

REPORT

by Kazakhstan-based non-governmental human rights organisations on the implementation by the Republic of Kazakhstan of the provisions of the International Covenant on Economic, Social and Cultural Rights (within the framework of observance of the rights of women and children)

INTRODUCTION

This alternative report concerning the observance by the Republic of Kazakhstan, of the rights of women and children, within the framework of the International Covenant on Economic, Social and Cultural Rights (ICESCR) over the period from 1st June 2010 to November 2018 inclusive has been prepared by a number of leading Kazakhstan-based NGOs: Public Foundation “The Foundation for the Development of Parliamentary Government in Kazakhstan”, Public Organisation “Kadyr-Kasiet”, Public Foundation “Aman-Saulyk”, and the “Crisis Centres Alliance” Association of Legal Entities in Kazakhstan, Institute of constitutional democracy of Kazakhstan, Ecoforum of public organizations of Kazakhstan, Public Foundation “Azamat Auletti”, Public Foundation “Angel”.

The work was co-ordinated and the report compiled and edited by Public Foundation “The Foundation for the Development of Parliamentary Government in Kazakhstan”(FDPGK), whose activities are aimed at increasing the role and effectiveness of the Parliament of the Republic of Kazakhstan and local representative bodies, such as institutions of representative democracy, by expanding and enhancing the public’s participation in the functional processes of the Government of the Republic of Kazakhstan and local representative bodies.

The aim of the alternative report is to provide a comprehensive interpretation of issues related to observance of the economic, social and cultural rights of women and children in Kazakhstan, within the framework of the ICESCR.

The task of the alternative report is to present additional information to enable the Committee to form as comprehensive an opinion as possible on observance of the economic, social and cultural rights of women and children in Kazakhstan, and on the implementation by Kazakhstan of the recommendations issued by the UN’s ICESCR Committee in 2010 and the recommendations of the UN’s special spokesperson on the right to adequate housing for women and children, issued in 2011.

Research by non-governmental organisations and independent experts, national reports and research, materials from the mass media, and available official statistical data, were used in the preparation of the report.

The report notes some progress by Kazakhstan and positive changes over the reported period in terms of ensuring observance of certain rights of women and children, within the framework of the ICESCR.

The report presents conclusions and recommendations for state bodies with regard to taking further measures for universal observance of the rights of women and children, in accordance with ICESCR standards.

OVERALL LEGAL FRAMEWORK

Kazakhstani laws and regulations concerning the protection and exercising of the rights of women and children are based on the Constitution of the Republic of Kazakhstan and consist of the Kazakhstani laws “On the Rights of Children in the Republic of Kazakhstan”, “On State Guarantees of Equal Rights and Equal Opportunities for Men and Women” and other regulatory legislation of the Republic of Kazakhstan.

According to Article 2 of the Kazakhstani Law “On State Guarantees of Equal Rights and Equal Opportunities for Men and Women”, current Kazakhstani laws and regulations concerning State Guarantees of Equal Rights and Equal Opportunities for Men and Women can, for the purposes of discussion, be presented on the following four levels:

1. The Constitution of the Republic of Kazakhstan;
2. International accords ratified by the Republic of Kazakhstan;
3. The laws of the Republic of Kazakhstan;
4. Secondary regulatory legislation.

Specifically, it is the Constitution which has become the fundamental legal document enshrining the fundamentals and principles of equal rights and equal opportunities for men and women in the Republic of Kazakhstan.

It is particularly worth noting that in proclaiming everyone’s right to equality in the eyes of the law and the courts (Article 14 Para 1 of the Constitution), the Constitution of the Republic of Kazakhstan establishes a prohibition on any forms of discrimination on the basis of sex (Article 14 Para 2).

With this in mind, we can confirm that the existing Constitution of the Republic of Kazakhstan incorporates the principle of equal rights and equal opportunities for men and women and reflects in itself all the fundamental standards in this area, as enshrined in the norms of international law and in international accords.

Specifically, pursuant to Article 24 Para 1 of the Constitution of the Republic of Kazakhstan “every person has the right to freedom of work, a free choice of type of activity and profession”; pursuant to Article 24 Para 3 of the Constitution of the Republic of Kazakhstan “every person has the right to remuneration for work without any form of discrimination”, and pursuant to Article 33 Para 4, “citizens of the Republic have an equal right to work for the State”.

Therefore, as of today, the main law of the country constitutionally enshrines the necessary set of rights and freedoms for women, a set of rights and freedoms which requires not just acknowledgement and observation but also corresponding actions by the State with regard to implementing these rights and freedoms, including through the further development of these constitutional provisions in existing Kazakhstani laws and regulations.

International Accords, ratified by Kazakhstan, together with obligations to its own citizens with regard to ensuring equality of the also include international obligations taken on when signing and ratifying a number of international documents aimed at ensuring equal rights and opportunities for men and women and prevention of discrimination on the basis of sex.

It is particularly important to note that the Republic of Kazakhstan has ratified all the main universal Conventions related to equality of sexes.

These include the UN Conventions “On Eliminating All Forms of Discrimination against Women” and “On the Nationality of a Married Woman”, the UN Convention “On the Political Rights of Women”, “On Equal Remuneration of Men and Women Workers for Work of Equal Value”, international covenants “On Civil and Political Rights” and “On Economic, Social and Cultural Rights”, the Protocol for Prevention, Suppression and Punishment of Trafficking in Persons, especially Women and Children, and others. In total, Kazakhstan has signed over 60 international human rights accords, including in the area of gender equality.

It is worth noting that as of today, of the international institutional mechanisms, Kazakhstan has recognised the authority of the Human Rights Committee, the Committee Against Torture, the Committee for the Elimination of Racial Discrimination and the Committee for the Elimination of Discrimination Against Women based on receipt of individual complaints.

At the same time, the issue of implementation and strict observance of the provisions of these international accords has not yet been fully addressed.

The Laws of the Republic of Kazakhstan

It is important to note that the main constitutional provisions, in terms of ensuring equal rights and equal opportunities of men and women, have been embodied in the laws of the Republic of Kazakhstan, specifically in the Kazakhstani Code “On Marriage (Marital Cohabitation) and the Family”, the Kazakhstani Code On Administrative Violations, the Labour Code, the Criminal Code, the Criminal Code, the Criminal Procedure Code etc.

