



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Kyrgyzstan and welcome the constructive engagement of your Government during the 35th session of the UPR Working Group in January 2020.

As the final outcome report on the review of Kyrgyzstan has been recently adopted by the Human Rights Council at its 45th session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Kyrgyzstan – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and/or recommendations made by 89 delegations and the presentation made and responses provided by the delegation of Kyrgyzstan. I have also considered the actions taken by the Government of Kyrgyzstan to implement the 150 recommendations supported during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

I congratulate Kyrgyzstan's accomplishment for having addressed the problem of statelessness, through identifying 13,700 stateless persons and granting them full rights as citizens. The adoption of the development programme for the social protection of the population is also noteworthy. I also welcome the entry into force, on 1 January 2019, of the Criminal Code, the Code on Minor Offences, the Code of Criminal Procedure and the Code of Penal Enforcement, as well as the establishment of the National Centre for the Prevention of Torture.

While the amendment to the Family Code to prevent underage marriage represents significant progress, I remain concerned about reports of violence against women and girls, including bride kidnapping, and thus encourage stronger measures to enforce the laws criminalizing bride kidnapping and child marriage.

In the context of the COVID19 pandemic, I have called upon countries to release from prison all human rights defenders and all those detained without sufficient legal basis, or most at risk of the COVID19 virus. I note with concern in particular the death in prison on 25 July 2020 of ethnic Uzbek human rights defender Mr. Azimjan Askarov, despite multiple requests for his release on humanitarian grounds, including by the UN Special Procedures mandate holders. I encourage to ensure a prompt, impartial and effective investigation into his death, and ensure redress for his family, in line with international law.

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His Excellency
Mr. Ruslan KAZAKBAEV
Minister for Foreign Affairs
Kyrgyzstan



I welcome the adoption of the Human Rights Action Plan for the period 2019–2021 and encourage Kyrgyzstan to continue implementing it effectively in order to achieve concrete results in the areas highlighted in the annex to this letter and to facilitate preparations for the fourth cycle of the UPR. My advice to all Member States is to implement national action plans in close consultation and cooperation with all stakeholders, in particular the Office of the Ombudsman and all civil society organizations and, where necessary, with the support of international organizations, including my Office and other United Nations entities, under the leadership of the United Nations Resident Coordinator.

I also encourage Kyrgyzstan to make further efforts to strengthen its national mechanism for reporting and follow-up in relation to recommendations received from all international and regional human rights mechanisms and to treaty obligations, while linking these to the Sustainable Development Goals. I strongly recommend the use of the OHCHR practical guide on this topic, which is available at:
http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Please note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can positively contribute to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I encourage Kyrgyzstan to consider submitting a mid-term report on follow-up to the third cycle of the review, by the end of 2022.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *“The Human Rights Council’s universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council’s recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals.”*

I look forward to discussing with you ways in which my Office may assist Kyrgyzstan in relation to the areas identified in this letter and its annex.

Please accept, Excellency, the assurances of my highest consideration.

Michelle Bachelet
High Commissioner for Human Rights

cc: His Excellency
Mr. Nuran NIYAZALIEV
First Deputy Foreign Minister
Kyrgyzstan

Mr. Ozonnia OJIELO
United Nations Resident Coordinator
Kyrgyzstan



Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratifying the International Convention for the Protection of All Persons from Enforced Disappearance; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Domestic Workers Convention, 2011 (No. 189); and the amendment to article 8 (6) of the International Convention on the Elimination of All Forms of Racial Discrimination.
- Effective implementation of Views of the United Nations human rights treaty bodies adopted in relation to Kyrgyzstan.

National human rights framework

- Reversing the 2016 constitutional amendments and restoring in the Constitution the primacy of international human rights law over domestic law.
- Strengthening the capacity of the Ombudsperson office in accordance to the Paris Principles.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Adopting comprehensive anti-discrimination legislation that provides a definition of direct and indirect discrimination, including discrimination on the grounds of sexual orientation and gender identity, prohibits discrimination against women on all grounds, includes racial discrimination and defines it as a punishable offence, and provides for special measures to promote equal opportunities and address structural discrimination.
- Promoting tolerance, combating racist media coverage and hate speech and ensuring that such cases are investigated, and developing training programmes for state officials, including the judiciary and law enforcement officers.

B. Civil and political rights

Right to life, liberty and security of person

- Ensuring that no person is returned to another State where there are grounds to believe that that person would be in danger of torture or enforced disappearance.
- Enhancing the legislative framework and improving investigations with respect to torture.
- Strengthening the national preventive mechanism to detect systemic risks of torture and to assist the State to overcome them.

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

- Regarding the inter-ethnic conflict of June 2010, setting up a hybrid national/international mechanism to review all cases of persons convicted; investigating all human rights

violations to bring perpetrators to justice and compensate victims; investigating allegations of torture committed by law enforcement officials; and providing remedies to ethnic Uzbeks arbitrarily dismissed from their posts as a result of the events of 2010.

- Increasing its efforts to combat corruption and its root causes.

Fundamental freedoms

- Investigating all reported cases of intimidation of civil society organizations, human rights defenders and journalists; ensuring that they are able to carry out their work without fear of reprisals; and guaranteeing the right to peaceful assemblies and freedom of expression, refraining from placing organizations promoting and protecting human rights on the list of extremist organizations.

