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**SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF THE
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1**

Kazakhstan*

The present report is a summary of 16 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

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

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. Joint Submission (JS)1 recommended the ratification of ICCPR–OP 2.² JS3 urged Kazakhstan to ratify the CRPD and OP-CRPD at the earliest opportunity.³ JS1 called upon Kazakhstan to ratify all the basic international treaties on human rights in the area of migration and to ratify the Rome Statute of the International Criminal Court and enact implementing legislation.⁴

B. Constitutional and legislative framework

2. JS1 noted that in 2008, the Supreme Court adopted a regulation regarding the implementation of the norms of international treaties; however in reality, the courts did not apply the international treaties ratified by Kazakhstan as well as international human rights standards.⁵

3. JS1 expressed concern that public bodies and institutions and national security bodies are not controlled by the Parliament, courts and other competent independent institutions and bodies. It noted the dominance of the executive and that separation of powers was nominal and checks and balances were of little effect.⁶

C. Institutional and human rights infrastructure

4. JS1 noted the existence of the Human Rights Commission under the President and a Human Rights Commissioner of Kazakhstan (Ombudsman). JS1 further noted that none of these institutions met the Paris Principles, and that their competence was considerably limited by the prohibition to consider complaints regarding the activity and decisions of the President, the Parliament and its deputies, the Government, the Prosecutor General, the Central Election Committee and the courts.⁷

5. According to JS1, the Committee on Protection of the Child's Rights under the Ministry of Education and Science is unable to address problems related to the rehabilitation of the violated rights of children.⁸

6. Amnesty International (AI) noted positive measures such as the creation in 2005 of Public Monitoring Commissions which are granted access to most but not all, prison and detention facilities throughout the country; or the transfer of the majority of prison and detention facilities from the jurisdiction of the Ministry of Internal Affairs to the Ministry of Justice.⁹

D. Policy measures

7. Penal Reform International-Central Asia (PRI-Central Asia) recommended that Kazakhstan train and inform all penal system officials, policemen, lawyers, judges, medical officers and other public servants regarding human rights standards, international human rights obligations and their implications under Kazakh law, and of the benefits of public monitoring of places of incarceration.¹⁰

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

8. According to JS1, recommendations, concluding observations, and general comments of treaty bodies regarding Kazakhstan were not published and were rarely implemented.¹¹

2. Cooperation with special procedures

9. Freedom House (FH) and Human Rights Watch (HRW) recommended that Kazakhstan specifically extend an invitation to the Special Rapporteur on freedom of religion or belief.¹² FH also proposed that an invitation be extended to the Special Rapporteur on freedom of expression.¹³

B. Implementation of international human rights obligations

1. Equality and non-discrimination

10. JS1 indicated that despite the formal efforts, the position of women in Kazakhstan was in need of real support. Women's representation in the Parliament amounts only to 11.1 per cent. The average salary of women made up 61 per cent of that of men.¹⁴ According to JS4, women's jobs are considered to be secondary sources of income both by the family and employers which contributes to their economic dependency on the men and extended family. JS4 noted that the gendered structure of Kazakhstani society emphasized motherhood and preserving the family as the key goal in women's lives, which put stigma on unmarried women and kept married women in violent relationships.¹⁵ JS1 recommended that the Law "*On Equal Rights and Possibilities for Women and Men*" be adopted.¹⁶

11. JS 1 noted the acute problems of children of migrants, refugees, oralmans, children of parents with low educational status and homeless ones and recommended that a complex and effective resolution of the problems of these children and children from poor families should be ensured.¹⁷

12. JS3 noted that HIV testing was mandatory for all foreigners entering the country for more than 6 months or for permanent residence.¹⁸ JS3 supported the recommendations of the Committee on the Rights of the Child that Kazakhstan take effective measures to counter stigma and discrimination faced by children and families affected by HIV/AIDS.¹⁹ JS3 further recommended, inter alia, the inclusion of HIV and drug dependence as conditions recognized as disabilities under domestic law, and to ensure that people with these conditions receive protection from discrimination on the basis of their health status.²⁰

13. JS4 noted that the Criminal Code did not include sexual orientation and gender identity as prohibitive grounds for discrimination.²¹ JS1 noted that there was no judicial practice of considering discrimination claims.²² JS1 recommended that Kazakhstan put in place a set of legislative, administrative and organizational measures to promote development of effective anti-discrimination institutes, mechanisms and procedures.²³

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

14. JS1 noted that in December 2003, a moratorium on capital punishment, until its complete abolition, was declared. In March 2004, imprisonment for life was introduced in Kazakhstan as an

alternative to capital punishment.²⁴ AI noted that a person sentenced to death in Kazakhstan retained the right to petition for clemency.²⁵ World Coalition against the Death Penalty (WCADP) noted that there were currently no prisoners on death row.²⁶ WCADP and AI drew attention to developments to reduce the scope of the death penalty.²⁷ WCADP urged Kazakhstan to abolish the death penalty in the Criminal Code for all crimes, including for terrorism and in times of war.²⁸

