



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Chair: Mr. Heller

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Third periodic report of Kyrgyzstan (continued) (CAT/C/KGZ/3;
CAT/C/KGZ/QPR/3)

1. *At the invitation of the Chair, the delegation of Kyrgyzstan joined the meeting.*
2. **Mr. Ismailov** (Kyrgyzstan) said that Kyrgyzstan attached particular importance to the work of the National Centre for the Prevention of Torture and that the repeal of article 146 (2) of the Criminal Code affected law enforcement personnel and staff of closed State institutions. Hindering members of the Centre from exercising their functions had been reclassified as abuse of authority under articles 320 and 321 of the Criminal Code, an offence that carried a penalty of 5 years' imprisonment. The Centre's staff shortage in three oblasts, which was due to insufficient funding, was on the Government's agenda. The projected budget for the Centre in 2022 was 13.8 million soms, in other words over a million more than in 2019.
3. The Office of the Procurator General, the Ombudsman and the Centre conducted joint, unannounced inspections of detention facilities around the country. Procuratorial bodies also carried out their own inspections of facilities run by the Ministry of Internal Affairs. Over 34,300 such inspections had taken place between 2012 and 2020, and nearly 2,200 in the first nine months of 2021. Inspectors had observed 39 violations in 2019, 34 in 2020 and 17 thus far in 2021. In connection with those violations, disciplinary proceedings had been initiated against 11 officials in 2019, 5 in 2020 and 27 in 2021. The current inspection system was considered adequate for the purposes of monitoring and detecting violations.
4. **Mr. Samidin uulu** (Kyrgyzstan) said that fundamental legal safeguards were enshrined in domestic legislation. The Constitution stipulated that individuals must be informed of their rights and the reasons for their arrest, and the Code of Criminal Procedure protected the rights to legal counsel, a medical examination and a monitored telephone call from the moment of detention. Furthermore, all questioning was video recorded, and a copy of the detention order, which contained the date and time of arrest, was immediately given to the individual concerned and transmitted to the prosecutor within 12 hours. Under the Code of Criminal Procedure, suspects were entitled to State legal aid if they did not have a lawyer and could request the examining judge to verify the lawfulness of their arrest, as well as challenge the actions of the prosecutor or judge. An amendment to the Code of Criminal Procedure setting the limit on pretrial detention to one year would enter into force on 1 December 2021. Free legal assistance, from a lawyer who met the qualification standards, was available to persons with disabilities, war veterans, pensioners, and minors and their guardians in the event of detention.
5. **Mr. Rakhmatulaev** (Kyrgyzstan) said that when a detainee was examined at the request of the Ministry of Internal Affairs, the medical professional conducting the examination was required to complete a Ministry-approved form that was then recorded in a log and transmitted to the Ministry. If signs of torture or ill-treatment were detected, another form – in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) – was filled in, conveyed to the relevant investigative body, recorded in a log and uploaded to the online portal of the Ministry of Health.
6. There were 17 privately-run crisis centres for persons experiencing difficulties, including victims of domestic violence, and the first State-run crisis centre had been opened in February 2021 in Bishkek. The Government had allocated 5.4 million soms for crisis centres in 2019 and 7.2 million in 2020. Women and children fleeing domestic violence could receive temporary shelter and psychosocial, medical and legal support at the centres, whose location and telephone number were not published, for the beneficiaries' safety. Where a case was brought against the alleged perpetrator, assistance, including help in finding employment, was provided to the victim, who could receive support from a centre for up to 10 months while the proceedings were under way. There was also a hotline for victims of domestic abuse.

7. **Mr. Kochkonov** (Kyrgyzstan) said that, under the Criminal Code, when a deliberate act by one member of a family against another violated the rights and freedoms of the victim or caused physical or mental harm, the penalty was 30,000 to 60,000 soms or 4 to 6 months' community service. Pursuant to an amendment to the Code of Criminal Procedure adopted in 2021, perpetrators of domestic violence could be held for up to seven days, compared with 48 hours previously. Failure to comply with correctional measures could incur additional charges. Consideration had to be given, however, to the impact of the measures on the household's income, given that perpetrators of domestic violence were often also the main breadwinner. A help desk had been set up within the Ministry of Internal Affairs to assist women and child victims of domestic violence, including in their dealings with the judicial and investigative authorities.

