



**RESEARCH AND PROGRAM DEVELOPMENT OFFICE**

**ANALYSIS OF THE DRAFT LAW AMENDING THE 2002 LAW  
OF THE KYRGYZ REPUBLIC ON THE RIGHTS OF CITIZENS TO  
HAVE PEACEFUL ASSEMBLIES**

**May 7<sup>th</sup>, 2008**

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## Analysis of the Draft Law Amending the 2002 Law of the Kyrgyz Republic on the Rights of Citizens to have Peaceful Assemblies<sup>1</sup>

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### I. Introduction

This memo reviews the 2008 *Draft Law amending the 2002 Law on the Rights of Citizens to Have Peaceful Assemblies, without Weapons, and to Freely Conduct Meetings and Demonstrations* (2008 Draft Law). First, this memo summarizes the changes proposed to the 2002 *Law on the Rights of Citizens to Have Peaceful Assemblies, without Weapons, and to Freely Conduct Meetings and Demonstrations* (2002 Law) by the 2008 Draft Law. Second, this memo sets forth the most relevant international standards regarding freedom of assembly. Third, this memo specifically identifies aspects of the 2008 Draft Law that contrast with Kyrgyzstan's obligations as a party to the International Covenant on Civil and Political Rights (ICCPR), a member of the Organization for Security and Cooperation in Europe (OSCE), and in light of other international standards regarding the freedom of assembly.

The 2008 Draft Law's provisions would alter the current version of the 2002 Law in several troubling ways, while also retaining aspects of the 2002 Law which are contrary to international standards.<sup>2</sup> Article 1 of the 2008 Draft Law permits restrictions on the freedom of assembly in order to protect the constitutional order and the rights and freedoms of others. This language, combined with the Draft Law's disproportionate time and place restrictions on demonstrations (found in articles 4 and 5), allow for the possibility of excessive government regulation of the right to assemble. In addition, the 2008 Draft Law's notification requirements fall short of international standards, by

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<sup>1</sup> This memo was prepared for the ABA Rule of Law Initiative by Research and Program Development (RPD) staff: Legal Analyst Brie Allen and RPD Director Simon Conté, with the assistance of RPD intern Kimberly Curtis. The statements and analysis contained herein are the work of the American Bar Association's Rule of Law Initiative. The statements and analysis expressed are solely those of the authors, and have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and do not represent the position or policy of the American Bar Association. Furthermore, nothing in this memo is to be considered rendering legal advice for specific cases. The analysis and conclusions contained herein are based on a thorough review of an un-official English-language translation of the draft Law, the accuracy of which has not been verified. As a result, specific issues identified by this report may flow from the translation rather than the language of the original text.

<sup>2</sup> The 2008 Draft Law amends article 2 of the 2002 Law, replaces articles 3-7 of the 2002 Law, retains articles 8-12 of the 2002 Law, and adds new articles 13-17 (which are numbered 8-12 in the Draft Law).

failing to provide for spontaneous assemblies, and failing to provide adequate procedural protections. The Draft Law retains articles 8 and 11 from the 2002 Law; these provisions address the use of force against demonstrators and the liability of demonstrators for damages. Both articles should be redrafted to more clearly comply with international standards to protect demonstrators from violence or excessive liability. The 2008 Draft Law also retains several ambiguous references to unions, which should be redrafted so as to clearly exempt unions from the ambit of the Draft Law. Lastly, the 2008 Draft Law amends the definitional section of the 2002 Law by adding two additional terms- “public event” and “notification of a public event.” The introduction of these two terms has the positive effect of simplifying the reading of the law by referring to all types of assemblies discussed in the law with one common term.<sup>3</sup>

## **II. Relevant international standards**

International treaties to which Kyrgyzstan is a party, as well as universally recognized international legal principles and norms, are part of Kyrgyz law.<sup>4</sup> Kyrgyzstan is a party to several international agreements aimed at protecting the freedom of peaceful assembly and other fundamental rights enumerated in the 1948 Universal Declaration of Human Rights. These agreements include: the International Covenant on Civil and Political Rights (ICCPR), the Freedom of Association and Protection of the Right to Organize Convention of the International Labor Organization, and the Organization for Security and Cooperation in Europe (OSCE)’s 1990 Copenhagen Document.

