



International Covenant on Civil and Political Rights

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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee*

I. Introduction

1. The Human Rights Committee, in accordance with article 40 (4) of the International Covenant on Civil and Political Rights, may prepare follow-up reports based on the various articles and provisions of the Covenant with a view to assisting States parties in fulfilling their reporting obligations. The present report is prepared pursuant to that article.
2. The report sets out the information received by the Special Rapporteur for follow-up to concluding observations, and the Committee's evaluations and the decisions that it adopted during its 123rd session. The status of the follow-up to concluding observations adopted by the Committee since its 105th session, held in July 2012, is outlined in a table available at https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_U_CS_124_27810_E.pdf.

Assessment of replies¹

- A Reply/action largely satisfactory:** The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.
 - B Reply/action partially satisfactory:** The State party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.
 - C Reply/action not satisfactory:** A response has been received, but action taken or information provided by the State party is not relevant or does not implement the recommendation.
 - D No cooperation with the Committee:** No follow-up report has been received after the reminder(s).
 - E Information or measures taken are contrary to or reflect rejection of the recommendation.**
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* Adopted by the Committee at its 123rd session (2–27 July 2018).

¹ The full assessment criteria are available at http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_FGD_8108_E.pdf.



II. Assessment of follow-up information

States parties evaluated with a [D] grade for failure to cooperate with the Committee within the follow-up to concluding observations procedure

<i>State party</i>	<i>Concluding observations</i>	<i>Due date of follow-up report</i>	<i>Reminders and related action</i>
Burundi ²	CCPR/C/BDI/CO/2 and Corr.1 (31 October 2014)	31 October 2015	Reminder, 19 November 2015 ³ Reminder, 19 April 2016 ⁴ Letter, 13 October 2016 ⁵ Letter, 20 November 2017 ⁶

112th session (7–31 October 2014)

Malta

Concluding observations:	CCPR/C/MLT/CO/2, 28 October 2014
Follow-up paragraphs:	13 and 16
Follow-up reply:	5 October 2016 ⁷ (annexes I–III)
Committee's evaluation:	Additional information required on paragraphs 13[E][C] and 16[B][B][C]

Paragraph 13: Abortion

The State party should revise its legislation on abortion by making exceptions to the general ban on abortion for therapeutic purposes and when the pregnancy is the result of rape or incest. The State party should ensure that reproductive health services are accessible to all women and girls throughout the country. It should also increase the number, and ensure the implementation of education and awareness programmes at the formal level (in schools) and at the informal level (through the media and other means of communication) on the importance of using contraceptives and on sexual and reproductive health rights.

² The concluding observations the Committee adopted on the second periodic report of Burundi in October 2014 contained mistaken references to three of the four follow-up paragraphs. A corrigendum indicating the correct follow-up paragraphs (8, 13, 14 and 18) was issued on 27 April 2015. The two reminders sent to Burundi on 19 November 2015 and 19 April 2016 made reference to the wrong paragraphs. The correct follow-up paragraphs were indicated to the State party in the letter dated 13 October 2016 from the Special Rapporteur for follow-up to concluding observations. The State party challenged the [D] grade received in July 2017. The State party was notified by a note verbale on 20 November 2017 of its new deadline of 1 March 2018. No follow-up report has been received to date.

³ See https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fFUL%2fBDI%2f22333&Lang=en.

⁴ See https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fFUL%2fBDI%2f23652&Lang=en.

⁵ See https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fFUL%2fBDI%2f31853&Lang=en.

⁶ See https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fFUL%2fBDI%2f31841&Lang=en.

⁷ See http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/FollowUp.aspx?Treaty=CCPR&Lang=en.

Summary of State party's reply

Abortion is illegal. The Criminal Code prescribes imprisonment for 18 months to three years for anyone that causes the miscarriage of any woman; this applies also to any woman who procures her own miscarriage. The Code also provides for imprisonment for 18 months to four years and permanent interdiction against practising medicine for any physician, surgeon, obstetrician or apothecary who knowingly prescribes or administers means whereby the miscarriage is procured.

