



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Concluding observations on the second periodic report of Kazakhstan\*

1. The Committee considered the second periodic report of Kazakhstan (CCPR/C/KAZ/2) at its 3271st and 3272nd meetings (CCPR/C/SR.3271 and 3272), held on 22 and 23 June 2016. At its 3294th meeting, held on 11 July 2016, it adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the second periodic report of Kazakhstan, and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/KAZ/Q/2/Add.1) to the list of issues (CCPR/C/KAZ/Q/2), which were supplemented by the oral responses provided by the delegation, and for the supplementary information provided to it in writing.

#### B. Positive aspects

3. The Committee welcomes the following measures taken by the State party:

(a) The expansion of the list of restraint measures not involving deprivation of liberty;

(b) The codification in the new Criminal and Criminal Procedure Codes that entered into force on 1 January 2015 of the obligation that allegations of torture or other ill-treatment be automatically registered and investigated as criminal offences;

(c) The establishment of 19 juvenile courts in all regions and the decrease in the percentage of children in conflict with the law.

4. The Committee also welcomes the ratification of the Convention on the Rights of Persons with Disabilities, on 21 April 2015.

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\* Adopted by the committee at its 117th session (20 June-15 July 2016).



## C. Principal matters of concern and recommendations

### Implementation of the Views under the Optional Protocol

5. The Committee is concerned about the State party's failure to implement the Views adopted by the Committee under the Optional Protocol and the lack of effective mechanisms and legal procedures for authors of communications to seek, in law and in practice, the full implementation of the Views (art. 2).

**6. The State party should take all measures necessary to ensure that appropriate procedures are in place to give full effect to the Committee's Views so as to guarantee the right of victims to an effective remedy when there has been a violation of the Covenant. It should promptly and fully comply with all Views issued with respect to it.**

### National human rights institution

7. The Committee, while welcoming the measures taken to strengthen the status of the Human Rights Commissioner (Ombudsman), regrets that the Ombudsman institution still does not fully comply with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (art. 2).

**8. The State party should take further measures to bring the Ombudsman institution into full compliance with the Paris Principles (General Assembly resolution 48/134, annex), including by strengthening further its independence and by providing it with adequate financial and human resources commensurate with its expanded role as also a national preventive mechanism.**

### Equality and non-discrimination

9. The Committee is concerned that the existing anti-discrimination legal framework does not properly define discrimination or provide for effective remedies to victims of discrimination. It is further concerned about reports of discrimination and violence against persons based on their sexual orientation and gender identity, about the insufficient protection afforded to lesbian, gay, bisexual and transgender persons under the existing legal framework, and about the stringent conditions for gender reassignment surgery and sex change (arts. 2 and 26).

**10. The State party should ensure that its anti-discrimination legal framework: (a) explicitly lists sexual orientation and gender identity among the prohibited grounds for discrimination; (b) provides adequate and effective protection against all forms of discrimination, including in the private sphere; (c) prohibits direct, indirect and multiple discrimination, in line with the Covenant and other international human rights standards; and (d) provides for access to effective and appropriate remedies to victims of discrimination. The State party should also ensure that no form of discrimination or violence against persons based on their sexual orientation or gender identity is tolerated and that such cases are properly investigated and sanctioned. It should review the procedures for gender-reassignment surgery and sex change with a view to ensuring their compatibility with the Covenant.**

### Violence against women

11. The Committee welcomes the measures taken to combat violence against women but remains concerned (see CCPR/C/KAZ/CO/1, para. 10) that violence against women, including domestic violence, sexual violence and rape, is still prevalent and largely underreported due to a culture of silence perpetuated by persistent societal stereotypes. The Committee is also concerned that, under the Criminal Procedure Code, the majority of cases involving violence against women fall under the category of "private" and "private-public"

prosecution, investigations can only be initiated upon official complaint by the victim and, with few exceptions, criminal proceedings in such cases can be terminated upon “reconciliation of the parties”. It is further concerned that protective measures and support services for victims of violence, including State funding for crisis centres, remain insufficient (arts. 2, 3, 7 and 26).