15. International Commission of Jurists (ICJ) noted the definition of torture under the Criminal Code did not encompass all the elements of torture as included in the CAT; and the penalties prescribed for the crime of torture were not commensurate with the gravity of the offence, as required by the CAT.²⁹

16. JS2³⁰ and JS1 noted that torture, psychological pressure and threats were widely used by law enforcement bodies with the aim of achieving “self-reported case” and confession to a crime.³¹ JS1 noted that as a rule, detainees were registered not from the moment of actual detention but from the moment the protocol of “administrative” or “criminal” detention was developed.³² ICJ raised concerns about ill-treatment often taking place in the period following arrest before formal registration of an apprehended suspect is required. During this period, which is formally set at three hours, but which in practice often lasts for longer, suspects may be effectively held in incommunicado detention, without legal safeguards against ill-treatment including access to lawyers and medical assistance.³³ JS2 urged the Human Rights Council to ensure that the UPR addresses concern over the state’s failure to maintain proper custody records of those deprived of their liberty.³⁴

17. AI also noted beatings by law enforcement officers appear to continue to be routine, especially in IVS facilities during initial interrogation, in the street during apprehension, or during transfer to detention centres.³⁵ AI noted that the law did not require the procedural rights to be granted to individuals brought in for questioning in a criminal case, or to asylum-seekers or foreign nationals taken to a police station to check their documents.³⁶ ICJ also noted that, in “exceptional circumstances”, notification to the relatives of a detained person of his or her detention may be postponed for up to 72 hours.³⁷ JS2 urged Kazakhstan to recognize in law and respect in practice the right of everyone, regardless of his/her procedural status to be informed of the reason for his/her arrest at the moment of arrest, in writing of his/her rights and procedural safeguards from the actual moment of deprivation of liberty and to inform his/her relatives of the arrest at the time of arrest and to ensure that this information is provided to the detainee in writing in a language he/she understands and that he/she is informed about the implications of waiving these rights.³⁸ ICJ and JS1 noted that from 1 August 2008 all arrests are sanctioned by the court. They noted, however, that there is no mechanism for a detainee to challenge the lawfulness of his or her detention such as through *habeas corpus*.³⁹ PRI-Central Asia recommended that Kazakhstan follow the *habeas corpus* procedure for all limitations of freedom.⁴⁰

18. JS1 noted that there were cases of custody in places that were not formally recognized as detention facilities (safe houses of the national security bodies) and keeping people incommunicado.⁴¹ JS2 urged Kazakhstan to establish an effective mechanism for monitoring prisons and all places of detention, including investigation cells of the Committee for National Security and temporary detention facilities of the Ministry of Internal Affairs.⁴² In this connection, PRI-Central Asia recommended that Kazakhstan develop and adopt a law on “Public Monitoring in the Republic of Kazakhstan” to provide a legal basis for a National Preventive Mechanism (NPM) that will be in accordance with the OP-CAT,⁴³ and enlarge the list of institutions which may be monitored by Public Monitoring Commissions to include pre-trial detention centres under the Ministry of Interior and other institutions, and adopt the concept of unannounced visits.⁴⁴

19. PRI-Central Asia noted that, while Kazakhstan had achieved some tangible results in penal reform,⁴⁵ there have been a number of cases, in different regions, of protests in the form of self-mutilation, by prisoners claiming that they have been tortured or otherwise ill-treated.⁴⁶ Alternatives to imprisonment remain rarely imposed. For example, new rules concerning community sanctions require payment from the organizations which benefit from the public works.⁴⁷ JS3 noted that prisoners were subject to compulsory HIV testing upon admission in the penitentiary institution and six months after admission, although compulsory testing of prisoners was not justified on public health grounds.⁴⁸ JS3 expressed concern on the absence of needle and syringe programmes (NSPs) in the correctional system of Kazakhstan;⁴⁹ and adequate access to antiretroviral treatment for people with HIV in prison.⁵⁰ PRI-Central Asia recommended that Kazakhstan, inter alia, review the regulations and legislation governing the treatment of persons serving life sentences, in order to bring these into line with UN standards and norms.⁵¹

20. JS4 expressed concern about police detaining people based on their sexual orientation or gender identity and expression along with medical specialists refusing to provide services to LGBT people.⁵² JS4 recommended that Kazakhstan, inter alia, take all necessary policing and other measures to prevent and provide protection; and undertake campaigns of awareness-raising, directed to the general public as well as to actual and potential perpetrators of violence to combat the prejudices that underlie violence related to sexual orientation and gender identity.⁵³

21. According to JS1, 570-590 women and girls die of domestic violence and twenty thousand women and girls become victims of rape or sexual assault, annually.⁵⁴ JS1 noted that aggression in the family remained a problem, due to impunity, inadequate measures on the part of law enforcement bodies and community tolerance regarding violence against women.⁵⁵ JS4 recommended that Kazakhstan design and implement an awareness-raising program on violence against women as a human rights violation, working at various levels (state officials, health and justice professionals, communities and women themselves).⁵⁶ JS1 recommended that the *Law on Domestic Violence Counteraction* should be adopted and state centres to protect victims of domestic violence set up.⁵⁷ JS4 also recommended that Kazakhstan adopt a gender neutral rape provision in the Criminal Code.⁵⁸

