

Kazakhstan

Mid-term

Implementation

Assessment



*Promoting and strengthening
the Universal Periodic Review*
<http://www.upr-info.org>



Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 3 December 2012

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/kazakhstan>

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

16 stakeholders' reports were submitted for the UPR. 18 NGOs were contacted. 2 UN agencies were contacted. The Permanent Mission to the UN was contacted. The domestic NHRI was contacted as well.

9 NGOs responded to our enquiry. The UN agencies did not respond. The State under Review did not participate*. The domestic NHRI is not more active.

IRI: 66 recommendations are not implemented, 41 recommendations are partially implemented, and 11 recommendations are fully implemented. No answer was received for 9 out of 129 recommendations (full list of unanswered recommendations is available at the end of this document).

* *The State released a mid-term report only in Russian. As Kazakhstan does not intend to translate its document, UPR Info could not consider it. The Russian mid-term report is available on Kazakhstan Follow-up webpage.*

2. Index

Hereby the issues which the MIA deals with:

rec. n°	Issue	page	IRI
1	Freedom of religion and belief	page 7	not impl.
2	Death penalty	page 28	not impl.
3	International instruments, Disabilities,	page 23	partially impl.
4	Torture and other CID treatment	page 29	partially impl.
5	International instruments, Freedom of the press, Freedom of opinion and expression,	page 9	not impl.
6	Torture and other CID treatment, International instruments,	page 29	partially impl.



rec. n°	Issue	page	IRI
7	Asylum-seekers - refugees	page 21	not impl.
8	Special procedures, Freedom of opinion and expression,	page 24	partially impl.
9	National plan of action, International instruments, Death penalty,	page 24	not impl.
10	Migrants, International instruments,	page 21	not impl.
11	NHRI	page 49	not impl.
12	International instruments, Disabilities,	page 23	fully impl.
13	International instruments, Disabilities,	page 23	fully impl.
14	Justice, International instruments, Death penalty,	page 25	not impl.
15	Other	page 49	not impl.
16	Freedom of religion and belief	page 9	not impl.
17	Women's rights	page 41	not impl.
18	Rights of the Child, Labour,	page 41	not impl.
19	Torture and other CID treatment, Detention conditions,	page 30	not impl.
20	Disabilities	page 21	fully impl.
21	Human rights education and training	page 17	not impl.
22	Freedom of religion and belief	page 10	not impl.
23	Freedom of religion and belief	page 11	not impl.
24	Technical assistance	page 50	partially impl.
25	Women's rights	page 42	partially impl.
26	Disabilities	page 21	fully impl.
27	Justice	page 30	not impl.
28	Women's rights	page 42	partially impl.
29	Rights of the Child	page 43	partially impl.
30	International instruments, Elections,	page 11	not impl.
31	Minorities	page 22	partially impl.
32	Women's rights	page 44	not impl.
33	Special procedures, National plan of action,	page 25	partially impl.
34	International instruments, Death penalty,	page 24	not impl.
35	Disabilities	page 22	fully impl.
36	ESC rights - general	page 17	partially impl.
37	Trafficking	page 31	not impl.
38	Torture and other CID treatment	page 31	not impl.
39	Trafficking	page 32	fully impl.
40	Justice	page 32	not impl.
42	Detention conditions	page 32	not impl.
43	Freedom of the press, Freedom of opinion and expression, Freedom of association and peaceful assembly, Elections,	page 12	not impl.
44	Trafficking	page 32	fully impl.
45	Right to health, Right to education,	page 17	fully impl.
49	Asylum-seekers - refugees	page 22	partially impl.
50	Freedom of opinion and expression	page 12	not impl.
51	Freedom of the press	page 13	not impl.
52	Human rights defenders, Freedom of the press,	page 33	not impl.



rec. n°	Issue	page	IRI
53	Freedom of the press	page 13	not impl.
55	Women's rights, Rights of the Child,	page 44	not impl.
56	Counter-terrorism	page 33	not impl.
57	International instruments, Freedom of opinion and expression,	page 9	not impl.
58	Women's rights, Rights of the Child,	page 44	partially impl.
59	Rights of the Child, Disabilities,	page 45	not impl.
60	NHRI	page 49	not impl.
61	Torture and other CID treatment, International instruments,	page 34	partially impl.
62	UPR process, Civil society,	page 26	partially impl.
63	Torture and other CID treatment, International instruments, Detention conditions,	page 34	partially impl.
64	NHRI	page 49	not impl.
65	Torture and other CID treatment, International instruments,	page 34	partially impl.
66	Torture and other CID treatment, Human rights violations by state agents, Detention conditions,	page 35	partially impl.
67	Torture and other CID treatment, International instruments,	page 35	partially impl.
68	NHRI	page 49	not impl.
69	Freedom of religion and belief	page 13	not impl.
70	National plan of action	page 50	partially impl.
71	National plan of action	page 50	partially impl.
72	Rights of the Child, HIV - Aids,	page 45	partially impl.
73	Human rights education and training	page 17	not impl.
74	Detention conditions	page 35	not impl.
75	Elections	page 11	not impl.
76	Freedom of religion and belief	page 14	not impl.
77	Women's rights, Trafficking, Rights of the Child, Impunity, Justice,	page 36	-
78	UPR process	page 26	not impl.
79	National plan of action	page 50	partially impl.
80	Right to health	page 18	partially impl.
81	Rights of the Child	page 46	partially impl.
82	International instruments	page 27	not impl.
83	Detention conditions	page 36	not impl.
84	Environment	page 19	fully impl.
86	Right to education, Minorities,	page 22	partially impl.
87	Death penalty	page 36	partially impl.
88	Trafficking, Human rights education and training, Civil society,	page 36	partially impl.
89	International instruments, Human rights education and training,	page 19	partially impl.
90	Rights of the Child, NHRI,	page 51	not impl.
91	UPR process	page 27	partially impl.
92	Sexual Orientation and Gender Identity	page 39	not impl.
93	Freedom of religion and belief	page 14	not impl.
94	Freedom of association and peaceful assembly	page 14	not impl.
95	Freedom of the press, Freedom of opinion and expression, Civil society,	page 15	partially impl.



rec. n°	Issue	page	IRI
96	Detention conditions	page 37	not impl.
97	Torture and other CID treatment, International instruments,	page 35	partially impl.
98	Human rights education and training, Freedom of religion and belief,	page 20	not impl.
99	International instruments, Disabilities,	page 24	not impl.
100	Special procedures, Freedom of religion and belief,	page 27	not impl.
102	Rights of the Child, HIV - Aids,	page 45	partially impl.
103	Justice	page 37	fully impl.
104	Freedom of the press	page 15	not impl.
105	Women's rights, Trafficking,	page 46	partially impl.
106	International instruments, Freedom of opinion and expression,	page 28	not impl.
107	Asylum-seekers - refugees	page 21	not impl.
108	NHRI	page 49	not impl.
109	Freedom of opinion and expression	page 16	not impl.
110	Freedom of the press, Freedom of opinion and expression,	page 16	not impl.
112	Torture and other CID treatment	page 37	-
113	Right to education	page 51	fully impl.
115	Freedom of religion and belief	page 16	not impl.
116	International instruments, ESC rights - general,	page 28	not impl.
117	Women's rights, Technical assistance, Right to education, Poverty, Justice,	page 46	partially impl.
118	Rights of the Child, Labour, Justice, Disabilities,	page 47	partially impl.
119	Women's rights	page 47	partially impl.
120	Rights of the Child	page 47	partially impl.
121	CP rights - general	page 11	not impl.
122	Justice	page 37	not impl.
123	Rights of the Child, Justice,	page 48	partially impl.
124	Freedom of opinion and expression	page 15	partially impl.
125	Justice, International instruments,	page 38	not impl.
126	Justice, International instruments,	page 39	not impl.
127	Justice	page 39	not impl.
128	NHRI	page 49	not impl.
129	Women's rights	page 48	partially impl.

3. Feedbacks on recommendations

CP Rights

Recommendation n°1: *Abolish requirements for the registration of religious groups from the existing Administrative Code, in accordance with the laws adopted in 2005 on the elimination of extremism and the strengthening national security, and to review the provisions of the Law on Freedom of Religion and Religious Associations in order to effectively guarantee freedom of belief and a nondiscriminatory legal system for the registration of religious entities (Recommended by Mexico)*

IRI: *not implemented*

Forum 18 News Service (F18) response:

It is regrettable that this recommendation – which is still highly relevant - was rejected, as in 2011 Kazakhstan introduced two further laws reinforcing its breaches of its international obligations. Among other breaches, the first law, a new Religion Law: imposes a complex compulsory registration system; bans the unregistered exercise by groups of people of freedom of religion or belief; ban groups of less than 50 people meeting for worship; imposes compulsory religious censorship; and requires both central and local government approval to build or open new places of worship. The second law, which amends nine other laws and regulations including the Administrative Code, widens the range of possible violations of the Religion Law which would be subject to administrative punishment. However, many of the violations are undefined, including for breaking the Religion Law, violating provisions for holding services, violating the procedure for importing, publishing or distributing religious literature, building places of worship or changing a building's usage, or conducting missionary activity. This Amending Law also changes Administrative Code Article 375 to allow the possibility of pressure against the parents or guardians of children or young people, as well as anyone involved in a religious community state officials dislike.

Tandem Project (TP) response:

US Department of State 2011 Religious Freedom Report : The government's religion law narrows the legal provisions for religious freedom found in the constitution and enforces registration requirements. On October 13, the government passed a new law on "religious activities," which instituted a more restrictive mandatory reregistration requirement, mandated a tiered hierarchy for religious organizations, and provided for government inspection of religious literature and bans on religious ceremonies in government buildings, military, law enforcement, and secular education institutions.

Kazakhstan International Human Rights and the Rule of Law Committee (KIHRRLC) response:

Recommendation has not been implemented.



All religious associations must undergo repeated registration before October 25, 2012, including those who refuse to register due to considerations of principle (Baptists, for instance), or those who do not have minimum number of members required for registration.

Proposals

1. It is necessary to bring Article 22 of RK Constitution in full compliance with Article 18 of the ICCPR.
2. Removing from the laws of Kazakhstan the provisions related to restriction of religious freedoms and rights of the citizens, surpassing the limits set by the international standards in the field of freedom of religion or belief is necessary.
3. The Law "On religious activity and religious associations" must have/determine :
 - definition of freedom of consciousness and religion, corresponding to international standards;
 - definition of "religion-based discrimination", "religious group", "religious minorities";
 - various types of religious activity organizations, requiring formal registration (religious community, association, etc.) and general conditions of state registration for religious associations, foreseen for other legal entities. Number of documents demanded by registering instances must be narrowed to minimum;
 - voluntarism principle of state registration. Provisions, which demand registration, must be removed according to the practice of the majority of OSCE Member States since such requirements "are not obligatory in a democratic society".
 - responsibility of the officials, state agencies for discrimination, permitted during registration/refusal of registration of a religious association;
 - simple and factual registration mechanism not requiring significant means;
 - consideration of registration documents must be done on the face of it and should be constructed to diminish the risk of intervention in the area of religious doctrine;
 - cancellation of public censorship (expert evaluation) of religious literature and statutory articles during registration of religious groups.
4. The law having retroactive effect, aimed at infringement of determined rights must be prohibited; measures ensuring prevention of such problems in the course of drafting new legislation on religious associations must be taken.
5. It is necessary to introduce moratorium on prosecution of believers and religious groups for "unauthorized" peaceful activity: in the absence of state registration of a legal entity and record registration of predicator (missionary) activity and absence of state license for spiritual, educational, charitable and societal activity, etc.
6. With wide involvement of the civil society to draft and adopt the concept of state-religion relationship, the main principle of which should be recognition as the state's obligation to ensure guarantees of respect for freedom of conscience and religion; to abolish the state competent body in charge of religious affairs and to exclude the issues of religion and activity of religious associations from the competence of law-enforcement agencies.