The following is an introduction to several of the international standards of the most significant international instruments, which are also discussed in greater detail in Section III of this memo:

### **1. The International Covenant on Civil and Political Rights**

The ICCPR’s treatment of the right to peaceful assembly is particularly relevant to a discussion of the 2008 Draft Law:

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (order public), the protection of public health or morals or the protection of the rights and freedoms of others.<sup>5</sup>

The ICCPR creates legally binding obligations for States parties upon ratification.<sup>6</sup> In addition to pledging to ensure that all individuals within their jurisdiction enjoy the right to peaceful freedom of assembly, as recognized in the ICCPR, Kyrgyzstan undertakes the

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<sup>3</sup> This memo uses the terms “public event,” “assembly,” and “demonstration” interchangeably.

<sup>4</sup> Constitution of Kyrgyzstan art. 12(3) (Oct. 21, 2007); Law on International Treaties of the Kyrgyz Republic arts. 11(9)(1), 13(1) (2002).

<sup>5</sup> ICCPR art. 21. Kyrgyzstan acceded to the ICCPR in 1994.

<sup>6</sup> ICCPR signatory states’ obligations to enforce ICCPR rights are set forth in ICCPR art. 2.

obligation to enact appropriate legislation to give effect to those rights; make certain that individuals are aware of their rights; and guarantee that the rights are made useful to and accessible by the public. Similarly, Kyrgyzstan is obligated to take measures to properly train officials charged with enforcement of Covenant rights, and provide the right to an effective remedy that is then enforced. The 2008 Draft Law may be viewed as a measure pursued by the Government of Kyrgyzstan aimed at meeting its obligations as an ICCPR State party.

## **2. The Organization for Security and Cooperation in Europe**

Upon gaining admission to the OSCE as a participating state in 1992, and then signing the 1975 Helsinki Final Act and 1990 Charter of Paris, Kyrgyzstan committed itself to respecting a group of human rights standards, which are identified and defined in a variety of agreements adopted by consensus by OSCE participating States.<sup>7</sup> One such agreement, the 1990 OSCE Copenhagen Document, stipulates:

[E]veryone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards.<sup>8</sup>

All OSCE commitments reflect traditional human rights, but are not regarded as legally binding norms. Instead, they are considered politically binding on participating States such as Kyrgyzstan. Even though these commitments do not create legally enforceable rights that may be protected by a court of law, the participating States' promise to abide by OSCE standards is taken seriously. In drafting and enforcing all normative acts, such as the 2008 Draft Law, Kyrgyzstan should take note of its OSCE commitments.

## **3. The Council of Europe**

The Council of Europe's primary human rights treaty, the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) also contains protections of the freedom of assembly:

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others....<sup>9</sup>

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<sup>7</sup> *OSCE Human Dimension Commitments: A Reference Guide*, ODIHR-OSCE, Warsaw 2001, page xvi, available at: <http://www.osce.org/odihr/documents/>.

<sup>8</sup> OSCE, Copenhagen Document para. 9.2 (1990).

<sup>9</sup> European Convention on the Protection of Human Rights and Fundamental Freedoms art. 11 (1950).

The European Convention and the system of collective enforcement that it creates, which includes the European Court of Human Rights (ECHR), is an effective framework for the protection of the rights originally enumerated in the Universal Declaration of Human Rights. Although Kyrgyzstan is not a member of the Council of Europe, nor a party to the European Convention, nor subject to the jurisdiction of the ECHR, many countries overcoming the legacies of socialism in central Europe and Eurasia are members of the Council of Europe, and ascribe to the norms set forth in the ECHR. In enacting legislation that relates to fundamental rights, the ECHR is a standard to remain cognizant of at all times.

### **III. Commentary**

#### **1. The scope of the freedom of assembly**

##### **a. Internationally recognized restrictions on the freedom of assembly**

The 2008 Draft Law protects the rights of citizens to peacefully assemble and conduct meetings and demonstrations without interference.<sup>10</sup> In so doing, it gives effect to and implements part of Article 25 of Kyrgyzstan's Constitution, which guarantees every person in Kyrgyzstan the right to assemble peacefully, as well as the right to hold "political meetings, rallies, marches, demonstrations and pickets."

