



International Convention on the Elimination of All Forms of Racial Discrimination

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Eighty-second session

Summary record of the 2215th meeting

Held at the Palais Wilson, Geneva, on Monday, 18 February 2013, at 3 p.m.

Chairperson: Mr. Avtonomov

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined fifth to seventh periodic reports of Kyrgyzstan

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The meeting was called to order at 3.05 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)

Combined fifth to seventh periodic reports of Kyrgyzstan (CERD/C/KGZ/5-7; CERD/C/KGZ/Q/5-7; HRI/CORE/KGZ/2008)

1. *At the invitation of the Chairperson, the delegation of Kyrgyzstan took places at the Committee table.*
2. **Ms. Karybaeva** (Kyrgyzstan) said that the State party had undergone a difficult period between 2007 and 2011. The former presidential regime had been toppled by the 2010 revolution and replaced by a parliamentary system of government. The inter-ethnic strife that had plagued the country was largely the result of 20 years of social and economic decline under the previous regime and the absence of a meaningful policy on inter-ethnic relations in certain parts of the country. As a result, since Kyrgyzstan had gained independence in 1991, nothing had been done to foster a unified national identity. Economic inequalities that had emerged since 1991 had also exacerbated ill-feeling between ethnic groups. Rising unemployment, falling education standards and the intensification of organized crime and drug trafficking had added to the explosive mix, especially in the south.
3. During four days of fighting in June 2010 in Osh and Jalal-Abad provinces, 442 people had lost their lives. Around 70 per cent of the victims had been of Uzbek origin, as had more than 70 per cent of persons arrested subsequently. Those figures demonstrated the need for reform of the security forces and judicial system, which was now under way. Many judges had been removed from their posts and a framework policy paper on the overhaul of the security forces had been approved after broad and public debate. In 2012, a civilian had been appointed as Minister for Internal Affairs.
4. In the aftermath of the fighting, considerable efforts had been made to assist the victims and to rebuild housing and infrastructure. The present Government was attempting to create the conditions that would enable the lasting integration of all ethnic groups and had demonstrated its openness by allowing local and international NGOs into the main conflict area during and after the fighting. The Government had also accepted recommendations relating to events in the south of the country made in the course of its universal periodic review (UPR) by the Human Rights Council.
5. One of the prime objectives of the State party's sustainable development strategy for the years 2013–2017 was to achieve an understanding between the different ethnic communities and thereby strengthen national unity. To that end, a framework policy paper was currently being studied by the Defence Council. Its aims were to lay the political and legal foundations for the regulation of inter-ethnic relations, in particular by establishing an appropriate Government body and a network of officials at all levels of administration, to improve language policy and to foster a national identity. A committee of experts had been set up in the Office of the President to work on related issues. Local committees headed by provincial deputy governors and town mayors provided discussion forums for local leaders of the various ethnic groups.
6. Procurators now played a more significant role in investigating cases of cruel treatment and torture, and legislation had been passed on the establishment of a national mechanism for the prevention of torture. A programme of measures designed to prevent the use of torture had also been adopted.
7. Representatives of ethnic minorities made up 12.5 per cent of the members of parliament and, on average, 14 per cent of the members of local government councils. In

the capital, Bishkek, that figure was 30 per cent. Ways of increasing the participation of members of ethnic minorities in public and political life were currently being studied.

8. The Government promoted bilingualism and, where the resources were available, pupils were taught in their mother tongue. Classes were taught in Kyrgyz, Uzbek and Russian in 61 per cent, 9.6 per cent and 8.6 per cent of schools respectively. In some schools, teaching was conducted in a combination of languages, but in those schools where classes were held in neither Kyrgyz nor Russian, pupils had difficulty integrating themselves in mainstream society. That was especially true in the case of smaller communities such as the Tajiks, Dungans and Uigurs.

9. One programme on State-run radio was broadcast in several languages, including Dungan, Uigur, Tatar, Ukrainian and Polish. There were plans to launch other programmes in the languages of the various ethnic communities, particularly in Uzbek, Tajik and Kazakh. Two private radio stations broadcast in Uzbek and the Yntymak television company broadcast in Kyrgyz, Russian and Uzbek. Inhabitants of the southern area of the country had access to more than 10 television channels broadcast in neighbouring Uzbekistan. Several Uzbek-language newspapers were in circulation. Self-regulatory mechanisms for the media were being developed in order to ensure balanced media treatment of issues relating to the various ethnic communities.

