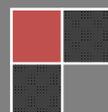


2012

«Access to legal services for low-income people in the Kyrgyz Republic»

Summary report of the study contains main results of mass survey and focus group discussions on the analysis of low-income people access to legal services in Kyrgyzstan



Introduction

In recent years, due to the development of socio-political processes in Kyrgyzstan, the role and importance of legal aid to the people with low-income has increased.

Reforms in economic, political and social spheres have led to the situation where state turned attention to protecting the interests of vulnerable groups of population. Thus, the Law "On state-guaranteed legal aid" to ensure implementation of the right of Kyrgyz citizens on access to justice was passed.

Problems the citizens of our country face in non-criminal sphere, and strategies they use to solve those problems were not clearly outlined up until now.

It is worth to note the role and importance of such an analysis for representatives of low-income population, which hence are the vulnerable groups of our society.

In this regard, the ACSSC with the support of Soros Foundation Kyrgyzstan has initiated a study in all regions of the country in order to get answers to these questions.

The study was carried out on a fairly large scale, with the exploration of international experience gained by researchers from the CIS countries as well as foreign countries.

The results of this study will benefit both the representatives of ministries and agencies, local government and representatives of human rights organizations.

This study might be a part of the national campaign on a broad introduction and further development of legal aid to the low-income population. ACSSC tried to provide information obtained during the study, in most neutral and objective way, not criticizing it, and without putting a value judgment.

The aim of this study was not to gain subjective conclusions and recommendations, but to have objective information that everyone can interpret in their own way.

ACSSC expresses sincere gratitude to Soros Foundation Kyrgyzstan and to international experts, without whose help and support the implementation of the project would be impossible.

Research methodology

In order to implement citizen's right of access to justice the Jogorku Kenesh of the Kyrgyz Republic has passed the Law "On state-guaranteed legal aid", which guarantees professional legal assistance in criminal cases from the state budget to citizens, who do not have the money to protect their legitimate rights and interests. To clearly define the conditions and procedure for providing guaranteed legal aid, especially for people who can not afford protection of their legitimate rights and interests, the pilot project was implemented during August - December 2010. During the project, which covered population of Sverdlovsky district of Bishkek and Nookat region in Osh oblast, 84 complaints of citizens were revealed.

Based on materials of the pilot project and discussions with stakeholders in March 2011 the National Council for state-guaranteed legal aid was formed and started selection of lawyers into the State Register of Legal Aid.

A priori, there is a need for citizens to obtain competent legal assistance in non-criminal (civil) law. This is due to the expanding private economy and private ownership, transition of many traditional and informal relationships and operations into the formalized ones, as well as radical reform of public services. However, there is no information in the country about the real needs of existing capacity to meet the needs of population and prevailing practice in this area. This situation does not allow for the effective implementation of public policies to assist citizens in need of qualified legal assistance in accordance with the requirements of the Constitution and international law to ensure effective access to justice.

This research may become an introduction to the nationwide campaign on widespread introduction and further development of [advisory] legal assistance to low-income people. In addition, the particular impact of such assistance can reasonably be expected in areas where there are strong needs to protect the interests of vulnerable groups: the religious rites of marriage, domestic violence, children's rights, rights of persons with disabilities and other. Results of the study will serve as a basis for discussion and decision-making not only by the Ministry of Justice of the Kyrgyz Republic and other state agencies and local government, but also by commercial and non-for-profit organizations working in the area of providing legal assistance, as well as other human rights groups and organizations. These results also may be interesting for international organizations, which provide support to local civic initiatives, including promotion of interests and rights of citizens.

To identify those issues the Association of Civil Society Support Centers with the support of the Soros Foundation Kyrgyzstan initiated the two-phased study, which included:

- 1) Survey of the members of low-income households (2500); and
- 2) Five focus-group discussions.

Object of the study:

- 1) Adults (over 18 years of age) citizens of the Kyrgyz Republic, members of poor households, defined in a sample (2500).
- 2) Service providers, service recipients and representatives of vulnerable groups.

