Information submitted to the Committee

State report

The State report provided by Kyrgyzstan was an optimistic document. As one member of the Committee for the Elimination of Racial Discrimination (the Committee) said, the report was ‘too good to be true.’ The report focused on the positive aspects of a nation with over 90 ethnic groups and over 11,000 NGOs from a population of little over 5 million. The legislation presented in the report, ranging from discrimination legislation to language laws and mass media restrictions to labour laws, corresponds well with the International Covenant on the Elimination of All Forms of Racial Discrimination (the Convention). The work done by State-sponsored human rights institutions was discussed in the report as well. However, missing from the report were statistics on the implementation of legislation and information on Convention related conflict within the nation’s borders.

List of issues

1 CERD/C/KGZ/4 at http://www.ohchr.org/english/bodies/cerd/kerds71.htm
The list of issues consisted of questions which sought to clarify the ambiguities in the legislation and to receive more information on the practical aspects of the Convention in Kyrgyzstan. For example, while there are numerous NGOs in Kyrgyzstan, the Committee requested information on how their work makes changes in the country. Additionally, as the Ombudsman’s office and the Human Rights Commission of Kyrgyzstan were explained, the Committee saw overlap and sought clarification. Because of the limited examples and statistics mentioned in the State report, nearly all questions on legislation were followed with a question on how such laws operate in practice.

NGO parallel reports

No NGO parallel reports were submitted to the Committee.

Themes and issues

The Kyrgyz delegation consisted of the Ambassador to Geneva, Mr Muratbek Azymbakiev, a representative from the prosecutor’s office, Mr Sumar Nasiza, and a specialist on religious issues, Mr Kanatbek Murzakhalirov. The delegation initially was to be led by the Head of the State Department, but he was not able to make the trip. Mr Azymbakiev began by informing the Committee of their support for CERD and cited cooperation with the High Commissioner on Human Rights and her Office (OHCHR) during her visit in April as evidence. Kyrgyzstan was selected as the host country for the new regional OHCHR office.

Domestic implementation of the Convention

In order to ensure that the Convention and the State Party have parallel definitions of racial discrimination, the Committee requested a clarification of Kyrgyzstan’s definition. The delegation ensured the Committee that the definition used in their legislation is essentially the same as the Convention definition. The Committee asked if the Kyrgyz Government plans on adopting a new general anti-discrimination law or plans to sign two international conventions to which they are not yet a party. The delegation replied that new legislation is not their concern because their system adequately regulates race relations. All laws are protected by antidiscrimination legislation; for example, discrimination in the workplace is prohibited in the Constitution. This is also why certain texts from the 2003 Constitution have not been reinstated in the newest version of 2007. If the Committee were to find any holes in their legislation, the delegation stated that the Government would investigate.

The delegation could not provide any specific examples of when the Convention has been applied in domestic law although paragraph 3 of article 12 of their Constitution states that the Convention can be applied in courts. After more pressure from the Committee, the delegation informed it, without data, that cases brought under the auspices of national, racial and religious enmity have gone to court. If cases did arise under ICERD, the delegation ensured the Committee that appropriate compensation would be granted. The Chairperson, Mr Goutter, was concerned that no complaints have been raised because this implies that the public does not understand what avenues for compensation and justice are available. As a result, the Country Rapporteur, Mr Rodriguez, closed the meeting with a request for broader dissemination of rights, the State’s reports and the Committee’s conclusions.

In its concluding observations, the Committee noted with satisfaction that the Convention has been incorporated into the domestic law of Kyrgyzstan. It also expressed its satisfaction with the new Constitution which prohibits any type of discrimination. Furthermore, the Committee welcomed Kyrgyzstan’s ratification

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2 CERD/C/KGZ/4 at http://www.ohchr.org/english/bodies/cerd/ceds71.htm
of several international human rights instruments. The Committee, however, expressed its concern over the absence of a definition of discrimination in internal law, and recommended that Kyrgyzstan include such a definition.

Human Rights Establishments

Kyrgyzstan established a Human Rights Commission in July of 2007 with the goal of creating conditions to facilitate human rights and freedoms by preparing reports for various international bodies. The Commission also acts as a liaison for NGOs and proposes legislation which is in keeping with various human rights conventions. There is also an Ombudsman whose job is to ensure the compliance of legislation and develop international cooperation. He also looks at complaints from citizens regarding human rights violations.

