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**Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21**

**Kazakhstan\***

The present report is a summary of 23 stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

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\* The present document was not edited before being sent to United Nations translation services.



## **Information provided by stakeholders**

### **A. Background and framework**

#### **1. Scope of international obligations<sup>2</sup>**

1. Human Right Watch (HRW) and the Joint Submission (JS) 4 recommended that Kazakhstan ratify the Rome Statute of the International Criminal Court.<sup>3</sup> Kazakhstan was recommended to ratify ICCPR-OP 2<sup>4</sup> and OP-CRC-IC,<sup>5</sup> and complete, without delay, the ratification process of CRPD and OP-CRPD.<sup>6</sup>

#### **2. Constitutional and legislative framework**

2. The Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe (OSCE/ODIHR) stated that the Constitution and legal framework were hastily adopted in 2011, with the specific aim of allowing for an early presidential election. Changing the constitution based on current political interests undermined the integrity of the political process and the standing of the constitution. Furthermore, the lack of comprehensive public debate on the constitutional change fell short of international good practice.<sup>7</sup>

3. In 2012, OSCE/ODIHR stated that the legal framework for elections remained inconsistent with several OSCE commitments and other international standards for democratic elections. A number of key OSCE/ODIHR recommendations remained to be addressed.<sup>8</sup>

#### **3. Institutional and human rights infrastructure and policy measures**

4. JS8 recommended that Kazakhstan establish the office of the Ombudsman for the Rights of the Child.<sup>9</sup>

5. The International Service for Human Rights (ISHR) referred to reports indicating that Kazakhstan fulfilled 23 percent of the goals set in the National Human Rights Action Plan for 2009-2012.<sup>10</sup> It recommended that Kazakhstan develop and implement a new National Human Rights Action Plan and that the Plan include concrete steps, measures and policies for the protection of human rights defenders.<sup>11</sup>

### **B. Cooperation with human rights mechanisms**

N/A

### **C. Implementation of international human rights obligations**

#### **1. Equality and non-discrimination**

6. JS2 stated that there was no specific anti-discrimination legislation, containing a protection mechanism and a definition of discrimination, including direct and indirect discrimination. There was almost no jurisprudence on cases of discrimination on any grounds.<sup>12</sup>

7. The International Commission of Jurists (ICJ) stated that a number of omissions and inadequacies in legislation concerning sex discrimination continued to deny women effective protection from discrimination and access to legal remedies. The Law on the State

Guarantees of Equal Rights and Equal Opportunities of Women and Men did not appear to prohibit discrimination in practice or prohibit discrimination by private actors. It did not include provisions detailing penalties or sanctions to be imposed against those who engaged in discriminatory conduct.<sup>13</sup> ICJ recommended that Kazakhstan reform the Law so as to include a comprehensive prohibition of de jure and de facto discrimination and an accessible procedure through which women can make complaints of discrimination and obtain effective redress.<sup>14</sup>

## **2. Right to life, liberty and security of the person**

8. JS4 stated that the moratorium on the execution of the death penalty remained. However, the previous and new Criminal Codes contained a range of offenses that were punishable by the death penalty. JS4 concluded that Kazakhstan had not implemented the UPR recommendations concerning the death penalty.<sup>15</sup>

9. Amnesty International (AI) stated that torture and ill-treatment remained pervasive and that it continued to receive reports of torture and other ill-treatment in prisons.<sup>16</sup> HRW and JS4 concluded that Kazakhstan had not fulfilled UPR recommendations to apply a zero-tolerance approach to torture.<sup>17</sup>

10. JS8 reported on a high rate of domestic violence against women. Victims of domestic violence mostly received assistance from specialised crisis centres, established by NGOs. There was no funding assistance from the Government to ensure sustainability of such centres.<sup>18</sup>

11. ICJ stated that the law specified that in many situations of rape and sexual assault the onus was on the victim to make an official complaint and pursue accountability. In the case of some forms of sexual violence, even where the victim made a formal complaint, there was no legal obligation for the State to initiate an investigation.<sup>19</sup> The criminal law provided that in many instances of rape and sexual assault a State prosecution must cease if, although initially having made an official complaint, the victim later 'reconciled' with the perpetrator. The system placed victims of sexual assault at considerable risk of re-victimization as perpetrators might often seek to "convince" the victim to accept compensation or not to make a complaint in the first place.<sup>20</sup>

12. ICJ recommended that Kazakhstan reform its legislation dealing with rape and sexual assault to ensure, inter alia, that laws: (a) comprehensively prohibit all forms of sexual assault, against women and men, (b) classify all sexual assault crimes as crimes of public accusation, and (c) remove the provisions, requiring prosecutions to end or relieve individuals of responsibility for rape or any other form of sexual assault on grounds of reconciliation.<sup>21</sup>

13. ICJ and JS8 stated that there was no legal prohibition of sexual harassment.<sup>22</sup> JS8 recommended that Kazakhstan take legal and administrative measures to prevent and protect women from sexual harassment.<sup>23</sup>

14. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) expressed hope that Kazakhstan would be recommended to explicitly prohibit corporal punishment in the home and all alternative and day care settings.<sup>24</sup>

## **3. Administration of justice, including impunity, and the rule of law**

15. JS4 stated that the judiciary was under the direct control of the President. Judges of the Supreme Court were formally approved by the Senate, based on the nominations submitted by the President. Grounds for disciplinary liability of judges were not clearly defined and allowed punishment of judges for minor infractions and controversial interpretation of the law.<sup>25</sup>

