

KYRGYZSTAN

CAT A/55/44 (2000)

70. The Committee considered the initial report of Kyrgyztan (CAT/C/42/Add.1) at its 403rd, 406th and 408th meetings on 16, 17 and 18 November 1999 (CAT/C/SR.403, 406 and 408), and adopted the following conclusions and recommendations.

1. Introduction

71. The Committee welcomes the initial report of Kyrgyztan, which was submitted in a timely fashion and is generally in conformity with the Committee's guidelines for the preparation of initial reports. The Committee also welcomes the open dialogue between the highly qualified representatives of the State party and itself.

2. Positive aspects

72. The Committee notes with satisfaction the following:

(a) The continuing efforts to establish a legal framework based upon universal human values to safeguard fundamental human rights, including freedom from torture and other cruel, inhuman or degrading treatment or punishment;

(b) The suspension of the death penalty for a period of two years and its application only to a few serious offences, in any event;

(c) The repeal of the "supervisory" role of the procurator in a criminal trial;

(d) The provisions of the new Code of Criminal Procedure permitting a detained person access to the lawyer of his choice from the moment of detention and obliging the investigating officer to notify the detained person's family of his arrest from the moment of arrest;

(e) Appointment of a special procurator to inspect isolation centres and detention centres with a view to ensuring their conformity to proper standards vis-à-vis the inmates;

(f) The prosecution of various persons for conduct that would be regarded as breaches of the Convention;

(g) The creation of the National Commission for Human Rights, which has a broad mandate to examine and advance human rights conditions in Kyrgyztan, including investigating power in individual cases and monitoring of conditions in prisons;

(h) The educational initiatives of the State party to ensure that its criminal justice personnel properly understand their human rights obligations.

3. Factors and difficulties impeding the application of the provisions of the Convention

73. The Committee takes note of the transition problems currently faced by the State party.

4. Subjects of concern

74. The Committee expresses its concern about the following:

(a) The absence of a definition of torture as provided in article 1 of the Convention in the penal legislation currently in force in the State party, with the result that the specific offence of torture is not punishable by appropriate penalties as required by article 4, paragraph 2, of the Convention;

(b) The numerous and continuing reports of allegations of torture in breach of article 1 of the Convention; and other cruel, inhuman or degrading treatment or punishment (sometimes involving children) by law enforcement personnel, contrary to article 16 of the Convention;

(c) Although the State party has responded in some instances, there is an apparent failure generally to provide prompt, impartial and full investigation into allegations of torture and cruel, inhuman or degrading treatment or punishment, as well as a failure generally to prosecute, where appropriate, the alleged perpetrators;

(d) The insufficient guarantees for independence of the judiciary, particularly in respect of renewable-term appointments made by the President;

(e) The use of amnesty laws that might extend to torture in some cases.

5. Recommendations

75. The Committee recommends that:

(a) The State party amend its domestic penal law to include the crime of torture, consistent with the definition in article 1 of the Convention, and supported by an adequate penalty;

(b) In view of the numerous reports of allegations of torture and ill-treatment by law-enforcement personnel, the State party take all necessary effective steps to prevent these events from occurring;

(c) In order to ensure that the perpetrators of torture and ill-treatment do not enjoy impunity, the State party ensure the investigation and, where appropriate, the prosecution of all those accused of having committed such acts, and ensure that amnesty laws exclude torture from their reach;

(d) The State party continue its reforms in the police, prosecution and judicial institutions to ensure that each is sensitive to their obligations under the Convention; in particular, urgent steps should be taken to ensure the centrality and independence of the judiciary in the penal system, particularly with reference to limited renewable-term appointments, so as to bring them into line with the 1985 Basic Principles on the Independence of the Judiciary and the 1990 Guidelines on the Role of Prosecutors;

(e) The State party take measures to improve prison conditions, taking into account the 1955 Standard Minimum Rules for the Treatment of Prisoners;

(f) Military places of detention and prisons be supervised to ensure that inmates are not maltreated and they, as should everyone, can be represented by counsel at their trials;

(g) The State party consider abolishing the death penalty;

(h) The State party consider making the declarations under articles 21 and 22 of the Convention.