8. Regarding bride-kidnapping, or bride theft, he said that forced marriage was a serious criminal offence and now carried the harsher penalty of 5 to 7.5 years in prison. Out-of-court settlements were not permitted in such cases. Non-governmental organizations had held lectures and conferences in partnership with academia and broadcasters, and films had been shown, to raise awareness of the issue. The number of cases had been declining since 2019, and the death of a woman who had been kidnapped had prompted the installation of some closed-circuit cameras to enhance the protection of women.

9. A special unit had been set up within the criminal police service of the Ministry of Internal Affairs to counter trafficking in persons. In addition, the law on combating and preventing trafficking in persons had been amended and supplemented in January 2018. The Ministry had issued an order on the implementation of a national mechanism to assist victims of trafficking and instructions on the identification of victims of trafficking and the confidentiality of victims' personal information. A plan to combat trafficking had been prepared for the period 2021–2024. Together with international organizations, the State party was conducting a series of awareness-raising events and had run an information campaign aimed at both migrants and the general population. More than 62,000 calls had been received on the related hotline.

10. Of the 27 cases opened in 2019 under article 171 of the Criminal Code, on human trafficking, 17 had been closed after investigation, 4 had gone to court and 6 were still being investigated. Of the 15 cases opened in 2020, 8 had been closed, 1 had been merged with another case, 1 had gone to court and 5 were still being investigated. Of the 8 cases that had been opened in the first nine months of 2021, 3 had been closed and 5 were under investigation.

11. In addition, in the first nine months of 2021, the Ministry's criminal police service had taken part in seven round tables on preventing and combating trafficking in persons and several international online forums. The criminal police service had carried out six training programmes for law enforcement agencies and had liaised with local governments and youth group leaders on the investigation of cases of trafficking in persons and the provision of assistance to victims. The Ministry had run an information campaign under the slogan "Together We Can Stop Trafficking in Persons".

12. **Mr. Ismailov** (Kyrgyzstan) said that the Convention requirement that foreign citizens should not be extradited to a State where they could face the threat of torture had been incorporated into the Code of Criminal Procedure. Mr. Abdullayev and Mr. Tungishbaev, both foreign citizens without the status of asylum seeker under the laws of the Kyrgyz Republic, had been extradited in accordance with the State party's obligations under the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters. In the case of Mr. Abdullayev, the Procurator General of Uzbekistan had provided assurances that he would not be tortured and would receive legal assistance. The decision of the Procurator General on the extradition of Mr. Tungishbaev had been declared lawful, and he had been handed over to representatives of the Republic of Kazakhstan to implement that decision.

13. The Kyrgyz Republic had neither extradited nor deported Mr. Inandi. After a kidnapping investigation had been opened on 1 June 2021, more than 100 agents from the Ministry of Internal Affairs and the military had conducted searches in more than 10,000 homes, businesses and other buildings and in all bus and railway stations in the city of Bishkek. As a missing person, Mr. Inandi had been declared the subject of an international

search on 8 June. Officials were being investigated by the Military Prosecutor of the Kyrgyz Republic for criminal negligence in connection with Mr. Inandi's disappearance.

14. Threats against journalists and cases of harassment of journalists were investigated in accordance with Kyrgyz law, which guaranteed the freedom of journalists to exercise their profession. Four individuals had been found guilty in a case involving physical harm to a journalist and the theft of his mobile telephone and had been sentenced accordingly. The ranking of Kyrgyzstan had improved in Reporters Without Borders' World Press Freedom Index over the preceding years.

