



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

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES UNDER  
ARTICLE 9 OF THE CONVENTION**

**Fourth periodic reports of States parties due in 2004**

**Addendum**

**KYRGYZSTAN\* \*\***

[18 May 2006]

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\* This document contains the second to fourth periodic reports of Kyrgyzstan, due on 4 October 2000, 2002 and 2004 respectively, submitted in one document. For the initial report submitted in one document, and the summary records at which the Committee considered those reports, see document CERD/C/326/Add.1 and CERD/C/SR.1354 and 1364.

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**Second, third and fourth periodic reports of the Kyrgyz Republic on  
implementation of the International Convention on the Elimination  
of All Forms of Racial Discrimination**

**CONTENTS**

	<i>Page</i>
Chapter I .....	3
Chapter II .....	8
Chapter III .....	12
Chapter IV .....	12
Chapter V .....	13
Chapter VI .....	30
Chapter VII .....	31

## Chapter I

1. On gaining independence in 1991, the Kyrgyz Republic embarked on a programme of systematic reform in various spheres of public life with a view to enabling all Kyrgyz citizens, without distinction, to lead a dignified life. Since independence, Kyrgyzstan has made a fundamental choice to uphold democracy and the supremacy of the law and to protect human rights.
2. Consequently, the Government has laid the foundations for a democratic society and an open market economy, nurtured the formation of a multiparty system and the development of civic initiative, activism and local autonomy as the foundations of political life, preserved and consolidated political and social stability, and strengthened inter-ethnic harmony.
3. Kyrgyzstan has been nicknamed “the land of NGOs”, with more than 11,000 such organizations in the country at the beginning of 2005. Since independence, the Kyrgyz Republic has acceded to 27 international human rights conventions and treaties, thereby confirming its commitment to universal democratic standards in this area and to effective cooperation with the United Nations, the Organization for Security and Cooperation in Europe (OSCE) and other international organizations in the human rights arena.
4. By historical circumstance, the Kyrgyz Republic is a multi-ethnic State inhabited by various ethnic groups. Upholding the rights of ethnic minorities and supporting inter-ethnic harmony and interfaith tolerance are cornerstones of Kyrgyz domestic policy. The international community has recognized Kyrgyzstan’s successful record in this area.
5. More than 90 ethnic groups were present in Kyrgyzstan at the beginning of 2004, including Kyrgyz (67.4 per cent), Uzbeks (14.2 per cent), Russians (10.3 per cent), and others (8.1 per cent). In some towns and districts certain nationalities outnumber Kyrgyz.
6. Article 15 of the Kyrgyz Constitution states:
  - “1. Human dignity in the Kyrgyz Republic shall be absolute and inviolable.
  2. Fundamental human rights and freedoms shall attach to every person from birth. They shall be recognized as absolute, inalienable and protected by law and the courts against infringement by others.
  3. All persons in the Kyrgyz Republic are equal before the law and the courts. No person shall be subject to any kind of discrimination, violation of their rights and freedoms on the grounds of origin, sex, race, ethnic background, language, religion, political and religious views, or any other considerations or circumstances of a personal or public nature.
  4. Human rights and freedoms are valid in the Kyrgyz Republic. As such, they inform the meaning, content and application of the laws, are binding on the actions of the legislature, the executive and local government bodies, and are upheld by the justice system.

5. In the Kyrgyz Republic, the State shall encourage folk customs and traditions that do not conflict with the Constitution and human rights and freedoms.”

7. All legislative instruments, including the Code of Criminal Procedure and the Code of Civil Procedure, specify that citizens enjoy equal rights irrespective of their race, nationality, ethnic origin, or language.

8. The rights of Kyrgyz citizens and ethnic minorities provided for by the Kyrgyz Constitution and other laws and regulations are in accordance with the norms of international law. The aim of human rights policy in Kyrgyzstan is to acknowledge and safeguard fundamental human rights and freedoms in accordance with the generally accepted principles and norms of international law and inter-State treaties and agreements in the field of human rights ratified by the Kyrgyz Republic (Constitution, art. 16). This article states that all persons in the Kyrgyz Republic have the right:

- To life and physical and moral integrity;
- To personal freedom and security;
- To freedom of personal development;
- To freedom of confession, religion and worship;
- To free expression and dissemination of thoughts, ideas, opinions, freedom of literary, artistic, scientific and technical creativity, freedom of the press, and freedom to transmit and disseminate information;
- To freedom of movement and freedom to choose one’s place of residence throughout the territory of Kyrgyzstan, and the right to travel abroad and return without hindrance;
- To freedom of association;
- To assemble peacefully without weapons, and freely to hold rallies and demonstrations;
- To inviolability of the home;
- To freedom and privacy of correspondence;
- To honour, privacy and sanctity of the family;
- To confidentiality of postal, telegraphic and telephone communications;
- To hold or own property and to enjoy and dispose of it at one’s discretion;

- To economic freedom and free use of one's abilities and assets for any type of economic activity;
- To freedom of labour and free choice of one's line of work or occupation.

9. The enumeration of rights and freedoms in the Kyrgyz Constitution should not be interpreted as negating or minimizing the importance of other generally recognized human rights and freedoms.

10. Article 17 of the Kyrgyz Constitution stipulates that no laws shall be enacted that abrogate or derogate from human rights and freedoms. The Constitution and laws of Kyrgyzstan permit restrictions on the exercise of rights and freedoms only for the purposes of upholding the rights and freedoms of others, protecting public safety and defending the constitutional order. In such cases, the essence of the constitutional rights and freedoms shall not be affected.

11. A Presidential Decree of 5 July 1997 brought into being a Commission on Human Rights that exercises its powers on the basis of a Statute ratified by the same Presidential Decree. The Commission's remit is:

- (a) To assist the President of the Kyrgyz Republic in exercising his constitutional powers as guarantor of human and civil rights and freedoms;
- (b) To promote more effective arrangements for upholding human and civil rights and freedoms;
- (c) To develop cooperation with international organizations and foreign voluntary and non-governmental organizations involved in protecting human rights and freedoms.

12. In discharging its mandate, the Commission:

- (a) Considers communications from individuals addressed to the Head of State or the Commission itself regarding protection of human and civil rights and freedoms;
- (b) Prepares a national plan of action and a strategy to enforce the provisions of the Constitution, the laws and the generally accepted international legal norms in the sphere of human rights;
- (c) Compiles annual and ad hoc reports on respect for human rights and transmits them to the President;
- (d) Suggests improvements to the arrangements for upholding and protecting human and civil rights and freedoms;
- (e) Coordinates activities of public bodies and NGOs connected with education, publicity, and publication of educational and guidance material on human rights;

(f) Offers human rights guidance to public bodies and voluntary associations;

(g) Studies and evaluates reports by international organizations and NGOs on the human rights situation in the Kyrgyz Republic.

13. The President of the Kyrgyz Republic signed a decree on 14 January 2001 on measures to strengthen the protection of basic human and civil rights and freedoms in Kyrgyzstan. The decree states that:

(a) 2001 is a milestone in the implementation of national policy to strengthen protection of the basic human rights and freedoms guaranteed by the Kyrgyz Constitution;

(b) One of the Government's legislative priorities for 2001-2002 was to draft and adopt laws and regulations that encourage and develop the effective exercise of the civil, political, economic, social, cultural and other rights and freedoms that flow from the inherent worth of the individual.

14. The Government subsequently devised the "New Generation" National Programme for the Realization of the Rights of the Child, ratified by Government Decision No. 431 of 14 August 2001; the National "Human Rights" Programme for the period 2002-2010, ratified by Presidential Decree No. 1 of 2 January 2002; the National Plan of Action to Achieve Gender Parity in Kyrgyzstan in the period 2002-2006, ratified by Presidential Decree No. 52 of 2 March 2002; and the implementation plan for the national concept "Kyrgyzstan - land of human rights", ratified by Presidential Decree No. 151 of 15 May 2003.

15. Following the fiftieth anniversary of the adoption by the United Nations of the Universal Declaration of Human Rights in December 1998, Kyrgyzstan was moved by the principles of humanism and respect for international norms on respect for human and civil rights and freedoms to declare a two-year moratorium on the death penalty. On 2 December 2000 this moratorium was extended to 31 December 2001. It was subsequently extended every year during the period 2001-2005 by Presidential Decree No. 6 of 11 January 2002, No. 1 of 1 January 2003, No. 425 of 30 December 2003, No. 4 of 10 January 2005 and No. 667 of 29 December 2005.

16. Crimes for which the death penalty is still prescribed, although only as an alternative penalty, include:

(a) Aggravated homicide;

(b) Rape of a child with serious consequences;

(c) Genocide.

17. Article 18 of the Kyrgyz Constitution states that no one shall be tortured or subjected to cruel, inhuman or degrading punishment. Propaganda or agitation designed to stir up social, racial, inter-ethnic or religious hatred or enmity is also prohibited. It is against the law to advocate social, racial, ethnic, religious or linguistic superiority.