16. ICJ stated that the lack of judicial independence meant that judges were rarely free to acquit people who had been charged with criminal offences, and had reasons to fear immediate disciplinary or other more severe repercussions should they do so.<sup>26</sup> JS4 concluded that the UPR recommendations no. 95.53, 95.54, 95.57, 95.58, 95.59, 95.60, 95.61 and 95.62 regarding the independence of judiciary and fair trial were not fully implemented.<sup>27</sup>

17. JS4 stated that prosecutors were vested with broad powers in the justice process, including the authorization to limit the constitutional rights (search, seizure, inspection of correspondence and many others) and to rule on the issue of removing defense counsel from the case during pretrial proceedings.<sup>28</sup>

18. Lawyers for Lawyers (L4L) stated that lawyers encountered difficulties in carrying out their profession independently and were subjected to threats or physical attacks, intimidation and interference or attempts to put pressure on them by judges, public prosecutors and members of law enforcement agencies. It reported on instances of lawyers being subjected to criminal proceedings and even psychiatric confinement. Several lawyers had been reportedly disbarred or faced disbarment on improper grounds.<sup>29</sup> ICJ made similar observations.<sup>30</sup>

19. L4L recommended that Kazakhstan prevent that lawyers are threatened, intimidated, hindered, harassed or subjected to improper interference while exercising their professional duties and ensure that those violations were effectively investigated and perpetrators of such acts are prosecuted.<sup>31</sup> ICJ made a similar recommendation.<sup>32</sup>

20. AI stated that despite the 2012 decree defining the moment of detention as the “precise moment when a person is deprived of his/her liberty and freedom of movement”, in practice, detention times were sometimes deliberately recorded inaccurately by law enforcement officials, leading to periods of unrecorded detention.<sup>33</sup> JS4 stated that detainees tended to spend more than 72 hours prior to appearing before the court.<sup>34</sup>

21. JS4 stated that the existing procedure for judicial authorization of pre-trial detention was not fully consistent with the standards of habeas corpus.<sup>35</sup> OSCE/ODIHR stated that despite the introduction of judicial authorization of pre-trial detention additional safeguards were needed to ensure that defendants are entitled to judicial review of the legality of their arrest. Additional reforms were needed to make pre-trial detention an exception.<sup>36</sup> JS4 stated that the new Criminal Procedure Code prescribed pre-trial detention based solely on the gravity of criminal charges, which was in violation of the principle of the presumption of innocence.<sup>37</sup>

22. AI stated that the control of the prison system was transferred from the Ministry of Justice back to the Ministry of Internal Affairs. Access for independent public monitors to detention facilities had improved under the Ministry of Justice, but became problematic under the Ministry of Internal Affairs.<sup>38</sup> JS4 made a similar observation.<sup>39</sup> AI recommended that Kazakhstan ensure effective access of independent public monitors to all detention facilities and other penitentiary institutions.<sup>40</sup>

23. JS4 stated that persons in custody continued to be denied an access to necessary medical care. Health workers in closed institutions of the Interior Ministry were certified employees of the Ministry. Independent medical experts did not have access to places of detention. JS4 concluded that the practice deprived detainees of access to independent doctors.<sup>41</sup>

24. JS4 stated that due to the problems in detention places, including the lack of independent doctors, lawyers and of effective complaints mechanisms, and censorship of correspondence the prisoners resorted to hunger strikes and self-mutilation as a way to draw the public attention to the situation.<sup>42</sup>

25. ICJ reported on the lack of a clear legal requirement that the detainee be represented by a lawyer in habeas corpus hearings.<sup>43</sup> Furthermore, it referred to reports indicating that detainees' access to lawyers was often impeded in practice. Investigators impeded meetings between lawyers and their clients, or restricted their duration. Defence lawyers had difficulty meeting with their clients confidentially.<sup>44</sup> ICJ recommended that Kazakhstan ensure that the right of access to a lawyer for detained suspects and accused persons is effective in practice, and that meetings between lawyers and their clients in custody take place in confidence.<sup>45</sup>

26. ICJ stated that the procedural rights of suspects and accused persons were poorly protected in the criminal justice system.<sup>46</sup> AI recommended that Kazakhstan ensure that all persons deprived of their liberty are informed promptly of the reasons for their detention, any charges against them, and allowed prompt and regular access to a lawyer of their choice.<sup>47</sup> ICJ recommended that legal assistance provided to detained suspects or accused persons free of charge is independent, serves the interests of the clients, and provides an effective safeguard for their human rights.<sup>48</sup>

27. HRW stated that since 2009, numerous civil society activists were arrested on what appeared to be politically motivated charges and convicted in trials that did not meet international fair trial standards, highlighting the Government's failure to fulfil the accepted UPR recommendations to continue to develop the rule of law and to ensure that all trials comply with international standards for fair trials.<sup>49</sup>

28. JS4 stated that evidence obtained through alleged torture was used by courts to reach a conviction.<sup>50</sup> HRW and JS4 concluded that Kazakhstan did not fulfil UPR recommendations to adopt strict safeguards to ensure that no statement obtained through torture can be used in courts.<sup>51</sup> AI recommended that Kazakhstan ensure in practice that no statements obtained as a result of torture or other ill-treatment is used as evidence in trial proceedings.<sup>52</sup>

29. AI stated that impunity for human rights violations by the security forces, including torture and other ill-treatment and excessive use of force, remained broadly unchallenged.<sup>53</sup> JS4 stated that even on such a high-profile case as the trial of striking oil workers in Zhanaozen in 2011 (Zhanaozen's events), Kazakhstan failed to conduct any effective investigation of torture, which 27 out of 37 defendants and 10 witnesses claimed during the trial.<sup>54</sup> HRW made a similar observation,<sup>55</sup> and recommended that Kazakhstan promptly and impartially investigate all allegations of torture and ill-treatment in connection with the Zhanaozen violence and hold the perpetrators accountable.<sup>56</sup> ISHR recommended that Kazakhstan support and facilitate an independent international investigation into the use of force, injuries and fatalities associated with Zhanaozen's events.<sup>57</sup>