Recommendation n°5: *Amend legislation containing libel and defamation clauses in order to ensure consistency with Kazakhstan's international human rights obligations and other relevant commitments in respect of freedom of expression and of the media* (Recommended by *United Kingdom*)

IRI: *not implemented*

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Recommendation n°57: *Ensure that legislation relating to the Internet and other new communication technologies respects international human rights obligations* (Recommended by *Sweden*)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been implemented.

Presently, there are efforts undertaken to pass the Code of Professional Ethics, regulating the conduct of mass media professionals, but the journalists have spoken against its adoption at the legislative level, explaining that in case of court proceedings involving the journalists the document could be used as a tool of pressure on mass media. The new draft Criminal Code has left unchanged Article 129 "Libel" and Article 130 "Defamation", although punishments terms have been changed to deprivation of liberty. The Concept of the Criminal Code approved by the Presidential Administration demands aggravating responsibility for dissemination of libel and defamation via using computer technologies. Prosecutor General's Office also suggests enhancing liability for libel in case of consequent grave implications.

Legal Center of Women's Initiatives Sana Sezim (LCWISS) response:

Kazakhstan [has] partly changed legislation on access of information about citizens, but there are limitations on the regulation of the Law Internet and [it did] not legally define period of limitation for claims of journalists.

Recommendation n°16: *Consider the rules for the registration of religious groups, and to take steps to promote interfaith harmony, including with regard to those faiths considered to be non-traditional in the country, in order to adhere to the Constitution and to international norms* (Recommended by *Norway*)

IRI: *not implemented*

F18 response:

It is regrettable that this highly relevant recommendation was rejected, as it rightly links the promotion of interfaith harmony with the need to ensure that followers of all religions or beliefs have the right to join together in legally recognised association with each other. "Non-traditional" - like "extremist" - are terms used by officials in relation to people exercising their right to freedom of religion or belief in ways officials dislike. To take but one example, in September 2011 a Military Affairs Directorate in Almaty wrote to local religious communities, ordering them to "provide information on citizens on record as followers of non-traditional religions and radical religious views". Yet officials were unable to define what these religions and views are when asked by Forum 18. Such vague and pejorative labelling was used by officials in media campaigns to attempt to encourage support for the introduction in 2011 of the two laws noted above, which directly attacked the state's obligations to adhere to both its own Constitution and international human rights obligations.



TP response:

US Department of State 2011 Religious Freedom Report : The government generally respected the religious freedom of most registered religious groups; however, it enforced existing restrictions on unregistered and minority religious groups, often through fines, raids, and brief detention of members. A new law, signed by the president on October 13, introduced more stringent mandatory registration requirements for missionaries and religious organizations, although the implementing regulations were not finalized by year's

KIHRRLC response:

Recommendation has not been fulfilled.

All religious associations must undergo repeated registration before October 25, 2012, including those who refuse to register due to considerations of principle (Baptists, for instance), or those who do not have minimum number of members required for registration. The Law "On Religious Activity and Religious Associations", imposed tougher requirements for religious associations was passed.

LCWISS response:

yes

Recommendation n°22: *Continue its achievements in the area of freedom of religion*
(Recommended by *Kuwait*)

IRI: not implemented

F18 response:

Kazakhstan's "achievements in the area of freedom of religion" are to steadily increase its violations of this and related fundamental human rights. "Achievements" Forum 18 has documented include: the encouragement of intolerance against people exercising their right to religious freedom by officials ranging from President Nursultan Nazarbaev down to local officials; closing down smaller religious communities and nationwide bans on communities such as Ahmadi Muslims meeting together for worship; compulsory censorship of all religious literature; state-sponsored encouragement of religious intolerance through state programmes and the media; legal restrictions on freedom of religion or belief; raids, interrogations, threats and fines affecting both registered and unregistered religious communities and individuals; unfair trials; the jailing of a few particularly disfavoured religious believers; restrictions on the social and charitable work of religious communities; close police and National Security Committee (KNB) secret police surveillance of religious communities; attempts to deprive religious communities of their property; and prosecutions of people for sharing their beliefs "illegally".

TP response:

US Department of State 2011 Religious Freedom Report : The government-funded "Centers for Support to Victims of Destructive Sects" presented on-going propaganda in the media presenting minority religious groups as harmful.

KIHRRLC response:

Recommendation is not being fulfilled.
See comments to recommendation 1.



Mentioning recently passed repressing Law "On Religious Activity and Religious Associations" would be enough.

Recommendation n°23: *Continue its advocacy for interfaith dialogue, and to share its best practices and experiences with other countries* (Recommended by Philippines)

IRI: *not implemented*

F18 response:

Kazakhstan repeatedly and systematically assaults the right to freedom of religion or belief of people of all faiths and none, for example by raiding groups of people peacefully meeting together. So it is difficult to ascribe any meaning beyond camouflage for human rights violations to any state advocacy of what it describes as "interfaith harmony" or best practices and experiences.

KIHRRLC response:

See comments to recommendation 1.

Recommendation n°30: *Continue legislative reforms aimed at improving the electoral process before the presidential and parliamentary elections planned in 2012, by simplifying the registration procedure for political parties, ensuring opposition representation in the Central Electoral Commission and encouraging participation by ethnic minorities in order to ensure that its law, regulations and practice governing the electoral process are in keeping with the International Covenant on Civil and Political Rights* (Recommended by Ireland)

IRI: *not implemented*

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Recommendation n°75: *Further reform the institutional framework, including in the area of the electoral process and the mass media, in order to fully ensure the democratic process in the country* (Recommended by Japan)

IRI: *not implemented*

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Recommendation n°121: *Strengthen the authorities of the Assembly of the Peoples of Kazakhstan and to ensure that they are exercised in accordance with the purposes for which the Assembly was created* (Recommended by Lebanon)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

The Law of Kazakhstan "On Political Parties" sets forth that organizing a political party by race, nation, ethnic and religious affiliation is not acceptable. Article 87 of the RK Law "On Elections" reads that right to nominate candidates to the Majilis, elected by party lists is given to political parties registered under the set procedure, and with regard to candidates elected by the Assembly of People of Kazakhstan such right belongs to the Council of the Assembly.

Under the Constitution of Kazakhstan, 98 deputies of Majilis are elected on the basis of universal, equal and direct electoral right with secret voting. Nine deputies of the Majilis are elected by the Assembly of People of Kazakhstan. According to an independent expert the Assembly does not have the attributes of a legitimate representative body. Membership in the Assembly is not based on purely democratic



principles, therefore Assembly members do not report to their ethnic communities. The Assembly lacks the status of a legitimate representative body. Its membership is formed on the process of selection among the members of ethnic, cultural and other public associations, whose candidacy should be approved by the President, and not on the process adhering to every member of minority groups or all the groups equal voting power. It is necessary to establish mechanisms ensuring that Assembly members are true representatives of the minority groups who report back to their minority groups. Such system would ensure to the fullest that true interests of the minorities are represented at all levels. Representation of the minorities in the Assembly at national and regional level does not substitute multilateral and efficient participation of the minorities in the general processes of democratic elections of the Members of Parliament of the country and of the local authorities.

Registration of political parties is complicated, to register a party 40,000 party membership applications have to be collected. "Alga!" oppositional party has been making efforts to get registered for 6 years now.

All of the Electoral Commissions, including the Central Electoral Commission are formed of pro-governmental party members and staff of budget-financed institutions, thereby not being independent. Throwing in of voting ballots, "carousels", ballot rigging and other violations take place.

Recommendation n°43: Continue to improve the laws dealing with freedom of expression, in particular freedom of the Internet, the media, elections and political parties, and bringing them into full compliance with international standards (Recommended by Slovenia)

IRI: not implemented

KIHRRLC response:

Recommendation has not been fulfilled.

In practice, there were new additional laws which limit Internet: the law on political parties remain to be restrictive, no improvement of the electoral legislation has been noted.

UNESCO Almaty Office (UNESCO) response:

According to international criteria on media development, media laws remain restrictive to freedom of expression. Internet freedom is worsening, according to experts, because the law equates Internet sites with media outlets, applying similar content regulations.

Recommendation n°50: Counter the trend towards the repression of free speech, including restrictions of web-based media (Recommended by Norway)

IRI: not implemented

KIHRRLC response:

Recommendation is not being fulfilled.

See comments to recommendations 5, 15.

Besides, the practice of suppressing freedom of speech by blaming civil activists in incitement of social hatred has been used wider. Several websites have been



blocked, while service providers say it happened because they were "political" or "oppositional".

Recommendation n°51: *Discontinue the use of judicial action against journalists and media outlets, including the filing of civil and criminal libel suits* (Recommended by Canada)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

49 civil suits and 9 defamation accusations have been filed against journalists and media in 7 month of 2012 alone.

UNESCO response:

RK still has not repealed criminal libel law against journalists. Recent 5 million tenge (USD 33,000) ruling against journalist in Western Kazakhstan has again highlighted this issue.

Recommendation n°53: *Eliminate criminal liability for defamation in the media, and to amend the civil code to ensure that any judgement in a civil libel case is reasonable and proportionate and does not result in the closure of the media outlet in question* (Recommended by United States)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

See comments to recommendations 5, 15, and 51.

The Civil Code of Kazakhstan does not have changes which exclude bankruptcy and closing down of media outlets under excuse of protecting people's personal rights.

UNESCO response:

RK still has not repealed criminal libel law against journalists. Recent 5 million tenge (USD 33,000) ruling against journalist in Western Kazakhstan has again highlighted this issue.

Recommendation n°69: *Extend the rights enjoyed by traditionally established religions to believers of non-traditional religions, and to enable them to carry out their peaceful activities free from Government interference* (Recommended by Netherlands)

IRI: *not implemented*

TP response:

US Department of State 2011 Religious Freedom Report: The government-funded "Centers for Support to Victims of Destructive Sects" presented on-going propaganda in the media presenting minority religious groups as harmful.

KIHRRLC response:

See comments to recommendation 1.

Recommendation n^o76: *Further strengthen its measures to combat extremism in order to ensure the effective protection of human rights in the country* (Recommended by Viet Nam)

IRI: *not implemented*

F18 response:

“Extremism” - like “non-traditional” - are undefined terms used by officials in relation to people exercising their right to freedom of religion or belief in ways officials dislike. To take one example, the state has ordered the creation of centres to rehabilitate alleged “victims of religious extremism” and for help to “those who suffered from the activities of destructive religious movements”. Forum 18 notes that many such centres have been established in recent years and receive state financial support. They were used by officials in media campaigns to attempt to encourage support for the introduction in 2011 of the two laws noted above, which directly attacked the state's obligations to adhere to both its own Constitution and international human rights obligations.

Recommendation n^o93: *Maintain an interfaith harmony, in particular the very useful initiative to hold conferences such as those held in 2003, 2006 and 2009, which brought together senior representatives of world and traditional religions* (Recommended by Algeria)

IRI: *not implemented*

F18 response:

The holding of conferences is no substitute for fulfilling human rights obligations, especially when Kazakhstan actively violates these obligations. These are violated by – to take only one example – the ban on anyone exercising freedom of religion or belief in association with others without state permission. A secular guest from a well-known international organisation, invited to one such conference by the Kazakh government, described to Forum 18 – in a confidential conversation – their “horrified amazement” when they witnessed the religious leaders present – including prominent foreign religious leaders – ignoring fundamental human rights violations, as well as the indissoluble links between genuine interfaith harmony and respect for everyone's human rights. It appears that there is a wish to empty the language of interfaith harmony and tolerance of any connection with respect for the peaceful exercise of everyone's fundamental human rights.

TP response:

US Department of State 2011 Religious Freedom Report : The government-funded “Centers for Support to Victims of Destructive Sects” presented on-going propaganda in the media presenting minority religious groups as harmful.

Recommendation n^o94: *Make efforts to speedily draft and implement the new law on the right to assembly with fewer demands regarding prior registration and fewer requirements for information concerning, for example, the participants in an assembly, and to clarify policy intentions for State authorities or others entrusted with implementing decisions under the new law* (Recommended by Sweden)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.



The authorities of Kazakhstan keep restrictive regulation of freedom of assembly; organizing and/or participation in an unauthorized peaceful assembly leads to detention and fines for human rights activists.

