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

**Kazakhstan**

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. 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), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

## I. BACKGROUND AND FRAMEWORK

### A. Scope of international obligations<sup>1</sup>

<i>Core universal human rights treaties<sup>2</sup></i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	26 Aug 1998	None	Individual complaints (art. 14): Yes
ICESCR	24 Jan 2006	None	-
ICCPR	24 Jan 2006	None	Inter-State complaints (art. 41): No
ICCPR-OP 1	30 June 2009	Yes	-
CEDAW	26 Aug 1998	None	-
OP-CEDAW	24 Aug 2001	None	Inquiry procedure (arts. 8 and 9): No
CAT	26 Aug 1998	None	Inter-State complaints (art. 21): Yes Individual complaints (art. 22): Yes Inquiry procedure (art. 20): Yes
OP-CAT	22 Oct 2008	None	-
CRC	12 Aug 1994	None	-
OP-CRC-AC	10 Apr 2003	Binding declaration under art. 3: 19 years	-
OP-CRC-SC	24 Aug 2001	None	-
CED	27 Feb 2009	None	Individual complaints (art. 31): No Inter-State complaints (art. 32): No

*Core treaties to which Kazakhstan is not a party: OP-ICESCR, ICCPR-OP 2, ICRMW, CRPD (signature only, 2008) and OP-CRPD (signature only, 2008).*

<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	Yes
Rome Statute of the International Criminal Court	No
Palermo Protocol <sup>3</sup>	Yes
Refugees and stateless persons <sup>4</sup>	Yes, except 1954 and 1961
Geneva Conventions of 12 August 1949 and Additional Protocols thereto <sup>5</sup>	Yes
ILO fundamental conventions <sup>6</sup>	Yes
UNESCO Convention against Discrimination in Education	No

1. While welcoming the ratification by Kazakhstan of major human rights instruments, the High Commissioner for Human Rights,<sup>7</sup> the Committee on the Elimination of Racial Discrimination (CERD),<sup>8</sup> the Committee on the Elimination of Discrimination against Women (CEDAW)<sup>9</sup> and the Committee against Torture (CAT) encouraged Kazakhstan to consider ratifying ICRMW. Kazakhstan was also invited to consider ratifying CRPD, CED<sup>10</sup> and the Rome Statute of the International Criminal Court,<sup>11</sup> as well as ICCPR-OP 2.<sup>12</sup> The Office of the United Nations High Commissioner for Refugees (UNHCR) highlighted the fact<sup>13</sup> that the Committee on the Rights of the Child (CRC) had urged Kazakhstan to accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.<sup>14</sup>

## B. Constitutional and legislative framework

2. CEDAW, while noting the elaboration of the draft law on equal rights and equal opportunities, requested that Kazakhstan, inter alia, ensure that the draft law contains a definition of discrimination in line with article 1 of the Convention, encompassing both direct and indirect discrimination, and extending to acts of discrimination by public and private actors; and enacts it speedily.<sup>15</sup>

## C. Institutional and human rights infrastructure

3. In 2007, the High Commissioner encouraged the Government to consider the establishment of a strong and independent national human rights institution in conformity with international standards reflected in the Paris principles. The existing Ombudsman institution could serve as a basis for such an institution, which would contribute to improving the protection of human rights in the country.<sup>16</sup> CAT also noted with concern that the mandate of the Human Rights Commissioner (Ombudsman) does not empower it to investigate action taken by the Prosecutor's office.<sup>17</sup>

4. In 2007 CRC, while welcoming the establishment of the Committee for the Protection of Children's Rights, remained concerned that its mandate might be limited as a consequence of its establishment under the Ministry of Education and Science,<sup>18</sup> which was highlighted by the United Nations Children's Fund (UNICEF) in 2009.<sup>19</sup>

## D. Policy measures

5. In 2007, the High Commissioner welcomed the development of a national human rights plan.<sup>20</sup>

# II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

## A. Cooperation with human rights mechanisms

### 1. Cooperation with treaty bodies

<i>Treaty body<sup>21</sup></i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	Oct. 2003	Aug. 2004		Fourth and fifth report overdue since Sept. 2007
CESCR	-	-	-	Initial report received Nov. 2007
HR Committee	-	-	-	Initial report received July 2009
CEDAW	Mar. 2005	Feb. 2007	-	Third and fourth report due 2011
CAT	June 2006	Nov. 2008	due Dec. 2009	Third report due Nov. 2012
CRC	Aug. 2006	June 2007	-	Fourth report due Dec. 2011
OP-CRC-AC	Nov. 2005	Sept. 2006	-	Information to be included in fourth report due Dec. 2011
OP-CRC-SC	July 2004	Jan. 2007	-	Information to be included in fourth report due Dec. 2011