18. Article 10 of the Kyrgyz Code of Criminal Procedure outlaws the practice of obtaining evidence using threats, violence or other unlawful methods during interrogations or other investigative measures.
19. Under article 325 of the Kyrgyz Criminal Code, an investigator who uses threats, blackmail or other unlawful actions to compel a suspect or accused person to give evidence shall be criminally liable. The penalty shall be stiffer if such acts are attended by violence against or bullying of the person being interrogated, and likewise if they have serious consequences.
20. One method that individuals can use to protect their rights is to file complaints and reports with public bodies, which are bound to take all steps prescribed by law to restore rights that have been violated.
21. The Kyrgyz law enforcement agencies, and primarily the procurator's office, are responsible for enforcing unconditional compliance with the laws of Kyrgyzstan and international treaties while showing sensitivity to citizens' rights, freedoms and legitimate interests. The Kyrgyz procurator's office operates on the basis of guaranteed protection of civil rights and freedoms.
22. All Kyrgyz legislative instruments state that citizens are equal irrespective of their ethnic origin. The legal status of ethnic minorities is regulated by the Kyrgyz Constitution, the Civil Code, the Non-profit Organizations Act, other Kyrgyz laws and regulations, and international instruments and treaties ratified by the Kyrgyz Republic.
23. In accordance with the provisions of the Constitution and legislation in force, all ethnic minorities have the right to vote and participate in elections and there are no restrictions on citizens' electoral rights in connection with belonging to a particular ethnic minority. Moreover, it is an offence contrary to article 139 of the Kyrgyz Criminal Code to prevent a person from exercising their electoral rights or their right to take part in a referendum.
24. The core provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and the civil rights contained therein are reflected in the Constitution of the Kyrgyz Republic. The Constitution categorically prohibits manifestations of racial discrimination and confers equal rights on all citizens. Article 15 states that everyone in the Republic is equal before the law and the courts. No one may be subjected to any form of discrimination or encroachment on rights and freedoms on grounds of origin, sex, race, ethnic background, language, faith, political or religious views or any other considerations or circumstances of a personal or public nature.
25. The prohibition of discrimination on grounds of race, ethnic origin, language or faith and the principle of equality are enshrined in a number of laws and regulations, specifically the Civil Code (arts. 2, 52, 56, and 223, para. 3), the Citizenship Act (Preamble), the Criminal Code, the Education Act (art. 2), the Labour Code (art. 9) and, prior to 30 August 2002, the Marriage and Family Code (art. 4) (thereafter, the new Family Code).

26. The principle that all parties to legal proceedings are equal is regulated by article 6 of the Code of Civil Procedure (Administration of justice by the courts alone according to the principle of equality before the law and the courts), which states:

“Justice in civil matters shall be administered by the courts alone on the principle that all citizens are equal before the law and the courts, irrespective of their origin, social status, wealth, race, ethnic background, sex, education, language, attitude to religion, type and nature of occupation, place of residence and other circumstances”,

and by article 15 of the Code of Criminal Procedure (Administration of justice according to the principle of equality before the law and the courts), which states:

“Justice in criminal cases shall be administered according to the principle that citizens are equal before the law and the courts, irrespective of their origin, social status, wealth, race, ethnic background, sex, education, language, attitude to religion, type and nature of occupation, place of residence and other circumstances.”

27. The protection of all persons against discrimination, especially discrimination on grounds of race, nationality or ethnic origin, is one of the most important objectives proclaimed in Kyrgyz laws and policies.

28. The Kyrgyz Republic guarantees the preservation, equal status and unfettered development and use of all languages spoken by its population (Constitution, art. 5).

29. Kyrgyzstan ensures the unfettered development of the languages of other ethnic groups that live in the country (Official Language of Kyrgyzstan Act (No. 54 of 2 April 2004), art. 4).

30. To guarantee protection for civil rights and prevent discrimination on linguistic grounds, the Kyrgyz Parliament (*Zhogorku Kenesh*) adopted the Official Language of Kyrgyzstan Act on 29 May 2000. Under this Act, Russian has the status of an official language in Kyrgyzstan. The Act makes it an offence for an official to refuse to accept or consider communications from citizens in an official language, and outlaws any obstacle to the use of an official language in the circumstances and for the purposes defined by the Act. All of which has enormous significance for the civil and political rights of individuals. The adoption of the Act means that the rights of ethnic minorities have been immeasurably strengthened.

## Chapter II

31. Under the “Kyrgyzstan, Our Common Home” programme, every Kyrgyz citizen is part of the indivisible Kyrgyz nation. Thanks to the programme, national inter-ethnic policy has scored notable successes and promoted the unity and cohesiveness of the Kyrgyz nation.

32. Ethnocultural centres and voluntary associations began to form in 1992, setting themselves the challenge of protecting the interests of ethnic groups and upholding their linguistic and cultural identity. There are now more than 30 such organizations.



33. On 7 December 1993, the directors of 11 ethnic centres proposed to the President that a Kyrgyz National Council (*kurultai*) should be convened to discuss common problems, work out solutions and find ways to resolve the crisis affecting the country with a view to subsequently strengthening inter-ethnic harmony. The President issued a decree establishing an organizing committee for a Kyrgyz National Council to strengthen inter-ethnic harmony and friendship among the peoples of Kyrgyzstan. Kyrgyz National Councils are held annually.

34. The National Council of 22 January 1994 decided to convene an Assembly of the Kyrgyz Nation, a mass voluntary organization designed to express the national interests of the ethnic groups that comprise the Kyrgyz nation and to ensure national solidarity.

35. The Assembly of the Kyrgyz Nation is an innovative and, as experience has shown, an effective way of combining community-based and official efforts to support inter-ethnic harmony and civil peace in Kyrgyzstan. The Assembly basically functions as a kind of national parliament that affords representation to each and every ethnic group in Kyrgyzstan.

36. The Assembly's remit is set forth in its Charter, and includes the following objectives: to promote strengthening of inter-ethnic harmony, civil peace and unity among the people of Kyrgyzstan by all possible means; to realize the interests of the national minorities who together with the Kyrgyz form the population of Kyrgyzstan, and to coordinate their interests with those of the majority ethnic group; to bring together all ethnic groups in Kyrgyzstan and imbue them with universal humanist values; to avert situations of conflict; and to resist confrontation and extremism in inter-ethnic relations. With these ends in view, the Assembly:

(a) Promotes public awareness of the shared history and long-term common interests of the ethnic groups that make up the Kyrgyz nation and fosters interaction between and mutual enrichment of their cultures;

(b) Fosters the activities of ethnic cultural community groups;

(c) On the basis of appropriate democratic procedures and international standards, encourages ethnic minorities to exercise their right to take part in community and public life, especially issues relating to the protection of their interests;

(d) Establishes a variety of educational, cultural, religious and human rights organizations to preserve and develop the ethnic, linguistic, cultural and religious identity of ethnic minorities;

(e) Develops, implements, and where necessary submits proposals for the consideration of the President, Parliament and the Government on preserving and promoting the spiritual, moral and physical health of each ethnic group; the ethnic, cultural, linguistic and religious identity of ethnic minorities; and their languages, self-image, mores and customs;

(f) Monitors the situation in the country and makes proposals to local authorities on approaches to solving ethnic and inter-ethnic problems;

(g) Represents the interests of ethnic groups in the Kyrgyz Republic in relation to international NGOs concerned with ethnic issues.

37. The Assembly was involved in discussions on a range of legislative proposals including the ethnic minority rights bill, the voluntary associations bill, and the Elections Code, in the course of which it submitted proposals. These proposals aim to strengthen the Assembly's role in representing the interests of all ethnic groups and protecting the rights of ethnic minorities.

38. One noteworthy outcome of this phase in the Assembly's work was the impetus it provided for a Presidential Decree on the status of the Council of the Assembly of the Kyrgyz Nation, signed by the President on 14 January 1997. The Decree gives the Council of the Assembly the status of an advisory and consultative body to the President on inter-ethnic relations and nationalities policy.

39. Since its inception, the Assembly has promoted the revival and development of ethnic cultures and languages and lent its support to the activities of ethnic cultural centres in this sphere. Owing to the Assembly's efforts, many of these centres have secured a national platform and a nationwide audience. They have taken part in national holidays, in particular the 1000th anniversary of the Manas Epic, and celebrated the anniversaries of outstanding public figures, cultural luminaries and scholars from the different peoples of Kyrgyzstan.

40. The trend in cultural policy is to move away from aesthetic education and mass cultural events towards a more all-embracing approach to the development of culture, emphasizing education, mass media and the intellectual potential of a given ethnic group.

41. The Assembly of the Kyrgyz Nation currently counts 31 ethnic cultural centres and voluntary associations among its membership.

42. Since it was established, the Assembly and its constituent organizations have maintained contacts with OSCE structures involved in supporting ethnic development and inter-ethnic relations. The OSCE High Commissioner on National Minorities is the primary focal point for this cooperation.

43. The first international seminar on inter-ethnic relations and regional cooperation was held in Bishkek in May 1995 under the auspices of the Kyrgyz Government, facilitated by the OSCE High Commissioner Mr. van der Stoel. The agenda was varied, and the event constituted a first step towards a deeper understanding of the reality of inter-ethnic relations today.

44. The Assembly's Information and Research Centre was set up in January 1996 with backing from the High Commissioner and the Foundation for Inter-Ethnic Relations; it started work in June the same year.