Freedom of assembly is also a fundamental right under international law, though, under certain circumstances, a state may limit the exercise of this freedom. The right of individuals to assemble freely only pertains to peaceful assembly.<sup>11</sup> However, states should broadly interpret what type of behavior is allowed during a peaceful assembly. A peaceful assembly may give offense to people who oppose the ideas promoted in the assembly, and it may obstruct the activities of third parties.<sup>12</sup>

States are generally recognized to enjoy the authority to limit peaceful assemblies under several circumstances, provided that (1) the circumstances are legislatively or administratively prescribed and (2) the limits are necessary in a democratic society.<sup>13</sup> The 2008 Draft Law accomplishes the first requirement by identifying the circumstances under which freedom of assembly may be limited: to ensure the rights and freedoms of other people; to ensure public safety and to protect the constitutional order, and to protect citizens' health and morality.<sup>14</sup>

In order to meet the second requirement of necessity to a democratic society, restrictions on freedom of assembly should be reasonably proportionate with the aim to be realized

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<sup>10</sup> Draft Law, art. 1.

<sup>11</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly 27 (2007). Whether an assembly is peaceful is determined by whether demonstrators intend to use violence. *Id.*

<sup>12</sup> *See id.*

<sup>13</sup> These and similar grounds for formulating restrictions, or otherwise interfering with a fundamental right, are found within the ICCPR and the ECHR.

<sup>14</sup> 2002 Law art. 1.

and consistent with democratic norms such as open debate, pluralism, and tolerance for diversity of opinion.<sup>15</sup> For the most part, the restrictions on freedom of assembly legislatively prescribed by this law appear to meet this standard, but there are important exceptions.

**b. Restricting the freedom of assembly to protect the rights and freedoms of others**

Articles 4 and 5 of the 2008 Draft Law propose several troubling restrictions on the time and location of any assemblies. The justification for some of these restrictions appears to be the protection of the rights and freedoms of others. However, the freedom of assembly should be curtailed to protect the rights and freedoms of others only in exceptional circumstances. In regards to court decisions regarding specific assemblies, as contemplated in the latter half of article 4, any regulations should be imposed in the least intrusive means possible.<sup>16</sup> For instance, the potential of a demonstration to inconvenience people who live and work in the area where a protest occurs is not a justification for preventing the demonstration.<sup>17</sup> Regarding the imposition of limits on the duration of a protest, the OSCE stresses that impermanent constructions, such as protest camps, should be allowed to accompany demonstrations. The OSCE cites to Moldova's legislation, which permits "temporary" assemblies, and defines "temporary" as lasting less than two months. The OSCE also points to Kazakhstan's 1995 assembly law as a positive example, as it permits hunger strikes in public places, yurts, tents, and other constructions and picketing.<sup>18</sup>

Similarly, the ICCPR's Human Rights Committee has found that a prohibition of assemblies occurring on major roads in a country's capital is too restrictive.<sup>19</sup> This calls into question several of the location restrictions contained in article 4 of the Draft Law. According to the Special Representative of the Secretary-General on Human Rights Defenders, "regulations stating that assemblies cannot be held within a certain radius of buildings of legislative, executive, or judicial authorities," motivated by a desire to suppress human rights advocacy, are contrary to the meaning of the Universal Declaration of Human Rights.<sup>20</sup>

The restrictions contemplated by articles 4 and 5 of the 2008 Draft Law are especially problematic given that many of them are imposed prior to the actual occurrence of any demonstrations, rather than taking the form of targeted time and location limits imposed

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<sup>15</sup> See Manfred Nowak, "Freedom of Assembly", *U.N. Covenant on Civil and Political Rights*, CCPR Commentary, 379 (1993).

<sup>16</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly 31 (2007).

<sup>17</sup> *Id.* at 41, 45.

<sup>18</sup> See *id.* at 25; see also Decree of the President in force of the Law on the Procedure for the Organization and Conduct of Peaceful Assemblies, Mass Meetings, Processions, Pickets and Demonstrations in the Republic of Kazakhstan art. 1 (1995).

<sup>19</sup> Concluding Observations of the Human Rights Committee: Republic of Korea, CCPR/C/79/Add. 114 (1/11/1999) at 18.