22. Jubilee Campaign (JC) noted that the Government had shown efforts in recent years to reduce the amount of human trafficking into the country; however, Kazakhstan remained a country of great concern in relation to trafficking in persons.⁵⁹ JC commended Kazakhstan's efforts to prosecute traffickers and encouraged it to develop protection programmes for victims of trafficking.⁶⁰

23. According to Global Initiative to End All Corporal Punishment of Children (GIEACPC), corporal punishment is lawful in the home, as it is not explicitly prohibited in the 2002 Child Law. GIEACPC noted that corporal punishment is not prohibited in military schools and there is no explicit prohibition of corporal punishment in foster care or kinship care.⁶¹ GIEACPC drew attention to the 2007 recommendation of the Committee on the Rights of the Child that Kazakhstan explicitly prohibit corporal punishment in all settings.⁶²

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

24. According to ICJ, although reforms of the judiciary of 2008 have advanced the structural independence of the judiciary, the exercise of judicial independence continued to be hampered by executive influence, corruption, and the dominant role of the Prosecutor's office in the judicial process.⁶³

25. ICJ highlighted that the Special Rapporteur on independence of lawyers and judges noted that fair trial rights were undermined by the weakness of the legal profession.⁶⁴ ICJ expressed concern at attempts by the Kazakh authorities to restrict the activities of defence lawyers. Additionally, ICJ expressed concern that in practice lawyers may be refused permission to represent the defendant on the grounds that they do not have the security clearance required for access to state secrets.⁶⁵ ICJ noted that fair trial concerns were raised by defence lawyers and NGOs regarding the trial of Yevgeny Zhovtis.⁶⁶ ICJ recommended that Kazakhstan take measures to limit the powers of prosecutors and protect the right to equality of arms in criminal cases.⁶⁷ AI recommended that Kazakhstan ensure that all trials, including of terrorism suspects, scrupulously observe international standards for fair trial.⁶⁸

26. JS2 and ICJ noted that allegations of torture and other ill-treatment were often investigated internally by the police, whose investigations lack independence and transparency.⁶⁹ According to JS2, the internal investigation by the police ends with a rejection of the victim's claims and decision to decline to open a criminal case.⁷⁰ AI quoted the Special Rapporteur on torture's concern that it appears "most detainees refrained from filing complaints because they did not trust the system or were afraid of reprisals".⁷¹ JS2 raised concerns about courts failing to adequately inquire into defendants' claims of torture, and requiring defendants to prove their allegations, a practice that is at odds with settled international human rights jurisprudence.⁷² AI recommended that Kazakhstan ensure that no statements obtained as a result of torture or other ill-treatment are used as evidence in trial proceedings, except as evidence against a person accused of torture or other ill-treatment.⁷³ Further, JS2 recommended that Kazakhstan ensure an explicit right of victims of torture to seek redress in civil courts.⁷⁴

27. JS3 expressed concern that Kazakhstan's law did not currently provide for court-ordered drug dependence treatment as an alternative to imprisonment in penalizing offences and recommended amendment of the law.⁷⁵ JS1 recommended that a system of juvenile justice should be set up.⁷⁶ PRI-Central Asia recommended that Kazakhstan follow international standards and reflect good practice by addressing the too punitive and un-individualised tendencies in the Kazakhstan criminal and criminal procedure laws and by returning to the earlier policy of promoting alternatives to imprisonment, including early release under supervision.⁷⁷

28. AI noted that corruption in law enforcement and the judiciary was believed to contribute significantly to the climate of impunity.⁷⁸

4. Right to privacy, marriage and family life

29. JS3 expressed concern that under Law "*On Health Protection*", the confidentiality of medical information was subject to some very significant and unjustifiably broad exceptions: a patient's health information must be disclosed at the request of health care authorities, police, a prosecutor's office, investigative bodies or a court.⁷⁹ Moreover, JS3 noted that Kazakh law contained wide provisions for compulsory HIV testing in a variety of circumstances.⁸⁰

30. According to JS3, under Law "*On Marriage and Family*", a parent may be deprived of parental rights if he or she is "recognized in due order as a person abusing alcohol, drugs or substances". Furthermore, both HIV and alcohol and drug dependence are listed as medical conditions that bar a person from adopting a child.⁸¹

31. JS4 noted that homosexuality was decriminalized in Kazakhstan. However, the stigma associated with criminalization and medicalization of same sex relationships remained.⁸² JS4 also noted that Kazakhstan also had legislation on the rights of transgender people to change gender and name in official documents. However this legislation was not publicized.⁸³ According to JS4, Kazakhstan continues to associate homosexuality with criminal behavior in its criminal code, as separate categories for forced sexual contacts.⁸⁴ JS4 also noted that LGBT organizations in Kazakhstan had been constantly under threat due to high visibility and had to cease their public activities until tensions decreased.⁸⁵