**12. The State party should redouble its efforts to prevent and combat all forms of violence against women, including by:**

(a) **Strengthening preventive measures, including raising awareness of the unacceptability and adverse impact of violence against women;**

(b) **Encouraging reporting of such cases, inter alia, by systematically informing women of their rights and of the existing legal avenues through which they can receive protection;**

(c) **Strengthening the human and financial capacity of special divisions working on violence against women and ensuring that law enforcement, the judiciary, social workers and medical staff receive appropriate training on how to detect and deal properly with cases of violence against women;**

(d) **Classifying acts of violence against women, including domestic violence, as public prosecution cases subject to ex officio investigation and prosecution, and repealing provisions allowing termination of criminal proceedings upon reconciliation of the parties;**

(e) **Ensuring that all cases of violence against women are promptly and thoroughly investigated, that perpetrators are brought to justice, and that victims have access to remedies and means of protection, including sufficient, safe and adequately funded shelters/crisis centres and suitable support services throughout the country.**

#### **Combating extremism and terrorism**

13. The Committee is concerned about the broad formulation of the concepts of “extremism”, “inciting social or class hatred” and “religious hatred or enmity” under the State party’s criminal legislation and the use of such legislation on extremism to unduly restrict freedoms of religion, expression, assembly and association. It is also concerned about reports that counter-terrorism activities continue to target in particular members or presumed members of banned or unregistered Islamic groups, such as the Tabligh Jamaat (arts. 9, 14, 18, 19 and 21).

**14. The State party should bring its counter-terrorism and counter-extremism legislation and practices into full compliance with its obligations under the Covenant, inter alia, by revising the relevant legislative provisions, with a view to clarifying and narrowing the broad concepts referred to above to ensure that they comply with the principles of legal certainty and predictability and that the application of such legislation does not suppress protected conduct and speech. It should also ensure that the rights to a fair trial and access to justice are respected in all prosecutions for “extremism”.**

#### **Death penalty**

15. The Committee, while noting the moratorium on executions in force since 2003 and the objective of gradually reducing the grounds for imposition of the death penalty, is concerned that the new Criminal Code enacted on 1 January 2015 maintains the death penalty for 17 types of crime. It is also concerned about the reported discussions on the lifting of the moratorium on the death penalty for individuals convicted of terrorism (art. 6).

16. **The State party should retain its moratorium on the death penalty and review the list of capital crimes with a view to limiting them to the most serious crimes only. It should also give due consideration to the legal abolition of the death penalty and to the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.**

#### **Accountability for human rights violations in connection with the Zhanaozen events**

17. The Committee is concerned about reports that no independent, impartial and effective investigation has been conducted into the human rights violations allegedly committed in connection with the protests in Zhanaozen on 16 and 17 December 2011, including disproportionate and indiscriminate use of force by law enforcement resulting in 12 deaths and serious injuries to dozens of others, mass detentions, torture and ill-treatment of individuals deprived of their liberty, forced confessions (including from witnesses), and fair trial violations such as denial of access to counsel (arts. 2, 6, 7, 9, 14, 19 and 21).

18. **The State party should carry out an independent, impartial and effective investigation into the individual deaths and injuries in connection with the events in Zhanaozen, as well as into all allegations of torture and ill-treatment, with a view to ensuring proper accountability for perpetrators, restoration of the rights of convicted persons to a fair trial, and effective remedies, including adequate compensation, for all victims of human rights violations or their families.**

#### **Suicides and deaths in custody**

19. While noting the efforts made by the State party to address suicides and deaths in prisons, remand centres and temporary holding facilities, the Committee is concerned that the number of such cases remains high. It also regrets the paucity of information on investigations conducted into such deaths and the resulting outcome (arts. 2, 6, 7, 10 and 24).