<sup>20</sup> Special Representative of the Secretary-General on Human Rights Defenders Hina Jilani, *Human Rights Defenders*, (Sept. 5, 2006).

on specific assemblies.<sup>21</sup> The ECHR has cautioned against prior restraints on demonstrations, unless the restraints are directly tied to the prevention of violence or the preservation of democratic principles. Even when aimed at preventing violence or preserving democratic principles, prior restraints must be proportional to their aims. The OSCE and ECHR both advise that states regulate the freedom of assembly by imposing targeted, focused restrictions, rather than broad bans that affect all types of demonstrations. For instance, a complete ban on demonstrations in specific locations and at specific times does not allow any consideration of the specific facts that arise in different cases.<sup>22</sup> Armenia demonstrates a constructive approach to time and place restrictions; there, the government is legally obliged to offer demonstrators alternative dates and locations for protests if the proposed the location or time is found to be unsuitable.<sup>23</sup>

### **c. Restricting the freedom of assembly to protect the constitutional order**

Another potential problem posed by the 2008 Draft Law is the allowance for limits to be placed on the freedom of assembly for the purpose of protecting the constitutional order. This phrasing is broad enough and ambiguous enough to possibly allow state authorities to obstruct demonstrations by a group that holds a viewpoint at odds with a constitutional provision or the constitutionally elected government of Kyrgyzstan. Such a restriction would conflict with pluralism and tolerance of diverse opinions, and be out of place in a democratic society.

It should also be noted that the concept of limiting freedom of assembly based on protection of the constitutional order is not expressly condoned by any international instrument. Although Paragraph 9.2 of the 1991 OSCE Copenhagen document does not explicitly identify legitimate restrictions on the right to peaceful assembly, it does stipulate that any restrictions a state formulates must be consistent with international standards. Paragraph 24 of this document ties these international standards to both the ICCPR and the Universal Declaration, neither of which contemplates the constitutional order limitation as envisaged by the 2008 Draft Law.<sup>24</sup> Such a limit is also absent from Article 11 of the European Convention on Human Rights. Instead, the standard put forth by Article 11 is that any restriction must be “necessary in a democratic society.” The ECHR has held that “demanding fundamental constitutional and territorial changes cannot automatically justify a prohibition” of assemblies.<sup>25</sup> The ECHR has noted that “an association, including a political party is not excluded from the protection afforded by the

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<sup>21</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly 45-46 (2007).

<sup>22</sup> *See id.* at 31-32.

<sup>23</sup> Law of the Republic of Armenia on Conducting Meetings, Assemblies, Rallies, and Demonstrations art. 13(4) (2005).

<sup>24</sup> For example, the drafters of the ICCPR rejected efforts to exempt from Article 21 any protests labeled “anti-democratic” or even “fascist.” The drafters cited concerns that governments could manipulate such terms to cover any and all challenges to their authority. MARC BOSSUYT, GUIDE TO THE “TRAVAUX PRÉPARATOIRES” OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, A/2929 § 34, at 417 (Martinus Nijhoff Publishers, 1987).

<sup>25</sup> *Case of Stankov and the United Macedonian Organisation of Ilinden v. Bulgaria* (ECHR application nos. 29221/95 and 29225/95), Judgment of 2 October 2001, para. 91.

[European] Convention simply because its activities are regarded by the national authorities as undermining the constitutional structures of the State...’’<sup>26</sup> The 2008 Draft Law’s allowance for limitations on the freedom of assembly to protect the constitutional order is contrary to these international standards’ protection of politically-motivated assemblies.

## 2. Notification requirement

Many international legal authorities and experts consider a notification system (in which the government is informed of plans to demonstrate) more compatible with notions of freedom of assembly than a licensing system (in which permission is required to hold demonstrations).<sup>27</sup> The 2008 Draft Law appears to contemplate a notification, rather than licensing, system. The authorities may “disagree” with the notification of a public event, and may propose changes to the planned demonstration,<sup>28</sup> but it appears that a court of local state administration or organ of self-government must make the final determination to allow or not allow the demonstrations.<sup>29</sup> However, the effects of a simple disagreement by authorities without a court judgment are not clear. Presumably, this disagreement is not enough to prohibit the demonstration, as Article 7 of the 2008 Draft Law states that authorities cannot refuse to accept notification.

