



**International Convention on  
the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9  
OF THE CONVENTION**

**Fourth and fifth reports of States parties due in 2007\***

**Kazakhstan\*\***

[29 July 2008]

\* This document contains the fourth and fifth periodic reports of Kazakhstan, due on 25 September 2007, submitted in one document. For the initial to third periodic reports and the summary records of the meetings at which the Committee considered the reports, see documents CERD/C/439/Add.2 and CERD/C/SR.1662 and 1663.

\*\* In accordance with the information submitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

## Introduction

This periodic report is submitted under article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination; it was compiled in accordance with the General Guidelines regarding the form and contents of reports to be submitted by States parties.

The report was prepared by the Ministry of Culture and Information of the Republic of Kazakhstan in conjunction with the ministries and departments concerned and the National Centre for Human Rights attached to the Office of the President of the Republic of Kazakhstan. The following non-governmental organizations (NGOs) of Kazakhstan assisted with the preparation of the report with regard to the conduct of a sociological questionnaire: the voluntary association “Kazakhstan. A Healthy Generation” and the association of juridical persons “Civic Alliance of Kazakhstan”.

Replies to the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD) are included in the report. An analysis was made of the fundamental legislation and regulations of the Republic of Kazakhstan. The Convention was adopted on 21 December 1965 and ratified by Kazakhstan by an Act of 28 June 1998; it takes priority over national legislation, for article 4, paragraph 3, of the Constitution of the Republic of Kazakhstan (hereinafter “the Constitution”) states: “The international treaties ratified by the Republic take priority over its laws and shall be applied directly, except when the application of the international treaty in question requires the enactment of a law.” The following agencies of the State and advisory/consultative bodies are competent to implement the Convention and give effect to social and cultural rights:

1. The Commission on Human Rights attached to the Office of the President;
2. The Ministry of Justice;
3. The National Security Committee;
4. The Ministry of Internal Affairs;
5. The Ministry of Industry and Trade;
6. The Ministry of Health;
7. The Statistics Agency;
8. The Office of the Procurator-General;
9. The Ministry of Education and Science;
10. The Ministry of Labour and Social Protection;
11. The Ministry of the Economy and Budget Planning;
12. The Ministry of Foreign Affairs;
13. The National Centre for Human Rights (Office of the Human Rights Ombudsman).

## **General information**

The Republic of Kazakhstan covers an area of 2,724,900 square kilometres.

As of 1 January 2008 the Republic had 10,133 administrative subdivisions, including 14 oblasts, the capital city, one city of national significance, 160 districts, nine districts in the capital and the city of national significance, 39 towns of oblast significance and 45 of district significance, five districts in towns of oblast significance, 157 rural and 2,346 village administrations, 163 communities and 7,194 aul/village settlements.

The overall population density is 5.6 persons per square kilometre.

According to current data, as of 1 January 2008 the country's population totalled 15,602,600, including 8,305,000 (53.2 per cent) living in urban areas and 7,241,600 (46.8 per cent) in rural areas. It had increased by 49,100 (0.3 per cent) since the beginning of the [preceding] year

The capital city is Astana.

The city of national significance is Almaty.

Kazakhstan is the world's ninth largest country, after the Russian Federation, China, the United States of America, Argentina, Brazil, Canada, India and Australia. It has 12,187 kilometres of frontier with neighbouring States. It has land frontiers with China, Kyrgyzstan, Uzbekistan, Turkmenistan and the Russian Federation.

The territory of Kazakhstan extends for 3,000 kilometres from west to east and for 1,600 kilometres from north to south.

Kazakhstan has several temperate natural zones: forest steppe, semi-arid and arid. In January the average temperature ranges between 18°C in the north and east of the country and -3°C in the southernmost part. The average July temperature ranges between 19°C in the north and 28°C in the south.

The territory of Kazakhstan is situated in four climate zones: forest steppe, steppe, semi-arid and arid.

The highest point in Kazakhstan is Mount Khan Tengri (7,010 metres); the lowest is the Karagiye Depression (132 metres below sea level).

Nowadays the country's fauna includes 172 species of mammal, 490 bird species, 51 reptile species, 12 amphibious species, and over 100 species of fish.

Kazakhstan is washed from the south-west by the isolated reservoirs of the Caspian and Aral seas.

Kazakhstan is the world's largest landlocked country.

## Population

The population totals 15,602,600.

The regions of Kazakhstan, except for the oblasts of Astana, Kostanai, North Kazakhstan and East Kazakhstan, have undergone population growth. The highest overall growth figures have been recorded in South Kazakhstan oblast (49,031), Almaty oblast (22,582) and the city of Almaty (37,493), and the biggest declines in East Kazakhstan oblast (7,129) and Kostanai oblast (6,141).

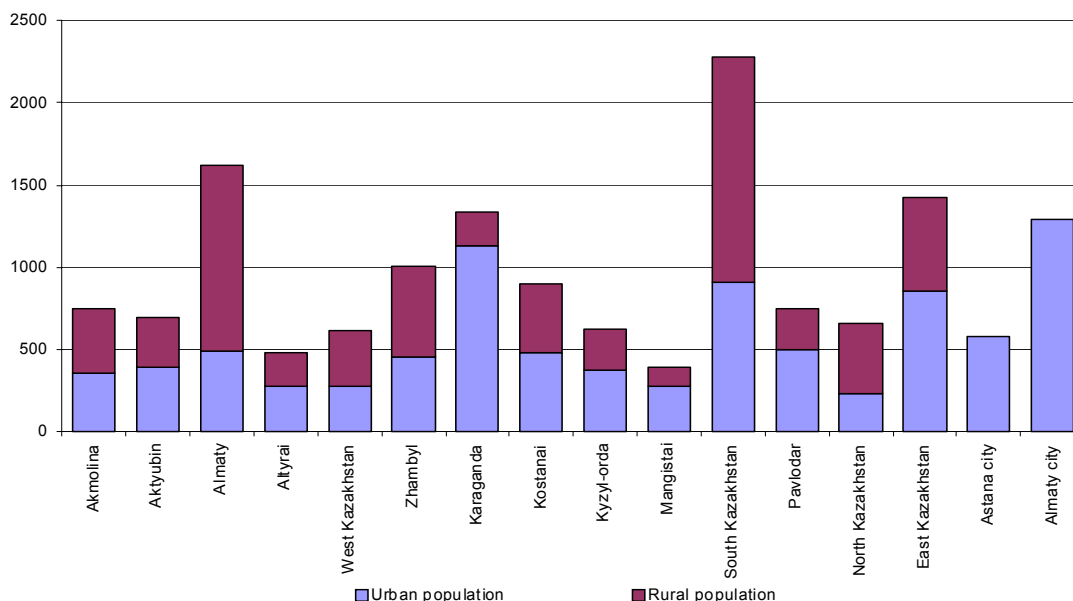
The civil registry offices recorded 86,927 births in the first quarter of 2008 - 9,126 more than the same period of the preceding year. The overall birth rate was 21 per 1,000 inhabitants. The birth rate in the country's regions ranges between 12.7 and 30.3 per 1,000.

### Population composition by nationality

<b>All nationalities</b>	<b>15 602 600</b>
Kazakh	9 336 752
Russian	3 915 607
Uzbek	450 855
Ukrainian	4 311 157
Uighur	237 288
Tatar	227 472
German	221 412
Korean	103 159
Azerbaijani	91 739
Belarusian	88 801
Turkish	87 713
Dugan	47 617
Polish	40 422
Kurdish	38 849
Chechen	36 412
Tajik	33 404
Others	213 941

### Population numbers as of 1 January 2008

Thousands



The largest proportions of urban population are found in Karaganda and Mangistai oblasts (84.7 and 69.4 per cent respectively). In South Kazakhstan, North Kazakhstan and Almaty oblasts the population is predominantly rural (60.2 to 69.9 per cent of the total).

The overall population increase in the period January-December 2007 was 175,300, including 141,600 in urban areas. This period saw overall population increases in 13 regions of the country (the exceptions being East Kazakhstan, Kostanai and North Kazakhstan). The biggest increase was in South Kazakhstan oblast and Almaty city: 48,500 and 39,100 respectively; the biggest decline (6,700) was in East Kazakhstan oblast.

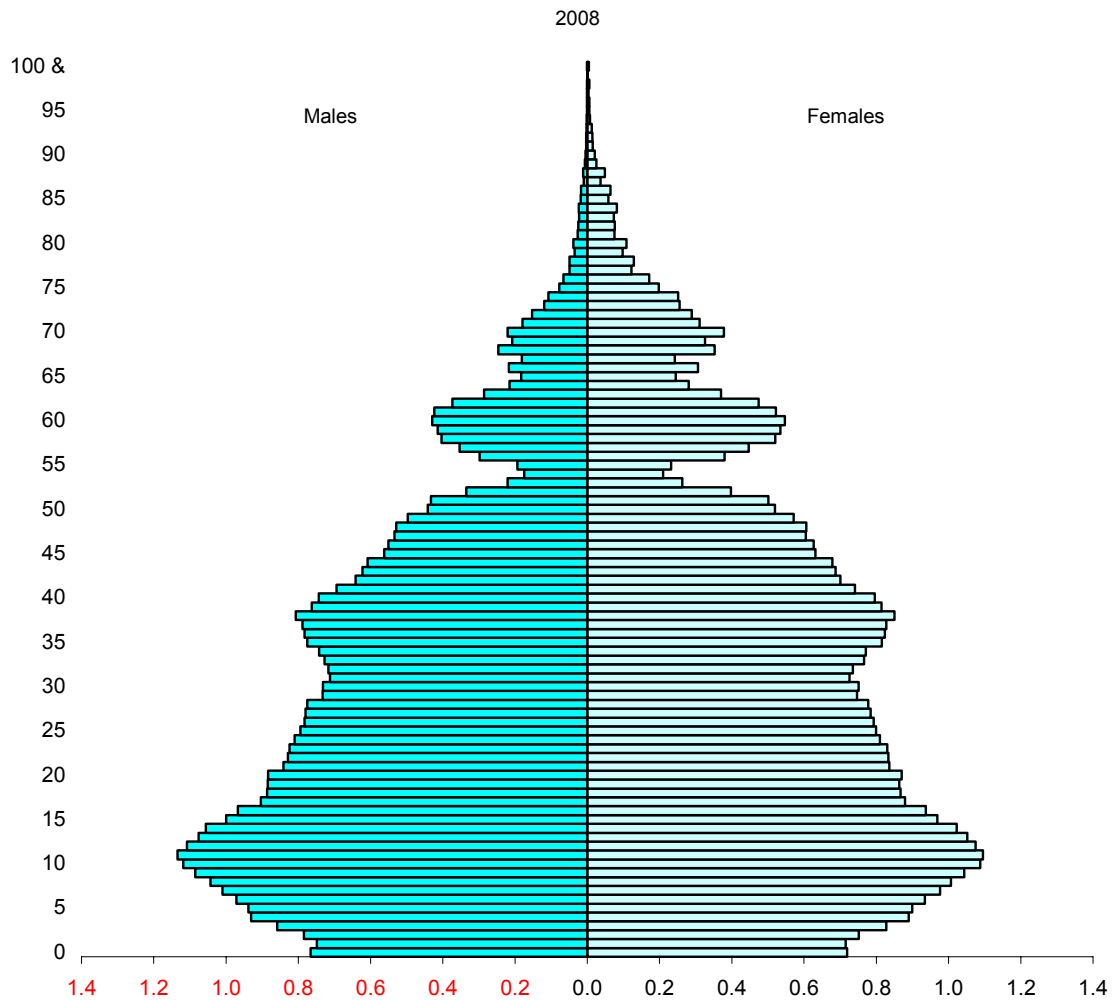
As of 1 January 2008 the country's population had increased by 174,650 since 1 January 2007, to stand at 15,620,600. This population growth was due basically to a higher birth rate.

The age composition of Kazakhstan's population on 1 January 2008 was as follows: children aged under 15 years – 3,729,900 (3,691,700) or 24 per cent; persons aged between 15 and 65 years – 10,635,600 (10,497,300) or 68.3 (68.2) per cent; persons aged 65 years or older – 1,206,000 (1,207,900) or 7.7 (7.8) per cent of the total. In comparison with 1 January 2007, the number of children aged under 15 years increased by 38,200 (1 per cent) and persons in the 15-64 age group by 138,300 (1.3 per cent). The number of persons aged 65 or older declined by 1,900 (0.2 per cent).

In gender terms, females were in the majority: there were 1,078 females for every 1,000 males.

### The sex and age pyramid as of 1 January 2008

Percentages



### Political and legal systems

#### The Constitution

The Constitution currently in force is the second to be adopted during the 17 years of Kazakhstan's independent existence. The first Constitution was in force from 28 January 1993 to 30 August 1995. Up to 1993 the country was governed by the Constitution of the Kazakh Soviet Socialist Republic. The present Constitution was adopted by the referendum of 30 August 1995. Amendments were made to it on 7 October 1998: in particular, the terms of office of members of Parliament and the President were extended. These amendments also abolished the upper age limit for election to the post of President and appointment to civil service posts.

Further changes and additions were introduced in the Constitution pursuant to the Constitution of the Republic of Kazakhstan (Amendments and Additions) Act of 21 May 2007, including:

- Authorization for the State financing of civil society organizations, including political parties (this was previously subject to a constitutional prohibition);
- Reduction of the number of crimes for which an exclusive measure of punishment - the death penalty – is provided;
- Transfer to the courts of the power to order pre-trial detention (previously a function of the procuratorial authorities);
- Reduction of the term of office of the President from seven to five years;
- Removal of the provision that during his term of office the President must suspend his or her membership of his or her political party;
- Increase of the number of seats in the lower (Majilis) and upper (Senate) chambers of Parliament;
- Increase of the number of members of the Senate appointed by the President;
- Introduction of a compulsory rule that members of the Majilis lose their seats if resigning or dismissed from the political party from whose list they were elected or if this party is wound up;
- Increase of the term of office of members of representative bodies (maslikhats).

The Constitution guarantees the fundamental human rights and freedoms (Section II). It may be amended and supplemented by Parliament on the proposal of the President. Amendments and additions may also be adopted by national referendum held by decision of the President acting on his own initiative or on the proposal of Parliament or the Government. A draft amendment or addition is not submitted to a national referendum if the President decides to refer it to Parliament for consideration. In such cases the parliamentary decision is taken in accordance with the procedure set out in the Constitution. If the President rejects a parliamentary proposal to submit an amendment or addition to a national referendum, Parliament is entitled, by a majority of at least four fifths of the total membership of each chamber, to pass an act incorporating the amendment or addition in the Constitution. In such an event the President must either sign the act or submit it to a national referendum, which is deemed to have been held if votes are cast by more than one half of the citizens of the Republic entitled to take part in national referendums. An amendment or addition submitted to a national referendum is deemed adopted if it is supported by more than one half of the citizens participating in the vote in at least two thirds of the administrative oblasts, the city of national significance and the capital.

### **The President**

Kazakhstan has a presidential form of government. The President of the Republic is elected for a term of five years in accordance with the Constitutional Act on Elections of 28 September

1995 by the citizens of the Republic of the age of majority on the basis of universal, equal and direct suffrage in a secret ballot. The same person may not be elected President more than twice in succession. However, this provision does not apply to the first President of the Republic.

The President determines the main directions of the domestic and foreign policy of the State; he sets the dates of parliamentary elections; he takes decisions on the conduct of national referendums; and he signs legislative acts, international treaties and instruments of ratification. The President is empowered to propose legislation.

Following consultations with factions of the political parties represented in the Majilis the President may submit to the Majilis for approval his candidate for the post of Prime Minister of the Republic; having obtained such approval he appoints the Prime Minister, whom he may also remove from his post; on the Prime Minister's proposal he determines the structure of the Government and constitutes, dissolves and reorganizes the central executive organs of the Republic which do not form part of the Government; he appoints the members of the Government; he appoints the ministers of foreign affairs, defence, internal affairs, and justice and he may remove members of the Government from office; he swears in the members of the Government; he presides over meetings of the Government on especially important issues; he may instruct the Government to table draft legislation in the Majilis; he may revoke or suspend fully or partially acts of the Government or the Prime Minister or the akims (governors) of the oblasts, the city of national significance and the capital. With the consent of the Senate the President appoints the chairman of the National Bank, the Procurator-General and the chairman of the National Security Committee; he also removes them from their posts.

The President appoints for a term of five years the chairman and two of the members of the Central Electoral Commission and the chairman and two of the members of the National Budget Performance Monitoring Committee. He appoints the president and two of the members of the Constitutional Council.

After consulting the presidents of the chambers of Parliament and the Prime Minister the President may dissolve Parliament or its lower chamber.

The President is the Supreme Commander-in-Chief of the Armed Forces of the Republic. He constitutes the Security Council and other consultative/advisory bodies, the People's Assembly of Kazakhstan and the Higher Council of the Judiciary.

The President takes decisions on questions of citizenship and the granting of political asylum, pardons citizens and confers State decorations, honours and higher military and other ranks, service grades, diplomatic ranks, and higher qualifications, as well as performing the other duties specified in the Constitution and laws of the Republic.

The President has the right to veto acts adopted by Parliament and to revoke or suspend any regulatory measures introduced by the Government or the executive authorities; he may issue decrees and orders of binding force in the national territory, and in the cases specified in the 1995 Constitution he may issue laws and decrees having the force of laws of the Republic. The President's other powers are set out in the Constitutional Act of 26 December 1995 on the Presidency of the Republic of Kazakhstan.



The President may be removed from office by Parliament only if he commits treason against the State. A final decision to remove the President requires the support of a majority of at least three quarters of the total membership of each of the two chambers, following a decision by the Supreme Court that the charge of treason is justified and a decision by the Constitutional Council that the established constitutional procedures have been observed.

The President may be relieved of his post before the end of his term of office in the event of a persistent incapacity to perform his duties owing to ill health.

### **The Parliament**

The Parliament consists of two chambers - the Senate and the Majilis – which are in permanent session. The Senate is constituted on the basis of two members from each oblast, the city of national significance and the capital. Senators are elected by the members of the representative local authorities – the maslikhats. Fifteen senators are appointed by the President of the Republic on the basis of the country's nationality composition and cultures and other important interests of society.

The Majilis has 107 members. Ninety-eight of these members are elected by universal, equal and direct suffrage in a secret ballot. The other nine members are elected by the People's Assembly of Kazakhstan. Seats in the Majilis are distributed on the basis of party lists to the political parties obtaining at least seven per cent of the votes cast in the election. Senators are elected for a term of seven years, members of the Majilis for five years.

The mandate of a member of Parliament is terminated in the event of retirement or death, the declaration in a final court decision that the member lacks legal capacity, is dead, or missing with whereabouts unknown, and in the other cases specified in the Constitution and constitutional legislation.

The mandate of a member of Parliament is terminated if he or she takes up permanent residence outside Kazakhstan, is convicted of a criminal offence for which the sentence has become final or loses Kazakh nationality.

This mandate is also terminated if the member leaves or is expelled from the political party from whose list he or she was elected in accordance with the constitutional legislation, or if that political party is wound up in accordance with such constitutional legislation. The mandates of appointed senators may be terminated before the end of their term of office by decision of the President of the Republic.

The mandates of members of either chamber of Parliament are terminated in the event of the dissolution of the chamber in question.

Parliament enacts, amends and supplements legislation and ratifies and denounces Kazakhstan's international treaties.

At joint sessions of its two chambers Parliament may:

- Adopt amendments and additions to the Constitution, on the proposal of the President;

- Approve the reports of the Government and the National Budget Performance Monitoring Committee. Failure by Parliament to approve the Government's budget performance reports constitutes a vote of no confidence in the Government;
- On the President's proposal, delegate to him, by a two-thirds majority of the total membership of each chamber, legislative powers for a maximum period of one year;
- Take decisions on matters of war and peace;
- On the President's proposal, take decisions on the use of the armed forces in order to fulfil international obligations with respect to the maintenance of peace and security;

Exercise the other powers assigned to it by the Constitution.

Authority to propose legislation is held by the President of the Republic, the members of Parliament, and the Government; such proposals are acted on exclusively by the Majilis.

If an act or an article of an act prompts an objection by the President, Parliament conducts a detailed examination of the issues in two readings, one in the Majilis, the other in the Senate, followed by a vote, within one month of the notification of the objection. Failure to comply with this time limit constitutes acceptance of the President's objection. If the Majilis and the Senate, by a two-thirds majority of the total members of each chamber, confirm a decision taken earlier, the President must sign the act in question into law within one month. If either of the two chambers fails to vote down the President's objections, the act may be deemed either rejected or adopted in the wording proposed by the President. The President's objections to constitutional acts may be rejected by a vote of at least three quarters of the total membership of each chamber.

The Senate elects and dismisses (on the proposal of the President of the Republic) the President of the Supreme Court and its judges, approves the President's nominees for the chairmanship of the National Bank, the post of Procurator-General and the chairmanship of the National Security Committee.

The Senate performs the functions of Parliament with regard to the adoption of constitutional and other acts when the Majilis is not in session owing to its suspension before the end of its term.

The acceptance for consideration of draft constitutional and other acts submitted to Parliament and their consideration lie within the exclusive province of the Majilis, which also approves by a majority vote of its total membership the President's candidate for the post of Prime Minister.

On the proposal of at least one fifth of its total membership the Majilis is empowered to adopt, by a simple majority of its total membership, a vote of no confidence in the Government. The President may dissolve Parliament or the Majilis following consultation of the presidents of the two chambers and the Prime Minister.

The organization and activities of Parliament and the legal status of its members are set out in the Constitutional Act on Parliament (Status of Members) of 16 October 1995.

## **The Government**

The Government is formed by the President of the Republic; it is responsible to the President and subordinate to Parliament.

The Prime Minister is appointed by the President with the approval of the Majilis.

Parliament considers the Government's Programme and approves or rejects it. Following its consideration of the Government's reports each chamber of Parliament entitled, by a majority vote of its total membership and without involvement of the other chamber, to adopt a request to the President of the Republic for the removal from office of a member of the Government for failing to comply with the law. If the President rejects such a request, the members of the chamber in question have the right by a majority vote, six months after the date of the original submission, once again to put to him a request for removal of the member of the Government. The President must then dismiss that member.

The President is entitled on his own initiative to decide to dissolve the Government or to remove any of its members from office. The removal of the Prime Minister signifies the dissolution of the Government. The powers of the Government and its organizational and operational procedures are set out in the Constitutional Act of 18 December 1995 on the Government of the Republic of Kazakhstan.

## **The Constitutional Council**

The Constitutional Council is formed in accordance with the 1995 Constitution. It reviews the legislation enacted by Parliament before signature by the President to ensure that it is compatible with the Constitution; it examines the country's international treaties before ratification for the same purpose; it issues official interpretations of the provisions of the Constitution; in the event of a dispute it rules on the correctness of the conduct of the election of the President and the members of Parliament and the conduct of national referendums, and it reviews the decisions taken by Parliament and its chambers to ensure their compatibility with the Constitution; it exercises the other powers specified in the Constitution.