Nonetheless, abortions are allowed in accordance with the principle of "double effect" (indirect killing) in cases where the mother's life is at risk and she needs treatment that results in harm to the embryo or fetus. This is strictly observed in cases of ectopic pregnancies and cancer.

The Ministry for Health does not feel that there is a medical need for therapeutic abortion in Malta. It emphasizes the increase in sexual health education and awareness initiatives on prevention measures (see annexes II (2011) and III (2010) to the follow-up reply).

Committee's evaluation

[E]: The Committee regrets that the State party has not acted upon the Committee's recommendation and that the Ministry for Health does not consider there to be a medical need for therapeutic abortion. The Committee reiterates its recommendation and requests information regarding plans to bring the State party's abortion regulations and practices into compliance with the Covenant by ensuring effective access to safe, legal abortion when the life or health of a pregnant woman or girl is at risk and when carrying a pregnancy to term would cause the woman or girl substantial pain or suffering, most notably when the pregnancy is the result of rape or incest or when it is not viable.

[C]: The Committee regrets the lack of specific information on educational initiatives implemented after the adoption of the concluding observations on 28 October 2014 to raise awareness about sexual and reproductive health among women, men and adolescents, as well as about effective access to reproductive health services and contraception throughout the country. The Committee requires such information, and reiterates its recommendation.

Paragraph 16: Administrative detention of migrants and asylum seekers

The State party should:

- (a) **Guarantee that administrative detention for immigration purposes is justified as reasonable, necessary and proportionate in light of the specific circumstances and used as a measure of last resort for the shortest appropriate period;**
- (b) **Further develop specific needs assessments of migrants in a vulnerable situation, particularly of unaccompanied children;**
- (c) **Guarantee that every unaccompanied child receives free legal assistance for the duration of the administrative proceedings;**
- (d) **Ensure that the principle of the best interests of the child is given due consideration in all decisions concerning unaccompanied children;**
- (e) **Establish in its legislation a specific time limit and alternatives for detention;**
- (f) **Ensure that administrative detention for immigration purposes is subjected to periodic evaluation and judicial review by an independent judicial body, in accordance with the requirements of article 9 of the Covenant.**

Summary of State party's reply

(a) and (f) In the light of substantive reforms to the migration detention system, an asylum seeker can be detained only if a detention order, clearly laying down the reasons for ordering the detention, is issued. The reasons replicate those indicated in the recast European Union Reception Conditions Directive (2013/33/EU). Detention orders are

subject to review by the independent Immigration Appeals Board within seven days of issuance. Free legal aid is available at the review stage. Further reviews are conducted every two months thereafter by the Board. However, no asylum seeker may be detained for more than nine months.

Detention may also be pursued in respect of irregular migrants and overstayers pending their return, provided that the return of such persons is feasible. Such detention is governed by the return regulations enacted under the Immigration Act, which transpose the European Union Return Directive (2008/115/EC) and stipulate that a review is carried out by the Principal Immigration Officer (administrative) after a period of three months. Another review by the Immigration Appeals Board is conducted if a person is in detention after six months and further reviews would be conducted should detention be extended.

The authorities have issued a strategy for the reception of asylum seekers and irregular migrants, which lays down practices and guidelines relating to the detention of asylum seekers and irregular migrants (see annex I to the follow-up reply);

(b) As set out in the above-mentioned strategy, vulnerable persons, including all minors, are not subjected to detention at any stage of the procedure. Newly arrived migrants are being accommodated in initial reception centres to ensure that relevant processing (e.g. medical clearance and assessment of the need for detention, where applicable) is conducted. The duration of stay in such a centre cannot, as a general rule, exceed seven days;

(c) No detention orders are issued in respect of minors. In case of doubt as to whether a person is a minor or not, the assumption is that the person in question is a minor;

(d) The principle of the best interests of the child is already being adhered to;

(e) Time limits for and alternatives to detention have been established in legislation. Should alternatives to detention be applied, they cannot extend beyond the maximum nine-month term of detention.

The detention of persons pending return is limited to 6 months; however, it may be extended to a maximum of a further 12 months.

Committee's evaluation

[B] (a) and (f): The Committee appreciates the adoption of revised legislation and policies that abolish the automatic and mandatory detention of asylum seekers and provides for, inter alia, legal grounds for detention and judicial review of the lawfulness of detention. It requires information on the implementation in practice of the new legal regime.

