



UNITED NATIONS RECOMMENDATIONS TO END TORTURE IN KAZAKHSTAN (2009-2016) A QUESTIONNAIRE FOR HUMAN RIGHTS GROUPS AND ACTIVISTS TO ASSESS PROGRESS WITH IMPLEMENTATION



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INTRODUCTION

WHY THIS QUESTIONNAIRE?:

This questionnaire was designed to simplify evaluation of whether Kazakhstan has fully, partially or not at all implemented recommendations on the issue of torture or other ill-treatment issued by UN human rights bodies, procedures and under the Universal Periodic Review (UPR) since 2009. Human rights groups can fill in information from their monitoring in the relevant sections of the chart below. Their information will form the basis of future shadow reports to UN institutions as well as other advocacy documents that will be prepared by the NGO Coalition against Torture in Kazakhstan.

SHORT INSTRUCTIONS FOR USE:

In the chart below you find all recommendations issued by relevant United Nations (UN) human rights institutions to Kazakshstan since 2009 on the topics related to torture and other forms of ill-treatment. With regard to the UPR this document only includes those recommendations that were accepted by the government of Kazakhstan. The recommendations are sorted by topic (refer to the table of contents) and, within these broad categories, by sub-topic. Under each sub-heading you find all UN recommendations relevant to the respective topic.

UN RECOMMENDATIONS AND CONCLUDING OBSERVATIONS INCLUDED IN THIS DOCUMENT

In **bold** you find how each of the following UN documents is referred to in the chart below. The documents are listed in chronological order.

- A/HRC/13/39/Ad 3 UN Human Rights Committee Report of the Special Rapporteur on Torture or other cruel, inhuman or degrading treatment or punishment, Manfred Nowak 13th session December 2009 (**SRT**)
- A/HRC/14/10 Human Rights Council 14th Session Report of the Working Group on the Universal Periodic Review 23 March 2010 (**UPR 2010**)

- CCPR/C/KAZ/CO/1 Concluding observations of the UN Human Rights Committee 102 session 1 July 2011 **(CCPR)**
- CCPR/C/107/2 UN Human Rights Committee Report of the Special Rapporteur for follow-up on concluding observations of the Human Rights Committee (107th session, 11–28 March 2013), 30 April 2013 **(CCPR follow-up)**
- CEDAW/C/KAZ/CO/3-4 UN Committee on the Elimination of Discrimination against Women Concluding observations on the combined third and fourth periodic reports of Kazakhstan 10 March 2014 **(CEDAW)**
- CERD/C/KAZ/CO/6-7 UN Committee on the Elimination of Racial Discrimination Concluding observations on the combined sixth and seventh periodic reports of Kazakhstan 14 March 2014 **(CERD)**
- A/HRC/28/10 UN Human Rights Council 28th Session Report of the Working Group on the Universal Periodic Review 10 December 2014 **(UPR 2014)**
- CAT /C/KAZ/CO/1 UN Committee against Torture Concluding observations on the third periodic report of Kazakhstan 12 December 2014 **(CAT)**
- CRC/C/KAZ/CO/4 UN Committee on the Rights of the Child Concluding Observations on the fourth periodic report of Kazakhstan 30 October 2015 **(CRC)**
- CED/C/SR(CED/C/KAZ/1) UN Committee on Enforced Disappearances Concluding Observations on report submitted by Kazakhstan at its 162nd and 163rd meetings, held on 9 and 10 March 2016 **(CED)**

Recommendations in blue have already been implemented and are annotated with explanations.

QUESTIONNAIRE FOR HUMAN RIGHTS GROUPS AND ACTIVISTS TO ASSESS IMPLEMENTATION OF UN RECOMMENDATIONS ON TORTURE

GENERAL RECOMMENDATIONS REGARDING TORTURE AND OTHER FORMS OF ILL-TREATMENT

GENERAL

UN recommendations:

- Continue and accelerate reforms of the prosecutor's office, the police and the penitentiary system with a view to transforming them into truly client-oriented bodies that operate transparently, including through modernized and demilitarized training; **(SRT Rec. 82a)**
- Apply its declared policy of zero tolerance of torture and cruel, inhuman or degrading treatment or punishment by publicly and unambiguously condemning torture in all its forms, directing the policy especially at police, accompanied with a clear warning that any person committing such acts or otherwise complicit or participating in torture or other ill-treatment will be held responsible before the law for such acts and subject to penalties proportional with the gravity of the crime; **(CAT, Rec. 7a)**

State UPR recommendations:

- Continue to apply a zero-tolerance approach to torture and cruel, inhuman or degrading treatment or punishment **(UPR 2010 Rec. 44 Germany)**;
- Continue efforts to eliminate torture and improve the conditions of detention and the protection of the rights of detainees, and to share relevant experiences with interested countries **(UPR 2010 Rec. 43 Algeria)**;
- Apply a zero-tolerance approach against torture and cruel, inhuman and degrading punishments, in line with domestic legislation and international human rights law **(UPR 2014 Rec. 125.49 Australia)**;
- Step up efforts to fight against torture, by implementing the anti-torture law adopted in 2013, and through the systematic prosecution of perpetrators of such acts whoever they may be **(UPR 2014 Rec. 125.48 France)**;
- Pursue the implementation of the State programme on further modernization of the law enforcement system **(UPR 2014 125.71 Turkey)**;

STATISTICS

UN recommendations:

- Compile statistical data relevant to the monitoring of the implementation of the Convention at the national level, including data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, including in detention facilities, as well as on means of redress, including compensation and rehabilitation, provided to the victims. (CAT Rec.27)

- Provide the Committee with information on the number of complaints of torture made by persons deprived of their liberty, the number of claims of acts of torture and ill-treatment that have been investigated and by which body (bodies); the number of persons prosecuted and under what charges; and the penalties applied for those found guilty (CAT Rec. 8c)

PROHIBITION IN LAW AND NO EXEMPTIONS FOR PERPETRATORS

DEFINITION OF TORTURE

UN recommendations:

- Mend the law to ensure that torture is established as a serious crime, sanctioned with appropriate penalties and fully brought into line with the definition provided for in the Convention against Torture; (SRT Rec.80b)
- Amend its legislation to include a definition of torture in the Criminal Code that is in full conformity with the Convention and covers all the elements contained in article 1. (CAT Rec. 24)
- Ensure that only pain or suffering arising from, inherent in or incidental to lawful sanctions are excluded from the definition, and should remove the reference to “legitimate acts” in that context. (CAT Rec.24)
- State UPR recommendations:
- Establish torture as a serious crime punished with appropriate penalties, in keeping with the definition set out in the Convention against Torture (UPR 2010 Rec. 42 Australia);
- Amend the law in order to ensure that torture is established as serious crime punished with appropriate penalties and ensure that it is brought into full conformity with the definition set out in the Convention against Torture (UPR 2010 Rec. 45 Germany);
- Adopt legislative measures to criminalize torture... in line with international standards (UPR 2014 Rec. 214.1 Mexico);

GRAVITY OF SANCTIONS

UN recommendations:

- Amend the law to ensure that torture is established as a serious crime, sanctioned with appropriate penalties and fully brought into line with the definition provided for in the Convention against Torture; (SRT 2010 Rec.80b)
- Publicly condemn torture and ill-treatment and unequivocally state that torture is a serious crime, in order to rebalance the current situation, where criminals are easily deprived of their liberty, often for very long periods, whereas law enforcement officials who break the law receive lenient sentences; (SRT Rec. 80a)
- Review the Criminal Code to ensure that penalties on torture are commensurate with the nature and gravity of such crimes. (CCPR Rec.14) **NB: This has already been implemented: torture is classified as a serious crime and the maximum penalty for torture (resulting in death) is punishable by a maximum of 12 years in prison.**
- Adopt the legislative measures necessary to ensure that, as soon as possible: (a) Enforced disappearance is incorporated into domestic law as an autonomous offence, in accordance with the definition contained in article 2 of the Convention, and that the offence carries appropriate penalties which

take into account its extreme seriousness, avoiding the imposition of the death penalty; **(CED Rec. 12a)** (b) Enforced disappearance as a crime against humanity is criminalized in accordance with the standards provided for under article 5 of the Convention. **(CED Rec. 12b)**

