

**Mandates of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the right to education; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the right to privacy and the Working Group on discrimination against women and girls**

Ref.: OL KGZ 1/2026  
(Please use this reference in your reply)

15 May 2026

Excellency,

We have the honour to address you in our capacities as Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; Special Rapporteur in the field of cultural rights; Special Rapporteur on the right to education; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the right to privacy and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 59/5, 55/5, 53/7, 59/4, 60/10, 55/3 and 59/14.

In this connection, we would like to bring to the attention of your Excellency's Government observations on the draft law "On Amendments to Certain Legislative Acts of the Kyrgyz Republic (to the Family Code, the Law 'On Civil Status Acts', and the Law 'On the Protection of Citizens' Health')" (hereinafter "draft law" or "the draft amendments"), which was published on 30 January 2026 for public comment on the website of the Jogorku Kenesh of the Kyrgyz Republic. Following public discussion, the draft law was formally submitted for parliamentary consideration on 31 March 2026.

The provisions of the draft amendments have been assessed in light of international human rights standards and rule of law principles, resulting in the following observations:

*General comments*

The signatory Special Procedures mandate holders note that, on 30 January 2026, the Government of the Kyrgyz Republic provided an opportunity for public bodies and the general public to submit comments on the draft amendments, in line with sound parliamentary practice. Notwithstanding the solicitation of comments, the mandate holders consider that the object and purpose, and certain provisions, of the draft amendments remain inconsistent with the Kyrgyz Republic's international human rights obligations in several respects.

Our assessment below draws upon applicable standards to respect, protect and fulfil the human rights provided by the International Covenant on Civil and Political Rights (ICCPR, 1966; acceded to by Kyrgyzstan on 7 October 1994), the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966; acceded to on

7 October 1994), the Convention on the Rights of the Child (CRC, 1989; acceded to on 7 October 1994), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979; acceded to on 5 September 1997) and relevant UN guidance, including CESCR Concluding Observations on Kyrgyzstan (E/C.12/KGZ/CO/4), documentation for the fourth-cycle Universal Periodic Review (A/HRC/WG.6/49/KGZ/1), and the International Classification of Diseases, Eleventh Revision (ICD-11, 2019) of the World Health Organization (WHO, Constitution of the World Health Organization 1946, acceded to on 29 April 1992).

### *Summary of the draft amendments*

The draft amendments would primarily serve: (a) to define a person’s sex for civil status and family-law purposes solely by “biological (anatomical and genetic) characteristics recorded at birth” and make that entry immutable; (b) to prohibit any change of gender markers in civil status records and identity documents; (c) to ban medical interventions (including surgery and hormone therapy) “carried out for the purpose of changing a person’s sex (transgender transition),” with a narrow exception relating to congenital variations of sex characteristics; and (d) to impose on parents a duty to raise children strictly “in accordance with their biological sex,” while prohibiting medical, surgical or psychological interventions and other actions aimed at changing a minor’s gender identity or “forming ideas” about the possibility of changing sex. The stated purpose of the proposed draft amendments includes the protection of a culturally defined concept of the family, as well as of demographic security, morality, and a national identity that is presented as being incompatible with the recognition of trans and/or other gender-diverse identities.

### *Preliminary observations*

#### *Hierarchy of international human rights norms under the Constitution of the Kyrgyz Republic*

Section (5) of the “Reference-Justification” note (hereafter “Justification Note”) appended to the draft amendments states that, “The goals, objectives, and subject matter of this draft law do not contradict the Constitution of the Kyrgyz Republic or the legislation of the Kyrgyz Republic.”

The Constitution of the Kyrgyz Republic (enacted 5 May 2021, hereafter “the Constitution”) is the central legal instrument integrating international law into the domestic system, and in article 6(3) provides that: “The generally recognized principles and norms of international law, as well as international treaties that entered into force in accordance with the legislation of the Kyrgyz Republic, are an integral part of the legal system of the Kyrgyz Republic.” The Constitution therefore gives special status to international human rights treaties, and incorporates human rights law directly into parallel constitutional provisions of human rights in articles 24 to 65, which cannot be limited unduly.