45. Under the auspices of the Assembly and with support from High Commissioner van der Stoel, two seminars were organized in 1996 and 1997:

(a) "Laying the legal groundwork for inter-ethnic relations - practical aspects". The seminar was held on 28 June 1996 by the OSCE High Commissioner's Foundation for Inter-Ethnic Relations, the Assembly of the Kyrgyz Nation and the Kyrgyz Ministry of Foreign Affairs. Invited international experts included Professor G. Alfredsson, the Director of

the Raul Wallenberg Institute for Human Rights and Human-rights Legislation; Walter Palm, a senior political adviser at the Ethnic Minority Policy Coordination Department, Public Administration Directorate, Ministry of Internal Affairs of the Netherlands; and Aleksei Semenov, a member of the Tallinn city government and participant in the Estonian President's round table. The seminar was attended by leaders of ethnic organizations, deputies and officials from the Kyrgyz Parliament, representatives of the Government ministries and departments concerned and a variety of international organizations;

(b) An international seminar on the theme "Towards ethnic stability and harmony" was held in Osh on 7 June 1997 under the auspices of the Assembly of the Kyrgyz Nation. It was attended by the High Commissioner on National Minorities, Mr. van der Stoep; his adviser Mr. Stefan Vasiliev; the Deputy Director of the Foundation for Inter-Ethnic Relations, Mr. Jonathan Cohen; and OSCE experts Mr. Clem MaCartney from Northern Ireland and Ms. Bess Brown, an official at the OSCE regional office in Tashkent.

46. At a rough estimate, US\$ 12,800 from the Small Projects Fund of the Embassy of the Kingdom of the Netherlands to Kyrgyzstan and Kazakhstan and approximately US\$ 15,000 from the Foundation for Inter-Ethnic Relations were mobilized for three seminars, technical support of the Assembly's Information and Research Centre, and financing of the first issue of the High Commissioner's newsletter.

47. The OSCE High Commissioner is in regular contact with the Assembly leadership and the directors of organizations working to protect the rights of ethnic minorities and promote inter-ethnic relations. He studies the situation in this area and makes recommendations. Since the Assembly began its work in January 1994, he has visited Kyrgyzstan six times, going twice to the south, and has personally attended two seminars, two enlarged sessions of the bureau of the Assembly, and held a number of meetings with leaders of ethnic organizations.

48. An international seminar on managing inter-ethnic relations, designed for provincial governors and representatives of central government, was held in 1998 under the auspices of the Assembly and with financial support from the Foundation for Inter-Ethnic Relations. As a result, efforts to strengthen inter-ethnic relations and nationalities policy and the project of building a tolerant society in Kyrgyzstan have acquired new momentum.

49. The Assembly of the Kyrgyz Nation continues to receive ongoing assistance and financial support. In 2004 the Assembly celebrated its tenth anniversary. And today it is an important institution of civil society and a key component of the non-governmental and State system for supporting ethnic development and ensuring trouble-free relations between ethnic communities, thereby promoting the development of all ethnic groups in the Kyrgyz Republic.

50. In the course of legal reform, new laws are being enacted that give effect to the principle of non-discrimination as enshrined in the International Convention on the Elimination of All Forms of Racial Discrimination. Specifically, the new Code of Criminal Procedure, which became law in 1999, stipulates that citizens shall be equal before the law and the courts (art. 16).

### **Chapter III**

51. The International Convention on the Suppression and Punishment of the Crime of Apartheid (Accession) Act was adopted on 26 July 1996. Pursuant to this Convention, acts of apartheid may be characterized as genocide. Article 373 (Genocide) of the Kyrgyz Criminal Code of 1 October 1997 criminalizes offences against any racial group, including killing members of the group, seriously endangering their health, imposing measures intended to prevent births within the group, forcibly transferring children, forced resettlement, or inflicting on the group conditions of life calculated to bring about its physical destruction.

52. Under Kyrgyz criminal law, such actions are categorized as particularly serious offences. The specified punishment is deprivation of liberty for between 12 and 20 years or the death penalty.

53. It should be noted that there is no apartheid or racial segregation in the Kyrgyz Republic, and no crimes fitting this description have been recorded.

### **Chapter IV**

54. As a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Kyrgyz Republic condemns all propaganda and activities based on ideas or theories of the superiority of one race or ethnic group over another and passes legislation to outlaw completely all acts of racial discrimination and manifestations of discrimination. Article 9 of the Kyrgyz Constitution states: “Acts calculated to disturb the peaceful coexistence of nations, or to advocate or foment inter-ethnic conflict, shall be unconstitutional”.

55. Kyrgyz law bans the publication in the mass media of materials that preach ethnic exclusivity and intolerance towards other peoples and nations. Thus, according to article 23, paragraphs (c) and (d), of the Mass Media Act of 2 July 1992 (Information not intended for public broadcast):

“The mass media shall not broadcast the following types of information:

(c) Propaganda for war, violence and cruelty, ethnic and religious exclusivity or intolerance towards other peoples and nations;

(d) Insults to the honour of peoples”.

56. The proprietor of a mass media outlet, in the person of its executive board, or the broadcast organization in the person of its editor or the broadcaster concerned, may be prosecuted for breaching the terms of this Act (arts. 24 and 25).

57. Article 10, paragraph 3, of the Freedom of Access to Information (Safeguards) Act of 5 December 1997 (Information not intended for public broadcast) stipulates that “propaganda for war, violence and cruelty, ethnic or religious exclusivity or intolerance towards other peoples and nations” are prohibited.

58. Media outlets and the source of the information may be prosecuted for breaching the terms of this Act (Freedom of Access to Information (Safeguards) Act, art. 11).

59. All forms of encouragement or incitement to racial discrimination by local authorities, public bodies, and ethnic or cultural organizations are banned in the Kyrgyz Republic.

### Chapter V

60. Kyrgyz legislation prohibits racial discrimination and establishes genuine equality between all Kyrgyz citizens in all spheres of life and in the eyes of the law, irrespective of their ethnic origin or race.

61. The Kyrgyz Constitution states that basic human rights and freedoms attach to all persons from birth. They are recognized as being absolute, inalienable and protected by law and the courts against infringement by others.

62. In Kyrgyzstan all persons are equal before the law and the courts. No one shall be subjected to any form of discrimination or infringement of their rights and freedoms by reason of their race, ethnic origin or any other considerations or circumstances of a personal or public nature (Constitution, art. 15).

63. The Kyrgyz Code of Criminal Procedure enshrines the following provisions:

- Justice in the Kyrgyz Republic is administered by the courts alone (art. 7);
- Everyone is guaranteed judicial protection of his rights and freedoms at all stages of proceedings, and the victim shall have access to justice and the right to be compensated for harm caused (art. 9);
- All parties to criminal proceedings are bound to respect the rights, freedoms and dignity of the individual (art. 10);
- Justice is administered on the basis of equality before the law and the courts, irrespective of race and ethnic origin (art. 16);
- Proceedings shall be conducted in the national or official language. Parties to proceedings who are not fluent in the language of the proceedings have the right to make statements, give evidence, submit petitions, consult the case-file and address the court in their native language and to use the services of an interpreter (art. 23);
- Whenever they discover evidence of a crime, investigators and procurators, acting within their terms of reference, must initiate criminal proceedings and take all steps prescribed by law to establish the circumstances of the crime and identify the perpetrator. Investigators and procurators must ensure that victims of crime have access to justice (art. 24).

64. The Kyrgyz procuratorial agencies have neither received nor handled any complaints or allegations of violations of civil rights committed in the course of criminal investigations, nor any complaints or allegations of violations committed by law enforcement officers motivated by racial or ethnic discrimination.

65. Article 16 of the Kyrgyz Constitution states that basic human rights and freedoms shall be recognized and guaranteed in accordance with universally accepted principles and norms of international law and inter-State human rights treaties and agreements ratified by the Kyrgyz Republic. All persons in the Kyrgyz Republic have the right:

- To life and physical and moral integrity;
- To personal freedom and security.

66. The guarantees of life, physical and moral integrity, personal freedom and security proclaimed in the Kyrgyz Constitution are also enshrined in the relevant provisions of the Criminal Code. Section VII of the Code (Crimes against the person) prescribes punishments for the following offences:

- Chapter 16. Crimes against life and health (art. 97 (Murder); art. 102 (Causing a person to commit suicide); art. 103 (Inciting a person to commit suicide); art. 104 (Deliberate infliction of serious bodily injury); art. 112 (Deliberate infliction of minor bodily injury); and others);
- Chapter 17. Crimes against liberty, honour and dignity (art. 123 (Abduction); art. 124 (Trafficking in persons); art. 125 (Unlawful deprivation of liberty); and others);
- Chapter 18. Crimes against sexual inviolability and freedom (art. 129 (Rape); art. 130 (Sexual violence); art. 131 (Coercion to perform acts of a sexual nature); art. 133 (Indecent assault), and others);
- Chapter 19. Crimes against constitutionally enshrined human and civil rights and freedoms (art. 134 (Violation of equality); art. 135 (Interference with personal privacy); art. 137 (Violation of sanctity of the home); art. 142 (Violation of occupational safety regulations), and others).

67. Persons who commit the above-mentioned offences against life, personal security, and physical or moral integrity are liable to criminal prosecution. The State, represented by the law enforcement agencies and the justice system, guarantees the security of citizens and affords them appropriate protection.

68. The system of democracy that prevails in Kyrgyzstan is inextricably linked to the exercise of citizens' political rights and liberties, and specifically the right to vote and to be elected. Kyrgyz electoral law complies with article 5 of the Convention and contains no restrictions prejudicial to civil rights on the basis of ethnic origin or race.