ABOLISHING EXEMPTIONS FOR PERPETRATORS IN THE CRIMINAL PROCEDURE CODE/ ENSURING PROSECUTION FOR TORTURE

UN recommendations:

- Amend its legislation to include a definition of torture in the Criminal Code that is in full conformity with the Convention and covers all the elements contained in article 1, in order to ensure that all public officials or any other person acting in an official capacity can be prosecuted for acts of torture. **(CAT Rec. 24)**
- The State party should ensure that all persons accused of acts amounting to torture as defined by the Convention are prosecuted for the crime of torture under articles 347-1 and 141-1 of the Criminal Code (article 146 of the revised Criminal Code that entered into force in 2015) rather than for offences of lesser severity. The State party should ensure that those convicted are punished with appropriate penalties that are commensurate to the gravity of the crime of torture, as set out in article 4, paragraph 2, of the Convention **(CAT Rec. 9)**
- recommends that the State party take the measures necessary to ensure that, in line with article 8 (1) (b) of the Convention, the term of limitations for criminal proceedings in respect of enforced disappearance –or other continuous offences applied instead of it while enforced disappearance is not specifically criminalized- commences from the moment when the enforced disappearance ceases (inter alia, when the disappeared person is found alive; in the event of death, when his or her remains are found and identified; or when the identity of a child subjected to wrongful removal is restored). The Committee invites the State party, when criminalizing enforced disappearance as an autonomous offence, to provide that the offence is not subject to any statute of limitations. **(CED Rec. 14)**

SAFEGUARDS UPON ARREST AND OTHER FORMS OF DEPRIVATION OF LIBERTY

GENERAL

UN recommendations:

- Take effective measures to guarantee that all detained persons are afforded, by law and in practice, all fundamental legal safeguards against torture and ill-treatment from the very outset of deprivation of liberty. **(CAT Rec. 12)**

MOMENT OF ARREST

UN recommendations:

- Ensure that officials respect the three-hour maximum delay for the first stage of deprivation of liberty between de facto arrest and the handing over of the detained person to the investigator; **(CAT Rec. 12c)**

- Ensure that all persons deprived of their liberty are informed of their rights, including the right to a legal aid lawyer, immediately upon deprivation of liberty; **(CAT Rec.12e)**
- Reduce the period of police custody to a time limit in line with international standards (maximum 48 hours); **(SRT Rec. 81b)**

INFORMING SUSPECTS OF THEIR RIGHTS

UN recommendations:

- Ensure that all persons deprived of their liberty are informed of their rights, including the right to a legal aid lawyer, immediately upon deprivation of liberty; **(CAT Rec. 12e)**

REGISTRATION

UN recommendations:

- Register persons deprived of their liberty from the very moment of apprehension; **(SRT Rec. 81a)**
- Ensure that officials register the exact date, time and place of detention of all persons deprived of their liberty, and particularly that the time of de facto apprehension is accurately recorded to ensure that the first unrecorded hours of unacknowledged detention between the arrest and delivery to a police station cannot be used by law enforcement officials to obtain confessions by means of torture; **(CAT Rec. 12a)**
- Ensure officials' compliance with that requirement and subject the administration of the system to rigorous monitoring, with the application of sanctions for falsification; **(CAT Rec. 12b)**
- Ensure that all deprivations of liberty are entered in uniform registers and/or records which include, as a minimum, the information required under article 17 (3) of the Convention; **(CED Rec. 22a)**
- Ensure that registers and/or records of persons deprived of liberty are filled out and updated promptly and accurately and are subject to periodic checks and, in the event of irregularities, the officials responsible are adequately sanctioned. **(CED Rec. 22b)**

State UPR recommendations:

- Strengthen domestic mechanisms to prevent illegal detention in the office premises of law enforcement agencies by introducing in the criminal legislation penalties for misconduct/illegal conduct, including the use of violence **(UPR 2014 124.18 Tajikistan)**;

FURTHER SAFEGUARDS: CONTACT WITH OUTSIDE WORLD (AND VIDEO SURVEILLANCE)

NOTIFYING FAMILY MEMBERS

UN recommendations:

- Ensure that persons deprived of their liberty are able to contact a relative or other person of their choice promptly after deprivation of liberty in practice; ensure that any official that fails to allow notification of relatives promptly is disciplined or sanctioned; **(CAT Rec. 12f)**

ACCESS TO A LAWYER

UN recommendations:

- Grant access to lawyers and allow for notification of family members from the moment of actual deprivation of liberty; **(SRT Rec. 81a)**
- Ensure that any measures taken to protect State secrets should not involve undue restrictions on an individual's right to access lawyers of their choice. **(CCPR Rec. 20)**
- Ensure that in all cases of arrest, arresting officers have an obligation, at the time of arrest, to inform accused persons of their right to a lawyer. **(CCPR Rec. 20)**
- Adopt the measures necessary to guarantee in practice, from the outset of the deprivation of liberty, that: all persons have access to a lawyer, and their relatives or any other person of their choice and, in the case of foreigners, their consular authorities, are informed of the deprivation of liberty and of the place where the person is being held. It further recommends that the State party also guarantee in practice that any acts hindering the observance of these rights are adequately sanctioned. **(CED Rec. 20)**

State UPR recommendations:

- Guarantee effective legal representation and remedies for detainees **(UPR 2014 124.17 Germany)**

VIDEO RECORDINGS

UN recommendations:

- Consider video and audio taping interrogations; **(SRT Rec. 81d)**
- Amend the Code of Criminal Procedure to provide for mandatory video recording of interrogations and equip all places of deprivation of liberty with video and audio-recording devices; **(CAT Rec. 7b)**

FURTHER SAFEGUARDS: ACCESS TO INDEPENDENT MEDICAL EXAMINATION

GENERAL

UN recommendations:

- Allow access to independent medical examinations without the interference or presence of law enforcement agents or prosecutors at all stages of the criminal process, and provide independent medical check-ups of persons deprived of their liberty, particularly after entry to or transfer between places of detention; **(SRT Rec. 80e)**
- Ensure that medical staff in places of detention are truly independent from the organs of justice administration, that is by transferring them from the Ministry of Justice to the Ministry of Health. **(SRT Rec. 82f)**

PROMPT MEDICAL EXAMINATIONS

UN recommendations:

- Ensure in law and practice that persons deprived of their liberty are able to request and receive independent medical assessments promptly following arrest. **(CAT Rec.12g)**

TRAINING ON STANDARDS OF THE ISTANBUL PROTOCOL

UN recommendations:

- Provide training on the Istanbul Protocol for medical personnel and other officials involved in dealing with detainees and asylum seekers in the investigation and documentation of cases of torture; **(CAT Rec. 26b)**

FURTHER SAFEGUARDS: JUDICIAL REVIEW OF ARREST

UN recommendations:

- Ensure that all persons deprived of their liberty have the right to effectively and expeditiously challenge the lawfulness of their detention through a habeas corpus procedure and that the authorities are required to bring the petitioner before a judge in person in every such case; **(CAT Rec. 12d)**

INDEPENDENT INSPECTIONS

OMBUDSMAN'S OFFICE: PARIS PRINCIPLES

UN recommendations:

- Ensure the independence of the Office of the Human Rights Commissioner (Ombudsman) by establishing it through a constitutional or legal text, and should broaden its mandate to enable it to function effectively in all parts of the country in its expanded role as both the 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) and as the national preventive mechanism in compliance with the Optional Protocol to the Convention. **(CAT Rec. 13)**
- Strengthen its efforts to ensure that the Commissioner for Human Rights enjoys full independence. **(CCPR Rec. 7)**
- Provide it with adequate financial and human resources in line with the Paris Principles (General Assembly resolution 48/134, annex). **(CCPR Rec. 7)**
- [The Commissioner for Human Rights should apply for accreditation to the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. \(CCPR Rec. 7\) NB: This has been done, the Commissioner for Human Rights received status B and his accreditation should take place in 2016.](#)
- Adopt the legislative or other measures necessary to bring the Office of the Human Rights Commissioner into full compliance with the Paris Principles. **(CED Rec. 10)**