*Limitations on human rights provided by the Constitution and international human rights treaties*

Notably, article 23 prohibits the adoption of laws that restrict human rights, providing: “1. Human rights and freedoms are inalienable and belong to everyone from birth. They are recognized as absolute, inalienable and protected by law and by courts against infringement by anyone. Human rights and freedoms are among the highest values of the Kyrgyz Republic. They have a direct effect and determine the meaning and content of the activities of all state bodies, local self- government bodies and their officials. 2. Human and civil rights and freedoms may be restricted by the Constitution and laws with the aim of protecting national security, public order, public health and morals, and the rights and freedoms of others. Such restrictions may also be imposed taking into account the specifics of the military or other state services. The restrictions imposed must be proportionate to the stated goals. 3. The adoption of by-laws restricting human and civil rights and freedoms shall be prohibited. 4. The law may not impose restrictions on human rights and freedoms for other purposes and to a greater extent than those provided for in the Constitution. 5. No restrictions shall be placed on the human rights and freedoms established by the Constitution. 6. The constitutionally established guarantees against prohibition are not subject to any limitation.”

With regard to cultural traditions of the Kyrgyz Republic, article 21.1 of the Constitution provides that “The state cares about the development of the culture of the people of Kyrgyzstan with the preservation of customs and traditions that do not infringe on human rights and freedoms.” This formulation establishes a clear limitation, namely that the protection of customs and traditions is conditional upon their consistency with internationally recognized human rights and fundamental freedoms.

Furthermore, article 24.1 of the Constitution expressly prohibits any form of discrimination, based on any status, providing: “The Kyrgyz Republic shall respect and ensure protection of the rights and freedoms of all persons within its territory and jurisdiction. No one shall be subjected to discrimination on the basis of sex, race, language, disability, ethnicity, religion, age, political or other opinion, education, origin, property or other status, or other circumstances. [...]”

Section (3) of the Justification Note states that, “The adoption of this draft law of the Kyrgyz Republic will not have any negative social, economic, legal, human rights, gender, environmental or corruption consequences.”

As drafted, however, the amendments discussed below would appear to institutionalize discrimination against transgender and other gender-diverse persons; permit arbitrary interference with the rights to privacy and recognition before the law; and undermine the rights to health, education, expression, and peaceful assembly and association as protected under the Constitution and international human rights law incorporated into the domestic legal order. The amendments would also appear to risk stigmatizing transgender and gender-diverse children and legitimizing non-consensual interventions on intersex children.

In circumstances where international treaties establish a higher standard of human rights protection than national law – particularly regarding freedom from discrimination – the proposed provisions would appear to allow for the restriction of

such protections for certain groups, on the stated basis of safeguarding “cultural identity and traditional values.” This raises concern to the extent that such identity and values are not defined or understood in a single manner, are not universally shared among rights holders and may be invoked to justify differential treatment.

The United Nations Human Rights Committee has emphasized that not all rights are absolute, but any restriction must meet strict criteria. Those principles are laid out in its general comment No. 27 and general comment No. 34, among others. In particular, restrictions (1) must be provided by law, (2) must pursue a legitimate aim, and (3) must be necessary and proportionate to achieve that aim, without jeopardizing the essence of the right itself.

More specifically, the Committee recalled, “that the relation between right and restriction and between norm and exception must not be reversed. The Committee also recalls the provisions of article 5, paragraph 1 of the Covenant according to which ‘nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.’ [...] The Committee observed in general comment No. 22, that the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations [...] for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition. Any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination.” (general comment No. 34, paras. 21 and 32).