While noting the reduction to nine months of the maximum period of detention of asylum seekers, the Committee requests clarification as to whether: (a) relevant legislation and policies provide explicitly that the detention of an asylum seeker is a measure of last resort, applied for the shortest appropriate period, and must be justified as reasonable, necessary and proportionate in the light of the circumstances; and (b) there are plans to reduce further the initial judicial review of detention orders set at seven working days following the adoption of the decision.

[B] (b), (c) and (d): While appreciating the information on the treatment of migrants in vulnerable situations, including minors, the Committee requires information on the development of specific needs assessments of such migrants, particularly unaccompanied children, and clarification as to the maximum duration of stay in an initial reception centre, beyond the seven days.

The Committee welcomes the information that no detention orders are issued in respect of minors and that the principle of the best interests of the child is adhered to. It requires further information on specific measures taken to ensure compliance with that principle.

[C] (e): The Committee notes that, under the revised legislation, irregular migrants could be detained for purposes of return for up to 18 months (6 months initially, with the possibility of extension for a further 12 months). However, it requires information on measures taken

to ensure that detention beyond the initial six-month period is permissible only if the return within six months could not be secured despite vigorous efforts by the State.

The Committee regrets the absence of specific information on alternatives to detention in national legislation and policy. The Committee reiterates its recommendation and requests such information, including clarification as to whether alternatives to detention are examined before deciding on detention, and on measures taken to ensure that such alternatives are effectively implemented in practice.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report: 31 October 2020.

113th session (16 March–2 April 2015)

Cambodia

Concluding observations:	CCPR/C/KHM/CO/2, 31 March 2015
Follow-up paragraphs:	11, 13 and 21
Follow-up reply:	CCPR/C/KHM/CO/2/Add.1, 11 January 2017
Committee's evaluation:	Additional information required for paragraphs 11[C], 13[C] and 21[C][C][C][B]
Non-governmental organizations (NGOs):	Joint submission by Cambodian Human Rights Action Committee, Cooperation Committee for Cambodia, Cambodian Human Rights and Development Association, and Housing Rights Task Force, 23 February 2016; Cambodian Center for Human Rights and Centre for Civil and Political Rights, 2016

Paragraph 11: Impunity for serious human rights violations

The Committee recalls that the State party has an obligation to investigate all cases of past human rights violations (see CCPR/C/79/Add.108, para. 11), in particular violations of article 6 of the Covenant, prosecute the perpetrators and, where appropriate, punish them and provide compensation to the families of the victims.

Summary of State party's reply

Murder is prohibited by law under any circumstances, including if committed by military and police officers and members of the gendarmerie, even if committed in connection with the performance of their duties. The State party acknowledges that police and gendarmerie officers may cause incidents resulting in death in the course of some of their duties. The State party provides examples involving actions taken in self-defence on the part of police and gendarmerie officers, which were not considered acts of murder in the legal sense.

Information from non-governmental organizations

Cambodian Human Rights Action Committee, Cooperation Committee for Cambodia, Cambodian Human Rights and Development Association, and Housing Rights Task Force

Little progress has been made in investigating the deaths of journalists. Some 12 such cases have remained unresolved since 1994, with no new developments. Examples of non-action on the part of the State party are provided, which suggest that perpetrators may enjoy impunity if they are well-connected to government or commercial interests.

In March 2015, a court upheld an earlier conviction and sentenced six men to 13 years' imprisonment for the murder of Suon Chan, a journalist who had been investigating illegal fishing activities in the region and died after being attacked by a group of about 10 local fishermen in 2014. Five of the six convicted persons were never apprehended by the police, despite their whereabouts being reported to the police by Mr. Chan's family.

Committee's evaluation

[C]: The Committee notes the information provided, but regrets the lack of concrete information on prompt, independent, impartial and thorough investigations into all cases of past human rights violations, prosecution and punishment of perpetrators, and full reparation provided to victims. The Committee requires that information and information on the case of Suon Chan, in which six persons were convicted in March 2015, including with regard to the actual apprehension or detention of these persons. The Committee reiterates its recommendations.

