



## **International Covenant on Civil and Political Rights**

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### **Human Rights Committee**

**Ninety-ninth session**

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### **List of issues to be taken up in connection with the consideration of the Initial Report of Kazakhstan (CCPR/C/KAZ/1)**

#### **Constitutional and legal framework within which the Covenant is implemented (art. 2)**

1. Please explain how the decision of the Constitutional Council of 18 June 2006 establishing the supremacy of the Constitution over international treaty law and declaring unenforceable any treaty provision that is in conflict with the Constitution is compatible with article 2(3) of the Constitution which provides that international law shall take precedence over domestic law. Furthermore, please explain the compatibility of this decision with the State party's obligations under article 2 of the Covenant.
2. According to article 4(3) of the Constitution, all international agreements ratified by the State are directly applicable and have precedence over domestic law except where international instruments require the promulgation of a law. Have the provisions of the Covenant ever been invoked before domestic courts? If so, please provide details on all cases in which this was done and with what results.
3. Please explain whether any steps have been taken to strengthen the independence of the Commission on Human Rights, in line with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights adopted by General Assembly resolution 48/134 (Paris Principles)?

#### **Counter-terrorism measures and respect of Covenant guarantees**

4. Please indicate the legislative measures that have been adopted to combat terrorism, and to what extent they may affect the rights guaranteed under the Covenant.

#### **Non-discrimination, equality between men and women (art. 2(1) 3 and 26)**

5. Please indicate the legislative and administrative measures and recent court decisions, if any, relating to protection against discrimination in all fields, on any ground such as race, colour, sex, language, religion, political or other opinion, national or social

origin, property, birth or other status. Please comment on the newly adopted law on Equal Rights and Possibilities for Men and Women.

6. Please provide detailed information on the implementation of the Strategy for Gender Equality 2006-2016 and its impact. Please provide information on (a) women's status in the political, economic and social life of the country, (b) levels of employment among women, the proportion of women in positions of responsibility both in the private and public sector, (c) whether women and men receive equal pay for equal work, and (e) the literacy and school enrolment rates for women as compared to those of men. Indicate all legislative and other steps taken to eliminate the persistent patriarchal attitudes and deep rooted stereotypes in society and those found in school textbooks, and measures to put an end to discriminatory actions, both in the public and private sectors, which impair the equal enjoyment of rights by women and men.

#### **States of emergency (art. 4)**

7. Please explain the lack of reference in article 39(3) of the Constitution to the rights guaranteed in articles 8 (paragraphs 1 and 2), 11, 15 and elements of article 18 of the Covenant. Please state the law that governs the declaration of a state of emergency, and the grounds upon which a state of emergency can be lawfully declared. Has this law ever been invoked?

#### **Right to life (art.6)**

8. Please indicate whether, following the Presidential Decree of 17 December 2007 proclaiming a moratorium on capital punishment for all crimes except terrorist offences and serious crimes committed in wartime, the State party intends to ratify the Second Optional Protocol to the ICCPR and amend existing legislation, including the Criminal Code, with the aim to abolish the death penalty. Please specify all crimes that incur the imposition of the death penalty?

9. Please provide statistical data on the prevalence of teenage pregnancy leading to unsafe abortions, and indicate the measures taken to address this phenomenon.

#### **Prohibition of torture and cruel, inhuman or degrading treatment or punishment (art. 7)**

10. Please explain why the definition of torture in article 347-1 of the Criminal Code is not in line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and why torture carries a relatively lenient penalty with a maximum sentence of five (5) years imprisonment for ordinary torture, seven (7) years for aggravated torture and ten (10) years for torture resulting in death.

11. According to information before the Committee, cases of torture and other ill-treatment are prevalent in the State party, particularly in temporary detention isolation facilities (IVSs) and in investigation isolation facilities (SIZOs). Detainees and prisoners are allegedly subjected to torture and other forms of ill-treatment for purposes of extracting confessions. Please provide detailed information on: (1) the investigations and number of complaints received by the Office of the Prosecutor against law enforcement and detention personnel related to incidences of torture and ill-treatment; (2) the type of charges brought against law enforcement officers; (3) number of cases dismissed, and the reasons for their dismissal; (4) the number of officials disciplined and the sanctions imposed; and (5) concrete measures taken for the rehabilitation and compensation of victims.

