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Committee on the Elimination of Racial Discrimination**Concluding observations on the combined eighth to tenth periodic reports of Kyrgyzstan***

1. The Committee considered the combined eighth to tenth periodic reports of Kyrgyzstan (CERD/C/KGZ/8-10), submitted in one document, at its 2618th and 2619th meetings (CERD/C/SR.2618 and 2619), held on 24 April and 25 April, 2018. At its 2632nd meeting (CERD/C/SR.2632), held on 3 May 2018, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the eighth to tenth periodic report of the State party which included responses to the concerns raised by the Committee in its previous concluding observations (CERD/C/KGZ/CO/5-7). The Committee also expresses its appreciation for the constructive dialogue with the State party's delegation.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following measures:

(a) The efforts undertaken to reduce the number of stateless persons between 2014 and 2017, including through the reduction from five to three years of the residency requirement for naturalization for recognized refugees;

(b) The implementation of the National Sustainable Development Strategy (2013-2017);

(c) The development of the Concept on 'Strengthening National Unity and Inter-Ethnic Relations in the Kyrgyz Republic' (2013-2017) and the creation of the State Agency for Local Self-Government and Inter-Ethnic Relations to implement the 36 priority measures identified in the Concept.

* Adopted by the Committee at its ninety-fifth session (23 April – 11 May 2018).

C. Concerns and recommendations

Applicability of the Convention

4. While noting the State party's affirmation that the Convention is directly applicable in the domestic legal system, the Committee expresses its concern about the lack of examples of cases of racial discrimination where the provisions of the Convention have been invoked in, or applied by, domestic courts (art. 1).

5. **The Committee recommends that the State party redouble its efforts to ensure that judges, prosecutors and lawyers are trained on the provisions of the Convention in order to enable them to apply it in relevant cases. The Committee requests the State party to include in its next periodic report specific information on cases of application of the Convention by domestic courts and access by individuals to remedies on violations of rights contained in the Convention.**

National human rights institution

6. The Committee is concerned that the Ombudsperson of the Kyrgyz Republic (Akyikatchy) is still not compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). The Committee is also concerned about the low number of discrimination complaints on grounds of race or ethnicity submitted to the Ombudsperson (art. 2).

7. **The Committee recommends that the State party accelerate the legislative process aimed at bringing the Ombudsperson in full compliance with the Paris Principles. The Committee also recommends that the State party take effective measures to raise awareness about the work carried out by the Ombudsperson and the possibility to lodge complaints on racial or ethnic-based discrimination, and ensure that it is equipped with the necessary resources to discharge its role efficiently. The Committee refers the State party to its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention.**

Human rights defenders and civil society organizations

8. The Committee is concerned about the increasing incidents of harassment of civil society organisations (CSOs), human rights defenders, and journalists, including those monitoring and reporting on the situation of ethnic minorities, which create a hostile environment within which they operate. The Committee is also concerned about the State party's continuous failure to restore the rights of Mr. Azimzhan Askarov, who is serving life imprisonment following a re-trial that reportedly fell short of international standards for fair trial. The Committee is moreover concerned about the placement of some human rights organisations on a list of extremist organisations and materials (art. 2).

9. **The Committee recommends that the State party:**

(a) **Ensure that all reported cases of intimidation or harassment of CSOs, human rights defenders and journalists are promptly and thoroughly investigated and that those responsible are held accountable;**

(b) **Take effective measures to ensure that CSOs, human rights defenders and journalists, including those working on the rights of ethnic minorities, are able to carry out their work effectively without fear of reprisals;**

(c) **Effectively implement the Views of the Human Rights Committee in the case of Azimzhan Askarov, dated March 2016, and consider releasing Mr Askarov on humanitarian grounds, taking into account his age and deteriorating health condition;**

(d) Refrain from placing organisations promoting and protecting human rights on the list of extremist organisations and materials, and ensure the availability of effective due process safeguards against arbitrary inclusion in that list, including by introducing the necessary amendments to the law ‘On Combatting Extremist Activities’.

Anti-discrimination legislation

10. While noting that the State party’s delegation did not object to the recommendation to develop an anti-discrimination law, the Committee is however concerned about the persistent absence of general anti-discrimination legislation and of any provision specifically prohibiting racial discrimination (arts. 1 and 4).