The work on draft law on peaceful assembly, prepared initially by civil society representatives in 2009 remains to be suspended.

The authorities are not developing own version of the draft law on peaceful assembly which would comply with international standards in this field. There is only a wish of the Prosecutor General to change the law.

In many regions of Kazakhstan local authorities have determined places and imposed limitations on peaceful assembly. Regulating factor is ensured through the fact that in order to organize a peaceful assembly it has to take place at certain location and group of citizens willing to conduct peaceful assembly must inform local authorities within certain time limits in advance. Usually, the locations allocated for peaceful assembly are at the outskirts of the city and remote from public institutions.

Recommendation n°95: *Make further efforts to expand the democratic space for media and civil society, in order to ensure that their freedom of expression is in keeping with international standards* (Recommended by Republic of Korea)

IRI: *partially implemented*

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Recommendation n°124: *Take concrete steps to meet obligations with regard to the creation of an environment that fosters freedom of expression* (Recommended by Norway)

IRI: *partially implemented*

F18 response:

Abolishing the compulsory state censorship of all religious material and need for state “expert opinions” on communities' ideas and structure before they can legally exist – both introduced in 2011 - would be a positive step in implementing this accepted recommendation.

KIHRRLC response:

See comments to recommendations 5, 15, 52.

UNESCO response:

Ministry of Foreign Affairs supported recent UNESCO conference on pluralistic media development (Alm-Ata +20), which produced recommendations to government, civil society and media outlets regarding improvements to freedom of expression in the country.

Recommendation n°104: *Remove the provisions concerning criminal libel against journalists* (Recommended by Australia)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.



See comments to recommendations 5, 15, 50, 51.

UNESCO response:

RK still has not repealed criminal libel law against journalists. Recent 5 million tenge (USD 33,000) ruling against journalist in Western Kazakhstan has again highlighted this issue.

Recommendation n°109: *Revise its legislation on criminal libel, to limit defamation awards and to refrain from restricting access to the Internet* (Recommended by Netherlands)

IRI: *not implemented*

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Recommendation n°110: *Revise the amendment to the Law on Information and Communication Networks to prevent the application of criminal legislation concerning defamation from being extended to any Internet content, and to strengthen freedom of expression and of the press with regard to political issues* (Recommended by Spain)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

See comments to recommendations 5, 15, 51.

UNESCO response:

RK still has not repealed criminal libel law against journalists. Recent 5 million tenge (USD 33,000) ruling against journalist in Western Kazakhstan has again highlighted this issue. Internet freedom is worsening, according to experts, because the law equates Internet sites with media outlets, applying similar content regulations.

Recommendation n°115: *Share its positive experiences and best practices with other countries regarding the high level of ethnic and religious tolerance* (Recommended by Azerbaijan)

IRI: *not implemented*

F18 response:

[...] Kazakhstan attempts to counter discussion of violations of freedom of religion or belief and related human rights with loud claims of inter-religious harmony and religious tolerance. However, it is silent on how it is possible to promote and practice tolerance and dialogue while directly attacking the rule of law and fundamental human rights such as freedom of religion or belief.

TP response:

US Department of State 2011 Religious Freedom Report: The government-funded “Centers for Support to Victims of Destructive Sects” presented on-going propaganda in the media presenting minority religious groups as harmful.



ESC Rights

Recommendation n°21: *Continue efforts to strengthen the education system in accordance with international standards, placing due emphasis on human rights education (Recommended by Pakistan)*

IRI: *not implemented*

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Recommendation n°73: *Further enhance human rights education (Recommended by Jordan)*

IRI: *not implemented*

F18 response:

This would be welcome if implemented, for example in the compulsory Religious Studies course for all children in the 9th class (aged about 14). The textbook "Introduction to Religious Studies" - introduced into schools in January 2010 – has aroused concern from many, including human rights defenders, Ahmadi Muslims, Protestant Christians, Hare Krishna devotees and Jehovah's Witnesses. The book – echoing the views of state officials - is hostile to "non-traditional" religious communities, which it tries to equate with "terrorist", "destructive", and "extremist" movements, and sharing one's beliefs.

KIHRRLC response:

Recommendation has not been fulfilled.

The work is done only by NGOs. It is worth mentioning also that the state does nothing in Kazakh. Information on human rights is effectively not disseminated in Kazakh. Overwhelming majority of such information in media is presented in Russian. There are no special human rights training courses at schools or special secondary schools and universities.

Recommendation n°36: *Continue to adopt measures necessary for continued improvement in the delivery of social services to its population, with a view to further enhancing the social protection system for its inhabitants, in particular the most vulnerable (Recommended by Venezuela)*

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled partially.

No standards of social services for people in difficult life situation have been developed until now.

Recommendation n°45: *Continue to make progress in implementing measures already under way to ensure universal access to health and education (Recommended by Cuba)*

IRI: *fully implemented*

KIHRRLC response:

Recommendation is being implemented practically.

The State Programme on Healthcare Development "Salamatty Kazakhstan" for 2011-2015 has been adopted. It has been implemented partially since the period of implementation is 2011-2015, first stage 2011-2013, second stage 2014-2015. The



goal of the Programme - improvement of the health of the citizens of Kazakhstan to ensure sustainable socio-demographic development of the country.

Objectives -strengthening intersectoral and interagency co-operation in the field of healthcare of people and ensuring sanitary-epidemiological wellbeing; development and improvement of the Integrated National Healthcare System with the right of free choice of a doctor and medical institution; improvement of medical and pharmaceutical education, development of medicine and pharmaceuticals.

Government Decree approving "The Rules of Organizing and Procuring Medical Services to Provide Guaranteed Amount of Free Medical Help" has been passed.

Key problems in implementation of the right of Kazakhstan's citizen to health are related with low spending efficacy of allocated financial resources, corruption, imperfections of the legislative framework, insufficient preparedness of healthcare managers; weak independence of public healthcare institutions. Quality medical services remain to be less accessible for rural population. Amount of funding allocated for guaranteed amount of medications supply does not meet real needs of the patients.

Accessibility of medical services is a problem due to shortage of human resources: healthcare system is short of about 5,000 doctors.

Recommendation n°80: Implement the programmes recommended by the World Health Organization WHO with a view to improving the medical assistance provided to women and children (Recommended by Iran)

IRI: partially implemented

KIHRRLC response:

Recommendation is being fulfilled partially. See comments to recommendation 45.

The objectives of the effective programmes: decreasing maternal mortality by 2013 to 28,1 and by 2015 to 24,5 per 100,000 live-born; decreasing infant mortality by 2013 to 14,1 and by 2015 to 12,3 per 1,000 live-born.

According to official reports and statistics of infant and maternal mortality the rates of the latter have been declining over the period. In the first semester of 2012 maternal mortality has decreased by 13% and made 15,4 persons per 100,000 live-born, whereas in 2011 this index made 17,7. Besides, the indicator of infant mortality has decreased by 5,1% and made 14,8 persons for 1,000 live-born.

Together with that, the level of maternal mortality in Kazakhstan remains to be twice higher than average number in the European community and 1,5 times higher than acceptable level defined by WHO. Women die of preventable causes. This reflects insufficient access to high-quality emergency obstetric help and high-quality monitoring, which allows to diagnose and treat extragenital diseases timely and to take measures to prevent undesired pregnancy.



The birth rate in teenagers remains high: it has not been declining since 2000, so there are 3% of teenage girls of 15-19 years old giving birth annually, which is two or three times more than in the Western Europe, Japan, Australia or Saudi Arabia. High rates of abortions resulting from absence of wide access to free contraception by the socially vulnerable groups, remains to be a problem. Under Ottawa Declaration on Child Patients (1999, 2009) informed consent of the child is necessary for any diagnostic, curative, rehabilitation or examination procedure in relation to the child.

The legal practice of Kazakhstan has a norm, under which consent for medical intervention in relation to the minor shall be given by his/her legal representative, meaning that a principle of voluntary consent for medical intervention is applied to parents, primarily (Code of RK "On the Health of the People and Healthcare System"). Absence of young people's legal capability to take decisions on services to protect sexual and reproductive health contradicts patterns of their physical and sexual development. While granting to the minor the right to decide on sexual activity, the legislator deprives him/her of the right to decide to use contraception or to treat STDs. The existing practice complicates for young people access to services protecting their sexual and reproductive health and decreases efficiency of youth-friendly clinics.

Recommendation n°84: Increase efforts to effectively meet the challenges related to the protection of the environment and the sustainable exploitation of natural resources, and to cooperate in that regard with the relevant international organizations (Recommended by Qatar)

IRI: fully implemented

UNESCO response:

The government of Kazakhstan is supporting the creation of the Korgalzhin biosphere reserve and Regional Glaciological center. Both will support the protection of environment and sustainable exploitation of natural resources. The Glaciology center will help mitigate (or effectively meet) challenges related to climate change issues and water management. Korgalzhin will cooperate with UNESCO, and the center will cooperate with all donors active in the subject area.

Recommendation n°89: Introduce human rights education and training into school curriculums, in accordance with article 29 of the Convention on the Rights of the Child (Recommended by Egypt)

IRI: partially implemented

KIHRRLC response:

Recommendation has been fulfilled partially.

According to the public mandatory standards of general education the cycle of socio-public disciplines at secondary schools as been introduced. Those include: "Knowledge of the World", and "History", "Basics of Social Science", "Basics of Law" in senior grades.



However, there is no independent course on human rights and freedoms for general education schools.

Recommendation n°98: Raise the awareness of its law enforcement officials so that individuals may exercise their right to freedom of religion or belief free from harassment or threat of human rights violations (Recommended by United Kingdom)

IRI: not implemented

F18 response:

This recommendation appears to ignore the abundant evidence, documented by Forum 18 and others, that the reason why people in Kazakhstan cannot “exercise their right to freedom of religion or belief free from harassment or threat of human rights violations” has little to do with the education of law enforcement officials. They are often well aware that their actions break international human rights obligations; as one head of a regional Justice Department put it in 2006: “international agreements are nothing to us”. Little if anything has changed, as demonstrated by a May 2012 comment from a Public Prosecutor that a fine imposed on the wife of a Protestant pastor was “unlawful” – but no action has been taken to either return the fine or prosecute the official who broke the law. Such officials are obedient servants of a state which nationwide and in a systematic way planned from the top violates its international obligations. This has recently been again extremely publicly demonstrated by the (as noted above) rushed passage in 2011 and intensive nationwide implementation of two laws violating Kazakhstan's freedom of religion or belief and related human rights obligations. These laws were, as Forum 18 has documented, planned from at least September 2009 if not before. For people to be able to exercise their right to freedom of religion or belief free from harassment or threat of human rights violations, Kazakhstan must end its systematic violations of this right and linked fundamental rights such as the freedoms of expression, association, peaceful assembly, and the right to a fair trial. In relation to officials themselves, the legal prosecution and appropriate punishment of any and every state official – however senior they may be - who violates people's human rights would be found to be an extremely effective way of raising awareness.

TP response:

When individuals were found guilty of unregistered religious activity, courts imposed a fine. The Baptist Council of Churches reported instances in which pastors were fined for unregistered religious activities and, on several occasions, local law enforcement representatives questioned followers in their homes.

KIHRRLC response:

Recommendation has not been fulfilled.

See comments to recommendation 1.

Law enforcement bodies of Kazakhstan focus, on the contrary, on combating untraditional religious trends and communities and treat them as potential threat to stability.



Indigenous & Minorities

Recommendation n°7: *Carry out all obligations arising from the Geneva Convention of 1951 on the status of refugees and the principle of non-refoulement, and to guarantee that individuals benefit from a fair and equitable trial before being returned to countries in which risks of torture, ill treatment and other serious human rights violations exist* (Recommended by Belgium)

IRI: *not implemented*

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Recommendation n°107: *Review relevant legal provisions and practices with a view to ensuring strict compliance with the principle of non-refoulement* (Recommended by Czech Republic)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

Refugees still cannot be employed, they are weakly socialized in the society. UN Committee Against Torture recognized refoulement of 29 citizens of Uzbekistan to their home country despite the fact that they were seeking asylum in Kazakhstan, as illegal. Also, fair trial is not guaranteed for the refugees in Kazakhstan, although there is access to court. During 2010-2012 Kazakhstan International Bureau for Human Rights and Rule of Law has filed 35 complaints with judiciary bodies appealing against refusal to grant refugee status, but not a single positive outcome has been achieved.