15. **Mr. Rakhmatulaev** (Kyrgyzstan) said that there had been a peak in coronavirus disease (COVID-19) cases in July 2020, with almost 30,000 cases of the disease recorded that month and over 700 deaths. In both 2020 and 2021, there had been deaths among prisoners and prison workers who had been diagnosed with COVID-19. Mr. Askarov had been one of those prisoners. Mr. Askarov had become ill on 12 July 2020 but had refused to be admitted to hospital. A decision had been taken on 24 July to transfer him by force to the central hospital serving State Penal Correction Service facility No. 47. He had entered the hospital with community-acquired pneumonia but had resisted treatment and had removed the mask being used to deliver concentrated oxygen to him. Medical personnel had recorded his death the next day.

16. **Mr. Ismailov** (Kyrgyzstan) said that, once Mr. Askarov's death had been recorded, investigators from the corrections facility, together with representatives of the special prosecutor, had been sent to the place of death. A note had been made in the relevant register that the corpse had been found on 25 July 2020 without any signs of criminal injury. A forensic expert had taken part in the inquest, and a post-mortem had been conducted on 2 September 2020 in the presence of Mr. Askarov's lawyer and a representative of the Ombudsman. The results of the post-mortem showed that Mr. Askarov had died from a lack of oxygen due to the pneumonia and cardiac difficulties. The body had been inspected for physical injuries, but none had been found other than at the site where an injection had been given. Pursuant to the decision of the State Penal Correction Service investigator, the investigation into Mr. Askarov's death had been closed on 28 May 2021 because of a lack of evidence that a crime had been committed. After an appeal by Mr. Askarov's lawyer, the decision to discontinue the investigation had been nullified and the case had been referred to the national security service, which was currently conducting its own comprehensive investigation.

17. **Mr. Nazarov** (Kyrgyzstan) said that Mr. Askarov's case had involved a request for action to be taken in response to views issued by the Human Rights Committee. That request had been made in exercise of his right to seek assistance from State bodies. However, that right was a personal one that, by law, could not be transferred to another person. Therefore, his wife could not be named a successor in the legal proceedings. The issue of compensation could not be considered until the investigation into Mr. Askarov's death was closed. Compensation could be ordered in cases of torture only if they resulted in a verdict of guilty. The amount of the compensation would be determined in accordance with the Code of Criminal Procedure.

18. **Ms. Altymysheva** (Kyrgyzstan) said that, as part of a pilot project from 2014 to 2017 to reduce statelessness, efforts had been made to identify and register all stateless persons in the country. Over 600 mobile units had been created to provide assistance in remote regions of the country. Of the 13,600 individuals who had been identified, over 13,000 had submitted the necessary applications. International organizations, such as the Office of the United Nations High Commissioner for Refugees, had assisted in those efforts. In addition, the Government had automated the registration process, reduced the number of documents required and introduced a paperless application process. The State party's accession to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness was still being considered by the relevant authorities.

19. **Mr. Smanaliev** (Kyrgyzstan) said that there were 27 State correctional facilities, including 1 facility for adolescents and 6 pretrial detention centres. Some 340 prisoners were serving life sentences, all in facility No. 19, and 155 persons were serving sentences for terrorism and extremism offences. There were some 250 women prisoners. Of the 25 juveniles in correctional facilities, 11 had been convicted and 14 were awaiting trial. Under

the Code of Criminal Procedure, sentences of life imprisonment could not be given to women or adolescents.

20. Funds had been allocated in August 2021 to complete the construction of a second facility for prisoners serving life sentences, and facility No. 19 had been renovated to provide more comfortable conditions for prisoners serving such sentences. Bathing facilities, a sports hall, a library and other amenities had been installed at another correctional facility. That facility also had a secondary school, a sanitary wing and a rehabilitation centre that was part of the “Atlantis” programme.

21. The Atlantis rehabilitation programme, started in 2004, operated in facilities Nos. 1, 2, 3, 8, 10, 27, 31 and 47, and treated prisoners who were alcoholics or drug addicts. The rehabilitation centre provided psychotherapeutic services and prepared prisoners for release. Patients who successfully completed treatment began a social rehabilitation programme.