Human rights-related legislation should aim to expand protections in line with international law, rather than restrict them. Lawmakers should refrain from limiting the rights of individuals who may not share their views, including with respect to differing understandings of cultural or national identity or values. The legal justifications for the draft amendments invoke the protection of “culture”, “cultural roots”, “cultural heritage”, “cultural values”, and “cultural foundations”; however, such justifications must not be used as a basis to limit human rights protections or to deny the equal enjoyment of human rights and fundamental freedoms by persons with different values, political opinions, or identities. The Vienna Declaration and Programme of Action states that “While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights” (A/CONF.157/24 (Part I), chap. III, para. 5). This language has been reiterated in various Human Rights Council resolutions since. In its study dedicated to understanding traditional values in light of human rights obligations, the Advisory Committee of the Human Rights Council noted that “tradition is often invoked to justify maintaining the status quo... Those who benefit most from the status quo are more likely to appeal to tradition to maintain power and privilege, and also to speak on behalf of tradition, while those most marginalized and disenfranchised have the most to lose from a traditional values approach to human rights” (A/HRC/22/71, para. 40). In other words, “traditions” may be used to actively discriminate against already marginalized sections of the population, in violation of international human rights law.

### *Applicable international human rights standards*

#### *Non-discrimination and equality before the law*

Articles 2(1) and 26 of the ICCPR and articles 2 and 3 of the ICESCR require effective protection against discrimination, including on grounds of gender identity; any restrictive measures must meet legality, legitimacy, necessity and proportionality tests.

#### *Privacy and recognition before the law*

ICCPR article 17 protects against arbitrary or unlawful interference with privacy. Human Rights Committee jurisprudence has found that refusing to allow a transgender person to obtain accurate identity documents violates articles 17 and 26 (CCPR/C/119/D/2172/2012). States should ensure access to legal gender recognition procedures that are quick, transparent and accessible, based on self-determination (A/73/152).

#### *Right to health and WHO standards*

Under ICESCR article 12 and CRC article 24, States must ensure availability, accessibility, acceptability and quality of health services, free of discrimination. The WHO's ICD-11 moved gender incongruence out of the mental disorders chapter, thereby reducing pathologization and supporting access to appropriate health services in line with individual circumstances (ICD-11, WHO 2019). Blanket prohibitions are inconsistent with these standards.

#### *Children's rights*

The CRC requires decisions affecting children to be guided by their best interests (art. 3), with due weight to the child's views (art. 12), and guarantees the rights to health and identity. General comments No. 15 and No. 20 emphasise individualized, evidence-based care and access to information and counselling appropriate to evolving capacities, rather than categorical bans (CRC/C/GC/15; CRC/C/GC/20).

#### *Women and girls; stereotypes and family relations*

CEDAW obliges States to eliminate discriminatory laws and harmful gender stereotypes. The CEDAW Convention establishes obligations for States parties to take all appropriate measures to eliminate prejudices, customary practices and all other practices that are based on the notion of the inferiority or superiority of either sex, or on stereotyped roles for women and men (article 5), as well as to take all appropriate measures to eliminate discrimination against women in political and public life (article 7). Furthermore, article 10(h) of the Convention guarantees the right of women and girls to have access to specific educational information aimed at ensuring the health and well-being of families, including information and counselling on family planning. The CEDAW Committee, in its general recommendation No. 28 on the core obligations of States parties under article 2 of the Convention (equality and no-discrimination), underscored that discrimination against women is inextricably linked to other factors affecting their lives (para. 9). It further explicitly acknowledged, in general recommendation No. 35 on gender-based violence against women, that such factors

include being lesbian, bisexual, transgender or intersex, and emphasized the need for appropriate legal and policy responses to address such discrimination (para. 12). The Working Group on discrimination against women and girls has warned of an escalating gender backlash reinforcing rigid gender roles (A/HRC/56/51). In this context, legal definitions that tie family-law consequences strictly to “biological sex” risk reinforcing such stereotypes and exacerbating discrimination and violate the right to bodily autonomy. Moreover, as recognized by the Working Group on discrimination against women and girls in its Guidance Document on the rights of women and girls in family life, there is an urgent need for inclusive, rights-based and feminist approaches to family life – approaches that set equality, non-discrimination and dignity as the foundation for the rights of women and girls within the family. These approaches must take account of the diverse and evolving realities of family structures across cultures and societies and reflect the ways in which State practices continue to shape the experience of family life. The Working Group remains deeply concerned that State and non-State actors, at the national, regional and international levels, continue to misuse “traditionalist”, “religious”, “customary” or “family protection” narratives, policies and legislation to reject rights-based approaches and legitimize violations of the rights of women and girls. Such narratives aim to fundamentally distort international human rights law, perpetuate harmful gender stereotypes and entrench discriminatory practices. They often obscure the true diversity of cultural life by presenting dominant cultural expressions as though they constitute an accurate and comprehensive reflection of a community’s way of life. Far from protecting families, such arguments reinforce patriarchal and hegemonic norms that harm women’s and girls’ rights and freedoms, depriving them of autonomy and equality within and outside the family context, including their right to meaningfully lead in efforts to shape laws and customs on an equal basis (A/HRC/WG.11/43/1, para. 2).