Project beneficiaries are:

- 1) Citizens of Kyrgyzstan currently (or potentially in the future) in need of getting state legal aid to protect their legitimate rights and interests;
- 2) Ministry of Justice of the Kyrgyz Republic, National Council on state-guaranteed legal aid as the main actors, organizers of implementation of the Law "On state-guaranteed legal aid".

The study was conducted in two stages:

- Mass questionnaire; and
- Focus - group discussions.

The aim of quantitative methods (phase I of field studies) was:

- to identify and analyze the needs, availability and attitude of the population of the Kyrgyz Republic in relation to legal assistance in civil law from the state. To do this, a sample of 2,500 people in all regions of the country was done.

Table 1. Final sample of households by regions.

No	Oblast	Total number of rural households	Of those, number of households in nearby villages	Of those, number of households farer from the destination villages	Of those, number of households in remote villages	Total number of urban households	Total
1	Batken	142	47	47	48	45	187
2	Jalal-Abad	357	119	119	119	103	460
3	Issyk-Kul	148	49	49	50	59	207
4	Naryn	102	34	34	34	18	120
5	Osh	449	149	150	150	40	489
6	Talas	92	30	31	31	16	108
7	Chui	315	105	105	105	70	385
8	Bishkek	2 (suburb)	2			423	2
9	Osh	12 (suburb)	12			107	12
	TOTAL	1619				881	2500

The purpose of qualitative methods (phase II of field studies) was:

- to identify and qualitatively analyze the needs, availability and attitude of the population of the Kyrgyz Republic in relation to legal assistance in civil law, as well as identify possible ways to ensure more active involvement of various players (private professionals, state and local government organizations, NGOs) in the system of providing legal aid to the population.

To do this, five focus groups were conducted in June 2012. Two of them were conducted in Osh city on 22.06.12 (service providers and vulnerable groups), and 3 focus groups were conducted in Bishkek (service providers - on 06/20/12, recipients of services and representatives of vulnerable groups – on 06/26/12, and service providers – on 27.06.12).

Findings and recommendations of the study

Main findings

The study involved 2424 respondents, of which 51% were women, 46% - men, and 3% - missing answers in cases when the survey was completed before reaching the part of socio-demographic section of the questionnaire. Residents of the city were 45.2%, and villagers - 52.8%.

A significant number of respondents (68%) have a monthly income of KSGS 3,000 and less, that means that they are the representatives of in-need segments, who have shown the most interest in obtaining access to free legal assistance from the State.

The main vulnerable groups in terms of obtaining legal aid, according to the study, are migrants, pensioners, persons with disabilities, large families, rural residents, women who cannot, for example, regularly visit state agencies, or has no access to the Internet, or has low level of education, health problems, lack of time, etc.

According to the study, access to legal information and legal assistance to the people in the Kyrgyz Republic is quite complex - 84% of respondents do not know where to get free legal assistance, 18% cannot find a specialist or an organization willing to provide legal assistance in their village, and 30% have admitted that it is difficult.

The main source of information for the majority of respondents about where to get legal aid in all regions of the country are friends, acquaintances and relatives.

The second place was taken by television, and the third – by the newspapers. (Respondents could select multiple answers while answering that question). Next in the list is Internet, which is actively used to obtain such information.

Interestingly, the state agencies as a source of such information are behind the media and Internet on this list.

The key public agencies where one can get information about getting legal aid are akimiats, courts, prosecutors, police, Ministry of Justice, and Aiyl Okmotu.

Respondents think that the basic cause of problems is the crisis of the public system as a whole and the crisis of its individual institutions. Here is the complex of problems affecting the efficient functioning of the state as a whole.

Unsolved political and socio-economical problems impact on the selection of qualified professionals, their professional activities, their attitudes towards their work, towards citizens who are the clients of public agencies.

Citizens who receive public services associated emergence of problems associated with the provision of public services with low level of skills / knowledge of persons providing public

services to the public, i.e. the staff of local authorities and the representatives of national ministries and agencies.