22. Cultural events and meetings of Alcoholics Anonymous and Narcotics Anonymous were regularly organized. The rehabilitation and social adaptation centres allowed persons who had completed the Atlantis programme to continue rehabilitation on a voluntary basis and, to facilitate social adaptation, offered courses in information technology, woodworking and hairdressing and work placements in sewing workshops. Rules and regulations were in place to govern prisoners’ work in places of detention.

23. **Mr. Rakhmatulaev** (Kyrgyzstan) said that the Constitution of 2010, with its guarantee of human rights and freedoms regardless of sex, race, language, disability, religion and any other potential grounds for discrimination, had paved the way for the development of anti-discrimination legislation. In 2017, Kyrgyzstan had become the first country in Central Asia to approve guidelines on health care and social assistance for transgender, transsexual and gender-non-conforming persons, which had been developed by a working group of doctors and international and community experts. The guidelines were applicable across the health-care system and were intended to help people feel comfortable with their gender identity, improve their health, quality of life and psychological well-being and facilitate self-realization based on respect, dignity, equality and human rights. They set out an accessible, transparent, effective and non-discriminatory procedure for legal gender recognition.

24. In 2019, the first regional conference on health and quality of life for transgender persons in Central Asia had been held in Kyrgyzstan, supported by the Ministry of Health, non-governmental organizations and regional associations of transgender persons. The conference had been a forum for open dialogue among medical specialists, decision makers and activists regarding the specific health needs of transgender persons and the conditions for health-care provision, psychological support, legal protection and the issuance of identity documents corresponding to a person’s gender identity in the countries of Central Asia. The conference participants had concluded that it was vital to develop acceptance and tolerance in civil society, professional communities and States, stand against transphobia and foster an inclusive environment for persons of all gender identities, meeting their needs for safe and healthy lives and self-realization.

25. **Mr. Smanaliev** (Kyrgyzstan) said that written responses would be provided to any unanswered questions.

26. **Ms. Racu** (Country Rapporteur) said that she would like to know how many recommendations related to the prevention of torture and protection of persons deprived of their liberty had been issued by the National Centre for the Prevention of Torture and how many of them had been implemented by State authorities. She also wished to know how many of the Ombudsman’s recommendations following visits to detention facilities had been implemented by the Kyrgyz authorities. She would appreciate the delegation’s comments on access by non-governmental human rights organizations to places of detention, including psychiatric institutions.

27. She was interested to know what kind of findings had been documented by prosecutors following unannounced inspections of places of detention. She wondered how many staff members had been disciplined and whether any criminal investigations had been initiated following such inspections.

28. She would like to hear about any specific registers for injuries or violent incidents in temporary holding facilities. She would also appreciate updated information for the previous

two years on the number of reports of persons with signs of torture and ill-treatment made to the Ministry of Health and the Ministry of Internal Affairs and whether the reports had led to the investigation, prosecution or punishment of the perpetrators.

29. She would like to have information on the extent of shortages of medical staff in detention facilities and any steps taken to increase general staffing levels and improve training. She would appreciate a response to allegations that prison guards conducted medical examinations in temporary holding facilities. Had the reported lack of psychiatrists and nurses been resolved? She wished to hear the delegation's comments on reported problems with the supply of medication in some prisons, especially during the COVID-19 pandemic. She would like to know the rates of vaccination against COVID-19 among prison staff and prisoners and to have additional information about the training of medical staff working in police stations and prisons. She would appreciate clarification as to whether proposed changes in the legislation regulating NGO activities could affect the provision of opioid substitution therapy and other harm-reduction measures to prisoners. She would also appreciate the delegation's comments on national legislation and practice regarding time limits for pretrial detention, in view of the Committee's position that prolonged detention in temporary police facilities could amount to ill-treatment.

