



**Convention on the
Rights of the Child**

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Held at the Palais Wilson, Geneva, on Monday, 29 January 2007, at 10 a.m.

Chairperson: Mr. Doek

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (item 4 of the agenda) (continued)

Initial report of Kyrgyzstan on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict [CRC/C/OPAC/KGZ/1; list of issues to be taken up (CRC/C/OPAC/KGZ/Q/1); written replies by the State party concerning the list of issues (CRC/C/OPAC/KGZ/Q/1/Add.1)]

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1. At the invitation of the Chairperson, the delegation of Kyrgyzstan took places at the Committee table.

2. **Ms. Borombaeva** (Kyrgyzstan) noted that the population of Kyrgyzstan was very young given that 38.1 per cent of its 5 million inhabitants were children and adolescents. Despite the political upheavals of 2005, the threatened collapse of the national economy had been averted and macroeconomic stability had been maintained with real growth in GDP of 2.6 per cent in 2006. From 2004 to 2005 budgetary receipts rose by 10 per cent and in 2005 the proportion of the budget allocated to social expenditure was 43.1 per cent. Kyrgyzstan had withstood the shock of the transition to democracy but the process had led to a considerable rise in poverty. Specific measures had been taken to curb that rise and a development strategy for 2007-2010 was being drawn up.

3. There were about 30 laws and regulatory texts on child protection including the Civil and Criminal Codes, the Labour Code, the Domestic Violence (Social and Legal Protection) Act and the Trafficking in Persons Act. The fundamental principles of the Convention had been incorporated into the new Constitution which was adopted in December 2006.

4. The two initial reports under consideration had been prepared in cooperation with civil society representatives, the United Nations Children's Fund (UNICEF), the International Labour Organization (ILO), the Asian Development Bank and the organization EveryChild. The civil society representatives had not drawn up a parallel report on the implementation by Kyrgyzstan of the two Protocols to the Convention.

5. With the support of the UNICEF Office in Kyrgyzstan and the cooperation of all stakeholders, the Government and civil society had drawn up a draft Children's Code which had been approved by Parliament in June and signed by the President of the Republic in August 2006. The Code, which reiterated the Convention almost point by point, provided *inter alia* for protection of the fundamental right of any child to live and grow up in his or her family and laid down provisions governing the activities and powers of the public child protection services. Article 25 of the Code expressly prohibited trafficking in children, prostitution of children and child pornography. The matter of establishing a body with the specific responsibility for children's rights was under consideration.

6. Pursuant to a new article introduced into the Criminal Code in 2003 (article 124 – Trafficking in persons) any person guilty of trafficking incurred a maximum penalty of 20 years imprisonment if the victim was a minor, and the age of the victim was an aggravating

factor. The following constituted offences under the Criminal Code: incitement to acts of a sexual nature (article 131), sexual relations and other acts of a sexual nature with a minor under age 16 (article 132) and indecent assault of a minor under age 14 (article 133).

7. A plan for the period 2002-2005 to tackle trafficking in persons had been adopted and a National Council on people trafficking had been established in April 2002. The Act ratifying the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing that Convention, the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing that Convention and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was adopted by Kyrgyzstan in April 2003.

8. In 2005, the Government supported about 20 social projects including one providing for the establishment of a temporary accommodation centre for street children. Following on from a national conference on the situation of children in Kyrgyzstan organized in cooperation with UNICEF and the Swedish International Development Agency, and following the signature on 20 January 2006 of the Presidential Decree on measures to be taken as a matter of urgency to improve the situation of children, a draft National Plan of Action for 2007-2010 to eradicate the worst forms of child labour and promote the rehabilitation and reintegration of the children involved had been drawn up and was in the process of being scrutinized by Parliament.