Paragraph 13: Prohibition of torture and ill-treatment

The State party should establish an independent complaints mechanism with the authority to investigate all reported allegations of and complaints about acts of torture and ill-treatment. It should also ensure that alleged perpetrators of these crimes are prosecuted and that the victims are adequately compensated. The State party should take the steps necessary to ensure that confessions obtained under torture or ill-treatment are inadmissible in court in all cases, in line with its domestic legislation and article 14 of the Covenant. In addition, the State party should speedily establish or designate a national mechanism for the prevention of torture, as provided for in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Summary of State party's reply

The court system is independent and empowered to conduct investigations in response to all complaints. Confessions obtained under torture or ill-treatment do not have any evidentiary value.

In some cases, claims of the use of torture to obtain a confession were made, but the suspects had no evidence to substantiate their claims. In such cases, attempts are made by the court to find evidence to verify the claim. If evidence is obtained, the confession is not used. In cases of doubt, the court is to rule in favour of the accused. The State party provides examples of cases where the court found that police officials had committed acts of intentional violence.

A victim of torture who files a complaint before the court can also request compensation by bringing a civil action in order to receive reparation.

In 2009, the State party set up the National Committee for the Prevention of Torture to control and regularly examine all detention and correctional centres. In addition, prosecutors, investigating judges of courts of first instance, the general prosecutor attached to the Appeal Court, and the Chamber of Investigation of the Appeal Court have the power to oversee and examine places of detention where the use of torture has been alleged. The Cambodian Human Rights Committee is also able to oversee and examine all detention and correctional centres.

Information from non-governmental organizations

Cambodian Human Rights Action Committee, Cooperation Committee for Cambodia, Cambodian Human Rights and Development Association, and Housing Rights Task Force

There is still no legislative process for prisoners and detainees to complain about acts of torture or ill-treatment in prison or police detention. The only complaint process seemingly in place is to inform the prison governor of the alleged violation. There are also no legislative frameworks for compensating victims of torture and ill-treatment, and no progress has been made on establishing an independent national preventive mechanism.

Furthermore, confessions obtained under torture and ill-treatment are allegedly still used in court, as often judges do not believe that the confessions were obtained through these means.

Committee's evaluation

[C]: While noting the information provided by the State party, the Committee regrets that no measures have been taken since the adoption of the Committee's concluding observations to ensure that confessions obtained under torture are inadmissible in courts in all cases, to ensure that all alleged perpetrators of torture are prosecuted and that the victims are adequately compensated. In addition, the Committee notes the information provided by the State party regarding the independence of the court system and its ability to conduct investigations in response to complaints of torture, but notes that such guarantees already existed when the concluding observations were adopted. The Committee regrets that the State party has not provided information on new measures taken to ensure that the National Committee for the Prevention of Torture fully complies with the Committee's recommendation and with the provisions of the Optional Protocol to the Convention against Torture. The Committee reiterates its recommendation.

Paragraph 21: Freedom of expression and association

The State party should ensure that everyone can freely exercise his or her right to freedom of expression and association, in accordance with articles 19 and 22 of the Covenant and the Committee's general comment No. 34 (2011) on freedoms of opinion and expression. In doing so, the State party should:

- (a) **Take immediate action to investigate complaints of killings and provide effective protection to journalists, human rights defenders and other civil society actors who are subjected to intimidation and attacks owing to their professional activities;**
- (b) **Refrain from prosecuting journalists, human rights defenders and other civil society actors as a means of deterring or discouraging them from freely expressing their opinions;**
- (c) **Consider decriminalizing defamation and bring any other relevant provisions of the Criminal Code into line with article 19 of the Covenant;**
- (d) **Review its current and pending legislation, including the draft laws on cybercrimes and on associations and NGOs, to avoid the use of vague terminology and overly broad restrictions, to ensure that any restrictions on the exercise of freedom of expression and association comply with the strict requirements of articles 19 (3) and 22 of the Covenant.**