Recommendation n°10: *Consider adhering to the International Convention on the Protection of the Rights of All Migrant Workers and Their Family Members* (Recommended by Algeria)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

In the report of the UPR Working Party: Kazakhstan - opinions with regard to conclusions and/or recommendations, voluntary obligations and responses provided by the State Party - subject of the review (A/HRC/14/14/Add.1) page 2, first item) Kazakhstan has confirmed that it is not planning to ratify the Convention in the nearest future due to long-term financial implications which may follow as a result of its implementation.

Recommendation n°20: *Continue efforts to improve the national legislation and law enforcement measures aimed at the promotion and protection of the rights of persons with disabilities* (Recommended by Egypt)

IRI: *fully implemented*

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Recommendation n°26: *Continue its efforts to guarantee social protection for persons with disabilities and their full integration into society* (Recommended by Kyrgyzstan)

IRI: *fully implemented*

+



Recommendation n°35: *Continue the work being done to improve national legislation and law enforcement practices in the field of protecting the rights of disabled persons, according due consideration to generally acknowledged international standards (Recommended by Iran)*

IRI: *fully implemented*

KIHRRLC response:

Recommendation is being implemented.

The 2012-2018 National Plan on improvement of the quality of life of persons with disabilities has been developed. Government Decree schedules implementation of the first stage. At the end of 2012 or beginning of [2013] the Parliament will start revising the draft legislation on ratification of the Convention and Optional Protocol thereto.

Recommendation n°31: *Continue long-term policies for the successful integration into society of 650,000 ethnic Kazakhs repatriated from Asia, the Middle East and Europe (Recommended by Armenia)*

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled partially.

It is necessary to review the state's system of returnee integration in the Kazakhstan's societies. In particular, programmes of integration at the Centre of Adaptation must include information on legal system, the work of state bodies, meeting with representatives of the authorities and state services, skills of business correspondence, accepted in Kazakhstan.

Recommendation n°49: *Cooperate closely with the United Nations High Commissioner for Refugees with regard to the status of refugees and asylum seekers (Recommended by Belgium)*

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled formally.

The State Commission on determination of the refugee status has been established; Working Group in charge of amending legislation in relation to respect of the rights of people seeking asylum and persons without citizenship has been organized.

No practical results are visible, co-operation is formal for both state agencies and UNHCR.

Many of civil servants in the regions are not interested in co-operation with UNHCR. Many foreign embassies in Kazakhstan refuse to co-operate with UNHCR representatives.

Recommendation n°86: *Increase the number of schools providing education in minority languages, especially in the regions with concentrated minority populations (Recommended by Ukraine)*

IRI: *partially implemented*



KIHRRLC response:

Recommendation has practically not been implemented.

The number of schools with the language of instruction of the minorities did not grow. Article 9, Para 3 of the Law "On Education" guarantees the right to education in mother tongue. This provision of the law stipulates that the right to education in mother tongue is guaranteed only depending on the capacity of the relevant educational institutions to do so.

It is noteworthy that there is unequal access of minority representatives to higher education, which is organized in Russian and Kazakh languages only. Uniform testing for the graduates of secondary schools is not organized in the minority language too.

One must note shortage of textbooks; there is a problem of closing down Russian schools and transfer of buildings to Kazakh language schools.

Regardless of the fact that the Law on the Rights of the Child has the norm of the Convention, obligating the state to protect the child from any forms of discrimination and to take measures to protect his/her rights, there are no efficient mechanisms to restore infringed rights of the children.

UNESCO response:

Within the State policy on introduction of Multilingual education, starting with the next academic school year (2013-2014) English will be officially introduced from grade 1 as the third language of instruction. Schools using minority language instruction are operational, especially in the south part of the country where there is a large Uzbek-speaking population; however, challenges remain with integrating minority language schools into the national testing scheme hindering integration, monitoring and evaluation.

International Instruments

Recommendation n°3: *Accomplish human rights voluntary goals as established by Human Rights Council resolution 9-12, including the ratification of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto* (Recommended by Brazil)

IRI: *partially implemented*

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Recommendation n°12: *Consider ratifying the Convention on the Rights of Persons with Disabilities* (Recommended by Slovenia)

IRI: *fully implemented*

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Recommendation n°13: *Consider ratifying the Convention on the Rights of persons with disabilities, to which Kazakhstan is already a signatory, although the ongoing*



work being done in the country to protect the rights of persons with disabilities are noted (Recommended by Thailand)

IRI: *fully implemented*

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Recommendation n°99: Ratify the Convention on the Rights of Persons with Disabilities (Recommended by Republic of Korea)

IRI: *not implemented*

KIHRRLC response:

Recommendation is being implemented.

The National Plan on improvement of quality of life of persons with disabilities for 2012-2018. Government Decree has scheduled implementation of the first stage. At the end of 2012 or beginning of 2013 the Parliament will start considering the draft Law on Ratification of the Convention and the Optional Protocol thereto.

Recommendation n°8: Carry out the necessary negotiations, within the framework of the standing invitation to special procedures, to ensure the effectiveness of visits by special procedures, in particular the Special Rapporteur on the promotion and protection of freedom of opinion and expression (Recommended by Mexico)

IRI: *partially implemented*

F18 response:

A visit by the Special Rapporteur – particularly if it genuinely did take place at the earliest possible moment - would be welcome. This would especially be the case if the state did not stop at arranging a visit, but also at the earliest possible moment ceased placing obstacles to people's enjoyment of the right to freedom of opinion and expression and interlinked rights such as freedom of religion or belief. Abolishing the compulsory state censorship of all religious material and need for state “expert opinions” on communities' ideas and structure before they can legally exist – both introduced in 2011 - would be a start.

KIHRRLC response:

Recommendation has been fulfilled partially.

Kazakhstan's Foreign Ministry gave written response about its readiness to cooperate with UN Special Rapporteurs. At the same time, no reply followed the request of the UN Special Rapporteur for freedom of peaceful assembly and to association.

Recommendation n°9: Completely abolish the death penalty and, to that end, to ratify as soon as possible the Second Optional Protocol to the International Covenant on Civil and Political Rights, as provided for in the 2009-2012 National Human Rights Plan (Recommended by Belgium)

IRI: *not implemented*

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Recommendation n°34: Continue the process of abolishing the death penalty and consider the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (Recommended by Philippines)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.



Death penalty is foreseen in several articles of the Criminal Code of Kazakhstan, including for the crimes committed in time of war, terrorism, genocide, etc.

Information emerges from time to time that adhering to the Second Optional Protocol to ICCPR is under way, but no steps have been made yet.

Proposal: to exclude from the Constitution and Criminal law such type of punishment as death sentence.

Penal Reform International - Central Asia (PRI) response:

No, [death penalty] is still in the legislation, and 2 OP are not ratified.

World Coalition Against the Death Penalty (WCADP) response:

We met with state representatives to ask the government to implement this recommendation and abolish the death penalty for all crimes in law and to ratify the Second Optional Protocol to the ICCPR, but they answered that as they recently modified the Constitution, it was unlikely that they would modify it again in the short term.

Recommendation n°14: Consider ratifying the Rome Statute of the International Criminal Court, as well as the Second Optional Protocol to the International Covenant on Civil and Political Rights (Recommended by Slovenia)

IRI: not implemented

KIHRRLC response:

Recommendation has not been fulfilled.

Despite numerous recommendations of the various UN Committees in 2003-2007, Kazakhstan has not even launched a discussion on the topic, although ratification of the Rome Statute of ICC would allow affecting largely the reforming of judiciary and law-enforcement systems. Besides, Kazakhstan has signed a bilateral treaty with USA on immunity from prosecution in relation to ICC activity.

Sporadically information occurs that adherence to the Second Optional Protocol of ICCPR is being prepared but practical steps have not yet been made.

Recommendation n°33: Continue reforms aimed at the effective implementation of policies protecting and promoting human rights, through the full realization of the National Human Rights Action Plan, and by working closely with, inter alia, United Nations special procedures and mechanisms (Recommended by Armenia)

IRI: partially implemented

F18 response:

The National Human Rights Action Plan – first published in late September 2009 – indicated that the Justice Ministry is to "present to Parliament a draft Law on Introducing Amendments and Additions into Legislative Documents on the Securing of Freedom of Thought, Conscience and Religion" in the fourth quarter of 2011. Development of the Law was claimed in the Plan to start in the first quarter of 2011

The Plan states that the then current Law violates Kazakhstan's Constitution and the country's international human rights commitments, including by making registration for religious communities more cumbersome than for other non-governmental organisations, by making registration compulsory, and by imposing restrictions on



"missionary activity" and religious education. The Plan's timetable was met, but the legislation introduced in 2011 reinforced rather than removed these violations of international human rights law. The Plan made no commitment to remove these provisions and gave no mechanism for doing so. Civil society organisations invited to participate in the drafting of the Plan told Forum 18 that state officials removed civil society recommendations that would have implemented human rights obligations.

KIHRRLC response:

Recommendation is practically not fulfilled.

The National Action Plan on Human Rights in the field of political rights and freedoms has been implemented by not more than 20%. Despite the promise to co-operate with special procedures and mechanisms of the UN, the UN Special Rapporteur on freedom of peaceful assembly and association has never been invited, regardless of the request, as an example.

Recommendation n°62: *Establish an effective and inclusive process that includes independent non-governmental organizations, not funded by Governments, to follow up on the recommendations resulting from the present review (Recommended by Norway)*

IRI: *partially implemented*

F18 response:

Given Kazakhstan's range of genuinely independent internationally-recognised civil society organisations which are not funded by the government, if the state were to take concrete steps to implement these NGOs' recommendations on translating human rights obligations into reality this would be very positive. However, the state has not taken such concrete steps, preferring to involve independent NGOs without taking their recommendations seriously. For example, civil society organisations invited to participate in the drafting of the National Human Rights Action Plan noted that state officials removed civil society recommendations that would have implemented human rights obligations. Also, given Kazakhstan's worsening human rights situation, genuinely independent civil society organisations have noted that they are coming under increasing state pressure in their activities.

KIHRRLC response:

Recommendation is being fulfilled partially.

On one hand, there is a range of human rights organizations who monitor implementation of UPR recommendations. On the other the government reacts badly to criticism, especially if expressed by NGOs at international level, which hinders having a regular human rights dialogue in Kazakhstan.

Recommendation n°78: *Give yearly briefings to the Human Rights Council on the follow-up of the recommendations of this universal periodic review session as a voluntary measure (Recommended by Hungary)*

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.



Recommendation n°82: *Impose concrete measures to ensure that courts carry out their functions in accordance with ratified international treaties* (Recommended by Norway)

IRI: *not implemented*

F18 response:

This would be a welcome step forward, given Kazakhstan's repeated prosecutions and convictions of people exercising their right to freedom of religion or belief and other interlinked human rights. For example, Article 4 of the Constitution states, among other things, that “International treaties ratified by the Republic shall have priority over its laws and be directly implemented except in cases when the application of an international treaty shall require the promulgation of a law”. Yet courts have not been known to appeal to the Constitution when faced with prosecutions of those whose sole “offence” is to exercise the human rights recognised in the international treaties the state has ratified.

KIHRRLC response:

Recommendation is practically not implemented.

The judiciary bodies of Kazakhstan do not use in their practice international treaties in the field of human rights ratified by Kazakhstan.

Environmental society 'Green Salvation' (GS) response:

We have much evidence from our practice when courts ignore ratified international treaties.

Moreover, Kazakhstan does not sign European Convention for the Protection of Human Rights and Fundamental Freedoms CETS No.: 005.

Recommendation n°91: *Involve civil society organizations in its follow-up to the universal periodic review* (Recommended by United Kingdom)

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled partially.