9. A plan for a media campaign for 2007-2010 on the rights of the child had been developed and guidelines on the departure and care of children placed in state residential schools had been drawn up with UNICEF support. A national inquiry into ill-treatment of children in State-run boarding institutions was conducted to raise people's awareness of the issue and find solutions to it. A working group had been given the task pursuant to a Presidential Decree to bring the law on juvenile justice into line with the Children's Code.

10. Kyrgyzstan faced various difficulties including emigration and immigration, poverty, lone parent families, domestic violence and child labour. Since the fall of the USSR the State had had to assume new responsibilities, notably provision of protection to refugees. At end 2006 Kyrgyzstan had 1,396 refugees, of whom 309 were children.

11. A competition on the theme of preventing marginalization and exploitation of child labour to which 10 million soms had been allocated had been launched with UNICEF support. A conference had recently been held on the legal bases of child protection; the conference focused on improving legislation and establishing a mechanism to monitor implementation of the Children's Code; reform of fundamental legal provisions protecting children's rights in the fields of labour, health and education; the implementation of the two Protocols to the Convention; and strengthening the activities of civil society in the field of child protection.

12. Kyrgyzstan was aware that there was still much work to do in order for it to fulfil the obligations incumbent upon it under the two Protocols to the Convention and it was determined to step up its cooperation with international bodies, especially UNICEF, to that end.

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13. **Ms. Lee** noted that the report had not been drawn up in accordance with the general guidelines regarding the form and content of initial reports. She asked for information on the implementation of article 6, paragraphs 1 and 2, of the Protocol, particularly the measures taken to ensure effective application of those provisions, the public bodies responsible for that task and the periodic assessment mechanisms in place.

14. Some schools appeared still to fall within the remit of the Ministry of Defence and clarification in that regard would be useful. The delegation might explain why the “Daniyar Asanov” secondary school had been placed under the authority of the Ministry of Defence and state how many pupils were enrolled there and the age from which they were accepted.

15. The Committee asked whether sufficient resources had been allocated to the implementation of the national “New Generation” programme and whether a periodic review of that programme involving children and non-governmental organizations (NGOs) had already been conducted. The reply to issue 2 on the list of issues to be taken up was vague and further details would therefore be necessary on that point.

16. It would be useful to know what percentage of pupils leaving military schools enlisted in the armed forces, whether such pupils were required to enlist and whether they received instruction on the Convention and the Optional Protocol during their studies.

17. **Ms. Ouedraogo** asked whether pupils in military schools who changed their minds about a military career had the opportunity to change direction, whether measures were taken to prevent initiation rituals in such establishments and whether military schools were covered by the working group established to combat violence and ill-treatment in public establishments.

18. **Ms. Smith** asked whether the courts in Kyrgyzstan had jurisdiction to try Kyrgyz nationals who had enlisted minors abroad and aliens who had enlisted Kyrgyz minors.

19. **The Chairperson** asked whether the recruitment of minors abroad as mercenaries was penalized in law where the minor concerned was a Kyrgyz child or where the perpetrator was a Kyrgyz citizen. The delegation might also indicate whether services providing advice and psychological support were, if necessary, made available to refugee children who were traumatized by conflict. Further information on the nature of alternative service would be welcome.

The meeting was suspended at 10.50 a.m. and resumed at 11.05 a.m.

20. **Ms. Borombaeva** (Kyrgyzstan) explained that the two reports under consideration had been drafted by the Government and had involved only a few round tables with representatives from civil society as the political situation in 2005 and 2006 had been extremely confused. Since then the Government had established a working group representing all the Ministries and many NGOs, and given it the task of drawing up the next reports for the treaty bodies. The guidelines on the drafting of reports would therefore be followed in full in future, and NGOs were already putting their hands to writing their alternative reports.

21. Much had been done with regard to psychological support. Civil society had drafted the bill on legal protection for the family which had been submitted to Parliament with 36,000 signatures. The bill concerned violence against children and any other member of the family. Several crisis centres and special telephone lines had been set up since the bill had been adopted.