Summary of State party's reply

(a) Investigations are conducted by judicial police officers into all criminal offences. If someone is murdered, a police inquiry will immediately be initiated, even if there is no complaint. Regarding intimidation, the Criminal Code penalizes threats, threats accompanied by extortion, death threats and death threats accompanied by extortion. It also penalizes intentional acts of violence, less severe acts of violence and involuntary bodily harm. Any person who suffers from one of these acts can file a complaint requesting protection and a judicial police officer will either immediately initiate a police inquiry or send the complaint to the Prosecutor, who will decide how to proceed;

(b) Expressing an opinion is not considered an offence, but doing so in order to commit a prohibited act is an offence. Journalists, human rights defenders and civil society activists have not been convicted to scare or discourage them, but rather because they used their professions to commit offences (the State party provided examples);

(c) Defamation has not been removed from the Criminal Code, as it is in accordance with article 19 of the Covenant;

(d) All legislation that might be inconsistent with the Constitution is reviewed by the Constitutional Council, upon request. If the Council deems a provision contradictory to the Constitution, the provision will not be enforced.

The draft law on cybercrimes is in the process of being reviewed and revised by the Ministry of the Interior in collaboration with the Federal Bureau of Investigation of the United States of America, so that the law will be more in accordance with article 19 of the Covenant. The object and purpose of the Law on Associations and NGOs is not to restrict the establishment and activity of associations and NGOs.

Information from non-governmental organizations

Cambodian Human Rights Action Committee, Cooperation Committee for Cambodia, Cambodian Human Rights and Development Association, and Housing Rights Task Force

(a) No action has been taken to investigate complaints of the relevant killings. For instance, there was no investigation into a recent case involving two journalists, Khut Sokun and Heng Viche, who were threatened and assaulted by security personnel while covering a protest by Boeung Kak land rights activists. In 2015, there was an increase in the number of attacks and acts of intimidation by government-aligned agencies, and no action has been taken by the Government to investigate these incidents;

(b) Between July and August 2015, 21 people were detained or convicted for criticizing the Government. As of January 2016, 24 people are being detained for exercising their right to freedom of expression;

(c) Defamation is no longer punishable by imprisonment, but it has not been decriminalized. The Government seems to have no plans to decriminalize defamation, as is evident from the increasing number of defamation cases brought since the 2015 recommendation;

(d) The new Law on Associations and NGOs was enacted without any further review or consultation. The law contains vague, discretionary rules that restrict the right to association, and it is unclear how the Government intends to apply this law.

The draft law on cybercrimes and telecommunications raises concerns about interference with freedom of expression. No information has been released on the latest draft.

Cambodian Center for Human Rights and Centre for Civil and Political Rights

(a) No adequate action has been taken to ensure that complaints of killings are appropriately investigated, including those of the 13 journalists who have been murdered since 1994, despite the Committee's recommendation. New incidents of harassment and violence against journalists and other civil society actors have occurred since March 2015, with no perpetrators held accountable. Examples were provided;

(b) Prosecutions and investigations of civil society actors continue to be pursued by the Government, such as the 11 activists who were sentenced in 2015 to lengthy jail terms because of their involvement in a rally;

(c) The crime of defamation continues to be used regularly, and no moves have been made to consider decriminalizing it;

(d) The Law on Associations and NGOs is vague and was adopted with worrisome requirements regarding reporting obligations, and broad and vague grounds for denial of registration and deregistration.

The draft law on cybercrimes has the potential to severely restrict freedom of expression. The Government has refused to publicly release an official version of the draft, but a leaked draft contains overbroad and vague terminology.

Committee's evaluation

[C] (a) and (b): While noting the information regarding investigations conducted by judicial police officers for all criminal offences under the Criminal Procedure Code, the Committee regrets that no measures appear to have been taken since the adoption of the concluding observations to investigate complaints of killings and provide effective protection for journalists, human rights defenders and other civil society actors. The Committee requests the State party to comment on allegations of harassment and violence against journalists and other civil society actors since 2015, including the case of two journalists, Khut Sokun and Heng Viche, who were allegedly threatened and assaulted by security personnel while covering a protest by Boeung Kak land rights activists. The Committee reiterates its recommendation.