69. Pursuant to the Elections Code that was adopted and entered into force on 29 May 1999, the Kyrgyz State guarantees citizens' electoral rights, i.e. the right to vote and to be elected. A cardinal principle underpinning citizens' participation in elections (art. 2) is the holding of elections on the basis of universal, equal and direct suffrage and secret ballot. Article 3 of the Code states that Kyrgyz citizens are entitled to vote at the age of 18, and to stand for election to legislative and local government bodies upon reaching the age specified by the Constitution and the law. Kyrgyz citizens have the right to vote and be elected irrespective of their origin, sex, race, ethnic background, official status, wealth, religion, political and religious views, or any other consideration. A person's electoral rights may be restricted only if a court has deprived them of their legal capacity, or if they are detained pursuant to a court judgement. Thus, the electoral rights of all ethnic groups in Kyrgyzstan are equal, and persons who violate these rights are liable to criminal or administrative penalties. For example, it is an offence contrary to article 139 of the Criminal Code to prevent a citizen from exercising his or her electoral rights.

70. Article 139 of the Code (Obstruction of the exercise of electoral rights and interference in the work of electoral commissions) states:

(1) Preventing citizens from exercising their electoral rights or taking part in referendums, and interference in the work of electoral commissions or referendum commissions, shall be punishable by a fine of between 50 and 100 times the minimum monthly wage;

(2) The same acts, committed (a) using bribery, deception, violence or threats of violence; (b) by a person abusing his or her official position; (c) by a group of persons acting by prior conspiracy; or (d) by an organized group, shall be punishable by a fine of between 200 and 500 times the minimum monthly wage, short-term rigorous imprisonment for up to six months, or deprivation of liberty for up to five years.

71. The Kyrgyz Code of Administrative Liability prescribes liability for offences against citizens' electoral rights.

72. Pursuant to article 50 of the Code, violations of the rights of members of electoral commissions, election agents and election observers are punishable by a fine of between 5 and 10 times the minimum wage if committed by a private citizen, or between 20 and 50 times the minimum wage if committed by an official.

73. Article 53 (Dissemination of known falsehoods regarding a candidate) states:

“The dissemination, whether by publication or other means, of known falsehoods regarding a candidate for the post of deputy or some other elected position, with a view to influencing the outcome of an election, shall be punishable by a fine of between 10 and 20 times the minimum wage if committed by a private citizen, or between 50 and 100 times the minimum wage if committed by an official.”

74. Article 59 (Restriction of citizens' right to canvass and consult electoral rolls) states:

“Preventing a person from canvassing (except on the day of the election or referendum), violating a citizen's right to consult electoral rolls, failing to review reported inaccuracies in the electoral roll within the statutory time limit, refusal to justify the reasons for dismissing reports of inaccuracies in the electoral roll, failure to comply with a court decision to amend the electoral roll by a specified date, or violating the principle of the secret ballot shall be punishable by a fine of between 20 and 50 times the minimum wage.”

75. There is no record of any violations of citizens' electoral rights on racial grounds in presidential and parliamentary elections or elections to regional assemblies.

76. There have been no instances of racial discrimination in the Kyrgyz Republic taking the form of restrictions on an ethnic group's right to express its opinion freely or restrictions on freedom of assembly.

77. Article 16 of the Kyrgyz Constitution states that basic human rights and freedoms are recognized and safeguarded in accordance with the generally accepted principles and norms of international law and international human rights treaties and agreements ratified by the Kyrgyz Republic.

78. All persons in the Kyrgyz Republic have the right to freedom of movement and freedom to choose their place of residence in Kyrgyz territory, and to leave the country and to return without hindrance.

79. Article 13 of the Constitution specifies that no Kyrgyz citizen may be stripped of his or her citizenship or be denied the right to change his or her citizenship. The State guarantees the protection of its citizens abroad.

80. The preamble to the Kyrgyz Citizenship Act of 18 December 1993, amplifying the provisions of the Constitution, states that Kyrgyz citizenship establishes a permanent political and legal connection between individuals and the Kyrgyz State, embodied in their mutual rights and obligations.

81. Kyrgyz citizenship is acquired at birth, by naturalization, or on the grounds provided for by inter-State treaties of the Kyrgyz Republic.

82. Under the Kyrgyz Citizenship Act, foreign citizens and stateless persons may acquire Kyrgyz citizenship subject to the following conditions:

- That they renounce their foreign citizenship;
- That they have resided permanently in Kyrgyz territory for the past five years;



- That their fluency in the official language attains a level defined in current legislation (the Government provides facilities for people to study the official language);
  - That they have lawful sources of income.
83. The naturalization requirements stipulated in paragraphs 2 and 3 do not apply to the following categories:
- Ethnic Kyrgyz living outside the Kyrgyz Republic;
  - Persons who have performed particular services to the Kyrgyz Republic;
  - Persons whose Kyrgyz citizenship has been restored;
  - Persons who marry a Kyrgyz citizen;
  - Persons born in the Kyrgyz Republic.
84. The following categories may not acquire Kyrgyz citizenship through naturalization:
- Persons convicted to deprivation of liberty for serious crimes, or persons under investigation at the time of their application for naturalization;
  - Persons who incite ethnic or racial hatred or engage in warmongering;
  - Persons who act in a manner contrary to the interests of the Kyrgyz Republic;
  - Persons who call for the violent overthrow or change of the political system enshrined by the Kyrgyz Constitution, compromise national security, or endanger public order or public health and morals.
85. The equality of Kyrgyz citizens is guaranteed in all spheres of economic, political, social, cultural and spiritual life. National legislation on citizenship contains no ethnic or racial restrictions on acquiring citizenship.
86. Article 16 of the Constitution guarantees the right to hold or own property and to enjoy and dispose of it at one's discretion. Article 19 goes on to state:
- (1) Private property in the Kyrgyz Republic shall be recognized and guaranteed as an inalienable human right, as a natural source of wealth, business and creative activity and a guarantee of economic and personal independence.
  - (2) Property shall be inviolable. No one can be deprived of their property, and the confiscation of property against the owner's will shall be permitted by a decision of a court."
87. The law contains no racial or ethnic restrictions on the right to own property.

88. The right to inherit is also protected by law in the Kyrgyz Republic (Constitution, art. 19). Most of the rules regulating inheritance may be found in chapter 60, section VI (Law of inheritance), of the Kyrgyz Civil Code, which contain no racial or ethnic restrictions on citizens' right to inherit.

89. Article 16 of the Constitution states that all persons in the Kyrgyz Republic have the right:

- To freedom of confession, religion and worship;
- To free expression and dissemination of thoughts, ideas, opinions, freedom of literary, artistic, scientific and technical creativity, freedom of the press, and freedom to transmit and disseminate information.

90. The Freedom of Religion and Religious Organizations Act of 16 December 1991 guarantees Kyrgyz citizens' right to define and express their attitude to religion and their attendant beliefs, to practise their religion and perform acts of worship without hindrance, and affords them the right to social justice, equality and protection of their civil rights and interests irrespective of attitude to religion. In addition, the Act regulates the legal relations arising in connection with the activities of religious organizations.

91. Article 3 (Right to freedom of religion) guarantees religious freedom, which incorporates the right of each citizen to choose his attitude to religion freely and independently, to profess or not to profess any religion either alone or in community with others, to change his religious views, and to express and disseminate beliefs stemming from his attitude to religion.

92. In the Kyrgyz Republic, no one may be forced to define his attitude to religion, profess or refuse to profess a particular religion, take part in acts of worship, religious rites and ceremonies, or religious instruction.

93. Irrespective of their attitude to religion, Kyrgyz citizens are equal before the law in all areas of civil, political, economic, social and cultural life. It is prohibited to refer to a citizen's attitude to religion in an official document, unless the individual concerned desires this to be mentioned.

94. Direct or indirect restriction of rights or conferment of advantages in connection with a person's attitude to religion, or incitement to hatred and enmity, insults to a person's sensibilities or desecration of places of worship shall render the perpetrator liable to prosecution (Freedom of Religion and Religious Organizations Act, art. 4).

95. Under article 146 of the Criminal Code, it is a criminal offence to obstruct the exercise of the right to freedom of conscience and religion:

“Unlawful obstruction of the activities of religious organizations or the performance of religious rites shall be punishable by a fine of up to 100 times the minimum monthly wage or rigorous imprisonment for up to three months.”

96. Article 61 of the Code of Administrative Offences also makes it an offence to violate freedom of conscience and religion:

“The obstruction of the right to freedom of conscience and religion, including the right to adopt or renounce religious or other beliefs and to join or withdraw from a religious community, shall be punishable by a fine of between 5 and 10 times the minimum wage if committed by a private citizen, or between 10 and 50 times the minimum wage if committed by an official.”

97. The Kyrgyz Republic has adopted a package of laws and regulations that safeguard and regulate citizens' right to obtain reliable information. These include:

- The Mass Media Act of 2 July 1992;
- The Freedom of Access to Information (Safeguards) Act of 5 December 1997;
- The Professional Activity of Journalists (Protection) Act of 5 December 1997.

98. The Freedom of Access to Information (Safeguards) Act stipulates that every citizen is guaranteed the right of access to information. The State protects the rights of all persons to seek, obtain, research, produce, transmit and disseminate information.

99. The right to access and disseminate information may be restricted only by the law (art. 3). The cardinal principles of freedom of access to information in the Kyrgyz Republic are the general availability, objectivity, timeliness, transparency and reliability of information (art. 4).

100. Public bodies, self-governing citizens' bodies, voluntary associations, enterprises, institutions, organizations and officials are obliged to provide access to documents, decisions and other items that affect a person's rights and legitimate interests. Access to information is ensured by publishing and disseminating the items in question (art. 6).