10. Seminars on human rights had been organized for civil servants in Osh and Chu provinces. Training on inter-ethnic relations was dispensed to civil servants in local government by the administration school under the Office of the President. Law enforcement officials received similar training and attended courses on conflict resolution and human rights. Short training courses were also held regularly. Human rights were included in the secondary school curriculum and some tertiary-level courses also comprised a human rights component. Courses on citizenship were offered in a number of higher education institutes.

11. **Mr. Diaconu** (Country Rapporteur) said that ethnic conflict in the State party had a long history. The authorities had allowed minor incidents to escalate into serious confrontations in a series of outbreaks of violence between 2007 and 2010. Indeed, according to some reports, the authorities had on occasion even armed Kyrgyz fighters. Although some attributed the inter-ethnic antagonism to the unpopularity of the former regime, a closer look at the situation suggested that the root of the problem might be underlying social and economic inequalities. In Osh, it appeared that the Uzbek minority enjoyed better living standards than the Kyrgyz population. Furthermore, there was considerable inequality in living standards between the rural areas, mostly inhabited by members of the Kyrgyz community, and urban areas where minorities were concentrated. While he accepted that in most countries living standards in towns were higher than in villages, that the socioeconomic situation could be at the origin of ethnic conflicts and that former Governments had been responsible for misguided socioeconomic policies, minorities could not be blamed for that; common efforts were required to deal with socioeconomic problems.

12. The Committee's concern was that the perpetrators of all acts of violence on ethnic grounds or acts of racial discrimination must be prosecuted according to the law and new policies must ensure full respect for human rights without discrimination on grounds of ethnicity or nationality. Horrific crimes had been committed against ethnic Kyrgyz and Uzbeks in June 2010 and the local authorities had failed to prevent or stop the violence. While 70 per cent of victims had been Uzbeks, the majority of those considered to be involved in criminal activities were also Uzbeks, and recent reports indicated that members of that ethnic group accounted for the majority of persons brought to trial. Those figures could indicate bias on the part of the State, lack of effective investigation and unequal

treatment by the judiciary, all of which could have a long-term impact on efforts to reconcile the two communities.

13. Moreover, there had been reports of incidents in which lawyers defending Uzbeks had been attacked in court and law enforcement officials had failed to intervene. Members of human rights organizations and their families had also been threatened, and one Uzbek human rights defender, Mr. Azimzhan Askarov, had allegedly been tortured, beaten and sentenced to life imprisonment after a sham trial. Clearly, such incidents would not build trust.

14. The Committee expressed its concern about the situation and recommended that the State party initiate a formal review of all cases connected with the 2010 violence and prosecute all those involved, regardless of their ethnic origin. The antipathy of the Kyrgyz population towards other ethnic groups, which had been manifest in all conflicts during the period 2007–2010, was a factor to be taken into account.

15. The periodic report stated that international treaties and the norms and principles of international law took precedence over national laws; however, there was still no general provision prohibiting racial discrimination in domestic legislation.

16. The Committee welcomed the announced measures to enhance and monitor respect for the laws on national, ethnic or religious discrimination and hatred, including the duty to collect and process information in cases of incitement. It expected such measures to be implemented and to receive information about the results.

17. It would be helpful if the delegation could explain why no data were available on the ethnic background of either victims or defendants in the 686 cases of incitement to racial discrimination and hatred to which the report referred. In addition, he asked whether the officials who had fuelled discriminatory practices against minorities through nationalistic discourse in the wake of the June 2010 events had been prosecuted.

18. While the Electoral Act ensured the election of representatives of ethnic groups to State bodies, they appeared to be insufficiently represented at all levels according to the periodic report. Other reports indicated that the participation of minority groups had decreased dramatically since June 2010. Although legislation had been enacted in 2011 on balanced staffing policy in the executive bodies, no information was available about the situation of minorities in the judiciary and the prosecution service. Comprehensive measures should be taken to ensure that minorities were proportionally represented in elected executive bodies, the police and the judiciary.

19. In view of reports that internally displaced persons who returned to their homes were not able to enjoy full use of their property, rebuild their homes or obtain due compensation, he asked for further information on the situation of such persons and how their social and economic needs were being met.

20. The State Language Act stipulated that the State should support the teaching of both the official language and their native language to children. Given that language was one of the most important elements of identity, could the delegation explain how the Government intended to promote multilingual education? The Committee encouraged the State party to ensure that all children could study in their mother tongue, and also in the official language. In addition, it encouraged the State party to ensure that minority groups could disseminate and have access to information in their own languages. What was the situation with regard to the media in minority languages, two years or so after the June 2010 events?