The Committee notes continuing allegations of prosecutions and detention of journalists, human rights defenders and other civil society actors for criticizing the Government and for participating in protests. It regrets the lack of information by the State party on measures taken after the adoption of the Committee's concluding observations to ensure that journalists, human rights defenders and other civil society actors are not prosecuted as a means of deterring or discouraging them from freely expressing their opinions. The Committee reiterates its recommendation.

[C] (c): The Committee notes that the State party has not removed defamation from the Criminal Code and therefore reiterates its recommendation.

[B] (d): The Committee appreciates the information that the draft law on cybercrimes is being revised by the Ministry of the Interior in collaboration with the United States Federal Bureau of Investigation, so that the law will be more in accordance with article 19 of the Covenant. The Committee requests updated information regarding this process, as well as information on discussions and/or the adoption of the draft law on associations and NGOs, including measures taken to ensure its compliance with articles 19 (3) and 22 of the Covenant.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report: 2 April 2019.

114th session (29 June–24 July 2015)

Canada

Concluding observations:	CCPR/C/CAN/CO/6, 20 July 2015
Follow-up paragraphs:	9, 12 and 16
Follow-up reply:	16 September 2016 ⁸ (annex I ⁹)
Committee's evaluation:	Additional information required for paragraphs 9[B], [B][C][B], 12[C] and 16[B][C]
Non-governmental organizations:	Amnesty International, 2 June 2017; Feminist Alliance for International Action, July 2017

Paragraph 9: Murdered and missing indigenous women and girls

The State party should, as a matter of priority, (a) address the issue of murdered and missing indigenous women and girls by conducting a national inquiry,

⁸ See http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCO%2fCAN%2f25188&Lang=en.

⁹ See http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCO%2fCAN%2f25189&Lang=en.

as called for by the Committee on the Elimination of Discrimination against Women, in consultation with indigenous women's organizations and families of the victims; (b) review its legislation at the federal, provincial and territorial levels, and coordinate police responses across the country, with a view to preventing the occurrence of such murders and disappearances; (c) investigate, prosecute and punish the perpetrators and provide reparation to victims; and (d) address the root causes of violence against indigenous women and girls.

Summary of State party's reply

(a) The Minister of Indigenous and Northern Affairs and the Minister of Justice and Attorney General of Canada launched a national pre-inquiry process into missing and murdered indigenous women and girls. The process (2015/16) involved seeking recommendations from survivors, families, indigenous organizations and the general public on how to best address and prevent this type of violence;

In 2016, the Government appointed five Commissioners to lead the National Inquiry, which will run from September 2016 to the end of 2018, with a budget of Can\$ 53.8 million;

(b) At the first two meetings of the National Round Table on Missing and Murdered Indigenous Women and Girls, held in 2015 and 2016, stakeholders identified priority areas and agreed on multiple actions.

In 2016, the Justice Framework to Address Violence against Indigenous Women and Girls, which identifies principles and priorities for improving how the justice system prevents and responds to this type of violence, was approved.

Law enforcement agencies collaborate in a variety of ways to address violence against indigenous women and girls;

(c) The 2016 federal budget provided for the construction and renovation of over 3,000 shelters and transition houses, including shelters that serve First Nations communities. In 2017, additional funding will be allocated over five years to support shelters for victims in these communities.

The Government will review existing gender- and culturally sensitive training policies for federal law enforcement officers, and will toughen criminal laws and bail conditions in cases of domestic assault.

Provincial and territorial governments had implemented numerous strategies to prevent violence against indigenous women and to support victims and families of missing or murdered indigenous women, as well as holding events and conferences on violence against women in 2015;

(d) The 2016 federal budget proposed Can\$ 8.4 billion investment over five years to improve the socioeconomic conditions of indigenous peoples.

In 2016, a specific budget was allocated to the First Nations Child and Family Services Program. In 2016, the Canadian Human Rights Tribunal released a decision ordering the federal Government to reform the Program and cease its discriminatory practices. The federal Government is making progress in that regard.

A working group has been established to address the overrepresentation of indigenous children in child welfare services. The Government aims to reduce the number of children in care, and has adopted a prevention-focused approach. Measures have been taken to improve education for indigenous children and there are plans in place to improve the indigenous labour market and housing.