## 2. Cooperation with special procedures

<i>Standing invitation issued</i>	Yes
<i>Latest visits or mission reports</i>	Special Rapporteur on the independence of judges and lawyers (11 to 17 June 2004) <sup>22</sup> Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, (5 to 14 May 2009), <sup>23</sup> independent expert on minority issues (6 to 15 July 2009) <sup>24</sup>
<i>Visits agreed upon in principle</i>	Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (July 2009)
<i>Visits requested and not yet agreed upon</i>	
<i>Facilitation/cooperation during missions</i>	The independent expert on minority issues noted with appreciation the cooperation of the authorities during the preparation and conduct of her mission. <sup>25</sup> The Special Rapporteur on the question of torture thanked the Government of Kazakhstan for its full cooperation before and during the visit. <sup>26</sup>
<i>Follow-up to visits</i>	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 15 communications were sent concerning inter alia particular groups and four women. The Government replied to nine communications, representing replies to 60 per cent of communications sent.
<i>Responses to questionnaires on thematic issues</i> <sup>27</sup>	Kazakhstan responded to three of the 16 questionnaires sent by special procedures mandate holders, <sup>28</sup> within the deadlines. <sup>29</sup>

## 3. Cooperation with the Office of the High Commissioner for Human Rights

6. Kazakhstan contributed financially to OHCHR in 2008 and 2009.<sup>30</sup> The OHCHR Regional Office for Central Asia commissioned a study on the right to adequate housing in Kazakhstan in 2008. It conducted a seminar with national stakeholders in Kazakhstan on the implementation of OP-CAT and CRPD and OP-CPRD.<sup>31</sup>

### B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

#### 1. Equality and non-discrimination

7. In 2007, while noting the introduction of measures, CEDAW continued to be concerned about the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society in Kazakhstan, which are reflected in women's educational choices, their situation in the labour market and their low level of participation in political and public life. The Committee was also concerned about persistent stereotypes found in school textbooks.<sup>32</sup>

8. In 2004, CERD noted the absence of court cases regarding racial discrimination in Kazakhstan.<sup>33</sup> Similarly, in 2009, the independent expert on minority issues noted that some Government officials interpreted this to mean that there was an absence of discrimination in the society. On the contrary, the independent expert was concerned that the absence of cases may be evidence of an inadequate legislative framework, a lack of independent and effective mechanisms for individuals to make complaints and a lack of public confidence in the process.<sup>34</sup>

9. CRC, while appreciating the significant efforts undertaken, encouraged Kazakhstan to continue and strengthen its efforts to combat all forms of discrimination and urged it to discontinue using vocabulary that stigmatizes children with disabilities and children born out of wedlock.<sup>35</sup>

10. In 2009, the United Nations Office on Drugs and Crime reported that, despite legislation prohibiting discrimination against persons with drug dependence and persons infected with HIV, there still exists discrimination against these vulnerable groups.<sup>36</sup> In 2007, CRC noted the stigmatization of children infected and affected by HIV/AIDS, including cases of abandonment.<sup>37</sup>

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

11. In 2007, the High Commissioner welcomed the existing moratorium on the death penalty and encouraged the full abolition of capital punishment.<sup>38</sup>

12. The Special Rapporteur on the question of torture, at the end of his visit in 2009, recommended that Kazakhstan amend the law to ensure that torture is established as a serious crime sanctioned with appropriate penalties and fully brought into line with the definition provided for in the Convention against Torture.<sup>39</sup> Similar recommendations were made by CAT in 2008.<sup>40</sup>

13. The Special Rapporteur on the question of torture concluded that the use of torture and ill-treatment certainly goes beyond isolated instances.<sup>41</sup> In 2008, CAT was concerned about consistent allegations concerning the frequent use of torture and ill-treatment, including the threat of sexual abuse and rape, committed by law enforcement officers, often to extract “voluntary confessions” or information to be used as evidence in criminal proceedings, so as to meet the success criterion determined by the number of crimes solved.<sup>42</sup> CAT recommended, inter alia, that Kazakhstan should apply a zero-tolerance approach to the persistent problem of torture and cruel, inhuman or degrading treatment or punishment, including by changing the performance evaluation system of investigators so as to eliminate any incentive for obtaining confessions.<sup>43</sup>

14. The Special Rapporteur on the question of torture also stated that it is impossible to establish whether the three-hour maximum delay for the first stage of deprivation of liberty is respected, and reported receiving many allegations that the first hours of (unrecorded) detention are used by law-enforcement organs for the extraction of confessions by means of torture.<sup>44</sup> CAT recommended, inter alia, that Kazakhstan promptly implement effective measures to ensure that a person is not subject to de facto unacknowledged detention and that all detained suspects are afforded, in practice, all fundamental legal safeguards during their detention; and that all detained persons are guaranteed the ability to challenge their detention through habeas corpus.<sup>45</sup>

15. In 2008, CAT expressed concern about allegations of torture or other ill-treatment in temporary detention isolation facilities (IVSs) and in investigation isolation facilities (SIZOs) especially in the context of national and regional security and anti-terrorism operations conducted by the National Security Committee (NSC). CAT recommended that Kazakhstan should transfer detention and investigation facilities currently under the jurisdiction of the Ministry of Internal Affairs or NSC to the Ministry of Justice and guarantee that Public Monitoring Commissions have the unlimited right to conduct unannounced visits to these facilities.<sup>46</sup>

16. CEDAW expressed concern about the prevalence of violence against women.<sup>47</sup> The Special Rapporteur on the question of torture noted that it is a widespread problem especially within the family and the fact that the draft law on domestic violence has not been adopted for many years.<sup>48</sup> CEDAW urged the speedy enactment of the draft law,<sup>49</sup> and the Special Rapporteur on the question of torture recommended that Kazakhstan adopt a law on domestic violence in full compliance with international standards.<sup>50</sup>