30. She would like to know exactly how many sentences for bride-kidnapping had been handed down by the courts.

31. She would like to hear the delegation's response to reports that the mechanism for referral of asylum seekers by the border police was inadequate and that delays in registration and even non-admission of asylum claims without a proper investigation were frequent and could lead to a risk of refoulement. She would appreciate updated information on the coordination mechanism, registration and any recent changes in law or practice aimed at improving the situation of migrants and asylum seekers, including unaccompanied children. Lastly, she wished to know how many complaints had been submitted by migrants and whether they had been investigated by the competent authorities.

32. **Ms. Pūce** (Country Rapporteur) said that she would appreciate clarification on the circumstances in which alleged torture should be reported to the State Committee on National Security and those in which it should be reported to the procuratorial authorities. She would like to know where persons sentenced to life imprisonment who could not be accommodated in the specialized facility, No. 19, were held. She would be interested to hear more about the different regimes applicable to prisoners in facility No. 19.

33. She wished to have information about the complaints procedure for children living in institutions, the investigation of such complaints and the oversight mechanism for such institutions. She would like to know when the new children's code would enter into force, how it would be implemented and whether it contained an explicit provision prohibiting corporal punishment.

34. She would be interested in receiving data about the official and the actual capacity in each place of detention, to allow the level of overcrowding to be assessed. She would also like to have information about staff numbers in detention facilities, including the number of female staff in institutions where women were held. Lastly, she would appreciate more information about the detention facility for juveniles.

35. **Mr. Rodríguez-Pinzón** said that he would like to know whether the State party intended to review its legislation to allow victims of torture to pursue civil claims for redress, even if the criminal case was ongoing or had not resulted in a conviction, in line with the Committee's general comment No. 3 (2012). He would be interested to hear about any plans to allow the relatives of a victim of torture to claim adequate and fair compensation, including from international bodies. He wondered what measures would be taken to ensure that the decisions of human rights treaty bodies regarding reparations could be implemented, including through a creative interpretation of national law by the judiciary.

The meeting was suspended at 5 p.m. and resumed at 5.15 p.m.

36. **Mr. Ismailov** (Kyrgyzstan) said that the National Centre for the Prevention of Torture had put forward 545 recommendations since 2013, some 30 per cent of which had already been acted upon. The others concerned long-term issues and were in the process of being implemented. Unannounced visits to detention facilities were carried out by prosecutors, sometimes accompanied by representatives of the Ombudsman or the National Centre for the

Prevention of Torture. Any violations discovered could lead to charges against the officials concerned. In that connection, 11 officials of the Ministry of Internal Affairs had faced disciplinary proceedings in 2019, 5 in 2020 and 27 in 2021.

37. The Government had plans to build a new pretrial detention centre in Jalal-Abad but the project depended upon the availability of funds. Any decision to extend pretrial custody in excess of one year was unlawful and would be overturned.

38. **Ms. Altymysheva** (Kyrgyzstan) said that Kyrgyzstan had acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and had accorded refugee status to more than 20,000 persons. There were currently 185 refugees in the country, while 610 persons were seeking asylum. More than 220 appeals to overturn decisions by the authorities concerning refugee status had come before the courts during the reporting period.

39. **Mr. Samidin uulu** (Kyrgyzstan) said that, under the Code of Criminal Procedure, jurisdiction for investigating offences rested with the body which first uncovered the offence or to which the offence was first reported. In some cases, that was the State Committee on National Security. In cases involving torture, it was up to the prosecutor to decide which body should conduct the investigation.

40. Thirty-four training seminars on torture prevention had been held since 2017. The courses – which had been organized with support, inter alia, from the Organization for Security and Cooperation in Europe and the Office of the United Nations High Commissioner for Human Rights – were attended by investigators from the State Committee on National Security as well as by officials in prisons and detention facilities. The subject matter included investigation techniques, the effectiveness of investigations, combating impunity, medical documentation of torture and improved cooperation between the State and civil society in efforts to prevent torture.