101. State, community and private media ensure that information is completely transparent for all citizens and organizations, without specifying particular categories of information users. Transparency means unfettered access to periodicals, television and radio, and, in statutorily defined cases, the opportunity to identify the source of a piece of information. This requirement does not apply to confidential information or State, commercial or official secrets (art. 8).

102. To protect citizens' rights, the Mass Media Act makes it an offence to breach media legislation and lists certain types of information not designed for public broadcast (arts. 24 and 25). It is not permitted to publish material containing the following types of information in the Kyrgyz Republic:

- Calls for the violent overthrow or change of the existing constitutional system, or for the violation of the sovereignty and territorial integrity of Kyrgyzstan or any other State;

- Propaganda for war, violence or cruelty, ethnic or religious exclusivity and intolerance towards other peoples and nations;
- Insults to the honour of peoples;
- Material offensive to the sensibilities of religious believers and ministers of religion;
- Pornography;
- Material judged to be obscene;
- Material that violates standards of civil and ethnic morality and is disrespectful to State symbols and insignia;
- Attacks upon the honour and dignity of individuals;
- Information known to be false (Mass Media Act, art. 23).

103. Article 16 of the Kyrgyz Constitution guarantees the right of association. This constitutional norm is reflected and amplified in the Non-profit Organizations Act of 15 October 1999, which regulates the social relations arising in connection with the formation, operation, reorganization and winding up of non-profit organizations, including foreign non-profit organizations, operating in the Kyrgyz Republic (art. 1).

104. Kyrgyz law defines a non-profit organization as a voluntary self-governing organization formed by private individuals and/or corporate bodies on the basis of common interests for the accomplishment of idealistic or other non-pecuniary ends in the interests of its membership and/or society as a whole, whose principal object is not to make a profit. Non-profit organizations may count corporations and individuals among their membership, regardless of where the corporation is registered or where the individual elects to have his place of residence (art. 2).

105. All non-profit organizations are formed and operate in accordance with the principles of voluntariness, self-management, legality, openness and transparency. An individual's membership or non-membership in a non-profit organization may not be invoked as grounds for restricting his rights and liberties (art. 4).

106. The State creates a framework within which non-profit organizations can fulfil the objectives outlined in their charters. Public bodies and officials ensure that the rights and legitimate interests of non-profit organizations are upheld in accordance with the Constitution and the law, and support their activities.

107. Article 16 of the Kyrgyz Constitution, which enshrines basic human rights and freedoms in accordance with the generally accepted principles and norms of international law, states that all persons in Kyrgyzstan have the right to economic freedom, uninhibited use of their abilities and property for any type of economic activity, freedom of labour and freedom to choose their line of work or occupation.

108. Measures to combat racial discrimination in the labour sphere are set out in the new edition of the Kyrgyz Labour Code dated 4 August 2004. Article 9 in chapter 1, section 1 (Prohibition of labour discrimination), states:

“1. Pursuant to the Constitution of the Kyrgyz Republic, all citizens enjoy equal opportunities to exercise their labour rights. No person’s labour rights shall be restricted, nor shall any person enjoy an advantage in exercising these rights, on the grounds of sex, age, race, ethnic origin, language, wealth, official position, place of residence, attitude to religion, beliefs, membership of voluntary associations, or any other considerations unconnected with the professional qualities of a worker or the results of his work.

2. Anyone who considers that he has been the subject of labour discrimination is entitled to file a complaint with a court. Where the complaint is upheld, the court shall order the source of discrimination to be removed and award compensation for material and moral injury”.

109. Article 34 of the Constitution states that Kyrgyz citizens have an equal right of access to the civil service. Article 8 of the Civil Service Act contains a similar provision. The civil service is founded on the principles of the primacy of human and civil rights and equality of entry to the civil service.

110. Furthermore, according to article 28 of the Constitution:

“1. Kyrgyz citizens have the right to all types of occupational safety arrangements, to working conditions that meet safety and hygiene standards, and to social protection against unemployment.

2. The State shall attend to training and career development and facilitate and promote international agreements and international organizations whose stated purpose is to secure and consolidate the right to work.

3. Compulsory labour is prohibited, except in wartime and during post-disaster clean-up operations, epidemics and other emergencies, or when serving a sentence pursuant to a court judgement.”

111. It is an offence contrary to article 143 of the Criminal Code to dismiss a person from his employment in a manner known to be unlawful, or to commit any other violation of labour law (including discrimination).

112. Article 29 of the Constitution states that Kyrgyz citizens with an employment contract shall not be paid less than the statutory national minimum wage. These constitutional provisions are amplified in various laws and regulations.

113. The Promotion of Employment Act of 27 July 1998 contains legal, social, economic and organizational guarantees enabling citizens to exercise their constitutional right to obtain work in a market economy. The Act applies to Kyrgyz citizens, foreigners and stateless persons.

Article 4 of the Act sets out the underlying principle of national labour and employment policy, namely “the equal opportunity of all citizens irrespective of their race, sex, ethnic origin, language, attitude to religion, political views, and social status to exercise their right to voluntarily undertake work and free choice of occupation”. No restrictions or advantages apply in respect of any ethnic group.

114. The Kyrgyz Republic has ratified a number of core international conventions in the sphere of social security, for example the International Labour Organization (ILO) Convention (No. 118) of 1962 concerning Equality of Treatment of Nationals and Non-Nationals in Social Security and the Convention (No. 157) of 1982 concerning the Establishment of an International System for the Maintenance of Rights in Social Security. These conventions guarantee equal opportunities in the sphere of social security for all Kyrgyz citizens and refugees in Kyrgyz territory, irrespective of race.

115. In the Kyrgyz Republic it is permitted to form political parties, trade unions and other voluntary organizations on the basis of free expression of will and community of interests. The State ensures respect for the rights and legitimate interests of voluntary associations (Constitution, art. 8).

116. On 1 January 2005 there were 9,076 registered voluntary associations, 43 political parties and 399 religious organizations in the Kyrgyz Republic.

117. The right to form trade unions is regulated in greater detail in the Kyrgyz Labour Code and the Trade Unions Act of 16 October 1998. Thus, article 18 of the Labour Code states:

“1. Trade unions are voluntary social organizations based on common interests at work in the manufacturing and non-manufacturing sectors, formed to protect their members’ employment, social and economic rights and interests;

2. All workers, without distinction, are entitled to form a trade union voluntarily, by their own choice and without prior authorization, and are entitled to join a trade union on condition they abide by its rules;

3. Workers are entitled to form trade unions at enterprises, institutions, organizations and other workplaces, irrespective of form of ownership;

4. Trade unions enjoy freedom of action. They are not accountable to or subject to the control of the State authorities, employers, political parties or other voluntary organizations. Any interference that might restrict or inhibit the exercise of trade union rights is prohibited, unless otherwise stipulated by law;

5. Membership or non-membership of a trade union does not entail any restriction of the employment, social, economic, political, or personal civil rights and freedoms guaranteed by the Constitution. Trade union membership shall in no way affect a worker’s recruitment, promotion or dismissal, nor shall these be contingent upon joining or leaving a trade union. The Trade Unions Act regulates the principal rights and safeguards applicable to trade unions in greater detail.”

118. There are thus no restrictions on joining a trade union, including on racial grounds.
119. Article 33 of the Constitution states that Kyrgyz citizens are entitled to housing. The State promotes the exercise of this right by allocating and selling housing from the State housing stock and encouraging individual house construction.
120. Every citizen is guaranteed the right to housing under the Housing Code. This right is ensured by expanding and maintaining the social housing stock, supporting cooperative and individual house-building, and the fair allocation, under public supervision, of living space under the programme for the construction of decent housing.
121. Citizens' right to housing is protected by law, and actions that obstruct the exercise of this right are prohibited. No ethnic restrictions apply.
122. Under article 27 of the Constitution:
- “1. Social security, at State expense, is guaranteed in old age, in the event of illness or incapacity to work, or the loss of a breadwinner.
  2. Pensions and welfare assistance should, in keeping with society's economic capacity, afford a standard of living not lower than the statutory minimum subsistence level.
  3. Voluntary social insurance, supplementary welfare support and charity shall be encouraged.”
123. The Kyrgyz Republic also applies the provisions of international legal instruments on extending social protection to refugees present in Kyrgyz territory, irrespective of their racial origin. This issue is currently very important in Kyrgyzstan owing to the unstable situation in neighbouring Tajikistan.
124. In 1996 the Kyrgyz Republic acceded to the Convention relating to the Status of Refugees and its 1967 Protocol. In upholding the basic rights of refugees, Kyrgyzstan has established an ongoing partnership with a number of international organizations including the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM). It is taking the necessary steps to define the legal status of refugees, integrate them into Kyrgyz society and re-register them.
125. A total of 20,549 asylum-seekers have been registered in Kyrgyzstan since 1993, of whom 18,126 have been officially recognized as refugees. On 1 October 2004 there were 6,490 refugees in Kyrgyzstan, including 5,911 from Tajikistan, 569 from Afghanistan, 4 from the Islamic Republic of Iran, and 6 from Iraq. A total of 627 foreigners have been registered as asylum-seekers, including more than 400 Chechens.
126. Following events in Andizhan in mid-May 2005, UNHCR accorded refugee status to 451 Uzbek citizens in Kyrgyz territory.

127. As a long-term solution to the dilemma facing these individuals, on 29 July 2005 the Kyrgyz Government consented to the initial transfer, under international protection, of 44 Uzbek citizens to third countries via Bishkek, and to the transfer of a second party of 11 Uzbeks on 16 September 2005.