Secondary Regulatory Legislation

In addition, the issue of ensuring equal rights and equal opportunities for men and women in the Republic of Kazakhstan has been advanced not only at legislative level, but also at the level of secondary regulatory legislation, which constitutes a large body of regulatory acts, in the Gender Equality Strategy for the Republic of Kazakhstan covering the period 2006-2016 and in the Draft Document for Family and Gender Policy in the Republic of Kazakhstan up to 2030, which aims to achieve a 30% representation of women at decision-making levels.

Although large number of different legislative and policy documents have been adopted in Kazakhstan with respect to preserving women’s and children’s rights, we still find it difficult to accurately track whether the aims and objectives of these documents, based on defined indicators, are being achieved, de jure, Kazakhstan consistently adheres to the guiding principles related to the observance of women’s

and children's rights to an adequate standard of living, the highest attainable level of physical and mental health, adequate nutrition and adequate housing.

De facto, in the country we see a constant violation of their rights, a violation which is persistent and systemic in nature.

Therefore, Kazakhstan's laws and regulations in relation to the rights of women and the child have **formally speaking** been developed, but in the country there are, as before, a number of pressing issues in this area, which negatively impact on the observance of women's and children's rights. The national laws and regulations of the Republic of Kazakhstan must be brought into compliance with the international obligations and international standards assumed by it with regard to developing gender policy. Kazakhstan should sign up to European Council Convention No. 210 on Preventing and Combatting Violence against Women and Domestic Violence, Istanbul, 11th May 2011, and take measures to ensure full implementation of the provisions of the Convention on the Children's Rights, ratified by the Republic of Kazakhstan in 1994, and the Convention for the Protection of All Persons from Enforced Disappearance, ratified by the Republic of Kazakhstan in 2009, in national laws and regulations.

Children's Rights

Article 27 of the Constitution of the Republic of Kazakhstan states: "Safeguarding of children's rights and protection of their legitimate interests is one of the prioritised areas of state policy".

The law "On the Rights of Children in the Republic of Kazakhstan" is a core document based on the UN Convention on the Children's Rights. The document governs relations arising in connection with the exercising of children's principal rights and interests, as guaranteed by the Constitution.

In February 2016 the Institution of Commissioner for Children's Rights was set up in Kazakhstan. The Commissioner's main aims are to provide guarantees of children's rights and legitimate interests, and to restore the violated rights and freedoms of children, in cooperation with state and public institutions.

Judging by the legal framework, children's rights and interests are sufficiently protected in Kazakhstan.

However, empirical indicators show that children's rights are being violated in virtually all areas of life.

In effect, existing laws do not fully provide practical protection of children's rights and interests. The activities of the Commissioner for Children's rights are not effective because they are conducted on a voluntary basis, there are insufficient financial, technical and human resources, and they do not satisfy the Paris Principles and General Comments No.2 of the UN Committee for Children's Rights.

Therefore, protection of children's rights is more often than not declarative in nature and laws do not always provide for the mechanisms to implement such laws.

Women's Rights

The laws and regulations of Kazakhstan aimed at ensuring and protecting women's rights to a good standard of living, nutrition and housing comply overall with the fundamental criteria of these rights as adopted by the UN, specifically, the 1979 Convention "On Eliminating all Forms of Discrimination Against Women". The Constitution provides the basis of the legislative provision for the protection and implementation of various women's rights in Kazakhstan. The Kazakhstani Law "On Marriage and the Family" protects the property rights of spouses who are in an officially registered marriage and does not contain standards governing relations associated with polygamy and other instances of unofficial marriage. As has already been noted above, the principal working document aimed at preventing discrimination against women in Kazakhstan is the Law "On State Guarantees of Equal Rights and Equal Opportunities for Men and Women", adopted in 2009.

The principal State policy document in Kazakhstan with regard to implementation and protection of equal rights and opportunities for men and women, including rights to a good standard of living, nutrition and housing, during the period being analysed, was the Gender Equality Strategy in the Republic of Kazakhstan for the period 2006-2016. Since 2016, Kazakhstan has adopted a Draft Document for family and gender policy up until 2030.

It should be noted that the Government adopted a new Action Plan for implementing the Strategy on three occasions, using republican and local budgets. The Government Action Plan for 2009-2011 was adopted on 15 January 2009 and laid the foundation for the implementation of 55 measures. At the same time, a totally inadequate amount of KZT38.4 million was set aside in the republican budget for implementation of the Plan. By the same token, this document looked more like a declarative manifesto than a serious governmental working document for ensuring gender rights. The Action Plan for 2012-2016, for implementation of a Gender Equality Strategy in the Republic of Kazakhstan over the period 2006-2016, was similar in nature.

ARTICLE 6. THE RIGHT TO WORK AND TO HAVE THE OPPORTUNITY TO EARN A LIVING THROUGH WORK, WHICH HE/SHE FREELY CHOOSES OR FREELY AGREES TO

Contrary to Paragraph 11 and Article 6 of Convention No. 29 of the International Labour Organisation (ILO), and to Article 6 Para 11 of the ICESCR, Kazakhstan has not yet introduced a complete ban on engaging women in forced labour.

To this day, paragraph 16 of the Comments concerning the exclusion of forced labour as a means of punishment for convicted offenders, including women, and the inclusion of corresponding amendments to laws and regulations, has not been implemented, and prisoners, including women, do not have the right to provide consent for forced labour.

It is still possible in Kazakhstan to assign punishments to women, both in the form of correctional tasks (with the exception of those who are not fit for work, who

do not have a permanent place of work or who are studying in educational establishments on day release from manufacturing), and in the form of community work orders (with the exception of pregnant women, women with young children up to three years old, women aged fifty-eight or over, women with a category-one or category-two disability, and women serving in the armed forces).

Women may be employed on night work in state-run or private industrial enterprises or in any of their subsidiaries. The Labour Code only limits night work for persons under 18 and pregnant women, and, with written consent, allows night work for women with children under seven and women bringing up disabled children aged under sixteen.

