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Kyrgyzstan

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. Background and framework

A. Scope of international obligations¹

<i>Core universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	5 Sept. 1997	None	Individual complaints (art. 14): No
ICESCR	7 Oct. 1994	None	-
ICCPR	7 Oct. 1994	None	Inter-State complaints (art. 41): No
ICCPR-OP 1	7 Oct. 1994	None	-
CEDAW	10 Feb. 1997	None	-
OP-CEDAW	22 July 2002		Inquiry procedure (arts. 8 and 9): Yes
CAT	5 Sept. 1997	None	Inter-State complaints (art. 21): No Individual complaints (art. 22): No Inquiry procedure (art. 20): Yes
OP-CAT	29 Dec. 2008	None	-
CRC	7 Oct. 1994	None	-
OP-CRC-AC	13 Aug. 2003	Binding declaration under art. 3: 18 years	-
OP-CRC-SC	12 Feb. 2003	None	-
ICRMW	23 Sept. 2003	None	Inter-State complaints (art. 76): No Individual complaints (art. 77): No

Core treaties to which Kyrgyzstan is not a party: OP-ICESCR³, ICCPR-OP 2, CRPD, CRPD-OP and CED.

<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	Yes
Rome Statute of the International Criminal Court	Signature only (1998)
Palermo Protocol ⁴	Yes
Refugees and stateless persons ⁵	Yes, except 1954 and 1961 Conventions
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁶	Yes, except Additional Protocol III
ILO fundamental conventions ⁷	Yes
UNESCO Convention against Discrimination in Education	Yes

1. The Committee on the Elimination of Discrimination against Women (CEDAW) encouraged Kyrgyzstan to consider ratifying CRPD and CED.⁸ The Committee on the Elimination of Racial Discrimination (CERD) invited Kyrgyzstan to make the optional declaration provided for in article 14 of ICERD.⁹ The Committee on the Rights of the Child (CRC) recommended that Kyrgyzstan, inter alia, ratify and fully implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.¹⁰

B. Constitutional and legislative framework

2. The United Nations Country Team in Kyrgyzstan (UNCT)¹¹ stated that a new Law on Normative Legal Acts adopted in July 2009 excluded an earlier provision that stipulated that international treaties and commonly recognized norms of international law prevailed when there were discrepancies between these standards and provisions of national legislative acts. The supremacy of international law is also recognized in a number of legislative acts.¹² In 2007, CERD noted with satisfaction that ICERD is incorporated into domestic law and can be directly applied by national courts.¹³

3. CERD noted that the new Constitution prohibits any type of discrimination on the grounds of ethnic origin, sex, race, nationality, language, religious belief or other conditions or circumstances of a personal or social nature.¹⁴

4. In 2007, CRC noted with appreciation the adoption in 2006 of the Code of Children,¹⁵ UNICEF pointed out that the Children's Code sets out a broad legal framework for a decentralized system of child protection and services. Kyrgyzstan's commitment to children's rights was underpinned, inter alia, through the adoption of the Code on Breast Milk Substitutes and the Law on Mandatory Preschool.¹⁶

C. Institutional and human rights infrastructure

5. As of December 2009, Kyrgyzstan did not have a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).¹⁷

6. In 2004, CRC encouraged Kyrgyzstan to strengthen the role of the Office of the Ombudsman in accordance with the Paris Principles and empower the department of children's rights to deal with complaints from children.¹⁸ The UNCT noted that two independent experts recommended that it resume the provision of technical assistance to the Ombudsman Institution.¹⁹ The UNCT noted that a draft law identifies the Ombudsman as the national preventive mechanism under OP-CAT²⁰

7. In 2008, CEDAW recommended that Kyrgyzstan urgently put in place a specialized body specifically responsible for gender issues.²¹ The UNCT noted that despite this recommendation no such institution has been set up.²²

D. Policy measures

8. In 2000, the Committee on Economic, Social and Cultural Rights (CESCR) encouraged Kyrgyzstan to elaborate and implement a national plan of action for human rights.²³

9. The UNCT noted that the Country Development Strategy (CDS) 2009-2011 is focused on, inter alia, increasing the quality of social services, and on poverty reduction,

and recognizes the need to adopt special measures aimed at increasing economic opportunities for women.²⁴

10. The UNCT indicated that the National Gender Action Plan 2007-2010 is the main programming document on gender policy.²⁵

11. The UNCT stated that a “New Generation” Programme for children’s rights 2001-2010 was adopted.²⁶ In 2007, CRC welcomed the “New Generation” programme on trafficking in and commercial and sexual exploitation of children but expressed concern at the absence of a specific plan regarding the sale of children, child prostitution and child pornography.²⁷ The UNCT informed that in 2008, Kyrgyzstan adopted the State Program of Actions of Social Partners on the Worst Forms of Child Labour for 2008-2011.²⁸

12. In 2005, Kyrgyzstan adopted the Plan of Action (2005-2009) for the World Programme for Human Rights Education focusing on the national school system.²⁹

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body³⁰</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	2006	Aug. 2007	Overdue since 2008	Combined fifth to seventh report due in 2010
CESCR	1998	Aug. 2000	-	Second report overdue since 2005
HR Committee	1998	July 2000	-	Second report overdue since 2004
CEDAW	2007	Nov. 2008	Overdue since Oct. 2009	Fourth report due in 2012
CAT	1999	Nov. 1999	-	Second report overdue since 2002
CRC	2002	Oct. 2004	-	Combined third and fourth report due in 2010
OP-CRC-AC	2006	Feb. 2007	-	
OP-CRC-SC	2006	Feb. 2007	-	
CMW			-	Initial report overdue since 2005