128. On 2 August 2005, four Uzbek citizens appealed to Bishkek interdistrict court against the decision by the Migration Service of the Kyrgyz Ministry of Foreign Affairs to refuse them refugee status. Consequently, until the judicial investigation is completed and the court has handed down its decision, these four Uzbek citizens shall remain in Kyrgyzstan.

128. The number of incoming refugees decreased in 2005 owing to the normalization of the situation in Tajikistan and the international counter-terrorism operation in Afghanistan. At the same time, forecasts suggest that refugees will continue to enter Kyrgyzstan in the next few years, albeit at a slower rate.

129. The principal challenge in this area is effectively to comply with international obligations on refugees by developing legislation, refining procedures for granting refugee status, and strengthening other forms of protection for refugees.

130. There have been positive developments in this area in recent years. The Refugees Act was adopted on 25 March 2002. In the view of UNHCR, this Act fully conforms to international standards. To implement the Act, rules on dealing with refugees have been approved by Government Decision No. 188 of 4 April 2003. International experience shows that voluntary repatriation is the best way of resolving refugee problems. Since 1998 the Kyrgyz Government and UNHCR have been working together to encourage refugees to return home voluntarily.

131. Under this programme, more than 5,000 Tajik refugees, 75 Afghan refugees and 94 Chechen asylum-seekers were repatriated between 1998 and 2004. Since the normalization of the domestic political situation in Tajikistan in May 1998, Tajik refugees have begun a process of voluntary repatriation to their homeland.

132. With support from international organizations, a number of projects designed to integrate refugees into society are being implemented in areas with large refugee populations. UNHCR has helped to open schools for refugee children in Bishkek and the village of Chet-Bulak in Batken district. Permanent job opportunities have been created, namely a sewing workshop in Kok-Yangak in Jalalabad province, an IOM-sponsored project to provide vocational education to refugee children in Osh province, and the planting of 20,000 saplings over an area of 1.5 hectares in Panfilov district for future use as construction timber for refugee homes. Efforts are being made to organize communal employment projects for refugees. Thus, the Kyrgyz Red Crescent Society and the Netherlands Red Cross have organized a project in Osh and Chu provinces to assist refugee families by providing them with vegetable crop seeds ahead of the sowing season.

133. Various bilateral agreements have been signed with other countries of the Commonwealth of Independent States (CIS) to provide migrant workers from Kyrgyzstan with employment protection:

- The agreement on cooperation in the areas of labour migration and social protection for migrant workers (Moscow, 15 April 1994);



- The agreement between the Government of the Kyrgyz Republic and the Government of the Russian Federation on regulating the migration process and protecting the rights of migrants (Bishkek, 18 July 1995);
- The agreement between the Government of the Kyrgyz Republic and the Government of the Republic of Azerbaijan on employment of migrant workers and their social protection (Baku, April 1997);
- The agreement on cooperation between CIS member States to control illegal migration (Moscow, March 1998);
- The agreement between the Ministry of Labour and Social Protection of the Kyrgyz Republic and the Federal Migration Service of the Russian Federation on regulating migration processes and protecting the rights of migrants (Bishkek, May 1998).

134. Refugees also have equal employment rights. Under the rules on the procedure and conditions for registering for benefits and grants to unemployed persons engaged in vocational, refresher or advanced training, naturalized refugees are registered at employment offices as unemployed and are entitled to unemployment benefit provided that they have performed remunerated activity for at least 12 months during the three-year period before applying for benefits, and have paid employee contributions into the Employment Assistance Fund.

135. Citizens in this category, registered as unemployed, are entitled to grants for training and retraining. In addition to unemployment benefits and grants, they have the right to perform paid community work and to obtain microcredits for business start-ups.

136. The State Benefits Act specifies two kinds of benefits in the Kyrgyz Republic, namely standard monthly allowances and monthly social welfare benefits.

137. A standard monthly allowance is payable if gross per capita family income is lower than the guaranteed minimum level of consumption for each member of the family.

138. Persons granted official refugee status enjoy the right to social protection on the same footing as Kyrgyz citizens. That said, entitlement to social assistance is determined solely by the actual standard of living of the applicant. No account is taken of other considerations such as sex, race or ethnic origin. The guaranteed minimum level of consumption is a social benchmark established and calculated on the basis of the national budget and the state of the economy, factoring in the minimum consumer budget. It takes the form of an allowance that enables poor families and citizens to maintain a subsistence level of consumption.

139. Monthly social welfare benefits are paid to citizens who are unable to work, i.e. to disabled and elderly persons who do not qualify for pension entitlements, irrespective of gross per capita family income. A total of 52,000 persons were receiving social benefits on 1 January 2005; the average value of the benefits was 368.5 soms or 21 per cent of the minimum consumer budget (1,725.2 soms).

140. The Medical Insurance Act of 18 October 1999 sets out the legal, organizational and financial principles of the medical insurance scheme for Kyrgyz citizens. The principles are binding upon government and public bodies, corporations and individuals.

141. The medical insurance scheme guarantees social protection for Kyrgyz citizens through the provision of high-quality preventive medical, therapeutic and other services (art. 1). There are two forms of medical insurance, namely mandatory and voluntary. The following categories of persons are covered by the mandatory medical insurance scheme:

- Kyrgyz citizens in work on the basis of an employment contract;
- Pensioners;
- Unemployed persons registered at State employment offices;
- Kyrgyz citizens with other working arrangements (sole traders, self-employed persons, persons in private practice, artists and intellectuals), if they contribute to the mandatory medical insurance scheme;
- Social welfare recipients;
- Children under 16 (for students in general-education institutions, until they complete their education or turn 18);
- Students at basic vocational education establishments and students at secondary and tertiary vocational education establishments, up to the age of 21 (except extramural students or students taking evening classes);
- Foreign citizens residing temporarily or permanently in the Kyrgyz Republic;
- Stateless persons residing permanently in the Kyrgyz Republic;
- Other categories of citizens (art. 8).

142. The Health Protection Act (No. 6 of 9 January 2005) states that Kyrgyz citizens are entitled to health protection, i.e. free use of the State health network. Medical care includes the following components:

- Equal opportunities and enjoyment of the right to medical care for all citizens living in the Kyrgyz Republic;
- The establishment, at each stage of medical intervention, of a basic guaranteed level of health care;
- The provision of medical care throughout Kyrgyzstan, including away from the patient's place of permanent residence;

- The principle of free choice of physician and medical facility.

143. The law makes no provision for any restrictions on racial or ethnic grounds.

144. Social security arrangements are regulated by the State Benefits Act of 5 March 1998, which establishes guaranteed financial support for families and individuals on low incomes and citizens who are unable to work and have no pension entitlements. The welfare assistance that the Act provides is targeted at the most disadvantaged sections of the population.

145. The Act applies to Kyrgyz citizens resident in the Kyrgyz Republic, in the event of family need, and to citizens who are unable to work and have no pension entitlements (art. 2). The Act specifies that the following categories of families and individuals on low incomes are entitled to standard monthly allowances:

- (a) Children under 16 (for students in general-education institutions, until they complete their education or turn 18);

- (b) Students at basic vocational education establishments and students at secondary and tertiary vocational education establishments, up to the age of 21 (except extramural students, students taking evening classes, or students enrolled under a quota system on the basis of a contract);

- (c) Non-working pensioners;

- (d) Citizens unable to work (art. 7).

146. The following categories of persons are entitled to monthly social welfare benefits:

- (a) Disabled children, children with cerebral palsy and children infected with HIV or who have AIDS, up to the age of 18;

- (b) Category I, II and III invalids disabled from childhood;

- (c) Category I, II and III disabled persons who do not qualify for a pension;

- (d) Senior citizens who do not qualify for a pension;

- (e) Heroine mothers who do not qualify for a pension;

- (f) Children who have lost their breadwinner, if they do not qualify for a pension.

147. Monthly social welfare benefits are not dependent on gross per capita family income (art. 10).

148. The State Pension/Social Insurance Act of 21 July 1997 stipulates that insured Kyrgyz citizens, foreigners and stateless persons living in Kyrgyzstan and contributing to the State pension scheme shall be entitled to a pension on the basis and the terms specified in the Act.

149. There are three types of pensions in Kyrgyzstan, namely old-age pensions, disability pensions, and loss-of-breadwinner pensions (art. 3).

150. The Wages, Salaries, Pensions, Allowances and Other Social Benefits (Timely Payment) Act of 26 June 1996 specifies the arrangements for ensuring that citizens receive their prescribed welfare payments in full and makes it an offence for any enterprise, institution or organization, irrespective of its form of ownership and economic activity, to miss deadlines for the payment of wages, salaries, pensions, benefits or student grants.

151. Kyrgyzstan has no ethnic-based statutory restrictions on the allocation of State benefits and pensions.

152. The Kyrgyz Constitution stipulates that:

(1) Every Kyrgyz citizen has the right to education.

(2) Basic education is compulsory and free of charge. Every person has the right to receive an education at State educational institutions.

(3) The State ensures universal access to vocational, special secondary and higher education in accordance with individual ability.

(4) Fee-paying education at State and other educational institutions is permitted on the basis and in the manner defined by legislation.

(5) The State shall exercise control over the activity of educational institutions (art. 32).

153. The Education Act (No. 92 of 30 April 2003) states that Kyrgyz citizens have the right to education irrespective of their sex, ethnic origin, language, social status, wealth, line of work or nature of occupation, faith, political and religious views, place of residence or other considerations.