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

32. Forum 18 stated that it has found official hostility towards religious freedom from senior national officials to local officials; state-sponsored religious intolerance through the media; close police and secret police surveillance of religious communities; raids, interrogations, threats and fines affecting both registered and unregistered religious communities and individuals; insecurity over ownership of religious property;⁸⁶ and foreign citizens or those without citizenship found guilty of conducting unauthorized missionary activity are liable to deportation.⁸⁷ AI recommended that Kazakhstan ensure respect for the human rights of religious believers, and that they be able to carry out their peaceful activities free from harassment and without threat of detention, imprisonment and other human rights violations.⁸⁸

33. JS1 reported that, in law enforcement activity of the nomocracy and national security bodies, religious associations are considered to be sources of a national security threat.⁸⁹ Forum 18 reported that groups regarded with official suspicion include independent Muslims, Ahmadi Muslims, most Protestants, Hare Krishna devotees and Jehovah's Witness, and that officials appear to dub them as "sects".⁹⁰ The Becket Fund (BF) noted that, despite various reports of the failures of local governments to register religious groups and interference with the assembly and worship of such groups as the Jehovah's Witnesses, Baptists, Hare Krishna followers, human rights organizations have reported that the situation had improved significantly by the first half of 2009.⁹¹ European Association of Jehovah's Christian witnesses (EAJCW), while sharing this view, stated, however, that areas remained where religious freedom was impeded,⁹² and appealed to the United Nations to invite Kazakhstan, inter alia, to annul two records of deportations.⁹³

34. According to FH, three laws adopted in 2005 with the aim of "battling extremism" and "strengthening national security," dramatically increased legislative restrictions on freedom of conscience and religion.⁹⁴ BF also noted that several provisions of the current religion laws pose threats to religious freedom, including two articles in the Administrative Code which punish peaceful religious activity.⁹⁵ JC called upon Kazakhstan to abolish the current Administrative Code requirements to register religious groups as an infringement upon their freedom of worship and practice, and create a non-discriminatory system of legal-entity registration.⁹⁶ JS1 recommended that the existing Law "On Freedom of Religion and Religious Associations" be revised and a new law which should, as a minimum, contain expanded concept of freedom of conscience and religion, meeting international standards be adopted.⁹⁷ HRW noted that, on February 11, 2009, Kazakhstan's Constitutional Council ruled that a proposed law "On introducing changes and additions to certain legislative acts on issues of freedom of religion and religious associations" would violate the Constitution.⁹⁸ BF stated that Kazakhstan should be commended for honouring this judgement.⁹⁹

HRW noted NGOs' concern that the Government might again attempt to restrict religious freedom as soon as international attention on the issue had subsided.¹⁰⁰

35. FH expressed concern that the level of state regulation of the media and the threat of severe penalties for even minor violations severely limited the independent functioning of media.¹⁰¹

36. JS1 noted that the Criminal Code includes articles that protect the honour and dignity of officials, the President, members of the Parliament. Administrative law included more than fifty independent elements of offence in the sphere of media activity.¹⁰² JS 1 also reported that journalists charged with the breach of state secrets were to be found in penitentiary institutions.¹⁰³ While welcoming the President's signing into law a set of amendments affecting the media in February 2009, HRW stated that they do not address broader problems with media freedoms, including the domination by government loyalists of broadcast media outlets.¹⁰⁴ FH also noted that the amendments to the law did not decriminalize slander and insult and did not eliminate special protections for government officials. Nor did it institute a statute of limitations in cases involving the defense of honor and dignity or reduce the level of fines or terms of imprisonment permitted in such cases.¹⁰⁵ HRW recommended that Kazakhstan place a moratorium on criminal libel, take all necessary steps to abolish the relevant articles in the Criminal Code relating to criminal libel, and establish a cap on defamation awards.¹⁰⁶ JS 1 recommended that limitations on the media monopolization should be introduced.¹⁰⁷

37. HRW reported that the President signed another law in July 2009, the overall effect of which is to nullify the very modest improvements brought about by the amendments signed in February. The new law extends the potential scope of criminal libel to all forms of internet content. The law also prohibits the media from certain types of engagement in political matters. The wording of these bans appears to target many forms of political discussion, and is so broad that it could easily give rise to arbitrary interpretations.¹⁰⁸ JS1 recommended that the law on Internet regulation should be repealed and the practice of extrajudicial blockage of Internet publications should be terminated. JS 1 also recommended that a law on access to information for citizens and mass media, conforming to international standards, should be passed.¹⁰⁹

38. HRW noted that public assemblies were tightly controlled in Kazakhstan, and the Government had made no effort to liberalize legislation on freedom of assembly.¹¹⁰ JS1 reported that public activities for which no permission from authorities is granted, regardless of their peaceful nature, are severely repressed. JS1 also reported that judicial bodies practically in all the cases made decisions in favour of the prosecution, police and local executive power bodies.¹¹¹ FH expressed concern that the penalties for violating the legal procedures for organizing and holding peaceful assemblies were severe.¹¹² HRW recommended that Kazakhstan be urged to remove excessive restrictions on freedom of assembly and ensure the laws and regulations on demonstrations are in conformity with Kazakhstan's international human rights obligations: and that its legislature should abolish article 10 of the Law on Freedom of Assembly.¹¹³ HRW described this article as providing authorities with a virtual carte blanche to limit freedom of Assembly.¹¹⁴