22. Initiation rituals had been declining since the review of the Military Service Act and thanks to action by committees of soldiers' mothers, NGOs and the Ombudsman.

23. Implementation of the Optional Protocol was currently within the remit of an inter-ministerial committee headed by the Deputy Prime Minister, but Parliament was studying the possibility of establishing a body responsible for protecting the rights of the child which would assume responsibility for implementing the Convention and its related Optional Protocols.

24. **Mr. Usenaliiev** (Kyrgyzstan) said that until 2005 the "Daniyar Asanov" military secondary school had fallen within the remit of the Ministry of Education except for physical education and military service preparation classes for which the Ministry of Defence had been responsible. This dual competence had caused problems and the school had been placed within the remit of the Ministry of Defence as a result.

25. Military training affected only boys in grades 9 to 11. Although isolated cases could not be ruled out, every effort was being made to eradicate initiation rituals. For that reason pupils in grade 9 were separated from those in higher grades and a disciplinary board had been established.

26. Psychological assistance services were available at departmental specialist resources centres, where there were psychologists and social workers. The most difficult cases could be reviewed at the Ministry of Labour. Schools where the language of instruction was Tajik had been set up in the south for refugee children from Tajikistan.

27. **Ms. Borombaeva** (Kyrgyzstan) noted that pupils in military schools were free to enrol in another school if they wanted to abandon the military route. A system of equivalences meant that the years of study completed at the higher military school in Bishkek could be transferred to the rest of the higher education establishment.

28. The delegation had a copy of the "social passport" issued to each family of refugees and it was available for the Committee to examine; all members of the family were recorded in the passport with relevant information such as the psychological services they might require.

29. **Mr. Subanov** (Kyrgyzstan) added that the committees of mothers in military establishments were able to consider all disputes brought to their attention. Military service, which had been reduced in length, was compulsory for all young men in good health. Pupils from the higher military school in Bishkek were accepted from age 17. The carrying of firearms was restricted to persons over age 19 and the Firearms Act strictly prohibited the giving of a firearm to a minor. To his knowledge no Kyrgyz minor has or had participated in an armed conflict.

30. **Mr. Polar** said that some reports suggested that countries of the former USSR were selling massive quantities of firearms to armed African groups known to recruit children and he therefore asked about the steps the State party took to ensure that arms did not fall into the hands of such groups.

31. **The Chairperson** asked whether the State party prohibited all forms of export of small-calibre arms to countries in conflict situations.

32. **Ms. Borombaeva** (Kyrgyzstan) replied that such exports were indeed prohibited.

33. The Minister for Defence who was appointed after the revolution in 2005 had endeavoured to restore order and improve living conditions in barracks and billets, including by clamping down on initiation rituals. Since he had been a member of parliament he had been in favour of alternative civil service which could be selected for family reasons and performed, for example, in a hospital. He had also been responsible for a considerable increase in wages for members of the armed forces.

34. Over 11,000 NGOs had a presence in Kyrgyzstan, of which some 3,000 were children's organizations. They were a genuine opposition force which scrutinized all State bodies. Representatives from civil society had been asked to participate in several Parliamentary debates including one on the implementation of ratified international instruments. One of the questions raised related to finance as it was true that many initiatives suffer from lack of funding, but for two years the "New Generation" programme had been posted in the budget and allocations to it had been steadily rising, like other programmes which were part of the development strategy for children.

35. Patriotic education was part of a rationale of prevention and was in no way linked to any potential armed conflict; the State considered it to be fully compatible with the Protocol. Under the Education Act, parents had a role to play in developing patriotism in their children.

36. **Mr. Filali** asked whether pupils from military education establishments were able to be mobilized, for example in the event of internal public order disturbances.

37. **Mr. Subanov** (Kyrgyzstan) replied that they were not able to be mobilized in any circumstances. They received a general education supplemented by preparation for military service until age 18.

38. **The Chairperson** asked whether the Optional Protocol was taken into account in training given in military schools and in the instruction given in military service to pupils in grades 10 and 11 (age 15 and 16) in mainstream schools.