17. In 2007, CRC expressed concern that progress had still not been made in reducing the large number of abandoned and homeless children, the number of children placed in institutions, and the conditions in those institutions. It expressed concern at reports that many children lacking parental care, particularly abandoned children, are apprehended and placed in the same closed facilities as children suspected or accused of criminal wrongdoing.<sup>51</sup> In 2009, the Special Rapporteur on the question of torture stated that he had received consistent allegations of beatings and other ill-treatment of minors by law enforcement organs at the initial stage of custody, but also in other institutions under the Ministry of Interior as well as the Ministry of Justice.<sup>52</sup> CRC, while noting efforts to eradicate maltreatment and degrading punishment in boarding schools, homes, remand and detention centres, was concerned about reports that such brutal and humiliating behaviour still exists. Furthermore, CRC was concerned at reports of bullying, insulting and blackmailing among children in schools.<sup>53</sup> CRC regretted that there is no specific legal prohibition of corporal punishment in foster care, military schools, kinship care and the workplace and that despite legal prohibitions for some areas the de facto situation is that children are still victims of corporal punishment.<sup>54</sup>

18. In 2007, CRC was particularly concerned at the violations of the rights of street children, children who are foreign citizens or who belong to ethnic minorities and their vulnerability to trafficking and economic and sexual exploitation.<sup>55</sup> It also expressed concern at the still large number of socially vulnerable children engaged in labour, inter alia, within the tobacco and cotton industry and as domestic servants.<sup>56</sup> In 2009, UNICEF highlighted the fact that child exploitation and trafficking are seasonal and increase during the warm period when agricultural work begins and the homeless become prey to potential traffickers.<sup>57</sup> CRC, CERD, CAT and CEDAW<sup>58</sup> noted the legislative and other measures taken to combat human trafficking. However, CEDAW was concerned about the persistence of trafficking in women and girls, and CERD was concerned in particular that it affected non-citizens and ethnic minorities.<sup>59</sup> CRC remained concerned in particular, about allegations of complicity by State officials in trafficking and that corruption impedes the effectiveness of prevention measures.<sup>60</sup>

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

19. In 2007, the High Commissioner noted recurrent allegations that some judicial decisions appear to be politically motivated and emphasized the need to strengthen the independence of the judiciary.<sup>61</sup> In 2009, the Special Rapporteur on the question of torture also noted that judges are seen as being formally present at certain points of the criminal process to rubber-stamp prosecutorial decisions rather than interested in finding out the truth and meaningfully following up on torture allegations, and that another factor hampering the administration of justice is corruption, which is widely perceived as being endemic.<sup>62</sup> Although the Special Rapporteur recognized that impunity was not total, he found that existing complaints mechanisms were ineffective. The burden of proof rested on the alleged victim of ill-treatment; therefore, only a small minority of perpetrators

was actually brought to justice. He also identified significant gaps with regard to the obligations of the State in the areas of compensation and rehabilitation.<sup>63</sup>

20. During his 2009 visit, the Special Rapporteur noted that the commission of acts of torture was facilitated by the inaction of prosecutors, judges, staff of the Ministry of Justice, the medical profession and lawyers in the face of allegations of torture and ill-treatment.<sup>64</sup> In 2008, CAT recommended that Kazakhstan should, inter alia, as a matter of priority, pursue its efforts to reform the Procuracy, so as to reduce the procurator's dominating role throughout the judicial process and secure a fairer balance between the respective roles of the prosecutor, the defence counsel and the judge;<sup>65</sup> take immediate steps to ensure that in practice evidence obtained by torture may not be invoked as evidence in any proceedings;<sup>66</sup> and provide compensation, redress and rehabilitation to victims of torture, in practice.<sup>67</sup>

21. The Special Rapporteur remained concerned about the overall highly punitive approach taken in penitentiary policies and practice, including overly long prison terms and the use of regimes that effectively restricted contacts with the outside world as punishment.<sup>68</sup> CAT also remained concerned at, inter alia, instances of group self-mutilation by prisoners reportedly as a form of protest for ill-treatment. It recommended that Kazakhstan adopt a programme for further development of the penal correction system, to bring it into full conformity with the Standard Minimum Rules for the Treatment of Prisoners, and establish a health service independent from the Ministries of Internal Affairs and Justice to conduct examinations of detainees upon arrest and release, routinely and at their request.<sup>69</sup>

22. In 2009, UNICEF highlighted Kazakhstan's commitment to the creation of a juvenile justice system where deprivation of liberty is a last resort. The Juvenile Justice System Development Concept was approved by the Government, a plan of action adopted and piloting undertaken of specialized juvenile courts and juvenile police units.<sup>70</sup> In 2007, CRC recommended that Kazakhstan take prompt measures to fully bring the juvenile justice system into line with the Convention.<sup>71</sup>

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

23. In 2007, CEDAW requested Kazakhstan to implement fully the laws on marriage and family, which set the age of marriage at 18 years for both women and men, and to adopt measures which are aimed at bringing religious and traditional marriages into line with the Convention.<sup>72</sup> In 2009, UNHCR indicated continuing concerns relating to the issuance of marriage certificates for couples without the necessary documentation and residence registration.<sup>73</sup>

