



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-first session

SUMMARY RECORD OF THE 1824th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 3 August 2007, at 10 a.m.

Chairperson: Mr. de GOUTTES

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Second to fourth periodic reports of Kyrgyzstan (CERD/C/KGZ/4; HRI/CORE/1/Add.101; CERD/C/304/Add.77) (continued)

1. At the invitation of the Chairperson the members of the delegation of Kyrgyzstan resumed places at the Committee table.
2. Mr. DJUMALIEV (Kyrgyzstan) said that non-governmental organizations (NGOs) played an important role in Kyrgyzstan, and their contribution to the social, cultural and economic life of the country was particularly valuable. NGOs participated in policy development and in the drafting of legislation and national reports, including those submitted under international human rights treaties. The Government valued and encouraged NGO activities.
3. Mr. NASIZA (Kyrgyzstan) said that, according to official statistics from State legal bodies, no cases of racial discrimination under the Convention had been brought before the courts during the reporting period.
4. Mr. DJUMALIEV (Kyrgyzstan) said that no individual complaints had been brought against the State under the Convention. On 14 January 2001 a presidential decree had been signed on measures to strengthen the protection of basic human and civil rights and freedoms in Kyrgyzstan. The Kyrgyz National Council cooperated with all State authorities and local government bodies to ensure the effective implementation of initiatives of the Assembly of the Kyrgyz Nation, participated in the establishment and implementation of economic and social development programmes, played an advisory role in civil society and gave expert advice on the development of legislation for the implementation of national policies. Under the aegis of the Assembly of the Kyrgyz Nation a range of annual activities were conducted, such as events during national holidays for the promotion of inter-ethnic tolerance. All activities were intended to strengthen inter-ethnic and national harmony among the peoples of Kyrgyzstan, and to consolidate economic development efforts. In 2006, the President of the Republic had been elected President of the Assembly of the Kyrgyz Nation. The Assembly organized national celebrations and cultural events in order to promote knowledge about the different national and ethnic traditions. An NGO cultural centre had been established in the south of Kyrgyzstan, which helped to develop cooperation, mutual understanding and tolerance among different peoples. The Assembly also participated in discussions on draft legislation, including on the protection of the rights of national minorities, and conducted activities for the development of national cultures and languages in support of the work of the national cultural centres.
5. Comprehensive efforts were being made to encourage cultural development, through the involvement of national education institutions and national media, and through initiatives by different ethnic groups. There were 31 cultural centres and NGOs functioning under the aegis of the Assembly of the Kyrgyz Nation. The Assembly maintained contact with the Organization for Security and Co-operation in Europe (OSCE), including the OSCE High Commissioner on

National Minorities, who had regular contact with the leaders of the Assembly of the Kyrgyz Nation, and national organizations for minority rights, and gave recommendations on minority issues.

6. Mr. NASIZA (Kyrgyzstan) said that the new Constitution had entered into force on 20 January 2007, and contained a section on human and citizens' rights and freedoms, which stated that all persons were equal before the law, and prohibited discrimination on grounds of gender, race, language, nationality, religious belief, political affiliation or any other characteristic. The new Constitution guaranteed the right to life for all, as a result of which the death penalty had been abolished. All remaining death sentences that had not been carried out were being reviewed by the Supreme Court. Since 1 July 2007, all cases related to searches, confiscation of documents, arrests and detention of individuals were dealt with by the courts, and all decisions were taken with the participation of a defence counsel for the suspects. In that regard, the new Constitution and legislation were fully in line with international norms.

7. Pursuant to legislation governing the functions of the media, journalists had the right to publish any information, except that which was subject to the restrictions mentioned in the delegation's previous meeting with the Committee (CERD/C/SR.1823). Cases of defamation and libel were addressed only by the courts and not by any other body. Following a statement made in the newspaper Slovo Kyrgyzstana to the effect that all Uighurs were terrorists, the Uighur Cultural Centre had been advised to institute legal proceedings against the newspaper in order to defend the rights of the Uighur people, but had not done so. All media publications had a place in society, but in the event that they incited hatred or discrimination the victims were entitled to take their cases before the courts.