39. **Ms. Isabaeva** (Kyrgyzstan) explained that training in human rights, including the Optional Protocol, was part of the curricula in military schools and mainstream schools for grades 9 to 12.

40. **Mr. Usenaliev** (Kyrgyzstan) stated that there was only one military secondary school in the country, and its aim was to allow everyone to have access to education. It took children from remote regions as boarders. Places at the school were very sought after. Boys in mainstream schools received patriotism training for two hours a week and girls took lessons in first aid. The curriculum had been drawn up in cooperation with NGOs.

41. **Ms. Borombaeva** (Kyrgyzstan) added that parents chose to send their children to the military secondary school. No pressure was brought to bear on pupils to encourage them to enrol. Corporal punishment was prohibited there as well.

42. **The Chairperson** asked what the state of play was with extraterritorial jurisdiction in the recruitment of minors as mercenaries and recalled that the aim of the Committee was to promote the establishment of international protection to help prevent children from being enlisted anywhere through the systematic indictment of all the people involved in such recruitment.

43. **Ms. Isabaeva** (Kyrgyzstan) said that the issue had not yet arisen in Kyrgyzstan, but that increasing migration might make that type of situation more likely. The Government

had taken significant measures to combat trafficking in children and child labour, but those measures were not enough to protect children abroad. The same was true of recruitment of child mercenaries; therefore action would have to be taken in concert with neighbouring countries, which also had to adopt the necessary measures, and a coordinating body might have to be established.

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44. **Ms. Vuckovic-Sahovic** asked whether the “New Generation” programme promoting rights included any activities associated with the Optional Protocol.

45. She welcomed the recent adoption of the Children’s Code and the ratification of ILO Convention No. 182, the international Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; those instruments could only assist the process of implementing the Optional Protocol.

46. It was by contrast regrettable that the report contained so little information on the issues of prostitution and pornography. Other forms of exploitation such as exploitation through work were scarcely tackled and no information was given on the sale of children, particularly in the context of adoption.

47. The Optional Protocol took precedence over domestic law but it remained to be seen whether the courts would invoke its provisions because it was not clear which national provisions made the acts described in article 2 of the Protocol illegal. Moreover, it was clear from the report that legal persons did not have criminal responsibility.

48. The State party had undertaken a number of activities in the essential field of prevention but it would be useful to know whether the effects of those activities had been evaluated and how many children had been protected. It would also be useful to know how many police officers were involved in protection.

49. Exploited children would continue to be stigmatized instead of helped and it was a matter of particular concern that judges tended to regard them as criminals rather than as victims, especially in matters involving sexual exploitation.

50. **Ms. Khattab** asked what was being done to help poor families enrol their children in school, given that education was the best way of protecting children against prostitution and other forms of exploitation. There were reports that in rural areas only 10 per cent of children went to school. Schooling was free of charge in principle but the sum of money that had to be paid out for one year’s education could be as high as one month’s salary. Moreover in some regions girls were apparently prevented from attending school for cultural reasons.

51. It would be useful to know what programmes and what resources were allocated to tackle the issue of bride kidnapping, a practice which encouraged sexual exploitation and continued to exist despite the fact it had been banned.

52. Similarly, many girls were victims of trafficking for sexual exploitation, sometimes knowingly so, and some brothels allegedly employed minor girls. The delegation might indicate whether Kyrgyzstan was working with neighbouring countries to combat trafficking and whether professionals working with children were trained to identify this practice. It

appeared from some reports that all young women sold into prostitution were from Muslim families, begging the question why families felt compelled to act in that way.

53. Some 25 per cent of children were thought to be working, most often as peddlers; cooperation with neighbouring countries was important in this matter as well.

54. Information would be welcome on national and international adoption procedures, especially measures to prevent adoptions for the purposes of sale or exploitation.