#### *Analysis of the draft amendments*

##### *Non-discrimination*

Discriminatory treatment of individuals who do not conform to expectations linked to their sex, or to socially constructed gender norms undermines the foundation of protections against discrimination on the basis of sex. In this context, the proposed amendments could have the effect of excluding intersex, transgender, and other gender-diverse individuals from the scope of such protections.

In relation to the ICESCR, the Committee on Economic, Social and Cultural Rights has affirmed that the Covenant’s non-derogable prohibition of discrimination extends to sexual orientation, gender identity, and sex characteristics. Under article 2, State parties are obligated to ensure the enjoyment of all economic, social and cultural rights without discrimination of any kind, including based on gender identity. The Committee has elaborated this interpretation in several general comments on States’ obligations under the Covenant (see e.g., E/C.12/GC/20, E/C.12/2000/4), and has consistently reaffirmed it in its concluding observations on State party reports. The proposed draft amendments, by restricting rights on the basis of sex, gender, or gender identity, may raise concerns as to the Kyrgyz Republic’s compliance with its obligations under the Covenant.

In 2016, the Committee clarified that non-discrimination: “encompasses the right of all persons, including lesbian, gay, bisexual, transgender and intersex persons, to be fully respected for their sexual orientation, gender identity and intersex status. [...] States parties also have an obligation to combat homophobia and transphobia, which lead to discrimination”. (See E/C.12/GC/22, general comment No. 22, at para 23.)

Furthermore, as recognized by the Working Group on discrimination against women and girls in its Guidance Document on gender equality and gender backlash, gender operates as a hierarchical system that structures power relations through socially constructed identities, attributes and roles assigned to women and men, and the social and cultural meanings attached to biological differences. (A/HRC/WG.11/41/2, para. 9, citing CEDAW general recommendation No. 28). Within this system, the assumption of two distinct, dichotomous sexes functions as one of the mechanisms through which gender-based subordination is maintained. Such frameworks embed and reproduce inequalities across institutions, including the family, the economy, the legal and justice systems, and the media. Furthermore, the invocation of cultural or religious values cannot be used to justify the denial of rights or discrimination against women and girls (CCPR/C/21/Rev.1/Add.10, A/HRC/56/51).

In addition, as emphasized by the Working Group on discrimination against women and girls in its guidance document on substantive gender equality (A/HRC/WG.11/42/1), “while often linked with biological differences, gender inequality and gender-based discrimination do not stem from those differences themselves but rather the cultural, political, social and economic priorities of, and the related choices made by, communities” (para. 6). In this light, defining sex and gender in binary and immutable terms, risks entrenching essentialist understandings that the Working Group has expressly rejected. Such an approach may reinforce existing gender hierarchies by privileging men, valorizing traits associated with masculinity, and sustaining social and institutional practices that disadvantage women and girls.

While the protection of public morals may, in certain circumstances, serve as a basis for limited restrictions on individual freedoms, it cannot be invoked to justify prejudice or discrimination. Moral disapproval of trans identities – even if widely held – does not constitute a legitimate basis for restricting human rights.

In its general comment No. 37, the Human Rights Committee clarified that restrictions “should only exceptionally be imposed for the protection of ‘morals’. If used at all, this ground should not be used to protect understandings of morality deriving exclusively from a single social, philosophical or religious tradition, and any such restrictions must be understood in the light of the universality of human rights, pluralism and the principle of non-discrimination. Restrictions based on this ground may not, for instance, be imposed because of opposition to expressions of sexual orientation or gender identity” (CCPR/C/GC/37, para. 46).