30. AI recommended that Kazakhstan ensure that all past allegations of the use of torture and other ill-treatment and all instances of abusive use of force by law enforcement officials are promptly, effectively and independently investigated, and that any official found to have sanctioned or conducted such acts are held accountable. It recommended that Kazakhstan establish an independent mechanism to investigate all allegations of torture and other ill-treatment by members of law enforcement agencies, or by persons acting on orders of, or with the acquiescence of members of such agencies.<sup>58</sup>

31. The Human Rights Implementation Centre of the University of Bristol (HRIC) stated that the Law on the Amendments and Additions to certain legislative acts on the establishment of national preventive mechanism (NPM) was adopted in 2013. It explained that the Government did not adopt a new law on NPM but rather opted for amendments to 16 legislative acts. This meant that there was no single overarching definition of the term 'deprivation of liberty'. It appeared that the amendments did not allow for visits to some places where people were deprived of their liberty such as social care homes for elderly.<sup>59</sup>

HRIC also raised the issues of: the absence of financial provisions relating to the NPM functioning; the restrictive approach to the NPM membership and the absence of the right of the NPM to carry out unannounced visits.<sup>60</sup> JS4 concluded that the new NPM did not fully comply with the requirements set out in the OP-CAT.<sup>61</sup> HRIC concluded that Kazakhstan failed to comply fully with the accepted UPR recommendations nos. 95.65, 95.66, 95.67 and 95.68 regarding the NPM.<sup>62</sup>

#### **4. Right to privacy, marriage and family life**

32. JS8 reported on the problem of early and forced marriages. It stated that legislation did not provide liability for forced marriages.<sup>63</sup>

#### **5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

33. JS3 stated that since the UPR of 2010, the respect of religious freedom deteriorated.<sup>64</sup> HRW stated that Kazakhstan accepted the UPR recommendation no. 95.73<sup>65</sup> regarding religious freedom. Yet, the government adopted a restrictive law on religious activities and associations in 2011 and all religious groups were required to undergo compulsory re-registration, resulting in the closure of hundreds of small religious communities who were unable to meet the 50-person membership requirement for re-registration.<sup>66</sup> Forum 18, JS2 and the International Human Rights Committee (IHRC) made similar observations.<sup>67</sup> The European Association of Jehovah's Christian Witnesses (EAJCW) concluded that the 2011 Law had a chilling effect on religious freedom.<sup>68</sup>

34. Forum 18 reported that the 2011 Law banned unregistered religious activities, and imposed restrictions on distribution and imports of religious materials and on places of religious activities.<sup>69</sup> JS3 stated that religious literature had to be submitted to the approval of the Agency of Religious Affairs and it could be confiscated or destroyed if it was not approved.<sup>70</sup> EAJCW reported on several cases of ban imposed on the import of Jehovah's Witnesses' religious materials.<sup>71</sup> Forum 18 stated that courts fined commercial booksellers and individuals for distributing religious literature outside approved venues.<sup>72</sup>

35. Forum 18 stated that individuals engaged in spreading their faith must have registration and that only registered religious organisations could appoint missionaries.<sup>73</sup> JS3 reported that Jehovah's Witnesses were fined for illegal missionary activities.<sup>74</sup> EAJCW reported on a number of cases of deportation of foreign citizens for illegal missionary activity.<sup>75</sup>

36. HRW stated that religious groups were subjected to raids, fines, and confiscation of literature.<sup>76</sup> JS3 stated that religious communities, especially those not able or willing to register and frequently labelled by the governments as "sects" or "extremists organisations", faced a number of serious difficulties. Muslim minorities, Evangelical Protestant Christians, Jehovah's Witnesses, Hare Krishna, Baha' and others were particularly affected.<sup>77</sup> JS3 stated that the textbook 'Introduction to Religious Studies' included a hostile attitude towards "non-traditional" religious communities, trying to equate them with "terrorist", "destructive", "extremist" movements, and abusive proselytism.<sup>78</sup>

37. HRW recommended that Kazakhstan review the 2011 Religion Law with a view to ensuring its conformity with the Constitution and international human rights standards.<sup>79</sup> JS3 recommended that Kazakhstan ensure that all religious communities are able to exercise their freedom of religion or belief with or without official state registration and lift the ban of unregistered religious activity, the religious censorship and remove obstacles for the building and opening new places of worship.<sup>80</sup>

38. Noting the lack of legal provisions concerning conscientious objection to military service, JS6 encouraged Kazakhstan to review its legislation to provide for alternative military service.<sup>81</sup>

39. AI stated that Kazakhstan accepted recommendations to decriminalize defamation and slander. However, the new Criminal Code retained defamation and slander and increased the punishment for those crimes.<sup>82</sup> HRW, Reporters without Borders (RSF), JS1 and JS2 made similar observations.<sup>83</sup> JS1 and JS2 reported on cases of journalist facing criminal charges for defamation.<sup>84</sup> RSF stated that defamation remained one of the most frequently used means to silence critical voices.<sup>85</sup>

40. JS1 stated that despite the accepted recommendations nos. 97.21, 97.25 and 97.26,<sup>86</sup> civil defamation and insult provisions remained frequently used to harass and silence journalists.<sup>87</sup>