1. To exclude forced labour as a means of punishment for convicted women and make amendments to laws and regulations with the aim of aligning the respective provisions of the Constitution and the Criminal Code with Article 6 of the International Covenant on Economic, Social and Cultural Rights and to implement paragraph 16 of The Comments.
2. To ensure implementation of paragraph 16 of The Comments in terms of granting prisoners the right to work only if they consent, pursuant to Article 6 of Convention No. 29 of the International Labour Organisation (ILO) on forced or compulsory labour.
3. To prohibit the employment of women on night work in state-run or private industrial enterprises or in any of their subsidiaries, with the exception of enterprises in which only members of one family are employed. To bring the provisions of the Kazakhstani Labour Code into compliance with Article 3 of ILO Convention No. 89 “On Night Work for Women in Industry”.
4. To bring Article 31 Para 2 Sub-Para 3) of the Labour Code of the Republic of Kazakhstan into full compliance with paragraphs 1 and 2 of Article 8 of ILO Convention No.138 “On the Minimum Age for Admission to Employment”, ratified by Kazakhstan on 14 December 2000 (Law No. 116-P).

ARTICLE 7. THE RIGHT TO FAIR AND FAVOURABLE WORKING CONDITIONS AND TO REMUNERATION WHICH ENSURES A FAIR SALARY AND EQUAL REMUNERATION FOR LABOUR OF EQUAL VALUE WITHOUT ANY DIFFERENTIATION

There have been virtually no changes in industry gender segregation. Women, as before, make up more than 70% of hired employees in healthcare, education and social services, while representation of women in the financial and state sectors is only slightly more than half. Traditionally, these types of sectors are less profitable when compared to “male industries” such as the oil and gas sector, extracting industries, transport etc.

Based on data for the 4th quarter of 2017, the salaries of men in management positions in Kazakhstan are almost twice (in more than 30% of cases)¹ those of women.

The number of women being engaged to work in innovative, infrastructure-related and advanced-technology projects is very low. For instance, of the 18,000 jobs on the “Nurly Zhol” infrastructure development programme, only 1,998 (11%) are currently held by women.

Women in rural areas have no access to public and state resources and services which would allow them to broaden their economic opportunities. Based on statistical data, one in three women in rural areas of Kazakhstan is self-employed and lives on the income generated from subsistence farming, which includes personal consumption.

By default, income which also includes personal consumption, deprives women of the opportunity to invest funds in human capital in order to participate in the real economy.

The rights of women to fair remuneration for labour are being violated, and gender inequality is flourishing on the labour market. The gender pay gap in favour of men averaged 34% over the reported period.

It should be noted that by and large, official statistical data do not provide an entirely accurate reflection of the level of salaries, or of market prices for foodstuffs or housing rental. This issue was discussed in Parliament, where Parliamentary representatives noted that the statistics committee artificially inflates data related to the level of salaries and other socio-economic measures.

The number of women employed in harmful and hazardous production processes remains high. The number of women working in conditions which do not meet sanitary or hygiene requirements rose (from 22.7% to 24.6%), as did the number of those involved in heavy physical labour (from 4.0 in 2008 to 7.5 in 2012).

It is noted that unemployment levels amongst women are significantly higher than amongst men. Women continue to be subject to age discrimination in the recruitment process. It is difficult for women aged over 45 to find work, with employers giving preference to the young and, first and foremost, to men. A significant and dramatic difference in pension levels is observed between men and women. Moreover, almost three times as many women drawing pensions than men.

A lowering in the standard of living of women in many instances negatively reflects on the level of children’s well-being.

The rights to freedom of association of women entrepreneurs are being violated. From July 2013, national laws and regulations require women entrepreneurs (and men) to sign up as members of a non-profit-making organisation, the National Chamber of Entrepreneurs, and to effectively pay quarterly mandatory membership fees, based on a level of income from KZT169,680 to KZT6,426,630.

¹ Original Russian is not clear; this is the most likely translation.

Although the rights of mothers in Kazakhstan are de-jure protected by laws and regulations, many employers regularly violate these rights in the workplace, and social bodies have insufficient resources to keep track of all such cases.

After the birth of a child, female employees of private enterprises experience a sharp fall in monthly income, as companies minimise pay-outs.

1. To take the necessary steps (legislative and institutional) to resolve the issue of low level of representation of women at all decision-making levels, including developing a state-wide programme.
2. To solve the problem of pay discrimination against women.
3. To take effective and practical measures for the creation of work places and jobs for women living in rural areas.
4. To set up an Institution of the Commissioner for Women's Rights in the Republic of Kazakhstan.
5. To strengthen state support for non-governmental organisations in the area of protection of women's and children's rights.
6. To take measures to prevent mandatory membership and payment of fees by women entrepreneurs to the National Chamber of Entrepreneurs and any other public and non-profit-making organisations.
7. To introduce into the Kazakhstani Labour Code employer's responsibility for sexual harassment in the workplace, and to include in the employment agreement and the collective bargaining agreement clauses concerning unacceptability of sexual harassment in the workplace, as well as procedures for reviewing and resolving conflict situations within the workforce.

ARTICLE 9. THE RIGHT TO SOCIAL SECURITY, INCLUDING SOCIAL INSURANCE

Kazakhstan has not implemented paragraph 23 of the Comments of the Committee for Ratification of ILO Social Security (Minimum Standards) Convention No. 102 (Article 9).

Benefit payments for the birth and care of a child, including disabled children, remain disproportionately low and do not provide women and children with an adequate standard of living.

According to the Labour Code, an employer shall pay for leave related to pregnancy and giving birth only if the terms and conditions of the employment agreement and/or collective bargaining agreement, and the employer's certificate, make provision therefor.

In 2017, a 20% (twenty percent) phased increase in pensions and benefit payments is underway.

However, this increase does not cover all types of benefit payment, only a one-off benefit payment for the birth of a child. Moreover the increase itself is minimal and cannot significantly improve the standard of living.

From 1st January 2018, a phased increase of the pension age of women, from 58 to 63, will be initiated, despite not matching the average life expectancy of women.

The methodology for calculating unemployment benefit payments, by its nature, discriminates against young women with young children; the benefit total is calculated based on the number of years already worked, which young mums do not have.