In addition to the insufficient level of professionalism of the officials, the causes of these problems, according to the focus-group discussions, are personal qualities of public agencies employees - rude and careless officials. It is seen in inattentiveness of officials in relation to citizens-"applicants", and also in inattention to their official duties.

The consequence of lack of professionalism, incompetence and negligence from government agencies is the lack of public confidence in official government bodies. The result of this is reluctance to appeal once again to state agencies, as well as attempts to solve the existing problems in alternative ways, appeal to the non-profit organizations or private lawyers.

One of the major causes of the problems is that there is simply no funding in the country's budget to ensure efficient enforcement of many laws. Therefore, the laws remain to be only of declarative nature.

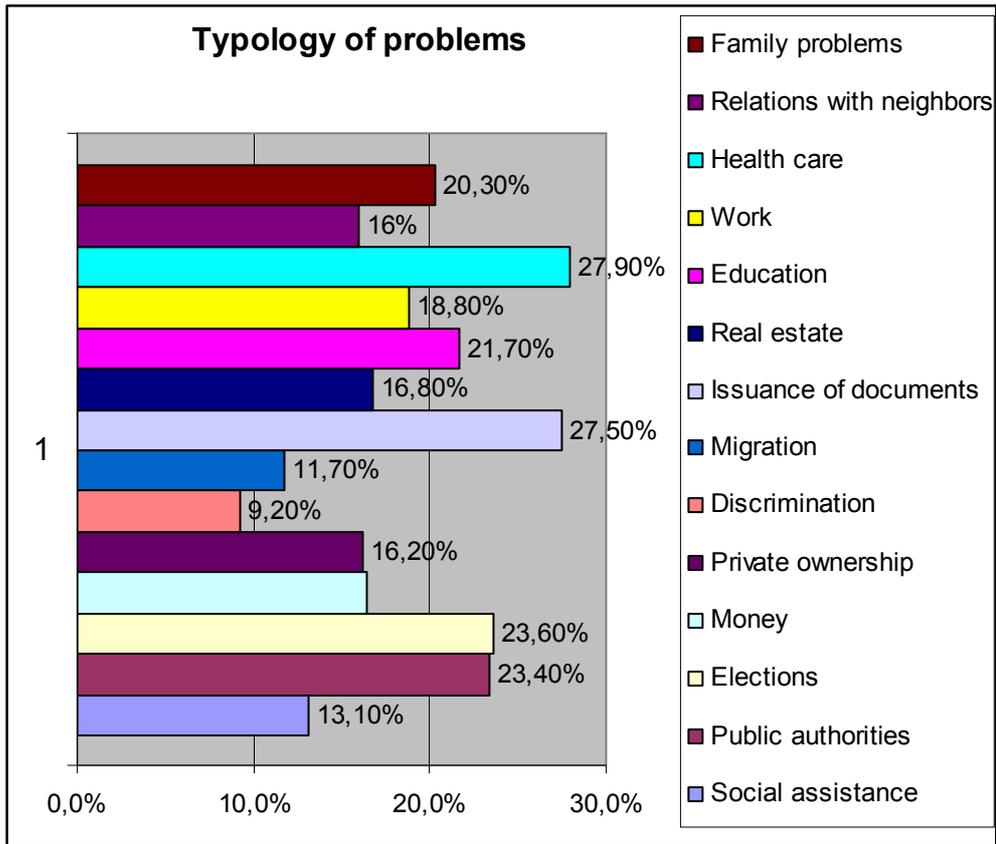
Also there is a lack of funds in the state budget to pay adequate salaries to competent experts. There is a high level of the subjective factor in the state structures. There is no systematic approach and there is no institutional memory.

In addition, frequent changes in legislation lead to negative consequences.