11. The Committee recommends that the State party adopt comprehensive anti-discrimination legislation that:

(a) Defines direct and indirect discrimination and includes all grounds of discrimination as well as prohibits all forms of racial discrimination in line with article 1, para 1, of the Convention;

(b) Defines the various manifestations of racial discrimination as a punishable offence in accordance with article 4 of the Convention; and,

(c) Provides for the possibility of adopting special measures to promote equal opportunities and address structural discrimination.

12. **The Committee encourages the State party to seek technical assistance from the Office of the High Commissioner for Human Rights when preparing such a bill, and to make full use of the Convention and the Committee’s general recommendations No. 1 (1972) on States parties’ obligations as well as No. 7 (1985) and No. 15 (1993) relating to the implementation of article 4 of the Convention.**

Complaints of racial discrimination

13. The Committee is concerned about the limited number of racial or ethnic discrimination complaints received by reception centres of the State Agency for Local Self-Government and Ethnic Relations, reportedly due to lack of people’s awareness or confidence in State institutions. The Committee is also concerned about the information provided by the State party that none of the complaints submitted to the police in recent years related to racial or ethnic discrimination (arts. 4 and 6).

14. Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee reminds the State party that the absence of complaints or legal proceedings brought by victims of racial discrimination can be indicative of legislation that is insufficiently specific, a lack of awareness of available remedies, lack of confidence in judicial redress and fear of reprisals, or an unwillingness on the part of the authorities to initiate proceedings. The Committee therefore recommends that the State party:

(a) Take all steps necessary to facilitate access by minorities to justice;

(b) Expedite the adoption of anti-discrimination law and disseminate it widely;

(c) Inform the population residing in its territory about all the legal remedies available to them and of the possibility of obtaining legal assistance;

(d) Provide statistical data on numbers of complaints of racial discrimination and on investigations, prosecutions and convictions, disaggregated by the age, gender and ethnic origin of victims.

Intersecting forms of discrimination

15. Despite the steps taken by the State party to combat discrimination based on sexual orientation and gender identity, the Committee is concerned that lesbian, gay, bisexual, and transgender (LGBT) individuals belonging to ethnic minorities are subject to multiple forms of discrimination and a range of human rights violations from State and non-State actors, which often result in impunity. The Committee is also concerned that women and children belonging to ethnic minorities are subject to intersecting forms of discrimination on grounds of sex, race, ethnicity and age, and at the emergence of harmful practices, such as child marriage and polygamy (art. 5).

16. **The Committee recommends that the State party take the necessary measures to combat the multiple forms of discrimination faced by LGBT individuals as well as women and children belonging to ethnic minorities, including by mainstreaming gender, sexual orientation and gender identity dimensions in its measures to combat racial discrimination. The Committee also recommends that the State party take effective measures to investigate human rights violations committed, including by law enforcement officials, against LGBT individuals, prosecute perpetrators, and compensate victims. Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee furthermore calls on the State party to pay particular attention to women and children belonging to ethnic minorities, and take effective measures to combat child marriage and polygamy.**

Hate speech and ethnic profiling

17. The Committee is concerned about the prevalence of stereotyping and stigmatization of ethnic minorities, including Uzbeks, Turks, Uighurs and Mugat, as well as the incidence of hate speech against them in the media and by public and political figures. The Committee is also concerned at the ethnic profiling by law enforcement officers of these communities and in particular Uzbeks (arts. 2 and 4-6).

18. **Recalling its general recommendation No. 35 (2013) on combating racist hate speech, the Committee urges the State party to:**

(a) Strengthen its efforts, including through education, culture, awareness-raising campaigns, to combat ethnic or racial stereotypes and stigma with a view to promoting tolerance and understanding;

(b) Take necessary measures to combat racist media coverage and incidents of hate speech committed including by politicians and other public figures, and ensure that such cases are thoroughly investigated and, where appropriate sanctions be imposed;

(c) Put an end to the practice of racial or ethnic profiling by the police, undertake effective investigations into all allegations of racial profiling, hold those responsible accountable, and provide effective remedies to victims;

(d) Develop training programmes on racial discrimination for law enforcement officers, including police, prosecutors and the judiciary, including on racial profiling and on proper methods for identifying, registering, investigating and prosecuting racist incidents, hate crimes and cases of hate speech.

Inter-ethnic tensions

19. The Committee notes that some measures were adopted by the State party during the period under review to address inter-ethnic tensions, such as the State Concept on Strengthening National Unity and Inter-Ethnic Relations in the Kyrgyz Republic. It notes however with concern the persistence of such tensions, notably between the Kyrgyz majority and Uzbek minority. The Committee is concerned that the State Concept focused on creating a national identity that is not explicitly inclusive of all ethnicities may tend to reignite past conflicts. Rather national identity must be built on recognition of all communities in the nation. The Committee is moreover concerned that ethnic minorities are not sufficiently represented in the State Agency for Local Self-Government and Inter-Ethnic Relations, and at the reported ineffectiveness of the Agency.