Committee members asked if the commission could also receive and disseminate denunciations from citizens and if there is open inquiry into ethnic tensions. Similarly, they inquired if the Ombudsman’s reports can be publicized and if his work is in any way linked with that of the Commission. The delegation ensured that there is no overlap in the work of the two institutions although they both deal with submissions from the public. The Ombudsman deals with complaints related to State authorities and he decides whether to carry out further investigations. NGOs work with both the Commission and the Ombudsman.

An ‘Assembly of the Kyrgyz Nation’ was established in 1994 to promote national solidarity. The Committee asked for more information related to the activities of this organisation as it now has 31 locations nationwide. The Assembly carries out inquiries into the social effects of national policies, organises national festivals and holidays to celebrate tolerance and assists in the voting process during election times. Mr Rodriguez expressed his support for the work of the Assembly.

Importantly, both the Mr Rodriguez and Ms Dah asked how the judiciary is becoming more independent to overcome distrust by the public. This question was not addressed by the delegation.

Education

The Committee emphasized education both in terms of equal education in schools and dissemination of the Convention to public officials. With regards to the former, a shortage of textbooks, especially in those languages which are not as widespread, is a major challenge. There is currently a working group charged with integrating minority cultures into the secondary education system as well as a push for more textbooks.

The dissemination of the Convention is being promoted in Kyrgyzstan through a National Plan of Action, including training courses and conferences for civil servants and teachers. Mr Nasiza stated that there are now mandatory courses on the various international conventions for prosecutors and that there is an academy in Kyrgyzstan with special courses on the implementation of international legal standards. Furthermore, NGOs disseminate information, and a recent United Nations High Commissioner for Refugees (UNHCR) convention was held in Kyrgyzstan. Committee members asked for, but did not receive, responses regarding study centres for all ministry officials and summer human rights courses.

In its concluding observations, the Committee noted with concern that criminal law provisions punishing acts of racial discrimination are seldom invoked in national courts. The Committee pointed out that this may be an indication of a lack of awareness on the availability of legal remedies or of insufficient will on the part of the

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authorities to prosecute. It thus recommended that Kyrgyzstan provide specific training for those working within the justice system, and to undertake public awareness-raising campaigns. The Committee further recommended that Kyrgyzstan ensure that school curricula and textbooks better reflect the multiethnic nature of the State.

**Interethnic relations**

The Committee stated its view that, in general, interethnic relations in Kyrgyzstan are good. However, there have been clashes between the Kyrgyz and Dungan people and Uzbek/Kyrgyz tensions in the south. Because of his Dungan descent, Mr Nasiza addressed the Dungan clashes in Iskra in February of 2006. He stated that although what occurred was a tragedy involving deaths and illegal weapons, everything has returned to normal. He did not classify the skirmishes as ethnically charged, but of the type that naturally emerge between youth gangs. The delegation went on to say that tensions in the south have been stabilized because the teaching of cultural tolerance by both the State and NGOs. Equal rights for Uzbek and Kyrgyz groups to practice their own traditions and speak their own languages have helped promote peace.

In its concluding observations, the Committee recommended that those responsible for the clashes in February to be brought to justice, and that compensation be provided to the affected families. The Committee also called for the promotion of dialogue and understanding between the Dungan and Kyrgyz communities.

Diversity in governmental positions was used by the delegation as support of interethnic tolerance. The State is demonstrating tolerance because parliament is 10% Uzbek, the Prime Minister is Russian and many other State services are filled by minorities. Mr Murzakhaliilov stated that the main qualities for selecting an official are his skills and competence, to which Mr Nasiza added that greater representation is currently unattainable because minority groups do not all have access to proper education. Committee members such as the Mr Rodriguez, Mr Tang and Mr Yutsis asked for more details on interethnic relations, allegations of racial discrimination by public servants, and interracial discrimination. No response to these issues was given.

Because of the wide variety of languages spoken in Kyrgyzstan, the Committee asked many questions related to State and official languages. The State language, Kyrgyz, is protected by the Constitution and law. The official language is Russian because most ethnic groups are bilingual with Russian as their second language. The delegation ensured the Committee that complaints to the Government can come in any language and will be translated to one of those two languages. While the issue of language barriers still exists, since 2006 the Government has focused more on finding solutions via special curricula, textbooks, translators and budgetary allocations for schools.