39. JS4 noted that relations between government and NGOs had been difficult due to state efforts to establish some level of control over civil society manifested in restrictive legislation on internet use and general fear of the state among civil society groups.¹¹⁵ JS1 recommended, inter alia, that the law relating to the right to association should be brought into compliance with international standards determining the right of a person to set up and join organizations, unions and associations, including those of an informal nature¹¹⁶.

6. Right to social security and to an adequate standard of living

40. JS1 noted that state disability grants were available only for 1% of children and 3% of adult population of the country.¹¹⁷ There was no special legislation that would ensure and protect the rights of disabled and elderly people except legislation on social support.¹¹⁸ JS1 recommended the adoption of special legislation on the rights of disabled and the rights of elderly people in compliance with relevant UN standards.¹¹⁹

41. JS3 expressed concern that access to free health care services was contingent upon one's proof of residence in a particular district, which creates unnecessary barriers to care for people registered in other districts as well as for migrants and people without the requisite documents proving identity and registered place of residence. According to JS3, if people are not able to provide such proof, they may be denied free health care services there or referred to fee-based services.¹²⁰

42. JS1 noted that abortion is still a predominant contraceptive method.¹²¹ JS3 referred to the Committee on the Rights of the Child's comment about low levels of awareness of sexual health and supported its recommendation that Kazakhstan make a comprehensive range of contraceptives widely available and increase knowledge about family planning.¹²²

43. JS3 noted reports of poor hygiene standards and inadequate qualifications of health care staff in relation to HIV. According to JS3, due to lack of funding and staff training, medical institutions are using disposable contaminated medical equipment on a number of patients. Particular attention was drawn to children affected with HIV through blood transfusions and that poor hygiene, low salaries of health care staff and corruption had been blamed for these outbreaks.¹²³ JS3 also expressed concern that measures for HIV prevention and treatment were inadequate. In 2007, less than half of people in need of antiretroviral therapy (ART) received it.¹²⁴

44. JS3 expressed concern that despite the high prevalence of drug use and drug dependence, current services for treatment were reported to be extremely limited, usually consisting of detoxification with limited methods of rehabilitation, and to have low success rates.¹²⁵ JS3 reported that that compulsory drug dependence treatment is widely used in Kazakhstan.¹²⁶ According to JS3, documented arbitrary restrictions on needle exchange programmes also exist, including allowing police to interfere with legal needle exchange in Kazakhstan.¹²⁷

45. JS1 stated that among the basic causes of mass human rights violations relating to environment are: lack of state environmental policy, rapacious exploitation of natural resources, destruction of the state system of environmental protection, ignoring international and national legislation, inadequacy of the national legislation and also system corruption.¹²⁸ JS1 further noted that there was no legislative mechanism that would take into account public opinion and community participation in the process of decision making. Courts did not take into account evidence obtained from non-governmental sources, that have licenses enabling them to carry out expert examination and collect information, which considerably limits the rights of the community to obtain information.¹²⁹ The right of the people to get access to justice on environmental issues was violated and the process itself of self-assertion of environmental rights in courts demonstrated the lack of effective avenues of legal protection.¹³⁰ Earthjustice also urged Kazakhstan to ensure that the public have access to information, avenues for participation, and access to justice.¹³¹

7. Right to education and to participate in the cultural life of the community

46. BF noted that religious organizations that undertake religious education must be granted approval of their teaching materials by the Ministry of Education. In addition, no group may provide supplemental education outside of the public school system without permission of the Government and registration as a recognized religious association. Such regulations imposed severe limitations on parental rights to educate their children in their family's faith and customs.¹³²

8. Minorities and indigenous peoples

47. Forum 18 noted that official rhetoric routinely described the state-backed Muslim Board and the Russian Orthodox Church as the "traditional" faiths, even though such a formulation was not backed in law. Officials appeared to tolerate and do not regard as threatening such communities as Jews, Catholics and Buddhists.¹³³

9. Migrants, refugees and asylum-seekers

48. JS1 reported that migrants were quite often subjected to torture and degrading treatment. Elements of slavery, violence and coercion in labour relations were often accepted as a norm but not as a human rights violation. In many instances, this was due to the fact that migrants under the pressure of circumstances were prepared to put up with slave labour conditions, connivance on the part of the society and the authorities to labour exploitation, suspicion on the part of those in power and society to migrants, and corruption.¹³⁴

49. JS1 noted that the procedure of determination and ensuring the rights of refugees was regulated by the migration legislation, which does not include guarantees on the implementation of the rights of people seeking asylum, who are considered by the law enforcement bodies to be illegal migrants.¹³⁵