Women living in rural areas, which have the highest levels of unemployment, are faced with extortion when trying to obtain unemployment benefit. In order to confirm their unemployed status, they are required, on a monthly basis, to present themselves to the rural administrative head (akim) who alone makes the decision.

Overall, the universal practice of extortion of bribes and corruption-related offences is continuing with respect to implementing the right to social security.

There are instances in which pregnant women, including citizens with the right of abode in Kazakhstan, have not been registered in clinics or seen by a doctor.

It is not uncommon for “ambulance” crews to refuse to take pregnant women to hospital.

At the same time, free-of-charge [hospital] admission of pregnant women, which is guaranteed by the State, is given only if the woman is transported by “ambulance”.

In rural areas, women and children are deprived of the opportunity of obtaining a guaranteed free-of-charge range of medical assistance. In cases of extreme need they are required to seek help at district and regional medical establishments, located a significant distance away (200-500 km) from their places of residence.

There are instances in which pregnant women have been refused the guaranteed range of medicines.

The problem of alimony pay-outs remains unresolved. As of 1st January 2016, 279,000 alimony recovery cases for the support of 370,480 children are waiting to be actioned. One in 5 children is living in a single-parent family.

More than 160,000 children periodically do not receive alimony. In 25,000 procedures, alimony has not been paid out for more than 3 months. Total unpaid alimony has exceeded KZT1,800 million.

Anti-discrimination regulatory enforcement is virtually non-existent in the state system for protection of children’s rights. In questions related to access to education and healthcare, a discriminatory principle still prevails against children with special needs, children in rural areas, children living in areas affected by environmental disasters, and children from low-income families.

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| <ol style="list-style-type: none">1. The possibility of employers setting a level of pay for leave related to pregnancy and giving birth based on their own discretion must be excluded.2. Paragraph 4 of Article 99 of the Labour Code of the Republic of Kazakhstan must be brought into full compliance with Article 6 Para 3 of the |
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Convention on the Revision of the Maternity Protection Convention (revised) 1952, ratified by Kazakhstani Law No. 554-IV dated 14 February 2012.

3. To ratify ILO “Social Security (Minimum Standards) Convention” No.102 with the aim of implementing paragraph 23 of The Comments.

4. To take measures for the objective establishment of a pension age for women, based on the life expectancy of women in Kazakhstan.

5. To establish a state-sponsored return alimony fund, which will be used to pay out alimony for children with subsequent recovery from the debtor, in favour of the State, for the support of minors whose parent(s) cannot provide a process for maintaining and developing the child.

The Right to Life

Levels of mother and infant deaths, abortions and sexually-transmitted diseases remain high. Universal access to reproductive health services is not provided.

The number of children born with congenital abnormalities is rising.

Cases of mothers dying in childbirth in maternity hospitals have become more frequent, with instances of extortion for a guarantee of a successful birth.

Corrupt practices persist in relation to the adoption of children from orphanages, as does trafficking of children in orphanages.

Children from deprived families remain socially vulnerable and are not covered by the relevant work of authorised bodies.

There have been cases in which children and adults have been held together in temporary holding cells.

The problem of violence against women is acute.

One in eight women is subject to beating, forced sex or other methods of degradation.

12.8% of Kazakhstani women have at some time in their life experienced violence, mostly on the part of husbands, former husbands, co-habiting partners.

One in four women has been subjected to violence during pregnancy. A third of Kazakhstani women who have suffered violence never tell anyone about what happened. More than half of them never sought help.

12.2% of Kazakhstani women and 16.7% of Kazakhstani men justify wife-beating for some reason or another.

1. To increase monitoring to ensure observance of rights of children of minority age and women who are suspected, under investigation or convicted.

2. With the aim of eliminating violence against women in family/domestic relations, it is necessary to develop an “Action Plan for reducing violence against women by 2030”, to include measures to increase and improve services offered by

crisis centres and limit the use of mediation in crimes associated with violence on the part of a close partner.

3. To track the implementation of restraining orders applied to aggressive partners who have inflicted violence within the context of family/domestic relations.

4. To conduct an extensive public awareness campaign, to include schools and higher education establishments, and to create a culture of non-violent relations in society.

ARTICLE 10. THE STATE'S RESPONSIBILITY TO SAFEGUARD AND HELP THE FAMILY

The Family's Right to Society and State Protection

There are more than 6,500 people living without citizenship, 80 percent of them born in Kazakhstan. Some of these people are still unable to obtain new documents to replace those received during the time of the Soviet Union.

Absence of documents confirming their identity limits the opportunities of women and children to access medical, educational and social services.

State help for the family is limited to the issue of benefit payments for one-time solving of an issue and satisfaction of the requirements of family members but is not directed at the integrated and comprehensive development of the family or at enabling the family to become self-sufficient.

National laws and regulations do not protect women from the indirect discrimination which occurs in traditional and religious marriages; women's property rights are not protected.

Identical marriage rights and equality of spouses are violated when religious marriages or national traditional marriages are entered into. The Kazakhstani Law "On Marriage and the Family" does not contain standards that govern relations associated with polygamy or other instances of unofficial marriages.

Legislation only protects the property rights of spouses who are in an officially registered marriage. Therefore, in a religious or national traditional marriage, the rights of women with whom marriage has not been officially registered, are not protected, even if the spouses have children together and maintain a joint household.

A consistent tendency has been noted, where fathers of the household, threatening divorce and violence, force their wives and young daughters to wear a hijab.

In Almaty Region a man forced his wife to read the namaz and wear a hijab, and after divorcing her, killed her.

With increasing frequency, young girls, because of extremely poor financial means, are becoming victims of recruiters for religious extremists. In Almaty a recruiter forced two girls to wear a hijab because they were unable to repay a debt to him on time.

According to his wife's evidence, Kulekbayev, who murdered several law enforcement officers in Almaty in July 2016, forced her, at the start of their married life, to wear a hijab against her will and threatened reprisals.

Children’s rights are reflected in a number of laws which contain the obligations of parents or legitimate representatives with regard to children. Laws and regulations have enshrined legal standards for parents in terms of implementing obligations related to bringing up their children. However, nowhere is there any reference to them specifically including “obligations related to bringing up and educating children not of age”.

Therefore, more often than not, a violation of parental obligations is only identified late on in the violation of the child’s rights, when evidence of mental and/or physical abuse inflicted on the child, is discovered.