State UPR Recommendations:

- Examine, in the context of the reform regarding the Human Rights Commissioner, the transition from the institution of the ombudsman to the establishment of an independent national human rights institution, in conformity with the Paris Principles **(UPR 2010 15 Algeria)**;
- Review the institutions of the Human Rights Commission and the Human Rights Commissioner (ombudsperson), and to take the measures necessary to bring them into conformity with the Paris Principles **(UPR 2010 16 Ireland)**;
- Establish a national human rights institution in accordance with the Paris Principles **(UPR 2010 Germany, Malaysia, Philippines, Thailand)**;
- Extend the mandate of the Ombudsman for Human Rights in accordance with article 2 of the Paris Principles and guarantee its independence **(UPR 2014 125.11 Germany)**;
- Redouble its efforts in strengthening the Ombudsman with a view to achieving a full compliance status with the Paris Principles **(UPR 2014 125.12 Indonesia)**;
- Accelerate the process of bringing the status of the Human Rights Commissioner in line with the Paris Principles and strengthening the mandate of the Commissioner in compliance with the Paris Principles **(UPR 2014 125.13 Afghanistan)**;
- Strengthen the mandate of the Human Rights Commissioner, safeguarding its full independence **(UPR 2014 125.14 Chile)**;
- Continue the practice of strengthening the Office of the Human Rights Commissioner in compliance with the Paris Principles **(UPR 2014 125.15 Pakistan)**;

- Strengthen further the mandate of its national human rights institution and provide the necessary resources for it to function independently **(UPR 2014 125.16 Malaysia)**;
- Strengthen the capacity of the national human rights mechanisms **(UPR 2014 125.17 Uzbekistan)**;
- Improve the working capacity of the national mechanism on the prevention of torture, by strengthening the visits to detention and police centres **(UPR 2014 125.24 Spain)**

INDEPENDENT INSPECTION: NATIONAL PREVENTATIVE MECHANISM, PUBLIC MONITORING COMMISSIONS

NPM

UN Recommendations:

- Design the national preventive mechanism as an independent institution in full compliance with the Paris Principles and equip it with sufficient human and other resources; **(SRT Rec. 82e)**
- Broaden the mandate of the National Preventive Mechanism to include monitoring of all places of deprivation of liberty, [such as offices of police departments and of the National Security Service](#), orphanages, medical social institutions for children with certain disabilities, special boarding schools, nursing homes and military barracks, and examining the conditions and treatment of children in penitentiary and non-penitentiary institutions. **(CAT Rec. 13) NB: departments of police and of the National Security Service are part of the NPM mandate although appropriate changes in legislation remain necessary.**
- Take measures to improve the ability of the mechanism to carry out urgent and unannounced visits to places of detention upon its request. **(CAT Rec. 13)**
- Consider authorizing the mechanism to publicize its findings and recommendations shortly after undertaking visits rather than only on an annual basis and to ensure that the mechanism's members and the public can assess whether their recommendations have been acted upon. The annual and other reports of the mechanism should not be subject to review and approval by the President before publication. **(CAT Rec. 13)**
- Ensure that independent monitoring bodies ... regularly monitor, have access to and visit all places of detention; **(CAT Rec. 17e)**
- [When establishing the National Preventive Mechanism as provided for under the Optional Protocol to the Convention against Torture, the State party should ensure that this does not compromise but improve the execution of its core functions as a National Human Rights Institution in line with the Paris Principles.](#)**(CCPR Rec. 7) NB: This has been implemented. Other monitoring bodies such as the PMCs are part of the NPM.**
- Allow for independent monitoring of all institutions; **(SRT Rec. 85)**
- Speed up the process aimed at amending the legislation relating to the national preventive mechanism so as to ensure in law that its mandate extends to all places where persons may be deprived of liberty, irrespective of their nature. **(CED Rec. 24)**
- Adopt the measures necessary to guarantee in practice that the national preventive mechanism can carry out urgent, unplanned and unannounced visits to any place of deprivation of liberty without obstacles of any kind. **(CED Rec. 24)**

State UPR Recommendations

- To establish an independent monitoring mechanism for all places of detention, in keeping with the provisions of the Optional Protocol to the Convention against Torture, in order to effectively prevent torture (**UPR 2010 65 France**);
- To establish an independent national preventive mechanism in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**UPR 2010 Ireland, Sri Lanka**);
- To establish a national preventive mechanism that has adequate resources and is in conformity with the requirements, set out in the Optional Protocol to the Convention against Torture, of full legal, functional and financial independence and of staff composition, immunities and privileges (**UPR 2010 67 United Kingdom of Great Britain and Northern Ireland**);

NB: The NPM was established in 2013.

PUBLIC MONITORING COMMISSIONS:

UN recommendations:

- Grant public oversight commissions the ability to make unannounced inspections of all prisons and detention facilities. (**CCPR Rec. 17**)
- Legally empower members of Public Monitoring Commissions to speak privately with individuals in the detention facilities that they visit to inquire about whether they have experienced torture or ill-treatment and to ensure, in practice, that detainees and prisoners are not subject to reprisals following any communication by them with members of the Public Monitoring Committees. (**CAT Rec. 14**) **NB: members of PMCs are now able to speak privately with individuals in detention facilities.**
- Empower the Public Monitoring Committees to undertake unannounced visits to places of detention, hold private meetings and publicize their findings so that the results of monitoring are known and officials can be held accountable for addressing the concerns that they raise. (**CAT Rec. 14**)

INDEPENDENT INSPECTION: INTERNATIONAL OR NATIONAL NGOS

UN recommendations:

- Ensure that independent monitoring bodies ... regularly monitor, have access to and visit all places of detention; (**CAT Rec. 17e**) **NB: An NPM has now been established.**

State UPR recommendations

- Grant independent international observers access to detention facilities upon reasonable advance notice, as well as the right to speak with inmates in private, in order to monitor compliance with international obligations regarding treatment of prisoners (**UPR 2014 124.19 Netherlands**);

BLOCKING THE USE OF EVIDENCE EXTRACTED UNDER TORTURE, FAIR TRIAL GUARANTEES

GENERAL

UN recommendations:

- Strengthen the independence of judges and lawyers, ensure that, in practice, evidence obtained by torture may not be invoked as evidence in any proceedings, and that persons convicted on the basis of evidence extracted by torture are acquitted and released, and continue the court monitoring led by the Organization for Security and Cooperation in Europe; **(SRT Rec. 81c)**
- Conduct a study to establish the causes of the low acquittals in criminal cases in order to ensure that the rights of accused persons under the Covenant are guaranteed and protected throughout the trial process. **(CCPR Rec. 22)**
- Ensure that measures are put in place to guarantee the exclusion by the judiciary of evidence obtained under torture. **(CCPR Rec. 22)**
- Bring domestic legislation and practice fully into line with international standards and in particular the provisions of article 15 of the Convention; **(CAT Rec. 23a)**
- Take the steps necessary to ensure in practice that any information or confessions obtained as a result of torture and ill-treatment are not admissible in court in all cases and may not be used as evidence in any proceedings except those brought against the alleged perpetrators; **(CAT Rec. 23b)**
- Improve the methods of criminal investigation to end practices whereby confession obtained as a result of torture and ill-treatment is relied on as proof in criminal prosecution; **(CAT Rec. 23c)**
- Submit information on the application of the provisions prohibiting the admissibility of evidence obtained under duress and on whether any officials have been prosecuted and punished in cases of violation or threat thereof. **(CAT Rec. 23d)**