The State has acknowledged that indigenous people face a higher risk of human trafficking and has created the National Action Plan to Combat Human Trafficking to increase awareness and build knowledge of this issue.

Information from non-governmental organizations

Amnesty International

(c) Many root problems regarding the heightened risk of violence faced by indigenous women and girls remain unaddressed. There is no independent mechanism in place to re-examine cases where police investigations may have been inadequate or biased, and hearings with families have been delayed. The data-collection procedures used by the Government are inadequate. Furthermore, the vast majority of First Nation reserves do not have shelters for women needing to escape violence;

(d) The plan to create a federal strategy on gender-based violence reportedly covers areas under federal jurisdiction only, which is insufficient to enact a truly national plan of action. Moreover, the strategy had not been enacted as of May 2017. Furthermore, despite the ruling of the Canadian Human Rights Tribunal, the discriminatory underfunding of on-reserve child welfare persists.

Not enough is being done to address violence against indigenous women and girls in the context of large-scale development projects and associated labour camps.

Feminist Alliance for International Action

(a) The fact that a National Inquiry was established does not mean that the State party can delay taking other recommended steps.

There are concerns about the National Inquiry's mandate and terms of reference. The Inquiry is currently in a state of collapse; it has held only one hearing since it began work in September 2016, and there have been no moves to launch a policy inquiry into systematic causes of violence;

(c) Not all cases of missing and murdered indigenous women have been duly investigated and prosecuted due to the fact that there is no consistent and reliable data being collected and to the lack of any standardized, mandatory protocols for police to follow when responding to these cases. Furthermore, there are no consistent standards or procedures to ensure that the indigenous peoples involved in these cases are not treated in a discriminatory, racist or sexist manner by the police and those in the justice system;

(d) The State party has not complied with this recommendation.

Committee's evaluation

[B] (a): The Committee appreciates the information provided regarding the establishment of the national pre-inquiry process and the appointment of Commissioners to lead the National Inquiry. The Committee notes the allocation of budgetary resources for the Inquiry, and the timeline until December 2018. The Committee regrets, however, that the State party's reply lacks specific information about the Inquiry's mandate and terms of reference. The Committee requests further information regarding: (a) the mandate and terms of reference of the Inquiry; (b) the number of hearings the Inquiry has held since its inception; and (c) the action taken by the Inquiry to address the Committee's recommendation.

[B] (b): The Committee notes the State party's engagement with non-governmental stakeholders to address violence against indigenous women through its National Round Table, as well as through the Justice Framework. The Committee regrets that the State party made no reference to any legislative review at any level that was taking place or being planned, and requires information on this point. The Committee acknowledges the examples provided in the State party's reply of collaboration between law enforcement agencies and other entities, but requires information about the coordination of police responses across the country to prevent the murders and disappearances of indigenous women and girls, which was not provided.

[C] (c): The Committee appreciates the fact that the State party is working to increase the number and quality of shelters, and that the reporting policies and practices have been updated to ensure better data collection on the indigenous origin of victims of violent crimes. The Committee regrets, however, that no information was provided on specific

measures taken to effectively investigate, prosecute and punish the perpetrators of these crimes and provide reparation to victims. The Committee therefore requests information in this regard. In particular, the Committee notes that there are concerns that there is no independent mechanism to re-examine cases where investigations carried out by the police may have been inadequate; that hearings are frequently delayed and that there are organizational problems during these processes; and that there are no national protocols and insufficient training on data-collection procedures. The Committee requests the State party to respond to these concerns. The Committee also asks the State party to clarify if there are, or will be, accessible shelters available for all First Nations communities.

[B] (d): The Committee notes that resources have been allocated in the federal budget to improve the socioeconomic condition of indigenous peoples, but requires additional information on a concrete plan for utilizing these resources. The Committee acknowledges the measures being taken to address issues in the child welfare system, housing, public health and to tackle human trafficking, but requests information about: (a) any measures being taken to address excessive use of force towards and abuse of indigenous women and girls in the context of large-scale development projects and associated labour camps; (b) measures taken to assess the impact of large-scale development projects on indigenous women and girls; and (c) measures taken to address the April 2016 Canadian Human Rights Tribunal decision ordering reform of the First Nations Child and Family Services Program and a halt to its discriminatory practices, particularly regarding the underfunding of on-reserve child welfare.