The Constitutional Council performs these functions only at the request of the President of the Republic, the Prime Minister, the President of the Senate, the President of the Majilis or a majority of at least one fifth of the total membership of Parliament. Acts and other legislation deemed to be unconstitutional, including acts and legislation infringing the human rights and freedoms or the rights and freedoms of citizens enshrined in the Constitution, are revoked by the Constitutional Council and become inapplicable.

The Constitutional Council comprises seven members appointed for a term of six years. Former presidents of the Republic are by right life members of the Council. Two members are appointed by the President of the Republic, and the Senate and the Majilis each appoint two members.

## **The courts and justice**

The courts consist of permanent judges, whose independence is protected by the Constitution and the law. The system consists of the Supreme Court and the local courts

established by law. All judges except for the members of the Supreme Court are appointed by the President. The Supreme Court is Kazakhstan's highest judicial organ. The President and judges of the Supreme Court are elected by the Senate on the proposal of the President of the Republic made in the light of the recommendation of the Higher Council of the Judiciary.

The courts are not entitled to apply laws and other legislation which restrict the human rights and freedoms or the rights and freedoms of citizens enshrined in the Constitution.

The status of the courts and the procedures for their formation and the organization of their work are set out in the Constitutional Act on the Court System and Status of Judges of 25 December 2000, while the status and procedures of the Higher Council of the Judiciary are governed by the Higher Council of the Judiciary Act of 28 May 2001.

Jury trials were introduced in Kazakhstan on 1 January 2007.

### **The Office of the Procurator-General**

The Office of the Procurator-General is responsible for the overall supervision of the accurate and uniform application of laws, presidential decrees and other legislation; it represents the interests of the State in the courts and it conducts criminal investigations in accordance with the limits prescribed by law.

The Office constitutes a single centralised system staffed by junior procurators subordinate to senior procurators and to the Procurator-General, who is appointed by the President of the Republic for a term of five years. The Office is answerable solely to the President.

The powers, organization and activities of the Office are set out in the Office of the Procurator-General Act of 21 December 1995.

### **Local authorities**

State government at the local level is in the hands of local representative and executive bodies, which are responsible for the situation in their respective areas. The local representative bodies (maslikhats) are elected by the people by universal, equal and direct suffrage for a term of five years.

The maslikhats are responsible for the following matters: approval of plans, economic and social programmes for the development of the local area, and local budgets and budget performance reports; decisions on questions of local administration and development; examination of the reports of the heads of local executive bodies on matters falling within the jurisdiction of the maslikhat; and the exercise of other powers to protect the rights and legitimate interests of citizens.

The local executive bodies are part of a unitary national system of executive bodies; they are responsible for carrying out the State-wide policies of the central Executive in their respective areas.

Local executive bodies are responsible for the following matters: the formulation of economic and social development plans and local budgets; the management of community property; and the exercise of the other powers set out in the Constitution and legislation.

The akims (governors) of the oblasts, the city of national significance and the capital are appointed by the President of the Republic with the approval of the maslikhats of the oblasts, the city of national significance and the capital.

The conduct of a vote of no confidence in an akim may be called for on the initiative of at least one fifth of the total membership of a maslikhat. In such cases the maslikhat is entitled, by a simple majority of its total membership, to express its lack of confidence in the akim and to submit a request for his removal from office to the President of the Republic or to a more senior akim, as appropriate. The mandates of akims of the oblasts, the city of national significance and the capital are terminated when a newly elected President takes up his post.

### **Human rights legislation and institutions**

In the period since independence Kazakhstan has done an enormous amount to improve its legislation and bring it into line with the provisions of the international human rights instruments which the country has ratified. It has set up such human rights bodies as the Commission on Human Rights attached to the Office of the President, the Office of the Human Rights Ombudsman, and the National Commission on Family Affairs and Gender Policy, also attached to the Office of the President.

The Commission on Human Rights is one of the types of national human rights body found most commonly throughout the world. It was established by presidential decree in 1997.

Pursuant to the Order on the Commission on Human Rights attached to the Office of the President, which was confirmed by a presidential decree dated 19 March 2003, the Commission's principal task is to assist the Head of State in the exercise of his constitutional mandate to safeguard human rights and freedoms. The Commission prepares proposals to improve the State's human rights policies and boost the effectiveness of the human rights machinery. The principal benefit of the submission of petitions to the Commission is that this procedure enables the Commission to examine the human rights situation and identify deficiencies in the legislation and in its practical application by State agencies.

As a consultative/advisory policy institution, the Commission collaborates with State agencies, the courts, the Office of the Procurator-General and the police, as well as with non-governmental organizations (NGOs), which have become its natural partners in protecting the legitimate rights and interests of the people of Kazakhstan.

In addition, the post of Human Rights Ombudsman was created in accordance with Presidential Decree No. 947 of 19 September 2002, which also established the Centre for Human Rights as a State agency concerned with the information, analytical, organizational, legal and other aspects of the work of the Human Rights Ombudsman.

The emergence of the figure of Ombudsman in Kazakhstan was a result of the development and democratization of Kazakh society and the growth of the idea of human rights in the country. The establishment of this new State institution was preceded by efforts in many

areas to make its functions better known and to analyze and project its impact in improving the governance of the State.

The National Commission on Family Affairs and Gender Policy was also established in 2006, under the Office of the President; it was transformed in May 2008 into the National Commission on Women and Family and Demographic Policy attached to the Office of the President.

Pursuant to article 2, paragraph 1, of the Civil Code, civil legislation is based on recognition of the equality of the subjects of such legislation, the inviolability of property, the freedom to conclude contracts, the inadmissibility of any kind of arbitrary interference in private affairs, the need for direct exercise of civil rights, and guarantees of the restoration of violated rights and of their judicial protection.

According to article 5 of the Code of Civil Procedure, the function of civil legal proceedings is to defend violated or disputed rights and freedoms and the legally protected interests of citizens, the State and organizations, to reinforce the rule of law and the implementation of public policy, and to prevent crime.

The following are the purposes of the Criminal Code, which was adopted on 16 July 1997: to protect human rights and freedoms and legitimate civil rights, property, the rights and legitimate interests of organizations, public order and security, the environment, the constitutional order and territorial integrity of the Republic of Kazakhstan, and the legally protected interests of society and the State against criminal attacks, to maintain the peace and security of mankind and to prevent crime.

Article 8, paragraph 2, of the Code of Criminal Procedure provides that the arrangements for the conduct of criminal proceedings established by law must ensure protection against unwarranted indictment or conviction and the unlawful restriction of human rights and freedoms and the rights and freedoms of citizens, the full and immediate rehabilitation of an innocent person who has been unlawfully indicted or convicted, the reinforcement of the rule of law and the implementation of public policy, the prevention of crime, and the promotion of respect for the law.

The purposes of Kazakhstan's penal correction legislation are to restore social justice, reform criminals, and prevent re-offending by criminals and the commission of crimes by other persons. Accordingly, this legislation seeks to regulate the procedures and the conditions under which sentences are served and specifies the means of reforming criminals, protecting their rights, freedoms and legitimate interests, and rendering them assistance in re-adapting to life in society.

### **Human rights information and publicity**

The National Plan of Action for Human Rights Education in Kazakhstan 2006-2007 (hereinafter "the National Plan") was approved by a presidential decision of 30 June 2006.

Kazakhstan endorses the goals of the World Programme for Human Rights Education (hereinafter "the World Programme") recommended by the United Nations General Assembly

and notes that human rights education makes an enormous contribution to the human rights cause.

Resolution 2004/71 of the Commission on Human Rights, adopted with respect to the first stage (2005-2007) of the World Programme, devotes special attention to systems of primary and secondary education. Kazakhstan accordingly made commitments to conduct research into human rights education in its secondary schools and to formulate the National Plan.

It must be pointed out that the World Programme was not the first to be undertaken over the lengthy process of human rights education. Specific international action frameworks, such as the United Nations Decade for Human Rights Education (1995-2004), were adopted as a means of promoting initiatives in this field; they have facilitated the formulation and implementation of comprehensive, effective and durable strategies to advance human rights education at the national level.

In the course of the formulation of the National Plan the Ministry of Education and Science conducted a national study of human rights education in general secondary schools with the aid of experts and sociological organizations.

At the same time, indicators were established to monitor knowledge of human rights. They include: schoolchildren's awareness of the fundamental human rights; the number of hours allocated to the teaching of human rights; the provision of human rights textbooks and other learning aids, etc.

All this work provided a general picture of human rights education in secondary schools.

The number of hours devoted to the teaching of human rights in the various grades ranges between four and five a month, in addition to which there are optional classes and out-of-school activities.

The results of a questionnaire showed that most pupils (96 per cent) are very interested in studying their rights in greater detail in school. The proportion of children knowing where to turn if their rights are infringed increases from the junior to the senior grades (from 43 to 58 per cent).

Parents and the family play a big part in providing children with knowledge and practical assistance with regard to human rights issues: more than half of pupils receive information about human rights from their parents, and they also turn to their parents when their rights are infringed.

The widespread discussion of the findings of this study and the resulting recommendations and proposals are helping to improve human rights education and increase the emphasis on the importance of human rights education in the teaching of civics and other law-related subjects. A series of events was held in conjunction with the Office of the Human Rights Ombudsman and NGOs and with the support of the Kazakhstan Centre of the Organization for Security and Cooperation in Europe (OSCE) in order to promote widespread discussion of the national study project.

Attention must be drawn to the positive trends in human rights education in Kazakhstan. Human rights are becoming rooted in and exercised throughout the education system at all its levels.

The National Plan includes goals, priorities and measures to promote its implementation which were determined in the light of the findings of the national study. It sets out the eight priorities related to the components of human rights education in secondary schools proposed in the World Programme.

The goals of the National Plan were set for the short term (2006-2007) in view of the need to complete the first stage (2005-2007) of the World Programme. The intention is to make an assessment of the achievements so far and to formulate a plan for carrying out the next stage of the World Programme in the light of the results of the implementation of the National Plan.

The following are the basic goals of the National Plan: to improve instruction in a culture of human rights; to implant a general understanding of the core principles and methods of human rights education; to ensure that special attention is paid to human rights education at the national and international levels; to increase collaboration and cooperation among all the interested parties in order to develop and improve human rights education; and to improve the existing human rights curricula taught in schools.

The effects of the implementation of the measures of the National Plan will be seen in the development of a culture of human rights in schoolchildren able to make active and informed use of their rights, in an improvement in their knowledge of the law and in a decline in juvenile crime, as well as manifesting themselves in other positive ways. But it must be remembered that the improvement of the system of human rights education and the work of instilling in pupils a spirit of respect for human rights are an endeavour beset with great difficulties which will be overcome only by prolonged and purposeful effort.

Attainment of the goals which have been set will require close cooperation among all the parties concerned in this process: State agencies, international organizations, the non-governmental sector, and teachers and pupils themselves.

The National Plan thus constitutes a series of concrete and scheduled priority measures to improve human rights education in the country's secondary schools.

A number of measures to foster the development of a human rights culture among schoolchildren are being carried out under the National Plan:

- Since the 2006-2007 academic year schools have included rights-related subjects in the lists of subjects of national olympiads and competitions in scientific projects;
- From 30 November to 20 December 2006 general secondary and primary and secondary vocational schools participated in a national project entitled "Legal knowledge for schoolchildren" implemented by students of institutions and schools of higher education, as well as organizing other special events to mark Human Rights Day and commemorate the Universal Declaration of Human Rights;



- The website of the Ministry of Education and Science has a “Human rights education” page;
- Special features on problems of human rights education have been produced and published in magazines and newspapers: “Kazakhstan adult education”, “Kazakhstan tarikhy”, “History of Kazakhstan: teaching in schools and institutes of higher education”, “Kazakhstan teacher”, “Kazakhstan mugalimi”, “Kazakhstan mektebi”, “Metropolitan education”, etc.

As prescribed by the mandatory State education standards, pupils in general education schools take a course of civic/legal subjects: in the junior classes – “Mother tongue” and “Knowledge of the world”; in the senior classes – “History” (51 hours a year), “History of Kazakhstan” (51 hours), “Basic civics” (68 hours), and “Basic jurisprudence” (68 hours). In addition, there are special courses devised by the International Foundation for Electoral Systems, taught in the “Introduction to citizenship” programme.

Since the 2005-2006 academic year all schools have been working on the regional project “Researching humanitarian law” (RHL), one of the basic aims of which is to disseminate knowledge about international humanitarian law. This programme is designed to curtail and prevent violations of humanitarian law and fundamental human rights by developing pupils’ world outlook and teaching them to research various aspects of a specific problem and engage in constructive discussion of it. This course develops pupils’ interest in and understanding of contemporary social and political events: they learn to evaluate ongoing events and humanitarian actions from the standpoint of international law and familiarize themselves with the work of voluntary associations whose vocation is to support vulnerable population groups. A pilot RHL project is being carried out in 30 general education schools in Almaty, South Kazakhstan, Zhambyl and Kyzyl-orda oblasts.

The coordination and methodological aspects of the RHL project are in the hands of the education system’s National Institute for Improvement of the Qualifications of Science Teachers and its regional institutes. An RHL textbook is included in the Ministry’s Instruction of 15 February 2007 confirming the list of educational publications approved for use in schools in 2007-2008.

The effects of the implementation of the measures of the National Plan will be seen in the development of a culture of human rights in schoolchildren able to make active and informed use of their rights, in an improvement in their knowledge of the law and in a decline in juvenile crime, as well as manifesting themselves in other positive ways. But it must be remembered that the improvement of the system of human rights education and the work of instilling in pupils a spirit of respect for human rights are an endeavour beset with great difficulties which will be overcome only by prolonged and purposeful effort.

### **The protection of human rights**

The Republic of Kazakhstan holds itself to be a democratic, secular, social State based on the rule of law, whose supreme values are the person and the lives, rights and freedoms of the person.

Kazakh law provides for the following kinds of liability for violation of human rights:

Pursuant to chapter 3 of the Criminal Code, criminal liability is incurred for offences against human rights and freedoms and the constitutional and other rights and freedoms of citizens. The following are the relevant articles: article 141 (Violation of the equality of rights of citizens); article 142 (Infringement of the inviolability of private life); article 143 (Unlawful infringement of the secrecy of correspondence or telephonic, postal, telegraphic or other communications); article 144 (Violation of medical confidentiality); article 145 (Infringement of the inviolability of the home); article 146 (Obstruction of the exercise of electoral rights or the work of electoral commissions); article 147 (Falsification of electoral or referendum documents or incorrect counting of votes); article 148 (Violation of labour law); article 149 (Obstruction of the exercise of the right to freedom of conscience and religion); article 150 (Obstruction of the activity of voluntary associations); article 151 (Obstruction of the holding of or participation in meetings, rallies, demonstrations or street processions or picketing); article 152 (Violation of the labour protection regulations); article 153 (Forced participation or non-participation in a strike); and article 155 (Obstruction of journalists' lawful professional activity).

The Civil Code of 27 December 1994 regulates the property and non-property rights of citizens. For example, articles 143, 144, 145 and 146 of this Code establish the rights to protection of a person's honour, dignity and business reputation, preservation of the privacy of personal life, control over the use of a person's pictorial image, and inviolability of the home.

Civil rights are protected by means of the recognition of rights, restoration of the situation which prevailed before a right was violated, suppression of acts which infringe or risk infringing a right, judicial orders on fulfilment of an obligation in kind, levying of penalties and damages, recognition of transactions as null and void, compensation for moral injury, termination or alteration of legal relations, recognition of acts of organs of the central Government or local representative or executive bodies as invalid or inapplicable on the ground of unlawfulness, and imposition of fines on organs or officials of the State for hindering the acquisition or exercise of rights by citizens or juridical persons, as well as by the other means provided for by law.

The Code of Administrative Offences of 30 January 2001 establishes administrative liability for the violation of human rights with regard to health care, public health and disease control, protection of the environment, public morals, and property, and preservation of public order and safety. In particular, articles 87 and 89 address violations of the labour legislation by an employer or public official, while article 221 deals with violation of the rules on safety at work, article 241 with failure to clean up after incidents of environmental pollution, article 323 with breach of the hygiene and health rules and standards, and article 326 with consumption of spirits and public drunkenness.

### **International legal instruments as part of the national legal system and application of the rules contained in international human rights treaties by organs of the State and by the courts in judicial proceedings**

Article 4 of the Constitution provides that the law applicable in the Republic of Kazakhstan consists of the rules of the Constitution and the corresponding laws, other legislation, Kazakhstan's international treaty and other obligations, and the decisions of the Constitutional Council and the Supreme Court. The Constitution has supreme legal force and is directly applicable throughout the country. International treaties ratified by Kazakhstan take precedence

over domestic law and are directly applicable, except when the application of an international treaty requires the enactment of a law. All laws and the international agreements to which the Republic is a party are published. The official publication of laws and regulations relating to citizens' rights, freedoms and duties is a mandatory condition of their application.

Article 1 of the Criminal Code of 16 July 1997 provides that the criminal law shall be based on the Constitution and constitutional acts and the generally recognized principles and rules of international law.

Article 1 of the Code of Criminal Procedure of 13 December 1997 provides that criminal procedure within the territory of the Republic of Kazakhstan shall be determined in accordance with the Constitution and constitutional acts and the generally recognized principles and rules of international law. The country's international treaty and other obligations, together with the decisions of the Constitutional Council and Supreme Court regulating criminal procedure, form an integral part of the law of criminal procedure.

Article 3, paragraph 8, of the Civil Code of 27 December 1994 provides that if an international treaty to which Kazakhstan is a party establishes rules differing from those contained in the country's civil law, the rules of the treaty shall be applicable. International treaties to which Kazakhstan is a party are applied directly to civil-law relations except when the application of the international treaty requires the enactment of a corresponding domestic law.

Pursuant to article 2, paragraph 3, of the Labour Code of 15 May 2007, if an international treaty to which Kazakhstan is a party establishes rules differing from those contained in the country's Labour Code, the rules of the treaty shall be applicable. International treaties ratified by Kazakhstan are applied directly to labour relations, except when the application of the international treaty requires the enactment of a law.

Article 2 of the Code of Civil Procedure of 13 July 1999 provides that civil procedure within the Republic of Kazakhstan shall be determined by constitutional acts, the Code of Civil Procedure, which is based on the Constitution, and the generally recognized principles and rules of international law. Kazakhstan's international treaty and other obligations are an integral part of the law of civil procedure.

In addition, article 1, para. 3, of the Code of Administrative Offences of 30 January 2001 provides that the international treaties and other obligations of the Republic of Kazakhstan regulating administrative-law relations are an integral part of the law of administrative offences.

International treaties ratified by Kazakhstan take precedence over domestic law and are directly applicable, except in cases when the application of the international treaty requires the enactment of a law.

The International Treaties Act of 30 May 2005 sets out the procedure for the conclusion, application, amendment and termination of Kazakhstan's international treaties.

This Act provides that such international treaties shall be concluded, applied, amended and terminated in accordance with the Constitution, the generally recognized principles and rules of international law, the provisions of the treaty in question, the Vienna Convention on the Law of Treaties, the Act itself and other domestic legislation.

Article 20 of the Act states that the President and the Government of Kazakhstan shall take measures for the application of Kazakhstan's international treaties. It is further stated that the central organs of the State shall ensure, within the limits of their jurisdiction, the fulfilment of the obligations entered into by Kazakhstan under international treaties and shall monitor the realization of Kazakhstan's rights deriving from such treaties and the fulfilment of their obligations by the other parties thereto. The general supervision and monitoring of the application of Kazakhstan's international treaties is a responsibility of the Ministry of Foreign Affairs.

Article 21 of the Act provides that, in the event of violation of one of Kazakhstan's international treaties by other parties to the treaty, as well as in the other cases specified in the rules of international law, the treaty in question may be terminated or suspended in accordance with the terms of the Act.

It should also be pointed out that, in order to reinforce the monitoring of the application of the international treaties and agreements concluded by Kazakhstan following negotiations and meetings at the highest or intergovernmental levels, rules were introduced, by Presidential Decree No. 2940 of 9 April 1996, on the application of Kazakhstan's international treaties and agreements reached in the course of meetings and negotiations at the highest or intergovernmental levels and of decisions of international organizations of which Kazakhstan is a member.

### **The country's economy**

Gross domestic product (GDP), in millions of tenge:

2005 - 7,457,063.9

2006 - 10,139,500.0

2007 - 12,763,211.6

2008 - 3,144,011.7 (first quarter only)

### **Inflation**

Inflation rates: 2005 - 7.5 per cent; 2006 – 8.4 per cent; 2007 – 1.9 per cent; to June 2008 – 1.2 per cent.

### **Numbers of employed and unemployed persons and unemployment levels**

	2004	2005	2006	2007	2008 1 <sup>st</sup> quarter
Total employed in entire economy	7 181 800	7 261 000	7 403 500	7 713 500	7 800 000
Including: males	3 718 500	3 764 400	3 808 900	3 961 200	
females	3 463 300	3 496 600	3 594 600	3 752 300	
Total unemployed	658 800	640 700	625 400	583 900	573 800
Including: persons officially registered as unemployed at year-end	117 700	94 000	75 100	62 500	62 000
Unemployment rate (%)	8.4	8.1	7.8	7.0	6.9
EAP registered as unemployed at year-end (%)	1.5	1.2	0.9	0.8	0.8

## **Ethnic and religious composition of the country's population**

Kazakhstan is a State of many nationalities and religions; most of the population are Kazakhs (58.6 per cent) or Russians (26.1 per cent). Other races and ethnic groups account for 15.3 per cent of the population.

According to the findings of the sociological research on problems of inter-ethnic relations carried out on a regular basis by the Ministry of Culture and Information, there is still a need for a national policy to maintain inter-ethnic harmony. The main tasks are to continue the detailed study of ongoing nationality processes, encourage self-knowledge of the ethno-cultural context on the part of society and the nation, and continue to tackle the problems which arise and prevent threats to stability and harmony in inter-ethnic relations.

Undesirable occurrences in inter-ethnic relations at the local level are less substantial than the ones identified in the 2007 questionnaire: problems are usually resolved locally as a result of the traditional tolerance of the people of Kazakhstan and the many years of experience of cooperation between individuals and groups, and generally speaking they cannot affect the atmosphere of cooperation and mutual understanding.

There are more than 470 national-culture associations officially registered in Kazakhstan; the most active are the associations of Uighurs, Germans, Koreans, Ukrainians and Russians.

Kazakhstan enjoys a high degree of religious tolerance.

According to figures of the Committee on Religious Affairs of the Ministry of Justice, on 1 January 2008 there were 4,001 religious associations and groups. A total of 2,337 of them were Islamic (Sunnis – 2,324; Shiites – four; Akhmadi Muslim Zhamagat - four).

There were 281 orthodox religious associations and groups: Russian Orthodox – 272; Old-Believers – seven.