154. Foreigners in Kyrgyzstan are entitled to an education under current Kyrgyz legislation (art. 2).

155. The main principles underlying the education system are:

- The equal rights of all Kyrgyz citizens to receive an education;
- Free education at all types of State educational establishments within the framework set by State education standards, and the establishment of arrangements for fee-paying education;
- The possibility of establishing fee-paying departments within State educational institutions;

- The humanist character of education, with priority accorded to universal human values;
- Orientation towards scientific achievement and international educational standards;
- Consistency and continuity;
- Independence of education from political and religious institutions;
- Educational diversity with regard to formal aspects of teaching and instruction, areas of activity and the form of ownership of educational institutions;
- The secular nature of education at State educational institutions;
- Universal accessibility and appropriateness of the education system to students' level of educational development and special needs;
- Streaming of talented students, enabling them to grow creatively;
- The possibility for alternative educational institutions and non-State educational structures to operate (art. 3).

156. National standards apply at all levels of education in the Kyrgyz Republic. They define the minimum educational content of core curricula, the basic educational requirements for graduation, and the maximum amount of time allowed for studies.

157. All types of educational establishments and forms of instruction must comply with State education standards (art. 4). Thus, more than 25,000 students representing nearly all the ethnic groups in Kyrgyzstan pursue their studies at 113 vocational and technical colleges. Each student has the right to choose his or her language of instruction out of the four main languages spoken by the bulk of the Kyrgyz population.

158. Article 36 of the Kyrgyz Constitution states:

1. Culture, art, literature, science and the mass media are free.
2. The State shall protect historical monuments and shall attend to and foster the development of literature, art, science, the mass media and sports.
3. Citizens shall have the right of access to cultural property and the right to engage in art and science.

159. Kyrgyz law permits no restrictions on access to cultural property. Access to public facilities such as theatres, cinemas, cafés, restaurants and parks is subject to no restrictions in the Kyrgyz Republic.

## Chapter VI

160. Pursuant to article 4 of the External Migration Act, such migration is regulated on the basis of non-discrimination and non-infringement of rights and freedoms by reason of a person's origin, sex, race, ethnicity, language, faith, political and religious views or any other considerations. Measures to combat racial discrimination are set out in article 9 of the new Labour Code (version dated 25 May 2004), which states that everyone has an equal opportunity to exercise his or her labour rights and freedoms.

161. Article 4 of the Teachers (Status) Act specifies that one of the most important aspects of a teacher's work is to prohibit direct, hidden and/or indirect discrimination, the restriction of rights or the conferment of privileges on grounds of sex, ethnic origin, language, religion or any other personal or social considerations or circumstances.

162. The State guarantees the right of citizens to report acts of racial discrimination that encroach upon their rights and freedoms to the courts and the law enforcement agencies. If an act of racial discrimination is found to have taken place, the relevant agencies shall take steps to restore the legitimate rights of citizens.

163. The Code of Administrative Offences sanctions officials for unlawfully refusing to consider complaints and communications from members of the public, and for unjustifiably denying citizens their right to consult materials or documents that affect their interests.

164. Article 62 of the Code of Administrative Offences (Unlawful refusal by an official to consider communications from members of the public) states:

“Unlawful refusal by an official to consider communications from members of the public, failure to observe deadlines for the consideration of communications without reasonable cause, the adoption of unjustified and unlawful decisions, and failure to restore citizens' violated rights shall incur a fine of between 10 and 20 times the statutory minimum wage.”

165. Article 63 of the Code (Unjustified refusal to allow consultation of documents) states:

“Unlawfully denying citizens the opportunity to consult documents, decisions and other items affecting their rights and interests shall render an official liable to a fine of between 5 and 10 times the statutory minimum wage.”

166. Procuratorial agencies also supervise compliance with laws, other enactments and ratified international treaties, taking account of the rights, freedoms and legitimate interests of citizens. Persons who consider that their rights have been violated or infringed, or that they have been discriminated against, are entitled to request protection from the procuratorial agencies.

167. Article 163 of the Code of Criminal Procedure stipulates that crimes contrary to article 134 of the Criminal Code (Offences against equality) shall be investigated by the

procuratorial agencies. Statistics show that, in the period 1998-2005, the procuratorial agencies neither opened nor investigated any criminal cases in connection with the violation or restriction of rights on the grounds of race or ethnicity.

168. Under the Kyrgyz Constitution, basic human rights and freedoms attach to everyone from birth, and accordingly are recognized as being absolute, inalienable and protected by the law and the courts.

## **Chapter VII**

169. Under the “Kyrgyzstan, Our Common Home” programme, the Kyrgyz Government is taking steps to establish ethnic cultural centres, foster freedom of communication in all languages and uphold the right to education, employment and equal participation in social and political life, and establish ethnically-based general education schools, children’s institutions and higher educational facilities (for example the Boris Yeltsin Kyrgyz-Russian Slavonic University and the Ataturk Alatau International Russian-Turkish University).

170. Ethnic cultural centres are currently operating around the country, and ethnic groups living in tight-knit communities (Dungans, Germans, Uighurs and others) have their own newspapers and schools with instruction in their native language. They have the right to broadcast on State television and radio. All ethnic minorities and ethnic groups have equal rights and responsibilities as regards the satisfaction of their religious requirements, and in this respect they resemble the rest of the population.

171. To guarantee protection of civil rights and prevent discrimination on linguistic grounds, the Kyrgyz Parliament adopted the Official Language Act on 25 May 2000, pursuant to which Russian was given the status of an official language. The Act makes it an offence for an official to refuse to accept or consider communications received from citizens in an official language, and also outlaws any obstacle to the use of an official language in the circumstances and for the purposes defined by the Act. All of which has enormous significance for the civil and political rights of individuals. The adoption of the Act means that the rights of ethnic minorities have been immeasurably strengthened.

172. Special attention is being paid to reform of the justice system. Kyrgyzstan has proclaimed itself to be a democratic State governed by the rule of law that guarantees the supremacy of the law, the inviolability of human rights and freedoms, the protection of legitimate personal rights, and the mutual responsibilities of the State and its citizens. The supremacy of the law is also a fundamental principle underpinning a market economy. The establishment of strong courts that command respect and are seen as authoritative, sovereign and genuinely independent is the central objective of judicial reform in Kyrgyzstan and an important means of consolidating nationhood, the democratic development of Kyrgyz society and economic reform. Of great importance in this regard is the fact that all restrictions on the right of every citizen to petition the courts for redress of violated rights have been abolished by legislation. New categories of cases have emerged: protection of the right of private ownership and electoral rights, and challenges to laws and regulations and the actions and decisions of public bodies.

173. The principal areas of judicial reform mapped out at the First and Second Congress of Judges are being put into effect on the basis of the constitutional principles of the separation of powers, the inviolability of human and civil rights and freedoms, the independence of the judiciary and the supremacy of the law.

174. A Judicial Department was created by a presidential decree of 21 May 1996 as a subsidiary judicial body with the role of supporting the work of the courts and other judicial bodies. Drawing on national budget appropriations for the operation of the courts, the Judicial Department and its operational units supply the ordinary courts with facilities, keep judicial statistics, handle publicity, and enforce judicial acts. Pursuant to Presidential Decree No. 363 of 28 December 2000, the Judicial Department was transferred to the jurisdiction of the Ministry of Justice, while retaining all its previous functions.

175. The Council of Judges, as the self-policing body of the judiciary, existed until 6 April 2001, whereupon its mandate was terminated following the adoption of the Status of the Courts Act and the Status of Judges Act. The Supreme and Local Courts Act was adopted on 18 July 2003.

176. The Second Congress of Judges was held on 7 December 1996, at which the ground covered so far was summarized and future plans were mapped out. The Congress decided to organize a voluntary association of judges, the Association of Kyrgyz Judges, and adopted a judicial code of conduct. On 6 January 1997 the President issued a decree on measures to support the work of the Kyrgyz judiciary. The decree specified that a priority of legislative policy in 1997 would be the drafting and adoption of laws and regulations:

- Envisaging effective measures to enforce the principle of unconditional judicial protection of civil rights and freedoms, as prescribed by article 38 of the Kyrgyz Constitution;
- Guaranteeing that citizens' interests will be upheld in the sphere of constitutional, civil, administrative and criminal justice;
- Instituting effective arrangements for the independent and responsible administration of justice by the Kyrgyz judiciary.

177. The competent application of laws by judges is the most important attribute of an independent court. Given that society's ideas about the law and the relationship between the State and the individual have changed completely, and that current legislation has been completely updated on this basis, considerable emphasis is now placed on training for judges and upgrading their skills. The Kyrgyz Judicial Training Centre was inaugurated in January 1998 to fulfil this requirement. The Centre focuses on refresher training and developing the skills of judges and personnel of the justice system. Foreign lecturers are also invited to speak. At the Third Congress of Judges held on 22 May 1999, the President of Kyrgyzstan referred to the need to speed up the changes and ensure that they take place in an orderly and coordinated manner. Overall reform of the State justice system should be based squarely on the constitutional



provision that complete, unconditional and immediate protection of civil rights and freedoms, crime prevention and redress of wrongs are the responsibility of the State, public bodies and officials. This applies primarily to the courts and law enforcement agencies. The courts are some of the most important tools that society possesses to strengthen inter-ethnic harmony and the civil peace and unity of the Kyrgyz people. For it is the work of the courts themselves that determines society's absolute respect for the constitutional principle that everybody is equal before the law and the courts. The President of Kyrgyzstan has drawn judges' attention to the fact that the courts must tirelessly ensure that no one is discriminated against or that their rights and freedoms are infringed on account of their origin, sex, race, ethnicity, language, faith, political or other beliefs, or any other personal or public considerations or circumstances.