1. To incorporate changes and additions to existing Kazakhstani laws and regulations: to oblige healthcare establishments to discharge a child from a maternity hospital on presentation of the child’s birth certificate.
2. To conduct a republic-wide campaign to legalise registration of minors aged from 0 to 14 years, with the aim of providing children with equal access to specialised state services.
3. To develop a case-management system which will facilitate coordination of social services for helping people out of difficult life situations, such services being provided by various departments, and more often than not provided to a member of the family while at the same time isolating that person from the family, leading to loss of familial ties and reduced social commitment by the family member, when actually the help being provided should be directed towards supporting the family.

Future Spouses’ Right to Free and Full Consent to Marriage

A high level of “bride kidnapping” is observed, and there are instances when this has been linked with rape.

State support does not extend to families living in a civil partnership or to their children.

The concept of “single mother” is absent from national laws and regulations.

A woman who brings up a child on her own receives benefit payments based on general criteria.

The concept of “sexual harassment” is absent from the legislative framework, there are no identifying criteria for rape by a husband or partner.

The Right to Own Land and Other Property

Discrimination continues to exist in issues related to inheritance and land ownership.

In practice, when a family farm is set up, family members elect a man as the farm head, even if legally the owners or users of the land are women.

The State is not conducting a public information campaign aimed at raising women’s awareness of their socio-economic rights, specifically those rights which relate to land and land ownership.

Most women, unlike men, cannot exercise the right to obtain a land plot for carrying out farming, since the Land Code grants this right to citizens who possess

specialised agricultural knowledge and qualifications and practical experience of working in agriculture.

On formal grounds, many women living in rural areas can be legitimately refused the acquisition of a plot of land.

The outwardly fair de jure qualifying requirement for obtaining a plot of land can be interpreted de facto as indirect discrimination against women, since the right to own, manage, use and maintain property is central to women's rights to acquire financial independence.

1. To introduce the status of "single mother" to laws and regulations.
2. To develop an agricultural loan concessions system for farms run by women.
3. To include measures in Kazakhstani Concept Documents and Programmes on gender policy to address indirect discrimination against women related to obtaining access to land and its management.

ARTICLE 11. THE RIGHT OF EVERY PERSON TO AN ADEQUATE STANDARD OF LIVING FOR THEMSELVES AND THEIR FAMILY, INCLUDING ADEQUATE NUTRITION, CLOTHING AND HOUSING, AND TO A CONSISTENT IMPROVEMENT IN LIVING CONDITIONS

Kazakhstan has adopted a number of State and industry-sponsored programmes aimed, amongst other things, at ensuring the rights of children and women to adequate living standards, adequate housing and adequate nutrition.

At the same time, these measures are mostly "cosmetic" in nature. The measures adopted by the State are insufficient to remedy the situation in this area and are in fact largely an imitation exercise aimed at promoting a positive image of Kazakhstan in the democratic international community, and ultimately, among other things, obtaining approval to join the OECD.

Having salaries lower than men's, women have, as before, fewer opportunities and rights to achieve adequate living standards, nutrition and housing; the size of their incomes is insufficient to achieve even minimal indicators.

Women and children with an inadequate standard and quality of life live predominantly in rural areas.

Through their decisions and actions, many judges and state officials violate the inviolable right of women and children, being the most socially vulnerable categories, to a decent standard of living.

The recommendations made by the Committee on Economic, Social and Cultural Rights dated 21st May 2010, and by UN Special Spokesperson R. Rolnik, on the issue of adequate housing, remain effectively unimplemented.

In Kazakhstan, the number of economically disadvantaged citizens and citizens in poverty is several times higher than the official statistical data, since, according to experts, the minimum subsistence level should be around KZT50,000.

As of today, the majority of Kazakhstanis do not have proper access to most elements required for an adequate standard of living.

The introduction of mandatory social medical insurance, the reduction in the categories of “people waiting” for free or preferential rented State housing, and the move away from any link between a minimum subsistence level and a minimum wage are evidence that the State is moving away from the principles of a social welfare state elected for previously in the Constitution. As a result of this, an adequate standard of living and adequate housing are becoming unattainable goals for most average citizens of Kazakhstan.

The Right to Affordable Housing

Kazakhstan has adopted a number of measures for the implementation of the recommendations of the UN ICESCR Committee and the Special UN spokesperson concerning the issue of adequate housing.

Housing laws and regulations have been updated, being more oriented towards the needs of socially vulnerable groups of the population, including women and children. However, in practice no real positive changes have taken place.

Four main state-sponsored programmes are currently underway in Kazakhstan, aimed at addressing the population’s housing problems: “Nurly Zher”; the preferential loan programme of the House-Building Savings Bank of Kazakhstan; “7-20-25”, and the Rented Housing Programme.

The National Bank’s 2014 financial stability report concluded that “housing in Kazakhstan is relatively unaffordable, and based on UN standards, is becoming even more unaffordable”. Among the reasons given for this problem, the National Bank highlighted the low purchasing power of the population and existing mortgage loan conditions.

At the same time, insufficient housing is being built both under State-sponsored programmes and by private companies. Moreover, it is expensive for those on a low income and quite often of poor quality.

It is a known fact that Kazakhstan has seen a number of cases of new houses, built in breach of all standards, collapsing or prematurely failing. As a result, many residents of these houses have been left without equivalent housing.

Increased problems related to mortgage loans, an inability to pay off mortgage loans because of a change in the dollar exchange rate, and a reduction in personal income, have all been observed.

In October 2018 the selling price of one square metre of new housing on average across Kazakhstan rose by 0.2% compared to the previous month and totalled KZT265,300; the resale price of well-equipped housing totalled KZT184,900 per square metre. In order to purchase a 22 m² apartment in a newly-built building, costing KZT 5,836,600 on average, a woman with an average level of income would have to save for 136.5 months, or almost 11.4 years. If she is a single mother, she has virtually no realistic chance of saving for the purchase of a home.

It is not uncommon, because of delays in paying off a mortgage, for banks to repossess a home without a court decision, including from single mothers and women of pension age.

Equally, instances have been observed of single mothers and mothers with many children being evicted, together with their children, from their only home, without sufficient prior notice, judicial review or proper court supervision.