There were 82 Catholic associations and groups: 78 Roman Catholic and four Greek Catholic.

Protestant associations and groups totalled 1,189: traditional Protestants - 646; Pentecostals - 53; Presbyterian – 215; non-traditional – 275.

There were four Buddhist associations and groups: one Tibetan Buddhist and three Von Buddhist and others.

There were 27 Judaic associations and groups, and 27 Jewish communities.

Non-traditional religions accounted for 50 organizations, and charitable religious foundations and other societies for 31.

According to the findings of the latest sociological research, 92.2 per cent of the persons questioned replied that they did not feel ill-disposed towards other people on account of their adherence to a given religion. The proportion of such respondents was the same among both Muslims and Christians.

The idea of a theocratic State still has no support among Kazakhstan's Muslims. In a 2006 study 70 per cent of Muslims expressed their firm opposition and only 11 per cent recognized the possibility of a theocracy, but in 2007 there were already 74 per cent against and only 2.5 per cent in favour. The degree of rejection of the idea of a theocratic State was even greater, at 86 per cent, among Christian Slavs.

Religious believers in Kazakhstan have the use of 3,100 mosques, churches, houses of prayer and other places of worship. This figure includes 2,195 Islamic mosques, 257 Orthodox churches, 89 Catholic churches, 10 Jewish synagogues, 546 Protestant houses of prayer and one Buddhist temple. By way of comparison, in 1991 there was a total of 25 mosques, and in 1989 there were 62 Orthodox parishes. Kazakhstan has eight active religious institutions of higher education (two Islamic, one Catholic, one Lutheran and four Protestant), six denominational secondary schools and three denominational general-education schools. Religious associations publish 38 periodicals. Astana, Almaty city, South Kazakhstan and Almaty oblast have become the major centres of religious development.

Events of considerable international significance have been held at the initiative of the Head of State: two congresses of leaders of world and traditional religions.

### **Languages policy in Kazakhstan**

Following the country's acquisition of independence, all public-policy and social processes combined to begin to create favourable conditions for satisfying the national cultural requirements of all the races and ethnic groups living in Kazakhstan. Measures are taken by the State to create equal opportunities for the development of the language and culture of all the races and ethnic groups living in Kazakhstan. The rights of all citizens and members of every ethnic minority to revive and develop their original culture and freely to choose their language of instruction and upbringing are embodied in the Constitution, the Citizenship Act, the Languages Act, the Voluntary Associations Act, the Culture Act, the Education Act and the Historical and Cultural Heritage (Preservation and Use) Act. Article 19 of the Constitution provides that all persons without exception have the right to use their native language and embrace their culture and freely to choose the language of their social relations, upbringing, instruction and creative activity. The State programme on the use and development of languages for the period 2001-2010, confirmed by Presidential Decree No. 550 of 7 February 2001, is designed to secure not only the revival and extension of the use of the Kazakh language but also the preservation of the general cultural use of the Russian language and the development of the languages of ethnic groups.

This task is being tackled by providing general secondary education in pupils' native languages or by teaching native languages as a compulsory subject.

The complicated mosaic of the situation in Kazakhstan where languages and ethnic cultures are concerned creates objective difficulties for the organization of multicultural education.

In places where ethnic groups are found in high density there are 75 schools (0.9 per cent of the total) using Uzbek as the language of instruction, 15 (0.1 per cent) Uighur, three (0.03 per cent) Tajik, and one (0.01 per cent) Ukrainian.

Fifteen native languages are studied as separate subjects in 126 general education schools: German, Polish, Korean, Dugan, Tatar, Turkish, Azerbaijani, Kurdish, Uighur, Chechen, Greek, Armenian, Hebrew, Belarusian and Ukrainian.

The following native languages are studied in 76 general education schools as optional subjects or in study circles: German, Korean, Hebrew, Tatar, Polish, Ukrainian, Armenian, Greek, Azerbaijani, Chechen, Belarusian, Karachai-Cherkess, Chuvash, Bulgarian, Kazakh and Russian.

Point 6.15 of the State General Education Standard for general secondary education in grades 10-11 states that native languages may be studied at the pupils' choice.

Members of over 80 nationalities are enrolled in the country's institutes of higher education, and more than 60 per cent of students receive instruction in the Russian language. Courses at the Abaya National Teacher Training University are taught in Uighur, Turkish, Azerbaijani, Korean, Chinese and German.

The right of citizens' to study their native languages is realized by involving national-culture associations in the implementation of the State's languages policy.

These associations have established Sunday schools in all parts of the country. The possibilities of such schools have been used most successfully in the teaching of the native languages of the German, Korean, Hebrew, Tatar and Polish diasporas.

Kazakhstan has 196 Sunday schools with an attendance of over 7,000 children and adults, as well as three national revival schools in the towns of Ust-Kamenogorsk, Petropavlovsk and Pavlodar which teach 30 languages to an enrolment of 1,163 pupils.

Point 4.1 of the Plan of Action for implementation of the instructions of President N. Nazarbayev and the proposals made by participants in the twelfth session of the People's Assembly of Kazakhstan, a Plan confirmed by the President's Head of Administration in [Order] No. 35-13.61 of 29 December 2006, provides that courses in the State language are to be taught in the Sunday schools of national-culture associations. The groups have been formed and the teachers selected.

The national-culture associations actively support the language measures.

The creation of a multicultural society and the maintenance of its stability is one of the priority issues of the internal policy of the State of Kazakhstan. The priorities of the State's policy for consolidating the harmonious relations among its nationalities are reflected in the work of the Ministry of Culture and Information.

This policy is implemented by means of series of measures in the following core areas:

- Information and publicity on questions of enhancing the harmonious relations among nationalities and preventing ethnic discrimination;
- Organizational and practical measures and research work on creating the conditions for developing inter-ethnic relations, preserving ethnic distinctiveness, and

developing the languages, education and culture of the ethnic groups living in Kazakhstan.

The maintenance of stability among Kazakhstan's nationalities receives considerable attention in the information work of the Ministry of Culture and Information.

The annual volume of publications on this topic in the print media amounts to 342 A-2 pages in newspapers (92 pages more than in 2006) and 80 publisher's accounting sheets in magazines (16 sheets more than in 2006).

Independent television channels broadcast an annual total of 205 hours of this kind of information (64 million tenge).

In 2007, 21 of the 74 mass media organizations filling State orders handled questions of harmonious relations among nationalities, including 12 national newspapers, four publications of individual nationalities (*Deutsche Allgemeine Zeitung*, *Ukrainski novini*, *Uighur avazi* and *Kore ilbo*), four national television channels, and the public company Kazakh Information Agency.

The basic task of the mass media is to form in the public consciousness a firm belief in the need to maintain a high level of inter-ethnic harmony and to prevent crises from affecting social stability.

Most of the information and publicity work done in this area is based on the production of thematic broadcasts, the constant transmission of audio and video cassettes on the national television channels, and the publication of specialized items, articles, interviews and commentaries in the national press.

The national television channels transmit specialized cultural information items (analyses, serials and interactive programmes) on the life of various ethnic groups in Kazakhstan, chief among them "We, citizens of Kazakhstan" (on the "Kazakhstan" national television channel), "A hundred peoples" (channel 31) and "Dostyk-Druzhba" (Kazakh Radio).

The programmes broadcast by the Kazakhstan National Television and Radio Corporation are recorded with the direct participation of representatives of national-culture centres in the languages of the ethnic groups comprising the people of Kazakhstan.

There is a steady demand for rented video cassettes and tele-magazines: the Kazakhstan national television channel has produced three thematic video cassettes and 10 audio cassettes, while the Khabar agency has brought out 10 tele-magazines. These items have been broadcast a total of 528 times.

Regular meetings are held with editors-in-chief on current issues of the implementation of information policy regarding internal political stability.

The programmes of the State television channels include special projects involving the leaders of ethnic-culture centres, elders of the national diasporas, members of representative bodies, and community activists.



The periodical press constantly runs special sections designed to publicize and promote the concepts of peace and harmony in society: “Spiritual values”; “Memlekettik mecele”; “Pikir”; “Position”; “Currently”; “Sukhbat”; and “Events”.

In the first quarter of 2008 these special sections included some 500 items.

In addition to its targeted activities the Ministry of Culture and Information devotes considerable attention to the study and analysis of the material published and broadcast on this subject.

For example, it constantly monitors the electronic and print media and Internet sites for material designed to stir up trouble among nationalities and for other unlawful activities.

An “information picture of the day” covering a wide range of issues is produced every day from the results of the monitoring of the six national television channels, 32 periodical publications and 11 politically oriented web sites.

In general terms the results of this monitoring show that the national media pursue a balanced reporting policy on the question of harmonious relations among nationalities.

The steady growth in the role of religion in the life of society is one of the main features of Kazakhstan’s present-day development. Religion’s authority and status are rising, its social functions are expanding and the numbers of believers and religious associations are increasing. As already noted, Kazakhstan has held two congresses of world and traditional religions, attended by representatives of most of the planet’s religious faiths. The President and Government of Kazakhstan maintain constant contacts with leaders of world religions. Pursuant to the Constitution and the Freedom of Religion and Religious Associations Act of 1992, believers are able freely to profess a religion without being subject to restriction of their human rights or rights as citizens or their obligations to the State. More than 40 religions are active in the country. The dominant faith is Islam in the form of the Sunni Wahhabist maskhab (doctrine). Russian Orthodoxy is the second largest faith in terms of numbers of adherents.

The Roman Catholic Church also has a relatively long history in the country, as do a number of Protestant faiths (principally the Evangelical Christian-Baptists and Lutherans), Judaism and Buddhism.

Religious movements not previously found in Kazakhstan have become active in the country since the early 1990s. They include the Jehovah’s Witnesses, Mennonism, Mormonism, the Unification Church (Moonies), Wahhabism, the Hare Krishna movement, Scientology, Baha’ism and Transcendental Meditation. No official statistics are kept of the number of believers, since the Freedom of Religion and Religious Associations Act establishes the right freely to choose any religion or none, and people are entitled to withhold information about their religious affiliation. According to figures produced by the sociological monitoring of the religious situation in the country undertaken by the Ministry of Culture and Information, between 50 and 60 per cent of the population are believers. However, if more objective criteria for considering someone to be a believer are applied (i.e. relatively regular attendance at churches, mosques, houses of prayer or meetings; constant observance of religious rites; pursuit of a lifestyle consistent with the rules of the faith, etc.), the real number of believers turns out to be not more than 15-20 per cent of the population.

Article 149 of the Criminal Code establishes criminal liability for obstructing exercise of the right to freedom of conscience and religious belief.

In Kazakhstan believers' religious affiliation corresponds to their ethnic origin. The Muslim community, of which Kazakhs comprise the majority, also includes Uzbeks, Tatars, Uighurs, Azerbaijanis, Chechens and others.

With the exception of its Polish contingent, the membership of the Russian Orthodox Church is mainly of Slav origin. Russians, Ukrainians and Belarusians form the largest groups.

Germans and Poles comprise the largest ethnic groups in the Roman Catholic Church. Some Ukrainians belong to the Greek Catholic Church (Uniate Church).

Most of the Protestants are Germans or Poles. However, the intensive activity by foreign missionaries is contributing to the spread of Protestantism within the country's indigenous population and among Russians, Koreans and people of other nationalities.

Buddhism is not widespread. It is practised mainly by a small part of the Korean diaspora and by Kalmyks.

Judaism is practised by Jews.

#### **Concluding observations of the Committee on the Elimination of Racial Discrimination (document CERD/C/65/CO/3 of 10 December 2004)**

Having considered the initial to third periodic reports of Kazakhstan (CERD/C/439/Add.2), the Committee noted some positive aspects but adopted its concluding observations in the form of matters of concern and a number of recommendations.

#### **Positive aspects noted by the Committee**

1. The Committee notes that the State party is a multi-ethnic country, with numerous very different and significant communities representing more than 40 per cent of the total population, and appreciates the efforts made by the State party to provide information relating to the ethnic composition of the population as well as other statistical data.
2. The Committee appreciates the efforts of the State party to establish and improve human rights organs.
3. The Committee notes with satisfaction the information provided on the economic improvement of the country, especially the reduction of unemployment.
4. The Committee also notes with satisfaction that the State party has ratified the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol as well as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) of the ILO.

#### **Concerns and recommendations**

1. The Committee notes that there is no specific legislation in the State party regarding racial discrimination.

**The Committee is of the view that specific domestic law regarding racial discrimination, implementing the provisions of the Convention, as well as a legal definition of racial discrimination that complies with the provisions of the Convention, would be a useful tool to combat racial discrimination in the State party.**

In Kazakhstan the principle of inter-nationality, inter-confessional and inter-racial unity is both proclaimed and applied in practice. The people of Kazakhstan, consisting of more than 130 nationalities and ethnic groups, fully supports all the initiatives taken by the State in the area of ethnic and religious policy. This policy is designed to secure the civic consolidation of the people of Kazakhstan and to have a positive influence on the inter-nationality relations of the country's inhabitants. There is therefore no need to draft a special law on racial discrimination: Kazakhstan has no objective requirement for such a law, for the principles of the elimination of racial discrimination are embodied in the Constitution of the Republic and in many other pieces of legislation on human rights and the rights of citizens, in particular in the Code of Civil Procedure and the Code of Criminal Procedure, where the corresponding rules are to be found.

For example, article 14, paragraph 2, of the Constitution states: "No one may be subjected to discrimination of any kind on the ground of origin, social, official or property status, sex, race, nationality, language, attitude to religion, opinions, place of residence or any other circumstance."

It should be noted that the above-mentioned list of prohibited grounds of discrimination is not exhaustive. This allows for a broader and more progressive interpretation when applying this article of the Convention.

The presence in the Code of Administrative Offences of article 62, paragraph 5, which establishes increased liability for administrative offences motivated by ethnic, racial or religious hatred or enmity (classifying them as aggravating circumstances) is of great importance for the prevention of discrimination on the ground of race, nationality or language.

Propaganda for and the incitement of racial and national superiority are prohibited under article 20, paragraph 3, of the Constitution.

"The creation of voluntary associations, the aims or activities of which are aimed at ... the kindling of social, national, religious, class or ethnic discord, and the work of such organizations" are prohibited under article 5, paragraph 3, of the Constitution.

The provision of the Constitution prohibiting the creation of voluntary associations whose activities are aimed at arousing racial or ethnic dissention is amplified in article 5 of the Voluntary Associations Act.

Article 5, paragraph 8, of the Political Parties Act prohibits "the creation of political parties based on citizens' professional, racial, national, ethnic or religious affiliation ...".

Article 13 of the Mass Media Act states that "the output (transmissions) of a media organization may be suspended in accordance with the procedure established by law on the following grounds: ... propaganda for or incitement of a cult of cruelty and violence or social, racial, national, religious, class or ethnic superiority."

. The administrative law also establishes liability for administrative offences in the field of publishing and information, including for dissemination in the media or the import of printed and other materials which “aim at arousing racial, ethnic, social or religious enmity or make propaganda for war or class discrimination ...” (Code of Administrative Offences, arts. 343 and 344).

. The Ministry of Culture and Information monitors the mass media’s observance of domestic law. If offences are discovered, the measures provided for in the country’s legislation are applied. If materials published in the media require more thorough verification or appraisal by an expert, prompt notification is given to the law-enforcement bodies so that the appropriate action may be taken.

Article 4, paragraph 8, of the Culture Act, which regulates cultural activities, prohibits propaganda for and the incitement of racial or ethnic superiority.

Article 11 of the Code of Administrative Offences provides that “persons who have committed administrative offences are equal before the law irrespective of their origin, social, professional or property status, race or nationality, opinions, sex, language, attitude to religion, type of work, place of residence, membership of voluntary associations, or any other circumstance”.

The Criminal Code contains a separate article, in the chapter on offences against the peace and security of mankind, which sets out the body of offences incurring criminal liability for incitement of social, national, ethnic, racial or religious enmity. The provisions of this article stipulate criminal liability for creating conflicts between citizens of different nationalities, ethnic groups or races which may be accompanied by acts of aggression, physical reprisals or the threat of reprisals, destruction of or damage to property, isolation, segregation, or restriction of rights, privileges or advantages, as well as for acts calculated to demean the shrines, way of life, structure or history of individual races, nationalities or nations.

In addition, the Code of Administrative Offences contains a provision increasing such liability for administrative offences motivated by national, racial or religious hatred or enmity, which are specified as aggravating circumstances.

The political right to participate in elections is guaranteed by the Constitutional Act on Elections, in particular in article 4, paragraph 1, which states that the general positive right to vote is exercised by citizens irrespective of their origin, race, nationality or language. The absence of discrimination in the exercise of this right is extremely important, for it means that all citizens may take part in the management of State affairs by voting in presidential, parliamentary (Majilis) and maslikhat and other local elections.

The Constitutional Council ensures that the Constitution rules supreme throughout the country and protects the human rights and the rights and freedoms of citizens established in the Constitution, including the ones contained in article 14, paragraph 2, according to which no one may be subjected to discrimination of any kind on the ground of race or nationality or any other circumstance.

Since matters of racial equality or discrimination may give rise to legal actions, the Constitutional Court refrains from giving any assessment of the provisions of either international instruments or domestic legislation.

However, it should be noted with regard to the Committee's concluding observations that the Constitutional Council supports all possible ways of improving Kazakhstan's legislation and institutions concerned with human rights and freedoms and the rights and freedoms of citizens, in the light of the provisions of the Constitution.

For example, in its Decision No. 4 of 13 June 2006 the Council noted that the efforts of the Human Rights Ombudsman to defend human rights constitute one of the means of protecting everybody's rights and freedoms. In its messages on the situation of constitutional legality in Kazakhstan, heard in Parliament on 20 June 2003 and 29 May 2007, the Council advocated strengthening the Ombudsman's powers where the protection of rights is concerned.

Accordingly, if a special act was drafted, its language would tend to echo that of existing legal instruments or duplicate their provisions, thus departing from the general procedure for drafting legislative acts.

2. While taking note of the constitutional and other provisions prohibiting propaganda regarding racial or ethnic superiority, the Committee is concerned about the insufficiency of specific penal provisions concerning article 4 (a) of the Convention in the domestic legislation of the State party.

**The Committee recommends that the State party adopt legislation, in the light of the Committee's general recommendation XV, to ensure full and adequate implementation of article 4 (a) of the Convention.**

The principle of equality is included in the Constitution. Any action which may contribute to the violation of an international agreement is deemed unconstitutional (art. 39, para. 2). Discrimination in legislation by reason of race is contrary to the Constitution; laws or regulations containing discriminatory provisions are deemed illegal, and the procuratorial authorities will issue challenges to them addressed to the issuing body or official of the State.

Article 7 of the Labour Code provides that all persons have equal opportunities to exercise their rights and freedoms at work. No one may be subjected to any discrimination in the exercise of labour rights on the ground of sex, age, physical disability, race, nationality, language, property, social or official position, place of residence, attitude to religion, political opinions, ethnic or class affinity or membership of voluntary associations. Persons who consider that they have been subjected to discrimination at work are entitled to apply to the courts or to other bodies in accordance with the procedure established by domestic law.

Chapter 3 of the Criminal Code (Offences against constitutional and other human rights and freedoms and the rights and freedoms of citizens) contains an article 141 (Violation of the equal rights of citizens) which amplifies the relevant provision of the Constitution on equality of rights:

“Paragraph 1. Direct or indirect restriction of human (citizens’) rights or freedoms on the ground of origin, social, official or property status, sex, race, nationality, language, attitude to

religion, opinions, place of residence, membership of voluntary associations, or any other circumstance, is punishable by a fine, rigorous imprisonment for up to three months or deprivation of liberty for up to one year;

Paragraph 2. The same offence, if committed by a person using his or her official position or by the leader of a voluntary association, is punishable by double the fine or the term of rigorous imprisonment or deprivation of liberty referred to in paragraph 1 or by forfeiture for up to three years of the right to hold specified positions or carry out specified activities.”

The provisions of this article make it inadmissible to restrict citizens’ rights on the ground of race or nationality, but not on the ground of individual characteristics.

A separate article of the Criminal Code (art. 164), in the chapter on offences against the peace and security of mankind, specifies the body of offences triggering criminal liability for inciting social, national, ethnic, racial or religious enmity. This article reads as follows:

“Paragraph 1. If carried out publicly or with the use of the mass media, a deliberate act aimed at inciting social, national, ethnic, racial or religious enmity or discord, insulting citizens’ national honour and dignity or religious feelings, or making propaganda for citizens’ exclusiveness or superiority or inferiority on the ground of their attitude to religion or their class, national, ethnic or racial affinity is punishable by either a heavy fine, rigorous imprisonment for up to six months, punitive deduction of earnings for up to two years, or deprivation of liberty for up to five years.

Paragraph 2. These same acts, if they are committed by a group of people or repeatedly or with violence or the threat of violence or by a person using his or her official position, or by the leader of a voluntary association, and

Paragraph 3. If the acts mentioned in paragraphs 2 and 3 of this article have serious consequences, they may be punished by restriction of liberty for up to 10 years or deprivation of liberty for four 10 years, with forfeiture for up to three years of the right to carry out specified activities.”

The provisions of this article apply to the creation of conflicts between citizens of different nationalities, ethnic groups or races which may be accompanied by acts of aggression, physical reprisals or the threat of reprisals, destruction of or damage to property, isolation, segregation, or restriction of rights, privileges or advantages, as well as to acts calculated to demean the shrines, way of life, structure or history of individual races, nationalities or nations.

Pursuant to article 337, paragraph 2, of the Criminal Code, the founding or leadership of a voluntary association which proclaims or practices racial, national or ethnic intolerance or exclusivity, are punishable by punitive deduction of earnings or restriction or deprivation of liberty for up to three years, with forfeiture for up to three years of the right to hold specified positions or to carry out specified activities.

Article 337-1, paragraph 2, of the Criminal Code provides that active participation in such an association is punishable by either a fine, punitive deduction of earnings for up to one year, or

rigorous imprisonment for up to four months. The same penalties apply if the charter, programme of work or other documents adopted by a voluntary association and acknowledged by the members of the association, or collective oral statements which are supported by the members of the association and guide their actions express a discriminatory or hostile attitude towards citizens on the ground of their racial, national, ethnic or class affinity or proclaim the members' exclusiveness or superiority.

The Code of Criminal Procedure, which establishes the procedures for criminal proceedings, contains an article 21 entitled "The administration of justice on the basis of equality before the law and the courts"; this article states: "No one may be subjected during criminal proceedings to any discrimination on the ground of origin, social, official or property status, sex, race, nationality, language, attitude to religion ..."

The Code of Administrative Offences contains an article on offences of racial discrimination. Article 82 of the Code provides that an official who restricts the rights of physical persons to choose a language or engages in language-based discrimination shall be punished by a fine of between five and 12 nominal monthly units.