41. OSCE/ODIHR concluded that criminalization of defamation and exorbitant damages claimed in civil defamation cases, and the special protection afforded to the president and public officials, de facto limited the constitutional prohibition of censorship and guarantees of freedom of speech.<sup>88</sup> JS1 and JS2 recommended decriminalisation of defamation and insult.<sup>89</sup> AI, HRW, RSF and OSCE/ODHIR made similar recommendations.<sup>90</sup> OSCE/ODHIR recommended amending civil defamation law to ensure that defamation cases are settled proportionately to the offense committed.<sup>91</sup>

42. RSF stated that legal provisions on combatting extremism were used to silence critical media and that respective vague and broad definitions allowed the most repressive interpretations.<sup>92</sup> AI stated that the Almaty City Prosecutor's Office, in 2012, instigated proceedings to close down print media outlets, websites and internet-based TV channels by accusing them of extremism, inciting social discord and of posing a threat to national security. These were almost all of existing independent media outlets.<sup>93</sup> HRW stated that since 2011, the authorities repeatedly misused the overbroad and vague criminal offense under article 164 of the Criminal Code, "inciting social, national, clan, racial, or religious discord," in an attempt to silence critics.<sup>94</sup>

43. AI stated that administrative regulations were used by the authorities to harass independent critical media.<sup>95</sup> RSF explained that administrative regulations were invoked to suspend or close some independent media outlets.<sup>96</sup> JS1 stated that the proposed amendments to the Administrative Code of Offences retained provisions, allowing for the suspension, closure and seizure of media outlets for minor irregularities.<sup>97</sup> RSF recommended the reform of the Administrative Code to ensure that minor administrative offences do not lead to a closure of media.<sup>98</sup>

44. AI stated that the internet was considered a mass medium, and as such was subject to all media-related regulations and restrictions. Social networks and blogs were often targeted through those restrictions in order to obstruct access to information. Hundreds of internet-based resources were blocked every year by court decisions taken in closed proceedings, due to their supposedly extremist or otherwise illegal content.<sup>99</sup> JS1, JS2, RSF and ISHR made similar observations.<sup>100</sup> RSF stated that only in February, 2014 four bloggers were sentenced under various pretexts to prison terms.<sup>101</sup>

45. AI stated that the situation on freedom of expression deteriorated and that the crackdown on media continued during the reporting period.<sup>102</sup> HRW stated that independent journalists continued to face threats and harassment. Unidentified individuals attacked journalists.<sup>103</sup> AI concluded that none of the accepted UPR recommendations on freedom of expression had been implemented.<sup>104</sup> JS1, JS2, IHRC and RSF made similar observations.<sup>105</sup>

46. AI recommended that Kazakhstan ensure that journalists, human rights defenders and other civil society activists were able to seek, receive and impart information, and to carry out their legitimate activities without intimidation, hindrance, harassment or pressure.<sup>106</sup> RSF recommended that Kazakhstan end harassment of media, independent journalists and bloggers and ensure that perpetrators of attacks against journalists are identified and prosecuted.<sup>107</sup>

47. JS2 stated that legislation allowed the use of extreme measures of suspension and termination of public associations for violations of the legislation. The provisions of the Criminal Code imposed enhanced criminal liability for members of public associations and their leaders as compared to citizens who are not members of public associations.<sup>108</sup>

48. Freedom House (FH) stated that the new Criminal Code carried over provisions that inflict criminal liability on public associations and expanded the list of such crimes.<sup>109</sup> It stated that the management, participation, and financing of the activities of non-registered public associations were considered a crime under the new Criminal Code. FH reminded that the prohibition on unregistered associations was a violation of ICCPR.<sup>110</sup>

49. HRW stated that the Government did not liberalize legislation on freedom of assembly despite accepting the UPR recommendation no. 97.14.<sup>111</sup> OSCE/ODIHR stated that the Law on Peaceful Assemblies included excessive limitations on the holding of public assemblies. It required advance approval (rather than notification) for meetings. The minimum ten-day advance request was rather long and might reduce the ability of citizens to respond to events with reasonable promptness, especially since holding and attending unauthorized events were subject to penalty. The law included broad restrictions on locations for public meetings and very broad powers of local authorities to decide whether or not to grant permission or to alter the time and place of meetings.<sup>112</sup> AI, JS2 and ARK made similar observations.<sup>113</sup>

50. JS2 stated that the city administrations imposed various impediments to hold public events.<sup>114</sup> 'Ar.Rukh.Khak' Public Association (ARK) stated that legislation was applied selectively during the pre-elections campaigns, prohibiting opposition candidates to hold public meetings.<sup>115</sup> AI stated that in several incidents, law enforcement officials used excessive force to break up unauthorized peaceful meetings, including strikes. In dozens of cases, the organizers and participants were fined or sentenced to administrative detention for up to 15 days.<sup>116</sup>

51. AI reported that several protesters were killed and hundreds wounded by the security forces in December 2011 in Zhanaozen.<sup>117</sup> HRW stated that activists, in 2012, were prevented from attending peaceful rallies to commemorate those who were killed and wounded by police in Zhanaozen, or were arrested during or immediately after.<sup>118</sup> JS1 stated that in the aftermath of Zhanaozen's events, the authorities initiated criminal proceedings against over 40 oil workers, activists, and journalists. The Criminal Code provisions, including the Article 164 on incitement of social hatred were used to imprison protestors.<sup>119</sup>

52. HRW recommended that Kazakhstan ensure that the laws and regulations on demonstrations are in conformity with its international human rights obligations on freedom of assembly.<sup>120</sup> JS1, JS2, ISHR, AI and ARK made similar recommendations.<sup>121</sup>

53. ISHR stated that despite several UPR recommendations regarding the protection of human rights defenders, the restrictions by the Government continued to threaten the activities and safety of human rights defenders.<sup>122</sup>