NGOs, human rights defenders, primarily, monitor independently the implementation of UPR recommendations.

Recommendation n°100: *Reach out to the Special Rapporteur on Freedom of Religion and Belief to arrange a visit at the earliest possible opportunity* (Recommended by United States)

IRI: *not implemented*

F18 response:

A visit by the Special Rapporteur – particularly if it genuinely did take place at the earliest possible moment - would be welcome. This would especially be the case if the state did not stop at arranging a visit, but also at the earliest possible moment ceased placing obstacles to people's enjoyment of the right to freedom of religion or belief and related human rights.

TP response:

Kazakhstan signed open ended invitation to Special Procedures Rapporteurs on 28 July 2009 but has not arranged a visit with the Special Rapporteur on Freedom of Religion or Belief

KIHRRLC response:

Recommendation has not been fulfilled.

Recommendation n°106: *Review provisions set out in its Criminal Code criminalizing libel in order to ensure that they comply with the International Covenant on Civil and Political Rights and the standards of the Organization for Security and Cooperation in Europe, and to put an end to attempts to block Internet sites or filter their content (Recommended by Czech Republic)*

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

See comments to recommendations 5, 15, 51.

The Civil Code does not have changes which exclude bankruptcy and closing down of media outlets under excuse of protecting people's personal rights.

Recommendation n°116: *Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Recommended by Spain)*

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

Up to present Kazakhstan has not signed and has not ratified Optional Protocol to International Covenant on Economic, Social and Cultural Rights.

Justice

Recommendation n°2: *Abolish the death penalty in all circumstances, although the existence of a moratorium on executions, the commutation of such penalties into prison sentences, and the efforts made to restrict, in the Constitution, the application of the death penalty to a reduced number of crimes, are welcomed (Recommended by France)*

IRI: *not implemented*

KIHRRLC response:

Recommendation has been implemented partially.

Death penalty is foreseen by several articles of the Criminal Code of Kazakhstan, including for the crimes, committed in time of war, terrorism, genocide, etc.

Proposal: To exclude death penalty from the Constitution and the Criminal Law of Kazakhstan as a form of punishment.

PRI response:



No, the number of death penalty sanctions is the same in the criminal law, according to the experts the number of sanctions with death penalty in a new draft of the Criminal Code is even higher than in the existant variant.

LCWISS response:

Kazakhstan did not abolish death penalty, and death penalty is still part of the criminal legislation. We invite the Republic of Kazakhstan to ratify the second optional protocol to the ICCPR.

WCADP response:

We met with state representatives to ask the government to implement this recommendation and abolish the death penalty for all crimes in law and to ratify the Second Optional Protocol to the ICCPR, but they answered that as they recently modified the Constitution, it was unlikely that they would modify it again in the short term.

Recommendation n^o4: *Adopt strict safeguards to ensure that no statement obtained through torture can be used in courts* (Recommended by Czech Republic)

IRI: *partially implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

Despite the existing direct indication in the criminal-procedure laws of Kazakhstan on recognition of the evidence elicited under torture as unacceptable, and on immediate investigation of torture related complaints filed by defendants, persons under trial and arrested persons, by Prosecutor's Office and court, the complaints of persons in custody are ignored mainly.

The civil society of Kazakhstan has recommended changing certain articles of the newly drafted Criminal Procedure Code of Kazakhstan. The courts everywhere pay no attention to torture allegations and treat such confessions as acceptable. Confession testimonies, elicited under torture are used as a basis, and guilty verdict is delivered on the basis of such testimony only. From March 27 till June 11, 2012, in Aktau 30 out 37 defendants tried in relation to Zhanaozen events (December 16, 2011) have stated use of torture, but the prosecutor's office has conducted "an inspection" within few days and said in court that torture allegations have not been confirmed. The court did not take into consideration complaints of the defendants and 10 witnesses.

PRI response:

Partially, some new regulations were adopted

Recommendation n^o6: *Amend the law in order to ensure that torture is established as serious crime punished with appropriate penalties and ensure that it is brought into full conformity with the definition set out in the Convention against Torture* (Recommended by Germany)

IRI: *partially implemented*



KIHRRLC response:

Recommendation has been fulfilled partially.

Criminal penalty, foreseen by part 1, Article 141-1 of the Criminal Code of Kazakhstan, without identifying special level of gravity of the inflicted pain and/or sufferings ("strong" - in the Convention), thereby classifies other forms of ill-treatment (degrading, cruel, inhuman) as torture, penalized by punishment ranging from a fine to 5 years of restrained or deprived liberty, which is a "medium gravity crime" and not a serious crime, under Article 10 of the Criminal Code. Therefore, in the absence of differentiation between torture, notion of which is given in Article 1 of the Convention, and other types of ill-treatment, commitment of torture in Kazakhstan may entail less severe punishment, inconsistent with appropriate international recommendations. Two other qualifying constituent elements of the Article meet the requirements of this recommendation. Regrettably, charges under Article 141-1 of the Criminal Code have never been brought in judiciary practice. As a rule, Article 308 of the Criminal Code (abuse of office) is used instead. However, in accordance with the international law torture is defined as serious crime.

Proposal: Kazakhstan, having ratified relevant international treaties must toughen penalty for the crime foreseen under Article 141-1 of the Criminal Code.

PRI response:

Partially, the law was amended, however there are still some gaps, as possibility for parole and amnesty for perpetrators

Recommendation n^o19: *Continue efforts to eliminate torture and improve the conditions of detention and the protection of the rights of detainees, and to share relevant experiences with interested countries* (Recommended by Algeria)

IRI: *not implemented*

KIHRRLC response:

Recommendation is practically not fulfilled.

Unfortunately, often the arguments given by the convicts in their complaints on physical and psychological pressure by penitentiary institution's officers filed with law-enforcement agencies are not examined duly.

PRI response:

Partially, number of concerns of human rights defenders on prisoners' rights is still high.

Recommendation n^o27: *Continue its efforts to inform its citizens about their rights, and to improve the quality of the legal information disseminated by the media, including through the Internet* (Recommended by Kuwait)

IRI: *not implemented*

F18 response:

Whilst information about rights is valuable, as noted below many officials are well aware that their actions violate human rights. Implementation by officials of the state's obligation to respect human rights would be welcome. Similarly, ending the use of the media to promote intolerance against people exercising their freedom of religion or belief would be a good step forward.



KIHRRLC response:

Recommendation is not being fulfilled.

Kazakhstan's Ministry of Justice is not performing its duties on legal education of citizens. For example, only 1 out of 10 asked persons knew about the Law "On Prevention of Domestic Violence", there is no access to information related to human rights and freedoms, especially in the view of Kazakhstan's international commitments.

UNESCO response:

E-gov is publishing legal data; however there are problems with evaluating the up-to-date status of the legal information posted. Internet is not accessible to all in the country and so such information is limited to those with access. Television broadcasting, the form of media by which 80% of the population receives information, has not shown substantial progress in this regard. Only government-owned print media are distributing legal information, with little reach beyond major cities.

Recommendation n°37: *Continue to apply a victim-centred approach to the fight against trafficking and consider the use of the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking as a reference tool (Recommended by Philippines)*

IRI: not implemented

KIHRRLC response:

Recommendation is implemented insufficiently.

Confidentiality principle is not respected, despite the Law of Kazakhstan "On Witness Protection". The state does not provide material support to the Rehabilitation Centres for the victims of human trafficking. Legislation is not being amended in relation to bringing charges against the consumer, persons, who rent out premises for doing sex. In practice the victims of human trafficking are not detected, their applications are not considered in an appropriate manner, counter-charges are often brought against the victims by human traffickers; corruption is a serious obstacle for preventing human trafficking. It is necessary to introduce the procedure of identifying victims of human trafficking by police with the help of special questionnaires. Kazakhstan NGOs have already developed such questionnaires, which could be used by law-enforcement agencies of Kazakhstan. It is necessary to shift the emphasis from detecting crimes to detecting victims of human trafficking.

Recommendation n°38: *Continue to apply a zero-tolerance approach to torture and cruel, inhuman or degrading treatment or punishment (Recommended by Germany)*

IRI: not implemented

KIHRRLC response:

Recommendation is not fulfilled in practice.

Torture complaints are not investigated properly, Article 141-1 "Torture" of the Criminal Code is not applied, often torture victim is deprived of access to investigation materials, not interrogated during torture investigations, i.e. torture investigation does not meet the international requirements (Istanbul Protocol, UNCAT). Torture victims are denied in initiation of criminal proceedings in relation to the officers of law enforcement agencies.



Statements of the defendants in relation to December 16, 2011 Zhanaozen events have not been confirmed. Meanwhile, investigation of these statements did not meet international standards on conduct of such investigation in the context of independence, impartiality and promptness of the response. Therefore, one cannot call such investigation efficient.

PRI response:

No. very little initiatives implemented to strengthen zero-tolerance approach

Recommendation n°39: *Continue to combat human trafficking and to make it a priority of the various governmental agencies entrusted with implementing the third action plan to combat human trafficking, for the period from 2009 to 2011* (Recommended by Morocco)

IRI: *fully implemented*

+

Recommendation n°44: *Continue to increase its efforts to prevent and combat the trafficking in persons* (Recommended by Belarus)

IRI: *fully implemented*

KIHRRLC response:

Recommendation is being fulfilled partially.

See comments to recommendation 37.

Interagency co-operation in combating human trafficking is weak in practice.

LCWISS response:

In 2011 the government finished implementation of the National plan about human trafficking for 2009-2011 and confirmed the new National plan for 2012-2014.

Recommendation n°40: *Continue to develop the rule of law, including the independence of the judiciary and the impartiality of court processes, in order to bring legislation and practices further into line with the principles of the international legal system* (Recommended by Finland)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

Kiev recommendations on independence of judges have not been taken on board by the state. They need to be accepted fully and be taken in consideration in the following reform of the judiciary. Juvenile courts are of truncated nature, trials get delayed, and transportation of children along with case materials may take 6-8 hours one way, since courts are located in the periphery, for instance juvenile courts of Almaty oblasts are located in towns of Taldykorgan and Kaskelen.

Recommendation n°42: *Continue to improve the judicial system to guarantee the rights of those in detention or in prison* (Recommended by Japan)

IRI: *not implemented*

KIHRRLC response:

Recommendation is not fulfilled in practice.

Persons in detention are deprived of an opportunity to familiarize fully with the materials of the case and with court records, cannot take copies of necessary



documents, unable to seek medical examination to prove use of physical pressure, etc.

In majority of cases court is not impartial during delivering a sentence and therefore convicts are often denied release on parole or transfer to open colony.

Regrettably, the newly presented draft Criminal Procedure Code lacks norms aimed at improving the procedure of detention authorization. All presently existing deficiencies of the procedures have just been preserved. For example, the legislative draft does not stipulate authentic Habeas Corpus procedure, when examination of the lawfulness takes place in all the cases of detention.

According to the draft law like before the courts shall consider only the motions on detention, submitted by the criminal prosecution bodies. In cases when investigation decides to abstain from detention, the court is not entitled to assess lawfulness and [groundless] of limitation of the right to personal freedom.

The process of assessment of lawfulness of the detention is also formalized, the courts have no rights interfere the investigation, the proof of guilt of the defendant. Based on the analysis of the Code's relevant provisions, one can make a conclusion that the effective 72-hour detention period is maintained. Along with that the question whether this term is unjustifiably long has been discussed since long ago and even the UN Special Rapporteur on torture, inhuman and degrading treatment and punishment has recommended Kazakhstan to shorten this period to 48 hours. Minors are detained in pre-trial detention centres together with the adults.

PRI response:

No, no changed were implemented in this area

Recommendation n°52: *Effectively investigate and prosecute violations committed against human rights defenders and journalists* (Recommended by Norway)

IRI: not implemented

KIHRRLC response:

Recommendation has not been fulfilled.

Attacks on journalists are not investigated properly. Usually, the investigation accuses some unfound and unknown hooligans, even if the journalist provided description and plate numbers of the cars. The situation is the same for human rights defenders.