24. UNICEF indicated that in 2008, a total of 76,308 children were in residential education and care institutions, including 17,500 children deprived of parental care. Foster care is hampered by limited resources and complex procedures, with adoption another issue requiring an urgent focus. UNICEF highlighted the gaps in domestic and intercountry policies and legislation, effective monitoring and follow-up of adoptions are areas of concern.<sup>74</sup> It observed that greater attention needs to be paid to preventing the separation of children from their families,<sup>75</sup> and to the development of community-based programmes that provide the kind of assistance available in good residential facilities to children who could benefit from such assistance but do not need to be removed from their families or communities.<sup>76</sup>

## 5. Freedom of movement

25. UNHCR highlighted the fact that the Migration and Aliens Laws provide for certain restrictions on freedom of movement, which in practice impose restrictions on asylum-seekers and refugees, in view of their status of temporarily staying aliens and lack of access to identity documents for those who do not have or cannot use the documents issued by their countries of origin.<sup>77</sup>

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

26. In 2009, the independent expert on minority issues noted that Kazakhstan had exhibited a high degree of inter-faith harmony and religious freedom for those religions recognized as traditional or orthodox. However, those practising faiths considered to be non-traditional in the country (including Jehovah's Witnesses, Baptists, Evangelicals, Scientologists, non-recognized forms of Islam and others) felt that they have not been accorded the same freedoms. She received information about rules for registration of religious groups that violated both the Constitution and international norms.<sup>78</sup>

27. In 2009, UNHCR noted the presence of an active, although not sufficiently represented, civil society<sup>79</sup> and UNESCO indicated that civil society has not fully formed and democratic institutions and traditions are still not well-developed.<sup>80</sup> In 2007, the High Commissioner encouraged the Government to ensure a democratic space and facilitate the functioning of civil society and the media. She expressed the hope that any reforms in the area of media laws and the operations of non-governmental organizations would increase their freedom rather than put restrictions on their activities.<sup>81</sup> Concerns were raised by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in a communication, sent in 2007, that a district court in Almaty had sentenced a journalist to two years in prison, on probation, for "insulting the honour and dignity of the President of Kazakhstan".<sup>82</sup> The High Commissioner encouraged the removal of the provision on criminal libel against journalists. She stressed the importance of encouraging strong independent media and civil society sectors to further improve the situation of human rights in the country.<sup>83</sup>

28. UNICEF highlighted the fact that women constitute 54 per cent of civil servants, but only 10 per cent of these women hold decision-making positions.<sup>84</sup> In 2007, CEDAW encouraged Kazakhstan to speedily adopt and implement the proposal for quotas aimed at having no less than 30 per cent of women in political institutions included in the draft law on equal rights and equal opportunities, and to take other sustained measures, including temporary special measures, to accelerate women's full and equal participation in elected and appointed bodies.<sup>85</sup>

29. In 2004, CERD noted that the ethnic representation in State institutions does not correspond to the proportion of the different ethnic communities represented in the population of Kazakhstan.<sup>86</sup> In 2009, the independent expert on minority issues pointed out that the Assembly of the People lacked the character of a legitimately representative body. It would greatly enhance the potential and legitimacy of the Assembly if members were elected by each minority group directly, and without reference to the cultural associations which are not based on a principle of representativeness.<sup>87</sup> The independent expert also heard from persons belonging to some minority communities who expressed frustration at their lack of meaningful participation in political life and in decision-making about issues that affected them. Some noted that even in localities where they were a high proportion of the population, they were not



appointed to fill senior regional authority positions. Those positions generally went to members of the two largest groups, Kazakhs and Russians, by appointment of the central Government.<sup>88</sup>

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

30. In 2008, the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations referred to alleged violations of trade union rights in practice, in particular interference by employers in the internal affairs and activities of trade unions and refusals to bargain collectively. The Committee requested the Government to institute an independent investigation into these allegations.<sup>89</sup>

31. While noting some wage increases in female-dominated sectors, CEDAW expressed concern about the high level of unemployment among women and the absence of legislation providing for equal pay for work of equal value.<sup>90</sup> It recommended, inter alia, that efforts be strengthened to eliminate occupational segregation, both horizontal and vertical, and to adopt measures to narrow and close the wage gap between women and men.<sup>91</sup>

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

32. In 2007, CRC recommended that Kazakhstan take steps to improve the standard of living of families, particularly those below the poverty line; develop targeted programmes to compensate for the negative consequences of child poverty; make adequate housing available for low income families, including for large families, and provide access to housing for former institutionalized children; and ensure access to clean drinking water and sanitation in all regions.<sup>92</sup> In 2009, UNHCR indicated that it had received reports of refugees having to live on the streets due to unavailability of affordable accommodation.<sup>93</sup>

