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Summary record of the 13th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 11 May 2010, at 10 a.m.

Chairperson: Mr. Marchán Romero

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The meeting was called to order at 10.05 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Initial report of Kazakhstan (E/C.12/KAZ/1; E/C.12/KAZ/Q/1 and Add.1) (continued)

1. *At the invitation of the Chairperson, the delegation of Kazakhstan took places at the Committee table.*
2. **The Chairperson** invited the delegation of Kazakhstan to respond to questions put at the 12th meeting on articles 1 to 5 of the Covenant.
3. **Ms. Jarbussynova** (Kazakhstan) said, with regard to her country's intentions in relation to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, that, at a discussion held in January 2010, in the framework of the Inter-Ministerial Commission on Humanitarian Law, a proposal to accede to the Protocol had been approved. As for the question of the Ombudsman, there were two institutions dealing with human rights: the Office of the Ombudsman and the National Centre for Human Rights. The two worked closely together, but the Government had decided that the Office of the Ombudsman did not fully comply with the Paris Principles and was therefore planning to introduce changes to the Ombudsman's legislative status. It had also thought it wiser to delay accession to the Optional Protocol until after the amendments had been made.
4. The Government was drawing up a law against all forms of racial discrimination, which would be introduced in the autumn, once the drafting committee had produced its final recommendations. It should be added that racial discrimination was also prohibited under the Constitution.
5. **Mr. Abishev** (Kazakhstan) said, in response to the suggestion at the previous meeting that the President controlled all State activities, that the President had a well-defined role within the Government: he determined national and international policy and was a symbol and a guarantee of national unity, the Constitution and human and citizens' rights. He represented only one branch of authority, however. Under the Constitution of May 2007, Parliament played an increasing role. The Government answered to Parliament more than to the President. Moreover, Parliament appointed more than half the members of the Constitutional Council, the Central Electoral Commission and the Budget Committee. Also, a petition by one fifth of all parliamentarians to the President could result in the removal of a member of Parliament. It was thus clear that the President did not have total control.
6. With regard to the question of whether international human rights law was applied by the judiciary in Kazakhstan, international treaties ratified by Kazakhstan were, under the Constitution, integrated into and had priority over domestic law. That situation, which had been confirmed by a ruling of the Supreme Court in June 2008, applied to the Covenant and all other international treaties. He added that Kazakhstan had not only civil and criminal courts but also dispute settlement courts and, in two towns, juvenile courts.
7. **Ms. Nusupova** (Kazakhstan) said, with regard to the question of the possibility of the ratification by Kazakhstan of the Convention on the Rights of Persons with Disabilities, that the Prime Minister had set up a working group to draft proposals on the legislative, administrative, institutional and budgetary conditions required to address the issue. The work would be finished by the first quarter of 2011 and proposals would be submitted to the Prime Minister, who would decide when the Convention should be ratified. In 2008, the

Government had, after receiving input from NGOs, adopted a law on special social services for persons with disabilities. The law channelled State money to NGOs, provided more opportunities for private companies to provide services and developed day-care services for mentally disabled persons, which had never previously existed in Kazakhstan. Disabled persons numbered 400,000 (about 3 per cent of the population), but the number of persons registered as disabled was increasing every year in response to greater public awareness.

8. **Ms. Jarbussynova** (Kazakhstan) said that the Government had signed the Convention on the Rights of Persons with Disabilities in 2009. In acceding to international instruments, the Government's principle was to consider the requirements of a given instrument and amend Kazakh legislation accordingly, so that, at the moment of ratification, there was no discrepancy. On that basis, Kazakhstan had ratified nearly 60 international instruments.

9. **The Chairperson** invited the Committee to ask follow-up questions about articles 1 to 5 of the Covenant.

10. **Ms. Bras Gomes** said that, according to the World Bank country brief for 2009, Kazakhstan had the lowest social indicators in the Europe-Central Asian region for access to drinking water. It reportedly had a high incidence of tuberculosis and HIV/AIDS infection rates were increasing fast, although from a low base. It was on the basis of that information that she had requested indicators on social issues apart from unemployment. She welcomed the news that Kazakhstan was to adopt a law against racial discrimination, but wondered whether it might not be possible to expand the legislation to make it a comprehensive anti-discrimination law. In that context, she referred the delegation to the Committee's general comment No. 20, on non-discrimination in economic, social and cultural rights.