20. **The State party should take robust measures to prevent suicides and deaths in closed institutions, inter alia, by:**

(a) **Establishing effective early prevention strategies and programmes and improving the identification of persons at risk of committing suicide;**

(b) **Ensuring prompt, impartial and independent investigations into the circumstances surrounding deaths in custody, bringing responsible persons to justice, where appropriate, and providing victims' families with remedies.**

#### **Torture and ill-treatment**

21. The Committee, while welcoming the improvements to the definition of torture under national legislation, is concerned that the definition in article 146 of the new Criminal Code still does not cover acts of torture committed by "all persons acting in an official capacity". It is also concerned that, under the same article, physical and mental suffering caused as a result of "legal actions" of civil servants shall not be recognized as torture and that, de facto, this provision could potentially be used to circumvent the absolute prohibition of torture (art. 7).

22. **The State party should review its legislation with a view to bringing its definition of torture into accordance with article 7 of the Covenant and other internationally accepted standards and ensure that torture cannot be justified under any circumstances whatsoever.**

23. The Committee welcomes the abolition of the statute of limitations for the crime of torture and the elimination of amnesties for persons convicted of torture. It notes that, while sanctions for certain acts of torture have increased to a maximum of 12 years of imprisonment, the punishment for acts of torture causing accidental death (5 to 12 years) is low. The Committee is also concerned about:

- (a) The reported high rates of torture and the high number of claims of torture dismissed at threshold due to the allegedly excessive evidentiary standard required to pursue an investigation under the new Criminal Procedure Code;
- (b) The reported unduly prolonged duration of investigations into allegations of torture and/or ill-treatment;
- (c) The very low rate of effective prosecution, the mild punishments imposed and the involvement of interested law enforcement agencies in investigating allegations of torture or ill-treatment;
- (d) The practice of automatically charging unsuccessful complainants of torture or ill-treatment with the crime of “false reporting of a crime”;
- (e) Failure to provide full reparation to victims of torture or ill-treatment;
- (f) Allegations that the number of cases of torture and ill-treatment have increased since the transfer of jurisdiction over detention, investigation and penitentiary facilities from the Ministry of Justice back to the Ministry of Internal Affairs (arts. 2 and 7).

24. **The State party should take robust measures to eradicate torture and ill-treatment and to effectively investigate, prosecute and punish such acts, inter alia, by:**

- (a) **Ensuring that standards of proof and credibility for evidence applied when determining whether a criminal investigation into an alleged act of torture or ill-treatment should be pursued are appropriate and reasonable;**
- (b) **Ensuring that investigations into allegations of torture and other ill-treatment are carried out by an independent body and are not unduly delayed, and that “special prosecutor units” are themselves responsible for conducting all investigations into torture and ill-treatment and do not delegate investigative work to law enforcement agencies acting under their supervision;**
- (c) **Ensuring that sanctions for the crime of torture are commensurate with the nature and gravity of the crime, both in law and practice;**
- (d) **Refraining from using the charge of “false reporting of a crime” against alleged victims of torture or ill-treatment;**
- (e) **Ensuring that victims of torture and ill-treatment have, both in law and practice, access to full reparation, including rehabilitation, adequate compensation and the possibility of seeking civil remedies independent of criminal proceedings;**
- (f) **Ensuring that oversight of the penitentiary system is exercised by an agency independent of the police and internal security forces.**

#### **Right to liberty and security**

25. The Committee is concerned that persons suspected of having committed an offence are detained for up to 72 hours before being brought before a judge, and that, reportedly, inaccurate recording of the time of arrest is used to circumvent this legal time frame (art. 9).

26. **The State party should bring its legislation and practices into compliance with article 9 of the Covenant, taking into account the Committee’s general comment No. 35 (2014) on liberty and security of person. It should, inter alia, reduce the**

existing maximum period of detention before appearance before a judge from 72 to 48 hours for adults and to 24 hours for juveniles and ensure that, in practice, the recorded date and time of arrest is that of the actual apprehension and that those responsible for any falsification of such information are appropriately sanctioned.

27. The Committee is concerned about the reported failure of authorities to inform all persons deprived of their liberty about their rights upon arrest and detention, as well as about reports that independent lawyers in practice often face difficulties in gaining access to their clients during pretrial detention and in communicating with them confidentially (art. 9).