State UPR Recommendations

- To take measures to strengthen the independence of the judiciary, to implement existing judicial procedures and to tackle the issue of corruption in its courts **(UPR 2010 53 Canada)**;
- To strengthen the roles of judges and defence lawyers in the criminal procedure, and to guarantee full access for defendants to the legal counsel of their choice **(UPR 2010 54 Czech Republic)**;
- To take measures to limit the powers of public prosecutors and bring criminal procedure into greater conformity with article 14 of the International Covenant on Civil and Political Rights **(UPR 2010 56 Netherlands)**;
- To continue to develop the rule of law, including the independence of the judiciary and the impartiality of court processes, in order to bring legislation and practices further into line with the principles of the international legal system **(UPR 2010 57 Finland)**;
- To impose concrete measures to ensure that courts carry out their functions in accordance with ratified international treaties **(UPR 2010 58 Norway)**;
- To reform the judicial system in accordance with international standards regarding the administration of justice, including by reforming penal centres and the system for the administration of juvenile justice, and ensuring the independence of judges and lawyers **(UPR 2010 59 Mexico)**;
- To continue to improve the judicial system to guarantee the rights of those in detention or in prison **(UPR 2010 60 Japan)**;

- To ensure that all trials, including those of terrorism suspects, comply with international standards for fair trials (**UPR 2010 62 Norway**);
- Intensify the efforts to not allow, in practice, the use as evidence confessions obtained under the use of torture or by other illegal methods (**UPR 2014 124.15 Uruguay**);

SHIFTING THE BURDEN OF PROOF TO THE PROSECUTION

UN recommendations:

- Shift the burden of proof to prosecution, to prove beyond reasonable doubt that the confession was not obtained under any kind of duress (**SRT Rec. 81d**)

RECEIVING ALLEGATIONS OF TORTURE, CONDUCTING EFFECTIVE INVESTIGATIONS AND BRINGING PERPETRATORS TO JUSTICE

RECEIVING COMPLAINTS

State UPR recommendations

- Increase efforts to ensure independent investigation of any allegation of torture and other ill-treatment in prisons, and prosecute those who have committed such crimes (**UPR 2014 125.72 Italy**);
- Investigate promptly and impartially all allegations of torture and ill-treatment and hold the perpetrators accountable (**UPR 2014 125.73 Liechtenstein**);

EX-OFFICIO INVESTIGATIONS

UN recommendations:

- Introduce complaints channels that are accessible in practice, ensure that any signs of torture are investigated ex officio, and protect complainants against reprisals; (**SRT Rec. 80c**)

PROMPT, THOROUGH, IMPARTIAL AND INDEPENDENT INVESTIGATIONS INTO ALL ALLEGATIONS OF TORTURE AND OTHER ILL-TREATMENT

UN recommendations:

- Establish an effective and independent criminal investigation and prosecution mechanism that has no connection to the body investigating or prosecuting the case against the alleged victim; (**SRT Rec. 80d**)
- take appropriate measures to put an end to torture by, inter alia, strengthening the mandate of “Special Procurators” to carry out independent investigations of alleged misconduct by law enforcement officials. (**CCPR Rec. 14**)
- ensure that allegations of torture and ill-treatment are effectively investigated and that perpetrators are prosecuted and punished with appropriate sanctions, and that the victims receive adequate reparation. (**CCPR Rec.14**)

- Conduct effective criminal investigations into all allegations of torture and provide investigators with adequate resources to carry out their mandate. **(CAT Rec. 7c)**
- Establish an effective, fully resourced, independent and accountable body that is able to carry out prompt, impartial, thorough and effective investigations, including preliminary investigations, into all allegations of torture and ill-treatment, ensuring that such investigations are never undertaken by personnel employed by the same ministry as the accused persons; **(CAT Rec.8a)**
- Ensure that such an independent body is also empowered to receive and act on complaints of alleged torture and ill-treatment by law enforcement officials, including complaints of sexual violence; ensure that persons deprived of their liberty are able to transmit confidential complaints to such bodies; and ensure that this body is able to protect effectively complainants from reprisal; **(CAT Rec. 8b)**
- adopt all the measures necessary to prevent acts that may hinder or influence the conduct of an investigation into an enforced disappearance, particularly by guaranteeing in practice that officials belonging to the same law enforcement or security force as the person accused of having committed an enforced disappearance are not involved in the investigation. **(CED Rec. 16)**

State UPR Recommendations

- To establish effective complaint mechanisms for the victims of torture, with a special focus on persons in detention, so that any misconduct by police, prison or detention staff receives a full and independent investigation and regular punishment **(UPR 2010 64 Czech Republic)**;
- To share its experience regarding its innovative independent national mechanism for the prevention of torture, whose establishment could serve as an example of best practices in the fight against torture **(UPR 2010 102 Morocco)**.
- Ensure that all investigations into complaints related to torture and other ill-treatments are carried out promptly, impartially and thoroughly **(UPR 2014 124.16 Uruguay)**;
- Allow independent investigations in all alleged cases of torture **(UPR 2014 124.41 Switzerland)**;
- Establish an effective and independent mechanism to investigate all allegations of torture promptly, independently and thoroughly **(UPR 2014 124.44 Montenegro)**;
- Ensure that allegations of torture and ill-treatment are promptly and impartially investigated, and that perpetrators are held accountable **(UPR 2014 124.45 Austria)**;
- Establish an independent investigation mechanism to effectively prevent torture and ill-treatment in detention, train personnel and guarantee effective legal representation and remedies for detainees **(UPR 2014 124.17 Germany)**

INVESTIGATING EVENTS AROUND ZHANAOPEN

UN recommendations:

- Document and undertake prompt, thorough and impartial investigations into all allegations of torture or other ill-treatment during the events in Zhanaopen; **(CAT Rec. 11a)**
- Authorize an independent international investigation into the events, their causes and their aftermath, as proposed by the former High Commissioner for Human Rights during her visit to the State party in 2012; **(CAT Rec. 11b)**
- Ensure that alleged perpetrators are duly prosecuted, including persons in position of command and, if found guilty, are punished with penalties commensurate with the seriousness of the crime, in accordance with article 4 of the Convention, including the individuals responsible for torturing and causing the death of Bazarbai Kenzhebaev; **(CAT Rec.11c)**

- Re-examine the convictions of persons who claim to have been forced to confess as a result of torture and ill-treatment in order to verify that there is no violation of the Convention; **(CAT Rec. 11d)**
- Provide redress and rehabilitation to the victims of torture and ill-treatment, in accordance with the Committee's general comment No. 3 (2012) on the implementation of article 14 of the Convention by State parties. **(CAT Rec. 11e)**

REDRESS / REPARATION

GENERAL

UN recommendations:

- Incorporate the right to reparation for victims of torture and ill-treatment into domestic law, together with clearly set out enforcement mechanisms. **(SRT Rec. 81e)**
- Ensure that all persons accused of acts amounting to torture as defined by the Convention are prosecuted for the crime of torture under articles 347-1 and 141-1 of the Criminal Code (article 146 of the revised Criminal Code that will enter into force in 2015) rather than for offences of lesser severity. **(CAT Rec. 9)**
- Ensure that those convicted are punished with appropriate penalties that are commensurate to the gravity of the crime of torture, as set out in article 4, paragraph 2, of the Convention. **(CAT Rec.9)**
- Amend legislation to include explicit provisions on the right of victims of torture and ill-treatment to redress, including fair and adequate compensation and rehabilitation, in accordance with article 14 of the Convention. **(CAT Rec. 22a)**
- Provide all victims of torture or ill-treatment with redress, including fair and adequate compensation, and as full rehabilitation as possible, and should allocate the necessary resources for the effective implementation of rehabilitation programmes; **(CAT Rec. 22a)**
- Adopt the measures necessary to ensure that any person who has suffered harm as the direct result of an enforced disappearance obtains full reparation in accordance with article 24 (5) of the Convention and prompt, fair and adequate compensation. To this effect, the Committee recommends that the State party establish a comprehensive, gender-sensitive system of reparation and compensation that is fully in line with article 24 (4 and 5) of the Convention and other relevant international standards. **(CED Rec. 28)**

Other recommendations:

- Allow independent investigations in all alleged cases of torture and impose on perpetrators of acts of torture appropriate punishments which reflect the international obligations of Kazakhstan **(UPR 2014 124.41 Switzerland)**;