The 2008 Draft Law’s notification requirement raises several other issues. There is the question of whether an assembly may occur if government officials do not respond to notification. The Draft Law would forbid government officials from refusing to accept notification, and would require that a response be given within 6 days of receipt of notification.<sup>30</sup> However, the law should also contain a provision permitting organizers of an assembly to proceed with their activities in the event that they do not receive a response to their notification; otherwise, the government’s intentional or accidental failure to respond to notice could prevent assemblies.<sup>31</sup> Another issue raised by the 2008 Draft Law’s notification provisions is the timeframe for notice. Under the 2008 Draft Law, notice must be given 12 days in advance of an assembly.<sup>32</sup> This time period should be shortened by several days, as the OSCE recommends that the notification period not be “unnecessarily lengthy”; a time span of no more than a few days is ideal.<sup>33</sup>

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<sup>26</sup> *Case of United Communist Party of Turkey and Others v. Turkey*, (ECHR application no. 113/1996/752/951), Judgment of 30 January 1998, para. 27.

<sup>27</sup> Manfred Nowak, “Freedom of Assembly”, *U.N. Covenant on Civil and Political Rights*, CCPR Commentary, 381 (1993).

<sup>28</sup> 2008 Draft Law art. 9.

<sup>29</sup> 2008 Draft Law art. 9-10.

<sup>30</sup> 2008 Draft Law art. 7.

<sup>31</sup> OSCE/ODIHR, *Guidelines on Freedom of Peaceful Assembly* 49 (2007).

<sup>32</sup> 2008 Draft Law art. 6.

<sup>33</sup> OSCE/ODIHR, *Guidelines on Freedom of Peaceful Assembly* 49 (2007). For instance, in Georgia, the notification period is 5 days. Law of Georgia on Assemblage and Manifestations art. 8 (1997). In Armenia, notice must be submitted no less than 3 days prior to an assembly. Law of the Republic of Armenia on Conducting Meetings, Assemblies, Rallies, and Demonstrations art. 10(3) (2005).

Unlike the 2002 Law, the 2008 Draft Law provides for an appeal from the court's decision regarding an assembly.<sup>34</sup> However, as was the case with the 2002 Law, there are no specifics regarding the consequences of holding a demonstration if one is in the process of appealing. The 2008 Draft Law also lacks any requirement that the court's decision (and the decision of the appeals court) be made public, as per international standards.<sup>35</sup>

Lastly, article 3 of the 2002 Law permits demonstrations to occur in some outdoor public spaces (e.g. parks) without the need to follow any notification procedures. The 2008 Draft Law would instead limit the public locations where demonstrations can occur without notice to places that have been designated by local governments as allowable locations for demonstrations.<sup>36</sup> This is contrary to the internationally recognized practice of explicitly providing for an exception to the notification rule in order to permit spontaneous demonstrations to occur.<sup>37</sup>

### **3. Demonstrators' liability for damages**

The 2008 Draft Law retains a provision in the 2002 Law requiring that demonstrators who cause any type of damage during an assembly be held liable.<sup>38</sup> However, the issue of payment and sanctions should be treated with care. The organizers of a lawful and peaceful assembly that results in damages should not be held liable for the acts of individual participants.<sup>39</sup> In most countries, demonstrators are not responsible for all or even most damage, as the amount of incidental damage may be so great and/or arbitrarily defined as to financially ruin a demonstrating group (or lead to excessive criminal liability), thus severely limiting the number and nature of demonstrations that will be organized. Instead, the costs (consequential and protection-related) are seen as necessarily borne by the state in light of the important and beneficial role of such activity. It would be encouraging to see such support expressed in the 2008 Draft Law.

Additionally, Kyrgyzstan's monetary sanctions against demonstrators have been excessive in the past,<sup>40</sup> and the 2008 Draft Law appears to leave open the possibility for excessive costs to again be placed on demonstrators. This aspect of the Draft Law should be reconsidered and clarified as well so that protesters are aware of limitations on their rights and are not unduly deterred out of fear of government reprisal and/or disproportionately high penalties.

### **4. The use of force against demonstrators**

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<sup>34</sup> 2008 Draft Law art. 9.

<sup>35</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly 52 (2007).

<sup>36</sup> 2008 Draft Law art. 3.

<sup>37</sup> *See id.* at 50.