28. **The State party should ensure that, in practice, all persons deprived of their liberty are informed promptly of their rights and are guaranteed all fundamental legal safeguards from the very outset of detention, including prompt access to counsel of their own choosing and confidential meetings with counsel. It should also ensure that failure to do so constitutes a violation of procedural rights entailing appropriate sanctions and remedies.**

29. The Committee is concerned about reports indicating that persons lacking a permanent place of residence or documents verifying their identity can be subjected to administrative arrest for up to 30 days, with the approval of the court. The Committee is further concerned about the use of “preventive detention” of individuals aimed at stopping them from participating in planned demonstrations, including when at least 34 activists were arrested and held in administrative detention for up to 15 days ahead of planned nationwide assemblies on 21 May 2016 to protest against land-related amendments (arts. 2, 9, 10, 14 and 21).

30. **The State party should bring its administrative detention practices into full compliance with articles 9 and 14 of the Covenant and ensure that due process rights are fully respected, including an effective right of appeal, and that the principles of legality and proportionality are strictly observed in any decisions restricting the right to liberty and security of individuals. It should abolish the practice of preventive detention of activists, which is inconsistent with the State party’s obligations under articles 9, 14, 19 and 21 of the Covenant.**

#### **Treatment of prisoners**

31. The Committee welcomes the reforms that led to a decrease in the prison population and the measures taken to improve living conditions in detention facilities. However, it is concerned about reports that medical care remains inadequate and about the use of the National Guard for the maintenance of security in prisons, which reportedly has led to widespread abuse against prisoners during such operations. The Committee, while welcoming the establishment of the national preventive mechanism in 2014, is concerned about its independence and restricted mandate, which does not cover all places of deprivation of liberty (arts. 7 and 10).

32. **The State party should continue improving conditions of detention, in particular access to adequate health-care services. It should ensure that all allegations of violence against prisoners during security operations by the National Guard are promptly and thoroughly investigated and that perpetrators are brought to justice. The State party should also take measures to ensure the full independence of the national preventive mechanism and to expand its mandate to cover all places of deprivation of liberty, including State-run residential institutions.**

### **Trafficking in human beings, slavery, forced and bonded labour**

33. The Committee is concerned that the number of criminal cases, prosecutions and convictions for trafficking-related crimes has decreased considerably in recent years. It is also concerned: (a) that a significant majority of all criminal cases related to trafficking are currently investigated under article 309 of the Criminal Code (“Organization or maintenance of brothels for prostitution and pimping”) rather than directly under article 128, on trafficking in persons, with the result that some perpetrators go unprosecuted; (b) that trafficking victims who have been brought illegally into Kazakhstan are charged with having violated immigration rules and subsequently expelled from the country; (c) about alleged complicity between and corruption among police officers and those involved in facilitating trafficking; and (d) that State-funded shelters and other support services for victims are insufficient (art. 8).

**34. The State party should ensure the effective implementation of the existing relevant legal and policy frameworks aimed at combating trafficking in human beings. It should:**

- (a) **Strengthen existing victim identification mechanisms;**
- (b) **Address corruption in law enforcement activities related to trafficking;**
- (c) **Ensure effective investigation and prosecution of trafficking cases under the relevant articles of the Criminal Code, refrain from unnecessarily classifying such crimes under provisions that provide for lesser penalties, and secure convictions for perpetrators;**
- (d) **Provide victims with adequate medical care, social and legal assistance, and reparation, including rehabilitation, and ensure the availability of sufficient shelters for victims;**
- (e) **Refrain from charging victims of trafficking brought into the country with having violated immigration rules and forcibly repatriating them.**

35. The Committee is concerned about reports of domestic servitude; forced and bonded labour, particularly of migrant workers in the tobacco, cotton and construction industries; and abuse of migrant workers, including poor and hazardous working conditions, delayed payment and confiscation of identity documents. It is also concerned that: (a) child labour on cotton plantations still remains a problem; (b) services for victims of forced labour are lacking; and (c) there is no explicit criminalization of slavery and slavery-like practices (arts. 2, 8 and 26).