Recommendation n°56: *Ensure that all trials, including those of terrorism suspects, comply with international standards for fair trials* (Recommended by Norway)

IRI: not implemented

KIHRRLC response:

Recommendation has not been fulfilled.

Judicial trials in relation to persons, accused of terrorism take place behind closed doors, human rights activists and journalists cannot find out neither charges, nor evidence, let alone familiarizing with the sentence. Often such trials take place



beyond court's office, at pre-trial detention centres, i.e. institutions subordinate to Interior Ministry of National Security Committee of Kazakhstan.

The culprit is not entitled to have defence attorney of own choice, since terrorism cases are declared secret and can only be attended by an attorney authorized to have access to state secrets, permission of which is given by the National Security bodies. As a result, prosecution bodies usually provide themselves defence attorneys to persons indicted of terrorism.

Lately, one can even speak of extrajudicial reprisals, because authorities name some persons in some houses or premises terrorists and conduct armed liquidation operations, although, neither charges for each of them and nor why they need to be executed prior to determining their guilt are clear.

Recommendation n°61: *Establish a national preventive mechanism that has adequate resources and is in conformity with the requirements, set out in the Optional Protocol to the Convention against Torture, of full legal, functional and financial independence and of staff composition, immunities and privileges (Recommended by United Kingdom)*

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled.

The draft law on the national preventive mechanism is being developed. However, speaking of the law's compliance with international standards, especially, in the part related to independence and free access to the places of detention would be premature.

PRI response:

Partially, the law on NPM is in the Parliament

Recommendation n°63: *Establish an independent monitoring mechanism for all places of detention, in keeping with the provisions of the Optional Protocol to the Convention against Torture, in order to effectively prevent torture (Recommended by France)*

IRI: *partially implemented*

+

Recommendation n°65: *Establish an independent national preventive mechanism in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Recommended by Ireland)*

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled partially.

At present there are public monitoring boards, which monitor rights of people detained in the penitentiary institutions. The rest of custodial detention places are not covered, due to absence of a legal mechanism. After receipt of torture complaints from the convicts, visiting them or providing them legal counseling and thereby preventing torture is not possible, because there were cases when PMB members



were denied access to the correctional facility. The boards do not have the right of a sudden visit to the places of incarceration.
See comments to recommendation 61.

PRI response:

Partially, the law on NPM is in the Parliament

Recommendation n°66: *Establish effective complaint mechanisms for the victims of torture, with a special focus on persons in detention, so that any misconduct by police, prison or detention staff receives a full and independent investigation and regular punishment* (Recommended by Czech Republic)

IRI: *partially implemented*

+

Recommendation n°97: *May establish a national preventive mechanism for the prevention of torture in accordance with the provisions of the Convention against Torture and its Optional Protocol* (Recommended by Sri Lanka)

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled practically.

See comments to recommendations 61, 63.

At present there is no independent torture investigation body in Kazakhstan.

PRI response:

Partially, no effective complaint mechanism

Recommendation n°67: *Establish torture as a serious crime punished with appropriate penalties, in keeping with the definition set out in the Convention against Torture* (Recommended by Australia)

IRI: *partially implemented*

KIHRRLC response:

Recommendation has been fulfilled partially.

See comments to recommendation 6.

Criminal penalty, foreseen under Article 141-1, Part 1 of the Criminal Code of Kazakhstan does not specify gravity of inflicted pain and/or sufferings (Conventions reads "strong"), thereby qualifying other types of ill-treatment (degrading, cruel, inhumane) as torture, punished by a fine or up to 5 years of imprisonment, that being "medium gravity crime" and not a "serious crime", according to Article 10 of the Criminal Code of RK. The other two qualifying components of the crime in the stated article meet the requirements of the recommendation.

PRI response:

Partially, amendments made, but there are still some gaps in definition

Recommendation n°74: *Further improve prison conditions* (Recommended by Azerbaijan)

IRI: *not implemented*

KIHRRLC response:

Recommendation is not fulfilled practically.



Overwhelming majority of correctional facilities were built long ago and conditions of imprisonment fail to comply with international standards. Imprisonment of the penitentiary system of Kazakhstan is brigade-based which does not help to promote prisoners' rights. Both the heads of penitentiary system and prison administration do not react to recommendations of the NGOs issued based on the results of the monitoring of imprisonment conditions.

PRI response:

Partially, medical equipment was provided in prisons, however according to human rights defenders there are still poor conditions in the prisons

Recommendation n°77: Further strengthen law enforcement and the judicial system in the effort to address impunity and prevent trafficking and domestic violence, as well as the sexual abuse of women and girls (Recommended by Malaysia)

IRI: -

KIHRRLC response:

Recommendation is being fulfilled insufficiently.

Recommendation n°83: Improve the standards and the situation of human rights in prisons, and to carry out an independent investigation into cases of violence in prisons (Recommended by Slovenia)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been implemented.

Incarceration conditions do not conform to the requirements of the Standard Minimum Rules for the Treatment of Prisoners. There is no independent body in charge of investigating torture and ill-treatment complaints.

PRI response:

Partially, some new internal regulations were adopted, however independent investigations are not always provided

Recommendation n°87: Introduce a moratorium on the death penalty in all cases, including penalties for the crime of terrorism and war crimes, although the abolition of the death penalty for civilians is noted with satisfaction (Recommended by Spain)

IRI: *partially implemented*

KIHRRLC response:

Recommendation has been fulfilled partially.

There is moratorium on execution of death penalty in force in Kazakhstan, but it does not prevent from sentencing to one as a measure of criminal punishment.

Proposal: to exclude death penalty as a form of punishment from the Constitution and criminal law of Kazakhstan.

Recommendation n°88: Introduce further measures aimed at the effective prevention and combating of human trafficking, including the continuation of the public awareness campaign and cooperation with the relevant non-governmental organizations (Recommended by Japan)

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled partially.

It is necessary to introduce optional training course at schools, lyceums, colleges, universities; education among entrepreneurs and employers.

Recommendation n°96: *May develop a programme aimed at increasing the legal competence of the employees of correctional institutions so that they can effectively address issues pertaining to the early release of convicted persons* (Recommended by Sri Lanka)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

The decision on release on parole is taken by judiciary bodies in Kazakhstan, but officers of correctional facilities must express their views during the trials and support or not support the motion of the prisoner. There are no special programmes aimed at increasing legal literacy of the officers in this regard.

Recommendation n°103: *Reform the judicial system in accordance with international standards regarding the administration of justice, including by reforming penal centres and the system for the administration of juvenile justice, and ensuring the independence of judges and lawyers* (Recommended by Mexico)

IRI: *fully implemented*

KIHRRLC response:

Recommendation is being implemented.

At present, following the recommendation to establish the system of juvenile justice the issue of establishing 16 more specialized inter-district juvenile courts is being developed. Establishment of juvenile courts in every oblasts of Kazakhstan has been launched in July 2012.

LCWISS response:

At the moment the judicial system of the Republic of Kazakhstan is transformed to separate institutes, there are specialized criminal, juvenile, economic courts.

Recommendation n°112: *Share its experience regarding its innovative independent national mechanism for the prevention of torture, whose establishment could serve as an example of best practices in the fight against torture* (Recommended by Morocco)

IRI: -

PRI response:

Partially, the law on NPM is in the Parliament

Recommendation n°122: *Strengthen the roles of judges and defence lawyers in the criminal procedure, and to guarantee full access for defendants to the legal counsel of their choice* (Recommended by Czech Republic)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.



Unfortunately, in Kazakhstan vicious soviet practice of the violation of the right to free choice of defence attorney on the grounds of absence in such attorney of access to state secrets is applied. Most frequently such violation occurs during investigation and judiciary practice in relation to cases, handled by the National Security Committee. The procedure related to granting of the access to state secrets is regulated in an instruction unpublished openly, and the access is granted upon the results of special verification of the lawyer, performed together with the National Security committee. Therefore these pre-trial investigation bodies have a chance to influence the issuance of an access to procedural opponent, which is obviously not fair in the view of contentiousness and equality of parties in the criminal proceedings. There is also fundamentally unsound practice of maintaining the informal list of "attorneys with access". The formation of such lists is absolutely not transparent, the law does not regulate such practice, while its application clearly limits the right of the citizen involved in criminal proceedings to a free choice of an attorney.

Recommendation n°125: Take measures to limit the powers of public prosecutors and bring criminal procedure into greater conformity with article 14 of the International Covenant on Civil and Political Rights (Recommended by Netherlands)

IRI: not implemented

KIHRRLC response:

Recommendation has not been fulfilled.

It is obvious that the courts only are entitled to authorize conduct of investigation, potentially limiting constitutional rights of people.

The idea of judiciary supervision is that in all cases when executive power, represented by law-enforcement bodies attempts to restrain the rights of the citizens, an independent and impartial court, who does not serve the interests of criminal prosecution bodies, which is regrettably the case in Kazakhstan, is there for the citizen, and rules out fairly if the law-enforcement body wishes to conduct an investigation action affecting the most important civil rights and freedoms, is lawful and well-grounded.

This is exactly why the search, confiscation, against the will of the resident, inspection of home, conversation tapping, wiretapping and other actions related to intervention in the private life of an individual, privacy of correspondence, sanctity of an individual and property, should be permitted by the court only.

Presently existing practice of prosecutorial authorization of such procedural actions is far from the standards of impartiality and fairness, is often of formal, non-principle nature. For instance, orders of inquiry bodies about tapping of conversations issued within operational investigations and appearing in case materials are usually pretty laconic and badly reasoned.

Recommendations of the UN Special Rapporteur presented in 2004 on independence of judges and attorneys, limiting competencies of Prosecution, and enhancing contentiousness and "equality of arms" in a trial have not been fulfilled too.



Recommendation n°126: *Take measures to prevent any interference in the exercise by defence lawyers of their functions, in accordance with the International Covenant on Civil and Political Rights (Recommended by Spain)*

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

See comments to recommendation 122.

Unfortunately the practice shows inefficacy of these mechanisms.

In reality, the defence attorneys are as vulnerable before arbitrariness as persons they represent.

Offices of the lawyers can be subjected to unauthorized searches, the lawyers themselves, in violation of the right to witness immunity, guaranteed by the law, are summoned to interrogation about circumstances which have become known during legal counselling, special operational investigations can be conducted with regard to the lawyers. There are known facts of prosecution of lawyers for questioning legality of the actions committed by law-enforcement agencies. The defence attorneys still cannot enjoy hindrance-free entering the premises of the bodies in charge of criminal proceedings, and often subjected to humiliating searches, violating personal sanctity of the attorneys and sanctity of their documents.

Recommendation n°127: *Take measures to strengthen the independence of the judiciary, to implement existing judicial procedures and to tackle the issue of corruption in its courts (Recommended by Canada)*

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

Recommendations of the UN Special Rapporteur on independence of judges and attorneys (2004) have not been fulfilled, the courts are still not independent, and this is especially true in case of political trials and trials involving civil activists, journalists, human rights defenders.

SOGI

Recommendation n°92: *Join the declaration on sexual orientation and gender identity, while noting with congratulations the decriminalization of homosexuality (Recommended by France)*

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.



1. Sexual orientation and gender identify are not in the list of prohibited grounds for discrimination, foreseen by the national criminal, labour and civil legislation. This created circumstances under which representatives of sexual minorities cannot rely on efficient judicial protection of their rights.
2. Analysis of the legislation shows that certain issues, reflected in the international treaties have been effectively included in the norms of Kazakhstan law (decriminalization of voluntary homosexual relations, possibility to replace ID and passport for a transgender, etc.).
3. Kazakhstan's legislation has sufficient room for improvement in other areas (formalizing the principle of non-discrimination by sexual orientation and gender identity, expanding legal framework for same-sex marriages and status of a family member, parental rights of homosexuals and transgender, simultaneous legal recognition of two same-sex parents, non-property relations, etc.)