55. The delegation might indicate whether the special police units referred to were operational and had adequate funds to discharge their mandate. More generally, it would be useful to know what budgetary allocations had been earmarked to implement the Optional Protocol.

56. **Mr. Zermatten** asked whether funds earmarked for assistance, support and rehabilitation of child victims of sale, prostitution or pornography had been provided for under the “New Generation” framework programme or as part of the process to implement the new Children’s Code, whether the Government supported the various projects providing aid to victims implemented by the International Organization for Migration and local NGOs, how those activities were coordinated and whether they covered the whole country.

57. The delegation might also indicate what status was accorded in criminal proceedings to victims of sale, prostitution or pornography, whether that status and the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime adopted by the Economic and Social Council in 2005 were an integral part of the new Children’s Code, whether the rights of the child set out in article 16 of the Convention were protected and whether the child had the option to seek compensation for damages pursuant to article 9, paragraph 4, of the Optional Protocol.

58. It would be useful to know whether there was a permanent, free, emergency helpline for children which could be accessed nationwide in addition to the ones set up by NGOs.

59. The Committee would also like to know whether the country had established a mechanism to inspect the adoption process pursuant to the concluding observations made in 2004 and what the state of play was in the process of ratification of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

60. **Ms. Smith** asked whether the State party complied with the provisions of article 4 of the Optional Protocol concerning jurisdiction.

61. **Ms. Ouedraogo** asked what mechanism there was for the collection of data on child victims of sale, prostitution or pornography and whether there were other traditional forms of transfer or sale of children. While noting that the various aid programmes for such victims were ill-suited to their needs because of budgetary constraints and the lack of qualified staff to care for the children and help them reintegrate into society, she asked what the Government intended to do to improve the care offered to such children.

62. The delegation might outline the progress made in implementing the agreement signed in 2002 with Kazakhstan and indicate which body had responsibility for that agreement and give details of any monitoring undertaken in relation to it. It would also be useful to know whether efforts had been made to find the families of child victims of sale, prostitution and pornography and to prepare those children to return to their families, what difficulties had been encountered in that regard, including traditions, and what measures had been taken to overcome them.

63. **Mr. Siddiqui** asked whether any investigations had been conducted to assess the matter of child pornography, why the Criminal Code did not contain any provisions criminalizing the production, distribution, export, import, transmission, deliberate possession and advertising of pornographic materials involving children, and what measures had been taken to prevent child pornography on the internet.

64. He asked whether the Government was working with UNICEF, international NGOs and the countries concerned to prevent trafficking in women and children and what programmes had been implemented by rehabilitation centres for so-called “antisocial” minors and whether they should in fact be described as “child victims of antisocial activities”.

65. **Mr. Kotrane** asked whether possession by an adult of pornographic material was a criminal offence and whether Kyrgyzstan was able to prosecute a person of Kyrgyz nationality or who was resident on Kyrgyz territory, who was involved in acts which were illegal pursuant to the Protocol in a foreign country where such acts were not illegal. Double criminality was not required under the Optional Protocol.

66. He asked whether forcing a child to perform domestic work constituted an offence in Kyrgyzstan, which had ratified the Optional Protocol and ILO Convention No. 182 on the Worst Forms of Child Labour.

67. **Mr. Polar** asked how proceedings could be taken against a company involved in the sale or prostitution of children or child pornography as national criminal law would appear to apply only to natural persons (article 17 of the Criminal Code).

68. **The Chairman** asked for further details on the training in the Optional Protocol given to judges and public prosecutors.

69. He wondered whether the body the Government intended to establish to implement the Convention and Protocols and to coordinate activities in this field would have adequate human and financial resources.

70. The delegation might also indicate what specific measures the Government had taken to prevent children from being snatched from their families and taken abroad, and whether a court regarded the written testimony of child victims of sexual exploitation abroad who did not want to give evidence before the Kyrgyz courts as valid.

The meeting rose at 12.45 p.m.