**36. The State party should:**

- (a) **Improve access to legal employment for migrant workers and ensure that a proper framework is in place to effectively enforce their rights and protect them against any form of abuse and exploitation;**
- (b) **Ensure that all forms of slavery and slavery-like practices, including domestic servitude, forced and bonded labour and forced marriage, are specifically defined and criminalized under the State party’s legislation;**
- (c) **Redouble efforts to address child labour, particularly in the cotton sector;**
- (d) **Ensure the availability of adequate services for victims of forced labour, including legal, financial and social support, and shelters.**

**Independence of the judiciary and fair trial**

37. The Committee remains concerned (see CCPR/C/KAZ/CO/1, para. 21) that the independence of the judiciary is not sufficiently secured under the law and in practice. In particular, it is concerned that: (a) the procedures for the selection and disciplining of judges do not ensure sufficient guarantees against undue influence from the executive branch, owing to the President's involvement in the appointment of members of the Supreme Judicial Council; (b) the legal basis for disciplinary action against judges, namely the failure to fulfil the requirements of the Constitution, is vague and judges could be sanctioned for minor infractions or for a controversial interpretation of the law; (c) corruption in the judiciary exists; (d) the prosecution retains wide powers in the judicial process, in relation to both civil and criminal proceedings, which adversely affects the equality of arms. The Committee also remains concerned (see CCPR/C/KAZ/CO/1, para. 22) that, despite an incremental increase, the rate of acquittal is still very low. Finally, it is concerned about reports indicating that lawyers are subjected to threats, attacks and intimidation in connection with their professional activities, and about the rules for conducting security checks on the visitors of the Lower and Supreme Court buildings adopted in May 2016 that reportedly affect the quality of the legal assistance provided by defence lawyers to their clients (arts. 2 and 14).

**38. The Committee reiterates its previous recommendations (see CCPR/C/KAZ/CO/1, paras. 21-22). The State party should take all measures necessary to safeguard, in law and practice, the independence of the judiciary and guarantee the competence, independence and tenure of judges. It should, in particular:**

**(a) Eradicate all forms of undue interference with the judiciary by the executive branch and investigate such allegations effectively;**

**(b) Strengthen efforts to combat corruption in the judiciary and prosecute and punish perpetrators, including judges who may be complicit therein;**

**(c) Ensure that the Supreme Judicial Council established to govern the judicial selection process is fully independent and operates with full transparency and, to that end, consider revising the membership of the Council with a view to ensuring that most of its members are judges elected by judicial self-government bodies;**

**(d) Ensure that an independent body is responsible for judicial discipline, clarify the grounds for disciplinary action, including dismissal, and guarantee due process in judicial disciplinary proceedings and independent judicial review of disciplinary sanctions;**

**(e) Review the powers of the Office of the Prosecutor General to ensure that the independence of the judiciary is not undermined and the equality of arms principle is strictly observed;**

**(f) Ensure sufficient safeguards to guarantee, in practice, the independence of lawyers, refrain from taking any actions that may constitute harassment or persecution or undue interference in their work, and bring to justice those responsible for any such actions.**

39. The Committee remains concerned (see CCPR/C/KAZ/CO/1, para. 20) about undue restrictions on access to counsel of one's own choice in cases involving State secrets, in which counsel are, *inter alia*, required to seek State clearance before representing their clients (arts. 2 and 14).



40. **The State party should ensure that any restrictions or limitations on fair trial guarantees that are imposed to protect State secrets are fully compliant with its obligations under the Covenant, and particularly that the rights of affected individuals, including equality of arms, are strictly observed.**

#### **Residence registration**

41. The Committee remains concerned (see CCPR/C/KAZ/CO/1, para. 18) about the compulsory residence registration system that is currently in force. While noting the State party's argument that such registration is for statistical purposes and not contingent on any conditions, the Committee observes that failure to comply with registration obligations constitutes an administrative offence that can be sanctioned with a fine or administrative arrest for a period from 10 days to 3 months (art. 12).