54. JS2 stated that Kazakhstan continued having a system that limited political pluralism and the possibility of the formation of representative political structures.<sup>123</sup> It stated that registration of political parties remained constrained and that legislation contained a broad

definition of grounds for suspension of activities of political parties.<sup>124</sup> OSCE/ODIHR stated that the Law on Political Parties prohibited organization of parties based on ethnic origin, gender and religion.<sup>125</sup>

55. OSCE/ODIHR stated that early parliamentary elections of 2012 did not meet fundamental principles of democratic elections and that the necessary conditions for the conduct of genuinely pluralistic elections were not provided for by the authorities.<sup>126</sup> It stated that while the 2011 election was technically well-administered, the absence of opposition candidates and of a vibrant political discourse resulted in a non-competitive environment.<sup>127</sup>

56. JS2 reported on the obstacles created by the Government for interdependent observers to monitor the election process.<sup>128</sup> OSCE/ODIHR recommended that Kazakhstan ensure unhindered access of domestic and international observers to electoral process.<sup>129</sup>

57. OSCE/ODIHR stated that ethnic minority candidates were under-represented on political party lists and in the Majilis.<sup>130</sup> JS2 noted with concern the lack of adequate representation of ethnic minorities in the executive branch and the law enforcement structures.<sup>131</sup>

58. JS8 stated that the representation of women in decision making remained low. The Gender Equality Strategy for 2006-2016 contained insufficient measures to increase women's political representation.<sup>132</sup> OSCE/ODIHR stated that the legal framework contained no incentives for political parties to involve women in politics.<sup>133</sup>

## **6. Right to work and to just and favourable conditions of work**

59. JS8 reported on a high level of gender pay gap, income inequality between men and women, and long-term unemployment among women.<sup>134</sup>

60. HRW stated that there was a broad prohibition on staging strikes in certain sectors of the economy, including in the railway, transport, and petroleum industries. Workers were required to exhaust the cumbersome mediation procedures for a strike to be considered legal.<sup>135</sup> JS8 considered that the new Law on Trade Unions established conditions for the Government to exercise a control over the trade unions. The new Criminal Code criminalised actions that could provoke continuous participation in a strike.<sup>136</sup> JS8 recommended that Kazakhstan revoke criminalization of trade union activities and labor strikes from the new Criminal Code.<sup>137</sup>

61. JS8 stated that the Government continued impeding the activities of independent trade unions through denial of their registration, the prosecution of trade union leaders and violation or termination of collective agreements. Trade union members became targets of various methods of pressure.<sup>138</sup> HRW documented: mass dismissals of workers following the strikes; the authorities' attempts to break peaceful strikes; and the imprisonment of union leaders on politically motivated charges in trials that did not adhere to fair trial standards.<sup>139</sup> JS8 reported on cases when prosecutors brought criminal charges against trade union leaders for mobilizing workers and organizing strikes by using Article 164 of the Criminal Code on incitement of social, national, ethnic, racial or religious hatred.<sup>140</sup>

62. JS8 recommended ending the practice of denial of state registration to independent trade unions; introducing strict liability for interfering in trade union activities and discrimination based on trade union membership; and putting an end to practice of prosecutions of trade union leaders for the exercise of their professional duties.<sup>141</sup> HRW made similar recommendations.<sup>142</sup>

**7. Right to social security and to an adequate standard of living**

63. JS8 recommended that Kazakhstan adopt legislative measures to guarantee the right to adequate housing and to establish safeguards against forced evictions, and establish an effective system and mechanisms to ensure the right to adequate housing in practice.<sup>143</sup>

**8. Right to health**

64. JS5 reported on limited access to safe and reliable family planning methods for vulnerable groups, information related to sexual and reproductive health services, safe abortion, and comprehensive sexuality education for adolescents.<sup>144</sup> It recommended that Kazakhstan: (a) ensure availability of safe abortion methods in public facilities, especially in rural areas, (b) provide contraceptives for free or at affordable costs to the most vulnerable population, at a minimum, and (c) introduce a mandatory comprehensive sexuality education curriculum in schools, accompanied by an awareness raising campaign for the general public.<sup>145</sup>

**9. Persons with disabilities**

65. JS7 and JS8 noted the Plan of Action for 2012-2018 to promote the rights of persons with disabilities.<sup>146</sup> JS8 stated that the first phase of the Plan, which aimed at improving the relevant legislation, was in the process of implementation. The Government adopted national and regional plans to improve public attitudes and to change existing stereotypes towards persons with disabilities. JS8 explained that despite positive developments, persons with disabilities continued to experience problems in practice. It concluded that the UPR recommendations regarding the rights of persons with disabilities were partially implemented.<sup>147</sup>

66. JS8 stated that persons with mental disabilities were held in large institutions. There was no mechanism for deinstitutionalisation. The provision of social services to the persons with disabilities was poorly developed.<sup>148</sup> JS7 stated that the application of legislation regarding the establishment of day-care centres and the promotion of the family-based care for children with disabilities were hindered by the lack of professional competences and the necessary equipment at the regional level. Legislation encouraged the provision of social services for children with disabilities and their families by NGOs. However, NGOs often did not receive timely funding, which caused interruptions in the provision of services provided by them.<sup>149</sup>

67. JS7 stated that inclusive education was introduced in the framework of the Program of Education Development for 2011-2020. However, children with disabilities had limited access to inclusive education because of existing barriers, including under-trained pedagogical staff, under-equipped schools, inadequate school standards and social hostility.<sup>150</sup>

68. JS7 reported on negative public attitudes towards and discrimination against children with disabilities and their families, which frequently led to their social and economic exclusion. JS7 made a number of recommendations in this respect.<sup>151</sup>