The intentional infliction of physical or mental suffering by an investigator or a person conducting an inquiry or by any other official with the aim of obtaining from the victim or a third person information or a confession or to punish him or her for an act which he or she committed or is suspected of having committed, or to intimidate or coerce the victim or a third person, or for any reason based on discrimination of any kind, is punishable under article 347-1 of the Criminal Code by a fine of between 200 and 500 nominal monthly units or a fine in the amount of the perpetrator's salary or other income for a period of between two to five months or by forfeiture of the right to hold specified positions for up to three years, or by restriction of liberty for up to five years or deprivation of liberty for up to five years.

3. While acknowledging that since independence the State party has opened its borders, the Committee also notes that there is a high level of emigration amongst particular ethnic or national groups.

**The Committee recommends that the State party include information in its next periodic report on emigration, including information on the causes and consequences of this ongoing phenomenon and its impact on particular ethnic or national groups.**

Article 21, paragraph 2, of the Constitution states: "Everyone has the right to leave the Republic. Citizens of the Republic have the right to return to it without hindrance."

Article 3 of the Migration Act stipulates the inadmissibility of any discrimination in the regulation of migration on the ground of origin, race, nationality or language. The Act provides that refugee status may be accorded to foreigners who are at risk of persecution on the ground of race or nationality and are therefore forced to remain outside their country of citizenship.

Article 14 of the Civil Code establishes the right freely to leave and to return to the Republic.

Article 10, paragraph 2, of the Constitution provides that citizens of Kazakhstan may not under any circumstances be deprived of their citizenship or of the right to change it and may not be banished from Kazakhstan.

Kazakhstan's acquisition of sovereignty led to a total transformation of the ethnic and demographic situation in the country. Large-scale migration from Kazakhstan to Russia and other countries caused for the first time in the past 150 years a significant reduction in the population, from 16,464,464 (according to the 1989 census) to 14,953,126 (according to the 1999 census), i.e. by more than 9.1 per cent.

The declines in the German and Slav populations of Kazakhstan were particularly large. As the result of a mass exodus to Germany (at the initiative and with the assistance of the German Government) the number of Germans declined from 957,518 to 353,441 (a loss of 63.1 per cent). The number of Russians fell from 6,227,549 to 4,479,618 (by 28.6 per cent), of Ukrainians from 896,240 to 547,052 (38.9 per cent), of Tatars from 327,982 to 248,952 (24.1 per cent), of Belarusians from 182,601 to 111,926 (38.7 per cent), of Koreans from 103,315 to 99,657 (3.5 per cent), of Azerbaijanis from 90,083 to 78,295 (13.1 per cent), of Poles from 59,956 to 47,297 (21.1 per cent), etc.

The numbers of Chechens, Bashkirs, Moldovans, Ingush, Mordvins, Armenians, Greeks, Kyrgyz, Bulgarians, Lezgins, Turkmens and an absolute majority of the other peoples of Kazakhstan also declined.

As is apparent from the figures given above, an overall majority of the peoples of Kazakhstan have declined significantly in numbers over the years since the acquisition of sovereignty. In the period 1989-1999 there were slight increases only in the numbers of Kazakhs, from 6,534,616 to 7,985,039 (22.1 per cent), of Uzbeks from 332,017 to 370,663 (11.6 per cent), of Uighurs from 185,301 to 210,339 (13.5 per cent), of Dungans from 30,165 to 36,945 (22.4 per cent), and of Kurds from 25,425 to 32,764 (28.8 per cent).

It is clear that the basic reasons for the decline in the population were self-motivated, primarily migration.

The chief reasons for the large-scale emigration of non-indigenous peoples from the territory of Kazakhstan were the collapse of the Union of Soviet Socialist Republics (USSR) and the accession to power of ethnocratic regimes throughout the post-Soviet space. This caused the exodus from Kazakhstan of hundreds of thousands of Russians, Germans and other European peoples.

A more objective judgment is that this emigration was due to both economic and political factors, such as the permanent economic crisis, job cuts, the difficulty of adapting to the unpredictable vicissitudes of the market, etc.

Analysts maintain that this whole situation was aggravated by the psychological unease and severe stress experienced by the non-Kazakh population in the process of reaching an accommodation with State ethnocracy.



**Migration from Kazakhstan, by nationality (numbers of migrants)**

	<b>2007</b>	<b>1st half 2008</b>
<b>Total</b>	<b>33 690</b>	<b>16 657</b>
Kazakh	2 276	1 048
Russian	22 708	11 265
Ukrainian	2 774	1 272
Belarusian	582	307
Uzbek	115	54
Georgian	20	7
Azerbaijani	125	70
Lithuanian	39	7
Moldovan	69	51
Lett	3	4
Kyrgyz	62	23
Tajik	37	23
Armenian	105	41
Turkmen	6	3
Estonian	20	4
Balkar	8	2
Bashkir	98	58
Buryat	5	1
Avar	13	11
Dargin	11	1
Kumyk	1	1
Lak	10	5
Lezgin	1	1
Nogai	1	1
Rutul	1	1
Ingush	59	37
Kabardin	6	-
Kalmyk	5	6
Karakalpak	25	14
Karelian	2	1
Komi	4	4
Mari	39	21
Mordvin	78	42
Oset	11	4
Tatar	807	397
Tuvin	1	1
Udmurt	30	12
Chechen	174	90
Chuvash	54	20
Sakha	1	1
Adygei	1	-
Jewish	47	21

Karachai	2	2
Khakass	2	-
Komi-Peryat	8	8
Dolgan	4	-
Khanty	1	1
Evenk	-	1
Nivkh	-	1
Nenets	9	-
Chuvanets	3	1
Gagauz	1	3
Gorsky Jewish	-	1
Central Asian Jewish	1	-
Roma	20	5
Shor	-	1
American	2	-
Arab	1	1
Enets	1	-
Krymchak	-	1
Abazin	3	1
Assyrian	2	1
Bulgarian	25	18
Agul	-	1
Dutch	3	-
Greek	46	17
Dungan	5	2
Chinese	11	5
Korean	201	122
Kurdish	14	6
German	2 474	1 261
Persian	4	3
Polish	279	183
Romanian	4	3
Serb	3	4
Slovak	-	1
Turkish	28	12
Uighur	27	25
Finnish	3	4
Khalkha Mongol	1	1
Czech	4	3
Mongol	1	-
Japanese	1	-
Unspecified	15	9

4. While welcoming the information provided on several minorities in the State party, the Committee regrets the lack of information on the situation of certain minority groups, in particular the Roma, and their enjoyment of all human rights.

**The Committee recommends that the State party include information in its next periodic report on the situation of all minority groups, in particular the Roma, and in this connection draws the attention of the State party to its general recommendation XXVII on discrimination against Roma.**

According to figures from the Statistics Agency, on 1 January 2008 there were 5,153 Roma in Kazakhstan. The local executive organs have offered them the opportunity of living together in settled communities. Measures are being introduced to prevent acts of discrimination against any national minority, including the Roma.

Equal access is also provided to social services: health, culture and education.

The education authorities are implementing a series of measures to ensure unconditional realization of the rights of child citizens, irrespective of their affiliation to a nationality or minority group, including the Roma nationality, to obtain free education in school.

The educational activities of the country's education institutions are conducted in accordance with the principle of the population's access to education at all levels, depending on the individual intellectual development and the psychological and physiological characteristics of each citizen, without any restrictions based on racial or national affiliation.

The rights of the citizens of Kazakhstan guaranteed by the Constitution are observed. The equality of all persons before the law in the exercise of their rights and freedoms is guaranteed. The teaching programmes of education institutions at all levels make provision for various measures designed to foster a culture of inter-national and inter-racial education, and these measures are implemented.

No complaints or representations from the Roma concerning racial or ethnic oppression have been recorded.

It may be asserted, with regard to assimilation with the indigenous population and the availability of housing and permanent jobs or businesses, that Kazakhstan's Roma have a settled way of life and exercise all the rights and perform all the duties of citizens of the Republic.

Accordingly, the problem of nomadic Roma communities referred in the Committee's general recommendations is not a pressing one in Kazakhstan.

However, there is a need for large-scale educational work on the prevention of nationality-based discrimination and stigmatization in everyday life. One positive example which may be cited is the work of the oblast newspaper *Yuzhny Kazakhstan* (South Kazakhstan) in publicizing and explaining the State's nationalities policy. This newspaper publishes once a month a special supplement entitled "Shanyrak", which describes the life, lifestyle, history, traditions and ceremonies of the nationalities living in South Kazakhstan oblast. Amongst other items this supplement published an article by M. Limarenko on the Roma inhabitants of the town of Shymkent entitled "The camp stayed in Shymkent" (December 2006).

The country's internal affairs agencies are responsible, within the limits of their jurisdiction, for taking action to prevent and suppress criminal and other unlawful encroachments on human rights and freedoms and the rights and freedoms of citizens or on the interests of

society and the State, without any discrimination on racial grounds. In their work these agencies take immediate action to prevent and investigate instances of racial violence. No acts of racial violence against the Roma were recorded during the reporting period.

The police are prohibited from using unlawful force when arresting or detaining Roma. Such arrest or detention is effected in accordance with the general principles set out in the criminal procedure legislation.

For example, five persons of Roma nationality were arrested and prosecuted in 2007: two in respect of crimes involving illegal dealing in narcotic substances, the other three for rape, theft and robbery, respectively. In a similar period in 2006 nine Roma [suffered the same fate]: three pairs for illegal acquisition and possession of narcotic substances and theft of property, respectively, and three individuals for robbery, fraud, and assault with intent to rob, respectively.

Citizens are recruited to the internal affairs services in accordance with the requirements of the regulations governing the activities of these services without discrimination on racial grounds, but no representatives of the Roma nationality have joined these services.

The migration-control work of the internal affairs services offers no instances Roma being among the foreign nationals subjected to administrative prosecution and expulsion from Kazakhstan. Most Roma work as independent entrepreneurs or in services.

Roma representatives have registered the collective association “Tsygan” (Gypsy), which works to promote the culture and traditions of the Roma people. Assisted by the People’s Assembly of Kazakhstan this association has become involved in the life of Kazakh society. The Roma cultural centre takes an active part in the celebration of State festivals. For example, as one of the measures for the celebration of the Day of Unity of the People of Kazakhstan the national cultural centres organized a concert entitled “Kazakhstan – our common home!” in which the “Tsygan” association was involved.

However, the lack of specialist teachers is causing difficulties in the organization of Sunday schools to teach Roma children their national language.

Russian is currently the language of everyday exchanges in Roma circles; at their parents’ wish Roma children may be taught in Russian in general education schools.

State support for small peoples is being delivered under the programme for 2006-2008 to improve the Kazakh model of inter-ethnic and inter-religious harmony, which was approved by Governmental Order No. 593 of 28 June 2006.

5. The Committee notes the absence of legislation regarding the status of languages and that little information has been provided by the State party on the participation of minorities in the elaboration of cultural and educational policies. The Committee is concerned that minority languages are not used in the educational system to an extent commensurate to the proportion of the different ethnic communities represented in the student body.

**The Committee recommends that the State party adopt legislation on the status of languages and that it include detailed information in its next periodic report regarding the use of ethnic minority languages in education and how ethnic minorities participate in the elaboration of cultural and educational policies.**

The Languages Act of 11 July 1997 establishes the legal foundations for the use of languages in Kazakhstan and stipulates the State's duty to make arrangements for the study and development of languages and to ensure uniform respect for all the languages used in Kazakhstan.

Article 28 of the Education Act of 27 July 2007 states that "the teaching programmes of education institutions are an integral part of the education process and are designed to foster patriotism, good citizenship, internationalism, and good morals and conduct, and to develop a variety of interests and abilities in pupils and students. Propaganda for racial, ethnic, religious, social incompatibility or exclusiveness and the dissemination of militaristic and other ideas inconsistent with the generally accepted principles of international law and humanism are prohibited in education institutions.

The education system in the Republic of Kazakhstan consists of a corpus of education organizations, education programmes, State-regulated standards for various levels of education, and administrative bodies. The main function of the education system is to create the necessary conditions for obtaining an education aimed at the formation of the personality and personal development and for providing vocational training based on national and universal human values and the achievements of science and practical work.

The development of inter-ethnic education started in Kazakhstan at the end of the 1990s, when attention first began to be given to the need to take into account at an early age the mental attitudes and genetic characteristics of the children of the various nationalities and peoples living together in one country. People must speak their native language if it is to be preserved, and the State has an obligation to promote the creation of the conditions for the study and use of the languages of the people of Kazakhstan.

The fact that the State has a duty, in accordance with article 7 of the Constitution, "to attend to the creation of the conditions for the study and development of the languages of the people of Kazakhstan" is an important consideration for a country of many different nationalities.

The Policy Outline on ethno-cultural education was approved by Presidential Order No. 3058 of 15 June 1996 with a view to creating the conditions for the study and use of the native languages of the peoples of Kazakhstan. The chief thrust of the Policy Outline is to create an educational model designed to preserve the special characteristics of ethnic groups and instil an appreciation of the values of other cultures. It is important that ethnic identity should not be lost in this process and that ethnic groups should apprehend the values of the State.

For the purposes of implementation of article 9, paragraph 3, of the Education Act, arrangements are made, as far as possible, for national groups to study their native languages. Education institutions or units (classes, groups, etc.) are set up in places having a high density of members of a given nationality to enable them to be taught in their native language.

As already noted, members of 11 nationalities study their native languages in 133 general education schools.

Article 3, paragraph 28, of the Education Act prohibits education institutions from making propaganda for racial or national incompatibility or exclusiveness.

The Culture Act establishes the right of every member of every nationality to participate in the development of his or her national culture and imposes on citizens an obligation to respect the language, culture, customs and traditions both of the Kazakh people and of Kazakhstan's other ethnic groups.

The rights of citizens to participate equally in cultural life, to use their native language and to embrace their native culture are confirmed in the everyday practice of the world of theatre. Although they may be associated with a specific nationality, theatres work systematically to provide cultural services for the people. In numerical terms the country's nationalities are represented as follows: 18 Kazakh, 15 Russian, three combined (Kazakh and Russian troupes), one Uighur, one Korean and one German. These theatres perform works by Kazakh, Russian, German, Korean, Uighur and other authors.

Kazakhstan is one of the world's most multi-national States and it is very important for it to have domestic policies which take into consideration the interests of different nations and peoples. Consequently, State policy pays enormous attention to maintaining harmonious relations between ethnic groups. The general principle of its nationalities policy rests not on ethnic origin but on citizenship, and it is very simple: we are all the people of a united and independent Kazakhstan.

Regarding the language in which proceedings are conducted in respect of administrative offences, article 21 (Language of proceedings) of the Code of Administrative Offences provides that such proceedings "are to be conducted in the national language, with Russian or other languages being used as well when necessary." This article further provides that "parties to proceedings who do not know the language in which the proceedings are conducted or know it inadequately must have explained to them and be guaranteed the right to make statements, give testimony and evidence, make applications, file complaints, acquaint themselves with the case materials, and express themselves during hearings in their native language or a language in which they are proficient, and to avail themselves without charge of the services of an interpreter."

With regard to protection of linguistic equality in Kazakhstan, the chapter of the Code of Administrative Offences entitled "Administrative offences infringing the rights of the individual" establishes liability for violation of the languages legislation (art. 81). This article states inter alia: "Refusal by an official to accept or examine documents, requests, statements or complaints on the ground of unfamiliarity with the language in which they are presented" triggers administrative liability. This chapter of the Code contains one of its most important articles, one establishing administrative liability for discrimination on the ground of language (art. 82: "Restriction of citizens' rights regarding choice of language").

All the socially oriented programmes adopted in Kazakhstan in recent years regard education as an important and effective means of securing people's social adaptation and

improving their economic situation and vocational and personal development, irrespective of differences of race, skin colour or national or ethnic origin.

Kazakhstan's education system has an open structure and offers everyone an opportunity to receive and to supplement his or her education, as necessary, under the formal education arrangements.

Questions of human rights and freedoms and the rights and freedoms of citizens are addressed in the Constitution, in the Rights of the Child Act of 2002, in the Education Act of 2007, etc.

The inalienable human and citizens' right to obtain an education is embodied in article 30 of the Constitution.

Kazakhstan is taking steps to implement the provisions of article 30 of the Convention on the Rights of the Child. Pursuant to article 9, paragraph 3, of the Education Act, in order to enable children to exercise their right to use the native language, culture and traditions of their people, Kazakhstan has schools employing Kazakh, Russian, Uzbek, Uighur, Tajik and Ukrainian as languages of instruction.

[Ten] mother tongues (German, Polish, Ukrainian, Korean, Tartar, Turkish, Chechen Azerbaijani, Kurdish, Uighur) are taught in schools as separate subjects.

More than 3,500 children study their mother tongue in the country's 79 Sunday schools (in 2005, there were 76 Sunday schools catering for about 3,000 children).

Article 11, paragraph 1, of the Rights of the Child Act of 8 August 2002 provides that all children enjoy the freedom of expression and opinion, freedom of conscience and the right to develop their own social activities.

Where special education is concerned, innovative approaches to integrate children with disabilities in the educational world of their non-disabled peers are gaining ground in Kazakhstan. Research is being stepped up into innovative ways to create the best possible conditions for preventing and successfully treating developmental defects in children and to provide for the upbringing and education of children with special needs and their social adaptation and integration in society.

Work is continuing on the creation of the necessary conditions to equip every child with the necessary amount of knowledge of political and legal subjects. Knowledge of human rights, education in Kazakh patriotism and respect for the symbols of the State of Kazakhstan, and the establishment of the foundations of good citizenship are successfully instilled throughout the entire system of school education.

As prescribed by the mandatory State education standards, pupils in general education schools take a course of civic/legal subjects: in the junior classes – "Mother tongue" and "Knowledge of the world"; in the senior classes – "History", "History of Kazakhstan", "Basic civics", and "Basic jurisprudence".

In addition, special courses devised by the International Foundation for Electoral Systems are taught in the "Introduction to citizenship" programme.

As noted earlier, since the 2005-2006 academic year all schools have been working on the regional project "Researching humanitarian law".

A number of measures to foster the development of a human rights culture among schoolchildren are being carried out under the National Plan of Action on Human Rights Education 2006-2007.

The Gender Equality Strategy for 2006-2016, approved by Presidential Decree No. 1677 of 29 November 2005, is designed to deliver equal rights and opportunities for all members of society irrespective of their sex.

According to official figures, the enrolment of girls in primary education is virtually universal in Kazakhstan. Moreover, Kazakhstan is a member of the group of countries which have achieved gender parity in general secondary education.

The Gender Equality Strategy provides that children and young people should receive instruction in non-violent behaviour by means of special programmes taught in schools.

With UNICEF support the Scientific and Practical Centre of the Social Psychology Service carried out a project entitled "Teaching non-violent behaviour to children and young people" and formulated a curriculum and a plan and a teaching manual for pupils in grades 5-10.

Article 12, paragraph 4, of the Constitution states that aliens and stateless persons enjoy in Kazakhstan the same rights and freedoms as are accorded to citizens, unless the Constitution or laws or international treaties provide otherwise.

Children who are not nationals of Kazakhstan but are living in its territory are entitled to choose their educational organization, language of instruction, etc.

Efforts are being made under the Plan of Action 2006-2008 for implementation of Kazakhstan's Migration Policy Programme for 2001-2010, approved by Presidential Decree No. 925 of 27 September 2006, to educate Oralman children in the country's general education schools with a view to realization of their constitutional right to education and to satisfy the educational needs of repatriates (Oralmans).

The annual reports of the oblast education departments include information on Oralman children of school age for the purpose of determining the number of such children enrolled in general secondary education.

In the 2006-2007 academic year there were 47,841 repatriate children enrolled in the country's general education schools: 16,518 in the primary, 25,101 in the basic and 6,205 in the senior grades. Most of these pupils (8,180) lived in South Kazakhstan oblast, 8,027 in Almaty, 5,498 in Karaganda, 6,622 in Akmolina, 4,685 in Zhambyl, and 1,301 in Pavlodar. According to information from the oblast education departments, all repatriate children of school age (47,841) are currently attending school, except for 17 children disabled from infancy.



Posts have been found for 1,200 of the 1,276 repatriate teachers who returned to Kazakhstan.

In order to make good any gaps in their knowledge and introduce them to the curriculum, the country's general secondary schools arrange additional lessons and counselling sessions and run special transitional programmes for Oralman pupils, who have arrived from far and wide: Uzbekistan, Turkmenistan, Tajikistan, Kyrgyzstan, Russia, Ukraine, Georgia, the Islamic Republic of Iran, China, Mongolia, Turkey, Pakistan, Saudi Arabia and Afghanistan.

Courses in the Kazakh and Russian languages are arranged for the repatriates who returned from the Islamic Republic of Iran, Pakistan and Afghanistan.

Specific educational/socializing work is done with Oralman children from the day of their arrival. To improve their grasp of the language, schools are introducing the special courses "Til damyту", "Til madeneti", and "Coz oneri". They organize hobby clubs and optional activities in Kazakh and Russian. There are also after-school activities in the form of social evenings, cognitive games, and talks on the history of the native land and the traditions and customs of the Kazakh people. Repatriate children are actively included in the school's social life and take part in amateur productions, competitions and specific subject olympiads, as well as joining sports squads.

Steps are taken to provide Oralman children with clothing, footwear and school requisites. All the children receive textbooks and meals free of charge.

As part of the charitable work of the Zabota NGO, systematic targeted assistance for Oralman children is provided by the oblast branches of the Red Cross and Red Crescent and the regional funds for poor children operating in the country's general education schools.

For example, in the city of Almaty the General Education Fund purchased clothing, footwear and school requisites costing a total of 186,000 tenge for 232 Oralman schoolchildren, as well as providing free meals for 211 of them.

All the Oralman children in Pavlodar oblast are provided with textbooks free of charge. The General Education Fund earmarked 803,844 tenge for leisure and recreational activities for them. Clothing (354,840 tenge), footwear (283,100 tenge) and school requisites (165,904 tenge) were purchased for 400 Oralman schoolchildren. "Oralman days" are traditionally held in the oblasts.

In conjunction with the oblast education departments working through the official employment bodies, institutes of technical and vocational education offer short-term retraining and further training courses for persons who are unemployed or not working.

Education services providing retraining or further training are available in 45 institutions of higher education. For example, the K. Satpaev National Technical University has a retraining and further training centre for engineers and teachers of technical subjects, the E. M. Buketov State University in Karaganda has a further training faculty, the A. Baitursynov State University in Kostanai has a regional intersectoral retraining and further training institute, the S. Seifullin Kazakh State Agro-Technical University has a further training institute, the Kazakh Advanced Academy of Architecture and Construction has an institute of lifelong learning, the Kazakh

National Agrarian University has a postgraduate and further training institute for agrarian studies, etc.

Supplementary education is provided in Kazakhstan by voluntary associations and NGOs and by means of training, retraining and further training courses, etc.

This supplementary education generally takes the form of various kinds of training to enable people to maintain and upgrade their existing qualifications and to expand their understanding of the changing world of technology, knowledge and values. It is often combined with work.