12. Please provide detailed information on the magnitude of the problem of violence against women, in particular domestic violence. What is the national legal framework to combat such violence, in particular measures for ensuring that acts of domestic violence are effectively investigated and perpetrators prosecuted and sanctioned? Also provide information on any other steps taken to combat domestic violence, such as training for judges, prosecutors, police and health officers and awareness-raising campaigns for women on their rights and available remedies. In addition, please provide information on: (a) the number of complaints received; (b) investigations carried out; (c) the types of penalties imposed; (d) compensation awarded to the victims and; (e) the number of safe shelters and any other resources allocated to assist victims of domestic violence.

13. According to information before the Committee, domestic law does not contain a provision on non-refoulement, and asylum seekers are extradited or forcibly returned to countries where they are likely to be subjected to torture or other inhuman or degrading treatment or punishment or other serious violations of human rights. Furthermore, Kazakhstan is a party to the Minsk Convention on Legal Assistance for Persons from the Commonwealth of Independent States according to which citizens from Commonwealth Independent States (CIS) who might have valid claims for refugee or asylum status have no protection under the principle of non-refoulement. Please provide information on the measures taken, if any, to protect asylum seekers from extradition and forced returns to countries where there are likely to be subjected to torture, ill-treatment or suffer serious human rights violations.

14. The Committee notes that although corporal punishment is unlawful in Kazakhstani schools, in practice children are subjected to corporal punishment, especially in military schools, foster care institutions, and workplaces. Statistics also indicate that an estimated 60-80% of children is subjected to corporal punishment by parents and others. What measures have been taken to abolish all forms of corporal punishment?

### **Right to liberty and security of person, treatment of persons deprived of their liberty and fair trial (art. 9, 10 and 14)**

15. According to information before the Committee, domestic law does not require the Police to inform detainees that they have the right to an attorney and, in practice, law enforcement officials dissuade detainees from seeing an attorney in order to forcibly extract confessions. Furthermore, the right of detainees to counsel of their choice is hampered in cases involving ‘state secrets’ because of a requirement that suspects seek the assistance of legal counsel from a limited list of lawyers that have received special clearance from the government. Please explain the measures that have been taken, if any, to bring this requirement in line with the Covenant.

16. Has an independent system been established for regular and unannounced inspections to monitor places of detention including SIZOs operated by the National Security Service (NSS), besides those inspections carried out by the Office of the Prosecutor and the Commission on Human Rights of Kazakhstan? Please specify which measures have been taken, if any, to address the problem of deteriorating prison conditions, overcrowding, self-mutilation, high incidence of deaths and abuse at detention centres, particularly at UK-161/3 in Zhitykara and IVS pre-charge facilities in Almaty region also known as “stakan”.

17. According to information before the Committee, the temporary isolation centre in Karaganda was established to house children under the age of 16 who are in conflict with the law, orphans and street children. Please respond to reports that children between the ages of 3 to 18, notwithstanding the reasons of their custody, are held together and

subjected to thirty (30) days of confinement. Furthermore, please provide information on the steps that have been taken to establish specialized detention facilities, juvenile courts and trained juvenile court judges. Please indicate if alternative measures to detention are used in addressing juvenile crime, such as diversion, probation, counselling, community service or suspended sentences.

18. Please respond to allegations that the National Security Service (NSS), in its counter-terrorism operations, uses unofficial places of detention such as rented apartments and houses to keep suspects in de facto unacknowledged and incommunicado detention.

19. According to information before the Committee, there is pervasive corruption in judicial and other law enforcement bodies. Please provide information on the measures being taken to (a) fight corruption, (b) investigate corrupt officials, and (c) discipline judges and law enforcement officers. Please also state the measures taken, if any, to improve judicial independence by reducing the Prosecutor's dominating role in the judicial process, conferring power on the Constitutional Council to review Presidential decrees, and amending article 73(4) the Constitution which gives powers to the President to veto decisions of the Constitutional Council.