TRAINING

GENERAL

UN recommendations:

- Ensure that law enforcement personnel continue to receive training on the prevention of torture and ill-treatment by integrating the Istanbul Protocol of 1999 (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) in all training programmes for law enforcement officials. **(CCPR Rec.14)**
- Further develop and strengthen human rights training programmes to ensure that all public officials, including law enforcement, prison and immigration officers, as well as prosecutors, judges and lawyers, are aware of the absolute prohibition of torture and receive training on the provisions of the Convention; **(CAT Rec. 26a)**
- Develop methodologies to assess the effectiveness and impact of training programmes on the prevention and absolute prohibition of torture and ill-treatment. **(CAT Rec. 26c)**
- Ensure that all law enforcement and security personnel, whether civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of persons deprived of their liberty, including judges, prosecutors and other officials responsible for the administration of justice, receive specific and regular training on the provisions of the Convention, in accordance with article 23 (1) thereof. **(CED Rec. 26)**
- The Committee recommends that the State party take the appropriate measures, including the provision of suitable training for members of the judiciary, to ensure that the concept of injured party in article 71 of the Code of Criminal Procedure is applied in accordance with the definition of victim contained in article 24 (1) of the Convention. **(CED Rec. 28)**

OTHER SETTINGS: TORTURE AND ILL-TREATMENT IN THE ARMED FORCES

RECEIVING ALLEGATIONS, CONDUCTING EFFECTIVE INVESTIGATIONS AND BRINGING PERPETRATORS TO JUSTICE

UN recommendations:

- Reinforce measures to prohibit and eliminate ill-treatment in the Armed Forces and ensure prompt, impartial and thorough investigation of all allegations of such acts; establish the liability of direct perpetrators and those in the chain of command, prosecute and punish those responsible with penalties that are consistent with the gravity of the act committed, make the results of such investigations public and provide the Committee with information on the follow-up to the confirmed cases of hazing in the Army; **(CAT Rec.25a)**
- Provide redress and rehabilitation to victims, including through appropriate medical and psychological assistance, in accordance with general comment No. 3. **(CAT Rec. 25b)**

OTHER SETTINGS: VIOLENCE AGAINST WOMEN

GENERAL

UN recommendations:

- Adopt a comprehensive approach to preventing and addressing violence and domestic violence against women in all its forms and manifestations including through awareness-raising on its harmful effects. **(CCPR Rec.10)**
- Strengthen efforts to prevent and combat violence against women, and in particular domestic violence, and ensure the effective implementation of legislation on domestic violence in practice; **(CAT Rec. 20a)**
- Compile and provide the Committee with disaggregated data on the number and nature of complaints, investigations, prosecutions and sentences handed down for acts of domestic violence, on the provision of redress to the victims and on the difficulties experienced in preventing such acts; **(CAT Rec. 20f)**

State UPR recommendations:

- To further strengthen law enforcement and the judicial system in the effort to address impunity and prevent trafficking and domestic violence, as well as the sexual abuse of women and girls **(UPR 2010 63 Malaysia)**;
- To take the measures necessary to end covert gender discrimination, including domestic violence **(UPR 2010 Pakistan)**;
- Continue its effort to prevent domestic violence and further promote gender equality **(UPR 2014 125.59 Singapore)**;
- Continue its efforts to ensure legal protection against abuse of women, children and the elderly in families **(UPR 2014 125.58 Latvia)**;

DOMESTIC VIOLENCE LAW

UN recommendations

- Adopt a law on domestic violence in full compliance with international standards. The law should not focus on prosecution, but also foresee preventive measures; provide for ex officio investigations of alleged acts of domestic violence and ensure adequate funding for the infrastructure to support victims of domestic violence and trafficking; and create a national database on violence against women. **(SRT Rec. 83)**
- Review the Domestic Violence Act to ensure that it encourages victims of violence against women to report any incidents to law enforcement authorities. **(CCPR Rec. 10)**
- Use the Convention, the Committee's general recommendation No. 19, and its jurisprudence when revising its legislative framework to ensure that the revised Domestic Violence Act of 2009 and the Penal Code comprehensively cover all forms of violence against women, including stalking; **(CEDAW Rec. 19a)**
- Revise its legislation to ensure that the definition of the crime of rape is in accordance with the Convention and the Committee's jurisprudence under the Optional Protocol; **(CEDAW Rec. 19d)**
- Ensure that the draft law proposing amendments to the financing of crisis centres and shelters provides for adequate and regular funding by the State party of those facilities; **(CEDAW Rec.19e)**

- Consider ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. (**CEDAW Rec.19f**)

State UPR recommendations:

- To strengthen measures and enact specific legislation to combat discrimination and violence against women, in particular sexual and domestic violence (**UPR 2010 10 Brazil**)
- To ensure that the recently adopted law on domestic violence is in full compliance with international standards, and to raise the awareness of legal officials regarding the need to act against violence against women within the family (**UPR 2010 46 Germany**);
- Strengthen the protection of women by considering the enactment of a specific law on violence against women (**UPR 2014 124.7 India**);
- Strengthen the legislative framework through the criminalization of all forms of violence against women and children, including within the family, and foresee infrastructures to shelter victims (**UPR 2014 124.8 Belgium**);
- Revise the legislation to cover all forms of violence against women (**UPR 2014 124.9 Slovenia**);
- Enact the draft law on domestic violence in full compliance with the international human rights standards (**UPR 2014 124.10 Slovenia**);
- Put in place legislation which formally criminalizes violence against women (**UPR 2014 124.11 Sierra Leone**);
- Put forward its best efforts to reform legislation dealing with the relatively high rate of domestic violence against women (**UPR 2014 124.36 Republic of Korea**);
- Strengthen further legislative and institutional mechanisms to combat all forms of exploitation and violation of women's and children's rights (**UPR 2014 125.50 Philippines**);
- Enact legislation criminalizing all forms of violence against women and girls (**UPR 2014 125.52 Portugal**);
- Further revise its legislation to include protection against all forms of violence against women (**UPR 2014 125.60 Serbia**);

PROTECTION AND REDRESS

UN recommendations:

- Ensure that cases of violence against women are thoroughly investigated and that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and provide the victims with adequate reparations. (**CCPR Rec. 10**)
- Ensure that women have effective access to justice, including through the provision of legal aid, especially to women belonging to disadvantaged groups, and support non-governmental organizations, where relevant, which facilitate women's access to justice, in all parts of the country. (**CEDAW Rec. 13c**)
- Ensure that victims of domestic violence benefit from protection and effective remedies, including access to medical and legal services, psychosocial counseling, redress — including rehabilitation — and safe and adequately funded shelters in all parts of the country; (**CAT Rec. 20c**)

Other recommendations:

- Strengthen Government efforts to ensure protection and provide redress to victims of domestic violence (**UPR 2014 125.61 Maldives**);

RECEIVING ALLEGATIONS, CONDUCTING EFFECTIVE INVESTIGATIONS AND BRINGING PERPETRATORS TO JUSTICE

UN recommendations:

- Facilitate and ensure that complaints from victims are promptly, thoroughly and impartially investigated, that perpetrators are prosecuted and, if found guilty, punished with appropriate and effective penalties; **(CAT Rec. 20b)**
- To ensure effective investigation of all complaints and the ex officio prosecution of acts of violence against women, ensure that perpetrators are punished with appropriate sanctions, and do away with any form of mediation and reconciliation in cases of violence against women; **(CEDAW Rec. 19c)**
- To put in place a system of comprehensive data collection on all forms of violence against women, and encourage reporting of all forms of violence against women and girls, including domestic and sexual violence; **(CEDAW Rec.19b)**

Other recommendations:

- Put in place a system of comprehensive data collection on all forms of violence against women, and encourage reporting of all forms of violence against women and girls, including domestic and sexual violence; **(UPR 2014 125.75 Liechtenstein)**
- Put forward its best efforts to reform legislation dealing with the relatively high rate of domestic violence against women and ensure that those violations are effectively investigated and perpetrators of such acts are prosecuted **(UPR 2014 124.36 Republic of Korea);**