For those reasons, the draft amendments appear not to be consistent with the strictly and narrowly construed limitations permitted under international human rights law, including the ICCPR.

### *Immutability of civil status “sex” and restrictions on legal gender recognition*

A categorical prohibition on amending gender markers in civil status records would appear unlikely to meet the requirements of necessity and proportionality applicable to restrictions on the right to privacy under article 17 of the ICCPR, and may undermine the guarantees of equal protection and non-discrimination under article 26. The assertion in the Justification Note that legal loopholes risk causing demographic chaos appears inconsistent with publicly available information indicating that only one individual has successfully changed their gender marker through court proceedings.

By restricting legal recognition to binary categories defined as biologically male and female (under article 1.1 of the draft amendments), the proposed provisions may give rise to discrimination on the basis of sex, gender, and gender identity, including through the denial of access to accurate identity documents. Such restrictions may also exclude the small minority of individuals who are intersex, thereby failing to ensure their equal recognition before the law and equal protection.

On a related point, *mutatis mutandis*, the Human Rights Committee in *G. v Australia* (CCPR/C/119/D/2172/2012) observed that, while legal recognition of gender reassignment and protection against discrimination are essential, denying married transgender persons a birth certificate that correctly reflects their sex (article 1.2 of the draft amendments) fails to ensure equal protection under the law. The Committee found that such differential treatment was not necessary or proportionate to a legitimate interest, and was therefore unreasonable and did not meet the applicable standards under the International Covenant on Civil and Political Rights (ICCPR).

The Human Rights Committee has elaborated in its views and recommendations that denying transgender persons access to accurate identity documents may violate these provisions (e.g. CCPR/C/119/D/2172/2012). Guidance from UN Special Procedures has likewise recommended that civil registry procedures be made quick, transparent and accessible, based on self-identification, and free from abusive requirements, in order to ensure equal protection without discrimination (see, e.g. A/73/152).

### *Blanket prohibition of gender-affirming healthcare*

A legal prohibition on gender-affirming care for adults and adolescents (article 3 of the draft amendments) would raise serious concerns regarding compatibility with the rights to health and non-discrimination under the ICESCR, as well as with international standards, including those reflected in the WHO’s ICD-11 (2019). With regard to adolescents, the Committee on the Rights of the Child in its general comments Nos. 15 and 20, has emphasized the need for individualized, evidence-based care as well as access to appropriate information and support; a categorical prohibition would appear to unduly restrict these rights (see CRC/C/GC/15; CRC/C/GC/20).

The ICESCR obligates States parties to ensure the highest attainable standard of physical and mental health (article 12), without discrimination of any kind (article 2), including based on sexual orientation or gender identity, as elaborated by the Committee on Economic, Social and Cultural Rights in its general comments (see, e.g., E/C.12/GC/20, E/C.12/2000/4). In this regard, the Committee has emphasized the right

of all persons to control their health and body, noting: “The right to health contains both freedoms and entitlements. The freedoms include the right to control one’s health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation. By contrast, the entitlements include the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health” (E/C.12/2000/4, para. 8). As gender-affirming healthcare is not limited to only those belonging to the trans and gender-diverse communities, a blanket prohibition will prevent access to, at times, medically necessary procedures for fear of stigma, societal backlash, and even legal prosecution.

The former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health stressed that “[g]uaranteeing informed consent is fundamental to achieving the enjoyment of the right to health through practices, policies and research that are respectful of autonomy, self-determination and human dignity” (A/64/272).

*Restrictions on expression, freedom of peaceful assembly and of association, information and education; chilling effects*

By prohibiting actions that involve “forming ideas” (art. 1.3 of the draft amendments) in minors in relation to gender identity, and by outlawing counselling or psychological support that acknowledges gender diversity, the draft amendments may amount to content-based restrictions on expression and access to information, raising concerns under article 19 of the ICCPR. They may also have a chilling effect on the exercise of the rights to education (ICESCR art. 13; ICCPR art. 18.4), and to freedom of peaceful assembly and freedom of association (ICCPR arts. 21 and 22) insofar as these rights relate to gender identity: We wish to highlight in particular that States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association, but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards (A/HRC/17/27, para. 66; and A/HRC/29/25/Add.1). This means ensuring that the rights to freedom of peaceful assembly and of association are enjoyed by everyone, without discrimination including on the basis of gender identity (see A/HRC/41/41, para. 13).

