equals little will change.

R.1: The State should take a strong public stand against extreme nationalism and ethnic exclusivity by declaring that Kyrgyzstan is a multiethnic society and facilitating the integration of its minorities into all spheres of public life.

R.2: The State should restore the name ‘Republic of Kyrgyzstan’ as more responsive to the civic basis of nation building than the name ‘the Kyrgyz Republic’.

R.3: The State should engage with and support NGOs in developing public awareness strategies on inter-ethnic dialogue and integration.

On Language, Culture and Education

403. Kyrgyzstan is a Kyrgyz/Russian bilingual country, in which other languages, particularly Uzbek, are used.

R.4: The Government should avail itself of the possibility of acceding to the European Charter for Regional or Minority Languages.

R.5: The Uzbek language should have a special status at municipal and regional levels in southern Kyrgyzstan, including the availability of official forms, public notices, education, cultural and legal facilities.

404. School and university facilities and the language of education are central to social integration.
- R.6: Schools destroyed or damaged should be rebuilt as a matter of priority.**
 - R.7: The Kyrgyz-Uzbek University of People’s Friendship should be rebuilt and given a license to operate.**
 - R.8: School curricula should be inclusive of various cultural, language and historical traditions and perspectives.**
405. Culture plays an important role in social interaction and specifically in reconciliation in post conflict situations.
- R.9: The Uzbek Drama Theatre and other cultural facilities destroyed or damaged should be restored.**
 - R.10: The Ministry of Culture should promote the diverse cultural heritage of Kyrgyzstan.**
 - R.11: Artistic endeavours should be encouraged and used as part of the healing and reconciliation process.**

On Governance

406. A culture of merit in the public service, particularly in recruitment and promotion, is key to good governance and is also a safeguard against corruption and nepotism.
- R.12: Appointment to public service positions should be based on competence and a transparent selection process.**
 - R.13: Municipal and Regional authorities should ensure broad public consultation in the design and implementation of development plans, including those that encourage integrated neighbourhoods.**
 - R.14: The offices of the Mayor and Governor of Osh should each create a position of adviser on interethnic relations with the assistance of the Office of the OSCE High Commissioner for National Minorities.**

On Women’s Rights and Gender Equality

407. The full participation of women in the society of Kyrgyzstan is vital to the sustainability of peace and development.

R.15: The Government should:

- **Establish an independent national body for the promotion of women’s rights and gender equality, with a policy-making, coordination and monitoring mandate and sufficient funds from the national budget.**
- **In accordance with United Nations Security Council Resolution 1325, integrate women from different communities into peace and reconciliation initiatives.**

- Disseminate the 2008 Concluding Observations of the Committee on the Elimination of Discrimination against Women on the report of Kyrgyzstan and take measures to ensure that its recommendations are implemented.
- Acknowledge the role of women's NGOs and provide support for their activities.
- Adopt a zero tolerance policy on violence against women.

On Media

408. The media is one of the most powerful players in modern societies. It has the power to shape the facts and create images of reality. It is an interlocutor in relationships between communities.

R.16: The media should adopt a code of conduct that will reflect the cultural and ethnic diversity of Kyrgyzstan in order to promote tolerance.

R.17: National television and radio programs should be available in at least the Kyrgyz, Russian and Uzbek languages.

On Public Safety and Security

409. The security situation in southern Kyrgyzstan remains volatile. Tensions between ethnic communities are still high. Criminality is widespread. The credibility of the security forces has been severely eroded.

R.18: The security forces should carry out their function according to law and not permit ethnic and other extraneous factors to affect their actions.

R.19: The Government should:

- Ensure that the composition of the security forces reflects the ethnic diversity of the society.
- Employ a regional rotation policy in personnel of the security forces.
- Improve the pay scales of the security forces.
- Undertake more targeted and sustained measures to combat criminal gangs.
- Ensure, as a matter of urgency, that the security forces are trained and equipped to deal with situations of civil unrest in accordance with human rights requirements.

R.20: The Government should:

- Cooperate with the OSCE Police Advisory Group in Kyrgyzstan, headquartered in Osh, to enhance the professionalism and credibility of the security forces.

- **Increase cooperation with international and regional anti-narcotrafficking organisations.**

On prevalence of weapons among civilians

410. A significant proportion of the population of southern Kyrgyzstan holds arms. There is a wide discrepancy between the legislation regulating the ownership of weapons and its implementation.

R.21: The Government should organise an effective disarmament campaign for the surrender of illegal weapons in Kyrgyzstan. It should include the implementation of criminal sanctions attaching to illegal possession.

R.22: The 4 August 2001 law on the ownership of weapons should be enforced.

B Recommendations on accountability

411. Hundreds, perhaps thousands of crimes under the law of Kyrgyzstan were committed during the events of June 2010. If the investigations and prosecutions of these crimes are not radically improved in terms of fairness and impartiality, the exercise will lack legitimacy. Furthermore, if the evidence of certain acts committed during some of the attacks against the *mahallas* was proven beyond reasonable doubt in a court of law, those acts would amount to crimes against humanity.