42. **The State party should bring its compulsory residence registration system into full compliance with the Covenant.**

#### **Refugees and asylum seekers**

43. The Committee is concerned about reports that: (a) access to procedures for determining refugee status at all border points remains problematic and ineffective; (b) individuals have been improperly extradited under bilateral or multilateral extradition agreements, in violation of the principle of non-refoulement; (c) asylum applications by nationals of the Syrian Arab Republic and Ukraine are routinely rejected; (d) asylum seekers from China and Uzbekistan may be particularly vulnerable to expulsion, return and extradition; and (e) there have been instances of forcible return of asylum seekers before the decisions on their asylum claims have been completed. The Committee is also concerned that the use of diplomatic assurances in the context of removals of foreign individuals is not accompanied by sufficient safeguards against a real risk of exposing such individuals to treatment contrary to articles 6 and 7 of the Covenant (arts. 2, 6, 7 and 13).

44. **The State party should guarantee effective access to procedures for determining refugee status at all border points, including at international airports and transit zones, ensure proper referral procedures and provide appropriate training to Border Guard Service and other responsible State officials to better equip them to make accurate determinations. It should also ensure that forcible returns do not occur while asylum claims are still being adjudicated on appeal. Finally, the State party should strictly enforce the absolute prohibition of refoulement under articles 6 and 7 of the Covenant and: (a) exercise utmost care in evaluating diplomatic assurances; (b) ensure that appropriate, effective and independent post-transfer monitoring of individuals who are transferred pursuant to diplomatic assurances is in place; (c) refrain from relying on such assurances when the State party is not in a position to effectively monitor the treatment of such persons after their extradition, expulsion, transfer or return to other countries; and (d) take appropriate remedial action when assurances are not fulfilled.**

#### **Freedom of conscience and religious belief**

45. The Committee notes that the State party has failed to implement its previous recommendation (see CCPR/C/KAZ/CO/1, para. 23) and review its legislation to recognize a person's right to conscientious objection to military service and to provide for alternative military service (art. 18).

46. **The State party should ensure the legal recognition of conscientious objection to military service, and provide for alternative service of a civilian nature for conscientious objectors.**

47. The Committee is concerned that article 22 of the Constitution is more restrictive in scope than article 18 of the Covenant, as it only protects freedom of conscience. The Committee is also concerned about undue restrictions on the exercise of freedom of religious belief, including in the 2011 law on religious activity and religious associations (see CCPR/C/KAZ/CO/1, para. 24), such as the mandatory registration of religious organizations, the ban on unregistered religious activities, and restrictions on the importation and distribution of religious materials. The Committee is further concerned about the use of broadly formulated definitions of crimes and administrative offences in the Criminal Code, including in articles 174 and 404, the Administrative Code, and legislation on combating extremism, to punish individuals exercising their freedom of religion and belief with severe sanctions (arts. 18, 19 and 26).

**48. The State party should guarantee the effective exercise of freedom of religion and belief and freedom to manifest a religion or belief in practice. It should consider bringing article 22 of its Constitution into line with the Covenant and revise all relevant laws and practices with a view to removing all restrictions that go beyond the narrowly construed restrictions permitted under article 18 of the Covenant.**

#### **Freedom of expression**

49. The Committee remains concerned (see CCPR/C/KAZ/CO/1, para. 25) about laws and practices that violate freedom of opinion and expression, including: (a) the extensive application of criminal law provisions to individuals exercising their right to freedom of expression, including provisions on the broadly formulated offence of incitement to “social, national, clan, class or religious discord”, defamation, insult, public insult or other encroachment on the honour and dignity of the President of Kazakhstan, public insult of a State official by the mass media or information communication networks, and dissemination of information known to be false; (b) the blocking of social media, blogs, news sites and other Internet-based resources on national security grounds, including by using Law No. 200-V of 23 April 2014, which entrusts the Prosecutor General or his deputies with the ability to shut down or suspend a network or means of communication and access to Internet resources without a court order; (c) interference with professional journalistic activity and the shutting down of independent newspapers and magazines, television channels and news websites for reportedly minor irregularities or on extremism-related charges. The Committee notes that the above laws and practices appear not to comply with the principles of legal certainty, necessity and proportionality as required by the Covenant, including with the strict requirements of article 19 (3) of the Covenant (arts. 14 and 19).