11. **Mr. Sadi** said that, if international human rights law took precedence over domestic law, it would surely be simpler to accede to international instruments before amending domestic law.

12. **Mr. Schrijver** requested clarification as to whether international treaties could have a direct legal effect in Kazakhstan's courts. The representative of Kazakhstan had said that they would have an "impact" but he requested a reassurance that they could be directly invoked.

13. **Ms. Azimova** (Kazakhstan) said that the provisions of the Covenant were reflected in the Constitution. They were therefore directly applicable. Indeed, the Constitution explicitly stated that the provisions of international human rights treaties could and must be invoked. As for the question of whether the Government should amend domestic law before or after ratifying an international instrument, either approach was acceptable, depending on the circumstances and the budget allocated to particular legislation.

14. **The Chairperson** requested the delegation of Kazakhstan to provide more information on articles 1 to 5 of the Covenant within the next 48 hours. Meanwhile, he invited the Committee to ask questions about articles 6 to 9.

15. **Mr. Texier** said that, according to the introductory statement the previous day, unemployment had dropped considerably in Kazakhstan, to its lowest-ever level of 6.3 per cent. He wondered how that figure had been obtained and whether it took into account informal work, which was difficult to quantify. Paragraph 143 of the report stated that, under article 24 of the Constitution, forced labour was permitted only in execution of the sentence of a court or under conditions of a state of emergency or military mobilization. Forced labour was, however, not acceptable under international law or according to the rules of the International Labour Organization (ILO), under any circumstances. Moreover, it was the Committee's understanding that illegal migrants were employed in the

construction and agricultural industries and were subject to forced labour. Their passports were sometimes confiscated, they were unpaid or underpaid, and worked long hours in dangerous conditions. He asked what steps were taken to combat that.

16. Paragraph 194 of the report stated that workers were paid by the hour or at piecework rates. He wondered whether such workers received the minimum wage mentioned in paragraph 190. If so, he wondered whether it provided a decent standard of living. It would be useful to have an indication of the actual sums involved.

17. He understood that Kazakhstan aimed to bring women's pay into line with that of men by 2020, but he urged that the process should be speeded up. He asked what the wage gap between men and women currently was. Also, when a woman returned to work after maternity leave, he wondered whether she had the same job and the same salary. He noted that there was a large number of occupational accidents and wondered what action was being taken in that regard. Lastly, he noted that the right to strike was beset with a number of obstacles. Not only were the police, prison staff and the judges not permitted to strike, but the conditions set out in paragraphs 227 and 229 were very demanding. The requirement that half of an organization's workers must attend a meeting for a strike call and that an employer must be notified 15 days before a strike placed an unduly heavy burden on workers, for whom a strike was an act of last resort.

18. **Mr. Abdel-Moneim** said that he would like more detailed unemployment statistics. Information available to the Committee indicated that the number of people in employment had risen minimally between 1995 and 2003 and that long-term unemployment persisted in the once heavily industrialized areas of northern Kazakhstan. How was that possible, given the country's positive economic indicators? He welcomed reports that Kazakhstan had increased pressure on foreign investors to train and employ local workers and to offer them salaries similar to those paid to expatriate employees. In that connection, he asked whether international treaties prevailed over domestic labour legislation.

19. **Ms. Bras Gomes** said that she would like to know what employers had done to help employees to combine work with family responsibilities. She would also like to know if the State could do more to encourage employers in that respect, and whether the State intended to introduce other measures, such as parental leave to care for sick children.

20. She asked what safeguards were in place for pension funds and what was meant, in paragraph 236 of the State party's report, by the need for citizens to take "personal responsibility for their material provision in their old age". Did persons who retired after 1998 receive lower pensions than those who had retired earlier? She asked what the minimum pension was and whether it was sufficient to enable people to live in dignity, and sought clarification on the difference between unemployment benefit and the "targeted State social assistance" referred to several times in the written replies to the list of issues. She also asked what social protection was available to help persons who worked in the informal sector of the economy to provide for their old age.

21. **Ms. Bonoan-Dandan** said she would like to know if all workers' entitlements were suspended when they were on strike. She asked what social protection was available to persons in the informal sector who were due to reach retirement age within two years, and what percentage of the population was not covered by social security. On the question of disabled persons, she asked if the number of jobs earmarked for them was sufficient, given that around 400,000 persons in Kazakhstan had disabilities. Was it true that only around 950 disabled persons had been hired in the first half of 2009? Lastly, she asked for more information on the payment of compulsory contributions to the fund established to increase benefits paid to working women during pregnancy, childbirth leave and up to one year of maternity leave.