20. The Committee recommends that the State party intensify its measures aimed at fostering an inclusive environment enabling the different ethnic groups to live together in harmony. The Committee urges the State party to:

(a) Ensure that the New State Concept ‘I am Kyrgyzstani’ (2018-2023) does not privilege any ethnic identity, inclusively addresses the concerns of the various ethnic groups present in the State party, and genuinely tackles the root causes of the ethnic tensions;

(b) Ensure effective participation of all concerned ethnic groups and civil society organisations, notably those working on the elimination of racial discrimination, in the design, implementation and evaluation of the State Concept;

(c) Strengthen the structures of, and resources allocated to, the State Agency for Local Self-Government and Inter-Ethnic Relations with a view to enhancing its effectiveness, and take steps to ensure adequate representation of ethnic minorities at the Agency.

Investigations into the 2010 violence

21. The Committee is concerned that investigations into the human rights violations that occurred during and in the aftermath of the June 2010 ethnic violence in the south of Kyrgyzstan were not effective, and were marred by ethnic bias and lack of respect of fair trial and due process guarantees. The Committee is particularly concerned that, while the majority of victims of human rights violations were of Uzbek origin, most of those who faced criminal prosecutions were also Uzbek. Moreover, according to the information provided during the dialogue, no compensation was provided to Uzbek victims of justice miscarriage in relation to those events. The Committee reiterates its concern about the reported use of torture by law enforcement officials and the reliance on coerced confessions in courts, particularly against Uzbeks implicated in the 2010 violence, combined with the State party’s failure to bring alleged perpetrators to justice and compensate victims.

22. Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system and its previous recommendation (CERD/C/KGZ/CO/5-7, paragraph 6), the Committee calls on the State party to:

(a) Set up a mechanism that is hybrid national and international to review all cases of persons condemned in connection with the June 2010 violence;

(b) Effectively investigate all human rights violations with a view to bringing perpetrators to justice, commensurately punishing them if convicted, and compensating victims;

(c) Investigate all allegations of torture committed by law enforcement officials, prosecute and punish those responsible, and compensate victims of torture. In this context, the Committee urges the State party to redouble its efforts to reform the judiciary as well as the security and police forces.

Socio-economic situation of ethnic minorities

23. The Committee is concerned about the low level of enjoyment of economic and social rights by certain ethnic groups in the State party. In particular, the Committee is concerned about:

(a) The extremely low living standard of the Mugat, characterised by high unemployment rate, low school attendance and high drop-out rates, especially among girls, and limited access to social services, notably due to lack of documentation, including birth certificates;

(b) Land expropriation, home demolitions, and forced evictions disproportionately affecting Uzbeks from Osh and Jalal Abad and which are carried out frequently in the absence of due process guarantees,

(c) Discrimination against Uzbeks in their access to work and the absence of remedies provided to those who were arbitrarily dismissed from work following the 2010 events (arts. 2 and 5).

24. **The Committee recommends that the State party take effective measures, including special measures, to eliminate ethnic-based disparities in the enjoyment of economic and social rights. The Committee recommends that the State party pay particular attention to the situation of Mugat and Uzbek ethnic minorities, and ensure their participation in the development and implementation of the new National Sustainable Strategy. Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the State party should:**

(a) **Adopt and implement, with the participation of representatives of the Mugat, a well-resourced strategy to address the structural discrimination faced by the Mugat in all areas of life;**

(b) **Take immediate measures to improve access to quality and inclusive education by Mugat, with a view to increasing school enrolment rates, combatting school dropout, and improving school achievements among the concerned children;**

(c) **Take effective measures to ensure that everyone, notably the Mugat, hold identity documentation, and that all children born in the State party are swiftly issued birth certificates, without discrimination;**

(d) **Take the necessary steps to guarantee the availability of effective legal safeguards against arbitrary land expropriation and forced evictions, and ensure that such safeguards are known by, and accessible to, the public at large, while incorporating provisions for compensation and alternative housing, and ensure that house demolitions and forced evictions are only used as a last resort;**

(e) **Effectively address difficulties faced by Uzbeks in access to work, including through the adoption of special measures to combat ethnically-motivated discriminatory practices in recruitment processes, including by disciplining or sanctioning employers using such practices, and take concrete steps to remedy Uzbeks who experienced arbitrary work dismissal in relation to the 2010 events.**

Public and political participation of ethnic groups

25. The Committee notes that in 2015 the State party introduced a quota system to improve ethnic minorities' representation at the Parliament and local authorities. It is concerned however that ethnic minorities, notably Uzbeks, remain significantly underrepresented in many areas of political and public life, including in local councils located in regions where Uzbeks constitute the majority of the population. Moreover, ethnic minorities' representation is negligible within police and security forces as well as in the judiciary (art.2 and 5).