41. **Mr. Kochkonov** (Kyrgyzstan) said that persons admitted to temporary holding facilities were first informed of the charges against them and then sent to a Ministry of Health-approved clinic for a medical examination. According to standard operating procedures, suspicions of violations against children in institutional care settings were addressed by juvenile affairs inspectors. The inspectors could then report the matter to the relevant authorities, which would lead to the launch of an investigation. Ten cases of bride-kidnapping had come before the courts and 15 persons had been convicted.

42. **Mr. Rakhmatulaev** (Kyrgyzstan) said that, in April 2021, Kyrgyzstan had become part of the COVAX pillar of the access to COVID-19 tools (ACT) Accelerator, thanks to which it had received 500,000 doses of the AstraZeneca and Pfizer vaccines against COVID-19. In addition, more than 2 million vaccine doses had been purchased using State funds. In all, 2,460,000 persons had received their first dose of vaccine and 780,000 their second dose. Within the prison system, 1,444 members of staff and 450 inmates had also been vaccinated. In all cases, vaccination was voluntary. Information about shortages of medicines would be provided in writing, but he was able to inform the Committee that medical supplies in prisons and detention facilities were currently sufficient for three months.

43. The Government believed that methadone therapy was the most effective way to combat opioid addiction and, in 2006, had placed methadone on the national list of essential medicines. Since then, the use of methadone in opioid substitution therapy had been expanded and facilitated, including within the prison system. The therapy was administered at facilities in Bishkek and Osh. The Ministry of Health had also opened 31 other treatment sites around the country; however, due to a decline in donor funding, that number had fallen to 24. Indicators showed that methadone treatment had had a positive impact, and the Kyrgyz model had been studied and imitated by other States. In addition to funds from the Government, financing for the methadone programme, particularly in prisons, came through the Global Fund to Fight AIDS, Tuberculosis and Malaria.

44. **Mr. Nazarov** (Kyrgyzstan) said that, between 2019 and the first half of 2021, 26 criminal cases involving torture had been investigated; 19 officials – 14 of whom worked for the Ministry of Internal Affairs – had been convicted of torture-related offences and 12 had been sentenced to terms of imprisonment of between 7 and 11 years. The courts awarded compensation for moral harm, on the basis of domestic legislation and in the light of the views of the Human Rights Committee. However, the specific amount of any compensation

was regulated by the Code of Criminal Procedure and depended upon the seriousness of the crime and extent of the harm.

45. Judges of various ranks, from local courts to the Supreme Court, received training on cases involving torture. A manual on that subject had been produced in 2018 and an online training session had taken place in 2020.

46. **Mr. Smanaliev** (Kyrgyzstan) said that civil society and non-governmental organizations had been involved in drafting the new children's code, which included provisions relating to matters such as corporal punishment. The draft code had gone through three readings before parliament and was currently awaiting the signature of the President of the Republic. For its part, the Code of Criminal Procedure contained a separate chapter on proceedings involving minors.

47. There were 114 posts for prison doctors in the country, of which 31 were currently vacant; 135 posts for middle-ranking medical personnel, of which 10 were vacant; and 11 posts for lower-ranking medical personnel, of which just 1 was vacant. Currently, 119 inmates serving life terms were being held in facility No. 19, while others had been placed in other facilities. The Government had allocated 40 million soms for the construction of a new building in facility No. 19 and, once it was complete, all inmates serving life terms could be moved to that facility. Nonetheless, life inmates sometimes had to be isolated or moved to other facilities due to their insubordinate or unruly behaviour. If inmates – including those facing life sentences – abided by prison rules, they could enjoy the benefits of a less stringent regime of incarceration.

48. **The Chair** said that he wished to thank the delegation for its openness during what had been a very constructive dialogue. Additional information and comments could be submitted to the Committee in writing within 48 hours.

49. **Mr. Smanaliev** (Kyrgyzstan) said that he wished to thank all the Committee members for their support in helping Kyrgyzstan fulfil its obligations under the Convention.

The meeting rose at 5.55 p.m.