Proposals:

1. It is necessary to include the principle of equality and non-discrimination on the grounds of sexual orientation and gender identify in constitutional and relevant enactments, including through amendments and interpretation, and to ensure effective realization of these principles.
2. It is necessary to adopt legislative norms to prohibit and eradicate discrimination in relation to sexual minorities in societal and private lives. Categories of sexual orientation and gender identity must be included in the list of motives for hatred crimes. It is necessary to introduce norms precluding crimes inciting hatred. Legislation of such kind must define clearly the offences, committed out of intolerance. Proper, acceptable and efficient criminal, civil, administrative and other procedures or ensure prosecution of persons, associated with human rights violation with regard to sexual orientation and gender identity.
3. It is necessary to guarantee every person the right to decide him/herself whether and whom and how to disclose information on sexual orientation and gender identity, and to protect such persons from spontaneous or unsanctioned disclosure or threat of disclosure of such information by others.
4. The state must seek to adopt legislative measures guaranteeing respect and sanctity of private lives of the citizens, regardless of their sexual orientation and gender identity.
5. It is important to ensure equal opportunities for individuals to exercise certain rights without being divided by gender identity and sexual orientation grounds (legalizing matrimonial unions, formalizing parental rights, application of benefits and rights, granted to spouses to homosexual partners). It is necessary to equalize men and women in rights with regard to reproduction rights (right of access to assisted reproduction regardless of marital status).
6. General aspects of transgender legal status must be resolved; legal mechanisms allowing for application of the mode relevant to their new gender must be established.

Women & Children

Recommendation n°17: *Continue current efforts to increase the representation of women in decision-making positions, including in Parliament and in State executive organs (Recommended by Cuba)*

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

Equality principle in the field of employment, guaranteed by the Constitution of Kazakhstan is effectively not respected. Men, on managerial positions, through their actions, demonstrate their attitude to women; women have what to say, but out of fear of losing job everybody keeps silent.

Increased representation of women in Majilis of the Parliament of Kazakhstan is merits of certain women, not a result of "consistent policy of Kazakhstan's gender strategy realization". The National Gender Policy Plan in Kazakhstan has not been implemented actually. Inefficiency of the National Commission for the Affairs of Woman and Family-Demographic Policy under the President of Kazakhstan is obvious. Despite development of "political leadership school" the reserve lists of women, who will be nominated for the elections have not been done. List of female candidates for the posts of akim/deputy akim of oblasts, akim/deputy akim of cities is a big secret. Representation of women at decision-making level at the positions of heads of departments and units of the ministries is insignificant.

Recommendation n°18: *Continue efforts to combat child labour (Recommended by United States)*

IRI: *not implemented*

KIHRRLC response:

Recommendation is being implemented insufficiently.

After 2010 publication of the "Hellish Work" HRW Report regarding exploitation of labour migrants at tobacco plantations in Kazakhstan, "Philip Morris Kazakhstan" (subsidiary of Philip Morris International) has taken measures to enhance guarantees of human rights promotion in relation to labour migrants in tobacco farming, having obligated the employers to conclude written employment contracts, stipulating regular payments and other issues. PMK has intensified trainings on labour rights and child labour, has strengthened monitoring to prevent violations so widespread earlier, such as child labour and forced labour, and confiscation of passports (extract from the [HRW 2012 World Report: Kazakhstan](#))

The authorities of Kazakhstan do not undertake sufficient efforts to eradicate child labour. It is also noteworthy that children-migrant workers at construction sites, in agricultural sector and in private households are still not being detected.

The activity on prevention of illegal types of child labour in Kazakhstan is of declaratory nature. There is no inter-agency interaction. Private tobacco companies in collusion with local executive authorities "imitate" rehabilitation activity, establishing children's centres for additional education, purchasing sewing machines, while being

aware that acquired sewing skills will not be useful to children for earning money outside of tobacco fields. The cost of a hand sewn piece with four simple stitches will be 10 more than of the same piece manufactured in Kyrgyzstan or China with sewed in zip, hidden stitches and hand sewn embroidery.

Association of employers promotes the interests and principles of the employers only. Trade unions have survived usefulness and can not affect working processes seriously. Illegal forms of child labour are present at the fields, for example in South Kazakhstan and Almaty oblasts of Kazakhstan. More than 80% of schoolchildren could not improve health or go to children's camps in summer.

Recommendation n°25: *Continue its efforts to eradicate discrimination against women in all areas of life* (Recommended by Kyrgyzstan)

IRI: partially implemented

KIHRRLC response:

Recommendation is being fulfilled partially.

In December 2009, the Law "On State Guarantees of Equal Rights and Opportunities for Men and Women".

More than three years passed after adoption of the law, and we can state now that the law has serious shortcomings, including:

- incomplete definition of discrimination (criteria of the violation of the right in the context of discrimination is not developed);
- liability for violation of the law is not defined;
- explanatory work with the officials of the Ministry of Justice, Supreme Court of Kazakhstan concerning correct understanding of the law is not being performed;
- imperfection of sectoral laws; discrimination-related provisions have been introduced to certain enactments of Kazakhstan only, including Labour Code and Criminal Code;
- no special body in charge of implementation of the Law of Kazakhstan on State Guarantees of Equal Rights and Opportunities for Men and Women has been established. List of state bodies in charge of supervising the implementation of the law lacks coordination.

The Law "On Prevention of Domestic Violence" is implemented weakly, 6 out 10 subjects of domestic violence prevention are not performing their duties. Competent authority has not been determined, action plan has not been implemented. Domestic abuse remains to be a private matter, family members have to abandon their homes, escaping from the offender. Domestic violence is increasing due to impunity.

LCWISS response:

The law «On the equal rights and possibilities for women and men in RK» and «On combating to domestic violence» was legislated in Kazakhstan. The government centers for protection the victims of domestic violence are created.

Recommendation n°28: *Continue its efforts to promote and improve the situation of women and to combat discrimination against them* (Recommended by Sudan)

IRI: partially implemented

KIHRRLC response:

Recommendation is practically not being implemented.



For example, women, who live in rural area, believe that they are the most vulnerable groups due to traditional patriarchal customs which still exist in some rural communities. Adult women of rural areas face discrimination at home and in the society, which may lead to traumas, serious bodily harm or death. Despite universal nature of violence against women, many of rural women are even more vulnerable due to social status, educational and upbringing culture. Education forms indirectly women's educational and upbringing culture. Restriction of the right to education is, among other issues, a form of economic discrimination. These women are unlikely to realize their potential in the future. Many young female professionals graduated from the universities are afraid of going to rural areas because they are afraid to be subjected to violence.

Recommendation n°29: *Continue its work to ensure the further refinement of laws aimed at protecting children's rights in order to step up criminal and administrative responsibilities for crimes and offences committed against children or involving children in crime* (Recommended by *Kyrgyzstan*)

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled insufficiently.

Amendments, aggravating liability for the crimes against sexual freedom and sexual sanctity in relation to the minors have been introduced to the Criminal Code of Kazakhstan.

There were two new articles, stipulating liability for involvement of a minor in prostitution (Article 132-1) and for manufacture and dissemination of materials or subjects with pornographic images of the minors, or attraction of minors for participation in entertainment events of pornographic character (Article 273-1). Commitment of the offences by a parent, teacher of persons legally entrusted to educate the child is an aggravating circumstance.

Liability for violation of "Sale to minors of subjects and materials with erotic content" has been introduced to the Code of Administrative Offences (Article 115-1), responsibility of the parents or persons, replacing them is foreseen for "Appearance in public of minors in the drunk state and publicly drinking of the minors" (Article 336). Formally, the Labour Code of Kazakhstan prohibits using of employees, who have not reached their full age in labouring works, works which may cause harm to their physical and moral development (gambling, work at nightclubs, manufacturing, transportation and sale of alcoholic produce, tobacco, narcotic substances, psychotropic substances and precursors).

The Law "On the Rights of the Child" has been amended with a new article, protecting the child from economic exploitation. Besides, "involvement of the child in prostitution" entails liability foreseen by the laws of Kazakhstan. The norm on liability foreseen by the laws of Kazakhstan for "involvement of the child in manufacture, advertisement, public demonstration and dissemination, as well as sale to the child of printed materials, cinema and video materials, images, other subjects or materials of pornographic nature and with erotic content" has been introduced to the law.



Nevertheless, a child, victim of domestic violence continues living with family member, who subjected him to violence until the court's ruling on removal of the child from the family. The procedure takes one month sometimes. The institute of the Commissioner for the Rights of the Child has not been established. Number of mass fights between senior schoolchildren has increased, often caused by juvenile racketeering, controlled by adults.

Recommendation n°32: *Continue measures to enhance female representation in society (Recommended by Azerbaijan)*

IRI: not implemented

KIHRRLC response:

Recommendation is not being implemented.

See comments to recommendation 17.

In April 2012, Social Watch organization has published the "Index of Gender Equality" in which Kazakhstan is at the 33rd place in the world by the level of gender equality, before practically all CIS states. Having said this, the share of women in the group of legal entities constitutes more than 50% and about 6% in the groups of entrepreneurs.

Areas with highest female representation include hotels and restaurants, commerce, communal, social and personal services and agriculture, while 60% of 2,7 self-employed population are women.

Incomprehension by the civil servants of gender equality problems persists. For example, in majority of the cases when contacting a public body, the women face the wall of refusals and mistrust. The national criminal law does not have an article on liability of the offender for discrimination of women. There is no judiciary practice related to discrimination charges.

Recommendation n°55: *Enact the draft law on domestic violence in full compliance with international standards (Recommended by Slovenia)*

IRI: not implemented

KIHRRLC response:

Recommendation has been implemented partially.

There are certain programmes on prevention of domestic violence, there are also legal and psychological trainings to detect domestic violence. However, the activity has not been formalized in the law. When domestic violence facts are established, investigation bodies mainly initiate criminal proceedings on coercion to sexual contact (Article 123, Criminal Code of Kazakhstan), which is wrong. Under Article 123 of the Criminal Code the victim must file a lawsuit in court privately, which is pretty complicated, since not all the women are literate legally to draft and submit a lawsuit themselves. Also, not everybody can pay for the lawyer to protect one's rights.

Recommendation n°58: *Ensure that the recently adopted law on domestic violence is in full compliance with international standards, and to raise the awareness of legal*



officials regarding the need to act against violence against women within the family
(Recommended by *Germany*)

IRI: *partially implemented*

KIHRRLC response:

Recommendation has been fulfilled partially.

The practice of conducted events with the civil servants has revealed that conducting awareness sessions only is not sufficient, because not all the officials know about existence of the Convention on liquidation of all forms of discriminations in relation to women. When contacted, not every civil servant takes into consideration the norms of international treaties. There is no universal co-ordinating body or co-ordinating structure, entrusted with the task of regulating and combating domestic violence.

Recommendation n°59: *Ensure the use of vocabulary that does not stigmatize children with disabilities or children born out of wedlock* (Recommended by *Slovenia*)

IRI: *not implemented*

KIHRRLC response:

Recommendation is practically not fulfilled.

The Law "On Introduction of Changes and Addenda to Certain Enactments of Kazakhstan Regarding Protection of the Rights of the Child", dated November 23, 2010, which enforced changes and addenda to certain articles of the Law "On the Rights of the Child", has maintained the notion of "disabled child" in its previous version. At the same time, the Law no.343-II, "On Social and Medico-pedagogical Correctional Support to Children with Disabilities" uses the term of "child(ren) with disabilities". Definitions of "disabled child" and "child with disabilities" are not identical.

Proposal: to introduce changes to conceptual framework of the Law "On the Rights of the Child", to replace the definition of "disabled child" by "child(ren) with disabilities".

Using of words as "disabled" and "illegally born child" contribute to causing negative stereotype.

Recommendation n°72: *Further combat discrimination against persons with drug dependence and persons living with HIV-AIDS, particularly children* (Recommended by *Brazil*)

IRI: *partially implemented*

+

Recommendation n°102: *Redouble its efforts to eliminate the stigmatization of and discrimination against persons, especially children, infected and affected by HIV-AIDS* (Recommended by *Thailand*)

IRI: *partially implemented*

KIHRRLC response:

Recommendation is practically not fulfilled.

The authorities do not undertake efforts necessary to eliminate stigmatization and discrimination of LGBT. Level of stigma and discrimination with regard to this group remains high.