On criminal and disciplinary accountability

R.23: The State should conduct thorough, independent and impartial investigations into crimes, without reference to the ethnicity of alleged perpetrators, and ensure that prosecutions conform with international fair trial standards.

R.24: The prosecution and the judiciary should ensure that all relevant evidence is submitted to and considered by the court and that convictions are only based on confessions when the probity and fairness of the processes by which they were obtained can be confirmed.

R.25: The Government should consider seeking international assistance⁹⁸ in the conduct of investigations and prosecutions arising out of the events of June 2010. This assistance could encompass training for investigators, prosecutors, lawyers, and judges

⁹⁸ The KIC notes that the EU has an established program currently operative in Uzbekistan and Kazakhstan.

412. Some members of the security forces were directly or indirectly involved in the violence, others surrendered weapons and other equipment to civilians with minimal or no resistance.

R.26: The Government should:

- **Undertake an immediate investigation into the actions of the security forces during the events including the loss of military and police equipment and weapons.**
- **Prosecute or where appropriate take disciplinary action in respect of individuals found to have committed crimes or breaches of military or police discipline either by action or omission during the events.**

413. Certain acts committed during the June 2010 events may qualify under international law as crimes against humanity.

R.27: The Government should incorporate crimes against humanity in the Criminal Code of Kyrgyzstan.

R.28: Kyrgyzstan should either ratify the Rome Statute or accept the jurisdiction of the International Criminal Court as a non-party state⁹⁹.

On gender based violence

414. Sexual and gender-based violence committed during the events remains underreported and largely unacknowledged by the authorities.

R.29: The Government should recognise that violence against women is a serious offence, create a more gender-sensitive law enforcement response and ensure the prosecution of perpetrators of sexual and gender based violence in southern Kyrgyzstan.

R.30: The Government should provide financial and other forms of assistance to victims of gender based violence, including ensuring access to adequate medical and psychological care.

On violations of human rights and fair trial

415. Serious human rights violations occurred and are still occurring in southern Kyrgyzstan. Torture and ill-treatment of detainees and breaches of fair trial guarantees are of particular concern.

R.31: The Government should:

- **Immediately stop all arbitrary arrests, torture in detention, and other violations of due process rights.**
- **Immediately publicly condemn the use of torture and other ill-treatment and ensure the prompt, impartial and comprehensive**

⁹⁹ Article 12.3 of the Rome Statute.

investigation of such complaints and the prosecution of any official suspected of having breached the law.

- **Accede to the European Convention for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment.**
- **Ensure that no statements obtained as a result of torture or other ill-treatment are used as evidence in trial proceedings.**
- **Ensure that all people deprived of their liberty are informed promptly of the reasons for their detention and any charges against them, and allowed prompt and regular access to a lawyer of their choice and that lawyers can perform their functions unimpeded by intimidation, harassment, or attacks.**

C Recommendations to fight impunity

416. Different mechanisms exist to combat impunity and promote reconciliation within post-conflict societies. They aim to contribute to the prevention of further conflict, the strengthening of democracy and the re-establishment of the rule of law, as well as the restoration of dignity to victims through justice, truth and reparation.

On truth seeking and reconciliation

- R.32: The Government should establish a truth and reconciliation commission composed of respected and independent experts to examine the June events, their causes and consequences, and engage all communities.**
- R.33: The Government should seek the support of the international community for, and invite their active participation in, the work of the truth and reconciliation commission.**

On reparation

- R.34: The Government should, as a matter of priority, create a comprehensive reparation programme to provide victims with adequate material compensation for loss and rehabilitation.**
- R.35: The international donor community should support the reparations programme.**
- R.36: The Government should undertake symbolic measures aimed at affirming to the society as a whole that the victims of June 2010 are citizens of Kyrgyzstan, whose rights and dignity must be respected, independent of their ethnic origin, sex, religion, or political beliefs.**

D Recommendations on international follow-up

417. In order to demonstrate its commitments to the process of ensuring justice and promoting reconciliation, the Government of Kyrgyzstan should ensure that an independent audit is undertaken to evaluate the extent to which it has been able to implement the recommendations contained in this report.

R.37: The Government should request the UN Office of the High Commissioner for Human Rights, which has a local office in Kyrgyzstan, to undertake an evaluation of the progress that has been made and of the challenges that remain in the implementation of this report. The evaluation process should begin six months after the final publication of the report and could also involve the OSCE High Commissioner for National Minorities and other relevant international bodies.

Conclusion

418. The KIC believes that the conclusions and findings of this Report should not be considered as an ends in themselves. Rather they should be viewed as the foundation upon which the rebuilding and strengthening of State institutions, the rule of law and a tolerant and inclusive society should rest. The KIC hopes that the political leaders of Kyrgyzstan will draw from these conclusions in developing new policies and norms in order to ensure a peaceful future for all people of their country. The KIC urges the Government of Kyrgyzstan to implement its recommendations and asks the international community to support every effort made by the Government in this regard.

This report is published in English and Russian. The KIC urges the Government of the Kyrgyz Republic to prepare translations of the Executive Summary in the Kyrgyz and Uzbek languages, and arrange for the broad dissemination of both the Executive Summary and the report in its entirety throughout Kyrgyzstan in the print and electronic media.