**10. Migrants, refugees and asylum seekers**

69. AI stated that following the entry into force of the Law on Refugees, which excluded certain categories of asylum seekers from qualifying for refugee status, the Central Commission on the Determination of Refugee Status reviewed all cases of individuals previously recognized as persons entitled to international protection by UNHCR, and in most cases revoked their status.<sup>152</sup>

70. AI stated that despite Kazakhstan's acceptance of the recommendations to uphold the non-refoulement principle, there were incidents when Kazakhstan returned asylum seekers and refugees to countries where they were at risk of torture.<sup>153</sup> AI stated that legislation was amended in 2011 to include a new provision guaranteeing judicial review of extradition orders and prohibiting extradition to a country where there was a real risk of torture although not other ill-treatment. However, this requirement continued to be ignored by courts.<sup>154</sup>

71. HRW recommended that Kazakhstan ensure that all asylum seekers are given prompt access to thorough and individualized refugee status determination in which their due process rights are protected, and that no asylum seeker is returned to a place where she or he faces a risk of ill-treatment or torture.<sup>155</sup> AI made similar recommendations.<sup>156</sup>

72. JS8 stated that refugees had almost no possibility of integration because their status was equated with the status of foreign citizens temporarily residing in Kazakhstan. To apply for residence or citizenship, refugees were requested to provide a certificate of approval to change citizenship from their national embassy. This practice was contrary to the 1951 Refugee Convention.<sup>157</sup>

#### **11. Right to development, and environmental issues**

73. JS8 recommended that Kazakhstan: ensure full implementation of the Aarhus Convention; bring its legislation in accordance with international standards on environmental protection; and provide access to government held information on environmental issues.<sup>158</sup>

#### **12. Human rights and counter-terrorism**

74. AI stated that "extremism" in the 2013 counter-terrorism legislation, which provided for broader measures for countering terrorism and extremism, was defined, inter alia, as "inciting social or class hatred", which in the absence of legal clarification was used to curb political expression. The new Criminal Code lowered the age of criminal liability for terrorist offences to 14 years.<sup>159</sup>

75. AI reported that since 2011, the authorities stepped up counter-terrorism operations following a number of bomb explosions, suspected suicide bombings and violent attacks by unidentified armed groups, which the authorities described as terrorist attacks by illegal Islamist groups. The presumption of innocence was violated in the context of the fight against terrorism, with suspects often branded guilty in public by state officials before the start of the trials. Some of those convicted of terrorist crimes were reported to be serving prison sentences in cruel, inhuman and degrading conditions in high security prisons in Shymkent or Arkalyk.<sup>160</sup>

## Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org).

## Civil society precautions

## Individual submissions:

AI	Amnesty International, London (United Kingdom of Great Britain and Northern Ireland);
ARK	'Ar.Rukh.Khak' Public Association, Almaty (Kazakhstan);
EAJCW	European Association of Jehovah's Christian Witnesses, Kraainem (Belgium);
FH	Freedom House, Washington (United States of America);
Forum 18	Forum 18 News Service, Oslo (Norway);
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London (United Kingdom of Great Britain and Northern Ireland);
HRW	Human Rights Watch, New York (United States of America);
HRIC	Human Rights Implementation Centre of the University of Bristol, Bristol (United Kingdom of Great Britain and the Northern Ireland);
ICJ	International Commission of Jurists, Geneva (Switzerland);
IHRC	International Human Rights Committee, London (United Kingdom of Great Britain and the Northern Ireland);
ISHR	International Service For Human Rights, Geneva (Switzerland);
L4L	Lawyers for Lawyers, Amsterdam (Netherlands);
MIRACLE	Centre for Social Adaptation of Orphan Children and Graduates of Orphanages 'MIRACLE', (Kazakhstan);
RSF	Reporters without Borders, Paris (France).

## Joint submissions:

JS1	Joint submission 1 submitted by: Article 19 and Pen International, London (United Kingdom of Great Britain and the Northern Ireland);
JS2	Joint submission 2 submitted by: 'Kazakhstan International Bureau for Human Rights and Rule of Law' Public Association, 'Adil Soz' International Foundation for Protection of Freedom of Speech, 'International Legal Initiative' Public Foundation, 'Echo' Public Association and Association of Religious Organisations of Kazakhstan, Almaty (Kazakhstan);
JS3	Joint submission 3 submitted by: Open Doors, Ermelo(Netherlands); International Institute for Religious Freedom (Bonn, Cape Town and Colombo) and World Evangelical Alliance, New York (United States of America);
JS4	Joint submission 4 submitted by: Kazakhstan NGOs Coalition Against Torture; Legal Policy Research Centre and Public Foundation 'Charter for Human Rights', Almaty (Kazakhstan);
JS5	Joint Submission 5 submitted by: Kazakhstan Association on Sexual and Reproductive Health (Kazakhstan) and Sexual Rights Initiative (a coalition of organizations from Canada, Poland, India, Egypt, Argentina and Africa);
JS6	Joint Submission 6 submitted by: International Fellowship of Reconciliation, Alkmaar (Netherlands) and Conscience and Peace Tax International, Leuven, (Belgium);
JS7	Joint Submission 7 submitted by: International Catholic Child Bureau/BICE, Paris (France) and KENES, Almaty (Kazakhstan);
JS8	Joint Submission 8 submitted by: Public Fund 'Kazakhstan Parliamentary Development Fund', Confederation of Free Trade Union of Kazakhstan, 'ECO Magistau', Association of Legal Entities

'Union of Crisis Centres in Kazakhstan', Public Association 'Feminist League', Public Association 'Women Support Center', Public Fund 'Children Fund of Kazakhstan', Corporate Fund SOS Children Villages-Kazakhstan', Public Foundation 'Aman Saulyk', Public Association of Disabled Persons with Higher Education 'Namys' (Kazakhstan).