AWARENESS RAISING

UN recommendations:

- Enhance awareness-raising efforts in order to sensitize members of the general public; **(CAT Rec. 20e)**
- Give priority attention to the implementation of the present concluding observations and recommendations between now and the submission of the next periodic report. The Committee therefore requests that the present concluding observations be disseminated in a timely manner, in the official languages of the State party, to the relevant State institutions at all levels (local, provincial, national), in particular to the Government, ministries, the parliament and the judiciary, to enable their full implementation. It encourages the State party to collaborate with all stakeholders concerned, such as employers' associations, trade unions, human rights and women's organizations, universities, research institutions and the media. It further recommends that its concluding observations be disseminated in an appropriate form at the local community level, so as to enable their implementation. In addition, the Committee requests the State party to continue to disseminate the Convention, the Optional Protocol thereto and relevant jurisprudence, as well as the Committee's general recommendations to all stakeholders. **(CEDAW Rec.39)**
- Intensify existing programmes to ensure the adequate dissemination of the Convention and the Committee's general recommendations among relevant stakeholders, including government officials, parliamentarians, the judiciary, lawyers, law enforcement officers and community leaders, in order to create awareness of women's human rights in the State party; **(CEDAW Rec.9a)**

- Take all appropriate measures to enhance women's awareness of their rights and the means to enforce them, including facilitating access to the compendium on United Nations legal documents on questions of equality of men and women published on the website of the Supreme Court of the State party; **(CEDAW Rec. 9b)**

TRAININGS

UN recommendations:

- Ensure that law enforcement and judicial authorities and medical and social workers are provided with appropriate training to deal with cases of domestic violence; **(CAT Rec. 20d)**
- Provide systematic training to judges, prosecutors and lawyers on the application of legislation prohibiting discrimination and violence against women; **(CEDAW Rec. 13b)**

State UPR recommendations:

- Provide systematic training to judges, prosecutors and lawyers on the application of legislation prohibiting discrimination and violence against women **(UPR 2014 125.74 Liechtenstein)**;

OTHER SETTINGS: VIOLENCE AGAINST CHILDREN

RECEIVING ALLEGATIONS OF TORTURE OR ILL-TREATMENT, CONDUCTING EFFECTIVE INVESTIGATIONS AND BRINGING PERPETRATORS TO JUSTICE

UN Recommendations:

- Take measures to expeditiously establish the post of ombudsperson for children in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). He or she should be able to receive, investigate and address complaints by children in a child-sensitive manner, ensure the privacy and protection of victims and undertake monitoring, follow-up and verification activities for victims. **(CRC Rec. 17)**
- Launch prompt and effective investigations into all reports of torture and other cruel or degrading treatment or punishment, in particular in police custody and care institutions... **(CRC Rec. 27)**
- Take all measures necessary to prosecute and punish the perpetrators and provide victims of such violations with appropriate physical and psychological rehabilitation. **(CRC Rec. 27)**

State UPR recommendations:

- Establish an institutional mechanism for further strengthening the protection of children **(UPR 2014 125.18 India)**;

- Establish a separate Office of the Ombudsman on the Rights of the Child (**UPR 2014 125.19 Russian Federation**);
- Continue its efforts to establish the office of the Ombudsman for the Rights of the child (**UPR 2014 125.20 Iran (Islamic Republic of)**);
- Introduce the office of the Ombudsman for the rights of the child to effectively promote and protect the rights of the child (**UPR 2014 125.21 Morocco**);

CORPORAL PUNISHMENT: GENERAL

UN recommendations:

- Explicitly prohibit by law corporal punishment of children in all settings; (**SRT Rec. 84**)
- The State party should take practical steps to put an end to corporal punishment in schools and institutions. It should also encourage non-violent forms of discipline as alternatives to corporal punishment in family settings, and should conduct public information campaigns to raise awareness about its harmful effects. (**CCPR Rec. 15**)
- Take immediate measures to explicitly prohibit corporal punishment in all its forms in the home, care institutions and day-care facilities and ensure that those who violate the law are held accountable. (**CRC Rec. 29**)

State UPR recommendations:

- To continue its work to ensure the further refinement of laws aimed at protecting children's rights in order to step up criminal and administrative responsibilities for crimes and offences committed against children or involving children in crime (**UPR 2010 9 Kyrgyzstan**);
- To strengthen policies promoting children's rights and the implementation of the Guidelines for the Alternative Care of Children, according to Human Rights Council resolution 11/7 and General Assembly resolution 64/142 (**UPR 2010 26. Brazil**);

CORPORAL PUNISHMENT: AWARENESS RAISING/ TRAINING

UN recommendations:

- Take measures to foster positive, non-violent and participatory forms of child-rearing and discipline among parents, teachers, staff of care institutions and day-care facilities and other professionals working with and for children. (**CRC Rec. 29**)

State UPR recommendations:

- To implement various awareness-raising programmes, with a special emphasis on programmes for children (**UPR 2010 27 Hungary**);
- To introduce human rights education and training into school curriculums, in accordance with article 29 of the Convention on the Rights of the Child (**UPR 2010 88 Egypt**);

OTHER SETTINGS: NON-REFOULEMENT, EXTRADITION, RENDITIONS

GENERAL

UN recommendations:

- Ensure that future refugee legislation duly takes into account the principle of non-refoulement enshrined in article 3 of the Convention against Torture. **(SRT Rec.80f)**
- Exercise utmost care in relying on diplomatic assurances when considering the return of foreign nationals to countries where they are likely to be subjected to torture or serious human rights violations. **(CCPR Rec.13)**
- Monitor the treatment of such persons after their return and take appropriate action when the assurances are not fulfilled. **(CCPR Rec.13)**
- Fully comply with the principle of *non-refoulement* and ensure that all persons in need of international protection receive appropriate and fair treatment at all stages in compliance with the Covenant. **(CCPR Rec.13)**
- Take all the necessary measures to ensure the effective implementation of the principle of non-refoulement, inter alia by bringing its legislation, procedures and practices into line with article 3 of the Convention; **(CAT Rec. 16a)**
- Ensure that adequate judicial mechanisms exist for the review of decisions and provide sufficient legal defence and guarantees for persons subject to extradition or return, establish administrative and judicial guidelines and criteria for determining the risk of torture and allow such persons to lodge an effective appeal with suspensive effect on the extradition or return; **(CAT Rec. 16c)**
- Ensure that no person is expelled, extradited or returned to a country where there are substantial grounds to believe that he/she would be in danger of being persecuted or subjected to torture and other ill-treatment; **(CAT Rec. 16d)**
- Ensure effective post-return monitoring arrangements concerning persons who have been expelled, extradited or returned from the State party; **(CAT Rec. 16e)**
- Refrain from the use of and reliance on diplomatic assurances, which should not be used to alter the absolute prohibition of non-refoulement; **(CAT Rec.16e)**
- Implement the decision of the Committee in cases in which it has found the State party to be in violation of its obligations under article 3 of the Convention, including case No. 444/2010 (*Toirjon Abdussamatov et al. v. Kazakhstan*) by securing the return of the complainants to Kazakhstan and providing redress, including adequate compensation, for torture or ill-treatment resulting from their return to Uzbekistan **(CAT Rec. 16g)**
- Ensure that the principle of non-refoulement enshrined in article 16 (1) of the Convention is strictly respected in all circumstances. In particular, the Committee recommends that the State party adopt the measures necessary to ensure in practice that:
 - (a) All asylum seekers, including those without valid travel documents or visas, have unhindered access to effective refugee status determination procedures that fully comply with the obligations arising under article 16 of the Convention; (b) Before proceeding to an expulsion, return or extradition, all relevant procedures have been exhausted and a thorough individual examination has been carried out to determine whether there are substantial grounds for believing that the person concerned would be in danger of being subjected to enforced disappearance and that, if there are such grounds, the person concerned is not expelled, extradited or returned; (c) Diplomatic assurances are evaluated with the utmost care and that they are not accepted in any case where there are substantial grounds for believing that a person would be in danger of being subjected to enforced disappearance. **(CED Rec.18)**