21. In the light of reports of a variety of abuses of members of minorities in detention, the Committee drew the attention of the delegation to its general recommendation No. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

22. While the State party had granted citizenship to a significant number of refugees, some 90,000 remained without documents, many of them stateless. The ethnic origin of asylum seekers appeared to have an impact on their treatment by the authorities. The Committee would appreciate further information on the number of stateless persons and asylum seekers, the situation and treatment of child refugees, and measures taken to solve the problems of those groups.

23. The climate of antipathy and mistrust between the majority and some minority groups was self-evident; it was manifest in the hate speech used by some politicians and xenophobic attitudes expressed in some newspapers. Determined efforts were necessary to combat the prejudices that underlay discrimination and to promote tolerance and friendship among the different ethnic groups.

24. The Assembly of Peoples of Kyrgyzstan, created in 1994, had substantial competence for promoting respect for minority rights and ethnic and linguistic identity. What action had it taken in the period 2007–2010 to prevent or react to the ethnic conflicts?

25. The State party had accepted the recommendation to create a national human rights institution during the UPR; however, the rules on the election and functioning of the Ombudsman did not appear to correspond to the requirements for national human rights institutions.

26. The Committee would like to know the stage reached in the creation of a formula for ethnic development and social integration, which had begun in 2010. Additional legislation on the rights and protection of minorities might also be required.

27. The Committee encouraged the State party to take all necessary steps to make the changes required in the context of its profound reform of State institutions and review of law in all fields, while taking full account of human rights and fundamental freedoms for all, including members of ethnic groups. Respect for human rights, including those of persons belonging to minorities, was essential to the success of the policy of reconciliation, trust and confidence to which the State party was committed. Education was of crucial importance in achieving the necessary change of attitudes.

28. The Committee would like to know what steps the State party had taken to give effect to the recommendations it had accepted during the UPR following the events of 2010, namely: to establish a national preventive mechanism that would constitutionally guarantee the rights of all people, particularly members of minorities; to continue efforts to preserve the nation's ethnic diversity and promote its cultural heritage; to establish a national human rights institution in conformity with the Paris Principles.

29. The Committee recommended that the Government consider the possibility of acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

30. NGOs played an important role and their participation had been beneficial for all. Their desire to engage with Government and civil society in order to ensure full respect for the human rights of all, including minorities, was motivated by pride in and love for their country.

31. **Mr. de Gouttes** said that many events had occurred since the Committee had considered the State party's previous report in 2007. The Government faced considerable challenges; the information contained in the periodic report and obtained from NGOs demonstrated the gravity of the inter-ethnic conflict that had occurred and indicated the risks of potential new conflicts, despite the attempts made by the Government and despite the commendable activities of NGOs aimed at promoting inter-ethnic cohesion and harmony. The multi-ethnic nature of Kyrgyzstan meant that building inter-ethnic harmony

was the only available choice; the peaceful coexistence of the different ethnic groups was essential.

32. The UPR of 2010 had recommended that the State party make a clear commitment to end all forms of intimidation, harassment, arbitrary arrest and torture, in particular of human rights defenders, peaceful demonstrators and journalists. It had also recommended that the State party ensure that the independence of the judiciary was guaranteed. In that context, he wished to know what new measures the Government had taken to ensure that justice was restored equitably in the wake of the confrontations in 2010. What measures had been taken to ensure that minorities were proportionally represented?

33. The report referred to a number of legal provisions, principally articles 299 and 299-1 of the Criminal Code, that were of interest to the Committee. However, it would be helpful if the delegation could explain how those provisions related to the statistics that had also been provided concerning the number of cases and sentences handed down.

34. Paragraph 182 of the report stated that the Uzbek-language media were in a lamentable situation. Could their situation be improved? He noted with regard to the preservation of native languages that Kyrgyz was the official language. Access to native languages was not always easy; even though some associations ran language courses, it would appear that many families paid from their own pockets for lessons in their native languages.

35. He asked what measures had been taken to strengthen the mandate of the Ombudsman. How many cases of racial discrimination had been received by the Ombudsman? Would the Government consider establishing a genuine national human rights institution in conformity with the Paris Principles? And would it consider the possibility of enacting a special new law on the protection of minorities? Lastly, the head of delegation had indicated that the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had visited the State party. Would the Government consider accepting visits by other special procedures, such as the Special Rapporteur on the independence of judges and lawyers, or the Working Group on Arbitrary Detention?