8. Turning to the issue of complaints on labour issues, he said that the Office of the Prosecutor-General monitored the implementation of legislation, and had noted regular offences with respect to payment of wages and the provision of social support, pensions and benefits, and was taking the necessary measures to bring the perpetrators to justice, through disciplinary measures.

9. There were currently no problems with Uzbek refugees connected to the events that had taken place in Andijan in May 2005. In 2005, the Government had demonstrated its commitment to its international obligations. In the context of the Andijan events, the Government had cooperated closely with the Office of the United Nations High Commissioner for Refugees (UNHCR) on the decision to transfer 439 Uzbek refugees to a third country. The Kyrgyz authorities had established a camp for those refugees, and provided them with shelter and material assistance while they had been resident on Kyrgyz territory. The Uzbek authorities had requested the extradition of 29 Uzbek refugees who had been accused of committing serious offences. The Office of the Prosecutor-General had refused to extradite 25 of those Uzbek citizens, on the basis of insufficient evidence of their involvement in the Andijan events. The remaining four refugees had been extradited, since the case files showed their involvement in the murder of the Procurator of Andijan, and they were therefore considered to pose a serious threat to Kyrgyz security. Kyrgyzstan had been within its sovereign right under international law to remove those citizens from its territory.

10. Mr. DJUMALIEV (Kyrgyzstan) said that economic development was a government priority, since Kyrgyzstan had inherited a number of problems, including poverty, from the Soviet Union, and its transition to a market economy had been difficult. The Government had established a number of poverty reduction programmes, with advice from international organizations, including the international financial institutions. Kyrgyzstan faced a considerable burden of external debt, which was currently equal to 100 per cent of gross domestic product (GDP). Lack of government attention to minority issues was not the result of discrimination, but rather of lack of financial resources. A national development strategy had recently been drafted, which contained programmes for poverty reduction, economic development and strengthening trade and investment. Civil society participated actively in the implementation of development plans and efforts to reduce external debt. Following consultations with civil society and among State bodies, the Government had decided not to become involved in the Heavily Indebted Poor Countries (HIPC) initiative, but instead had drafted a national economic development strategy and intended to overcome its external debt problems through national initiatives.

11. Turning to the issue of health care, he said that, pursuant to the law, all persons in Kyrgyzstan had access to medical services. All citizens must be registered with the medical authorities. Any person not registered could pay to receive medical care. There was a system of benefits in place to ensure adequate access to medical care for the elderly. There was no discrimination against national or ethnic groups with regard to the provision of medical services.

12. With regard to the issue of school textbooks, he said that the lack of adequate teaching materials was a widespread problem in Kyrgyzstan, not specific to any given ethnic group. In accordance with a presidential decree issued in 2003, a working group had been set up to solve the problem.

13. Mr. NASIZA (Kyrgyzstan) said that, under the Refugees Act, all requests for refugee status were treated equally by the Migration Service, regardless of the person's country of origin. The main problem regarding refugees in Kyrgyzstan was the backlog facing the Migration Service. There had never been a deliberate policy to deport members of the Chinese Uighur minority to their country of origin. It was true, however, that in 2001 the Office of the Prosecutor-General had ordered the extradition of a number of Chinese citizens to their country of origin after they had illegally entered Kyrgyz territory. The Chinese Ministry of Justice had supplied the Office with documentation proving that the persons concerned had committed serious crimes in China and the extradition had taken place in accordance with a bilateral treaty on legal cooperation. The Kyrgyz authorities had no information that members of the Uighur minority in China were subject to discriminatory treatment in Kyrgyzstan and would welcome such information if the Committee could provide it.