2. Cooperation with special procedures

<i>Standing invitation issued</i>	No
<i>Latest visits or mission reports</i>	Special Rapporteur on violence against women (8-17 Nov. 2009) ³¹ Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights. (29 Sept. - 9 Oct. 2009) ³²
<i>Visits agreed upon in principle</i>	Special Rapporteur on the independence of judges and lawyers (18-24 Sept. 2005) ³³ Special Rapporteur on adequate housing (2008)
<i>Visits requested and not yet agreed upon</i>	Special Rapporteur on freedom of religion or belief (2004) Special Rapporteur on extrajudicial, summary or arbitrary executions (2008)
<i>Facilitation/cooperation during missions</i>	The Special Rapporteur on violence against women expressed gratitude for the assistance and cooperation extended to her by all her interlocutors. ³⁴ The Special Rapporteur on the independence of judges and lawyers appreciated the cooperation of the Government. ³⁵
<i>Follow-up to visits</i>	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 41 communications were sent, The Government replied to 12 communications.
<i>Responses to questionnaires on thematic issues</i>	Kyrgyzstan responded to none of the 21 questionnaires sent by special procedures mandate holders. ³⁶

3. Cooperation with the Office of the High Commissioner for Human Rights

13. The Secretary-General noted that in 2008 an evaluation of the Ombudsman Institution was conducted to assess effectiveness and capacity gaps. Also in 2008, OHCHR held a number of workshops with the Ombudsman Institution concerning, inter alia, the national preventive mechanism under OP-CAT, strategic planning, and on complaints procedures. OHCHR conducted seminars with national stakeholders on the implementation of OP-CAT and organized an awareness-raising conference on CRPD and CRPD-OP.³⁷

B. Implementation of international human rights obligations

1. Equality and non-discrimination

14. In 2008, CEDAW noted that legal guarantees for equality had not resulted in the practical realization of women's right to equality. It invited Kyrgyzstan to introduce a legislative provision indicated that it was the Kyrgyzstan's responsibility to ensure that women will be able to exercise their right to equality in practice.³⁸

15. The Special Rapporteur on violence against women noted that formal legislative and policy efforts had not been accompanied by sufficient investment and reforms in social services, and that traditions and values which had strengthened patriarchal systems of

control over women, gender stereotypes and de facto discrimination were resurfacing.³⁹ UNCT indicated that the rural women's opportunities for demanding or protecting their rights to land are still restricted by the traditional law of "adat".⁴⁰ CEDAW recommended strengthening policies and implementing programmes aimed at the elimination of stereotypes relating to the role of women and men in society and in the family.⁴¹

16. In 2004, CRC expressed concern that societal discrimination persists against vulnerable groups of children and recommended a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.⁴² The UNCT highlighted that several United Nations agencies linked discrimination against persons living with HIV and existing misconceptions about HIV/AIDS-related issues to the poor quality of educational and awareness-raising programmes.⁴³

17. CRC was deeply concerned about child victims of crimes covered by OP-CRC-SC and recommended that Kyrgyzstan ensure that child victims of exploitation and abuse are neither criminalized nor penalized and that all possible measures be taken to avoid the stigmatization and social marginalization of these children.⁴⁴

18. In 2007, CERD noted the absence of a definition of racial discrimination in the law and recommended that the law be brought in line with ICERD in this regard.⁴⁵

19. In 2007, CERD noted with concern that only citizens are entitled to exercise certain rights of the Constitution and recommended measures to guarantee equality between citizens and non-citizens.⁴⁶

2 Right to life, liberty and security of the person

20. The UNCT indicated that the death penalty was abolished by the 2006 Constitution. In 2007, amendments to the Criminal and Criminal Procedure Code replaced the death penalty with life imprisonment. In November 2009 various arguments in support of reinstatement of the death penalty were put forward by some members of Parliament. The UNCT suggested that international actors should monitor public debate on this issue and should express the unacceptability of reintroducing the death penalty.⁴⁷

21. The UNCT stated that the ratification of OP-CAT had triggered public debate on drafting legislation that would establish a national preventive mechanism. Provisions of the criminal law needed to be brought in line with the CAT requirements.⁴⁸ The Special Rapporteur on the question of torture, in some instances jointly with other mandate holders, transmitted a number of communications concerning the alleged torture, in order to obtain confessions, of persons working in the defence of human rights, persons who themselves or whose family members were suspected of extremist activities, including persons suspected of ordinary crimes. In some instances, communications related to reported deaths in custody attributed to torture.⁴⁹ In 2004, CRC expressed concern that persons below 18 allegedly continued to be subjected to torture and cruel treatment, in many cases when in police custody or awaiting trial. It recommended that Kyrgyzstan, inter alia, undertake all necessary measures to prevent acts of torture and inhuman or degrading treatment or punishment, to investigate, prosecute and sanction those involved in committing such acts.⁵⁰ The HR Committee recommended the institution of an independent system of monitoring all places of detention with the purpose of preventing torture and other abuses of power by law enforcement officials.⁵¹

22. In 2008, the HR Committee adopted Views on an individual communication, finding a violation of the right to life (excessive use of force), and of the right to an effective remedy due to the persistent failure of the authorities properly to investigate the circumstances of the victim's death.⁵² It requested an effective remedy in the form, inter alia, of an impartial investigation in the circumstances of their death, prosecution of those responsible and adequate compensation, and to prevent similar violations.⁵³