The principle of "Education for all" finds its widest application in all the levels and types of vocational training in the informal sector: in factories and schools, on courses and under other arrangements.

Article 14, paragraph 2, of the Constitution provides that nobody may be subjected to discrimination on the ground of origin, social, official or property status, sex, race, nationality, language, attitude to religion, opinions, or place of residence or any other circumstance.

An ethnic revival section has been in operation since the 1998-1999 academic year in Secondary School No. 17 in Petropavlovsk, North Kazakhstan oblast, where children of eight nationalities study Azerbaijani, Hebrew, Polish, Tatar, German, Armenian, Ukrainian, Chechen and Ingush.

Sixty-eight per cent of the students in Kazakhstan's higher education institutions are taught in Russian.

Accordingly, in terms both of legislation and of practice Kazakhstan is moving closer and closer to a language situation in which all citizens will be able, as the Constitution provides, to exercise their right to choose their language of communication, upbringing, instruction and creative activity.

6. The Committee notes that the ethnic representation in State institutions does not correspond to the proportion of the different ethnic communities represented in the population of the State party.

**The Committee recommends that the State party include information in its next periodic report regarding the ethnic representation in State institutions and adopt practical measures to ensure that ethnic minorities have equal access to those institutions.**

Article 33, paragraph 4, of the Constitution provides that the requirements for candidates for State service positions shall be determined only by the nature of the duties in question and shall be established by law.

Article 12, paragraph 4, of the State Service Act provides that the procedure for recruitment to the State service shall contain no direct or indirect restriction of any kind based on sex, race, nationality, language, social origin, property status, place of residence, attitude to religion, opinions, or membership of voluntary organizations or on any other circumstance.

Pursuant to this Act the admission of political servants of the State to the State service of the State is by appointment or election.

Recruitment to the State administrative service is by competitive examination.

Article 14, paragraph 1, of the Act provides that the arrangements for recruitment to State administrative positions shall ensure compliance with the right of citizens of the Republic to equal access to the State service.

The main requirement for the admission of citizens to the State service and their careers therein is possession of the specified qualifications.

Kazakhstan's legislation on the State service is fully consistent with the international standards. For example, at a workshop on characteristics of the social and cultural development of Kazakhstan's ethnic groups under contemporary conditions, held in April 2000 in Almaty, the OSCE High Commissioner on National Minorities, Mr. Max van der Stoep, had warm praise for the positive and democratic nature of Kazakh legislation on the State service in that it took account of the interests of the national minorities living in Kazakhstan.

The workshop noted in its recommendations that Kazakhstan had a body of legislation based on the principle of the equality of all citizens which was creating all the conditions needed for the application of the Lund recommendations on the effective participation of national minorities in public life which were applicable in the Kazakhstan context. The State was supporting the expansion of the effective participation of national minorities in the public life of the State and the creation of the conditions for the fully fledged development of ethnic cultures. The State Service Act provided for the realization of citizens' constitutional right of universal access to the State service by competitive examination, irrespective of their national affiliation.

The statistics indicate that on 1 January 2008 members of other nationalities living in Kazakhstan accounted for over 40 per cent of the country's total population.

Members of Kazakhstan's 130 nationalities are widely represented in the State service.

As of 1 January 2008 members of 64 nationalities were employed in the State service.

#### **Personnel of the State service, by nationality**

<b>No.</b>	<b>Nationality</b>	<b>Political</b>	<b>Administrative</b>	<b>Total</b>	<b>%</b>
1	Kazakh	2 731	74 810	77 541	81.9
2	Russian	236	11 387	11 623	12.3
3	Ukrainian	84	1 627	1 711	1.81
4	Tatar	18	837	855	0.9
5	German	27	520	547	0.6
6	Korean	7	465	472	0.5
7	Uzbek	14	444	458	0.5
8	Uighur	14	405	419	0.4
9	Belarusian	11	255	266	0.28
10	Polish	5	149	154	0.16
11	Azerbaijani	4	79	83	0.09
12	Bashkir	2	59	61	0.06
13	Dungan	3	52	55	0.06

No.	Nationality	Political	Administrative	Total	%
14	Mordvin	2	37	39	0.04
15	Chechen	2	37	39	0.04
16	Kyrgyz	1	36	37	0.04
17	Ingush	1	33	34	0.04
18	Armenian	3	27	30	0.03
19	Greek	3	26	29	0.03
20	Moldovan	-	29	29	0.03
21	Chuvash	1	26	27	0.03
22	Turkish	-	25	25	0.03
23	Bulgarian	1	16	17	0.02
24	Kurdish	2	14	16	0.02
25	Balkar	1	10	11	0.01
26	Chinese	-	11	11	0.01
27	Udmurt	1	9	10	0.01
28	Avar	-	9	9	0.01
29	Lezgin	-	9	9	0.01
30	Jewish	-	8	8	0.01
31	Lithuanian	1	6	7	0.01
32	Mari	-	7	7	0.01
33	Oset	-	6	6	0.01
34	Tajik	-	6	6	0.01
35	Crimean Tatar	-	6	6	0.01
36	Georgian	-	5	5	0.01
37	Karakalpak	1	4	5	0.01
38	Estonian	-	5	5	0.01
39	Kalmyk	-	4	4	0.004
40	Nenets	-	4	4	0.004
41	Czech	-	4	4	0.004
42	Dargin	1	2	3	0.003
43	Lett	-	3	3	0.003
44	Adygei	-	2	2	0.002
45	Buryat	-	2	2	0.002
46	Hungarian	-	2	2	0.002
47	Gagauz	-	9	2	0.002
48	Karachai	-	2	2	0.002
49	Kumyk	-	2	2	0.002
50	Finnish	-	2	2	0.002
51	Arab	-	1	1	0.001
52	Italian	1	-	1	0.001
53	Nogai	-	1	1	0.001
54	Oroch	-	1	1	0.001
55	Persian	-	1	1	0.001
56	Romanian	-	1	1	0.001
57	Sakha (Yakut)	-	1	1	0.001
58	Tabasaran	-	1	1	0.001
59	Tat	-	1	1	0.001
60	Tuvan	-	1	1	0.001
61	Turkmen	-	1	1	0.001
62	Others (Iranian and Kumandin)	-	3	3	0.003
	<b>Totals</b>	<b>3 178</b>	<b>91 540</b>	<b>94 718</b>	<b>100</b>

7. The Committee regrets the lack of information in the State party's report on the fundamental rights of non-citizens temporarily or permanently settled in Kazakhstan, including migrant workers.

**Drawing the attention of the State party to its general recommendation XXX on discrimination against non-citizens, the Committee recommends that the State party include information in its next periodic report on non-citizens and on the enjoyment of their rights. Furthermore, it encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

The Constitution adopted on 30 August 1995 constitutes the legal base for regulating the presence in Kazakhstan of aliens and Stateless persons.

Article 12, paragraph 4, of the Constitution provides that aliens and stateless persons in Kazakhstan enjoy the rights and freedoms and also bear the obligations established for Kazakh nationals, unless provided otherwise in the Constitution, the laws or international treaties.

The Constitution establishes the following inalienable human rights and freedoms: the right of freedom of movement in the territory of Kazakhstan and the right freely to choose one's place of residence, except in the cases specified by law.

In order to give effect to this provision of the Constitution, Kazakhstan adopted on 19 June 1995 the Aliens (Legal Status) Act, which spells out the basic rights and obligations of aliens and the procedures for the entry, stay and movement of aliens within the country, and their departure. In particular, article 3 of this Act provides that aliens are equal before the law regardless of their origin, social or property status, race or nationality, sex, education, language, attitude to religion or the type and nature of their occupation.

Articles 5, 6 and 8 of the Labour Code provide that everyone has the right freely to choose his or her work and freely to agree to work, without any kind of discrimination or compulsion, as well as the right to decide how to utilize his or her aptitudes and to choose a profession or type of activity. Aliens and stateless persons also enjoy equal labour rights in Kazakhstan.

Forced labour is prohibited.

Forced labour means any work or service required from any person, when that person has not volunteered his or services, under threat of some kind of punishment, except in the following cases:

- Work or service required under the legislation on compulsory military service;
- Work or service constituting part of the customary civic duties of citizens established by law;
- Work or service required of a person under a court sentence which has become final, provided that such work or service will be performed under the supervision and control of State bodies and that the person who is to perform it will not be placed in the hands of physical and/or juridical persons;

- Work or service required in emergencies or in war time;
- Work or service performed for the direct benefit of a collective by its members and which therefore may be regarded as a customary civic duty of the members of the collective, provided that they or their representatives are entitled to state their opinion as to the work's usefulness.

The improvement of the situation in the labour market facilitated the adoption of a number of programmes: the Programme to Combat Poverty and Unemployment (2000-2002); the Poverty-Reduction Programme (2003-2005); and the Employment Programme (2005-2007).

Under the Employment Programme, which was adopted in order to improve the labour market situation, unemployed persons in the target groups are entitled to priority in admission to vocational training, further training and retraining courses. Oralman constitute one such target group. Article 29-3, paragraph 1.2, of the Migration Act provides that Oralmans shall be helped to find jobs and given opportunities for further training and retraining.

Kazakhstan has drafted several pieces of legislation on the rights of Oralmans, refugees and forcibly resettled persons, notably the Migration (Amendments and Additions) Act of 6 July 2007. The Policy Outline on Migration Policy and the Sectoral Programme on Migration Policy 2001-2010 were approved by the Government decisions of 5 September 2000 and 29 October 2001 respectively.

The relevant central and local executive authorities are making consistent efforts on the basis of these documents to protect the interests of repatriates, refugees and forcibly resettled persons. The quotas for Oralmans are increased year by year. All persons resettled under the Oralman quotas are provided with housing and granted a one-off allowance, as well as having their transport costs paid. Oralmans also enjoy the other benefits provided for in article 29-2 of the Migration Act. Special preparatory courses for Oralmans have been created in the country's higher education institutions.

Compatriots coming to Kazakhstan to take up permanent residence are given preferential treatment in obtaining Kazakh citizenship. The corresponding rules were set out in the Act amending and supplementing the Citizenship Act, which was adopted in May 2000.

Karaganda and South Kazakhstan oblasts have set up "Otandastar" voluntary associations for protection of the rights of immigrants. A similar organization ("Oralman") is operating in North Kazakhstan oblast.

Over the years of independence 651,299 ethnic Kazakhs have returned to their historical homeland to take up permanent residence. Every year sees an increase in arrivals of Oralmans, over and above the immigration quota: in 2005, 28,239 Oralman families returned, against a quota of 15,000 families (an excess of 13,239); the figure for 2006 was 20,498 families (an excess of 5,498) and for 2007 it was 22,520 families (an excess of 7,520).

The main countries of provenance of these Oralmans were Uzbekistan (10,169 families), Mongolia (1,188 families), Turkmenistan (1,309 families) and China (1,450 families).

It is too soon for Kazakhstan to accede to the United Nations Convention on the Protection of All Migrant Workers and the Members of Their Families, for the reasons stated below.

If Kazakhstan accedes to this Convention, the implementation of its individual provisions will require the allocation of additional funds from the State budget.

Specifically, article 43, paragraph 1, of the Convention provides that migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

- Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;
- Access to vocational training and retraining facilities and institutions;
- Access to housing, including social housing schemes, and protection against exploitation in respect of rents;
- Access to social and health services, provided that the requirements for participation in the respective schemes are met.

In addition, certain provisions of the Convention clash with Kazakhstan's existing legislation. For example, article 51 of the Convention states:

“Migrant workers who in the State of employment are not permitted freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permit ... Such migrant workers shall have the right to seek alternative employment, participation in public work schemes and retraining during the remaining period of their authorization to work ...”

Article 3 of the Freedom of Religion and Religious Associations Act establishes the right to freedom of religion. This right includes, for citizens and stateless persons alike, the freedom to profess any religion or none.

Children who are not citizens of Kazakhstan but live in its territory have the right to choose their education institution, language of instruction, etc.

8. The Committee is concerned that some refugees have been forcibly returned to their countries when there were substantial grounds for believing that they might suffer serious human rights violations.

**The Committee recommends to the State party that it include in its next periodic report information on the situation of refugees, the legal basis for their deportation, and the legal protection provided, including their rights to legal assistance and judicial appeal against deportation orders. It also urges the State party to ensure, in accordance with article 5 (b) of the Convention, 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.**

The legal status of refugees is governed by the Migration Act of 13 December 1997 and other domestic legislation. In December 1998 Kazakhstan acceded to the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol.

Article 45 of the Code of Administrative Offences provides for the administrative expulsion of aliens and stateless persons from Kazakhstan as one of the means of administrative sanction.

Article 46, paragraph 2, of the Code provides that the termination of a special right, the termination or suspension of a licence (special authorization or certificate of qualification), the suspension or prohibition of business activity or individual forms of business, as well as administrative expulsion from Kazakhstan, may be imposed on aliens and Stateless persons as a primary or supplementary administrative sanction.

The concept of refugee is defined as follows in article 1 of the Migration Act: “Refugees are either aliens who, owing to well-founded fear of being persecuted for their political opinions or for reasons of race, religion, nationality or membership of a particular social group, are compelled to remain outside the country of their nationality and are unable or, owing to such fear, are unwilling to avail themselves of the protection of that country, or Stateless persons who are outside the country of their former habitual residence and are unable or, owing to such fear, are unwilling to return to it.”

Article 2 of the Aliens (Legal Status) Act of 19 June 1995 provides that in Kazakhstan persons who are not citizens of Kazakhstan and possess evidence that they are nationals of another State are deemed to be aliens. Persons who are not citizens of Kazakhstan and do not possess evidence that they are nationals of another State are deemed to be stateless persons.

Article 25 of this Act provides that an alien who has committed a crime or an administrative or other offence in the territory of Kazakhstan incurs liability on the same terms as citizens of Kazakhstan, except in the cases specified in the international treaties ratified by Kazakhstan.

Kazakhstan has acceded to the Convention relating to the Status of Refugees, adopted on 28 July 1951, and to the Protocol thereto, adopted on 31 January 1967. Article 1 of this Convention and its Protocol define the term “refugee” as a person who:

“(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;



Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;

(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable, or owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term “the country of his nationality” shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.”

Kazakhstan acceded to the International Convention on the Elimination of All Forms of Racial Discrimination, signed on 21 December 1965, by adopting the Act of 29 June 1998.

As a member of the world community, Kazakhstan plays an active part in dealing with the problems of refugees in accordance with the developing migration policy which it pursues. This is a logical continuation of Kazakhstan’s chosen path of adherence to the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights, a path confirmed by the adoption of the Act of 15 December 1998 on the accession of Kazakhstan to the Convention relating to the Status of Refugees and the Protocol thereto.

As of 1 January 2008 Kazakhstan had 528 registered refugees. Most of the persons granted refugee status (525) are emigrants from Afghanistan.

The total number includes 188 children aged 16 or under, 221 women and 307 men, 322 of them of working age; their breakdown by nationality is as follows:

1. Tajiks - 322;
2. Pushtuns - 106;
3. Khazars - 48;
4. Uzbeks - 30;
5. Other nationalities - 22.

More than 90 per cent of these refugees are living in the city of Almaty and the remainder in South Kazakhstan oblast. Eighty-eight of them have higher or uncompleted higher education and 26 secondary specialist education; 38 are illiterate.

Refugee status is granted for one year and may be renewed annually.

The legal status of persons seeking refugee status and recognized as refugees is governed by the Migration Act and by the Aliens (Legal Status) Act of 19 June 1995.

Most of the refugees have found employment, and some of them are also rendered assistance by such international organizations as the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Red Cross.

Kazakhstan works closely with UNHCR, the International Organization for Migration (IOM), the International Committee of the Red Cross, and the Red Crescent and takes an active part in the measures implemented by these organizations.

It is one of the priorities of Kazakhstan's work in this area to supervise the exercise of their rights by migrants and members of national minorities and constantly to monitor the international situation in this field.

The important legal instruments regulating migration issues include the Migration Act of 13 December 1997, the Convention relating to the Status of Refugees of 28 July 1951 and its Protocol of 31 January 1967, which was ratified by Kazakhstan on 15 December 1998.

Kazakhstan has also adopted a number of programme documents on the realization of migrants' rights: the Policy Outline on migration policy approved by a Government decision of 5 September 2000 and the Sectoral Programme on Migration Policy 2001-2010 approved by a Government decision of 29 October 2001.

Questions of the rights of migrants and national minorities are regulated by national legislation, but an analysis of this legislation by the Ombudsman's Office revealed a number of shortcomings. For example, the national legislation still does not provide for the possibility of submitting an application for refugee status at the frontier, nor does it address the procedure for dealing with asylum-seekers who have crossed the frontier illegally, even though, as a party to the international treaties mentioned above, Kazakhstan has assumed an obligation to admit persons applying for refugee status.

Obtaining a residence permit is a serious problem for refugees, for it is often difficult for them to prove their ability to pay their way during their stay in Kazakhstan, as the legislation requires.

Another serious difficulty is refugees' lack of the necessary information about the work of the relevant State authorities and the procedures and forms of the provision of assistance. There is also the problem of insufficient coordination among the various State bodies dealing with migration matters.

The project "Institutional and capacity building activities to strengthen the asylum systems in Central Asia", financed by the European Union and UNHCR, is designed to tackle the problems of the protection of refugees and Oralmans by monitoring the exercise of their rights by these population groups in Kazakhstan. The Ombudsman's Office in Kazakhstan and UNHCR have signed an agreement on the implementation of this project.

This agreement provides for the production of an analysis of the current status of refugee rights in Kazakhstan based on monitoring of the realization of their rights by refugees in those

oblasts where most of the members of this socially vulnerable population group are living. A further analysis will be made of the current status of Oralman rights in Kazakhstan on the basis of monitoring of their exercise of their rights. Another aim of the project is to disseminate information about the possibility of applying to the Ombudsman, for the current volume of communications concerning the violation of refugee rights is very small owing to this population group's lack of information about the means of defending their rights.

Seminars are being held under the project for target groups, and monitoring studies are being conducted in all regions of Kazakhstan.

A refugee's bill is being drafted in the Ministry of Labour and Social Protection.

A working group has been set up: it draws its membership from the Ministries of Labour and Social Protection, Foreign Affairs, Justice, Finance, Education and Science, Health, Emergency Situations, the Economy and Budget Planning, and Internal Affairs, and from the Office of the Procurator-General and the National Security Committee.

This working group also includes representatives of the United Nations, the Organization for Security and Cooperation in Europe (OSCE) and voluntary organizations.

9. While acknowledging that the State party has developed a governmental work plan to combat human trafficking, the Committee notes with concern that there is ongoing trafficking of women and children, particularly affecting non-citizens and ethnic minorities.

**The Committee recommends that the State party include detailed information in its next periodic report on human trafficking and that it reinforce its ongoing efforts to prevent and combat trafficking and provide support and assistance to victims. Furthermore, the Committee urges the State party to make determined efforts to prosecute the perpetrators and underlines the paramount importance of prompt and impartial investigations.**

In order to address this problem, on 26 September 2003 the Government established an Interdepartmental Commission to combat the illegal transport of persons out of and into the country and trafficking in persons. The Ministry of Justice acts as this Commission's executive arm. According to the Commission's terms of reference, the following are its chief functions:

1. To analyze the current situation with regard to the illegal transport of persons and trafficking in persons;
2. To produce proposals and recommendations on:
  - Informing the population about the fight against the illegal transport of persons and trafficking in persons;
  - Improvement of Kazakhstan's legislation in the light of the international legal instruments adopted on the illegal transport of persons and trafficking in persons and of the existing practice;

- Enhancement of the effectiveness of the cooperation among the country's State agencies involved in combating the illegal transport of persons and trafficking in persons;
- Protection of and provision of assistance to victims of the illegal transport of persons and trafficking in persons.

In addition, the Government has adopted a second Two-Year Plan of Action, for 2006-2008, to combat and prevent crime connected with trafficking in persons, which was approved by Government Decision No. 261 of 10 April 2006.

This Plan contains 16 measures, including: the dissemination of information through the mass media concerning the fight against trafficking in persons, and the conduct of information campaigns; vocational training for the personnel of law-enforcement bodies in methods of detecting and preventing trafficking offences; the production of separate legal statistics on criminal cases and offences involving trafficking, and study of the findings of analyses of these statistics.

One of the results of the implementation of the first Two-Year Plan was the ratification by the Act of 14 December 2005 of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and its Final Protocol.

On 5 February 2008 the Head of State signed the Act ratifying the Slavery Convention of 25 September 1926, the Protocol amending the Slavery Convention of 7 December 1953 and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 7 September 1956.

This Act had been drafted in implementation of paragraph 13 of the Integrated Plan of Action to support Kazakhstan's bid for the Presidency of OSCE and to improve the work of the law-enforcement agencies in preventing and combating trafficking crime and in protecting the victims of such crime, as well as to bring the provisions of Kazakhstan's legislation into line with the rules of international law.

The Office of the Procurator-General, working in conjunction with the National Security Committee, the Ministry of Internal Affairs and the National Agency to Combat Economic Crime and Corruption, drew up a list of articles of the Criminal Code relating to trafficking offences, statistical data on which are regularly entered in the data bank of the Office's Committee for Legal Statistics and Special Records.

Article 128 (Trafficking in persons) and article 133 (Trafficking in minors) are generally regarded in practice as the articles of the Criminal Code which have a direct bearing on trafficking in persons; accordingly, data on other articles are included in the data bank only if they have a connection with article 128 or article 133.

Pursuant to the Procurator-General's Instruction No. 27 of 17 June 2005, the Committee for Legal Statistics and Special Records maintains a card-index record of applications and communications concerning offences and criminal cases and the results of their investigation and judicial examination. A draft instruction of the Procurator-General on amendments and additions to certain regulations issued by the Procurator-General has been produced, with a view to the

establishment of a specialized data bank. There is already an instruction of the Chairman of the Committee for Legal Statistics and Special Records on the creation of a specialized data bank on offences connected with trafficking in persons and the perpetrators of such offences.

The efforts to combat trafficking in persons are kept under constant supervision by the Government.

The problems of trafficking in persons and the exploitation of persons cannot be tackled successfully without the enactment of legislation. One such piece of legislation is the bill containing amendments and additions to certain legislative acts on questions of combating trafficking in persons.

This bill takes account of the international standards and model legislation and provides for a number of substantive amendments and changes to domestic legislation: the Criminal Code, the Code of Administrative Offences, and the Aliens (Legal Status) Act.

The amendments concerning the protection of trafficking victims, heavier penalties for the offences in question, and the extension of the scope of the Act may be regarded as the most significant proposals.

Kazakhstan has now joined 30 international treaties on combating crime and protecting human rights. One of the forward moves in this direction was Kazakhstan's signature in October 2005 of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and its Final Protocol .