The authorities have made attempts to solve the problem of the unofficial townships which have sprung up on the outskirts of Astana and Almaty, and elsewhere in Kazakhstan, by granting their residents opportunities either to legally register land plots or to solve their housing problems within the framework of a number of state-sponsored programmes.

However, in practice the authorities are more inclined to use forceful and repressive measures to stamp out self-acquisition of land.

Having lost their home, particularly when it is their own and only home, people set fire to themselves, declare hunger strikes, commit suicide, and behave aggressively towards court officers, even using physical violence etc.

During attempts to demolish houses on such land plots, women and children erect barricades and form human chains in front of the property, threatening to set fire to themselves.

Similar instances also occur during eviction from homes located on land plots confiscated “for the needs of the State”.

The amount of compensation paid out by the local administrative authorities (akimats) to people, in lieu of plots confiscated for the needs of the State, is disproportionately small compared to the market value and the opportunities available to acquire housing of equal value.

Another unresolved problem is that of conflict of laws and the unfair decisions made by State bodies.

These kinds of problems are widespread in judicial practice.

1. To increase the volume of municipal housing stock made available for orphaned children, disabled children, families with large numbers of children and single-parent families.
2. To strengthen monitoring of observance of the rights of Kazakhstanis to housing, and to move away from the practice of using force to solve the issue of arbitrary acquisition of land.
3. To take measures to increase the level of professional training and legal culture among employees of court, legislative and administrative bodies with respect to women’s and children’s rights to an adequate standard of living and to the observance of strict monitoring of the implementation by Kazakhstan of its international obligations in this area.
4. To review the issue of adopting, at legislative level, a provision concerning an adequate standard of living for Kazakhstanis, together with guarantees that this right will be protected.

The Right to Adequate Nutrition

The current minimum subsistence level in Kazakhstan does not cover an adequate level of physiological requirements in food, and significant numbers of women and children are not provided with an adequate level of nutrition.

The nutritional intake of the average resident of Kazakhstan does not meet WHO standards. According to these standards, a person should consume around 959 kg of food per year.

Based on December 2017 data, women of “child-bearing age” (18-29 years old) have a lower minimum subsistence level than men of the same age: 22% lower.

In Kazakhstan, no official statistics are gathered regarding production of organic foodstuffs; State registers of organic producers and processing companies are not being developed.

Iron deficiency is widespread among children aged 12-14 years (49.4%), women of reproductive age (48.2%), and children aged 6-59 months (47.4%).

Vitamin A deficiency was found in 57% of children aged 6-59 months. Only 16% of Kazakhstani children have a normal amount of this vitamin in their blood. Folic acid deficiency is observed in 15.3% of children.

Instead of good quality fresh meat and vegetables, small children and pregnant women often use cheap powder-based soups and flavourings with harmful chemical additives.

As a result of consuming cheap food filled with carbohydrates and fats, a third of Kazakhstani women suffer from excess body weight and just over a quarter suffer from obesity; amongst children every fifth child aged between 1 and 14 suffers from obesity. This category of citizens does not have the financial resources to visit swimming pools or fitness centres.

1. To bring the minimum subsistence level in Kazakhstan into line with Article 5 Para 2 of International Labour Convention No. 117 “On Social Policy (Basic Aims and Standards)”.

2. To review the food basket standard for the minimum subsistence level, taking account of the nutritional standards recommended by the World Health Organisation.

3. To raise the minimum wage to 60% of the average monthly nominal wage, in accordance with Article 4 Para 1 of the European Social Charter, under which the Signatories to the Charter “commit to recognising the right of workers to a remuneration which will provide a decent standard of living for them and for their families”.

The Right to a Healthy Environment

Over the specified period the State has introduced a number of adjustments to laws and regulations aimed at ensuring the rights of women (and children) to a healthy environment.

At the same time, there are a number of serious problems.

Insufficient financing is allocated for the realistic protection of these rights, particularly in small towns and villages.

A real threat to the health of women and children is posed by the problem of refuse, as well as household, industrial and agricultural waste, present in virtually all the country's centres of population.

Pregnant women living near waste dumps run the risk of giving birth to a child with congenital health abnormalities.

In the provinces, dioxins and furans, which form when plastic is incinerated in ovens, affect the bodies of women and children, especially mothers, and can be passed to the foetus via the placenta or breast milk. The population has not been informed of its harmful effect.

Women and children living in rural areas are subjected to the dangers of pathogenic organisms and viral, parasitic and infectious diseases coming from animal farming waste and from burial sites containing animals which have died of a dangerous disease.

Dangerous levels of mercury pollution in the bottom sediment of rivers, in floodplain soil and in fish, combined with a shortage of clean water, uncontaminated fish and uncontaminated agricultural land, are having a highly detrimental effect on the bodies of women and children.

Schoolchildren and employees of state-run establishments who are predominantly women (teachers, library workers, cultural department workers etc) are invited to take part in so-called "Saturday clean-ups" to clear the grounds of rubbish harmful to the bodies of women and children.

Children and women run the risk of accidents which present a threat to health and life, and breathe emissions of harmful substances when heating their houses, especially when using illegal boilers or poor-quality coal.

Where oil fields are being developed, women and children suffer from a whole range of dangerous illnesses.

The population encountered great difficulties when trying to prove the chemical effects on the body of gas emissions from the Karachaganak oil and gas condensate fields, which have shifted in the direction of a school.

In over 30% of Kazakhstani territory, women and children are vulnerable to the effects of radon emissions, which present a real threat of cancer.

The Right to Water and Sanitary Conditions

Significant numbers of women and children do not have access to good quality drinking water. So, as of today, 57.4% of people in rural areas and 93.8% of people in towns and cities have access to a centralised water supply.

Women living in rural areas experience the most difficulties associated with exercising women and children's rights to safe and clean drinking water and sanitation.

Mothers with many children and women on low incomes do not have access to water and proper sanitary conditions because of the high cost of piping in water. At the same time, not a single provider takes responsibility for quality and safety of water in private wells.