23. In 2009, the Special Rapporteur on violence against women said that the most prevalent forms of violence against women included domestic violence, bride-kidnapping, under-age marriages, unregistered marriages, trafficking, polygamy, violence and discrimination against women based on their sexual orientation and gender identity, and violence committed by law enforcement agents.⁵⁴ The UNCT also noted that domestic violence against women, bride kidnapping, sexual harassment, rapes, forced and early marriages and polygamy are widespread. Provisions of the 2003 Law on Domestic Violence are often not implemented in practice.⁵⁵ CEDAW recommended full respect of the laws penalizing bride abduction, forced marriage and polygamy. It also recommended, inter alia, that training programmes for the police be strengthened and that the judiciary effectively use or strengthen the existing mechanisms, so as to ensure that the rights of victims of domestic violence are properly protected.⁵⁶

24. CEDAW urged Kyrgyzstan to take all necessary steps to protect women in prostitution from all forms of discrimination and violence by public and private individuals.⁵⁷

25. The UNCT indicated that a recent study commissioned by UNICEF and the Vice Prime Minister's Office acknowledged the widespread abuse against children within families. Seventy-two per cent of children reported experiencing abuse and/or neglect in the family.⁵⁸ CRC recommended that Kyrgyzstan, inter alia, enforce and closely monitor the Law on Protection from Violence and carry out effective public-awareness campaigns.⁵⁹

26. In 2007, CRC expressed concern that the prohibition of the sale of children, child prostitution and child pornography had not been explicitly included in the national Criminal Code and/or the Code on Children. It urged Kyrgyzstan to implement OP-CRC-SC and to ensure that any suspicion of complicity by State officials is thoroughly investigated and adequately sanctioned, if proven.⁶⁰

27. In 2009, the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO Committee of Experts) requested immediate and effective measures to apply section 124 of the Criminal Code which makes trafficking in persons a criminal offence.⁶¹ CEDAW urged Kyrgyzstan to, inter alia, produce a comprehensive study on the dynamics of trafficking, aimed at the enhancing the understanding of the phenomenon and its dimensions, to prevent its development, and ensure that victims benefit from adequate protection in practice, and prosecute and punish those responsible.⁶²

28. CRC recommended ensuring that street children were provided with adequate nutrition, clothing, housing, health care and educational opportunities, and ensure that they are provided with recovery, and services for reconciliation with their families.⁶³

3. Administration of justice, including impunity and the rule of law

29. In 2005, the Special Rapporteur on the independence of judges and lawyers reported that the judiciary did not operate as a fully independent institution. He hoped that the reform processes would provide for a legal framework designed to ensure the full independence of judges and lawyers.⁶⁴ The UNCT expressed similar concerns and highlighted that there are reports in practice of the executive branch interfering with the judiciary.⁶⁵

30. The UNCT indicated that the 2009 Law on Jury Trials is not yet in force, but will become operational gradually starting from January 2012. Significant preparatory work with judges, including awareness-raising about principles of the jury trials will be required before jury trials are introduced in practice.⁶⁶

31. The Special Rapporteur on violence against women said that there was an increase in levels and forms of corruption, and impunity for acts of violence against women

perpetrated by state and non-state actors. To work effectively towards the elimination of all forms of violence against women, measures to address the lack of accountability for acts of corruption and violence perpetrated by state actors were needed.⁶⁷

32. In 2004, CRC was concerned that Kyrgyzstan had not yet established specific procedures and courts to deal separately with juvenile offenders under the justice system. It was concerned that juveniles, in particular girls, are being detained with adults.⁶⁸ The UNCT referred to indications that while 90 per cent of offences attributed to 14-17 year old children involve petty robbery, more than 60 per cent of sentences results in imprisonment.⁶⁹ It also referred to reports indicating that arrested minors are usually denied lawyers, often held without parental notification, questioned without parents or lawyers and often were intimidated into signing confessions.⁷⁰ CRC encouraged Kyrgyzstan, as a matter of priority, to expedite its work on reform of the system of juvenile justice.⁷¹

4. Right to privacy, marriage and family life

33. In 2008, CEDAW noted with concern the existence of marriages involving girls under the age of 18, as well as the existence of non-registered marriages and requested Kyrgyzstan to implement fully the laws on marriage and family.⁷²

34. CRC⁷³ and the UNCT⁷⁴ were concerned that access to civil authorities for the purpose of birth registrations is not always guaranteed, in particular for asylum-seekers, those who have not received refugee status and those living in rural areas. CRC recommended that Kyrgyzstan strengthen efforts to improve the birth registration system.⁷⁵

35. UNICEF noted that the residential institutions remain the main means of protecting children left without parental care.⁷⁶ The UNCT noted that according to the National Statistics Committee in 2007, there were 20,750 children living in residential institutions.⁷⁷ UNICEF indicated that policies on deinstitutionalization need to be developed, reintegration of children with their biological or extended families and transformation of large residential institutions into centres where alternative care services and social support to families are provided.⁷⁸

5. Freedom of movement

36. The UNCT highlighted that the law requires an official residence registration be obtained for one to work and live in a particular area of the country. Strict rules and authorization procedure for obtaining permanent/temporary residence status create obstacles to accessing social security, subsidized health care, education and pension by internal migrants.⁷⁹

6. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

37. In 2008, the Special Rapporteur on freedom of religion or belief sent a communication concerning the draft law on “Freedom of Conscience and Religious Organizations”. She considered that the law would impose undue restrictions on the freedom of religion or belief.⁸⁰ According to the UNCT, the draft Law on Religious Education if adopted in its current form, would impose broad controls on who can open religious educational institutions and would ban all but approved and licensed religious education.⁸¹

38. The Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders transmitted a number of communications concerning the alleged intimidation, harassment and torture of human rights defenders, the arrest in connection with peaceful demonstrations, as well as assaults on journalists, including a case of an assassination.⁸²

39. In 2008, the Special Rapporteur on freedom of opinion and expression sent a communication concerning amendments to the Law on the Right of Citizens to Assemble Peacefully, without Weapons, to freely Hold Rallies and Demonstrations.⁸³ He expressed concern, as also highlighted by the UNCT⁸⁴, that these amendments required organizers to submit notification of any public gathering to the local authorities at least 12 days in advance, and allowed local authorities to refuse permission although no grounds for refusal were specified in the amended law.⁸⁵ According to the UNCT, an inter-agency Working Group under the Ombudsman has been tasked with finalization of a draft law on Freedom of Assembly and if adopted, it will ensure free exercise of freedom of assembly in line with international standards.⁸⁶

40. The UNCT noted that from January until November 2009 there had been seven attacks on journalists.⁸⁷ It stated that critical journalists can be liable under the Civil Code's article on "Protection of Honour and Dignity of a Citizen, and Business Reputation of a Legal Entity", and sentences of up to three years in prison can be imposed on defamation and insult.⁸⁸ On 3 June 2008, the President signed a Law on "Television and Radio Broadcasting" that maintains state control over the State Radio and Television Company, rather than creating a national public interest broadcaster. The Law places significant regulations on broadcast companies and established new Kyrgyz-language and local content requirements. These requirements have been assessed by human rights defenders as conflicting with constitutional provisions. A new Media Law is currently being elaborated.⁸⁹

41. The UNCT noted indications of an implementation gap regarding the Law on Access to Information. Access to information is not guaranteed in practice if the query does not pertain to a matter that personally affects the individual seeking information.⁹⁰

42. The UNCT referred to a 2009 report of OSCE/ODIHR indicating that the 23 July 2009 Election Day "was marred by many problems and violations, including inaccuracies in the voter lists".⁹¹ The international community expressed concerns about the numerous detentions, allegations of ill-treatment at the time of arrest and ensuing lack of due process in the cases of human rights defenders and political activists who were detained as a result of public protests against results of the elections.⁹²

43. CEDAW was concerned about the continuing general underrepresentation of women in public and political life. It invited Kyrgyzstan to introduce temporary special measures to accelerate women's full and equal participation in elected and appointed bodies.⁹³ The UNCT noted that the amended Election Code introduced a special affirmative measure that guarantees seats for women in the electoral lists, but indicated that women's representation in the local representative bodies remains insufficient.⁹⁴

7. Right to work and to just and favourable conditions of work

44. In 2008, CEDAW urged Kyrgyzstan, inter alia, to ensure equal opportunities for women and men in the labour market, and to narrow and eliminate the existing gap between the wages of women and men.⁹⁵ The ILO Committee of Experts asked Kyrgyzstan to consider amending section 17 of the Gender Equality Act to bring the law into conformity with the principle of the ILO Equal Remuneration Convention.⁹⁶

45. The UNCT highlighted that a 2008 National Child Labour Survey estimated that 672,000 children are working and that 592,000 of them are involved in unsuitable work. The ILO Committee of Experts joined CRC in requesting immediate measures to eliminate the practice of requiring children in the state educational institutions to work for the profit of such institutions.⁹⁷

46. In 2009, the ILO Committee of Experts requested that Kyrgyzstan amend legislation to lower the quorum required for a strike ballot.⁹⁸

8. Right to social security and to an adequate standard of living

47. UNICEF noted that while poverty is declining, it is still very high and that 35 per cent of the population lived below the national poverty line and that about six per cent lived in extreme poverty in 2007.⁹⁹ According to the UNCT, 43.3 per cent of children live in poverty, while 7.7 per cent live in extreme poverty (data from 2007). Families residing in rural and mountainous areas run almost twice and higher the risk of living in extreme poverty.¹⁰⁰ In 2007, CRC recommended that further attention be given to the implementation of the poverty reduction programme.¹⁰¹

48. CEDAW was concerned about, inter alia, the increase in the rates of maternal and infant mortality, women's anaemia during pregnancy, the persistent high number of abortions, and underweight girls.¹⁰² The UNCT indicated that inadequate quality of medical services leads to the threat of HIV infection transmission in the health-care facilities.¹⁰³ UNICEF informed that between 2007 and 2008, approximately 140 cases of hospital-acquired HIV were registered among children, mostly in Osh province.¹⁰⁴ CEDAW urged Kyrgyzstan to ensure accessible, affordable and adequate health care for all parts of the population.¹⁰⁵

49. CRC expressed concern at the inhumane treatment of children in psychiatric hospitals and recommended that Kyrgyzstan ensure the highest attainable standard of health for all children¹⁰⁶, as also highlighted, in a specific communication, by the Special Rapporteur on the question of torture and the Special Rapporteur on Education.¹⁰⁷ The UNCT expressed serious concerns about conditions in psychiatric hospitals, including the lack of State financing to provide basic needs such as food, water, clothing, heating and health care. Involuntary placement of people into mental facilities, physical abuse and deprivation of sufficient nourishment were also highlighted as areas of concern.¹⁰⁸