33. UNICEF submitted that the quality of maternal and child health services is affected by system-wide weaknesses in norms, standards and practices, and that inequality and disparities between urban and rural areas affect many children.<sup>94</sup> CRC also regretted that insufficient effort had been made to effectively improve the situation of refugee children.<sup>95</sup> UNICEF indicated that the under-five mortality rate is 41 per cent higher in rural areas, and that mortality among adolescents and young people is an emerging problem, with the Government having undertaken analysis into adolescent suicides.<sup>96</sup> In 2007, CRC remained concerned at the high incidence of drug abuse, the widespread alcoholism and tobacco use, the prevalence of teenage pregnancy, the high abortion rate and the shortage of mental health services for children.<sup>97</sup> CRC recommended, inter alia, that Kazakhstan develop programmes directed to the prevention of suicide and violence.<sup>98</sup> CEDAW urged Kazakhstan to enhance and monitor affordability and access to health-care services for women including in rural areas. CRC and CEDAW requested the strengthening of measures to prevent unwanted pregnancies, especially among teenagers, making a comprehensive range of contraceptives more widely available, and increasing knowledge about family planning.<sup>99</sup>

34. In 2009, UNICEF highlighted an incident in 2006 in southern Kazakhstan, in which 147 children were infected with HIV in paediatric hospitals as a result of prolonged hospitalization and excessive treatment that exposed them to infection.<sup>100</sup> In 2007, CRC was concerned that Kazakhstan remains a major trafficking conduit for heroin, with a major impact on drug use and the HIV infection rate.<sup>101</sup>

### **9. Right to education and to participate in the cultural life of the community**

35. UNICEF reported that Millennium Development Goal 2 on education has been achieved, except for pre-primary education. The remaining challenges are to improve the quality of education and the inclusion of children with disabilities.<sup>102</sup> In 2007, CRC recommended, inter alia, that Kazakhstan ensure that compulsory education is free of cost and accessible for all, by undertaking targeted programmes addressing children living in rural and remote areas; children with special needs; refugee children; children of migrant workers; and children with HIV/AIDS, including in early childhood facilities; and improve the quality of education at all levels.<sup>103</sup>

36. In 2004, CERD expressed concern that minority languages are not used in the educational system to an extent commensurate with the proportion of the different ethnic communities represented in the student body.<sup>104</sup>

37. In 2009, UNESCO indicated that despite the attempts to introduce human rights education programmes in school, the approach taken very often does not achieve the educational goal of forming student attitudes and values necessary for democratic citizenship and respect of human rights.<sup>105</sup>

### **10. Minorities and indigenous peoples**

38. In 2009, language issues were raised by all persons belonging to minorities with whom the independent expert on minority issues consulted during her visit.<sup>106</sup> The Government was moving forward with its policy to establish Kazakh as the State language. While fully appreciating the legitimacy of this policy, the independent expert cautioned that in the period of transition towards the use of Kazakh as the primary language of administration, national and regional authorities must ensure that no discrimination or undue restrictions are experienced, particularly regarding recruitment, continuation of employment and promotion of civil servants. Particularly in regions with compact minority communities, the Government was urged to use a dual language approach (Kazakh/Russian or Kazakh/minority language) in renaming towns and villages and the use of public signs and public information documents.

### **11. Migrants, refugees and asylum-seekers**

39. UNHCR noted that Kazakhstan hosted a total of 4,325 refugees at the end of 2008. The vast majority were not formally granted refugee status. Refugees and asylum-seekers have the status of temporarily staying aliens, which fall short of the standards provided for in the 1951 Convention. UNHCR highlighted the problems refugees still face with access to personal documentation, including identity and civil status documentation.<sup>107</sup>

40. In 2009, UNHCR noted with appreciation that the Action Plan for 2009-2012 expedites the adoption of national legislation on refugees, the creation of reception centres for refugees and asylum-seekers, and respect for the principle of non-refoulement. However, it does not include recommendations on effective durable solutions for refugees.<sup>108</sup> UNHCR also expressed serious concern that the existing text of the draft law on refugees, inter alia, provides for exclusion of members of banned religious groups; membership of which is a very common ground of persecution in some countries of origin, where torture persists; does not contain basic safeguards, such as the right to stay during appeal procedures; and does not clearly lay down the extent of

enjoyment of various rights by refugees and asylum-seekers, leaving much to the discretion of the authorities and/or interpretation of other laws.<sup>109</sup>

41. In 2008, CAT was concerned at the lack of a legislative framework regulating expulsion, refoulement and extradition.<sup>110</sup> It was also concerned at credible reports that individuals have not been afforded the full protection provided for by article 3 of the Convention in relation to expulsion, return or deportation to neighbouring countries for reasons of regional security, including the fight against terrorism.<sup>111</sup> In 2006, communications were sent by the Special Rapporteur on the question of torture related to allegations that two individuals originally from a region of a neighbouring country were deported to their country of origin, where they were held in incommunicado detention.<sup>112</sup> A further communication was sent by the Special Rapporteurs on the question of torture and on freedom of religion or belief and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention relating to a refugee forcibly returned to his country of origin who had been recognized by UNHCR as at risk of persecution in his home country because of his practice of Islam outside of the state-run mosque system.<sup>113</sup> In 2009, UNHCR stated that it could not conclude that the risk of non-refoulement is no longer posing a threat.<sup>114</sup> UNHCR in 2009 highlighted the fact that CERD had urged Kazakhstan to ensure that no refugees will be forcibly returned to a country where there are substantial grounds for believing that they may suffer serious human rights violations.<sup>115</sup>

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

42. In 2008, CAT noted with particular concern reports that the NSC had used counter-terrorism operations to target vulnerable groups or groups perceived as a threat to national and regional security, such as asylum-seekers and members or suspected members of banned Islamic groups or Islamist parties. CAT recommended that Kazakhstan should ensure that the fight against terrorism does not lead to breaches of the Convention nor impose hardship on vulnerable groups.<sup>116</sup>