<sup>38</sup> 2002 Law art. 11.

<sup>39</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly 72 (2007).

<sup>40</sup> "Kyrgyzstan," *Human Rights in the OSCE Region: The Balkans, the Caucasus, Europe, Central Asia and North America*, Report 2002, International Helsinki Federation for Human Rights, 195 (2001) (criticizing the arrests on May 1, 2001 of KHCR members who were fined 22-56 Euro and a 22-Euro fine for failing to abide by administrative orders and for organizing and participating in an unsanctioned meeting).

Article 8 of the 2008 Draft Law permits the government to use physical force against demonstrators if “participants act violently towards details of militia that ensure law and order; [or to] suppress violations of public order, mass disorders and activities disturbing the work of traffic, communications, enterprises, institutions and organizations” and in order to “release illegally occupied buildings, premises, constructions, vehicles, and lands.”

While a government does have the right to protect itself and its citizens, the use of force should be a last resort, even against participants in an illegal demonstration.<sup>41</sup> In the event that a demonstration transitions from peaceful to non-peaceful, any police response must be proportionate. For example, if the demonstration includes only a small group of people who are acting violently, then the police should take action against those select people and not disperse the demonstration as a whole. If it is determined that a public gathering needs to be dispersed, then the demonstrators should be given a full warning and enough time to leave on their own accord before physical force is used. All other alternatives should be ruled out before the proportionate amount of force is applied.<sup>42</sup> The ability of security forces to use physical force should be narrowly defined in the 2008 Draft Law, in order to ensure that the state does not violate fundamental human rights in the break-up of a public demonstration.

If a demonstration remains peaceful, force should generally not be used. The allowance of the 2008 Draft Law to use force to clear illegally occupied structures is troubling because it appears to grant security forces the right to use physical force without any consideration of possible alternative methods of dispersing the demonstrators, particularly if the demonstration remains non-violent. The UN Basic Principles on the Use of Force and Firearms by Police Officials states that “in the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.”<sup>43</sup> This aspect of Article 8 should be reconsidered in light of the Kyrgyzstan’s international obligations and standard human rights norms.

## 5. Unions

As in the 2002 Law, the treatment of unions in the 2008 Draft Law is unclear. While article 1 of the 2002 Law (which is preserved in the revisions intended by the 2008 Draft Law) appears to exclude unions from the provisions of the law, this is contradicted by later articles. For instance, the 2008 Draft Law amends the definitional section of the law

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<sup>41</sup> The ECHR has stated that both legal and illegal demonstrations should be tolerated by security forces, as long as they remain peaceful. *Oya Ataman v. Turkey*, (ECHR application no. 74552/01), Judgment of 5 December 2006, para. 39.

<sup>42</sup> See, e.g., Principle 14 The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted 1990) (“in the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary.”

<sup>43</sup> Principle 13, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted 1990).

to include trade unions as “public events.”<sup>44</sup> As discussed in the introduction to this memo, the term “public event” is a catch-all phrase employed throughout the 2008 Draft Law to refer to any assembly covered by the law. The Draft Law also includes trade unions in the list of organizations that may deliver notification of planned assemblies.<sup>45</sup>

Based on the frequent distinctions and protections for unions under international law (including International Labor Organization agreements to which Kyrgyzstan is a party), the presumption is that the 2008 Draft Law would not govern trade unions and similar organizations. If this is the case, then this point should be made clearly and consistently throughout the Draft Law.

#### **IV. Conclusion**

As detailed in Section III of this memo, a number of provisions in the 2008 Draft Law are in opposition to the standards put forth by international institutions such as the United Nations, the OSCE, and the ECHR. Most troubling is article 1’s allowance for regulation of assembly to protect constitutional order and to protect the rights and freedoms of others, in combination with article 4 and 5’s excessive limitations on demonstrations based on time and place. These three articles could have the effect of severely limiting the right to assemble in Kyrgyzstan, especially for demonstrators whose viewpoints are in opposition to the government or to majority opinion. The 2008 Draft Law should be revised to ensure that Kyrgyzstan’s protections of the right to assemble are in accordance with its commitments to the OSCE, the ICCPR, and other international standards.

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<sup>44</sup> 2008 Draft Law art. 2.

<sup>45</sup> 2008 Draft Law art. 6.