14. He recalled that Kyrgyz was the national language of Kyrgyzstan, while Russian enjoyed the status of official language. The members of the 90 or so ethnic groups in the country, including the Dungan group, of which he was a member, did not always speak Kyrgyz and preferred to communicate in Russian, the lingua franca since Soviet times. The Official Language of Kyrgyzstan Act 2000 made it an offence for an official to refuse to accept or consider communications from citizens in an official language. Consequently, there was no discrimination against the ethnic minorities on the basis of the language they spoke.

15. Since Kyrgyzstan's independence both Kyrgyz and Russian had been taught at school, along with other languages. A special body had been set up to monitor the teaching of Kyrgyz and every effort was being made to increase the availability of language courses. It had to be recognized that some people, especially the young, found it easier to learn a new language than others. Basic comprehension was not difficult to acquire but the language of official documentation was harder to understand. It was government policy to ensure that the whole population could speak and understand Kyrgyz in the interest of national unity.
16. Mr. DJUMALIEV (Kyrgyzstan) said that more State translators were being trained to translate official documents between Kyrgyz and Russian, in order to remove any linguistic barriers to the full enjoyment of human rights.
17. All State officials were given compulsory training in international legal standards and instruments. The many NGOs in the country, along with international organizations, also played a part in ensuring that officials were fully aware of their obligations under the Convention. In April 2007, in cooperation with the United Nations Development Programme (UNDP) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Ministry of Foreign Affairs had held a round table on the issues of reporting in compliance with the human rights conventions. Representatives of the ministries and institutions of Kyrgyzstan had attended, along with international experts. Nonetheless, the Government was mindful of the need to improve human rights education in general.
18. Mr. NASIZA (Kyrgyzstan) said that OSCE was particularly active in human rights education in Kyrgyzstan, principally through its Academy in Bishkek. All officials at the Office of the Prosecutor-General had received training at the Academy.
19. Mr. MURZAHALILOV (Kyrgyzstan) said that, thanks to the "Kyrgyzstan, Our Common Home" programme, national inter-ethnic policy had been successful and national unity and cohesiveness had been promoted. Cultural centres had been set up to protect the interests of ethnic groups and their linguistic and cultural identity. Each community had its own educational institutions, from kindergartens to universities. The American University of Central Asia in Bishkek also played its part. All national bodies had formulated plans of action to ensure that members of the various ethnic groups participated in public life. One result of the State policy of national unity and tolerance was that the exodus of Russians from Kyrgyzstan had been stemmed.
20. Mr. NASIZA (Kyrgyzstan) said that, under the Kyrgyz Constitution, basic human rights and freedoms attached to everyone from birth. The only limitations on the rights of non-citizens were exclusion from serving in the armed forces or as a law enforcement officer, and from standing for elective office. The Constitution and all legislation clearly provided that all other rights, including social and economic rights, were applicable to citizens and non-citizens alike.
21. Turning to the issue of the representation of minorities in State bodies, he said that Russians, Uzbeks, Koreans and other ethnic groups were all represented in parliament. Although the Dungan minority, to which he belonged, was tiny, it was well represented in government bodies and law enforcement agencies; he was the Head of the Department on International Affairs at the Office of the Prosecutor-General. Nevertheless he was not alone in wishing to see

even greater representation of the ethnic minorities among members of the judiciary, policymakers and law enforcement officials. That would require greater efforts to improve levels of education among the ethnic minorities, something the Government was doing its utmost to achieve.

22. Mr. DJUMALIEV (Kyrgyzstan) confirmed that all ethnic groups were well represented at every level of public life, including parliament and Government. Article 9 of the Labour Code 2004 prohibited racial discrimination in the workplace. Kyrgyzstan had signed the relevant International Labour Organization (ILO) conventions and reported to ILO on the implementation of its obligations.

23. Mr. MURZAHALILOV (Kyrgyzstan) said that, like other national minorities, Russian speakers were well represented at every level of public life, including Government, parliamentary committees, law enforcement agencies and the judiciary. There was no discrimination against ethnic minorities but public administration officials had to have the right qualifications.