Equally important is the systematic work being done by the Government to combat trafficking in persons. State bodies are currently carrying out the Governmental Plan for 2006-2008 to combat and prevent trafficking offences, including by means of preventive inspection measures. This Plan provides for the study of a number of pieces of legislation to combat trafficking in persons and measures for the inclusion of specific courses in the curricula of education institutions, the introduction of arrangements for the social rehabilitation of victims of trafficking, the expansion of the network of crisis centres for victims, etc.

Kazakhstan has established special machinery for combating trafficking in persons, designating the Ministry of Justice as the State agency responsible for these matters.

In the current circumstances the emergence and vigorous growth of new types of crime closely linked to international crime and its organized forms, such as kidnapping, illegal adoption and trafficking in persons, call for suitable responses.

In an attempt to identify illegal migration routes, the police and the customs and frontier agencies are carrying special measures at border crossings and frontier railway junctions to check international passenger trains and investigate foreign citizens detained for entering Kazakh territory illegally.

The Ministry of Internal Affairs works in constant collaboration with the relevant non-governmental and international organizations. One area of this collaboration is the conduct of training programmes for members of law-enforcement and health agencies working with victims of violence.

Kazakhstan has established a network of confidential telephone lines and telephone hotlines, notably in the Ministry of the Interior and its local offices, and crisis centres and voluntary organizations, whose purpose is to protect the rights of victims of violence and trafficking in persons and to provide safe accommodation and psychological and social rehabilitation, first aid before the arrival of the medical services, legal advice and other forms of legal assistance, etc. The police services have direct links with the NGOs working in this area.

In addition, an open invitation to bid issued by the Ministry of Culture and Information in 2008 in respect of State procurement of services for the implementation of socially important projects by the country's NGOs provides for three contracts to combat and prevent trafficking offences.

The internal affairs agencies employ vigorous inspection measures to prevent instances of trafficking in persons. Measures are carried out in conjunction with the NGOs working in this area and with international organizations, including IOM. These measures take the form of joint seminars and training sessions, at which participants discuss issues of preventing and combating trafficking and protecting its victims. NGOs are involved in the work with the victims and witnesses of offences and with victims who do not wish to report offences to the police.

The public is provided through the mass media with professional advice on the prevention of violence and trafficking in women and children.

Efforts are made to detect cases of procurement and prostitution. Practical preventive inspection measures are carried out in places of entertainment (casinos, night clubs), in establishments providing services (saunas, hotels), and health and recreational resorts (sanatoria and holiday centres). The chief purpose of these measures is to detect cases of trafficking in persons, procurement, maintenance of dens of vice, recruitment for prostitution, and abduction and unlawful deprivation of liberty for purposes of sexual exploitation.

Criminal proceedings have been instituted and charges laid against members of the law-enforcement agencies; convictions were obtained in 2007 in respect of offences connected with illegal trafficking in persons.

All State bodies have internal security units to deal with offences committed by their personnel. In 2007 these units detected two trafficking offences committed with the participation of members of internal affairs bodies:

1. In March 2007 the personnel of the security unit of the National Security Committee for the city of Almaty and the Internal Security Department of the Ministry of Internal Affairs brought to light a cover-up, by I. V. Morozova, head of the trafficking unit of the Organized Crime Department of the Internal Affairs Office in the city of Almaty, of citizen O. M. Khambulatova, who had been engaging in procurement for the provision of paid intimate services. Criminal proceedings were instituted in this case under article 348 of the Criminal Code (Falsification of evidence) and article 307 (Abuse of official authority). The case was brought to court.
2. In June 2007 the Internal Security Department of the Internal Affairs Office for Akmolina oblast brought criminal proceedings under paragraph 2 of article 307 of the Criminal Code (Abuse of official authority) against D. M. Syzdykova and A. Z.

Baisalbaeva, senior officials of the Organized Crime Department of the Internal Affairs Office for Akmolina oblast, who had been providing “cover” for the procuress M. B. Tulepova.

Victims of trafficking in persons are helped to return to Kazakhstan by the Ministry of Foreign Affairs.

The following information was submitted by the Ministry of Internal Affairs to the Ministry of Justice in connection with the preparation by the Embassy of the United States to the Republic of Kazakhstan, for the State Department of the United States, of a preliminary report for 2007 on the efforts to combat trafficking in persons:

In the period January to October 2007 security measures were taken in 349 criminal cases, including seven cases of trafficking crime, to protect the persons taking part in the proceedings.

Kazakhstan has devised a mechanism for protecting persons (victims, witnesses, etc.) taking part in criminal proceedings. To this end resources have been allocated from the State budget to rent living accommodation, replace documents, alter personal records, change places of work and residence, provide physical protection, etc. A considerable amount of practical experience of protecting persons involved in criminal proceedings has now been built up.

Assistance was furnished in the seven cases mentioned above to 31 victims of trafficking in persons taking part in criminal proceedings. The State makes an annual budgetary appropriation for implementation of the programme to protect such persons. A total of 28,944,000 tenge was appropriated in 2007. The programme is administered by the Ministry of Internal Affairs. Between January and October 2007, 4.43 million tenge were spent on the protection and maintenance of persons taking part in criminal proceedings and on the rental of temporary living accommodation for them. A total of 649,000 tenge was expended from these resources on victims of trafficking. The funds were used for physical protection, rental of accommodation, medical care, food, toiletries and clothing.

In foreign countries assistance is furnished by the country’s diplomatic and consular offices to Kazakh citizens who have fallen victim to trafficking in persons. Funds are allocated for this purpose every year under the State budget programme “Provision of financial assistance to citizens of the Republic of Kazakhstan who have been transported illegally to other States and have fallen victim to trafficking and to victims of other offences finding themselves in foreign countries in circumstances beyond their control”. In 2007 the State spent 11,700,000 tenge for this purpose.

In the period January-October 2007 Kazakh institutions abroad furnished assistance to 28 Kazakh citizens in a total amount of 3,533,500 tenge.

One major advance in the fight against trafficking in persons has been Kazakhstan’s accession to international instruments, including the United Nations Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the United Nations Convention on Transnational Organized Crime, its Protocol on the Prevention, Suppression and Punishment of Trafficking in Persons, Especially Women and Children, and its Protocol against the Smuggling of Migrants by Land, Sea or Air.

10. While acknowledging the efforts made by the State party to confront the scourge of terrorism with a national counter-terrorism programme, the Committee is concerned about the lack of information on the impact of this programme on the principle of non-discrimination.

**The Committee draws the State party's attention to its statement of 8 March 2002 in which it stressed the obligation of States to ensure that measures taken in the struggle against terrorism did not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin and requests the State party to include in its next periodic report further information on its counter-terrorism programme.**

Kazakhstan is establishing a system to combat terrorism. One of the steps taken to organize this system was the creation by presidential order in December 2003 of the Counter-Terrorism Centre of the National Security Committee. The centre is invested by that order with the authority to monitor the implementation by State bodies of the measures to strengthen the system of security and preparedness to neutralize terrorist threats, including the measures contained in the State Programme to Combat Terrorism, Extremism and Separatism.

The Counter-Terrorism Centre draws its members from the Ministries of Internal Affairs, Defence, Emergency Situations, Justice, Transport and Communications, and Culture and Information and from the Defence Service of the Office of the President and the Customs Controls Committee of the Ministry of Finance. The Centre is staffed in this way because terrorism is regarded primarily as a social phenomenon which can be fought from various angles. The Centre has swiftly established a State-wide system to combat terrorism, extremism and separatism, including a legal and regulatory base and organizational and operational arrangements.

The Kazakh Parliament has ratified a total of over 40 bilateral and multilateral international treaties and agreements on matters connected with the struggle against international terrorism and extremism. The country's leaders are taking concrete practical action to strengthen still further cooperation and regional security and harmonious relations among nationalities and religions.

The Counter-Terrorism Act has been in force in Kazakhstan since 1999; it stipulates the following cardinal principles for combating this threat: the protection of people's lives, health and rights placed in jeopardy by terrorist acts; compliance with the law; the inevitability of punishment; and the comprehensiveness of the counter-terrorism measures, with priority given to the prevention of terrorism. The Act devotes special attention to the rights, duties and obligations of citizens in the struggle against terrorism.

Within the limits of its jurisdiction the National Security Committee takes an active part in regional organizations, preparing the ground for the development of a new kind of subregional cooperation. Links are being vigorously developed with special services and law-enforcement agencies and with international counter-terrorism organizations. Efforts have continued, by means of counter-terrorism training, to establish the habit of joint operations combining the forces and resources of State bodies to respond to a terrorist attack.

Between October 2004 and November 2006 Kazakhstan legally recognized for the first time 13 foreign organizations as terrorist organizations: Al-Qaida, the Islamic Party of East



Turkmenistan, the Kurdish People's Congress, the Islamic Movement of Uzbekistan, Asbat-al-Ansar, the Mohammedan Brotherhood, Boz Gurd, Zhamaat Mojaheddin of Central Asia, Lashkar-i-Taiba, the Taliban, the Social Reform Society, Aum sendrike, SHAT, and one extremist party - Hisb-ut-Takrir.

On 20 April 2006 the Security Council of the United Nations adopted, on the initiative of Kazakhstan, a decision formally to include the organization Zhamaat Mojaheddin of Central Asia, which is banned in Kazakhstan, in the United Nations consolidated list of terrorist organizations.

This preventive step enabled the competent agencies of Kazakhstan to react, within the limits of the law, more severely and purposefully to any manifestations of the activity of these organizations in Kazakhstan and to eliminate the threats emanating from them in good time. Kazakhstan carries out vigorous information and publicity measures in this field. One of the most recent examples was the publication of the handbook "Initial counter-terrorism training for the public".

The Counter-Extremism Act was adopted on 18 February 2005; its purpose is to lay down the legal and organizational bases for combating extremism in order to protect human rights and freedoms and the rights and freedoms of citizens and the foundations of the constitutional order and to guarantee the sovereignty of the Republic of Kazakhstan, the integrity, inviolability and inalienability of its territory, and national security.

In general terms, it is already possible today under the established legal and regulatory bases to implement a set of preventive measures and the necessary investigatory and other measures to combat international terrorism and extremism.

The Ministry of Defence planned and conducted a series of tactical training exercises, at which an effort was made to improve cooperation among the leadership structures of the armed forces and other kinds of armed personnel and army units during planned tactical exercises such as "The Caspian versus terror - 2005" and "Against nuclear terrorism - 2006". All such exercises are designed to support the fight against terrorism.

Racism or separation on the ground of race, skin colour or national or ethnic origin was not permitted during these exercises.

The Government of Kazakhstan is an open supporter of the struggle against terrorism and it categorically denounces terrorist acts. Kazakhstan is a member of the Shanghai Cooperation Organization alongside China, Russia, Tajikistan, Uzbekistan and Kyrgyzstan. It maintains diplomatic relations with Cuba, North Korea, Libya, the Palestinian Authority, Sudan and Iran.

Under a 2002 memorandum of understanding Kazakhstan allows coalition forces to use Almaty international airport when aircraft are forced off their flight paths by an emergency. Since 2001 Kazakhstan has also permitted 1,100 flights through its airspace free of charge.

In 2003 representatives of Kazakhstan successfully completed a two-year familiarization programme consisting of 14 courses organized by the counter-terrorism preparedness offices of the Diplomatic Security Bureau of the State Department of the United States of America. Kazakhstan is a party to 11 of the 12 international conventions and protocols on terrorism.

For multi-nationality Kazakhstan it is a matter of special importance to establish the principles of moderation, tolerance of religious beliefs and attachment to peace and to prevent extremism and xenophobia. The ongoing processes of globalization, in which Kazakhstan too is involved, and the new transparency of frontiers represent a real threat that external conflicts may damage the country's security.

Local conflicts in the Central Asian region and Russia and the threat of the spread of religious extremism and terrorism are catalysts of a deterioration in psychological well-being and growing internal unrest, social tension and other destructive processes in the collective consciousness of the people of Kazakhstan.

In this situation the priorities of State policy are to maintain internal political stability and harmonious relations between nationalities and religions and a calm collective consciousness and to create a favourable social and psychological atmosphere in the majority of the country's population groups.

The development and implementation of an effective system of measures to foster a tolerant attitude of mind and prevent extremism in Kazakh society is a complicated task, the completion of which calls for coordinated efforts by the organs of the State and broad support from the people.

The Ministry of Culture and Information has produced a programme for 2006-2008 for improving the Kazakh model of inter-ethnic and inter-religious harmony, which was approved by Government Decision No. 593 of 28 June 2006. This programme sets out the goals and tasks of creating a tolerant attitude of mind and tolerant conduct and preventing the various forms of extremism, as well as indicating the basic policies and mechanisms for their achievement and the sources of financing.

The implementation of this programme will help to maintain internal political stability and harmonious relations between nationalities and religions in Kazakhstan.

11. The Committee notes with concern that, with the exception of the judges of the Supreme Court, all the judges are appointed by the President, who also determines the organization of the work of the courts.

**The Committee recommends that the State party strengthen the independence of the judiciary and other State organs in order to provide everyone with effective protection and remedies against any acts of violation of the Convention and that it include detailed information in its next periodic report on the measures taken to that end.**

The following points should be noted with regard to strengthening the independence of the Judiciary and other State organs:

Pursuant to article 82 of the Constitution the President and judges of the Supreme Court are elected by the Senate on the proposal of the President of the Republic, which is based on the recommendation of the Higher Council of the Judiciary. The presidents and judges of the local and other courts are appointed to their posts by the President of the Republic on the recommendation of the Higher Council of the Judiciary.

Article 75 of the Constitution provides that the courts of the Republic are the Supreme Court and the local courts established by law.

Judges are independent in their task of dispensing justice and are subject only to the Constitution and the law; any kind of interference in the work of a court in the dispensation of justice is prohibited and attracts liability under the law. Judges are not answerable in individual cases.

Article 78 of the Constitution provides that judges are not entitled to apply laws or other legislation restricting the human rights and freedoms or the rights and freedoms of citizens enshrined in the Constitution. If a court finds that an applicable law or other piece of legislation restricts such rights or freedoms, it is obliged to suspend the proceedings in the case and refer the matter to the Constitutional Court with a submission that the law or legislation in question should be declared unconstitutional.

Since human rights and freedoms and the rights and freedoms of citizens are set forth in the Constitution, attention must also be drawn to the work of the Constitutional Council, the State body which ensures the primacy of the Constitution throughout the country. The Constitutional Council vets for conformity with the Constitution, prior to their signature by the President, the laws passed by Parliament and, prior to their ratification, the international treaties concluded by Kazakhstan.

Laws or international treaties found to contravene the Constitution cannot be signed or ratified or enter into force. Laws and other legislation found to restrict the human rights and freedoms and the rights and freedoms of citizens established in the Constitution are revoked and become inapplicable. The decisions of the Constitutional Council enter into force on the day of their adoption; they are binding throughout the country, final and not subject to appeal.

The juridical protection provided under Kazakh legislation is dispensed equally, irrespective of race. Article 13 of the Constitution establishes the right of all persons to be recognized as subjects of the law, to obtain legal protection of their rights and freedoms and to receive free legal assistance from qualified personnel.

12. The Committee notes the absence of court cases regarding racial discrimination in the State party and that only two complaints of racial discrimination were brought before the Commission on Human Rights in 2000 and 2001.

**The Committee recommends that the State party ensure that the paucity of complaints is not the result of victims' lack of awareness of their rights or limited financial means, or their lack of confidence in the police and the judicial authorities, or to the authorities' lack of attention or sensitivity to cases of racial discrimination. The Committee urges the State party to ensure that appropriate provisions are available in the national legislation regarding effective protection and remedies against violation of the Convention and to disseminate as widely as possible among the public information on the legal remedies available.**

Chapter 3 of the Criminal Code establishes criminal liability for violation of the human rights and freedoms and the rights and freedoms of citizens embodied in the Constitution. In this connection, the law-enforcement agencies, including the Office of the Procurator-General, the

Ministry of Internal Affairs and the National Security Committee, are entrusted with special functions with regard to the protection of human rights during criminal proceedings.

Article 8 (Legal protection of the rights and freedoms and legitimate interests of individuals) of the Code of Civil Procedure establishes the right of every citizen “to apply to the courts in defence of violated or disputed constitutional rights or freedoms and of interests protected by the law.”

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination requires States parties to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of civil rights and economic and cultural rights.

This rule is applied in the context of article 14 of the Constitution, which provides that everyone is equal before the law and the courts and that no one may be subjected to any kind of discrimination by reason of origin, social, official or property status, sex, race, nationality, language, attitude to religion, opinions or place of residence, or any other circumstance.

Article 164 of the Criminal Code establishes criminal liability for inciting social, national, ethnic, racial or religious enmity, while article 170 establishes such liability in respect of calls for the violent overthrow or alteration of the constitutional order or for the disruption by violence of the unity of the territory of the Republic.

According to the statistics, 222 offences connected with incitement of social, national, ethnic racial or religious enmity were recorded between 2003 and 2007, and nine offences connected with calls for the violent overthrow or alteration of the constitutional order or the violent disruption of the unity of the territory of the Republic were recorded in 2003. Sixteen similar offences were recorded in the period 2004-2007, including 10 in 2004, three in 2005, one in 2006, and one in 2007.

13. While noting the existence of the Commission on Human Rights, which has a primarily consultative function, as well as the recent nomination of an Ombudsman, the Committee regrets the insufficiency of detailed information regarding their independence and effectiveness.

**The Committee recommends that in its next periodic report the State party provide additional information on the role and functioning of the Commission on Human Rights and the Ombudsman. Furthermore, the Committee encourages the State party to consider establishing an independent national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).**

The President of the Republic established the Commission on Human Rights, by Decree No. 1042 of 19 March 2003, as a consultative/advisory body attached to the Office of the Head of State. It currently has 22 members, representing the various socio-economic strata of the population and the specific national, political, professional and administrative characteristics of Kazakh society

The Commission is a consultative/advisory body which assists the Head of State in the exercise of his constitutional powers as guarantor of the human rights and freedoms and the rights and freedoms of citizens recognized and guaranteed by the Constitution.

The following are the Commission's main functions:

1. To create the conditions for the exercise by the President of his constitutional powers as guarantor of human rights and the rights and freedoms of citizens in the Republic of Kazakhstan;
2. To promote the improvement of the machinery for the realization and protection of those rights and freedoms;
3. To support the activities of the central and local organs of the State in the implementation of State policy for the realization and protection of those rights and freedoms;
4. To participate in the formulation of policy outlines and programmes of State policy for the realization and protection of those rights and freedoms; and
5. To promote the strengthening of international cooperation for the realization and protection of human rights and freedoms.

Today Kazakhstan is undergoing fresh democratic changes. The principle of creating a humane and democratic State, proclaimed in the Declaration on State Sovereignty of October 1990, required the restructuring of the economic, political, societal and spiritual life of the community and the establishment of the necessary legal foundation.

One of the purposes of the human rights is to secure the enactment of legislation to incorporate in the country's legal system the international standards and principles relating to the observance of those rights.

The legislation adopted earlier (the Freedom of Religion and Religious Associations Act (1993) and the Victims of Mass Political Repression (Rehabilitation) Act and the Psychiatric Care (Citizens' Guarantees) Act (1992), the Migration Act (1997), etc.) contain most of the international rules on the protection of rights, constituting an important contribution by Kazakhstan to the protection of human rights.

However, vigorous and effective action is still required to bring national legislation into line with the international conventions and agreements to which Kazakhstan is a party.

The social and political stability achieved by Kazakhstan over the years of independence is creating a sound basis for the universal assertion of human rights and freedoms in society and their respect and realization.

The post of Ombudsman for Human Rights was created on 19 September 2002 by Presidential Decree No. 947 on the establishment of the post of Ombudsman for Human Rights in the Republic of Kazakhstan.

An analysis of the status of this post confirms the existence in Kazakhstan of a special and specific model of ombudsman. The peculiar nature of the Kazakh model derives from a synthesis of two different ways of appointing this official: the Statute of the Ombudsman for Human Rights, approved by Presidential Decree No. 947 of 19 September 2002, provides that he shall be appointed by the President of the Republic after consulting the committees of the chambers of Parliament.

Thus, once invested with his powers, which proceed both from the President, who according to the Constitution is not a member of any of the branches of Government, and from Parliament, the Ombudsman occupies a singularly independent position in relation to the executive and legislative branches.

The Ombudsman's powers and status were established by presidential decree. The independence of the post is guaranteed by legal procedures: the procedure for the appointment and dismissal of the Ombudsman; the prohibition of illegal interference in his work (para. 5 of the Statute); and the principle of independence established expressly in the Statute.

The political neutrality of the post is guaranteed by the requirement that the Ombudsman must suspend his or her membership of political parties and other voluntary associations for the duration of his or her term of office, as well as by the specification of a list of the acts against which complaints may be addressed to any organ or official of the State (this provision does not apply to organs or officials responsible for taking politically important decisions: the President of the Republic, Parliament and its members, the Government, the Constitutional Council, the Procurator-General, the Central Electoral Commission, and the courts (para. 18 of the Statute)).

This means that the Ombudsman works in the context of the legislation in force, not of draft legislation, and assesses the applications made to him solely from the standpoint of the conformity of the contested acts with the requirements of the legislation in force in the Republic of Kazakhstan. But it does not mean that the Ombudsman may not promote the improvement of the domestic legislation relating to human rights and freedoms and the forms and means of their protection or the alignment of this legislation with the generally recognized principles and rules of international law (para. 19 of the Statute).

Paragraph 21 of the Statute provides that in matters of great social significance the Ombudsman is entitled to make representations to the President, Parliament or the Government. This power enables the Ombudsman to play a part in the adoption of politically important decisions as well, if they affect human rights. These provisions constitute the best option for ensuring the political neutrality and legislative regulation of the post of Ombudsman.

The Ombudsman's chief function is to consider and rule on applications for the restoration of violated rights. He also performs a number of functions connected with the promotion of human rights, such as education work, international cooperation on human rights, and monitoring and analytical work, in accordance with the list of functions of this national institution provided for in the Paris Principles.

In keeping with the logic of the Statute, the Ombudsman's work may be classified as either routine or reactive. The first category includes requests for information and complaints, the second recommendations (para. 24 of the Statute). However, all the Ombudsman's work is of a recommendatory nature to some extent. Requests for information often contain an insistence on

the restoration of violated rights if the facts set out in the citizen's complaint are corroborated. It should be noted that even the Paris Principles do not presuppose that this national institution should be invested with mandatory powers. In accordance with paragraph 30 of the Statute, the Ombudsman is assisted by the National Centre for Human Rights, which performs information, analytical, organizational, legal and other tasks in support of the Ombudsman's activities; this is consistent with the requirement of the Paris Principles regarding the provision of an infrastructure to ensure the uninterrupted performance of the functions of the national institution.

The Ombudsman's functions are thus consistent both with the international standards and the accepted international practice.

The import of the restoration of the violated rights of a specific citizen is that it encourages the review of the practice of the State institution which permitted the violation. It is to be expected that, as a result of the Ombudsman's recommendations and requests for information, citizens will not find it necessary in similar situations to make additional efforts to ensure exercise of their rights in their relations with the State body in question.