In its concluding observations, the Committee recommended that Kyrgyzstan take effective measures to ensure better representation of minorities in Parliament, Government, and civil service by eliminating obstacles preventing their appointment or restricting their promotion. In particular, the Committee encouraged the State to ensure the availability of high quality and free of charge Kyrgyz language courses for applicants to civil service positions belonging to minorities. The Committee requested detailed information on measures adopted to ensure the practical enjoyment by persons belonging to ethnic and national minorities of their economic, social and cultural rights.

**Citizens versus non-citizens**

Mr Azymbakiev, in response to inquiries regarding equality between citizens and non-citizens, stated explicitly that there is no distinction in their status. Just as all individuals are expected to respect the laws, traditions and customs, they are treated equally with respect to social and labour laws, healthcare and education. Mr Kjaerum’s request for further clarification was answered when the delegation informed him that the only rights granted exclusively to citizens involve the holding of public offices, serving in the army, and being involved in public defence.
Committee members asked about equal healthcare for citizens and non-citizens. The delegation stated that in order to receive health insurance, one must have the necessary documentation called ‘Propiska’ (a remnant of the USSR). Every Kyrgyz citizen is obliged to have this registration, but those who do not can still receive medical attention if they pay for it directly. Despite this distinction, the delegation said there is no discrimination with respect to medical insurance.

In its concluding observations, the Committee recommended that Kyrgyzstan take the necessary measures to guarantee equality between citizens and non-citizens in the enjoyment of the rights set forth in the Convention.

**Asylum seekers, refugees and internal migrants**

In 2002 Kyrgyzstan adopted a refugee law which was given positive assessments by international organisations and UNHCR. A mandate was written in 2005 for Kyrgyzstan to accept 400 Pakistani refugees, which they did with the support of UNHCR. There are currently 500 asylum seekers in Kyrgyzstan.

The primary disagreement with the international community relevant to asylum seekers in Kyrgyzstan relates to four Uzbeks who were extradited to Uzbekistan. The Uzbek Government provided Kyrgyzstan with enough evidence to convince the Kyrgyz High Court that a legitimate case was being brought against the four individuals. Protection and fair treatment of the individuals was guaranteed to such an extent that the Kyrgyz Government was willing to deport the individuals. According to the delegation, all of this happened in conformity with international norms. After further questioning from the Mr Rodriguez on this matter, the delegation stated that all conflicts in the Andijan region, from which the case with the four Uzbeks arose, have been settled. They added that originally Uzbekistan asked for the extradition of 29 individuals, but the Kyrgyz Government only saw fit to return four. Mr Cicilianos disagreed with the delegation’s contention that the situation with the Uzbeks has come to an end and requested more information on the matter. No further response was given.

The only question in the list of issues which was put to the delegation but not answered was in regards to the Uighur minority from China. Targeted questions from Mr Kjaerum and Mr Yutsis later elicited responses from the delegation which explained why many Uighers have not been granted asylum. China has presented sufficient documentation to Kyrgyzstan showing that these people have committed crimes, so the decision to not grant asylum is not one of discrimination. The delegation added that problems do arise from delays in the migration processing office, but the Government’s decision itself was strongly supported by the delegation.

Mr Nasiza added that under the Minsk Agreement on Mutual Assistance, Kyrgyzstan is required to extradite many of the refugees from Kazakhstan, Turkistan, Tajikistan and Russia. Contrary to reports, he stated that the situation has not deteriorated in the recent years because there was only one extradition request in the past two years. Once again, delays in the processing office are a problem. Lastly, all asylum seekers have the right to appeal decisions with which they disagree.

It was stated that refugee rights to work and housing are equal to those of normal citizens. Refugees have three months, during which they are ‘temporary residents,’ to choose where they want to live and then look for a job. Their rights are regulated by legislative acts. After being asked by Mr Rodriguez and Mr Yutsis for further information on housing rights and labour union participation for refugees, the delegation admitted to certain problems such as delayed salary payments and unjustified refusals to hire. They stated the actions have been identified and measures are being taken, but provided no more detail.

