

JOINT UPR SUBMISSION BY KAZAKHSTANI NGOS: CIVIL AND POLITICAL RIGHTS – SUMMARY OF KEY POINTS AND RECOMMENDATIONS*

EQUALITY AND NON-DISCRIMINATION

Kazakhstan lacks specific anti-discrimination legislation that would set out a definition of “discrimination” consistent with international standards and provide for comprehensive protection mechanisms. This undermines efforts to challenge discrimination in court and to obtain remedy for victims.

- **Introduce a definition of “discrimination” that meets the requirements of international law into national legislation; establish effective anti-discrimination mechanisms; and ensure access to justice for all victims of discrimination.**

FREEDOM OF EXPRESSION

The new Criminal Code due to enter into force in early 2015 retains provisions that criminalize defamation and provide enhanced protection against defamation to government officials. Independent journalists and media continue to face criminal defamation charges, as well as civil defamation suits involving excessive claims for moral damages by those objecting to public scrutiny of their work. The opposition press has been hardly hit by sanctions imposed on formal grounds, and leading opposition media resources have been closed down in grossly unfair trials. The practice of extrajudicial blocking of websites continues.

Independent journalists, human rights defenders and others criticizing those in power face threats and harassment, including violent attacks and arrests that appear to be motivated by their professional activities.

- **Decriminalize libel and insult and set an upper limit on the amount of moral damages that can be claimed by individuals in civil defamation suits.**
- **Ensure that harsh penalties such as the suspension or closure of media outlets only can be used in exceptional cases and that any legal proceedings against media outlets fully meet international fair trial standards.**
- **Put an end to the practice of extrajudicial blocking of websites.**
- **Take adequate measures to prevent intimidation and harassment of independent journalists, human rights activists and other critical voices; duly investigate any attacks against such individuals with a view to holding the perpetrators accountable; and ensure that no one is deprived of his/her liberty in retaliation for exercising freedom of expression and other fundamental rights.**

FREEDOM OF ASSOCIATION

As previously, state registration of public associations is compulsory and unregistered activity is subject to sanctions. Public associations may also be suspended or closed down by court for any violation of national legislation, however minor, as well as for the “systematic implementation” of activities contrary to their statutes. The new Criminal Code contains a number of broadly worded provisions that NGOs fear can be used to arbitrarily target and punish leaders and members of public associations for their civic engagement.

- **Abolish compulsory state registration of public associations and revoke sanctions for unregistered activities.**

* This document summarizes key points and recommendations from the joint UPR submission on civil and political rights submitted by the following Kazakhstani NGOs: Kazakhstan International Bureau for Human Rights and Rule of Law; the Public Association “Amulet”; the International Foundation for Protection of Freedom of Speech “Adil Soz”; the Public Foundation “International Legal Initiative”; the Public Association “Echo”; and the Association of Religious Organizations of Kazakhstan.

- **Bring all legal provisions concerning liability of public associations and their members into line with international standards and the strict criteria for permissible limitations, and ensure that these provisions are not used to stifle the legitimate and peaceful exercise of freedom of association by any groups or individuals.**

FREEDOM OF PEACEFUL ASSEMBLY

The right to freedom of peaceful assembly continues to be violated in law and practice. While prior permission is required to organize any public event, such permission is often denied or events only allowed in specially designated venues far from city centers. Those planning to hold peaceful protests without prior permission face harassment, such as warnings and “preventive” arrests, and organizers and participants are fined and sentenced to administrative arrests for such protests in hearings marred by fair trial violations. Liability for violations of the rules on organizing assemblies is also retained in the new Criminal Code.

- **Review legislation and practice on freedom of assembly to ensure compliance with international standards and recommendations, including the OSCE guidelines on freedom of peaceful assembly. In particular, provide for a simple notification procedure for holding assemblies, ensure that the organization of assemblies is not limited to specifically designated venues and that spontaneous assemblies can take place, and abolish criminal liability for violations of the rules on organizing assemblies.**

FREEDOM OF RELIGION AND CONSCIENCE

The new law on religious activities and associations that was adopted in late 2011 considerably tightened the regulation of religious communities, in violation of ICCPR article 18. In particular, it requires religious communities to have at least 50 members and to pass an “expert review” in order to obtain compulsory state registration. These provisions affect in particular small religious minority groups, which already previously were highly vulnerable to harassment. Registered religious associations were required to re-register under the new law, as a result of which the number of such associations decreased by over 30%.

- **Amend the law on religious activities and associations and related national legislation to ensure compliance with ICCPR article 18 and other international standards on freedom of religion. In particular, safeguard the principle of voluntary registration of religious associations, ensure fair registration rules, and abolish the procedure of assessing the compliance of documents required for registration with religious doctrines.**
- **Stop persecuting religious groups and believers for “unauthorized” religious activities.**

ELECTION RIGHTS

The country’s electoral system continues to limit political pluralism and opportunities for the formation of truly representative political structures. Election rules and procedures provide undue advantage to the ruling party in relation to opposition parties and independent candidates. The government obstructs independent monitoring of the election process, including by limiting the opportunities of independent observers to attend and monitor key stages of the election process.

- **Ensure that legislation and mechanisms in place guarantee an equal playing field for all candidates and political parties and safeguard the electoral rights of citizens in accordance with international standards.**
- **Grant independent observers the right to monitor all stages of the electoral process.**