A further benefit of the Ombudsman's intervention in and assessment of a specific situation is that even when a complaint is rejected the applicant receives a full statement of the grounds and detailed advice on the issue at stake. The processing of complaints and the interviewing of citizens is the paramount element of the Ombudsman's work, for it enables pressure to be brought on State bodies in order to improve and enhance the standards of the State services provided.

The Ombudsman's publicity work is an activity lying outside the purview of the consideration of complaints but having a substantive connection to human rights issues. It is vitally important for the Ombudsman's Office to furnish people with the knowledge which they need in order to protect their human rights on their own behalf.

The prevention of human rights violations also involves educational work. The instruction of schoolchildren and students in a culture of respect for human rights will produce positive results in the not too distant future. This work presupposes both direct instruction and the formulation of curricula and teaching methods and the implementation of educational measures, primarily for teachers.

In order to improve the analytical work of the Ombudsman's Office it was necessary to create auxiliary bodies, such as expert and advisory councils. The expert bodies were constituted from experienced jurists, academics, practising lawyers and representatives of all the human rights bodies; the advisory bodies were constituted primarily from members of NGOs in the city of Astana. The production of expert analyses enables the Ombudsman to systematize the information on the most problematic human rights issues, identify shortcomings in the work of State organs, and promote compliance by Kazakhstan with the human rights standards embodied in the human rights treaties which it has recognized.

The Ombudsman's work also includes cooperation with international organizations, the non-governmental sector and other organizations of civil society.

International cooperation enables the Ombudsman's Office to utilize the experience, traditions and principles of the human rights work of other countries and to make adjustments to

its own work in the light of the international human rights process. It must never be forgotten that human rights have ceased to be a category of domestic law alone. The application of the international human rights standards also implies embracing progressive experience and an objective need for up-to-date human rights practice. That is why the Ombudsman devotes special attention to cooperation with international human rights organizations.

The work of the Ombudsman does not include any human rights priorities strictly ordained in the Statute. However, it does have some specialized features in view of the need to apply the rules of the international treaties to which Kazakhstan has acceded (the Convention on the Elimination of All Forms of Discrimination against Women of 1979, the International Convention on the Elimination of All Forms of Racial Discrimination of 1969, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984, the Convention on the Rights of the Child of 1989, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) and to respond to the recommendations made to Kazakhstan by the United Nations treaty bodies.

In the course of its monitoring of the fulfilment of the international obligations of Kazakhstan referred to above, the Ombudsman's Office has identified five priorities for the task of protecting the rights of socially isolated and vulnerable population groups (children, women, the elderly, persons with special needs, and prisoners held in penal establishments). The present condition of society shows that these population groups need direct assistance. As they are unable, for a variety of reasons, to defend their rights for themselves, they are a focus of special attention on the part of the Human Rights Ombudsman.

14. The Committee notes the insufficient information on efforts undertaken by the State party to involve non-governmental organizations in the preparation of the periodic report and expresses concern over the restrictions placed by the authorities on civil society organizations, including organizations working to combat racial discrimination.

**The Committee underlines the importance of the role of civil society in the full implementation of the Convention and recommends that the State party remove all legal, practical and administrative obstacles to the free functioning of civil society organizations that contribute to promoting human rights and combating racial discrimination. Furthermore, the Committee recommends that they be consulted during the preparation of the next periodic report.**

Problems of the protection of human rights are addressed by a number of NGOs in Kazakhstan, such as the International Bureau for Human Rights and Rule of Law of Kazakhstan, Charter for Human Rights, the Almaty Helsinki Committee, the *Edil coz* international foundation for the protection of human rights, and the Institute of European Law and Human Rights. They collaborate actively with the Office of the Human Rights Ombudsman attached to the Office of the President of the Republic and a with a number of State bodies.

The Government involves representatives of the non-governmental sector actively in all initiatives relating to human rights and the rights of citizens.

As pointed out earlier, the voluntary association "Kazakhstan. A Healthy Generation" also furnished assistance with the preparation of the present report in connection with the conduct of



a sociological questionnaire. The proposals of the association of juridical persons “Civic Alliance of Kazakhstan” were also taken into account.

**15. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention. It further recommends that it include in its next periodic report information on measures taken to implement the Durban Declaration and Programme of Action at the national level.**

Kazakhstan is making intensive efforts and is taking concrete steps at the domestic level, as well as cooperating actively with other States and regional and international organizations (UNHCR, IOM, the International Committee of the Red Cross, and the Red Crescent), in the field of the protection of human rights (racial discrimination, xenophobia and associated intolerance, attitude to persons afflicted by various kinds of pandemic, etc.).

All the issues raised and recommendations made in the Durban Declaration are taken fully into account in Kazakhstan both in terms of legislation and at the level of the relations among people in the social, economic, political, cultural, inter-ethnic and religious spheres. For example, article 14, paragraph 2, of the Constitution states: “No one may be subjected to discrimination of any kind on the ground of origin, social, official or property status, sex, race, nationality, language, attitude to religion, opinions, place of residence or any other circumstance.”

As a member of the world community, Kazakhstan takes an active part in tackling refugee problems, in accordance with the State’s migration policy. This is a logical continuation of Kazakhstan’s chosen path of adhering to the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights, a path confirmed by the adoption of the Act of 15 December 1998 on Kazakhstan’s accession to the Convention relating to the Status of Refugees and the Protocol thereto.

The legal status of refugees is regulated by the Migration Act and other domestic legislation. Kazakhstan is a party to the 1951 Convention relating to the Status of Refugees and its Protocol of 1967. It is also a party to the International Convention on the Elimination of All Forms of Racial Discrimination, adopted on 21 December 1965 and ratified by Kazakhstan by the Act of 29 June 1998.

The project “Institutional and capacity building activities to strengthen the asylum systems in Central Asia”, financed by the European Union and UNHCR, is designed to tackle the problems of the protection of refugees and Oralmans by monitoring the exercise of their rights by these population groups in Kazakhstan and improving governmental bodies’ knowledge of these matters.

Kazakhstan is currently drafting a refugees bill. A working group has been set up for this purpose; it draws its members from a number of ministries and from the Office of the Procurator-General and the National Security Committee. The working group is also attended by representatives of the United Nations, OSCE, and the country’s civil society organizations.

On 5 February 2008 the Head of State signed an act ratifying the Slavery Convention of 25 September 1926, the Protocol amending the Slavery Convention of 7 December 1953 and the

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 7 September 1956.

The rights of the citizens of Kazakhstan guaranteed by the Constitution are observed. The equality of all persons before the law in the exercise of their rights and freedoms is guaranteed. The curricula of education institutions at all levels make provision for a variety of measures designed to foster a culture of multinational and multiracial education, and these measures are implemented.

Article 3 of the Education Act provides that the core principles of the State's education policy are inter alia the equal right of all citizens of the Republic to education, and access to education at all levels and for all strata of the population.

All the citizens of Kazakhstan, irrespective of their racial, racial, religious or social affiliation, have equal access to education, including education in their mother tongue.

Kazakhstan has a unique public institution, the People's Assembly Kazakhstan, which comprises the national-culture associations of all the racial groups living in Kazakh territory. These centres run Sunday schools, which teach the language, traditions and history of the nationality in question.

Kazakhstan is one of the world's most multinational States and it is very important for it to have domestic policies which take into consideration the interests of different nations and peoples. Consequently, State policy pays enormous attention to maintaining harmonious relations between ethnic groups

**16. The Committee also recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.**

Note has been taken of this observation. A number of measures have been taken to make the national report known to the public; these measures have involved representatives of the Office of the President, ministries and departments, international and non-governmental organizations, the People's Assembly of Kazakhstan, national-culture centres, education institutions, academics and international experts.

**17. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that it consider so doing.**

According to the minutes of the fifth meeting of the Interdepartmental Commission on International Humanitarian Law and International Human Rights Treaties of the Ministry of Foreign Affairs, a decision was taken on the preparation and submission to the Government of a draft presidential decree on the signature of a statement by Kazakhstan, with respect to the question of Kazakhstan's making the optional declaration referred to in article 14 of the Convention, that it recognized the competence of the Committee on the Elimination of Racial Discrimination provided for in article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965.

The Presidential Decree entered into force on 29 May 2008.

**18. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was reiterated by the Assembly in resolution 58/160.**

Pursuant to the amendments to the International Convention adopted at the Fourteenth Meeting of States Parties at its 22<sup>nd</sup> meeting, on 15 January 1992, a new paragraph 7 was inserted in article 8: “The members of the Committee established under the present Convention shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.”

## Annex

### Sociological research programme

on “The status of the observance of human rights in Kazakhstan in terms of national affiliation”, conducted in 2007 by the voluntary association “Kazakhstan. A Healthy Generation”

#### I. Methodology

##### 1.1. The topicality of the subject

In the present period of globalization the problem of the relations between people of different races, ethnic groups and nationalities is more topical than ever. The problem of racial, ethnic and national discrimination has always existed to a greater or lesser extent, depending on the political, social and economic situation at any given period of history, and it has never disappeared completely.

In order to correct the mistakes of the first half of the twentieth century, on 20 November 1963 the United Nations proclaimed the Decade on the Elimination of All Forms of Racial Discrimination (General Assembly resolution 1904 (XVIII)), which “Solemnly affirms the need of speedily eliminating racial discrimination from the world, in all its forms and manifestations...”. On 21 December 1965 the world community adopted by General Assembly resolution 2106 (XX) the International Convention on the Elimination of All Forms of Racial Discrimination, which entered into force on 4 January 1969.

The ongoing integration of cultures, languages and religions throughout the world, including in independent Kazakhstan, may lead to a loss of national unity and to identification with an ethnic group, which is one of the causes of the development of nationalistic tendencies in society. The result is the emergence of conflicts between nationalities, ethnic groups and races.

It is the task of every independent State endeavouring to build a civic society to be constantly making innovative and determined efforts to avoid crossing the narrow line between healthy patriotism and nationalism.

The People’s Assembly of Kazakhstan was created in order to shape and strengthen the Kazakh identity and develop harmonious inter-ethnic relations and cooperation among the cultures of all of the country’s ethnic groups.. The various ethnic groups have formed a vast number of national-culture associations.

President Nazarbayev stressed the urgent need for this approach when he said: “Harmony among nationalities is the cornerstone of the comprehensive security, stability and progressive economic and political development of Kazakhstan and of the maintenance of civic and national harmony and it guarantees peace and tranquillity in our country. The efforts being made in this area are timely as Kazakhstan joins the ranks of the world’s 50 most competitive countries ...”

##### 1.2. The problem

A unique situation has come about in today’s independent Kazakhstan, for a multitude of nations are able to live there in friendship; in other words, Kazakhstan is a multinational and

multi-religious country. However, the maintenance of stability requires a constant effort to improve legislation and the machinery for the application of the laws enacted, constant educational work on the part of State bodies, and the stepping up of the activities of NGOs specializing in the defence of human rights and the development of languages, national cultures, etc.

### **1.3. The research purpose**

To determine the extent of the exercise of human rights, by race, nationality and ethnic group.

### **1.4. The research tasks**

1. The following tasks were set in order to determine the existence in Kazakh territory of any signs of racial discrimination against ethnic minorities:
2. To determine the indigenous people's degree of tolerance of the ethnic minorities living in Kazakhstan;
3. To determine the extent of each nationality's awareness of its rights and freedoms;
4. To determine the areas in which the rights and freedoms of various ethnic groups are being violated (by nationality and race).

### **1.5. The research subject**

The research subject is the identification of violations of human rights and freedoms (by nationality).

### **1.6. The research targets**

The inhabitants of seven of Kazakhstan's oblasts: Almaty, Astana, Aktyubin, East Kazakhstan, Karaganda, Kyzyl-orda and South Kazakhstan.

### **1.7. The research hypotheses**

1. That racial discrimination (on the ground of ethnic group or nationality) does not exist in Kazakhstan;
2. That any instances of racial discrimination (on the ground of ethnic group or nationality) which have come to light are isolated and do not properly represent the situation in the country;
3. That covert discrimination on the ground of nationality exists in Kazakhstan;
4. That manifest discrimination on the ground of nationality (ethnic group or race) exists in Kazakhstan.

## **II. Methodology**

### **2.1. Method of gathering the primary sociological data**

The primary sociological data was gathered by means of a questionnaire in the shape of a form to be filled in.

### **2.2. The location and timing of the research and the tools used**

The questionnaire was conducted in the five regions of Kazakhstan (central, northern, western, eastern and southern) between 1 and 30 August 2007.

The form was entitled “Status of the exercise of human rights in Kazakhstan, by national affiliation”.

### **2.3. Description of the form**

The form contained a total of 30 questions:

Ten on behaviour (Nos. 5, 7, 8, 9, 11, 12, 13, 14, 15 and 19);

Twelve on awareness (Nos. 3, 4, 6, 10, 16, 17, 18, 20, 21, 22, 23 and 24);

Six on the respondent’s personal details (Nos. 25, 26, 27, 28, 29 and 30);

Twenty-six of the questions were specific and four open-ended.

### **2.4. Sample**

(25) The questionnaire was distributed to 2,558 persons (100 per cent), including:

963 Kazakhs (37.6 per cent);

935 Russians (36.5 per cent);

169 Ukrainians (6.6 per cent);

58 Uzbeks (2.2 per cent);

110 Germans (4.3 per cent);

277 members of other nationalities: Azerbaijanis, Armenians, Belarusians, Georgians, Dungans, Jews, Koreans, Kurds, Lezgins, Lithuanians, Moldovans, Mordvins, Poles, Tajiks, Turkmens, Uighurs, Roma, Chechens, Chuvash (10.8 per cent).

Forty-six (1.8 per cent) of the respondents did not fill in this section.

(26) Disaggregation by age group:

18 to 29 years – 949 (37 per cent);

30 to 36 years – 518 (20.2 per cent);

37 to 45 years – 435 (16.9 per cent);

46 to 54 years – 288 (11.2 per cent);

55 years or older – 184 (7.2 per cent).

184 respondents (7.2 per cent) did not fill in this section.

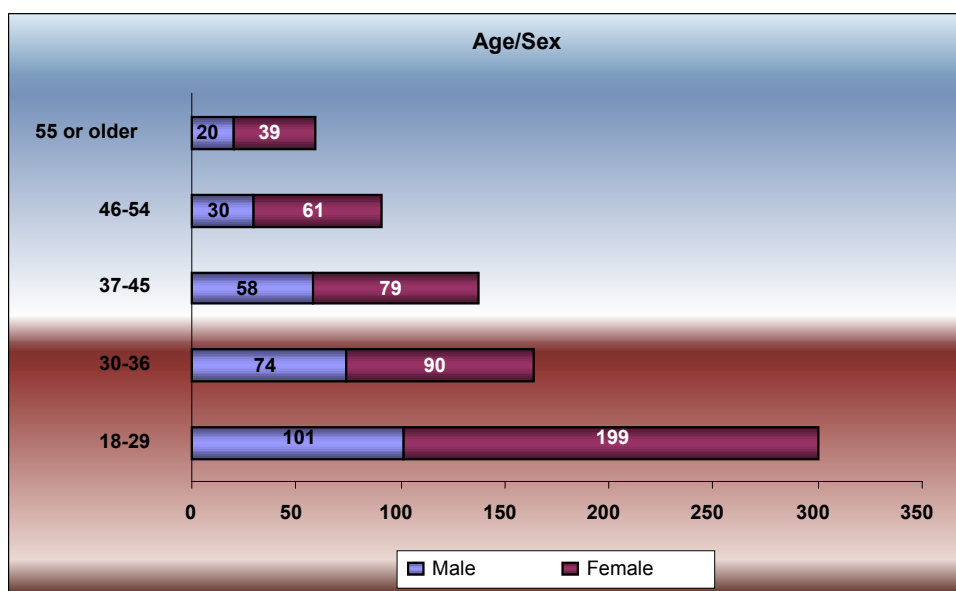
(27) Disaggregation by sex:

Women: 1,582 (31.8 per cent);

Men: 907 (35.4 per cent).

69 respondents (2.7 per cent) did not fill in this section (see figure 1).

**Figure 1. Sex and age indicators**



(28) Disaggregation by education:

378 respondents (14.8 per cent) had secondary education;

916 respondents (35.8 per cent) had specialized secondary education;

1,134 respondents (44.3 per cent) had higher education.

130 respondents (5 per cent) did not fill in this section.

(29) Disaggregation by place of residence:

1,980 respondents (77.4 per cent) lived in towns: Abai, Aktau, Almaty, Astana, Esil, Karaganda, Karkaralinsk, Kokchetab, Kustanai, Kyzyl-orda, Pavlodar, Prishakhtinsk, Semei, Stepnyak, Temirtau, Ust-Kamenogorsk, Uralsk;

544 respondents (22 per cent) lived in rural areas and villages: Akkol, Beibitshilik,

Gagarina, Egindybulak, Karabas, Kurulus, Zhana-Arka, Zarya, Makpal, Markakol, Nevsky, Prirechnaya, Enbekshiler, Topar, Ushanovo.

36 respondents (1%) did not fill in this section.

(30) 2,409 respondents (94.1 per cent) were citizens of Kazakhstan;

54 respondents (2.1 per cent) were not citizens of Kazakhstan.

49 respondents (1.9 per cent) did not fill in this section.

The sample was random. The unit of observation was a contingent of people living in Kazakhstan's five regions.

## **2.5. Method of processing the empirical data**

The data was processed by hand.

## **2.6. The practical significance of the research**

This material is of specific practical significance for specialists working on the nationality issues of State policy.

## **2.7. The questionnaire form**

**Dear Respondent,**

Our organization is conducting research on "The status of the exercise of human rights in Kazakhstan in terms of national affiliation". This questionnaire asks you a number of questions which must be answered. Please circle the appropriate answers. This survey is **anonymous**; the data obtained will be presented as general conclusions. We thank you in advance for taking part.

**1. Do you know of any organizations in Kazakhstan working to protect human rights?**

**A. Yes            B. No            C. Not sure**

**2. If "Yes", please name the organizations**

\_\_\_\_\_

**3. What is discrimination, in your opinion?**

**A. \_\_\_\_\_            B. Don't know**



**4.** In your opinion, does Kazakhstan have a problem of discrimination on the ground of nationality?

**A.** Yes, we do have this problem

**B.** No, this problem does not exist in our State

**C.** There are instances of discrimination but they are isolated and do not represent the whole picture

**D.** Not openly, but the problem is always there in daily life

**E.** Not sure

**5.** Do you know of any instances of discrimination in the exercise of rights on the ground of nationality?

**A.** Yes, they occur at all levels

**B.** No

**6.** If you consider that some nation (ethnic group or race) is subjected to discrimination in Kazakh territory, indicate which one(s) (enter the nationality, ethnic group or race)

**A.** Your answer \_\_\_\_\_

**B.** I do not consider such problems to be pressing ones for Kazakhstan

**7.** Would you take legal action if your rights or freedoms were violated or restricted (on the ground of nationality, ethnic group or race)?

**A.** Yes, definitely

**B.** No, there would be no point

**C.** Probably would not

**D.** Probably would

**E.** (Other comments) \_\_\_\_\_

**8.** If "No" (you would not take legal action), why not?

**A.** There is no applicable legislation

**B.** Such cases are not dealt with

**C.** I do not trust the Kazakh legal system

**D.** An absolute waste of time; you won't get anywhere

E. (Other comments) \_\_\_\_\_

9. Are there any persons of another (not your) nationality in your circle of friends and close acquaintances?

A. Yes, of course

B. No, none

C. (Other comments) \_\_\_\_\_

10. What is your attitude to mixed marriages?

A. In favour      B. Against      C. Neutral      D. Not sure

11. Would you disapprove if your child were to marry a person of another nationality?

A. Yes, I would be categorically against the marriage

B. No, a person's nationality does not matter

C. Not sure

12. Would you send your child to a school using the State language as the language of instruction?

A. Yes, there is a need and a requirement for this

B. No, there is no need for this

C. Not sure

D. (Other comments) \_\_\_\_\_

13. Have you any opportunity to learn the State language?

A. Yes              B. No              C. Not applicable

14. Have you any opportunity to study your mother tongue (for non-indigenous nationalities)?

A. Yes              B. No              C. Not applicable

15. Do you consider that in your organization persons of non-indigenous nationality are more likely to be dismissed than persons of the indigenous nationality?

A. Yes              B. No              C. (Other comments)

\_\_\_\_\_

16. If "Yes", do you consider that such dismissals occur solely on the ground of nationality or because the persons concerned do not know the State language?

**A.** Because they do not know the State language

**B.** On the ground of nationality

**C.** They occur for various reasons, and nationality plays no part

**17.** Do persons of non-indigenous nationality have the same chances of obtaining a senior post as persons of the indigenous nationality?

**A.** Yes, they have equal chances

**B.** They may not obtain such a post if they do not know the State language

**C.** No, their chances are considerably less

**18.** Do persons of non-indigenous nationality have equal access to employment?

**A.** Yes, they do

**B.** No, it is more difficult for such persons to find employment

**C.** They probably do

**D.** They probably do not

**19.** Have you come across any instances of restriction of rights by law-enforcement bodies on the ground of nationality or ethnic group?

**A.** No, I have not encountered any

**B.** Yes, frequently

**C.** Isolated instances occur

**20.** Does the fact that Kazakhstan has a large variety of religions have a negative effect on the relations between nationalities?

**A.** Yes, the large variety of religions leads to discord among nationalities

**B.** On the contrary, it has a positive effect on the level of tolerance among nationalities

**C.** Not sure

**21.** Is your adherence to a religion used as a ground for discrimination?

**A.** Yes

**B.** No

**C.** I have no religion

**22.** Are all of your guaranteed rights and freedoms protected in Kazakhstan?

**A.** Yes

B. No, they are systematically infringed

C. Not sure, as I am not aware of all my rights

D. (Other comments) \_\_\_\_\_

23. Are you familiar with the International Convention on the Elimination of All Forms of Racial Discrimination?

A. Yes

B. I have heard about it but am not familiar with its contents

C. No, I did not know of that such a document existed

24. What action should the State and non-governmental organizations take to ensure the exercise of the rights and freedoms of the citizens of Kazakhstan?

<b>Nationality:</b>	Kazakh	Russian	Ukrainian	Uzbek	German	Other
<b>Age:</b>	18-29	30-36	37-45	46-54	55 or older	
<b>Sex:</b>	Female	Male				
<b>Education:</b>	Secondary	Specialized secondary	Higher			
	(school )	(institution, college)	(institute, university, academy)			
<b>Place of residence:</b>	Town -		Village -			
<b>Citizenship:</b>	Citizen of Kazakhstan		Non-citizen of Kazakhstan			

### III. Analysis

#### Processing of the data

Three types of question were asked in order to achieve the purpose of the research (their grouping made it possible to establish the respondent's real attitude to this problem): knowledge of the issue; personal opinion on the issue; and the actual state of affairs. A number of thematic groups were also identified: general information on the respondent's personal details; problems connected with the basic issue; employment; the language problem; and the respondent's awareness of the problem; the legal system; religious questions; and questions of a personal nature.