Mr Azymbakiev conceded that the problem of internal migration is present and will become more prevalent. Many people are moving from the mountains and farmlands to the cities, primarily Bishkek, in search of employment. Arbitrary seizure of land by the migrants and new exposure to a variety of cultures leads to
tension in the developing neighbourhoods. The Government is aware of the problems and is working to find a solution.

A special State-body on migration and labour has been established and it works to make international agreements with other States on migration activities. There are roughly 700,000 citizens working outside Kyrgyzstan in Kazakhstan and Russia that are classified as labour migrants. There is a department with a protocol aimed at creating favourable conditions for labour migrants. Kyrgyzstan is a signatory to the *International Convention on the Rights of All Migrant Workers and Members of Their Families* since 1990.

In its concluding observations, the Committee noted with concern that according to information presented to it, competent Kyrgyz authorities allegedly deny refugee status or asylum to individuals belonging to certain ethnic minorities and fail to adequately protect the rights of such individuals. The Committee also expressed its deep concern with regard to allegations of forcible return of ethnic Uighurs and Uzbeks. The Committee urged Kyrgyzstan to provide data on the number and outcome of requests for asylum and refugee status. It also urged the State to ensure that its asylum procedures are not discriminatory, and asked that it respect the principle of non-refoulement.5

**Practical implementation of the Convention**

The two types of restrictions referred to in Kyrgyzstan have been limitations on the activities of certain groups and mass media bans on intolerance. There have been four groups deemed extremist whose activities are prohibited as a result of Supreme Court decisions in 2003 and 2004. The delegation stated that their Government has been cooperating internationally with Tajikistan, Uzbekistan and Turkmenistan with regards to these groups, especially in limiting the influx of weaponry. The Committee asked for more information on these organisations, but none was provided.

While the Mass Media Law banning intolerance has not yet been utilized by individuals, the Government has encouraged people to take advantage of the law. As an example, one newspaper published a statement against the Uighur community eliciting an official condemnation from the Uighur centre. They could have, instead, pursued judicial means. An additional example was the hostile, racially charged reaction of certain Muslims to a pamphlet on how to properly use condoms. The State recommended the author of this pamphlet defend his rights in court, but he did not consider this an appropriate procedure. Once again, the Committee was concerned that individuals are not familiar enough with judicial remedies to use them to their full effect.

**Economy**

The Committee expressed concern for the status of the Kyrgyz economy given the troubles of a transition from a Soviet State to independence. The delegation confirmed that long links with Soviet enterprises were broken, leaving Kyrgyzstan in a bad position. The poverty rate, for example, is at 40% and disproportionately affects minorities; and the foreign debt level is at 100% of the gross domestic product. The Government is currently working with the International Monetary Fund and the World Bank to develop national action plans. In response to this, Mr Kamal expressed his concern for these problems and his support for attempts at improving the economic state which involve little ethnic polarisation in relation to other former Soviet States.

**Conclusions and next steps**

5 Non-refoulement is a principle of international law that forbids the expulsion of a refugee into an area where he or she might be subjected to persecution.
The Mr Rodriguez closed the meeting with an effective summary of what was discussed in a tone of encouragement and optimism. He was pleased with the responses from the delegation and the good faith shown by them in presenting a booklet of national data to give the Committee a better picture of Kyrgyzstan. He also noted that significant improvements in the next State report are required, but that the Kyrgyz delegation is showing a willingness and desire to fulfil this obligation.

In its concluding observations, the Committee recommended that Kyrgyzstan take several steps to strengthen its adherence to the Convention. It also recommended that Kyrgyzstan take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, and that it include in its next report specific information on measures taken to implement the Durban Declaration and Programme of Action at the national level. The Committee recommended that Kyrgyzstan’s reports as well as the observations of the Committee be publicised. It also invited the State to consult widely with civil society organisations in its preparation of the next periodic report. The Committee requested that within one year, Kyrgyzstan provide information on the way it has followed up on the Committee’s recommendations. Finally, the Committee recommended that Kyrgyzstan submit its fifth, sixth and seventh periodic reports in a single document on 4 October 2010.

_Last revised and updated: 4 October 2007._

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6 Ratification of amendments to article 8, paragraph 6, of the Convention; make the optional declaration provided for in article 14 of the Convention.
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