The study revealed prevalence of the following major legal problems in the civil rights among the citizens who live in cities and in villages:

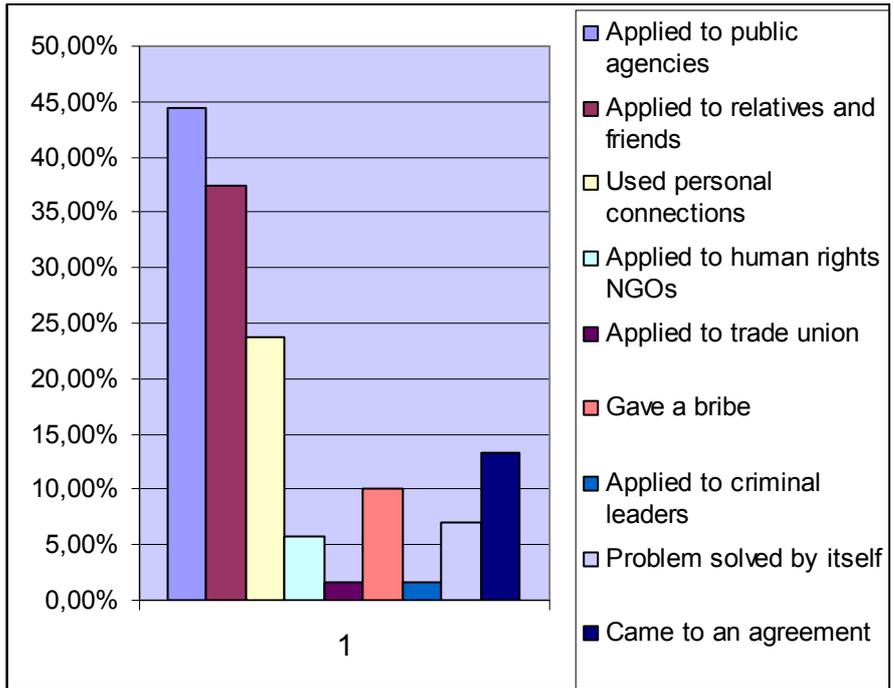
1. Health care (inability to get quality health care, medical errors, extortion of money for operations and medical procedures, etc.);
2. Issuance of documents (usually it mostly concerns passports, the issuance of which is associated with solicitation of bribes for speeding up the process);
3. Elections (absence of people in voters lists, mostly it concerns migrants; bribes during election process, pressure in favor of a candidate);
4. Problems associated with the activities of government agencies as a whole (rude officials, unclear procedures, high level of corruption).

Figure 1 Main types of problems over the past 3 years



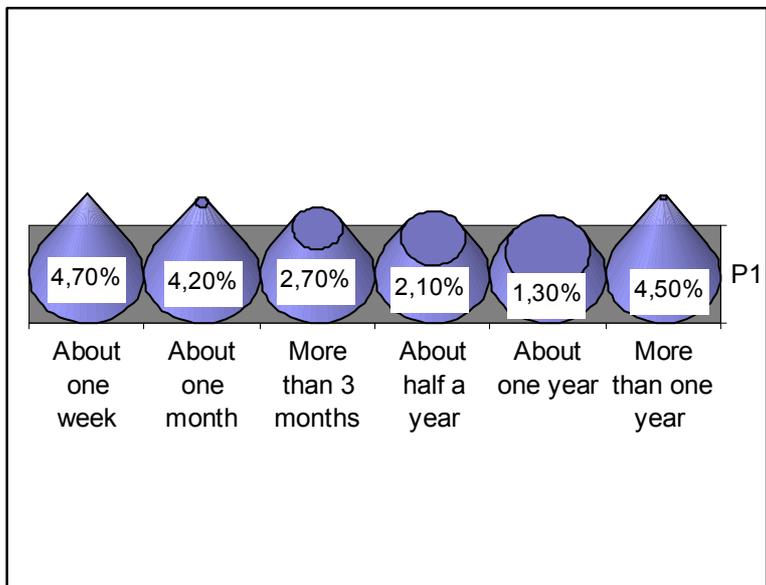
If there are any legal problems the main way to solve them is to apply to public agencies - 44.4%, apply to family and friends – 37.4%, and use personal connections - 23.8%.

Figure 2 How did you try to solve the problem?



Problems of 4.7% respondents have been solved in about a week, problems of 4.5% respondents - more than a year, and 4.2% respondents - for about a month. See figure 3.