Regional intergovernmental organization(s):

OSCE/ODIHR Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe, Warsaw (Poland);

Attachments: OSCE/ODIHR Election Observation Mission Final Report: the Republic of Kazakhstan, Early Parliamentary Elections, 15 January 2012, Warsaw, April, 2012;  
OSCE/ODIHR Election Observation Mission Final Report: the Republic of Kazakhstan, Early Presidential Elections, 3 April 2011, Warsaw, June, 2011.

<sup>2</sup> The following abbreviations have been used in the present document:

ICCPR	International Covenant on Civil and Political Rights;
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty;
OP-CAT	Optional Protocol to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CRC-IC	Optional Protocol to CRC on a communications procedure;
CRPD	Convention on the Rights of Persons with Disabilities;
OP-CRPD	Optional Protocol to CRPD;
Aarhus Convention	UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

<sup>3</sup> HRW, p. 6 and JS4, p. 2.

<sup>4</sup> JS4, p. 2.

<sup>5</sup> JS8, p. 6.

<sup>6</sup> JS7, para. 7 and JS8, p. 7.

<sup>7</sup> OSCE/ODIHR Report of 2011, p. 5.

<sup>8</sup> OSCE/ODIHR Report of 2012, p. 6. See also JS2, paras. 36-43 and OSCE/ODIHR Report of 2011, pp. 25-28.

<sup>9</sup> JS8, p. 6.

<sup>10</sup> ISHR, p. 2, para. 5. See also JS8, para. 24.

<sup>11</sup> ISHR, p. 2, para. 6.

<sup>12</sup> JS2, paras. 1-2.

<sup>13</sup> ICJ, paras. 15-17.

<sup>14</sup> ICJ, para. 18.

<sup>15</sup> JS4, para. 4.

<sup>16</sup> AI, p. 3. See also HRW, p. 4.

<sup>17</sup> HRW, p. 4 and JS4, para. 21.

<sup>18</sup> JS8, paras. 21-23.

<sup>19</sup> ICJ, para. 11.

<sup>20</sup> ICJ, paras. 12-13.

<sup>21</sup> ICJ, para. 18.

<sup>22</sup> ICJ, para. 14 and JS8, para. 19.

<sup>23</sup> JS8, par. 19 and pp. 4-5. See also ICJ, para. 18.

<sup>24</sup> GIEACPC, p.1.

<sup>25</sup> JS4, paras. 11-12.

<sup>26</sup> ICJ, para. 2.

<sup>27</sup> JS4, para. 10 and A/HRC/14/10, para. 95. See also L4L, paras. 4(f) and 17.

<sup>28</sup> JS4, para. 16. See also L4L, para. 11.

<sup>29</sup> L4L, paras. 8, 9, 10 and 14.

<sup>30</sup> ICJ, para. 6.

- <sup>31</sup> L4L, para. 4 (a) and (b).  
<sup>32</sup> ICJ, para. 18.  
<sup>33</sup> AI, p. 2.  
<sup>34</sup> JS4, para. 5.  
<sup>35</sup> JS4, para. 8.  
<sup>36</sup> OSCE/ODIHR, p. 4.  
<sup>37</sup> JS4, para. 9.  
<sup>38</sup> AI, p. 1.  
<sup>39</sup> JS3, para 34.  
<sup>40</sup> AI, p. 6.  
<sup>41</sup> JS4, para 32.  
<sup>42</sup> JS4, para. 35.  
<sup>43</sup> ICJ, para. 4.  
<sup>44</sup> ICJ, para. 3. See also L4L, paras. 9 and 11; and JS4, para. 7.  
<sup>45</sup> ICJ, para. 18. See also JS4, p.8 and MIRACLE, paras. 10-11.  
<sup>46</sup> ICJ, para. 2. See also MIRACLE, para. 11.  
<sup>47</sup> AI, p. 5. See also JS4, p. 3.  
<sup>48</sup> ICJ, para. 18. See MIRACLE, paras. 10 -11.  
<sup>49</sup> HRW, p. 3. See also paras. 29, 30, 31, 32, 33, 34 and 35, and JS2, paras. 44-48.  
<sup>50</sup> JS4, para. 31. See also AI, p. 3.  
<sup>51</sup> HRW, p. 4 and JS4, para. 21.  
<sup>52</sup> AI, p. 6.  
<sup>53</sup> AI, p. 3.  
<sup>54</sup> JS4, paras. 2 and 31.  
<sup>55</sup> HRW, p. 4.  
<sup>56</sup> HRW, p. 6.  
<sup>57</sup> ISHR, p. 2, para. 6.  
<sup>58</sup> AI, p. 5.  
<sup>59</sup> HRIC, pp. 2-3.  
<sup>60</sup> HRIC, p. 5.  
<sup>61</sup> JS4, para. 19.  
<sup>62</sup> HRIC, p. 5 and A/HRC/14/10, para. 95.  
<sup>63</sup> JS8, para. 30.  
<sup>64</sup> JS3, para. 3.  
<sup>65</sup> A/HRC/14/10, para. 95.  
<sup>66</sup> HRW, pp. 2-3. See also Forum 18, para. 9; JS3, paras. 3, 5 and 7; and J2, para. 31.  
<sup>67</sup> Forum 18, paras. 9, 18 and 20; JS2, paras. 31-32 and IHRC, para. 5.  
<sup>68</sup> EAJCW, para. 3.  
<sup>69</sup> Forum 18, paras. 10, 11, 12 and 13. See also JS3, paras. 5-6 and IHRC, para. 10.  
<sup>70</sup> JS1, para. 18.  
<sup>71</sup> EAJCW, paras. 19 -24.  
<sup>72</sup> Forum 18, para. 27.  
<sup>73</sup> Forum 18, para. 15. See also EAJCW, paras. 11, 12, 13, 14, 15, 16, 17 and 18.  
<sup>74</sup> JS3, para. 15.  
<sup>75</sup> EAJCW, paras, 25- 37.  
<sup>76</sup> HRW, p. 3. See also EAJCW, paras. 6-10; and Forum 18, paras. 25-36.  
<sup>77</sup> JS3, para.2. See also JS3, paras. 7, 8, 9, 10 and 11; IHRC, para. 6, and EAJCW, paras. 6 – 37.  
<sup>78</sup> JS3, para. 19.  
<sup>79</sup> HRW, p. 6.  
<sup>80</sup> JS3, paras. 21-22. See also JS2, p. 7 and IHRC, para. 15.  
<sup>81</sup> JS6, paras. 3-6.  
<sup>82</sup> AI, pp. 1-2.  
<sup>83</sup> HRW, p. 1; RSF pp. 1-2; JS1 paras. 6 and 7; and JS2, para. 10.  
<sup>84</sup> JS1, paras. 8-11 and JS2, para. 12.  
<sup>85</sup> RSF, p. 2. See also OSCE/ODIHR 2012, p. 2.  
<sup>86</sup> A/HRC/14/10, para. 97.