**50. The State party should:**

(a) **Consider decriminalizing defamation and, in any case, countenance the application of criminal law only in the most serious of cases, bearing in mind, as provided in general comment No. 34 (2011) on freedoms of opinion and expression, that imprisonment is never an appropriate penalty for defamation;**

(b) **Repeal or otherwise revise the other legal provisions limiting freedom of expression, including provisions on insult, with a view to bringing them into conformity with its obligations under the Covenant;**

(c) **Clarify the vague and broad definition of key terms in these laws, including the offence of incitement to “social, national, clan, class or religious discord”;**

(d) **Refrain from using its criminal provisions and other regulations as tools to suppress the expression of dissenting opinions beyond the narrow restrictions permitted under article 19 of the Covenant.**

### **Peaceful assembly**

51. The Committee remains concerned (see CCPR/C/KAZ/CO/1, para. 26) about undue restrictions on the exercise of freedom of peaceful assembly, arrests and the intimidation of civil activists, including the imprisonment of journalist and opposition politician Vladimir Kozlov. It is also concerned about the imposition of administrative and criminal penalties for such offences as providing “assistance” to “illegal” assemblies, and the imposition of harsher penalties against “leaders” of associations as a new, separate category of offender under the Criminal Code (arts. 19 and 21).

**52. The State party should ensure that all individuals fully enjoy, in law and practice, their right to freedom of assembly, and revise all relevant regulations, policies and practices with a view to ensuring that any restrictions on freedom of assembly, including through the application of administrative and criminal sanctions against individuals exercising that right, comply with the strict requirements of article 21 of the Covenant.**

### **Freedom of association and participation in public life**

53. The Committee reiterates its concern (see CCPR/C/KAZ/CO/1, para. 27) that regulations on the registration of public associations, including political parties, impose undue restriction on the exercise of freedom of assembly and political participation. It notes with concern reports indicating that associations, including political parties, can be held criminally responsible for carrying out their legitimate activities, including under the offence of incitement to “social, national, clan, class or religious discord”. The Committee is also concerned about the broad grounds for the suspension or dissolution of political parties. It is further concerned that the restrictive legal framework regulating strikes and the mandatory affiliation of trade unions to regional or sectorial federations under the 2014 Act on Trade Unions may adversely affect the right to freedom of association under the Covenant. Finally, the Committee notes that civil society organizations fear that the establishment of a central “operator” and other provisions under the law of 2 December 2015 regulating the allocation of funds to public associations may be used to tighten control over them and limit their ability to receive funds from abroad (arts. 22 and 25).

**54. The State party should bring its regulations and practice governing the registration and functioning of political parties and non-governmental organizations, as well as the legal frameworks regulating strikes and trade unions, into full compliance with the provisions of articles 19, 22 and 25 of the Covenant. It should, inter alia:**

- (a) Refrain from criminalizing public associations, including political parties, for their legitimate activities under criminal law provisions that are broadly defined and not compliant with the principle of legal certainty;**
- (b) Clarify the broad grounds for the suspension or dissolution of political parties;**
- (c) Ensure that the new legislation on the allocation of funds to public associations will not be used as a means of undue control and interference in the activities of such associations nor for restricting their fundraising options.**

## **D. Dissemination of information relating to the Covenant**

55. The State party should widely disseminate the Covenant, its first Optional Protocol, its second periodic report, the written replies to the Committee’s list of issues and the present concluding observations with a view to raising awareness of the rights enshrined in

the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into the official language of the State party.

56. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, within one year of the adoption of the present concluding observations, information on the implementation of the recommendations made by the Committee in paragraphs 18 (accountability for human rights violations in connection with the Zhanaozen events), 24 (torture and ill-treatment) and 54 (freedom of association and participation in public life) above.

57. The Committee requests the State party to submit its next periodic report by 15 July 2020 and to include in that report specific up-to-date information on the implementation of the recommendations made in the present concluding observations and of the Covenant as a whole. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. Alternatively, the Committee invites the State party to agree, by 15 July 2017, to use its simplified reporting procedure, whereby the Committee transmits a list of issues to the State party prior to the submission of its periodic report. The State party's response to this list of issues will then constitute the next periodic report to be submitted under article 40 of the Covenant.

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