Figure 3 How long the problem has been solved?



Of those who answered the question about whether the problem has been solved at the moment, 40% said that it is not solved completely, 32% - fully solved, 15% - solved to a sufficient extent.

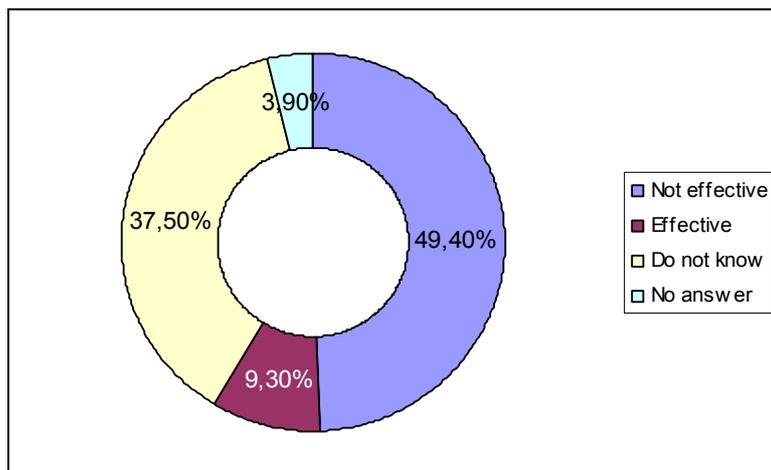
Over 60% of respondents were able to specify the amount spent to solve the problem. Every 10 paid from KGS 1,000 to 2,000, 7% - KGS 5,000, 6.3% - KGS 10,000.

Today, it is believed that at the present time citizens become more active in defending their rights, as the number of appeals against actions of public agencies in the courts increases, and people are increasingly seeking to obtain information.

At the same time there is an opposite view that citizens are passive and they have a legal nihilism. Not least, such situations are intentionally created by the public officials. It is also facilitated by the problems associated with functioning and efficiency of judicial system.

Therefore, appeal to the court as a solution to the problem does not constitute any significant percentage - thus, among all of the citizens who have non-criminal legal problems, only 12% appeal to court. Obviously, this is due to the fact that according to a large number of respondents, judicial system in our country operates inefficiently - nearly half of the respondents indicated that, 37.5% did not know, and 9.3% recognized judicial system as an effective.

Figure 4 How does the judicial system in Kyrgyzstan work?

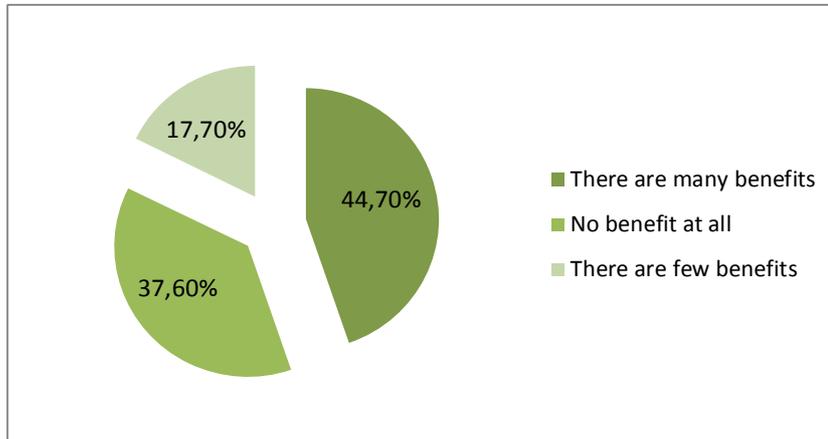


Another important point is that because of traditional nature of our society, appealing to the Court for non-criminal cases is not a significant part of our everyday culture. This is due to the traditional nature of the pre-Soviet society and the Soviet period of its development. Currently, under the influence of objective factors (transition to a market economy, changing role of social institutions) the role and importance of formal institutions compare to the existing before informal institutions has increased. Because of this the interest and need of citizens to resolve problems of non-criminal nature through services provided by the state has increased as well. The state has already made some steps in this direction, in particular, passed the Law "On state-guaranteed legal aid".