Prohibition of all forms of slavery

- Evaluating the phenomenon of trafficking in persons, affording victim assistance, and strengthening training for law enforcement, judges and other relevant state officials.
- Conducting comparative studies on trafficking and prostitution to address root causes, establishing an oversight mechanism, and providing shelters and reintegration programmes.

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Fully applying labour rights in the informal economy, subjecting it to labour inspection, regularizing the situation of workers in the informal economy, and ensuring that labour legislation on occupational health and safety is implemented.

Right to social security

- Establishing a social protection floor as an initial step towards a universal comprehensive social security system, progressively increasing old-age pension amounts, and extending social assistance to refugees and asylum seekers.

Right to an adequate standard of living

- Increasing the minimum wage and ensuring its enforcement.
- Implementing a national strategy for the reduction of homelessness and that evictions, when justified, be carried out in compliance with international human rights law.
- Implementing a poverty reduction strategy, providing child benefits for families in poverty, and ensuring that families do not place children in institutions.
- Setting up a public food distribution system for disadvantaged individuals and those living in remote regions, strengthening the school feeding programmes, and tackling related structural problems.

Right to health

- Taking ownership of the programmes developed with international cooperation, improving the availability of health services in all regions, increasing investments in health-care personnel, and integrating a human rights-based approach into health-care



education; developing evidence-based treatment guidelines to minimize opportunities for corruption in the health sector, addressing informal payments by ensuring decent wages, and ensuring accountability through independent anti-corruption agencies; eliminating reliance on large institutions and establishing community-based health services for persons with intellectual and psychosocial disabilities; and strengthening reproductive health services to address HIV transmission, and providing counselling that targets adolescents and young people.

- Monitoring and sanctioning discrimination in access to health services; providing confidential access for everyone to contraceptives and safe abortion services; and increasing access to maternal health services, taking into account the OHCHR technical guidance to reduce preventable maternal morbidity and mortality.

Right to education

- Increasing budgetary allocations to ensure free access to quality and inclusive education, and providing poor families with support.

D. Rights of specific persons or groups

Women

- Ensuring mandatory training for judges, prosecutors and law enforcement officials on the application of the relevant criminal law provisions dealing with violence against women; encouraging women to report incidents to law enforcement bodies and not elders' courts; and establishing shelters.
- Amending the Criminal Procedure Code to ensure that rape is prosecuted ex officio and the Act on Religious Belief and Practice so that religious wedding ceremonies can be administered only subject to either prior registration of a civil wedding or registration within a short period of any such ceremony in an official registry; adopting legislation to criminalize marital rape, providing for mandatory restraining or protection orders when a perpetrator made repeated attempts to abduct a victim, and making it mandatory for educational institutions, teachers, employers, hospitals and social services to report it to the law enforcement authorities if they have reasonable grounds to believe that an act of bride kidnapping has occurred or may occur; ensuring that bride kidnapers and family members or friends who were complicit in the crime are prosecuted; ensuring access to effective remedies for victims; and providing crisis centres and shelters.
- Developing a gender mainstreaming strategy that include gender-responsive budgeting; adopting temporary special measures in areas where women are underrepresented, addressing the root causes of the weak implementation of existing temporary special measures, and introducing legislative provisions to encourage the use of such measures; promoting the entry of women into the formal economy through vocational training and the facilitating of childcare services; adopting legislation to combat discrimination and sexual harassment in the workplace and to guarantee equal pay; and introducing legislation on the right to maternity leave in the informal sector.

Children

- Combating the labour exploitation of children.
- Excluding the possibility of solitary confinement of children.
- Ensuring birth registration of all children.

Persons with disabilities

- Moving away from institutional to community-based care for children with disabilities.

Minorities

- Introducing special measures to eliminate ethnic disparities in forced evictions and access to work; ensuring the participation of the ethnic Uzbek and Mugat minorities in the implementation of the National Sustainable Development Strategy; and ensuring that the quota to improve ethnic minorities' representation in the Zhogorku Kenesh and in local authorities is implemented.
- Ensuring that the 2018–2023 “I am Kyrgyzstani” policy does not favour any ethnic identity and address concerns of the various ethnic groups; ensuring participation of all ethnic groups and civil society organizations in the “I am Kyrgyzstani” State policy; ensuring adequate representation of ethnic minorities at the State Agency for Local Government Affairs and Inter-Ethnic Relations; and introducing other measures to increase the representation of ethnic minorities at all levels of public and political life.
- Reintroducing Uzbek language instruction in schools and reconsidering the decision to abolish university admission tests in Uzbek; and allowing mother tongue education and minority language press.

Migrants, refugees and asylum seekers

- Ensuring timely registration of all asylum applications and assessing applications without discrimination.
- Enacting legislation to provide refugees and asylum seekers with access to medical assistance on an equal basis with nationals.
- Undertaking inquiries into allegations of corruption relating to migrant workers and ensuring migrant worker access to emergency medical care and the education system.
- Providing consular assistance to Kyrgyz migrant workers who are victims of discrimination and violence, investigating crimes against them, and raising awareness among nationals about the potential risks of migration; and intensifying efforts to conclude bilateral and multilateral agreements to extend protection to Kyrgyz migrant workers abroad, providing legal advice to potential migrant workers, ensuring that their spouses and children obtain residence permits in the country of employment, and protecting children without parental care.

Stateless persons

- Ensuring that the new draft Constitutional Law on Deprivation of Citizenship include effective safeguards against statelessness and expediting endorsement of the status determination procedure on statelessness.