50. In 2009, the Special Rapporteur on toxic waste noted with concern that the social and economic impact of uranium tailings sites and other hazardous toxic waste dump sites on the local population had not been properly addressed, and that tailored measures needed to be adopted.¹⁰⁹

51. In 2008, the Special Rapporteur on adequate housing sent a communication concerning allegations that, during the 2007-2008 winter period, more than 120 persons, most of them homeless, had died from cold. The situation was reported to have been particularly critical in Bishkek.¹¹⁰ The UNCT highlighted that the number of homeless persons and those living below international standards on adequate housing are drastically increasing. It noted that international assistance in this regard is highly desirable.¹¹¹

9. Right to education and to participate in the cultural life of the community

52. UNICEF indicated that approximately 50,000 children, representing 4 per cent of school-age children are out of school.¹¹² CRC recommended that Kyrgyzstan continue to strengthen measures aimed at increasing enrolment rates in primary and secondary education, tackle high dropout rates, and establish special educational programmes to accommodate the needs of working children, street children, migrants with no formal residence permits and children deprived of their liberty.¹¹³

10. Minorities and indigenous peoples

53. In 2007, CERD recommended better representation of ethnic and national minorities in Parliament, Government and public administration.¹¹⁴

54. In 2007, CERD recommended that Kyrgyzstan investigate the clashes between Kyrgyz and Dungan communities living in Iskra, bring those responsible to justice and

provide compensation to the families forced to leave and adopt measures to promote dialogue and understanding between the Dunga and Kyrgyz communities.¹¹⁵

11. Migrants, refugees and asylum-seekers

55. The UNCT noted that in 2009, 431 refugees and 448 asylum-seekers resided in Kyrgyzstan¹¹⁶ and that the governmental recognition rates had shrunk from 28 per cent in 2006 to below 2 per cent in 2008.¹¹⁷ It stated that although Kyrgyzstan had adopted a national Law on Refugees and established an administrative body within its Government responsible for refugee issues, implementation practices increasingly fall short of international standards.¹¹⁸ According to the UNCT, Kyrgyz law enforcement authorities reportedly share information on asylum-seekers and refugees with their counterparts from countries of origin.¹¹⁹ In 2007, CERD noted with concern that competent authorities of Kyrgyzstan allegedly deny refugee status or asylum to individuals belonging to certain ethnic or national minorities, including ethnic Uighurs, Uzbeks and Chechens. It also expressed deep concern at allegations of forcible return of ethnic Uighurs and Uzbeks to their countries of origin,¹²⁰ and urged Kyrgyzstan to ensure that asylum procedures do not have the effect of discriminating against persons.¹²¹

56. In 2008, the HR Committee adopted Views on four individual communications where the responsibility of the State was established, finding that the authors' placement in custody was not carried out in conformity with the procedure established by domestic law, that the authors' extradition exposed them to a risk of torture or to the imposition of the death penalty, and the absence of any opportunity for effective, independent review of the decision to extradite. It requested Kyrgyzstan to provide the victims with an effective remedy, adequate compensation and to prevent similar violations in the future.¹²²

12. Human rights and counter-terrorism

57. In 2006, the Special Rapporteur on freedom of religion or belief, jointly with the Special Rapporteur on the promotion and protection of human rights while countering terrorism and the Special Rapporteur on extrajudicial, summary and arbitrary executions, drew attention to the killing of three individuals in the city of Osh in the context of an alleged counter terrorism operation, noting that reports with regard to one of these persons, an imam of a mosque in the city of Kara-Suu, had cast doubt on whether he was actually involved in any terrorist organizations or acts.¹²³ The Special Rapporteur on the question of torture, in some instances jointly with other mandate holders also transmitted a number of urgent appeals related to the planned extradition of third State nationals suspected of extremist activities to a neighbouring State.¹²⁴

58. The UNCT referred to reports indicating the disproportionate limitations on the exercise of freedom of religion, referring to a need to protect national security and public order and combat religious extremism.¹²⁵ The Government is concerned about perceived extremist groups with radical religious or political agendas and continues its ban on four organizations it deems to be extremist: Hizb ut-Tahrir (HT), the Islamic Party of Turkestan, the Organization for Freeing Eastern Turkestan, and the Eastern Turkestan Islamic Party. The UNCT highlighted reports indicating regular arrests and prosecution of persons accused of possessing and distributing HT literature.¹²⁶ It noted that during anti-terrorist operations, civilian authorities generally maintain effective control over the security forces, although during the past years there have been several cases of serious human rights abuses. Such anti-terrorist operations are reportedly often marred with the excessive use of force and firearms, and difficulties in claiming compensation for the loss of private property destroyed during respective operations.¹²⁷ Moreover, it noted that the investigations and trial for Nookat events held in November 2008 were reportedly marred with serious fair trial violations.¹²⁸

III. Achievements, best practices, challenges and constraints

59. In November 2009, the Special Rapporteur on violence against women commended, inter alia, the adoption of the Law on State Guarantees for Equal Rights and Equal Opportunities, and the positive provisions in the Election Code.¹²⁹

60. According to the UNCT, the global economic slowdown in 2008-2009 adversely affected remittances and resulted in increased pressure on the Government to fulfil and protect social and economic rights.¹³⁰

IV. Key national priorities, initiatives and commitments

A. Pledges by the State

61. In 2006, Kyrgyzstan expressed its readiness to cooperate further with special procedures in the years to come. Particular attention was being paid to recent developments in the field of free and independent mass media, which include an initiative to establish a separate office of ombudsman on mass media. Kyrgyzstan reiterated its readiness to continue to cooperate with human rights treaty bodies and implement their recommendations and concluding observations. It committed itself to submit all periodic reports on the implementation of international human rights instruments.¹³¹

B. Specific recommendations for follow-up

62. In 2008, CEDAW requested information, within one year, on the implementation of the recommendations concerning domestic violence, bride abduction and polygamy.¹³² The follow-up report has been overdue since 7 November 2009.