## **III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS**

43. During his 2009 visit, the Special Rapporteur on the question of torture very much welcomed the ratification of OP-CAT and the planned creation of a national preventive mechanism.<sup>117</sup>

44. The 2010-2015 United Nations Development Assistance Framework (UNDAF) indicated, inter alia, that regional disparities in wealth distribution and systemic gaps lead to insufficient quality of services. It also indicated that gaps remain in access to justice and that corruption and limited participation of civil society in policy processes are still impeding socio-economic advancement in Kazakhstan.<sup>118</sup>

## **IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS**

### **Specific recommendations for follow-up**

45. In November 2008, CAT requested the State party to provide, within one year, follow-up information on the implementation of the Committee's recommendations contained in paragraphs 7 (torture by law enforcement officers), 9 (legal safeguards for detainees), 18 (prosecution of torture) and 29 (the use of evidence obtained by torture).<sup>119</sup> As at October 2009, such follow-up information had not been received.

46. At the end of his visit in 2009 the Special Rapporteur on the question of torture recommended that appropriate bodies take the following measures, inter alia: reduce the period of police custody to a time limit in line with international standards (maximum 48 hours); strengthen the independence of judges and lawyers; ensure that in practice, evidence obtained by torture may not be invoked as evidence in any proceedings; continue court monitoring; and continue and accelerate reforms of the prosecutor's office, the police and the penitentiary system.<sup>120</sup>

47. The independent expert on minority issues urged the Government to extend the freedoms accorded to traditional religious groups to all religious groups. She added that the Government must not make a determination that someone's belief system constituted a threat to national stability that was punishable without the commission of a criminal act. The Government was also urged to engage in a wide-ranging dialogue with "non-traditional" religious groups about ways to guarantee their full rights and freedoms. The existing law on registration of religious organizations and activities should be brought into compliance with the Constitution of the Republic and international legal standards. Such laws should in no way restrict the legitimate activities of individuals or religious groups and the repressive measures against religious groups and their members must stop immediately.<sup>121</sup>

## V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

48. In 2007, the High Commissioner expressed her wish to work closely with the Government, civil society and international partners to address issues of concern in the area of human rights and offered the assistance of her Office in this regard.<sup>122</sup> In 2008, the OHCHR Regional Office for Central Asia reported that it had worked in concert with members of the United Nations country team. It further noted that human rights issues were included in the 2010-2015 UNDAF.<sup>123</sup>

49. Information was provided by: UNESCO on its programme activities;<sup>124</sup> UNICEF on its capacity-building and technical assistance in its 2010-2015 country programme;<sup>125</sup> and UNIFEM on its capacity-building and technical assistance.<sup>126</sup> UNHCR submitted information on an envisioned action plan on implementation of the national refugee law, which inter alia encompasses comprehensive capacity-building for relevant government officials, and which UNHCR will present to the Government for discussion and endorsement.<sup>127</sup>

### Notes

<sup>1</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>

<sup>2</sup> The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR

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ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities
CED	International Convention for the Protection of All Persons from Enforced Disappearance

<sup>3</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>4</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

<sup>5</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at <http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html>.

<sup>6</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning the Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

<sup>7</sup> Public statement of the High Commissioner for Human Rights of 30 April 2007, see <http://www.unhcr.ch/hurricane/hurricane.nsf/NewsRoom?OpenFrameSet>.

<sup>8</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination, CERD/C/65/CO/3, para. 14.

<sup>9</sup> Concluding comments of the Committee on the Elimination of Discrimination against Women, CEDAW/C/KAZ/CO/2, para. 34.

<sup>10</sup> Concluding observations of the Committee against Torture, CAT/C/KAZ/CO/2, para. 33.

<sup>11</sup> CAT/C/KAZ/CO/2, para. 16.

<sup>12</sup> Public statement of the High Commissioner of 30 April 2007.

<sup>13</sup> UNHCR submission to the UPR on Kazakhstan, p. 1.

<sup>14</sup> Concluding observations of the Committee on the Rights of the Child, CRC/C/KAZ/CO/3, para. 60 (d).

<sup>15</sup> CEDAW/C/KAZ/CO/2, paras. 11-12.

<sup>16</sup> Public statement of the High Commissioner of 30 April 2007.

<sup>17</sup> CAT/C/KAZ/CO/2, para. 23.

<sup>18</sup> CRC/C/KAZ/CO/3, paras. 14-15.

<sup>19</sup> UNICEF submission to the UPR on Kazakhstan, p. 1.

<sup>20</sup> Public statement of the High Commissioner of 30 April 2007.

<sup>21</sup> The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child

<sup>22</sup> E/CN.4/2005/60/Add.2.

<sup>23</sup> No country visit report published to date. See press release of 13 May 2009 at: <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/0BE9B42AD9B38DD6C12575B500527CC8?opendocument> .

<sup>24</sup> No country visit report published to date. See press release of 15 July 2009 at: <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/E2439BE5E53977E1C12575F400363653?opendocument> .

<sup>25</sup> Ibid.