1. To adopt a plan of measures to improve women's awareness of the law and to improve their knowledge of women's (and children's) rights to a healthy environment, to water and sanitary conditions, and to increase environmental culture and knowledge in terms of preserving and protecting health and the environment.
2. To introduce more robust monitoring of the involvement of children and women in clearing up rubbish at "Saturday clean-ups".
3. To define a mechanism for covering the costs of removing abandoned manufacturing waste.
4. For handling chemical substances and waste, to conduct a manufacturing risk assessment related to the chemical substances.
5. To create a register of emissions and pollutant transfers in order to systemise and publicise information concerning the main types and volumes of pollutants for the largest industrial and non-industrial sources of pollution.
6. Enshrine the monitoring of CO₃ in legislation, and carry out work aimed at increasing the capabilities of existing laboratories, analysis facilities and state bodies involved in the process of monitoring CO₃.
7. To increase the expert knowledge of NGOs, to train women living in rural areas to conduct community monitoring of state-financed programmes, and to introduce mechanisms for liaising with community councils in order to conduct good-quality community monitoring.
8. To review the possibility of running water pipes to the homes of vulnerable population groups on a free-of-charge or preferential/affordable basis.
9. To create an effective mechanism for protecting vulnerable sections of the population, especially children and women living in industrial towns and in villages near to such towns, against the various threats to life and health observed in their environment.

The Right to Participate in Governing the State

Gender inequality is very prevalent in the sphere of politics.

To this day, there is a low level of representation of women at all decision-making levels in Kazakhstan.

Currently, of 411 acting political state employees, only 40 are women, or 9.7% (11% in 2005).

The representation of women among Government members is 6.25%; in positions of leadership in local executive bodies it is 20.7%. Only 10% of political employees are women (39 out of 386).

Representation of women in the Parliament of the Republic of Kazakhstan is 21.8%, of which 10.2% are in the Senate and 27.1% are in the Mazhilis [lower chamber of the Kazakhstani Parliament].

There are no female heads of administration (akim) amongst the heads of administration (akim) in the regions, the capital and the two cities of national significance. In towns of regional significance, rural districts, townships and villages, 10.7% of head of administration (akim) are women.

The obvious minority of women in power at a decision-making level diminishes their ability to participate in the creation of a fair welfare-based society.

The negative stereotypic presentation of the role of women still exists, as before.

According to survey data, there is a stereotype in Kazakhstani society that politics is “not for women”.

Only 6.8% of the population is familiar with the contents of the Gender Equality Strategy for 2006-2016.

Only 22.4% of women and 24.6% of men believe that housework is the responsibility of both spouses.

According to the report on the activities of the Kazakhstan Commissioner for human rights for 2013, women, when claiming violation of their rights, cited specific instances of work-related discrimination related to pregnancy, child care and domestic violence, as well as raising issues related to moderation of marriage and family relations and registration of awards for mothers with a large number of children.

Women continue to be detained and arrested for participating in and encouraging participation in peaceful demonstrations. This was particularly obvious during the demonstration against land reform.

1. In the interests of ensuring an equal passive voting right at elections of heads of administration (akim) of towns of regional significance, rural districts, townships and villages, the procedure for nominating candidates for the position of head of administration (akim) should be changed and candidates given the right to nominate themselves.
2. To introduce into national laws and regulations a 30% quota for the representation of women at decision-making level in executive, representative and judicial government bodies and in the state and corporate sectors.

ARTICLE 12: THE RIGHT TO THE HIGHEST ATTAINABLE LEVEL OF PHYSICAL AND MENTAL HEALTH (FOR WOMEN AND CHILDREN)

The State does not guarantee the rights of patients, as it is assumed that these rights are automatically ensured by the very existence of medical organisations whose activities are regulated by the Code.

No standards are enshrined at legislative and sub-legislative levels for effective investigation and documentation of torture and other cruel, inhumane or degrading forms of treatment or punishment.

This makes it considerably more difficult for victims of violence, including sexual violence, and they are usually women and children, to collect a body of evidence for a court hearing, and quite often deprives them of the opportunity for obtaining the necessary treatment and rehabilitation.

The actual situation of disabled people in Kazakhstan does not fully satisfy the principles of the Convention on the Rights of Persons with Disabilities. Specifically,

disabled people with mental illnesses are limited in their right to exercise their legal capacity and are completely dependent on their guardians/caregivers.

Reproductive Health

The Ministry of Health deals with issues of contraceptive supply only to women for whom pregnancy is directly contraindicated.

Other groups of women, including women on low incomes, disabled women, women infected with HIV, sex workers, migrants, sexually active teenagers, people of no fixed abode and other vulnerable groups who do not want children, do not have the right to free-of-charge contraceptives.

Since 2010 the number of miscarriages has exceeded the number of medical abortions, following an increase in the number of medically-induced abortions, which women can now bring about because of the availability of black-market medicines of unknown origin. Therefore, abortion statistics, based on their registration, are becoming less and less accurate.

Girls aged 18 and under do not have legal rights to take their own decisions, even regarding examination by a gynaecologist, without their parents or guardians being present; neither do they have the right to obtain contraceptives. The age of consent for sexual relations is, however, defined in law as 16 years.

It is noted that contraceptives are expensive, even in comparison with [other] Central Asian countries. At the same time, proposals from international funds and organisations (UNFPA) regarding provision of investments for free-of-charge provision or subsidising of oral contraceptives are not being implemented in practice.

The reproductive and sexual behaviour of boys and girls is characterised by sexual relations starting at the age of 14-15, frequent changing of sexual partners, and limited knowledge of STDs, HIV/AIDS, and the use of contraceptives, including condoms.

There is no systematic education of teenagers and young people on issues of maintaining sexual and reproductive health, either in comprehensive schools or in specialised secondary educational establishments. The birth rate among 15-19-year olds is 6 times higher than in OECD countries.

This has led to more frequent cases of newborn babies being killed by underage girls because of fear of family reaction or public opinion.

There is a high level of infertility among the population (17% of married couples). At the same time, IVF services are very expensive and thus unaffordable for most families. The State covers the costs of only one procedure, and state financing is sometimes not forthcoming for years.

It is also worth noting the relatively high incidence of STDs, and the inadequate quality of services for prevention, early diagnosis and timely treatment of these infections. The STD infection rate amongst teenagers aged 15-17, based on 2015 figures, was 9.0 per 100 thousand.