63. In 2007, CERD requested information, within one year, on the number and outcome of requests for asylum or refugee status since 2002, measures taken to ensure that asylum procedures and measures to combat terrorism are not discriminatory and respect the principle of non-refoulement, and, with reference to the clashes between Kyrgyz and Dungan communities, about the prosecution of those responsible, the compensation provided to the families forced to leave, and the measures adopted to promote dialogue and understanding between communities.¹³³ The follow-up report has been overdue since 16 August 2008.

V. Capacity-building and technical assistance

64. CRC recommended that Kyrgyzstan seek assistance from different United Nations entities in relation to demining and demarcation of the border areas;¹³⁴ safe drinking water and increased access to sanitation;¹³⁵ educational system;¹³⁶ street children;¹³⁷ juvenile justice¹³⁸ and the “New Generation” programme for children’s rights.¹³⁹

Notes

- ¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>
- ² The following abbreviations have been used for this document:
- | | |
|------------|--|
| ICERD | International Convention on the Elimination of All Forms of Racial Discrimination; |
| ICESCR | International Covenant on Economic, Social and Cultural Rights; |
| OP-ICESCR | Optional Protocol to ICESCR; |
| ICCPR | International Covenant on Civil and Political Rights; |
| ICCPR-OP 1 | Optional Protocol to ICCPR; |
| ICCPR-OP 2 | Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty; |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women; |
| OP-CEDAW | Optional Protocol to CEDAW; |
| CAT | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; |
| OP-CAT | Optional Protocol to CAT; |
| CRC | Convention on the Rights of the Child; |
| OP-CRC-AC | Optional Protocol to CRC on the involvement of children in armed conflict; |
| OP-CRC-SC | Optional Protocol to CRC on the sale of children, child prostitution and child pornography; |
| ICRMW | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; |
| CRPD | Convention on the Rights of Persons with Disabilities; |
| OP-CRPD | Optional Protocol to the Convention on the Rights of Persons with Disabilities; |
| CED | International Convention for the Protection of All Persons from Enforced Disappearance. |
- ³ Adopted by the General Assembly in its resolution 63/117 of 10 December 2008. Article 17, paragraph 1 of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”.
- ⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- ⁵ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.
- ⁶ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.
- ⁷ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation;

- Convention No. 138 concerning the Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ⁸ Concluding observations of the Committee on the Elimination of Discrimination against Women, (CEDAW/C/KGZ/CO/3,) para. 48.
- ⁹ Concluding observations of the Committee on the Elimination of Racial Discrimination, (CERD/C/KGZ/CO/4), para. 17.
- ¹⁰ Concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.244), para. 32.
- ¹¹ Recommendations of the United Nations Country Team (UNCT) in its submission to the UPR on Kyrgyzstan. annex I.
- ¹² UNCT submission to the UPR on Kyrgyzstan, p. 2.
- ¹³ CERD/C/KGZ/CO/4, para. 3.
- ¹⁴ Ibid., para. 4.
- ¹⁵ Concluding observations of the Committee on the Rights of the Child, (CRC/C/OPAC/KGZ/CO/1), para. 4(c).
- ¹⁶ UNICEF submission to the UPR on Kyrgyzstan, p. 2.
- ¹⁷ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/10/55, annex I.
- ¹⁸ CRC/C/15/Add.244, para.15.
- ¹⁹ UNCT submission to the UPR on Kyrgyzstan, p. 2.
- ²⁰ Ibid.
- ²¹ CEDAW/C/KGZ/CO/3, para. 26.
- ²² United Nations Country Team submission to the UPR on Kyrgyzstan, p. 4.
- ²³ Concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.49), para. 26.
- ²⁴ UNCT submission to the UPR on Kyrgyzstan, p. 3.
- ²⁵ Ibid.
- ²⁶ Ibid.
- ²⁷ Concluding observations of the Committee on the Rights of the Child, (CRC/C/OPSC/KGZ/CO/1), paras. 5-6.
- ²⁸ UNCT submission to the UPR on Kyrgyzstan, p. 3.
- ²⁹ See General Assembly resolution 59/113 B of 14 July 2005 and Human Rights Council resolution 6/24 of 28 September 2007.
- ³⁰ The following abbreviations have been used for this document:
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| CERD | Committee on the Elimination of Racial Discrimination; |
| CESCR | Committee on Economic, Social and Cultural Rights; |
| HR Committee | Human Rights Committee; |
| CEDAW | Committee on the Elimination of Discrimination against Women; |
| CAT | Committee against Torture; |
| CRC | Committee on the Rights of the Child; |
| CMW | Committee on the Protection of the Rights of All Migrant Workers and Their Families. |
- ³¹ Press release of 16 November 2009.
- ³² Press release of 9 October 2009.
- ³³ E/CN.4/2006/52/Add.3.
- ³⁴ Press release of 16 November 2009.
- ³⁵ E/CN.4/2006/52/Add.3.
- ³⁶ The questionnaires referred to are those reflected in an official report by a special procedure mandate holder issued between 1 January 2006 and 31 January 2010. Responses counted for the purposes of this section are those received within the relevant deadlines, relating to the following questionnaires: (a) report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation, 2005; (b) report of the Special Rapporteur on the sale of