26. The Committee recommends that the State party ensure that the quota system is effectively implemented and introduce other measures aimed at increasing the representation of ethnic minorities at all levels of public and political circles in the State party. The Committee moreover requests the State party to include in its next periodic report detailed account of ethnic minorities' representation at the Parliament, local authorities, executive bodies, prosecutorial offices, the judiciary, as well as security and police forces. The Committee refers the State party to its general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination.

Access to education in minority languages

27. The Committee is concerned at the significant decline in Uzbek language instruction at schools and the continuous inadequate provision of technical and human resources necessary for teaching this language. Moreover, the Committee is concerned that the abolition in 2015 of university admission test in Uzbek language resulted in the discrimination of children whose education was partially delivered in Uzbek language (art. 5).

28. The Committee urges the State party to ensure that its policy on language use in education does not discriminate, directly or indirectly, on the basis of ethnicity. In particular, it recommends that the State party reintroduce Uzbek language instruction at schools and to that end, allocate specific budgetary resources necessary for the provision of quality mother tongue education, and reconsider its decision to abolish university admission test in Uzbek language, considering the discriminatory effect it has on Uzbek students.

Stateless persons and asylum-seekers

29. The Committee, while noting the measures undertaken to reduce the number of stateless persons in the State party, remains concerned that more than 800 cases of individuals with undetermined nationality remain unresolved. It is also concerned that existing procedures for statelessness determination do not conform to international standards. The Committee is furthermore concerned that provisions on deprivation of citizenship included in the draft law on Citizenship lack safeguards to protect against statelessness. Lastly, the Committee is concerned about information received that under the amended provisions of the Law on External Migration, forcible deportation may be carried out without a court order if the person is repeatedly charged for illegal stay (art. 5).

30. The Committee recommends that the State party continue and strengthen its efforts to resolve the remaining stateless cases. Recalling its general recommendations No. 30 (2004) on discrimination against non-citizens, and No. 22 (1996) on article 5 of the Convention and refugees and displaced persons, the Committee also recommends that the State party:

(a) Establish a formal and simple statelessness determination procedure to enable all stateless persons, without discrimination, to have their status ascertained;

(b) Ensure that the new draft law on citizenship include safeguards against statelessness in the event of citizenship deprivation, and provide for due process guarantees, including the possibility to appeal citizenship deprivation decisions;

(c) Amend the Law on External Migration to ensure that the removal of non-citizens from its jurisdiction do not discriminate on the grounds of race, colour or ethnic or national origin and that non-citizens have equal protection against refoulement;

(d) Consider Acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

D. Other recommendations

Ratification of other instruments

31. Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Rights of Persons with Disabilities, and the International Convention for the Protection of all Persons from Enforced Disappearance.

Follow-up to the Durban Declaration and Programme of Action

32. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

33. In the light of General Assembly resolution 68/237, the Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in the framework of the International Decade for People of African Descent, taking into account the Committee's general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

34. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations concerned with human rights protection, in particular those working to combat racial discrimination, in the preparation of the next periodic report and in follow-up to the present concluding observations.

Declaration under article 14 of the Convention

35. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the Committee's competence to receive and consider individual communications.

Amendment to article 8 of the Convention

36. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Common core document

37. The Committee invites the State party to update its common core document in line with the harmonized guidelines on reporting under the international human rights treaties, in particular for reporting under international human rights treaties. (HRI/GEN/2/Rev.6, chap. I). It recommends the State party to observe the limit of 42,400 words for such documents (General Assembly resolution 68/268)

Follow-up to the present concluding observations

38. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 9(c), 22(a) and 28 above.

Paragraphs of particular importance

39. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11, 24 and 26 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement these.

Dissemination of information

40. The Committee recommends that the State party's reports be made readily available to and accessible by the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.

Preparation of the next periodic report

41. The Committee recommends that the State party submit its combined eleventh and twelfth periodic reports, as a single document, by 5 October 2022, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.