36. **Mr. Murillo Martínez** said it was obvious from the report that the State party was taking significant steps to deal with the considerable problems it was facing. The delegation had spoken of those problems and the Country Rapporteur had covered the pertinent issues in his analysis. Against that background, he would like to know what role the international community had played in helping Kyrgyzstan ensure the inter-ethnic and political cohesion of its society. What had been the results of the actions taken in that respect and what impact had they had on the social and ethnic situation in Kyrgyzstan?

37. One issue that the replies and comments had not touched on was whether there were customary or traditional laws in Kyrgyzstan that could be applied with a view to achieving social cohesion and harmony between different ethnic groups.

38. He congratulated the State party on the establishment of quotas for women and asked whether it had introduced positive discrimination measures consistent with the Convention and, if so, what results those measures had achieved.

39. **Mr. Vázquez** said that the situation of inter-ethnic relations in the State party gave cause for great concern, particularly the tinderbox atmosphere in which minor disputes escalated into large-scale violence, as had happened in June 2010. He shared the concerns expressed by Mr. Diaconu in connection with the statistics, which showed that a large proportion of victims of the 2010 violence and of those prosecuted in the wake of that violence were Uzbeks. He appreciated the delegation's recognition that that discrepancy pointed to the need for considerable efforts to reform the law enforcement and judiciary

systems; he would like to hear more about the specific changes being considered by the State party in that regard.

40. The delegation had stated that judges were no longer appointed by the President, and that numerous former judges had been discredited and were no longer in office. Did any mechanism exist whereby persons convicted under the prior system could obtain redress for what might have been a wrongful conviction?

41. The delegation had mentioned that the Special Rapporteur on torture had recommended that the law enforcement system should be reformed in order to address the prevalence of torture. It would be helpful to know more about the specific reforms envisaged in that regard and, in particular, whether efforts were being made to recruit and integrate minorities into the law enforcement system. In view of the low representation of minorities in law enforcement, it might be opportune to consider whether the entry requirements were restrictive.

42. He concurred with Mr. Diaconu that further information and statistics were needed concerning the laws on incitement to hatred, and specifically on prosecutions, disaggregated by ethnicity. Were more members of minorities than members of the majority prosecuted under those laws?

43. Although the State party had approved the Independent International Commission of Inquiry into the Events in Southern Kyrgyzstan in June 2010 and had indicated that it was prepared to implement its recommendations, there was a great deal of criticism of the Commission's conclusions in the periodic report. The Committee had also been informed that the head of the Commission had been banned from Kyrgyzstan, which suggested a certain amount of hostility towards the Commission. With that in mind, he asked the delegation to comment specifically on what had been done to implement the Commission's recommendations.

44. **Mr. Saidou**, referring to the special measures taken to ensure equality before the law, asked whether all sectors of the Kyrgyz population trusted the justice system and whether, on the basis of the State party's customary law, there were plans to create institutions of transitional justice, such as truth and reconciliation tribunals. He also wished to know who bore the burden of proof in discrimination cases in Kyrgyzstan.

45. **Ms. Crickley** reiterated the Committee's concern that there was no general provision in the State party's legislation prohibiting racial discrimination. She commended the NGOs that had supported the Committee in its examination of the periodic report. She wished to know how NGOs, especially those representing minority groups, had been included in the process of compiling the State party report, and how they would be supported to ensure that the outcome of the Committee's examination was communicated in the relevant minority languages and that they were incorporated in the implementation of the Committee's concluding observations.

46. She requested more detailed information on the plans to set up agencies to provide early warning of conflict, specifically when they would be established, who they would be accountable to, and who would participate in decision-making on any action they carried out.

47. Expressing concern that seminars on policing in a multi-ethnic society were not the way to address the power imbalance that was automatically experienced in policing arrangements, she asked whether the State party's seminars were continuing, whether they were obligatory, whether they applied to all levels of the policing system, and whether they explicitly addressed the issue of a police force staffed by members of the majority population dealing with a post-conflict situation. She also asked about specific measures to ensure greater diversity in the police force.

48. She expressed concern about some of the cases of human rights defenders, including Mr. Azimzhan Askarov. She wished to know what steps had been taken to ensure that his trial, treatment and detention were fair and reasonable, and whether any steps had been taken to secure his immediate release.