178. In the light of the proceedings of the Congress, the President issued Decree No. 134 of 2 June 1999 on measures to further develop the Kyrgyz justice system. With a view to implementing the President's decree, the Government, by its Decision No. 527 of 25 August 2000, approved a programme to develop the facilities available to the Kyrgyz justice system in the period 2000-2005.

179. The Status of the Courts Act of 8 October 1999 and the Status of Judges Act of 30 March 2001 have now become law. The Constitutional Court Act of 18 December 1993, the Supreme and Local Courts Act (No. 153) of 18 July 2003 and the Local Court Judges (Performance Appraisal) Act of 4 December 1999 have been adopted.

180. The following codes and other instruments have been adopted and have entered into force: Parts 1 and 2 of the Civil Code (dated 8 May 1996 and 5 January 1998 respectively, entered into force on 1 June 1996 and 1 March 1998); the Code of Civil Procedure (dated 29 December 1999, entered into force 1 January 2000); the Criminal Code (dated 1 October 1997, entered into force 1 January 1998); the Code of Criminal Procedure (30 June 1999); the Labour Code (4 August 2004); the Code of Administrative Liability (dated 4 August 1998, entered into force 1 October 1998); and the Penal Enforcement Code (dated 13 December 1999, entered into force 1 January 2000).

181. The adoption of the laws referred to above establishes an adequate legal base for the effective administration of justice. However, there are still a number of obstacles to the progress of judicial reform that significantly affect the work of the courts and access to justice and give rise to justified complaints from members of the public and businesses. Accordingly, the Fourth Congress of Kyrgyz Judges held on 22 May 2001 focused its attention on consolidating the national court system and hammering out a common policy on future reform and improvement of the justice system.

182. The Fourth Congress of Judges has adopted a resolution stating that the efforts of the judiciary, the legislature and the executive should be directed towards:

- Improving the judicial system;
- Further strengthening the independence and autonomy of the courts;

- Reforming procedural law;
- Modifying existing jurisdictional arrangements and broadening the powers of appellate courts;
- Improving judicial supervision;
- Improving judicial training and strengthening the justice system through the recruitment of highly qualified judges and court personnel;
- Providing the courts with the necessary financial resources and facilities;
- Raising standards applicable to judges as regards performance of their professional duties and compliance with the judicial code of conduct;
- Introducing effective arrangements for disciplining judges;
- Ensuring the openness and transparency of the justice system.

183. The establishment of a democratic State governed by the rule of law is inextricably linked with the need to strengthen a genuinely independent judiciary and raise the profile of the courts in public life. Considerable attention has been paid to reforming the judiciary in the Comprehensive Development Framework for the period up to 2010, as ratified by the National Forum on 25 May 2001. In drafting its recommendations, the advisory working group that identifies and analyses shortcomings in the justice system and formulates proposals to reform Kyrgyz legislation on the structure and operation of courts handling economic disputes, established under the Corporate Management and Reform of Enterprises-2 Programme, based its position in equal measure on the Comprehensive Development Framework and the decisions of the Fourth Congress of Judges, as enshrined in its resolution on future reform of the Kyrgyz justice system.

184. Under the subsection entitled “Main points concerning implementation of the Programme of Action to improve the crime situation among young people” of section 4 of the “Zhashtyk” programme approved by Presidential Decree No. 152 of 18 June 2000, the lead executing agencies of the “Zhashtyk” programme are expected to perform the following tasks:

- Motivate young people and youth organizations to take part in programmes to eradicate delinquency and crime;
- Take measures to prevent child neglect, crime and delinquency among minors and, to that end, ensure that all levels of government have in place structures to protect their rights;
- Carry out wide-ranging initiatives to involve the law enforcement agencies, educational institutions and the mass media in crime prevention and legal education;

- Focus as a matter of priority on measures to prevent youth crime;
- Carry out initiatives to prevent drug addiction and alcoholism through educational programmes for children and young people;
- Promote research on the medical treatment and rehabilitation of young drug addicts;
- Organize programmes to teach tolerance with a view to preventing all forms of ethnic discrimination and religious fanaticism;
- Establish rehabilitation programmes accessible to young people in trouble with the law.

185. The Kyrgyz Government is working with the OCSE High Commissioner on National Minorities, who provides facilitation and technical assistance in the field of inter-ethnic harmony and protection of the rights of ethnic minorities.

186. Some Kyrgyz universities such as the Jusup Balasagyn State University and the Kyrgyz-Russian Slavonic University have specialized human rights departments. Osh State University has a human rights centre.

187. The Jusup Balasagyn State University publishes a newsletter entitled “Human Rights and Democracy”, and a similarly titled course developed by a working group of the United Nations Development Programme (UNDP) and the Balasagyn University is being piloted at higher educational institutes throughout Kyrgyzstan.

188. Human rights conferences combining elements of theory and practice were organized to mark the anniversary of the Universal Declaration of Human Rights. Given the multi-ethnic composition of the Kyrgyz population, these events featured several series of educational programmes focusing on inter-ethnic harmony and religious tolerance.

189. The UNHCR office in Kyrgyzstan and the Soros-Kyrgyzstan Fund organize annual summer courses on human rights themes. In 2000 the Soros-Kyrgyzstan Fund financed eight projects under the programme to support ethnic minorities in the Kyrgyz Republic:

- News and current affairs programmes and radio courses covering issues relating to the history, culture and day-to-day life of the Polish and Greek communities in Kyrgyzstan;
- Radio broadcasts in Turkmen, Kyrgyz and official languages about the culture and history of the Turkmen community and its role in Kyrgyz society;
- Radio programmes covering Kyrgyz-Ukrainian relations and the history and culture of the Ukrainian and Kyrgyz peoples, broadcast in Kyrgyz and Russian;
- A series of 12 television programmes covering the culture and everyday life of the Korean community in Kyrgyzstan;

- A weekly item covering the life and activities of the Georgian community in Kyrgyzstan;
- A series of weekly broadcasts covering the history, culture and current affairs of the Uighur community in the Issyk-Kul area;
- A series of 12 programmes devoted to all ethnic communities in Kyrgyzstan;
- The publication of 12 issues of *Vestnik druzhby* reporting on the work of the Osh section of the Assembly of the Kyrgyz Nation.

190. The public body competent to accept and consider communications from individuals or groups living in Kyrgyzstan regarding violations of their rights on the grounds of race or ethnicity is the Office of the Ombudsman (*Akyikatchy*). Article 3 of the Ombudsman Act (No. 136 of 31 July 2002) specifies that, by monitoring respect for the human and civil rights and liberties enshrined in the Constitution, the Ombudsman aims:

- To protect human and civil rights and freedoms as proclaimed in the Constitution and laws and in international treaties and agreements ratified by the Kyrgyz Republic;
- To ensure observance of and respect for the human and civil rights and freedoms of the persons referred to in article 2 of the Act;
- To prevent violations of human and civil rights and freedoms as specified by the Constitution and international standards in this area;
- To improve and further develop international cooperation for the protection of human and civil rights and freedoms;
- To prevent any forms of discrimination in the exercise of human rights and freedoms;
- To foster awareness of the law among the public at large and protect confidential information about individuals.

191. Under article 40 of the Kyrgyz Constitution and the provisions of the Ombudsman Act, the Ombudsman is empowered to examine all violations of human and civil rights. The Ombudsman's statutory powers enable him to launch independent investigations of civil rights violations on the grounds of race or ethnic origin and to require officials and public or municipal bodies to take steps to uphold the rights of ethnic minorities.

192. Every year the Ombudsman reports to Parliament on the status of human and civil rights and freedoms in the Kyrgyz Republic. These independent reports officially detail all violations of civil rights and freedoms on racial, ethnic, religious or linguistic grounds. The wide publicity that the Ombudsman gives to this evidence encourages a critical analysis of current legislation and stimulates the process of aligning national law with international humanitarian legal norms.

193. To a great extent, the Ombudsman relies in his work on support from international and non-governmental organizations. The inauguration of joint monitoring programmes enables the Ombudsman to take an unbiased view of the extent to which the rights of ethnic minorities and religious groups are observed and protected. The recommendations put forward by international and non-governmental organizations must be taken into account and brought to the attention of the national leadership; at the same time these recommendations are independent indicators that fully and comprehensively reveal the state of human and civil rights in Kyrgyzstan.

194. In partnership with a number of international and local non-governmental organizations, the Ombudsman takes steps to raise public legal awareness (legal education) and promote public access to information. Thus, in partnership with the Danish office of human rights and various public and non-governmental bodies, the Ombudsman's office will prepare, publish and disseminate printed matter on human rights topics in the period 2005-2007. These publications will contain legal information presented in an accessible style.

195. The Ombudsman's office funds and publishes a quarterly newsletter circulated free of charge to civil servants, the media, NGOs and penitentiary institutions. The newsletter was originally intended to showcase the Ombudsman's work, but the emphasis has now shifted to counselling and awareness-raising, so it is useful to poor citizens who are unable to afford a trained lawyer or whose access to information is somehow restricted. For example, the newsletter is often an extremely sought-after source of information on legal matters among prisoners on remand.

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