22. **Mr. Sadi** said he would like to know what was being done to reduce injuries and improve safety in the workplace, given that the high number of industrial accidents appeared to be due in part to the use of obsolete equipment, particularly in the oil and gas industries. He would also like to know why a strike by oil workers in March 2010 had been ruled illegal.

The meeting was suspended at 11.05 a.m. and resumed at 11.25 a.m.

23. **Ms. Naubetova** (Kazakhstan) said that the difference in average wages between men and women had fallen by 3 per cent between 2009 and 2010, largely because of pay rises in sectors that mainly employed women. The gender gap in pay could be explained partly by the fact that men and women were employed in different kinds of work.

24. Women had the right to up to three years of paid maternity leave, during or after which they could return to their old jobs with the same salary, while women in the military could return to service at their old rank. They then received a childcare allowance in addition to their salary. Men had the right to paternity leave. In a further effort to make it easier for parents to combine work with family responsibilities, the Government aimed to extend the preschool network to cover 70 per cent of children aged between 1 and 6 – more than double the current figure. A programme to promote working from home had also been introduced in 2010 to help parents combine work with childcare.

25. **Mr. Bissakayev** (Kazakhstan) said that the number of industrial accidents had peaked in 2006, when 475 workers had died. Such accidents had always been a feature of dangerous industries such as oil, gas and coal mining. The growth in construction activity since 2009 had led to a rise in injuries in that sector. Kazakhstan had ratified the ILO Convention concerning Safety and Health in Construction (No. 167) and contractors were now responsible for safety on building sites. ILO safety and hygiene standards were applied in the workplace. In April 2010, a campaign had been carried out to raise public awareness of the work of ILO and the need for workers to meet safety standards.

26. Trade union legislation stated clearly the conditions that must be met to call a strike legally, and employers had the right to take disciplinary measures against employees who joined illegal strikes. Such workers therefore stood to lose their salary and other entitlements. The collective agreements that bound employers and workers in around 90 per cent of large companies set out clearly the responsibilities of each, and they included the requirement that trade unions must give 15 days' notice prior to holding a strike.

27. The retirement age was 63 for men and 58 for women. Under collective agreements, employers had the right to layoff employees who were due to retire within two years, and could do so without the employee's consent by giving them redundancy payments.

28. **Mr. Abishev** (Kazakhstan) said that the labour-related principles enshrined in the Covenant, including the right to work, had been incorporated into the Labour Code. Article 24 of the Constitution, however, allowed for forced labour under two specific conditions: in execution of a court sentence, and during a state of emergency or military mobilization. Since 2008 the Commission on Human Rights attached to the Office of the President had been monitoring court sentences and had not found any cases in which a sentence of forced labour had been handed down.

29. **Mr. Alibayev** (Kazakhstan), answering questions about the strike in March 2010, said that although the courts had declared the strike illegal, the workers concerned had continued to strike. No repressive measures had been taken by the State, and there had been no violence on the part of the striking workers. The workers had remained in employment and procedures were currently under way to find a solution to the dispute.

30. **Ms. Nusupova** (Kazakhstan) said that unemployment had decreased from 13 per cent to 6.3 per cent over the past five years. The number of jobs was increasing annually,

and 70.7 per cent of the population was economically active. A total of 7.9 million people were in employment, 3.5 million of whom were employed by private enterprises, and 2.7 million of whom were self-employed. The number of self-employed had decreased since 2005. Long-term unemployment was decreasing significantly, thanks to job creation efforts: over 250,000 jobs had been created in 2009. Persons who had contributed to the State social insurance system had the right to receive unemployment benefit. The long-term unemployed could also apply for “targeted State social assistance”, which was 40 per cent less than the minimum level of subsistence, while continuing to receive unemployment benefit. The minimum wage was equal to the minimum level of subsistence. Consideration was being given to revising the minimum level of subsistence. The Disabled Persons (Protection) Act provided for a 3 per cent quota for the employment of persons with disabilities. Of the 400,000 persons registered as disabled in Kazakhstan, the majority were children, and were therefore not in employment.