49. Noting that a number of convictions in relation to the June 2010 disturbances had involved Uzbeks, she would be interested to know what processes had been put in place to examine what seemed to be a totally contradictory situation, in which most of the victims and most of the persons convicted were Uzbeks. What steps did the State party intend to take to review all the convictions relating to that period?

50. Noting that the Committee had received worrying reports of persons being dismissed from State jobs after the 2010 disturbances, she asked whether there was any evidence to support those claims and what steps the State party had taken to ensure that such a situation did not prevail or that persons who had not been dismissed did not feel that they had no option but to leave their jobs for their own safety.

51. There had been very disturbing reports of rape and ill-treatment in 2010 and subsequently, especially concerning internally displaced persons and women members of minorities. She asked what direct steps had been taken to address the situation of minority women since 2010, particularly those who had been deprived of their livelihoods and businesses, so as to ensure that they were able to develop new businesses and skills and obtain redress.

52. **Mr. Amir** asked whether the temporary parliamentary commission to investigate the circumstances and conditions that had led to the tragic events in April–June 2010 was still operational. He would be interested to hear the results of the measures taken by the commission. He requested additional information on the kind of State social support provided to victims and their families under the Government Decree of 24 August 2010.

53. **Mr. Calí Tzay** asked what steps were being taken by the State party to address the ongoing tensions between the Kyrgyz population and ethnic minorities, and whether there was a political will to create a practical policy to resolve the persistent inter-ethnic problems in Kyrgyzstan. He also wished to know whether the State party had the political will to incorporate the definition of racism embodied in the Convention into national legislation. Could persons who had been subjected to racial discrimination invoke the Convention before the domestic courts?

54. **Mr. Kemal** recalled that the tragic events of 2010 had resulted in the loss of many lives and the displacement of hundreds of thousands of people, and had been very harmful to the country's economy and politics. While extending his sympathies, he urged the authorities to do their best to resolve the situation. There was a need for reconciliation efforts on a national scale. Hate speech was reportedly still being used to malign some of the country's minority communities. It was necessary to adopt administrative and judicial measures to curb hate speech, particularly by local politicians seeking to gain popularity.

55. He drew attention to the poor economic conditions in parts of Kyrgyzstan, which contributed to ethnic tensions. He asked the delegation to comment on the role played by other countries in the region in reducing tension. He noted that the groups involved in the conflict were from very similar ethnic backgrounds and that their languages were not dissimilar, facts which should be taken into account in efforts to eradicate hate speech.

56. He drew attention to the fact that certain holders of former USSR passports had not yet succeeded in obtaining Kyrgyz citizenship and therefore remained stateless. He encouraged the Government to expedite the issuance of their passports, which would enable them to make more useful contributions to the economy of Kyrgyzstan. The same would apply if the Government were to take a more liberal attitude towards asylum seekers.

57. **Mr. Kut** commended the State party's concise yet informative report and thanked the relevant NGOs for providing information which had enabled the Committee to view the report in a different light, thus adding to its credibility. The activities of NGOs should be protected and encouraged.

58. The Committee was well aware of the complicated problems that Kyrgyzstan had faced for some time now and of the difficulty of countering certain trends and finding solutions to complex issues. It would do injustice to the Government's efforts to expect problems of that magnitude to be resolved in a short space of time, but it was very important to see the political will to tackle difficulties, however challenging they were.

59. Turning to the institutional infrastructure in place to tackle ethnic tensions and discrimination in general, he would be interested to hear more about the everyday activities of the Ombudsman. He asked the delegation to give examples of cases that had been successfully resolved by the Ombudsman.

60. The Committee had received reports that the widespread availability of various kinds of weapons contributed to feelings of insecurity among certain sectors of the population, and also to the level of violence when disputes arose between various groups. There were doubts as to the effectiveness of previous efforts to collect weapons, and he wondered whether the authorities could envisage a more effective way of collecting weapons from civilians.

61. **The Chairperson** asked whether the State party had any intention of making the declaration provided for under article 14 of the Convention to recognize the competence of the Committee to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation by the State party of any of the rights set forth in the Convention. He would also be interested to hear the State party's position with regard to ratification of the amendment to article 8 of the Convention.

62. Turning to the situation of the Roma in Kyrgyzstan, he noted that as a vulnerable group they might need particular assistance, given the difficult socioeconomic conditions in the country.

63. **Ms. Karybaeva** (Kyrgyzstan) thanked the Committee members for their attention to the report and their questions, to which her delegation would respond at the next meeting.

The meeting rose at 5.30 p.m.