24. Mr. DJUMALIEV (Kyrgyzstan) said that the Kyrgyz delegation fully agreed with the Committee that its report should have been more analytical and transparent. The next periodic report should contain more statistical data on how successful Kyrgyzstan had been in implementing the Convention. The Government was open to dialogue and had nothing to hide. In any case, the active civil society in the country, which had been fully represented at the meeting, would not allow the Government to conceal the facts. Indeed, NGOs often identified information about possible violations of the Convention that the Government was not in a position to notice. There was a strong political will in Kyrgyzstan to increase openness and improve transparency in State policy, with regard not only to the human rights treaties but also to social and economic progress in general.

25. Both the Office of the Ombudsman (Akyikatchy) and the Commission on Human Rights established by presidential decree accepted submissions from both physical and legal persons. Their areas of competence did not overlap. The Commission dealt with allegations of violations of the rights protected by the Constitution, provided policy advice to the President and drew up proposals for the further strengthening of human rights. The Office of the Ombudsman considered complaints from citizens, foreigners, stateless persons, NGOs and other parties relating to the actions of public or local authorities, State bodies and enterprises and State officials. There was therefore a strong mechanism for the protection of human rights, which benefited from the vigilance and cooperation of NGOs. If the Committee wished to suggest any improvements to the system, his delegation would be very pleased to hear them.

26. Mr. MURZAHALILOV (Kyrgyzstan), replying to a question about mother-tongue teaching, said that the use of various languages in the education system received government attention at the highest level, with special funding, curricula and textbooks. Schools and specialized educational institutions taught the history and culture of various ethnic groups.

27. Mr. DJUMALIEV (Kyrgyzstan) said that many internal migrants moved to the big cities from remote areas to fill jobs vacated by people who had emigrated abroad. For instance, the number of people moving from Batken oblast (province) to the capital, Bishkek, had almost

doubled between 1999 and 2006, from 506 to 922. The migrants came from all ethnic groups. Over 600,000 people had emigrated to the Russian Federation, and others to European countries including Italy and the United Kingdom of Great Britain and Northern Ireland, where many of them worked legally, but others did not. The Government worked closely with the States concerned, with the International Organization for Migration and with the migrants themselves in order to protect their rights and regularize their employment situation where necessary.

28. Mr. NASIZA (Kyrgyzstan) agreed that internal migration posed some serious problems. It was related to the adverse social and economic situation in the more remote and mountainous regions of the country, which led people to come down to the larger settlements to find work. NGOs had given the issue a great deal of attention, and the Government was setting up a programme to deal with it.

29. No penalties had been imposed over the previous three years for racially motivated offences under article 134 of the Criminal Code. That might be a positive sign, or an indication that victims were unaware of the possibility of redress provided by that article. The Criminal Code contained further provisions which prohibited the expression of racial or religious hatred: eight people had been prosecuted under those provisions in the recent past.

30. Mr. SICILIANOS said that, despite the assurances of the Kyrgyz delegation, he was still concerned about the situation of asylum-seekers from China and Uzbekistan, in the light of the information made available to the Committee from other sources. Since the summer of 2006, it was alleged, Uzbek refugees and asylum-seekers had been subjected to abduction and police surveillance and harassment. It was reported that, in one case, four asylum-seekers had been extradited to Uzbekistan, and only a few weeks before, in June 2007, another asylum-seeker had been returned to Uzbekistan after his asylum application had been rejected for reasons of form rather than substance.

31. Mr. AVTONOMOV, while thanking the members of the delegation for their comprehensive replies to the Committee's questions, said it was regrettable that the report gave so little statistical information about the implementation of the Convention and related national legislation. Perhaps people were not aware of their rights or did not have sufficient confidence in the authorities to try to exercise them: the Committee must have information if it was to judge whether the Convention was being fully implemented. Kyrgyzstan had not made the declaration provided for in article 14 of the Convention, so the Committee could not receive complaints directly from individuals. In any case, it was the State party's responsibility to implement its obligations under the Convention. He hoped that, in its next report, Kyrgyzstan would indicate why so few complaints of racial discrimination had been lodged: there must be cases of racial or religious hatred and direct or indirect discrimination, and the Committee needed to have a complete picture of the situation.