31. Around 5 per cent of gross domestic product was allocated to the provision of social services. Although the pension system had been reformed, it still took up a large portion of the social budget. There were also 14 private pension funds in Kazakhstan, with assets amounting to \$13 billion. Only one of those funds had recorded losses during the global economic and financial crisis. The Government had taken measures to protect the rights of pensioners. The basic pension was non-contributory, and was received by all women on reaching the age of 58 years, and all men from the age of 63. The amount received was calculated on the basis of the individual pensioner’s earnings and length of service. The minimum pension was paid in the event that the basic pension was calculated to be of a lower value than the minimum. Efforts were being made to develop a culture of personal responsibility by encouraging Kazakh citizens to think about their future and contribute to the national pension fund during their working lives.

32. **Mr. Lepcha** (Kazakhstan) said that foreign workers enjoyed the same rights as Kazakh workers, but illegal migrant workers tended not to report violations of their labour rights to the police or courts, owing to their illegal status in the country. The police conducted regular raids to identify situations in which illegal migrants had been employed. Staff from the Ministry of Labour and Social Protection were also involved in that identification process. Employers found to have recruited illegal migrants were brought before the courts. Measures were being taken to regulate the social security status of illegal migrant workers, and efforts were being made to legalize them. A bill on migration was currently before Parliament, which it was hoped would regulate many of the problems faced by foreign workers.

33. **Ms. Bras Gomes** asked whether the minimum pension was sufficient for recipients to live in dignity. She wished to know how it was calculated, and whether it was indexed to inflation. She asked whether there was any difference between the pensions received by people who had retired before 1998 and those who had retired later. She wondered whether the State party had any intention of making the age of eligibility for a State pension equal for men and women, as receiving a pension from an earlier age often meant that women in fact received a smaller pension than men. She asked whether the basic pension and minimum pension were paid to all Kazakh citizens.

34. **Ms. Bonoan-Dandan** asked whether the phrase “equal pay for equal labour”, from the State party’s Labour Act, was in fact the same as “equal remuneration for work of equal value”, as found in article 7 of the Covenant. She also asked what type of social protection was provided for self-employed workers.

35. **Mr. Abdel-Moneim**, noting that the oil and gas sectors were volatile, said that long-term unemployment could be more effectively addressed through labour-intensive industry and agriculture.

36. **Ms. Nusupova** (Kazakhstan) said that the minimum pension was calculated on the basis of the salary earned by the recipient during his or her working life. The Pension Act required women to have worked for a minimum period of 20 years, and men 25 years, in order to be eligible for the maximum pension. State pensions, including the minimum pension, were indexed with inflation. Although pension law was currently being reviewed, there were no plans to change the age of retirement for men and women. According to public opinion polls, women, especially those in rural areas, were satisfied with the age of retirement. There were currently 1.6 million pensioners. A system of private pensions had been introduced in 1998, based on personal pension savings. There was no intention to change that system, since the Government wanted to encourage citizens to plan for the future and make contributions to the pension system so as to be able to enjoy a decent standard of living. The Government continued to finance a considerable proportion of the pension system. One third of persons in employment were self-employed. They all made contributions to the State social insurance fund, and thus the pension fund, and would receive State pensions on retirement. Many self-employed workers also contributed to the private pension system.

37. **Mr. Abishev** (Kazakhstan) said that a recommendation had been made to increase the pensionable age for women to 63 in order to avoid discrimination on the grounds of gender. However, many women had signed a petition demanding that they continue to be allowed to retire at 58. They could currently choose to retire at any time between the ages of 58 and 63. All judges on the other hand, male or female, retired at the age of 65.

38. “Equal pay for equal labour” simply meant that equal pay was given for equal work. If, for example, one worker was more effective or productive than another, there would be a difference in pay.

39. **Ms. Nusupova** (Kazakhstan) added that equal labour was understood as work of equal value and equal quality.

40. **The Chairperson** invited Committee members to ask questions concerning articles 10 to 12 of the Covenant.

41. **Mr. Abdel-Moneim** asked what steps the State party was taking to reduce income inequalities, particularly through its taxation system. He also wished to know what measures were being taken to control the rate of inflation.

42. **Mr. Atangana** asked for details on the extent of domestic violence in the State party and the number of prosecutions and convictions in that regard, as requested in question 25 on the list of issues. It would be useful to know to what degree such prosecutions had made an impact on the incidence of domestic violence. According to the March 2010 report of the Working Group on the universal periodic review (A/HRC/14/10), the State party had adopted a law on the prevention of domestic violence in December 2009. He asked whether the State party’s written reply to question 25 indicating that a “bill on domestic violence” was currently before Parliament referred to a different piece of legislation. If not, it would be useful to have additional information on the main provisions of the new law.