20. Please respond to reports that during trials judges often admit evidence obtained through torture and other ill-treatment. What measures have been taken, if any, to ensure that such evidence is excluded?

### **Elimination of slavery and servitude (art. 8)**

21. Please provide detailed information on: (a) the State party's legislative framework for combating trafficking in human beings, in particular women and children; (b) the prevalence of this phenomenon, expressed in statistical data disaggregated by gender, age and country of origin; (c) the number of prosecutions, convictions and sanctions imposed on persons involved in human trafficking; and (d) any training programmes for professionals involved in implementing the State party's measures against trafficking, including the police, the judiciary, members of the prosecution authorities and social workers.

### **Freedom of religion and belief (art.18)**

22. Please comment on reports that the law provides for compulsory registration of religious institutions, and that religious institutions seeking to register and re-register face considerable difficulties and delays in obtaining a permit to conduct religious activities. Please explain how the draft law on "Amendments and Additions to some Legislative Acts of the Republic of Kazakhstan on Issues of Religious Freedom and Religious Organisations" which in effect prohibits private religious education at all levels is compatible with the Covenant.

23. Please provide information on (1) the arrangements in place for conscientious objectors to military service to perform alternative services; (2) the number of persons that have used these arrangements; and (3) the duration of alternative service, as compared with military service.

## **Freedom of opinion and expression, and freedom of assembly (art. 19 and 21)**

24. Please provide detailed information on: (a) how freedom of opinion and expression is guaranteed in law and in practice, including on all aspects of circulating information in any form; (b) the legal regime that regulates the ownership and licensing of the press and the broadcasting media as well as any regulation regarding internet, internet service providers and electronic libraries; and (c) the existence of non-State controlled media. Furthermore, please respond to reports that the government monitors email and internet use, blocks access to websites operated by the opposition, and posts pro-government propaganda on internet chat rooms. Please explain the extent to which the regulation complies with the provisions of the Covenant.

25. Please provide information on the laws on peaceful assembly their application.

26. Please provide information on the number of journalists/individuals that have been arrested and convicted under the Criminal Code and Administrative Code for the offence of insulting the honour and dignity of the President. Please clarify what effect the new law of June 2010 giving wider immunity to the President and his family may have in this regard. Furthermore, please provide data on the number of media institutions that have been forced to close due to libel suits, and the number of journalists/individuals that have been harassed, killed, and arrested for various media related offences under the Administration Code and the Law on Mass Media.

## **Protection of minors (art. 23 and 24)**

27. Please provide detailed information on: (1) the magnitude of child abuse including sexual assault, domestic violence, and trafficking (2) the number of complaints lodged, investigations carried out and sanctions imposed on perpetrators; and (3) measures in place for the protection and rehabilitation of victims.

28. Please state the measures being taken to combat all forms of discrimination involving children, especially children with disabilities, and the discontinuance of using vocabulary such as “idioty”, “invalid” and “illegitimate child” in legislation and literature that stigmatises children with disabilities and children born out of wedlock.

## **Rights of persons belonging to minorities (art. 27)**

29. According to information before the Committee, the Law on Languages of 1997, while legitimately promoting the use of Kazakh language, effectively excludes minorities from accessing various economic, political and employment opportunities owing to lack of proficiency in Kazakh. Please provide detailed information on the measures being taken, if any, to improve access to employment and political participation by minorities in all decision making bodies particularly in those bodies whose decisions have a direct impact on their welfare.

## **Dissemination of information relating to the Covenant and the Optional Protocol (art.2)**

30. Please provide information on the steps taken to disseminate information on the Covenant and the Optional Protocols, the submission of the initial report of the State party, and its forthcoming examination by the Committee. Please also provide more detailed

information on the involvement of representatives of ethnic and minority groups, civil society, non-governmental organizations, and the national human rights institution in the preparatory process for the report.

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