State UPR recommendations:

- Carry out all obligations arising from the Geneva Convention of 1951 on the status of refugees and the principle of non-*refoulement*, and to guarantee that individuals benefit from a fair and equitable trial before being returned to countries in which risks of torture, ill treatment and other serious human rights violations exist **(UPR 2010 92 Belgium)**;
- Review relevant legal provisions and practices with a view to ensuring strict compliance with the principle of non-*refoulement* **(UPR 2010 Czech Republic)**;
- Comply without exception with the principle of non-*refoulement* when people are in danger of being tortured or ill-treated **(UPR 2014 Uruguay 124.33)**

ASYLUM**UN recommendations:**

- Review legislation on refugees to ensure that it complies with the Covenant and international standards on refugee and asylum law **(CCPR Rec.19)**
- Ensure that it provides the necessary cooperation to UNHCR in order to allow it to execute its mandate and functions as provided by the UNHCR Statutes, the 1951 Convention and other international treaties ratified by the State party in order to guarantee the rights provided under the Covenant. **(CCPR Rec. 19)**
- Implement standardized asylum procedures and establish a referral procedure for the Migration Police Departments and the Border Guard Service at all border points, including international airports and transit zones, in compliance with international norms and standards, in particular the principle of non-*refoulement*. **(CERD Rec.18)**
- Address inconsistencies in all of its national legislation, including by-laws and regulations, in order to comply with international standards under the 1951 Convention on the Status of Refugees; **(CRC Rec. 55a)**
- Ensure that refugee status determination is conducted in a child-sensitive manner with regard to both procedural and substantive aspects and that the best interests of the child are taken into account as a primary consideration in all its decisions; **(CRC Rec.55b)**
- Introduce a special protection status (the non-*refoulement* principle) for children who are not formally recognized as refugees, but are nonetheless unable to return to a country where there are substantial grounds to believe that there is a real risk of irreparable harm to the child; **(CRC Rec. 55c)**
- Amend its legislation to allow all children irrespective of the status of their parents to have access to free education and medical services, among other services.**(CRC Rec.55d)**

State UPR recommendations:

- Ensure, in the framework of migration control and extradition agreements, the protection of the rights of the persons concerned by ensuring that their physical integrity and due process rights are not violated **(UPR 2014 124.14 France)**;
- Uphold the principle of non-*refoulement* and ensure that all asylum seekers are given prompt access to accessible, fair and individualized refugee status determination **(UPR 2014 124.34 Brazil)**

CONDITIONS IN DETENTION

UN recommendations:

- Take urgent measures to address overcrowding in detention centres and prisons, including through increased resort to alternative forms of punishment, such as electronic monitoring, parole and community service. **(CCPR Rec. 17)**
- End the practice of tolerating inter-prisoner violence and should take measures to address the underlying causes of self-mutilation by prisoners. **(CCPR Rec. 17)**
- Establish an independent mechanism to receive the complaints of inmates about their conditions of detention, ensure the confidentiality of complaints placed in prison letterboxes and provide effective follow-up to such complaints for the purpose of remedial action and ensure that inmates who file complaints are not subjected to reprisals **(CAT Rec. 17d)**
- Establish an independent mechanism to deal freely and independently with any complaints of inmates about their treatment and conditions of detention, provide effective follow-up to such complaints for the purpose of remedial action and ensure that inmates who file complaints are not subjected to reprisals. Ensure that if any cases of reprisals arise, an investigation will be launched, the victims provided with protection and the perpetrators sanctioned; **(CAT Rec. 18d)**
- Reduce overcrowding, improve prison management and the prisoner/staff ratio, train prison staff and medical personnel on communication with and managing of inmates and on detecting signs of vulnerability and strengthen the monitoring and management of vulnerable prisoners; **(CAT Rec. 18e)**

State UPR Recommendations

- Develop a programme aimed at increasing the legal competence of the employees of correctional institutions so that they can effectively address issues pertaining to the early release of convicted persons **(UPR 2010 Sri Lanka)**;
- further improve prison conditions **(UPR 2010 47 Azerbaijan)**;

ALTERNATIVES TO DETENTION

- Strengthen further non-custodial pre- and post-trial measures, in particular, but not exclusively, in relation to minors, and equip the probation service with sufficient human and other resources; **(SRT Rec. 82d)**
- Boost the use of alternatives to incarceration, taking into account the provisions of the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules); **(CAT Rec. 17f)**
- Ensure that no person is subjected to solitary confinement or denied necessary medical care for exercising the right to freedom of expression. **(CAT Rec. 17g)**
- Use institutionalization as a last resort; **(SRT Rec. 85)**

TRANSFERRING AUTHORITY OVER DETENTION FACILITIES TO MINISTRY OF JUSTICE

UN recommendations:

- Transfer temporary detention isolators from the Ministry of the Interior, and investigation isolators from the National Security Committee to the Ministry of Justice and raise the awareness of Ministry of Justice staff regarding their role in preventing torture and ill-treatment; **(SRT Rec.82b)**
- Transfer authority for all detention and investigation facilities, including prisons, temporary holding facilities (IVSs) and remand centres (SIZOs) away from the Ministry of Internal Affairs. That step would be consistent with international standards and would reduce incentives for officials at such places of detention to commit torture and ill-treatment. **(CAT Rec. 10)**

INDEPENDENCE OF MEDICAL STAFF:

- Ensure that medical staff in places of detention are truly independent from the organs of justice administration, that is by transferring them from the Ministry of Justice to the Ministry of Health. **(SRT Rec. 82f)**

ALLOCATING SUFFICIENT FINANCIAL RESOURCES

UN recommendations:

- Improve the material conditions of detention in conformity with the relevant provisions of the Standard Minimum Rules for the Treatment of Prisoners, including by providing adequate quality and quantity of nutrition; ensuring living space in accordance with existing international norms; renovating existing prison facilities, building new ones and closing those unfit for use; and, in particular, closing without delay the basement and semi-underground temporary holding facilities; **(CAT Rec. 17a)**

ADDRESSING INTER-PRISONER VIOLENCE

UN recommendations:

- Reform the penal correctional system with the general aim of rehabilitation and reintegration of offenders and de-militarize the way it is managed; **(CAT Rec. 18a)**
- Issue a clear warning that any person committing acts of violence or intimidation or who is otherwise complicit or participating in them will be held responsible before the law for such acts and subject to penalties proportional with the gravity of the crime; **(CAT Rec. 18b)**
- Enhance steps to reduce inter-prisoner violence, including that resulting from the active approval and solicitation of prison officials, by launching prompt, impartial, thorough and effective investigations into all allegations of such incidents, and prosecute and punish those responsible; **(CAT Rec. 18c)**
- Establish an independent mechanism to deal freely and independently with any complaints of inmates about their treatment and conditions of detention, provide effective follow-up to such complaints for the purpose of remedial action and ensure that inmates who file complaints are not subjected to reprisals. Ensure that if any cases of reprisals arise, an investigation will be launched, the victims provided with protection and the perpetrators sanctioned; **(CAT Rec. 18d)**

- Reduce overcrowding, improve prison management and the prisoner/staff ratio, train prison staff and medical personnel on communication with and managing of inmates and on detecting signs of vulnerability and strengthen the monitoring and management of vulnerable prisoners; **(CAT Rec. 18e)**
- Ensure that all cases of inter-prisoner violence and deaths are thoroughly investigated and that the perpetrators are prosecuted, and punished with appropriate sanctions. **(CCPR Rec. 17)**

ADDRESSING SELF-MUTILATION

- Recalling the decision of the Constitutional Council, consider self-mutilation as a form of self-expression and protected speech and not as a punishable offence so that it is de-criminalized under both the current Criminal Code (art. 360, part 3) and the new Criminal Code (art. 428). **(CAT Rec. 18g)**