children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs, 2006; (c) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons, 2006; (d) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants, 2006; (e) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities, 2006; (f) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices; (g) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous people, 2007; (h) report of the Working Group on the use of mercenaries (A/62/301), questionnaire on measures adopted and envisaged, including legislation, regarding mercenaries, 2007; (i) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/7/8), questionnaire on assistance and rehabilitation programmes for child victims of sexual exploitation, 2007; (j) report of the Special Rapporteur on violence against women (A/HRC/7/6), questionnaire on indicators on violence against women, 2007; (k) report of the Special Rapporteur on the right to education (A/HRC/8/10), questionnaire on the right to education in emergency situations, 2007; (l) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/10/16 and Corr.1), questionnaire on trafficking in persons, 2008; (m) report of the independent expert on the question of human rights and extreme poverty to the eleventh session of the Council, (A/HRC/11/9), questionnaire on Cash Transfer Programmes, 2008; (n) report of the Special Rapporteur on the right to education (A/HRC/11/8), questionnaire on the right to education for persons in detention, 2009; (o) report of the Special Rapporteur on violence against women (A/HRC/11/6), questionnaire on violence against women and political economy, 2008; (p) report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (A/HRC/12/21), questionnaire on national legislation and initiatives addressing the issue of bonded labour, 2009; (q) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/12/23), questionnaire on measures to prevent and combat online child pornography, 2009; (r) report of the Special Rapporteur on the right to food (A/HRC/12/31), questionnaire on world food and nutrition security, 2009; (s) report of the Working Group on Arbitrary Detention (A/HRC/13/30), questionnaire on the detention of drug users, 2009; (t) joint study on global practices in relation to secret detention in the context of countering terrorism (A/HRC/13/42), questionnaire on secret detention, 2009; (u) report of the Special Rapporteur on the situation of human rights defenders (A/HRC/13/22), questionnaire on the security and protection of human rights defenders, 2009.

³⁷ OHCHR 2008 Report on Activities and Results, p. 120.

³⁸ CEDAW/C/KGZ/CO/3, paras.9-10.

³⁹ Press release of 17 November 2009.

⁴⁰ UNCT submission to the UPR on Kyrgyzstan, p. 5.

⁴¹ CEDAW/C/KGZ/CO/3, paras. 23-24.

⁴² CRC/C/15/Add.244, paras. 26-27.

⁴³ UNCT submission to the UPR on Kyrgyzstan, p. 5.

⁴⁴ CRC/C/OPSC/KGZ/CO/1, paras. 21-22.

⁴⁵ CERD/C/KGZ/CO/4, para.6.

⁴⁶ Ibid., para.8.

⁴⁷ UNCT submission to the UPR on Kyrgyzstan, p. 6.

⁴⁸ Ibid., p. 8.

⁴⁹ A/HRC/4/33/Add.1, A/HRC/7/3/Add.1, A/HRC/10/44/Add.4.

⁵⁰ CRC/C/15/Add.244, paras. 37-38.

⁵¹ Concluding observations of the Human Rights Committee (CCPR/CO/69/KGZ), para. 7.

⁵² CCPR/C/94/D/1275/2004, views adopted on 30 October 2008.

⁵³ Report of the Human Rights Committee, *Official Records of the General Assembly, Sixty-fourth session, Supplement No. 40 (A/64/40)*, vol. I, Chapter VI – Follow- Up Activities Under the Optional Protocol, para. 236.

⁵⁴ Press release of 17 November 2009.