32. Mr. KJAERUM said that the word "citizen" was used throughout the report in contexts which he thought should apply to everyone under the jurisdiction of the Kyrgyz authorities, whatever their citizenship. He called upon the delegation to confirm that rights such as the right to freedom of association and freedom of assembly applied to citizens and non-citizens alike.

33. Mr. YUTZIS welcomed the delegation's willingness to accept further advice from the Committee in order to improve Kyrgyzstan's next periodic report. The problems of internal migration described by the delegation were common in many countries with economies in transition which were experiencing radical political and economic change and the rapid redistribution of wealth. He was particularly concerned about the inter-ethnic tensions which might arise in such a situation, where more and more new arrivals were competing with the original population of the big cities and there were not enough resources for everyone. In the next periodic report, he hoped that Kyrgyzstan would provide disaggregated data for the various ethnic groups.

34. The CHAIRPERSON, speaking in his personal capacity, said he hoped that the next periodic report would contain more statistics collected by the police or the courts on the number of prosecutions for racially motivated offences. It was also important to inform victims and the general public about the Convention and their rights under it, for instance by widely publicizing the report and the Committee's concluding observations.

35. Mr. DJUMALIEV (Kyrgyzstan) noted that the Committee had received further information in the form of the alternative report on Kyrgyzstan's compliance with the Convention submitted by a number of NGOs. However, he felt that the alternative report had not adequately reflected the efforts made by the Government to promote human rights. He hoped that future alternative reports would redress the balance.

36. Kyrgyzstan had faced a number of difficult decisions in respect of the refugee and asylum-seeker cases referred to by Mr. Sicilianos. Its neighbours had suffered a series of tragic events, and sensitive political processes had been under way in Kyrgyzstan itself at the time. Kyrgyzstan had provided humanitarian aid for many refugees, with the assistance of UNHCR. The four asylum-seekers whose case had received so much attention internationally had, in fact, been terrorists who posed a threat to Kyrgyzstan and to society as a whole.

37. He acknowledged that the periodic report did not contain enough statistical information. He had a compilation of demographic data, disaggregated by gender, which he would hand over to the secretariat straight away, and he would ensure that the next periodic report contained more statistics and economic analyses.

38. Mr. NASIZA (Kyrgyzstan) said that Kyrgyzstan's actions in respect of the individual referred to by Mr. Sicilianos should not be taken as proof of failure to abide by the international provisions governing the treatment of refugees, or of a worsening of the refugee situation in general. There had been no other requests for extradition in 2006 or 2007. Under the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of 1994, Kyrgyzstan was obliged to extradite individuals who had committed a crime in certain ex-Soviet States. It was true that the authorities sometimes took a long time to decide about applications for asylum, and their decisions were sometimes flawed, but the applicant was free to appeal against an unfavourable decision. The case in question had received no special treatment: it had been an ordinary case of extradition of a criminal.

39. It was true that internal migration could lead to inter-ethnic tensions. For instance, newcomers might misappropriate land which rightfully belonged to others. Kyrgyz legislators were preparing legislation to penalize illegal land seizures.

40. The concept of Kyrgyz citizenship was defined in the Constitution. In a few special cases, which the delegation had described, citizens enjoyed rights which non-citizens did not. However, most legislation, including the Labour Code and Family Code, accorded the same rights to both groups. There was no discrimination against non-citizens.

41. Mr. KEMAL, while acknowledging the shortcomings of the report, nevertheless applauded Kyrgyzstan for its efforts to grapple with the daunting problems it faced and for the positive attitude shown by its delegation. Although Kyrgyzstan was the smallest country in its region and had the most serious economic problems, particularly in terms of foreign debt, NGOs had indicated that minorities enjoyed a better situation there than anywhere else in the region. He recommended examination of the issues of porous borders and illegal immigration, which could cause future problems, and wished Kyrgyzstan success in building a new nation.

42. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) summarized the dialogue between the Committee and the Kyrgyz delegation, drawing particular attention to the role of NGOs and to refugees and internal migration, language, especially in the context of mother-tongue education and State affairs, media freedoms, poverty reduction, civil rights, and lack of prosecutions for racially motivated crimes. He welcomed the additional statistical information provided by the delegation.

43. The CHAIRPERSON thanked the delegation of Kyrgyzstan for its replies. The Committee had received much useful information from both the delegation and NGOs, which had been acknowledged by the delegation as playing an important role as the voice of civil society.

44. The delegation of Kyrgyzstan withdrew.

FOLLOW -UP TO THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 8)

45. Mr. DOUGAN-BEACA (Chief, OHCHR Anti-Discrimination Unit) said that the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action had commissioned studies on complementary standards. In 2006 the Human Rights Council had decided to split the annual 10-day session of the Intergovernmental Working Group for 2007 into two parts, to be held in March and September. The first part had allowed a preliminary exchange of views with the experts appointed to elaborate complementary standards, followed by continuous dialogue with the Committee. At the second part, the results of the studies would be considered, together with the further mandate of the Intergovernmental Working Group, which was as yet unclear.

46. The slightly delayed report of the experts appointed to elaborate complementary standards would be available soon. He could reveal in advance that it would not contain any startling departures, nor would it propose a substantial quantity of new instruments, although it was likely to request an instrument on the right to education.

47. The twenty-member Bureau for the Durban Review Conference had yet to be formally appointed but it had been decided that the Bureau designate would begin work on the preparatory process. He outlined the schedule of meetings so far agreed, including three sessions of the Preparatory Committee. The Bureau designate had agreed, after some discussion, that the

Committee on the Elimination of Racial Discrimination and other human rights treaty bodies would not be invited to attend the first, organizational session of the Preparatory Committee, but the Committee and one other body had been invited to make written submissions. The Durban Review Conference itself would take place in the first half of 2009, but the exact date, which depended on the host country, had yet to be decided upon. The objectives of the Review Conference would be determined by the Preparatory Committee, taking into account inter alia the Committee's written submission. It had been recommended that an intersessional working group be established to consider all contributions, in order to identify the main themes which would form the basis of the final document of the Review Conference and to prepare an initial version thereof.

48. Mr. SICILIANOS expressed the view that the Committee should participate in the whole preparatory process, given its mandate and the prominent role ascribed to it in the Programme of Action agreed by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. He asked Mr Dougan-Beaca what, in his personal opinion, the objectives of the Review Conference should be.

49. Mr. AMIR asked what precisely was meant by the "objectives" of the Review Conference.

50. Mr. DOUGAN-BEACA (Chief, OHCHR Anti-Discrimination Unit) explained that an item entitled "objectives of the conference" appeared on the provisional agenda of the Bureau designate. In accordance with the practice followed for similar United Nations review conferences over the previous 15 years, he understood the purpose of such an agenda item to be to identify the focus of the review process. In the case of the Durban Review Conference, the Bureau designate and the Preparatory Committee would identify objectives, taking into account the views of various stakeholders, including the Committee on the Elimination of Racial Discrimination.

51. Replying to Mr. Sicilianos' question, he said that extensive efforts had been made to advise States on upholding their obligations under international human rights instruments. Attention should now be given to the victims of racial discrimination in order to ascertain why, in their view, they were not benefiting from the rights guaranteed in instruments ratified by States. Better dialogue was needed with States to promote human rights. The focus should not be on any new declarations or programmes of action because the existing ones had not yet been effectively implemented. Rather, measures should be identified to ensure the effective eradication of racial discrimination.

The meeting rose at 1 p.m.