43. **Mr. Dasgupta** commended the State party on its rate of economic growth but said that, given the impressive per capita income, it was somewhat surprising to see reports that in 2006 about 18 per cent of the total population and 63 per cent of the rural population had been living below the poverty line. He asked why, given the State party’s remarkable economic progress, there was still such a high incidence of poverty and why the poverty line had been fixed at well below US\$ 1 per day.

44. According to reports before the Committee, life expectancy in Kazakhstan had fallen from 68 years in 1990 to 65 years in 2005. He asked if there was an explanation for that

fall, and why there was a gap of 11 years between life expectancy at birth between males and females.

45. **Mr. Riedel** requested additional information on the health insurance scheme. He commended the State party on its new emphasis on primary health care, the impressive figures on eliminating poliomyelitis and several other diseases, and its ability to maintain an uninterrupted supply of vaccines to all regions of the country.

46. He requested a reply to question 37 on the list of issues, concerning the training of health professionals. Turning to the reply to question 38, he said that it would be useful to have information on the results of the measures taken to improve the mortality and morbidity rates. With regard to question 39, he would appreciate some facts and figures on emergency obstetric services so that the Committee could ascertain the level of access to those services. It was important that the State party provide a reply to question 43, on the forced internment of patients in psychiatric institutions. While there were situations in which psychiatric patients were unable to give their informed consent to treatment, procedures had to be developed to determine when that was the case, and effective monitoring mechanisms were necessary. He would therefore appreciate information on court cases appealing such internments. Lastly, he asked for a reply to question 45, on the pollution of the Aral Sea and the associated liver, kidney and respiratory diseases. He asked what sanitation methods the State party had developed to prevent further depletion of the Aral Sea and degradation of the environment in the region.

47. **Mr. Tirado Mejía** requested additional information on the consequences of the pollution in the Aral Sea. He would also appreciate details of the current effects on people's health of the nuclear tests carried out during the Soviet era in Semipalatinsk and how the State party was dealing with them. He asked about the extent of drug-related problems in the State party. It would be useful to know whether it was a transit country for drug-trafficking and whether drugs were produced there. Were drug addicts given punitive or medical treatment? Lastly, he asked for updated statistics on life expectancy.

48. **Mr. Schrijver** asked whether an office had been established for a children's ombudsman. If so, he wished to know whether it was independent, whether the ombudsman could receive complaints directly from children, and whether the complaints could deal with child labour issues.

49. **Mr. Sadi** asked whether the Marriage and the Family Act was applied equally to men and women and to persons of all religions. He also asked if the marriageable age had been changed.

50. Given the extent of the problem of trafficking in women and children in the State party, and the fact that it was on the increase, he was concerned that the Government appeared to be making no progress in combating the problem.

51. He would appreciate additional information on the quality of health care provided in the State party, particularly concerning waiting lists and access to facilities in rural areas. He asked whether health-care provision met the standards set out in the Committee's general comment No. 14, on the right to the highest attainable standard of health. He would appreciate additional information on the results of the methadone substitution therapy provided to injecting drug-users.

52. He asked whether there was a plan of action in place to eliminate the pollution in the Aral Sea. He also wished to know whether any parties had been held accountable for the consequences of the nuclear tests carried out during the Soviet era, and whether the people affected by the tests had ever received any compensation.

53. **Mr. Pillay** commended the Government on having halved the overall rate of poverty to 10 per cent. Nevertheless, he asked whether the State party's poverty reduction strategy

would target the oil-rich oblasts in rural areas in future, given that they continued to be disproportionately affected by poverty. And did the poverty reduction strategy fully integrate economic, social and cultural rights?

54. He would welcome additional information on the housing problems faced by many individuals as a result of the global economic crisis and the measures the Government was taking to assist them. It was imperative that the State party provide a frank reply to question 35 on the list of issues concerning forced evictions, the extent of homelessness and the number of urban slum-dwellers. The Committee had received reports of forced evictions taking place in breach of the guidelines adopted by the Committee in its general comment No. 7 on that issue. He asked whether the Government was willing to prepare a general framework for action to deal with those issues that was consistent with the general comment.

The meeting rose at 1 p.m.