- 55 UNCT submission to the UPR on Kyrgyzstan, pp. 8-9.
- 56 CEDAW/C/KGZ/CO/3 paras. 19-22.
- 57 Ibid., para. 44.
- 58 UNCT submission to the UPR on Kyrgyzstan, pp. 8 and 14.
- 59 CRC/C/15/Add.244, para. 44 (a) and (b).
- 60 CRC/C/OPSC/KGZ/CO/1, paras. 13 and 26.
- 61 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning ILO Worst Forms of Child Labour Convention, 1999 (No. 182), 2009, Geneva, doc. No. (ILOLEX) 092009KGZ182, second paragraph.
- 62 CEDAW/C/KGZ/CO/3, para.30.
- 63 CRC/C/15/Add.244, para. 64 (a) and (b).
- 64 E/CN.4/2006/52/Add.3, p.2.
- 65 UNCT submission to the UPR on Kyrgyzstan, p. 9.
- 66 Ibid.
- 67 Press release of 17 November 2009.
- 68 CRC/C/15/Add.244, paras. 65-66.
- 69 UNCT submission to the UPR on Kyrgyzstan, p. 9.
- 70 Ibid., p. 7.
- 71 CRC/C/15/Add.244, para.67 (a).
- 72 CEDAW/C/KGZ/CO/3, paras. 17-18.
- 73 CRC/C/15/Add.244, para. 35.
- 74 UNCT submission to the UPR on Kyrgyzstan, p. 15.
- 75 CRC/C/15/Add.244, para.36.
- 76 UNICEF submission to the UPR on Kyrgyzstan, p. 5.
- 77 UNCT submission to UPR on Kyrgyzstan, p. 7.
- 78 UNICEF submission to the UPR on Kyrgyzstan, p. 5.
- 79 UNCT submission to the UPR on Kyrgyzstan, p. 12.
- 80 A/HRC/10/8/Add.1, para. 126. See also UNCT submission to the UPR on Kyrgyzstan, p. 12.
- 81 UNCT submission to the UPR on Kyrgyzstan, p. 10.
- 82 E/CN.4/2006/95/Add.1, A/HRC/4/37/Add.1, A/HRC/7/28/Add.1, E/CN.4/2006/55/Add.1, A/HRC/4/27/Add.1, A/HRC/7/14/Add.1, A/HRC/10/12/Add.1.
- 83 A/HRC/11/4/Add.1, para. 1549.
- 84 UNCT submission to the UPR on Kyrgyzstan, p. 11.
- 85 A/HRC/11/4/Add.1, para. 1550.
- 86 UNCT submission to the UPR on Kyrgyzstan, pp. 11-12.
- 87 Ibid., p. 10.
- 88 Ibid.
- 89 Ibid.
- 90 Ibid., p. 12.
- 91 Ibid., p. 13.
- 92 Ibid., p. 12.
- 93 CEDAW/C/KGZ/CO/3, para.33, 34,. See also CCPR/CO/69/KGZ, paragraph. 13.
- 94 UNCT submission to the UPR on Kyrgyzstan, p. 12.
- 95 CEDAW/C/KGZ/CO/3, para. 35.. See also E/C.12/1/Add.49, paragraph 18.
- 96 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Equal Remuneration Convention, 1951 (No. 100), 2009, Geneva, doc. No. (ILOLEX) 092009KGZ100, p.2.
- 97 UNCT submission to the UPR on Kyrgyzstan, p. 13.
- 98 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), 2009, Geneva, doc. No. (ILOLEX) 092009KGZ087, third paragraph.
- 99 UNICEF submission to the UPR on Kyrgyzstan, pp. 2-4.
- 100 UNCT submission to the UPR on Kyrgyzstan, p. 14.
- 101 CRC/C/OPSC/KGZ/CO/1, para.30.
- 102 CEDAW/C/KGZ/CO/3, paras. 37-38.
- 103 UNCT submission to the UPR on Kyrgyzstan, p. 5.

- ¹⁰⁴ UNICEF submission to the UPR on Kyrgyzstan, p. 12.
¹⁰⁵ CEDAW/C/KGZ/CO/3, para.38.
¹⁰⁶ CRC/C/15/Add.244, paras. 49-50.
¹⁰⁷ A/HRC/4/33/Add.1, A/HRC/7/3/Add.1, A/HRC/10/44/Add.4.
¹⁰⁸ UNCT submission to the UPR on Kyrgyzstan, p. 7.
¹⁰⁹ Press release, 9 October 2009.
¹¹⁰ A/HRC/10/7/Add.1, para. 64.
¹¹¹ UNCT submission to the UPR on Kyrgyzstan, p. 15.
¹¹² UNICEF submission to the UPR on Kyrgyzstan, pp. 3-4.
¹¹³ CRC/C/15/Add.244, para. 54. See also E/C.12/1/Add.49, paragraph 23.
¹¹⁴ CERD/C/KGZ/CO/4, para. 11.
¹¹⁵ Ibid., para. 10.
¹¹⁶ UNCT submission to the UPR on Kyrgyzstan, p. 16.
¹¹⁷ Ibid., p. 17.
¹¹⁸ Ibid., p. 16.
¹¹⁹ Ibid., p. 8.
¹²⁰ CERD/C/KGZ/CO/4, para. 9.
¹²¹ CERD/C/KGZ/CO/4, para. 9.
¹²² CCPR/C/93/D/1461,1462,1476& 1477/2006, views adopted on 16 July 2008.
¹²³ A/HRC/4/21/Add.1, para. 214.
¹²⁴ A/HRC/4/33/Add.1, paras. 126 and 128; A/HRC/7/3/Add.1, para. 125; A/HRC/10/44/Add.4, para 133.
¹²⁵ UNCT submission to the UPR on Kyrgyzstan, p. 17.
¹²⁶ Ibid.
¹²⁷ Ibid.
¹²⁸ Ibid.
¹²⁹ Press release of 17 November 2009.
¹³⁰ UNCT submission to the UPR on Kyrgyzstan, p. 21.
¹³¹ Pledges and commitments undertaken by Kyrgyzstan before the Human Rights Council, as contained in the note verbale dated 25 April 2006 sent by the permanent Mission of Kyrgyzstan to the United Nations addressed to the President of the General Assembly available at <http://www.un.org/ga/60/elect/hrc/kyrgyzstan.pdf>.
¹³² CEDAW/C/KGZ/CO/3, para. 50.
¹³³ CERD/C/KGZ/CO/4, para.22.
¹³⁴ CRC/C/15/Add.244, para. 32.
¹³⁵ Ibid., para. 50.
¹³⁶ Ibid., para. 54(f).
¹³⁷ Ibid., para. 64(c).
¹³⁸ Ibid., para. 67(g).
¹³⁹ CRC/C/OPSC/KGZ/CO/1, para. 33.
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