[...]



UNESCO response:

Within the National AIDS Programme the government continues to conduct activities for elimination of stigmatization and discrimination of people living with HIV or affected by HIV epidemic including children. A media campaign to fight stigmatization has also been launched.

Recommendation n°81: *Implement various awareness-raising programmes, with a special emphasis on programmes for children* (Recommended by Hungary)

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being implemented partially.

Practically all of the awareness-raising activity is of declaratory nature, infrastructure for protection of children's rights is not developing.

Recommendation n°105: *Review existing legislation and enact comprehensive laws to address the trafficking in women, particularly in terms of prevention, prosecution, protection and rehabilitation* (Recommended by Canada)

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled partially.

The legislative work is in progress, NGOs actively contribute to the process; it is necessary to continue and to complete the work in the course of the effective criminal-legal reform in Kazakhstan.

Besides, Normative Regulation of the Supreme Court of Kazakhstan on judiciary practice for the cases on human trafficking must be adopted with active involvement of NGOs.

Recommendation n°117: *Strengthen cooperation with the international community and international organizations, including the United Nation's Children's Fund, the United Nations Educational, Scientific and Cultural Organization and OHCHR, with a view to building capacity and securing technical assistance in crucial areas such as poverty eradication, justice administration, education and gender equality* (Recommended by Malaysia)

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled partially.

UN family international organizations in Kazakhstan work directly with the public agencies, in accordance with their mandates.

Public agencies, upon their own discretion, may recommend affiliated NGOs to participate in a project, which does not always serve the objectives of developing and expanding fruitful co-operation.

Gender policy in Kazakhstan, based on gender equality is of declarative nature, contributing thereby to female unemployment and female poverty.



Recommendation n°118: *Strengthen measures aimed at eliminating child labour to protect girls, children with disabilities, children in institutions and children born out of wedlock against discrimination and to increase the attention accorded to protecting the rights of the child in the area of juvenile justice (Recommended by Czech Republic)*

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled partially.

Important changes and amendments have been introduced to the Law "On the Rights of the Child in Kazakhstan". The law has formalized such notions as "social rehabilitation of the child", "economic exploitation of the child", "minimum state social standards".

The new version stipulates that the purview of the Law will include citizens of Kazakhstan, which means that enjoyment of the rights by non-citizen children may not be exercised to the fullest.

Recommendation n°119: *Strengthen measures and enact specific legislation to combat discrimination and violence against women, in particular sexual and domestic violence (Recommended by Brazil)*

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled partially.

There is no special antidiscrimination law, no antidiscrimination institutions and procedures in Kazakhstan.

Criminal Code of Kazakhstan does not define clearly all types of sexual assaults. Incomplete list of sexual assaults creates room for corruption during investigation and trial.

The laws of Kazakhstan determine only three areas where equality is guaranteed by the state.

These are employment relations, family-matrimonial relations and state guarantees in the field of equality in healthcare, education and culture. In reality, discrimination happens in various spheres of political, economic, social, cultural and community life. The list of discriminatory practices must be kept open.

It is necessary to develop and adopt special anti-discrimination law, to establish anti-discrimination institutions and to develop anti-discrimination procedures.

Recommendation n°120: *Strengthen policies promoting children's rights and the implementation of the Guidelines for the Alternative Care of Children, according to Human Rights Council resolution 11-7 and General Assembly resolution 64-142 (Recommended by Brazil)*

IRI: *partially implemented*



KIHRRLC response:

Recommendation is being fulfilled

"The rules of providing assistance to parents for home-schooling of children with disabilities by educational organizations" of the Ministry of Education and Science order that individual home-schooling tackles the same objectives as does general education and special (correctional) organizations for children with limited abilities.

Presently, there is a shortage of teachers with special background. Therefore, teachers without special training teach children. This is one of the biggest problems: not the shortage, but absence of professional human resources to work with children with disabilities.

A child with psycho-neurological disorders would be given a status of a child with disabilities, but rehabilitation programme is absent.

Therefore, there is discrimination of children with psycho-neurological disabilities.

Recommendation n^o123: *Support and implement the Presidential Decree for 2009-2011, on the development of the juvenile justice system* (Recommended by Sudan)

IRI: *partially implemented*

KIHRRLC response:

Recommendation is being fulfilled.

Juvenile courts have been established all over the country but has not become fully operational.

Recommendation n^o129: *Take the measures necessary to end covert gender discrimination, including domestic violence* (Recommended by Pakistan)

IRI: *partially implemented*

KIHRRLC response:

Recommendation has been fulfilled partially.

With the purpose of forming social and cultural behaviour role models of men and women, based on gender equality idea, more than 600 informational-explanatory campaigns, including legal consultations, lectures, seminars, exhibitions, competitions, festivals, fairs, various actions, conferences and sociological surveys have been conducted in 2004-2010 within the framework of the state social contract.

The events covered more than 700,000 women in all the regions of the country.

More than 200 articles on pressing issues of gender policy have been published in media.

Regrettably, all above-mentioned activities did not reach women in villages. If the events conducted were to include rural areas, possible volumes of horrible domestic violence taking place in rural areas could have been lower.

Other

Recommendation n°11: *Consider establishing a national human rights institution in accordance with the Paris Principles, which should strengthen the human rights infrastructure in Kazakhstan* (Recommended by Thailand)

IRI: *not implemented*

+

Recommendation n°60: *Establish a national human rights institution in accordance with the Paris Principles* (Recommended by Germany)

IRI: *not implemented*

+

Recommendation n°64: *Establish an independent national human rights institution in conformity with the Paris Principles* (Recommended by Malaysia)

IRI: *not implemented*

+

Recommendation n°68: *Examine, in the context of the reform regarding the Human Rights Commissioner, the transition from the institution of the ombudsman to the establishment of an independent national human rights institution, in conformity with the Paris Principles* (Recommended by Algeria)

IRI: *not implemented*

+

Recommendation n°108: *Review the institutions of the Human Rights Commission and the Human Rights Commissioner ombudsperson, and to take the measures necessary to bring them into conformity with the Paris Principles* (Recommended by Ireland)

IRI: *not implemented*

+

Recommendation n°128: *Take steps to establish an independent national human rights institution in keeping with the Paris Principles* (Recommended by Philippines)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

During several years there were discussions related to strengthening of this institution in order to formalize it legislatively and in conformity to Paris Principles, but not practical steps have been made so far.

PRI response:

No change on Ombudsman legislation

Recommendation n°15: *Consider the decriminalization of defamation and violation of the honour and dignity of public officials, and the abolishment of criminal penalties for libel* (Recommended by Finland)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.



Presently, there are efforts undertaken to pass the Code of Professional Ethics, regulating the conduct of mass media professionals, but the journalists have spoken against its adoption at the legislative level, explaining that in case of court proceedings involving the journalists the document could be used as a tool to suppress mass media. The new draft Criminal Code has left unchanged Article 129 "Libel" and Article 130 "Defamation", although punishments terms have been changed to deprivation of liberty. The Concept of the Criminal Code approved by the Presidential Administration demands aggravating liability for dissemination of libel and defamation via using computer technologies. Prosecutor General's Office also suggests enhancing liability for libel in case of consequent grave implications.

Criminal protection of honour and dignity of the civil servants have been kept in the draft of the new Criminal Code in full, and in few cases only deprivation of liberty terms have been shortened.

Recommendation n°24: *Continue its cooperation with the United Nations and other international organizations to strengthen human rights* (Recommended by Laos)

IRI: partially implemented

F18 response:

Implementation of international obligations, under for example the International Covenant on Civil and Political Rights, would be welcome and is long overdue.

KIHRRLC response:

Recommendation is being fulfilled partially.

Kazakhstan cooperates actively with international institutions of the UN and its special procedures. The doors have been opened for visits by all Special Rapporteurs. However, Kazakhstan gave no answer to a request for a visit by the UN Special Rapporteur on peaceful assembly and associations, which are the most infringed ones, human rights activists say. Active co-operation with OSCE, EU, EP does not practically improve the state of respect for civil and political rights. After Kazakhstan's Chairmanship in OSCE the situation has worsened distinctively.

Recommendation n°70: *Fully implement the National Human Rights Action Plan for the period from 2009 to 2012* (Recommended by Russian Federation)

IRI: partially implemented

+

Recommendation n°71: *Fully implement the National Human Rights Action Plan, working together with civil society, and to ensure that the Plan is enshrined in law and has appropriate budgetary support* (Recommended by United States)

IRI: partially implemented

+

Recommendation n°79: *Implement the National Action Plan on human rights* (Recommended by Slovenia)

IRI: partially implemented

F18 response:

The National Human Rights Action Plan – first published in late September 2009 – indicated that the Justice Ministry is to "present to Parliament a draft Law on Introducing Amendments and Additions into Legislative Documents on the Securing



of Freedom of Thought, Conscience and Religion" in the fourth quarter of 2011. Development of the Law was claimed in the Plan to start in the first quarter of 2011

The Plan states that the then current Law violates Kazakhstan's Constitution and the country's international human rights commitments, including by making registration for religious communities more cumbersome than for other non-governmental organisations, by making registration compulsory, and by imposing restrictions on "missionary activity" and religious education. The Plan's timetable was met, but the legislation introduced in 2011 reinforced rather than removed these violations of international human rights law. The Plan made no commitment to remove these provisions and gave no mechanism for doing so. Civil society organisations invited to participate in the drafting of the Plan told Forum 18 that state officials removed civil society recommendations that would have implemented human rights obligations.

KIHRRLC response:

Recommendation has been fulfilled partially.

The provisions of the National plan regarding political rights and civil freedoms have been implemented by 17%.

Recommendation n°90: *Introduce the post of the national ombudsman for the rights of the child with a view to the effective promotion and protection of children's rights* (Recommended by Iran)

IRI: *not implemented*

KIHRRLC response:

Recommendation has not been fulfilled.

The institute of the Commissioner for Human Rights (Ombudsman) existing in Kazakhstan does not conform to Paris Principles in the view of its independence and competencies. The post of ombudsman for the rights of the child has not been introduced yet.

The status of the Committee for Protection of the Children's Rights under the Ministry of Education and Science of Kazakhstan has not changed which limits its competencies and capacity.

Recommendation n°113: *Share its experiences in the field of education with other countries* (Recommended by Viet Nam)

IRI: *fully implemented*

UNESCO response:

Kazakhstan participates in numerous regional and international conferences, promoting its educational policies



Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when



comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.



Uncommented recommendations

Hereby the recommendations which the MIA does not address:

rec. n°	Recommendation	SMR	Response	A	Issue
41	Continue to implement measures aimed at enhancing the overall wellbeing of its citizens by guaranteeing their social and economic rights	Belarus	Accepted	4	ESC rights - general
46	Continue to place people at the centre of development in a harmonious society for all in order to permit further progress in the area of economic, social and cultural rights	Jordan	Accepted	2	ESC rights - general
47	Continue to strengthen efforts aimed at the further development of the cultures of Kazakhstan's ethnic communities	Pakistan	Accepted	2	Minorities
48	Continue to strengthen its efforts regarded as fundamental in assessing the impact of its economic activities on the environment	Morocco	Accepted	2	Environment
54	Employ all appropriate ways and means, while reiterating that human rights promotion and protection is a process, to further develop and strengthen a genuine culture of human rights, create greater human rights capacity-building and promote public awareness-raising with a view to the improved promotion and protection of human rights in society	Iran	Accepted	4	Human rights education and training
85	Increase its efforts to fight unemployment, especially among young people	Sudan	Accepted	4	Development
101	Redouble efforts in the area of wealth distribution and poverty eradication, including by allocating adequate human and financial resources and by providing support and material assistance to the most marginalized and disadvantaged groups in the country	Malaysia	Accepted	5	Poverty
111	Share experiences and good practices with other countries in the areas of development and the protection of human rights	Laos	Accepted	1	General
114	Share its experiences with other interested countries concerning its efforts to protect human rights, given all its efforts in that area	Tajikistan	Accepted	1	General

A= Action Category (see on [our website](#))

SMR = State making recommendation

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