However, results of the study indicated that significant part of respondents (80%) do not know about the availability of the law that guarantees free legal aid to every citizen in Kyrgyzstan.

Of those citizens who are aware of the presence of the law, 44.7% believe that it could bring many benefits, 37.6% believe that there are not many benefits, and 17.7% think that there is no benefit at all.

Figure 5. Is there any benefit from the existence of the Law?



The main arguments in support are:

- free and public assistance is very useful;
- state is obliged to help all, despite wealth or poverty;
- there is a lot of legally illiterate people;
- poor can receive legal aid;

The main arguments against are:

- few people know and believe in our laws;
- opinions and complaints of the people remain on sidelines;
- enforcement of laws is in general, and this law is in particular;
- corruption still eats up everything.

Most respondents (over 80%) believe that they personally need free public legal assistance.

The main incentives for having the legal aid were:

- Poverty of a significant part of the population;
- Presence of problems and potential capability to solve them with the help of the state;
- Certain assurances from the government (e.g., certification of lawyers);

- Paternalistic expectations (the state should help and protect their citizens, etc.);
- Desire to know their rights;
- Competition for private lawyers;
- An "insurance" for a rainy day (you may have problems; it can be useful, etc.)

According to the participants of the study, the need of citizens to obtain legal aid on non-criminal cases will increase in the nearest future. This is linked with the increasing migration within the country and beyond its borders, as well as with abundance of unresolved social and economic problems and increasing civic engagement of our population.

Kyrgyz citizens start realizing that they need to solve existing problems not only through confrontation with state authorities.

Therefore, they increasingly turn to every option available, e.g. public agencies, local government, NGOs, private law firms, etc.

Main recommendations

- There is a need to strengthen the partnership among all key players - government bodies, non-for-profit, private / commercial legal organizations - providing legal assistance to citizens, or providing related services. In this case, of course, government agencies should play leading and organizing role. This should be done both on a formal basis (signing agreements, memorandums, etc.) and informally - expansion of conditions for philanthropy and volunteerism.
- It is necessary to improve the qualification of staff providing services to citizens, including lawyers in public authorities in the first place, as well as in non-for-profit organizations. Improving skills through training for government bodies' and non-for-profit organizations' staff, possibly with the involvement of expert community and donor resources.
- A broad information campaign using mass media, Internet and other available recourses would be able to help residents of our country to acquire necessary skills in promoting interests and rights of citizens, thereby increasing their legal culture. On the one hand this would allow transmitting many informal and sometimes conflicting processes in the legal field, on the other hand - would increase the civic participation of citizens of our country. It would be useful to attract the opportunities and resources of NGOs. Also the process of using Internet resources, including opportunities for e-government and media is important. In addition, public agencies should publish more information on their departmental websites. In public agencies it is appropriate to place information in a simple and accessible form on the stands in places with good lighting.
- It would be effectually to involve volunteers from private law firms, as well as senior students of law departments to provide information and advisory services to citizens.

- It is necessary to introduce a fixed fee government services as one of the possible mechanisms, not forgetting though that those should be free for a significant proportion of vulnerable people (or about the right of choice for all citizens). At the same time it could be efficient to involve other players into the process of providing legal services to the citizens, for example, according to the experience of Ukraine, to involve local government to build infrastructure and provide support to the administrative costs of consulting services.
- Regular monitoring, constant feedback and exchange of views are required. This process should be bilateral, from citizens to state agencies and those organizations that provide non-criminal legal services and back.
- It is necessary to implement standards in service delivery and monitor the implementation of job descriptions by civil servants. In addition, it is important to establish a system of institutional memory in government bodies.

The effective functioning of the state as a whole and its individual institutions, and hence the trust of citizens in the State depends on how these recommendations will be implemented.

Therefore, improving the legal culture of citizens, as well as their access to free public legal assistance through wide information are very important now.

ACSSC hopes that the information contained in this report will enable all stakeholders to better understand the needs and demands of citizens in the area of non-criminal law.