DEATHS IN CUSTODY

- Ensure that all cases of deaths in custody are investigated promptly, thoroughly, effectively and impartially and that persons suspected of having committed acts of torture, physical or psychological ill-treatment and wilful negligence are prosecuted and, if found guilty, punished in accordance with the gravity of their acts; allow independent forensic examinations of all cases of death in custody, permit family members of the deceased to commission independent autopsies and ensure that their results are accepted by the State party's courts as evidence in criminal and civil cases; **(CAT Rec.18f)**
- ensure that all deaths in such [psychiatric] institutions are investigated in a transparent manner by an independent body; **(SRT Rec. 85a)**

INFECTIOUS DISEASES

- Provide appropriate and effective medical care of prisoners and detained persons, including adequate medicines and examination by independent doctors, as well as prompt referral to specialist treatment for persons with serious illnesses and infectious diseases such as tuberculosis and HIV/AIDS, and establish special facilities for the care of such patients; **(CAT Rec. 17b)**
- Transfer the administration of health care in temporary holding facilities and the penal correctional system to the Ministry of Health; **(CAT Rec.17c)**

REHABILITATION AND REINTEGRATION, WITH SPECIAL FOCUS ON LIFERS

- Design the system of execution of punishment in a way that truly aims at rehabilitating and reintegrating offenders, in particular by abolishing restrictive prison rules and regimes, including for persons sentenced to long prison terms, and maximizing contact with the outside world; **(SRT Rec. 82c)**

REHABILITATION AND REINTEGRATION, WITH SPECIAL FOCUS ON JUVENILES

- Raise the age of criminal responsibility and establish a juvenile justice system that puts the best interests of the child at its core, and abolish the use of temporary isolators for minors; **(SRT Rec. 84b)**
- Seek technical assistance and other cooperation from the United Nations Interagency Panel on Juvenile Justice, which includes the United Nations Office on Drugs and Crime, the United Nations Children's Fund, OHCHR and non- governmental organizations, to implement these reforms. **(SRT Rec. 84c)**

- Introduce mechanisms, especially in care institutions, institutions for children with disabilities and schools, to enable children to report any form of violence by the staff in a confidential manner and that an immediate investigation is opened into all such cases reported. **(CRC Rec. 31)**
- Adopt a comprehensive law that will regulate all aspects of the juvenile justice system; **(CRC Rec. 61a)**
- Ensure that all cases involving children in conflict with the law are dealt with by the juvenile justice system; **(CRC Rec. 61b)**
- Ensure that all children in the justice system are provided with psychological counselling and social assistance, where necessary; **(CRC Rec. 61c)**
- Provide regular training on children's rights to all professionals dealing with children in the justice system, in particular judges, prosecutors and police officers; **(CRC Rec. 61d)**
- Ensure the provision of qualified and independent legal aid to children in conflict with the law at an early stage of the procedure and throughout the legal proceedings; **(CRC Rec. 61e)**
- In cases where detention is unavoidable, ensure that the children are able to have a frequent contact with their families, and that detention conditions are compliant with international standards. **(CRC Rec. 61f)**

State UPR Recommendations:

- Introduce the post of the national ombudsman for the rights of the child with a view to the effective promotion and protection of children's rights **(UPR 2010 21 Islamic Republic of Iran);**
- Support and implement the Presidential Decree for 2009-2011, on the development of the juvenile justice system **(UPR 2010 69 Sudan);**

DRUG USERS

- Initiate harm-reduction programmes for drug users deprived of their liberty, including by providing substitution medication to persons and allowing needle exchange programmes in detention. **(SRT Rec. 85b)**

INDEPENDENCE OF THE JUDICIARY

GENERAL

UN recommendations:

- Undertake structural reform of the system of administration of justice with a view to balancing in practice and ensuring equality of arms between the respective roles of the procurator and the defence counsel in judicial proceedings and ensuring the independence of the judiciary. **(CAT Rec.15)**
- Reform the system of prosecution and subject procurators to greater oversight by judges. **(CAT Rec. 15)**

State UPR Recommendations

- Revise the Criminal Procedure Code to allow for a more equal distribution of powers between prosecutors and defence **(UPR 2014 124.12 United Kingdom of Great Britain and Northern Ireland)**;
- Take steps to further strengthen the impartiality and independence of the judiciary by implementing existing judicial procedures, and by promptly and thoroughly investigating any allegations or complaints of corruption in its courts **(UPR 2014 125.53 Canada)**;
- Take all necessary measures in order to provide a fair and independent judiciary system, which respect the rights of the defence **(UPR 2014 125.68 France)**;
- Intensify efforts to enhance the complete independence and functioning of the judiciary **(UPR 2014 125.69 Kenya)**

STRENGTHENING THE POSITION OF JUDGES

UN recommendations:

- Take steps to safeguard in law and practice the independence of the judiciary and its role as the sole administrator of justice and to guarantee the competence, independence and tenure of judges. **(CCPR Rec. 21)**
- Take measures to eradicate all forms of interference with the judiciary, and ensure prompt, thorough, independent and impartial investigations into all allegations of interference, including by way of corruption; and prosecute and punish perpetrators, including judges who may be complicit. **(CCPR Rec. 21)**
- Review the powers of the Office of the Prosecutor/Procurator General to ensure that the office does not interfere with the independence of the judiciary. **(CCPR Rec.21)**
- Additional measures remain necessary to strengthen the independence of the judiciary and its role as the sole administrator of justice, and to ensure that judges are competent, independent and enjoy security of tenure. The Committee reiterates its recommendation and remains concerned by the information received relating to the dismissal of 400 judges in the past two years. **(CCPR follow up)**

State UPR Recommendations

- Revise the Criminal Procedure Code in order to strengthen the role of defence lawyers and extend the power of investigative judges in criminal proceedings **(UPR 2014 124.13 Czech Republic)**;

LAWYERS

UN Recommendations

- Allow defence lawyers to collect and present evidence from the outset of judicial proceedings and to call defence witnesses, and should have prompt, effective and unimpeded access to all evidence in the hands of the prosecution. **(CAT Rec. 15)**

State UPR Recommendations

- Take measures to prevent any interference in the exercise by defence lawyers of their functions, in accordance with the International Covenant on Civil and Political Rights **(UPR 2010 55 Spain)**;

COOPERATION WITH THE UN, REPORTING REQUIREMENTS AND OBLIGATIONS

APPLICATION OF TREATIES IN KAZAKHSTAN'S JUSTICE SYSTEM

UN recommendations:

- Take all necessary measures to ensure legal clarity on the status and applicability of the Covenant and other international human rights treaties ratified by the State party. The State party should also take appropriate measures to raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account before national courts. **(CCPR Rec. 6)**
- Compile statistical data relevant to the monitoring of the implementation of the Convention at the national level, including data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, including in detention facilities, as well as on means of redress, including compensation and rehabilitation, provided to the victims. **(CAT Rec. 27)**
- Recognize as soon as possible the Committee's competence to receive and consider individual and inter-State communications under articles 31 and 32 of the Convention, respectively, with a view to strengthening the framework for protection against enforced disappearances provided for in the Convention. **(CED Rec. 8)**

State UPR Recommendations:

- Continue progressively improve domestic legislation in accordance with the international obligations of Kazakhstan **(UPR 2014 125.10 Russian Federation)**;
- Pay particular attention to the process of **judicial-legal** reforms by strengthening the legislative framework **(UPR 2014 125.70 Tajikistan)**;

IMPLEMENTING VIEWS OF THE HUMAN RIGHTS COMMITTEE/ UN TREATY BODIES

UN recommendations:

- Ensure comprehensive follow-up and institutionalize the implementation of decisions on individual communications adopted by the United Nations treaty bodies under treaties to which it is a party. **(CAT Rec. 22b)**

State UPR Recommendations

- Consider developing Human Rights Indicators as suggested by OHCHR as an instrument that allows for a more precise and coherent evaluation of national human rights policies (**UPR 2014 125.33 Portugal**)

RATIFYING FURTHER TREATIES**UN recommendations:**

- Ratify the Convention on the Rights of Persons with Disabilities; (**SRT Rec.85**)