50. AI reported that Kazakhstan migration police continued to cooperate with their counterpart in a neighbouring country and to transmit information on asylum-seekers and refugees to them, including addresses and contact numbers, fingerprints, and photographs.¹³⁶ ICJ expressed concern at reports of extraditions and forced returns of asylum seekers from Kazakhstan to neighbouring countries in violation of the absolute prohibition on *refoulement* to face a risk of torture or other inhuman or degrading treatment or other serious violations of human rights.¹³⁷ JS1 stated that sometimes Kazakhstan gives up people seeking asylum not by being guided by the 1951 Refugee Convention and the Convention against Torture but rather by regional treaties.¹³⁸ ICJ recommended that the Government be called upon to respect its obligations in regard to non-*refoulement*, particularly that it desist from transferring any person to a country where there is a risk of torture, ill treatment or other serious human rights violation and to ensure full and fair judicial process prior to return in cases where such risk exists.¹³⁹ AI called upon Kazakhstan to ensure that all persons seeking international protection get access to fair and transparent asylum procedures with the right of appeal.¹⁴⁰

10. Human rights and counter-terrorism

51. AI noted that the fight against terrorism and other threats to national security were frequently invoked by the authorities as crucial to securing national and regional stability. Among those particularly targeted were banned Islamic groups and Islamist parties, or other religious minorities, and asylum-seekers from neighbouring countries.¹⁴¹ The Becket Fund also noted that the Kazakh

Government and law enforcement agents had cracked down on registration and monitoring of minority religious groups under purported anti-terrorism policies during the last several years.¹⁴²

52. AI expressed concern that, although presumption of innocence is enshrined in law, it is violated on a regular basis, particularly in the context of so-called national security cases and in the fight against terrorism, with suspects often branded guilty in public before the start of the trials. AI also expressed concern about allegations of routine torture and other ill-treatment in pre-trial detention centres under the jurisdiction of the NSS, especially in the context of national and regional security and anti-terrorism operations conducted by the NSS. The NSS is directly accountable only to the President. AI noted allegations that members or suspected members of banned Islamist parties targeted in counter-terrorism operations were subject to arbitrary and prolonged incommunicado detention. Trials in such cases were closed to the public for reasons of national security and independent observers are not able to access the courtroom and monitor the trials.¹⁴³

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

53. AI welcomed Kazakhstan's ratification of OP-CAT and signing of ICCPR-OP 1. AI noted that Kazakhstan had cooperated and consulted with civil society and international organizations to establish a National Preventive Mechanism to assume independent and announced monitoring of all places of deprivation of liberty within 12 months of acceding to the OP-CAT.¹⁴⁴

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

N/A

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

N/A

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: <http://www.ohchr.org>. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

Civil society

AI	Amnesty International*, London, United Kingdom;
BF	The Becket Fund for Religious Liberty*, Washington D.C., U.S.A;
EAJCW	The European Association of Jehovah's Christian Witnesses, Krainem, Belgium;
EarthJustice	Earth Justice*, Oakland, U.S.A;
Freedom House	Freedom House*, Washington D.C., U.S.A;
Forum 18	Forum 18 News Service*, Oslo, Norway;
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London, United Kingdom;
HRW	Human Rights Watch*, New York, U.S.A;