<sup>26</sup> See press release of 13 May 2009 by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment at:

<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/0BE9B42AD9B38DD6C12575B500527CC8?opendocument>

<sup>27</sup> The questionnaires included in this section are those which have been reflected in an official report by a special procedure mandate holder.

<sup>28</sup> See (a) report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation sent in July 2005; (b) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs sent in July 2006; (c) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons sent in 2006; (d) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants sent in 2006; (e) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities sent in 2006; (f) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices; (g) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous people sent in August 2007; (h) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/7/8), questionnaire on assistance and rehabilitation programmes for child victims of sexual exploitation sent in July 2007; (i) report of the Special Rapporteur on the right to education (A/HRC/8/10), questionnaire on the right to education in emergency situations sent in 2007; (j) report on the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/10/16 AND Corr.1), questionnaire on trafficking in persons, especially women and children; (k) report of the independent expert on the question of human rights and extreme poverty to the eleventh session of the HRC (June 2009) (A/HRC/11/9), questionnaire on Cash Transfer Programmes, sent in October 2008; (l) report of the Special Rapporteur on the right to education (June 2009) (A/HRC/11/8), questionnaire on the right to education for persons in detention; (m) report of the Special Rapporteur on violence against women, (June 2009) (A/HRC/11/6), questionnaire on violence against women and political economy; (n) report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (A/HRC/12/21), questionnaire on national legislation and initiatives addressing the issue of bonded labour; (o) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/12/23), questionnaire on measures to prevent and combat online child pornography; (p) report of the Special Rapporteur on the right to food to the twelfth session of the Council (A/HRC/12/31), questionnaire on world food and nutrition security.

<sup>29</sup> Reports of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), report of the Special Rapporteur on the right to education (June 2009) (A/HRC/11/8), report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/12/23).

<sup>30</sup> OHCHR 2008 Report on Activities and Results, p. 174.

<sup>31</sup> Ibid., p. 120.

<sup>32</sup> CEDAW/C/KAZ/CO/2, paras. 13-14.

<sup>33</sup> CERD/C/65/CO/3, para. 19.

<sup>34</sup> Statement by the independent expert on minority issues, 15 July 2009, at:

[http://www2.ohchr.org/english/issues/minorities/expert/docs/KazakhstanStatement\\_English.doc](http://www2.ohchr.org/english/issues/minorities/expert/docs/KazakhstanStatement_English.doc).

<sup>35</sup> CRC/C/KAZ/CO/3, paras. 26-27.

<sup>36</sup> UNODC submission to the UPR on Kazakhstan, p. 3.

<sup>37</sup> CRC/C/KAZ/CO/3, para. 53.

<sup>38</sup> Public statement of the High Commissioner of 30 April 2007.

<sup>39</sup> A/HRC/13/39/Add.3, para 80.

<sup>40</sup> CAT/C/KAZ/CO/2, paras. 6, 17 and 18. as well as para. 4 (a) and (b).

<sup>41</sup> Press release of the Special Rapporteur on the question of torture, 13 May 2009.

<sup>42</sup> CAT/C/KAZ/CO/2, para.7.

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- <sup>43</sup> Ibid., para.7.
- <sup>44</sup> Press release of the Special Rapporteur on the question of torture of 13 May 2009.
- <sup>45</sup> CAT/C/KAZ/CO/2, para. 9.
- <sup>46</sup> Ibid., para. 8.
- <sup>47</sup> CEDAW/C/KAZ/CO/2, paras. 15-16.
- <sup>48</sup> Press release of the Special Rapporteur on the question of torture of 13 May 2009.
- <sup>49</sup> CEDAW/C/KAZ/CO/2, paras. 15-16.
- <sup>50</sup> A/HRC/13/39/Add.3, para. 83.
- <sup>51</sup> CRC/C/KAZ/CO/3, paras. 41-42.
- <sup>52</sup> Press release of the Special Rapporteur on the question of torture of 13 May 2009.
- <sup>53</sup> CRC/C/KAZ/CO/3, paras. 34-35.
- <sup>54</sup> Ibid., paras. 36-37.
- <sup>55</sup> Ibid., paras. 62-63.
- <sup>56</sup> Ibid., paras. 63-64.
- <sup>57</sup> UNICEF submission, p. 3.
- <sup>58</sup> CRC/C/OPSC/KAZ/CO/1, para. 4(a), CERD/C/65/CO/3, para. 16, CAT/C/KAZ/CO/2, para. 31 and CEDAW/C/KAZ/CO/2, para. 17.
- <sup>59</sup> CERD/C/65/CO/3, para. 16.
- <sup>60</sup> CRC/C/OPSC/KAZ/CO/1, para. 23.
- <sup>61</sup> Public statement of the High Commissioner of 30 April 2007.
- <sup>62</sup> CERD/C/65/CO/3, para. 18.
- <sup>63</sup> A/HRC/13/39/Add.3, para. 76.
- <sup>64</sup> Ibid., para.74.
- <sup>65</sup> CAT/C/KAZ/CO/2, para. 26.
- <sup>66</sup> Ibid., para. 29.
- <sup>67</sup> Ibid., para. 28.
- <sup>68</sup> A/HRC/13/39/Add.3, para 75.
- <sup>69</sup> CAT/C/KAZ/CO/2, para. 21.
- <sup>70</sup> UNICEF submission, p. 2.
- <sup>71</sup> CRC/C/KAZ/CO/3, para.70.
- <sup>72</sup> CEDAW/C/KAZ/CO/2, paras. 29-30.
- <sup>73</sup> UNHCR submission, p. 5.
- <sup>74</sup> UNICEF submission, pp. 1-2.
- <sup>75</sup> Ibid., p. 3.
- <sup>76</sup> Ibid.
- <sup>77</sup> UNHCR submission, p. 3, citing CERD/C/65/CO/3 para. 15.
- <sup>78</sup> Press release of the independent expert on minority issues of 15 July 2009
- <sup>79</sup> UNHCR submission, p. 2.
- <sup>80</sup> UNESCO submission to the UPR on Kazakhstan, p. 1.
- <sup>81</sup> Public statement of the High Commissioner of 30 April 2007.
- <sup>82</sup> A/HRC/7/14/Add.1 paras 365 -367.
- <sup>83</sup> Public statement of the High Commissioner of 30 April 2007.
- <sup>84</sup> UNICEF submission, p. 1.
- <sup>85</sup> CEDAW/C/KAZ/CO/2, paras. 21-22.
- <sup>86</sup> CERD/C/65/CO/3, para. 13.
- <sup>87</sup> Statement by the independent expert on minority issues, 15 July 2009.
- <sup>88</sup> Ibid.
- <sup>89</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Right to Organise and Collective Bargaining Convention, 1949 (No. 98), 2008, Geneva, doc. No. (ILOLEX) 062008KAZ098, para. 2.
- <sup>90</sup> CEDAW/C/KAZ/CO/2, para. 23.
- <sup>91</sup> Ibid., para. 24.
- <sup>92</sup> CRC/C/KAZ/CO/3, para. 56.
- <sup>93</sup> UNHCR submission, p. 4.
- <sup>94</sup> UNICEF submission, p. 2.
- <sup>95</sup> CRC/C/KAZ/CO/3, para. 59.