The Special Rapporteur on the right to education, in her report on the right to be safe in education, stressed that States have an immediate obligation to end institutionalized discrimination, including by ensuring the protection of specific groups, including by reversing any removals of such protection, especially for women, girls and gender-diverse people (A/HRC/59/41, para. 97 c).

The CRC Committee has affirmed that States must respect the gender identity of trans and other gender-diverse children, as part of their obligations to respect, protect and fulfil children’s human rights under the Convention (CRC/C/GC/20). It has further emphasized that States should adopt measures ensuring that all adolescents can fully enjoy their rights to freedom of expression, respect for their physical and psychological integrity, recognition of their gender identity, and their evolving autonomy (CRC/C/GC/20).

The Committee has further underscored that decisions relating to legal gender recognition for children should be undertaken in close consultation with the children concerned, in accordance with their rights to be heard, to have their evolving capacities respected, and to participate in decision-making through free and informed consent, supported by appropriate safeguards (CRC/C/GC/20).

These concerns arise against the backdrop of recent findings and recommendations by UN treaty bodies calling on the Kyrgyz Republic to remove constraints on civil society and other actors advocating for the human rights of LGBT+ persons (E/C.12/KGZ/CO/4, at paras. 22 and 23).

The UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity has likewise underscored that restrictions on freedom of expression, peaceful assembly and association targeting LGBT persons, as well as civil society organizations supporting their human rights, can have the effect of excluding vulnerable minorities from public life. Such measures are frequently justified on discriminatory and unfounded grounds and contribute to increasingly hostile environments for civil society actors and human rights defenders (A/HRC/56/49). These constraints, particularly when combined with hostile political rhetoric, may significantly undermine the ability of LGBT individuals and civil society to advocate for their rights and participate safely and fully in society (ibid).

#### *The rights of the child and parental duties*

Imposing a legal duty to raise a child strictly “in accordance with biological sex” and to prohibit interventions aimed at changing sex ( articles 1.1 and 1.3 of the draft amendments), including access to psychological support, would appear to be in tension with the best-interests of the child, as well as the child’s right to be heard, and to have their views taken into account and with the rights to non-discrimination, health and identity (CRC arts. 2, 3, 8, 12, 24; ICCPR art. 26). Such provisions may also deter families from seeking appropriate support services and raise concerns regarding interference with the right to privacy and family life (ICCPR art. 17).

International human rights law protects all children – including trans and other gender-diverse children – by ensuring their rights to develop and express their identity, autonomy, integrity, freedom of expression and non-discrimination. The CRC requires States to respect the child’s identity (CRC art. 8), protect against discrimination (CRC art. 2) and ensure freedom of expression (CRC art. 13), while the right to recognition before the law applies equally to all persons irrespective of gender identity (UDHR art. 6; ICCPR art. 16). In this context, the draft amendments may give rise to discrimination against children whose gender identity differs from their sex assigned at birth. In addition, in accordance with article 13 of ICESCR and 29 of the CRC, education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. Education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and groups.

UN human rights mechanisms have noted that trans and other gender-diverse children face heightened levels of violence, stigma and exclusion, and have called on States to ensure their protection through awareness-raising and appropriate support

measures. While safeguards in legal gender recognition processes may be legitimate, they must comply with international child rights standards. Blanket prohibitions or age-insensitive restrictions are likely to conflict with the child’s right to be heard and the requirement that their best interests be a primary consideration. Denial of access to legal recognition may result in significant harm to children’s mental and physical well-being. Legal recognition processes should also remain distinct from medical treatment, which engages separate rights and safeguards.

The Special Rapporteur on the right to privacy has affirmed that gender identity is integral to dignity and self-determination, and has called on States to protect children’s privacy and provide comprehensive, accurate, and age-appropriate education, consistent with the evolving capacities of the child, on sexual, biological, physical and psychological diversity as well as on the human rights of people of all genders (A/HRC/43/52).