ICJ	International Commission of Jurists*, Geneva, Switzerland;
JC	Jubilee Campaign*, Fairfax, USA;
JS1	Joint Submission by Almaty Helsinki Committee, Kazakhstan; Atyrau oblast Youth Resource Center, Kazakhstan; Kazakhstan Children's Fund, Kazakhstan; Kazakhstan International Human Rights and the Rule of Law Committee, Almaty, Kazakhstan; Committee for Monitoring Penal Reform and Human Rights, Kazakhstan; Crisis Center «Podrugee», Kazakhstan; Crisis Center «Zabota», Almaty, Kazakhstan; WLCI (Women's League of Creative Initiative), Almaty, Kazakhstan; International Fund for Freedom of Speech Protection «Adil Soz», Kazakhstan; International Journalism Center MediaNet, Kazakhstan; Amulet, Kazakhstan; Childhood, Kazakhstan; Childhood Without Borders, Kazakhstan; SF «Charter for Human Rights», Kazakhstan; OS «Women's Association for Development and Adaptation», Kazakhstan; OS «Namys», Kazakhstan; OS «Legal Center of Women's Initiatives Sana Sezim», Kazakhstan; OS of mothers of disabled children «Raduga», Kazakhstan; OS «SKO Center for Support to Women», Kazakhstan; SF «Aman Saulyk», Kazakhstan; SF of the Center for Development and Adaptation «Fenix», Kazakhstan; SF "Fund for Parliamentarism Development in Kazakhstan", Kazakhstan; RNIO (Republican Network of Independent Observers), Almaty, Kazakhstan; ROS FTUK (Kazakhstan Confederation of Trade Unions), Astana, Kazakhstan; Feminist League, Almaty, Kazakhstan; Center for Legal Policy research, Almaty, Kazakhstan; Center for Protection of Children and Family Support, Kazakhstan; Center for Legal Assistance to Ethnic Minorities, Kazakhstan; Green Salvation, Almaty, Kazakhstan; PRI* (Penal Reform International), London, United Kingdom;
JS2	Joint submission by Charter for Human Rights, Kazakhstan; Committee on the Rule of Law and Human Rights Reform Monitoring, Kazakhstan; BHR (Kazakhstan International Bureau for Human Rights and the Rule of Law), Kazakhstan; Legal Policy Research Center, Almaty, Kazakhstan; MediaNet, Almaty, Kazakhstan; <i>Sauygu</i> Public Foundation (“Coalition”), Kazakhstan; and the Open Society Justice Initiative*, New York, U.S.A;
JS3	Joint submission by Canadian HIV/AIDS Legal Network*, Toronto, Canada; Equal to Equal, Almaty, Kazakhstan; Answer, Kazakhstan; Anti-SPID, Kazakhstan; Foundation Aman Sowlyk, Kazakhstan; GALA (LGBT), Kazakhstan; Amulet (LGBT), Kazakhstan; Credo, Kazakhstan; Centre for Information and Counselling on Reproductive Health “Tanadgoma”, Georgia; HCLU (Hungarian Civil Liberties Union), Budapest, Hungary; IDPC (International Drug Policy Consortium), London, United Kingdom; IHRA* (International Harm Reduction Association), London, United Kingdom; NZDF (New Zealand Drug Foundation), Wellington, New Zealand; and INPUD (International Network of People who Use Drugs);
JS4	Joint submission by Labrys (LGBT Organization Labrys), Bishkek, Kyrgyzstan; and SRI (Sexual Rights Initiative);
PRI-Central Asia	Penal Reform International-Central Asia*, Almaty, Kazakhstan;
WCDAP	World Coalition Against the Death Penalty, Chatillon, France;

² JS1 p. 4, para. 22.

³ JS3, para. 22.

⁴ JS1, p. 2, (recommendations).

⁵ JS1, p. 2, para. 11.

⁶ JS1, p. 2, para. 8.

⁷ JS1, p. 3, paras. 12-13.

⁸ JS1, p. 8, para. 46.

⁹ AI, pp. 6-7.

¹⁰ PRI, p. 3, (recommendation 12).

¹¹ JS1, p. 3, para. 15.

- ¹² HRW, p. 6 and FH, p. 5.
- ¹³ FH p. 2.
- ¹⁴ JS1, p. 7, para. 43.
- ¹⁵ JS4, p. 2, para. 8.
- ¹⁶ JS1, p. 8.
- ¹⁷ JS1, p. 8, para. 47.
- ¹⁸ JS3, p. 3, para. 8.
- ¹⁹ JS3, p. 7, para. 20.
- ²⁰ JS3, pp. 7-8, para. 22.
- ²¹ JS4, p. 2, para. 12.
- ²² JS1, p. 3, para. 18.
- ²³ JS1, pp. 3-4, (recommendations).
- ²⁴ JS1, p. 4, para. 19.
- ²⁵ AI, p. 7.
- ²⁶ WCADP, para. 1.
- ²⁷ WCADP, para. 3 and AI, p. 7.
- ²⁸ WCADP, para. 4.
- ²⁹ ICJ, p. 4. See also PRI para. 9.
- ³⁰ JS2, p. 1.
- ³¹ JS1, para. 29. See also, AI, p. 4.
- ³² JS1, p. 4, para. 23.
- ³³ ICJ, p. 3.
- ³⁴ JS2 p.1 See also JS2, (recommendation 2).
- ³⁵ AI, p. 4.
- ³⁶ AI, pp. 3-4.
- ³⁷ ICJ, p. 3.
- ³⁸ JS2, p. 5.
- ³⁹ JS1, p. 4, para. 24 and ICJ, p. 3.
- ⁴⁰ PRI, p. 3, (recommendation 10).
- ⁴¹ JS1, p. 4, para. 23.
- ⁴² JS2, p. 5, (recommendation 4). See also, AI p. 8.
- ⁴³ PRI, pp. 2-3. See also AI, p. 8.
- ⁴⁴ PRI, p. 3, (recommendations 4 and 5). See also AI, p. 8.
- ⁴⁵ PRI, p. 1, para. 2.
- ⁴⁶ PRI, p. 2, para. 8.
- ⁴⁷ PRI, p. 1 para. 7.
- ⁴⁸ JS3, p. 6, para. 16.
- ⁴⁹ JS3, p. 6, para. 15.

⁵⁰ JS3, p. 6, para. 17.

⁵¹ PRI, p. 3, (recommendation 13).

⁵² JS4, p. 2, para. 10.

⁵³ JS4, p. 5, para. 19.

⁵⁴ JS1, p. 8, para. 43.

⁵⁵ JS1, p. 8, para. 44.

⁵⁶ JS4, p. 2, para. 9.

⁵⁷ JS1, p. 8 (recommendation).

⁵⁸ JS4, p. 3, para. 15.