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<sup>96</sup> UNICEF submission, p. 2.

<sup>97</sup> CRC/C/KAZ/CO/3, para. 51.

<sup>98</sup> Ibid., para. 52 (c) and (d).

<sup>99</sup> CEDAW/C/KAZ/CO/2, para. 26 and CRC/C/KAZ/CO/3, para. 52.

<sup>100</sup> UNICEF submission, p. 2.

<sup>101</sup> CRC/C/KAZ/CO/3, para. 53.

<sup>102</sup> UNICEF submission, p. 2.

<sup>103</sup> CRC/C/KAZ/CO/3, para. 58.

<sup>104</sup> CERD/C/65/CO/3, para. 12.

<sup>105</sup> UNESCO submission, p. 1. See also See General Assembly resolution 59/113B, and Human Rights Council resolution 6/24, and letters from the High Commissioner for Human Rights dated 9 January 2006 and 10 December 2007, available at <http://www2.ohchr.org/english/issues/education/training/Summary-national-initiatives2005-2009.htm> (accessed on 31 August 2009).

<sup>106</sup> Statement by the independent expert on minority issues. 15 July 2009.

<sup>107</sup> UNHCR submission, p. 5.

<sup>108</sup> Ibid., p. 2.

<sup>109</sup> Ibid., p. 6.

<sup>110</sup> CAT/C/KAZ/CO/2, para. 14.

<sup>111</sup> Ibid., para. 15.

<sup>112</sup> A/HRC/4/33/Add.1 pp. 141-142.

<sup>113</sup> A/HRC/4/21/Add.1 paras 211-212.

<sup>114</sup> UNHCR submission, p. 6.

<sup>115</sup> Ibid., p. 3, citing CERD/C/65/CO/3 para. 15.

<sup>116</sup> CAT/C/KAZ/CO/2, para. 8.

<sup>117</sup> A/HRC/13/39/Add.3, para 77.

<sup>118</sup> United Nations Development Assistance Framework 2010-2015 for Kazakhstan, 2009, p.7 , available at [http://www.undg.org/docs/10125/Kazakhstan-UNDAF\\_eng\\_FINAL.pdf](http://www.undg.org/docs/10125/Kazakhstan-UNDAF_eng_FINAL.pdf) (accessed on 27 October 2009).

<sup>119</sup> CAT/C/KAZ/CO/2, para. 36.

<sup>120</sup> A/HRC/13/39/ Add.3, para 80.

<sup>121</sup> Statement by the independent expert on minority issues, 15 July 2009.

<sup>122</sup> Public statement of the High Commissioner of 30 April 2007.

<sup>123</sup> OHCHR 2008 Report on Activities and Results, p. 120. See also United Nations Development Assistance Framework 2010-2015 for Kazakhstan, 2009, p. 11, available at [http://www.undg.org/docs/10125/Kazakhstan-UNDAF\\_eng\\_FINAL.pdf](http://www.undg.org/docs/10125/Kazakhstan-UNDAF_eng_FINAL.pdf) (accessed on 27 October 2009).

<sup>124</sup> UNESCO submission, p. 2.

<sup>125</sup> UNICEF submission, pp. 3-4.

<sup>126</sup> UNIFEM submission to the UPR on Kazakhstan, pp. 4-6.

<sup>127</sup> UNHCR submission, p. 7.