Provisions prohibiting “actions” that present the possibility of gender change may likewise impose discriminatory limits on freedom of expression and peaceful assembly. The Human Rights Committee has affirmed that the ICCPR’s guarantee of non-discrimination (ICCPR art. 26) applies to gender identity, and that any restrictions on expression must meet the strict requirements set out in article 19(3) and remain consistent with the object and purpose of the Covenant. The Committee has explicitly stated that advocating for respect for the rights of transgender persons cannot be considered harmful to minors (see CCPR/C/106/D/1932/2010 [2012]). The CRC Committee has likewise found that laws of this nature stigmatize LGBTI children and may expose them to heightened risks of violence and persecution (see CRC/C/RUS/CO/4-5 [2014]; and CRC/C/HUN/CO/6).

#### *Intersex children and non-consensual interventions*

The exception for “congenital anomalies” may legitimise non-consensual, medically unnecessary surgeries on intersex children; UN human rights mechanisms have urged States to end such harmful practices and ensure bodily integrity and free, prior and informed consent (see OHCHR [guidance](#) on human rights in relation to sexual orientation, gender identity and sex characteristics, and the standards elaborated by human rights treaty bodies referenced therein). In addition, where non-consensual surgical interventions have occurred, a prohibition on changing gender markers may prevent individuals – whether as children or later as adults from challenging the sex assigned at birth, irrespective of their biological traits, or their subsequently expressed gender identity.

The formulation “except in cases of treatment of congenital anomalies of sexual development, confirmed by the conclusion of a medical commission and a court decision” in the draft law risks reinforcing stigma, discrimination and harmful practices directed toward persons with innate variations in sex characteristics (intersex persons). Consistent with Human Rights Council resolution 55/14 (A/HRC/RES/55/14), States are urged to intensify efforts to eradicate discrimination, violence and harmful practices affecting intersex persons and to address their underlying drivers – among them entrenched stereotypes, pervasive misconceptions and inaccurate information, stigma and social taboos. They are likewise called upon to ensure the realization of the highest

attainable standard of physical and mental health for all persons with innate variations in sex characteristics.

The High Commissioner's report (A/HRC/60/50), issued pursuant to resolution 55/14, further recommends that States prohibit medically unnecessary procedures aimed at altering the sex characteristics of intersex persons without the full, free and informed consent of the individual concerned. It also advises that interventions on intersex children be strictly regulated and permitted only in exceptional circumstances – specifically, where a serious and urgent threat to the child's physical health exists, cannot be averted through less invasive means, and cannot safely be deferred until the child can participate in the decision. In such cases, the proposed treatment must represent the least risky, least invasive and least harmful option available and must be subject to independent oversight (*ibid*).

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please clarify how a categorical prohibition on amending gender markers in civil status records would comply with the Kyrgyz Republic's obligations under the Constitution, ICCPR, ICESCR, CEDAW, CRC, CAT, and other relevant international standards cited above, including the right to privacy, health, autonomy, and freedom from discrimination.
2. Please provide detailed views on the extent to which draft amendments are compatible with international standards under articles 17 and 26 of the ICCPR, taking into account the Human Rights Committee's jurisprudence and its guidance on the limited circumstances in which restrictions on human rights provided by the Covenant may be justified under international law.
3. Please provide information as to how the proposed prohibition of gender-affirming care aligns with obligations under ICESCR article 12 and CRC article 24, and with the WHO's ICD-11 classifications of gender incongruence.
4. Please clarify how the draft provisions restricting counselling and information for minors are compatible with ICCPR article 19 and CRC obligations, per the CRC Committee's general comments Nos. 15 and 20.
5. Please provide information on how the draft amendments are to be implemented with a view to preventing chilling effects on the rights to freedom of peaceful assembly and of association, as stipulated in articles 21 and 22 ICCPR, insofar as these rights are exercised in relation to individuals' gender identity.
6. In light of UN calls to protect the bodily integrity of intersex persons, how will the State prevent medically unnecessary, non-consensual interventions on children with variations of sex characteristics?

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

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