- 87 JS1, para. 13. See also ISHR, p. 1.  
88 OSCE/ODIHR 2012, p. 2.  
89 JS1, para. 50 and JS2, p. 3.  
90 AI, p. 5; HRW, p. 5; JSF, p.3 and OSCE/ODHIR report 2011, p. 26, para. 5.  
91 OSCE/ODIHR 2012, p. 27, para. 8. See also OSCE/ODIHR 2011, p. 26, para. 5.  
92 RSF, pp. 1-2.  
93 AI, p. 3. See also HRW, p. 1.  
94 HRW, p. 1.  
95 AI, p. 3.  
96 RSF, p. 1. See also JS2, para. 15.  
97 JS1, para. 20. See also JS2, para. 10.  
98 RSF, p. 3. See also JS1, para. 50.  
99 AI, p. 3.  
100 JS1, paras. 41-45; JS2, paras. 13-14; RSF, p. 2 and ISHR, p. 1.  
101 RSF, p.3. See also ISHR, p. 2, and JS1, p. 3.  
102 AI, pp. 1-2.  
103 HRW, p. 1. See also RSF, p. 2.  
104 AI, p. 1.  
105 J1, paras. 2-3 ; JS2, para. 5; IHRC, paras. 12 and 13; and RSF, p. 1.  
106 AI, p. 4.  
107 RSF, p. 3.  
108 JS2, paras. 17-18.  
109 FH, p.1.  
110 FH, p. 5. See also JS2, para. 21.  
111 HRW, p. 2 and A/HRC/14/10, para. 97. See also JS2, para. 22.  
112 OSCE/ODIHR Report of 2011, p. 5.  
113 See also AI, p. 2; JS2, para. 23 and ARK, p. 2.  
114 JS2, para. 24.  
115 ARK, p. 2.  
116 AI, p. 2. See also ARK, p. 2 and JS2, para. 27.  
117 AI, p. 2.  
118 HRW, p. 2.  
119 JS1, para. 25. See also JS4, para. 3.  
120 HRW, p. 5.  
121 JS1, para. 50, JS2 p. 6, ISHR, p. 1, AI, p. 5, and ARK, p. 6.  
122 ISHR, p. 1.  
123 JS2, para. 35.  
124 JS2, paras. 19 and 21.  
125 OSCE/ODIHR Report of 2012, p. 21.  
126 OSCE/ODIHR Report of 2012, p. 1, Executive Summary.  
127 OSCE/ODIHR Report of 2011, p. 1, Executive Summary. See also OSCE/ODIHR, p. 2.  
128 JS2, para. 43.  
129 OSCE/ODIHR Report of 2012, p. 27, para. 6.  
130 OSCE/ODIHR Report of 2012, p. 2, Executive Summary.  
131 JS2, para. 3.  
132 JS8, paras. 16-17.  
133 OSCE/ODIHR Report of 2012, p. 6.  
134 JS8, paras. 18 and 20.  
135 HRW, p. 4.  
136 JS8, paras. 9-10.  
137 JS8, p. 3.  
138 JS8, paras. 5-7.  
139 HRW, p. 4.  
140 JS8, para. 7.  
141 JS8, pp. 2-3.  
142 HRW, p. 6.

- <sup>143</sup> JS8, p. 1.  
<sup>144</sup> JS5, para. 1. See also paras. 10-22.  
<sup>145</sup> JS5, paras. 23, 25 and 29.  
<sup>146</sup> JS8, para. 34 and JS7, para. 6.  
<sup>147</sup> JS8, paras. 34 and 38.  
<sup>148</sup> JS8, paras. 39-40.  
<sup>149</sup> JS7, paras. 8-9.  
<sup>150</sup> JS7, para. 13.  
<sup>151</sup> JS7, paras. 16-17.  
<sup>152</sup> AI, p. 4.  
<sup>153</sup> AI, pp. 2 and 4. See also HRW, p. 5.  
<sup>154</sup> AI, p. 2.  
<sup>155</sup> HRW, p. 6.  
<sup>156</sup> AI, p. 6.  
<sup>157</sup> JS8, paras. 43 and 44.  
<sup>158</sup> JS8, p. 3.  
<sup>159</sup> AI, p. 2.  
<sup>160</sup> AI, p. 4.
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