⁵⁹ JC, p. 3.

⁶⁰ JC, p. 4, (recommendation 4).

⁶¹ GIEACPC, p. 2, para. 1.

⁶² GIEACPC, p. 2, para. 2.

⁶³ ICJ p. 1.

⁶⁴ ICJ p. 2.

⁶⁵ ICJ p. 2. See also HRW p. 5,

⁶⁶ ICJ, pp. 1-2.

⁶⁷ ICJ, p. 2 (recommendations).

⁶⁸ AI, p. 7 (recommendations).

⁶⁹ ICJ, p. 5 and JS2, p. 3.

⁷⁰ JS2, p. 3.

⁷¹ AI p. 5.

⁷² JS2, p. 4.

⁷³ AI, p. 7.

⁷⁴ JS2, p. 6 (recommendations).

⁷⁵ JS3, p. 4, para 11.

⁷⁶ JS1, p. 8 (recommendations).

⁷⁷ PRI, p. 2, (recommendaiton 1).

⁷⁸ AI, p. 4.

⁷⁹ JS3, p. 3, para. 7.

⁸⁰ JS3, p. 3, para. 9.

⁸¹ JS3, p. 5, para. 13.

⁸² JS4, p. 2, para. 10.

⁸³ JS4, pp. 2-3, para. 13.

⁸⁴ JS4, p. 1, para. 2, and p. 2, para. 11.

⁸⁵ JS4, p. 4, paras. 14 and 15.

⁸⁶ Forum 18, p. 1, para. 1.

⁸⁷ Forum 18, p. 3, paras. 14 and 18.

- ⁸⁸ AI, p. 8.
- ⁸⁹ JS1, p. 7, para. 40.
- ⁹⁰ Forum 18, p. 1, para. 2.
- ⁹¹ BF, p. 4. See also JC, p. 2, para. 7.
- ⁹² EAJCW, p. 2.
- ⁹³ EAJCW, p. 4.
- ⁹⁴ FH, p. 4, para. 12. See also BF, paras. 2-4
- ⁹⁵ BF, p. 3.
- ⁹⁶ JC, p. 3.
- ⁹⁷ JS1, p. 7 (recommendations).
- ⁹⁸ HRW p. 4.
- ⁹⁹ BF, p. 5.
- ¹⁰⁰ HRW p. 4. See also Forum 18, p. 2, para. 12 and BF, p. 5.
- ¹⁰¹ FH, para. 3.
- ¹⁰² JS1, p. 5, para. 32.
- ¹⁰³ JS1, p. 6, para. 34.
- ¹⁰⁴ HRW, pp. 1-2.
- ¹⁰⁵ FH, p. 2, para. 5.
- ¹⁰⁶ HRW p. 5 (recommendations). See also JS1, p. 6 (recommendations), FH p. 2 (recommendations).
- ¹⁰⁷ JS1, p. 6 (recommendations).
- ¹⁰⁸ HRW, p. 2.
- ¹⁰⁹ JS1, p. 6, (recommendations).
- ¹¹⁰ HRW, p. 3.
- ¹¹¹ JS1, p. 6, para. 36.
- ¹¹² FH, p. 3, para. 7.
- ¹¹³ HRW, p. 6. See also FH, p. 3 and JC, p. 3.
- ¹¹⁴ HRW, p. 3.
- ¹¹⁵ JS4, p. 2, para. 7.
- ¹¹⁶ JS1, p. 6, para. 38 (recommendation).
- ¹¹⁷ JS1, p. 8, para. 49.
- ¹¹⁸ JS1, p. 8, para. 50.
- ¹¹⁹ JS1, pp. 8-9, (recommendation).
- ¹²⁰ JS3, p. 2, para. 4.
- ¹²¹ JS1, p. 7, para. 43.
- ¹²² JS3, p. 7, para. 21.
- ¹²³ JS3, p. 2, para. 5. See also, JS4, pp. 5-6, para. 23.
- ¹²⁴ JS3, p. 2, para. 6.
- ¹²⁵ JS3, p. 4, para. 10.

¹²⁶ JS3, p. 4, para. 11.

¹²⁷ JS3, p. 3, para. 6.

¹²⁸ JS1, p. 9, para. 54.

¹²⁹ JS1, p. 9, para. 55.

¹³⁰ JS1, p. 9, para. 56.

¹³¹ EarthJustice Para. 19.

¹³² BF, pp. 2-3, paras. 2-4.

¹³³ Forum 18, para. 2.

¹³⁴ JS1, p. 9, para. 51.

¹³⁵ JS1, p. 9, para. 52.

¹³⁶ AI, p. 6.

¹³⁷ ICJ, p. 5.

¹³⁸ JS1, p. 9, para. 52. See also ICJ, p. 5.

¹³⁹ ICJ, p. 6.

¹⁴⁰ AI, p. 8.

¹⁴¹ AI, p. 5.

¹⁴² BF, p. 4, para. 3.

¹⁴³ AI, p. 5.

¹⁴⁴ AI, p. 6.