(3) In answer to the question *What is discrimination?* 60 per cent of respondents displayed some idea of this concept, and 27 per cent could not say what it was.

In comparative terms, 31.7 per cent of respondents with higher education, 19.1 per cent with specialized secondary education and 6.9 per cent with secondary education were able to

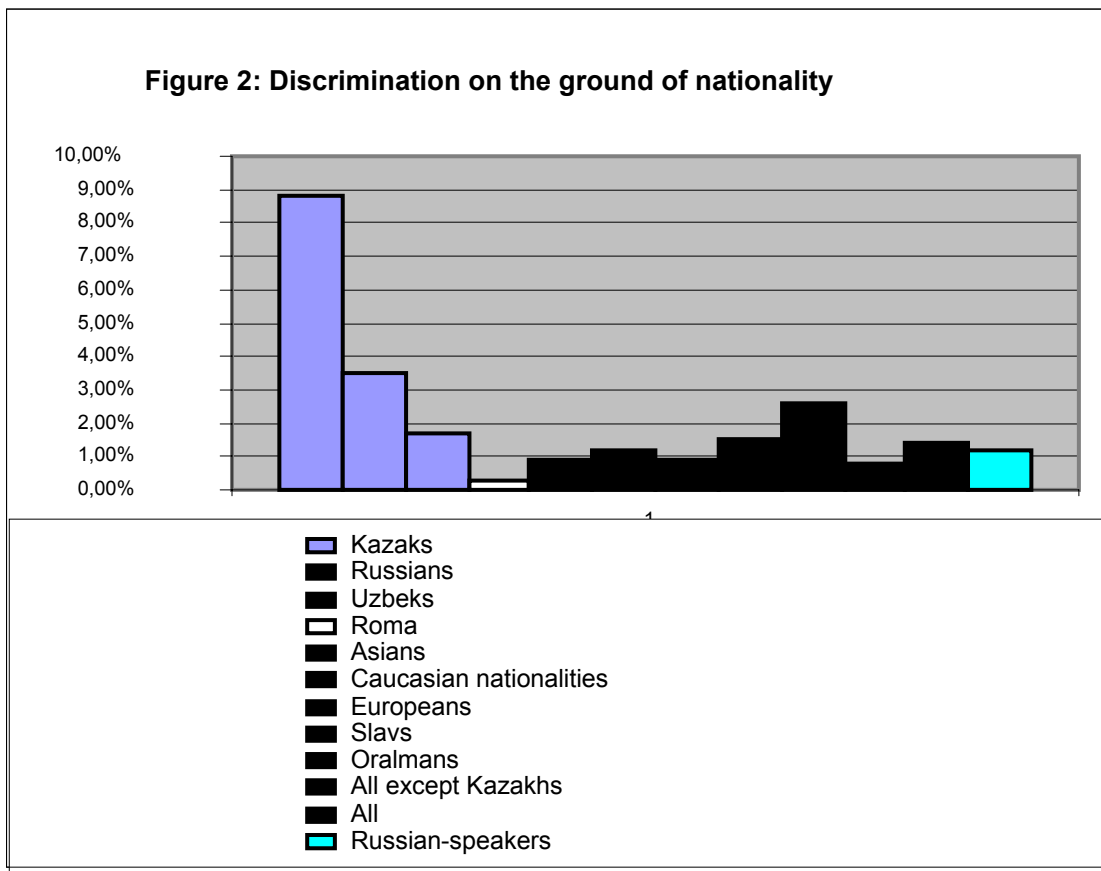
give a more or less clear definition of the term. It is thus apparent that the answer to this question depends directly on level of education.

(4) The opinions expressed by respondents in answer to the direct question *Does Kazakhstan have a problem of racial discrimination?* divided as follows: 31.9 per cent answered that no such problem exists in Kazakhstan and 29.5 per cent that there are instances of discrimination but they are isolated and not representative. However, 7.4 per cent answered that such discrimination was not open but constantly present in everyday life. And 4.5 per cent thought that this problem is a pressing one in Kazakhstan. Accordingly, 61.4 per cent of respondents considered that there is no problem of racial discrimination in Kazakhstan and that the isolated instances of it do not reflect the true status of the problem.

(5) In answer to the question about *actual examples of discrimination on the ground of nationality* the majority of respondents (72.5 per cent) said that they had not encountered any such examples. But 15.5 per cent said that they had encountered this problem or had heard about it from acquaintances, and 5.6 per cent were unsure.

(6) The following answers were received to the open-ended question requesting respondents to *name a nationality, ethnic group or race which they considered had been subjected to racial discrimination in Kazakhstan*: 72.3 per cent of respondents considered that such problems were not pressing ones for Kazakhstan.

However, opposing opinions were expressed to the effect that various members of ethnic groups were subjected to discrimination: Kazakhs – 8.8 per cent; Russians – 3.5 per cent; Oralmans – 2.6 per cent; Uzbeks – 1.7 per cent; Slavs – 1.5 per cent; “all” – 1.4 per cent; Russian-speakers – 1.2 per cent; Caucasian nationalities – 1.2 per cent; Asians – 0.9 per cent; persons of European appearance – 0.9 per cent; “all except Kazakhs” – 0.8 per cent; and Roma – 0.3 per cent (see figure 2).



It is apparent from the answers given by respondents to two of the above questions that more than 50 per cent of Kazakhstan's population do not generally speaking see any signs of discrimination. However, in such a multinational State as Kazakhstan friction will inevitably occur between nationalities. Figure 2 shows that the highest level of dissatisfaction with the situation is found among the indigenous population (8.8 per cent), mostly from rural areas, and Oralmans (2.6 per cent) who have moved to live in the north of the country.

1. In answer to the question *Do you know of any organizations working to protect human rights?* 26.6 per cent of respondents said "Yes", 39.6 per cent "No", and 30.2 per cent "Not sure".

2. Various answers were given to the question as to *which specific organizations were working to protect human rights in Kazakhstan?* They included:

- *State agencies* (3.8 per cent): National Security Committee, Ministry of Internal Affairs, Office of the Procurator-General, district and oblast courts, Constitutional Court, police, akims, justice system, terrorism department, etc.;
- *Non-State agencies* (7.4 per cent): various organizations, including the Business Association, the Commission on Human Rights, consumer protection bodies, lawyer's offices, "the law and justice", trade unions, the human rights unit of the Committee on the Penal Correction System, the Ombudsman, and the Nevada-Semei movement; the names of several leaders of human rights organizations were also mentioned;
- *International organizations* (3.7 per cent): the United Nations, OSCE, the Ombudsman's Office, UNESCO, the Soros Foundation, Greenpeace, etc.

A total of 0.9 per cent of respondents thought that the defunct "Otan" party and the existing "Nur Otan" party were concerned with the protection of human rights.

Only 14.9 per cent of all respondents were able to name human rights organizations, with varying degrees of accuracy.

It may therefore be concluded that people have a rather vague idea as to which agencies in the State are working directly on this problem and where they may turn if the need arises. Furthermore, only 0.6 per cent of all respondents were able to name leaders of human rights NGOs in their place of residence.

(24) In answer to the question about *people's awareness of the International Convention on the Elimination of All Forms of Racial Discrimination* 11 per cent of respondents said that they were familiar with this instrument, 35 per cent that they had heard of it but were unfamiliar with its contents, and 50.3 per cent that they had not known of its existence; 3.4 per cent did not answer the question.

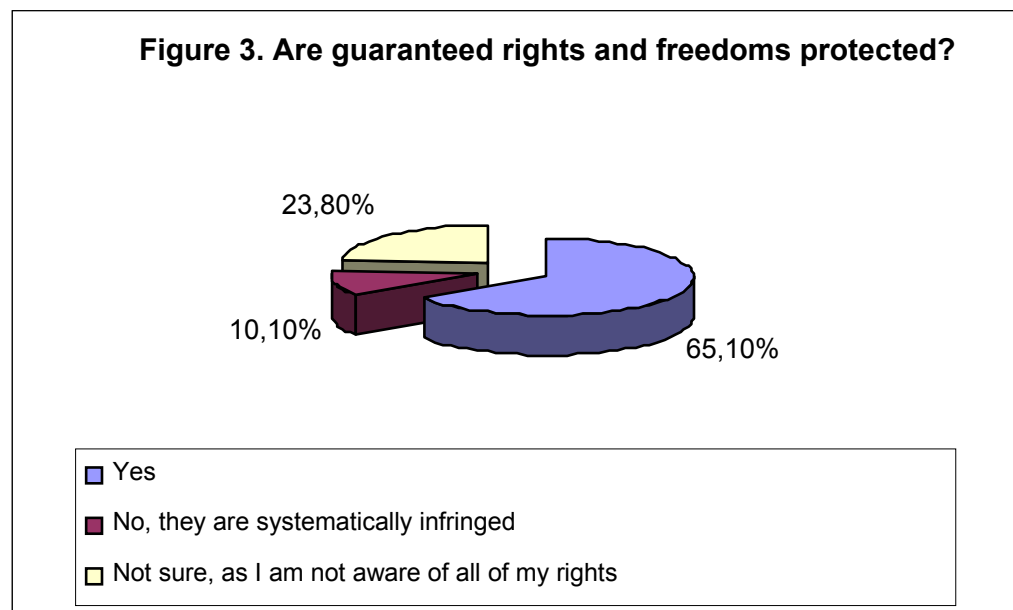
It should be noted that the respondents answering positively (11.1 per cent) were employed in fields directly related to the problem under discussion.

(7) Respondents were then asked questions about *what action they would take if their rights or freedoms were violated by reason of their nationality*: 32.5 per cent would definitely take legal action; 14.5 per cent would probably take legal action; 11.6 per cent said “Such cases are not dealt with”; and 24.9 per cent would not take legal action because it would be pointless.

(8) The following replies were given to the question as to *why respondents would not take legal action*: there is no applicable legislation – 4.5 per cent; such cases are not dealt with – 11.6 per cent; no trust in the legal system – 7.1 per cent; an absolute waste of time (money, health) – 27.6 per cent.

(19) The next question was *Have you come across instances of the restriction of rights by law-enforcement bodies on the ground of nationality or ethnic group*: 54.5 of respondents answered “No”; 7.8 per cent said that such instances occur frequently; and 35.1 per cent thought that only isolated instances occur.

(22) Figure 3 shows the variety of answers given to the question *Are all of your guaranteed rights and freedoms protected in Kazakhstan?* (see figure 3).



(13) The following question was asked about the State’s languages policy and wider use of the State language: *Have you any opportunity to learn the State language?* A total of 67.9 per cent of respondents answered “Yes”, 19 per cent “No”, and 11.2 per cent “Not applicable”.

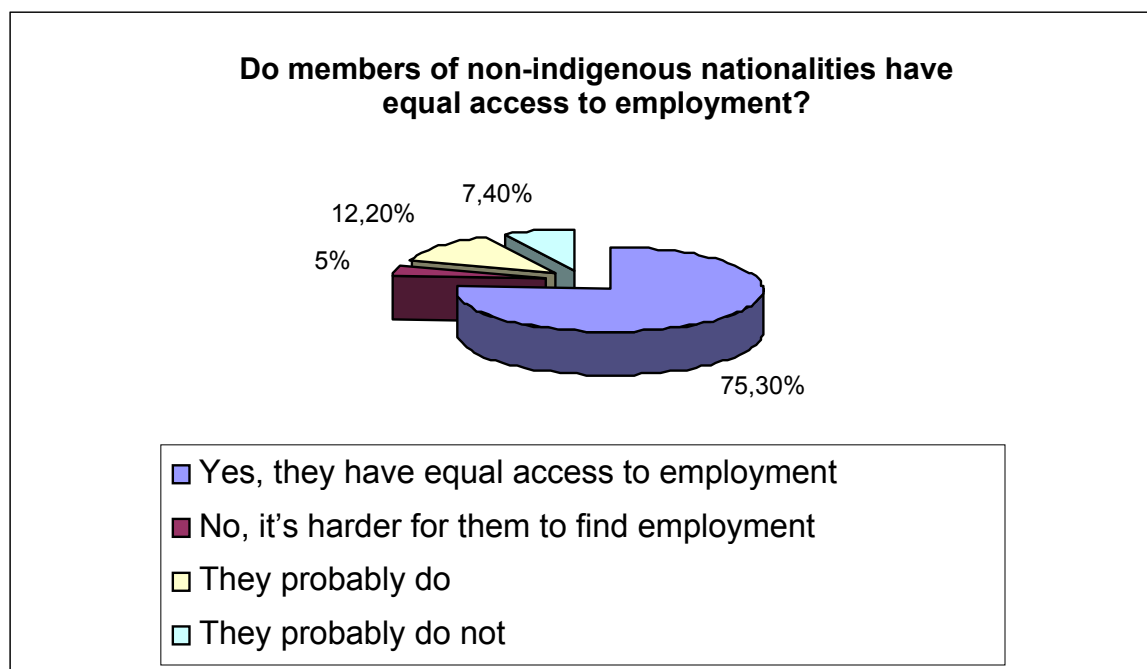
In their comments respondents expressed a wish for a higher standard of teaching of the State language and stressed the need to use the latest interactive teaching methods.

(14) In answer to the question *Have you any opportunity to study your mother tongue (for non-indigenous nationalities)?* a majority of respondents (65.8 per cent) answered in the affirmative and 11.8 per cent in the negative.

(12) On this point, 56.2 per cent of respondents were willing to *send their child to a school using the State language as the language of instruction*: 27.6 per cent of them were Kazakhs and 28.6 per cent members of non-indigenous nationalities; 15.8 per cent found it difficult to answer in the affirmative, citing their scant knowledge of schools using the State language.

(18) In answer to the question *Do members of non-indigenous nationalities have equal access to employment?* 50.6 of respondents said “Yes, they do have equal access to employment”, 17.4 per cent “They probably do”, and 16 per cent “No, it’s harder to find work if you’re from a non-indigenous nationality” (see figure 4).

**Figure 4. Equal access to employment**



(17) In a society in which there is discrimination, the process of finding employment or obtaining any kind of senior post or official position is significantly more difficult; there are few top jobs for the non-indigenous population, while posts and official positions carrying privileges are virtually unobtainable. The following question was asked in order to throw light on this problem:

*Do persons of non-indigenous nationality have the same chances of obtaining a senior post as persons of the indigenous nationality?:* 56.8 per cent of respondents answered that their chances were equal, and 13.9 per cent that they were considerably less equal. These answers applied mainly to the State service.



The managers of the international organizations and transnational corporations operating in Kazakhstan show a preference for “non-Kazakhs”. However, 25.9 per cent of respondents were of the opinion that the only reason why a rival would not obtain a vacant post was ignorance of the State language.

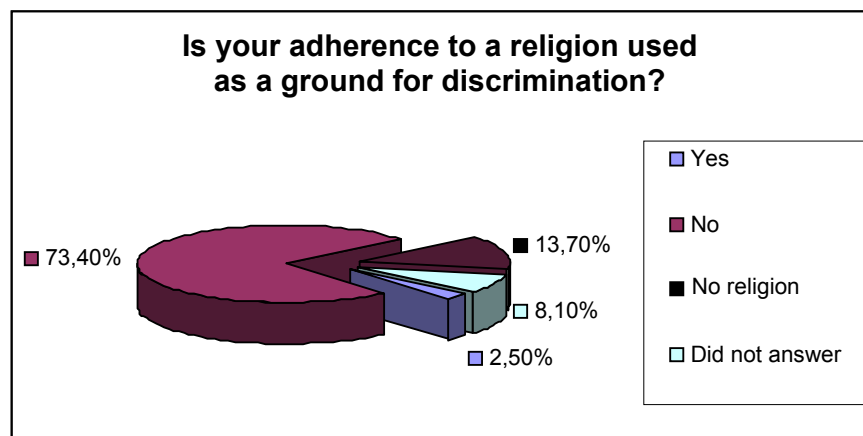
(15) In answer to the question *Do you consider that in your organization persons of non-indigenous nationality are more likely to be dismissed than persons of the indigenous nationality?* 13.3 per cent of respondents said “Yes”, but the majority (76.9 per cent) rejected this proposition, stating that it all depended on the manager and on the employee’s job performance.

(16) *A total of 13.3 per cent of respondents believed that dismissals on the ground of nationality nevertheless took place*, while the numbers attributing dismissals to nationality or to ignorance of the State language were equal (9.7 per cent and 9.6 per cent respectively); 27 per cent of respondents nevertheless considered that any dismissals were due to various causes and that nationality was not a factor.

(20) Although religion is a fundamental ideological force in and a catalyst of contemporary world conflicts, in answer to the question *Does the fact that Kazakhstan has a large variety of religions have a negative effect on the relations between nationalities?* only 8 per cent of respondents expressed the view that a heavy concentration of religions in one territory leads to discord between nationalities, while 33 per cent thought the opposite – that such a situation had a positive effect in society and helped to enhance tolerance between nationalities; 26.9 per cent of respondents were unsure.

(21) In answer to the next question (*Is your adherence to a religion used as a ground for discrimination?*) 73.4 per cent of respondents said “No”, 2.5 per cent “Yes”, and 13.7 per cent that they had no religion; 8.1 per cent did not answer this question (see figure 5).

**Figure 5. The religious factor**



(10) In answer to the question *What is your attitude to mixed marriages?* 47.2 per cent of respondents said “In favour” and 16.3 per cent “Against”, while 29.8 per cent were neutral; 3 per cent were unsure and 3.4 per cent did not answer the question. This result shows that the majority of respondents (77 per cent) had a favourable or neutral attitude to mixed marriages.

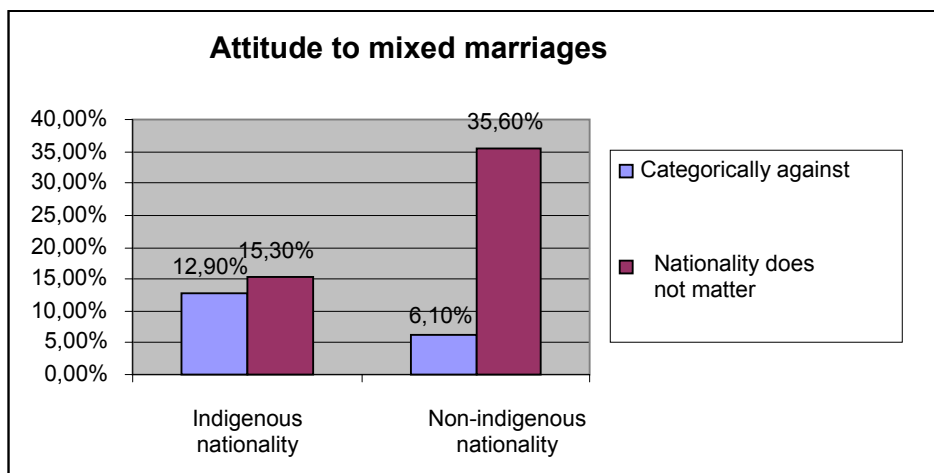
A total of 10.2 per cent of those stating an unfavourable attitude (16.3 per cent) were members of the indigenous nationality and 5.9 per cent members of non-indigenous nationalities, while 13.3 per cent of those with a favourable attitude (47.2 per cent) were members of the indigenous nationality and 32.5 per cent members of non-indigenous nationalities.

(11) However, in answer to the test question on practical action (*Would you disapprove if your child were to marry a person of another nationality?*) 22.4 per cent of respondents said that they would be categorically against a mixed marriage and 51.8 per cent that a person's nationality would not matter in such a situation; 23.5 per cent were unsure and 1.9 per cent did not answer the question

A total of 12.9 per cent of those categorically opposed to mixed marriages (22.4 per cent) were members of the indigenous nationality and 6.1 per cent members of non-indigenous nationalities.

A total of 15.3 per cent of those who thought that a person's nationality did not matter (51.8 per cent) were members of the indigenous nationality and 35.6 per cent members of non-indigenous nationalities (see figure 6).

**Figure 6. Attitude to mixed marriages**



(9) In answer to the question *Are there any persons of another (not your) nationality in your circle of friends and close acquaintances?* an overwhelming majority of respondents (89 per cent) said “Yes, of course” and only 8.5 per cent “No”.

(24) The analysis of the open-ended question *What action should the State and non-governmental organizations take to ensure the exercise of the rights and freedoms of the citizens of Kazakhstan?* produced the following set of commonest replies:

1. Adopt two State languages – Kazakh and Russian;
2. Do not force people study the State language;
3. Introduce the intensive study of the State language in schools;

4. Establish a single language (Kazakh, for example) in order to avoid disagreements;
5. Comply strictly with the laws and the Constitution of the Republic and impose severe penalties for infringement of them; and introduce heavier penalties for offences involving discrimination on the ground of nationality;
6. Devote increased attention to all instances of discrimination;
7. Inform the population through the mass media about their rights, freedoms and duties; publicize the activities of State bodies and NGOs through the mass media; and hold seminars, round tables and conferences on this topic;
8. Boost the percentage of the non-indigenous population employed in State bodies, provided that they know the State language;
9. Foster tolerance and make advocacy for inter-ethnic and international harmony among young people;
10. Delete the "Nationality" box from passports and identity documents;
11. Introduce dual citizenship;
12. Combat corruption. Impose heavier penalties for bribery.

A total of 59.5 per cent of respondents did not answer this question.

The following conclusions may be drawn from the sociological questionnaire:

1. A total of 7.4 per cent of respondents indicated that this problem does exist to one extent or another. Accordingly, the first hypothesis, that racial discrimination (on the ground of ethnic group or nationality) does not exist in Kazakhstan, was not confirmed.
2. A total of 86.9 per cent of respondents considered that Kazakhstan did not have pressing problems of manifest discrimination on the ground of nationality, thus rejecting the fourth hypothesis.
3. The third hypothesis, that covert discrimination on the ground of nationality exists in Kazakhstan in all areas of activity, was partially confirmed. This may be due to the fact that the improvement of the political, social and economic situation and the associated growth of patriotic and nationalistic feelings among the indigenous population, the increase of the urban population as a result of the influx from the countryside of people with a lower level of education, and the languages policy which is being pursued are producing increased tensions in society, tensions manifesting themselves primarily in the relations between nationalities. It may also be noted that the mechanisms of the country's legal system for resolving cases of discrimination on the ground of nationality are still not sufficiently developed. People are poorly informed about their rights and freedoms, a fact reflected in a lack of vigour in their efforts to solve problems of discrimination.

4. Only a tiny proportion of respondents (5.5 per cent) said that they had encountered or heard from acquaintances of the existence of this problem. However, discrimination does occur in everyday life in people's personal relations and in some areas of activity. The hypothesis that racial discrimination occurs in Kazakhstan only in isolated instances which do not represent the true situation is confirmed.

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