As of 1 October 2016, 28,840 cases of HIV infection were registered in Kazakhstan and the HIV infection epidemic is at the concentrated phase. At the same

time, the highest incidence rates of HIV infection are observed among persons who use injected drugs (IDU) and persons in places of detention.

By 2020, according to some forecasts, by 2020, infection through injection will remain the main method of transmission in new cases of HIV, accounting for no less than 50%; 20% of new cases will be attributable to heterosexual transmission.

Moreover, there are numerous cases of patients in need of treatment not being able to access anti-virus therapy programmes, as well as late delivery and prolonged lack of the necessary medicines.

In Kazakhstan, to this day, HIV treatment involves taking 6-8 highly toxic medicines daily. The cost of treating one patient is KZT2.3 million per year, taking account of treatment of toxic after-effects.

In 2017, Kazakhstan purchased antiretroviral therapy medicines via the UNICEF mechanism, leading to savings of KZT1,400 million in the budget. However, the lack of a legal and regulatory framework to regulate this process effectively made this a one-off action.

Kazakhstan remains one of the 18 countries of the European region with a high level of tuberculosis, including tuberculosis with multi-drug resistance. The number of tuberculosis sufferers is growing. In 2016 more than 700 cases were registered, with each of those cases infecting 10-15 people per year.

One reason for the build-up of drug resistance is the poor quality of anti-tuberculosis medicines used. There is no system in Kazakhstan for post-approval monitoring of the quality of medicinal products, and no fully-developed rules for logistical transportation of medicines. Not one of the anti-tuberculosis medicines is included in the WHO's post-approval list.

The Right to an Attainable Level of Mental Health

Kazakhstan has not fully implemented the UN Committee's comments with regard to psychiatric services.

Based on data produced by the Republican Centre for Applied Research into Mental Health, Kazakhstan has 190,945 registered persons with mental and behavioural disorders (not including persons with mental and behavioural disorders caused by consuming psychoactive substances). Of these, 78,409 are women and 32,023 children under 18 years of age. Based on official statistics for Kazakhstan, the number of people with mental illnesses is 1.1%. The number of persons undergoing involuntary treatment in a Republican specialised psychiatric hospital with round-the-clock surveillance is 778, of which 68 are women.

There remains a high level of forced treatment.

The lack of systematic prevention of mental disorders results in low rates of early detection and diagnosis.

The structuring of psychiatric support services is still more oriented towards in-patient treatment. The relative proportion of forced treatment in the psychiatric support system remains quite high at 48.2%.

In most regions of Kazakhstan, including the cities of Almaty and Astana, patients with psychiatric diagnoses are periodically unable to obtain free medicines due to a lack of necessary financing.

A high rate of disability due to mental illnesses is noted.

The Right to the Highest Attainable Level of Physical and Mental Health for Children and Teenagers

There are a total of 13,200 disabled children with infantile cerebral palsy in Kazakhstan, and this figure shows a consistent trend towards growth.

For children aged 0-3, the age most suitable for early diagnosis, treatment and rehabilitation, there are only two dedicated rehabilitation centres in Kazakhstan, each with a small capacity. Children are on rehabilitation waiting list for years at a time and precious time is lost when progress in improving their condition could be achieved.

Furthermore, for disorders and diseases, children are not always given a medical diagnosis of the illness until they reach the age of 3, thus depriving them of the opportunity to receive free rehabilitation.

As a result, almost all disabled children aged between 0 and 3 are effectively deprived of the opportunity for timely rehabilitation, which significantly exacerbates their degree of disability and effectively deprives them of the opportunity of attaining even a minimal level of physical and mental health in future.

Particular attention should be paid to the complex socio-economic position of guardians/caregivers and parents of disabled children. Almost all are single women who receive benefit payments for looking after a disabled child until that child reaches the age of 18. In general, these women do not have the opportunity to receive an education, learn a profession, or build up a decent pension. When the child reaches the age of 18 the State discontinues the payment of benefits, and the disabled person receives the benefit directly. Therefore, the woman effectively loses the means to survive, at the same time as the disabled adult often requires greater efforts to look after them.

The Committee for the Protection of Children's Rights, set up within the structure of the Ministry of Health and Science, is not an independent body. With regard to the numerous cases and instances of violation of children's rights in state-run establishments, the Committee has not taken any actions or made any public statements.

The majority of children raised in orphanages are unjustifiably diagnosed as having delayed mental development, which creates significant difficulties in terms of their subsequent schooling and socialisation and fulfilment of their potential in society.

A lack of legal knowledge and expertise limits these children's opportunity for lifting this diagnosis when they reach the age of 18.

<p>1. To ensure universal access to good-quality family planning advice, at all levels (PHC and youth, post-natal and post-abortion centres), as well as access to methods of contraception for all sections of the population: availability on the market and financial affordability.</p>
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2. To develop a programme to teach teenagers and young people about maintaining sexual and reproductive health, within the scope of mandatory subjects taught in comprehensive schools and special secondary educational establishments (colleges).

3. To change the age at which young people have the right to provide their independent voluntary informed consent to medical services (to 16 years old from the current 18).

4. To develop and adopt a Programme for the development of a psychiatric service in the Republic of Kazakhstan, based on standards and approaches adopted in OECD countries, defining timescales and resources and a roadmap for implementing this programme.

5. To take measures to develop unified standards for the effective investigation and documentation of torture and other cruel, inhumane or degrading forms of treatment and punishment, wherever medical assistance is provided to the population, according to the international principles of the Istanbul Protocol.

6. To take measures to raise public awareness and broaden access to Supportive Substitution Therapy, as an effective method for reducing HIV infection and drug-related crime amongst IDUs.

7. To provide access and continuity of ART therapy for people living with HIV.

8. Using the existing infrastructure as a basis, to develop good-quality and accessible infrastructure for the early rehabilitation of children aged 0-3 with infantile cerebral palsy and neurological diagnoses.

9. To take measures to reinforce the personal responsibility of guardians/caregivers, including managers and employees of children's and infants' orphanages, and to ensure the psychological and physical safety of orphaned children.

10. To develop measures to provide practical support for parents and guardians/caregivers of children with disabilities.