Paragraph 12: Immigration detention, asylum seekers and non-refoulement

The State party should refrain from detaining irregular migrants for an indefinite period of time and should ensure that detention is used as a measure of last resort, that a reasonable time limit for detention is set, and that non-custodial measures and alternatives to detention are made available to persons in immigration detention. The State party should review the Immigration and Refugee Protection Act in order to provide refugee claimants from “safe countries” with access to an appeal hearing before the Refugee Appeal Division. The State party should ensure that all refugee claimants and irregular migrants have access to essential health-care services, irrespective of their status.

Summary of State party’s reply

The State party explained the conditions of detention under the Immigration and Refugee Protection Act and that Canada Border Services Agency officers must regularly appear before the Immigration Division of the Immigration and Refugee Board to demonstrate that continued detention is necessary. The Act was amended in 2012, adding a new provision stating that if an arrival is considered irregular, those arriving in this group may become “designated foreign nationals”, who are subject to an initial mandatory arrest and detention at the time of arrival if they are 16 years of age or older. This happens only in exceptional circumstances and as at 11 May 2016, no individuals had been detained under this procedure.

There is no time limit on immigration detention, but the Supreme Court has determined that this does not constitute indefinite detention since there is an ongoing review process, which is subject to judicial review. The Canada Border Services Agency detained 6,768 individuals between April 2014 and March 2015, with an average detention of 24.5 days.

A Refugee Appeal Division was established in 2012, enabling claimants to appeal a negative Refugee Protection Division decision. In 2015, nationals of Designated Countries of Origin were denied access to the Refugee Appeal Division, but this was deemed discriminatory and has since been changed, giving these individuals access to the mechanism.

The Interim Federal Health Program has been restored as of April 2016 to provide limited and temporary health-care coverage to protected persons, refugee claimants,

rejected refugee claimants and certain persons detained under the Immigration and Refugee Protection Act.

Information from non-governmental organizations

Amnesty International

Health coverage for refugee claimants was restored in 2016, but it has not been extended to irregular migrants irrespective of status, as the Committee recommended.

Adequate measures have not been taken to reform the immigration detention regime. There are insufficient safeguards against arbitrary detention and no upper time limit for immigration detention.

Three people have died in immigration detention since March 2016, owing to accountability gaps in the immigration detention regime. There is no independent oversight of Canada Border Services Agency.

The “designated foreign national” regime is of concern, as it may lead to mandatory detention, barred access to the Refugee Appeal Division, and no access to permanent residence for at least five years, contrary to article 9 of the Covenant.

Committee’s evaluation

[C]: The Committee welcomes the reactivation of the Interim Federal Health Program in 2016, but requires information on its coverage, particularly regarding irregular migrants. The Committee notes the lack of specific information on measures taken after the adoption of its concluding observations on detention of irregular migrants. It requires information on: (a) measures taken to establish a reasonable time limit for detention of irregular migrants and to ensure that detention is used only as a measure of last resort; (b) the policy that “designated foreign nationals” are subject to mandatory arrest and detention, and the number of individuals detained under this policy since the adoption of the Committee’s concluding observations; and (c) the access given to “designated foreign nationals” to the Refugee Appeals Division. The Committee also requests the State party’s response to allegations that there is no independent oversight mechanism for the Canada Border Services Agency.

Paragraph 16: Indigenous lands and titles

The State party should consult indigenous people to (a) seek their free, prior and informed consent whenever legislation and actions impact on their lands and rights; and (b) resolve land and resources disputes with indigenous peoples and find ways and means to establish their titles over their lands with respect to their treaty rights.

Summary of State party’s reply

(a) The State party will develop a new Federal Reconciliation Framework, in partnership with the First Nations, Métis and Inuit, and will work to improve partnerships with provincial, territorial and municipal governments. All laws, policies and operational practices will be reviewed to make sure that consultation and accommodation obligations are being met. The Government is working to implement the “Calls to Action” recommendations of the Truth and Reconciliation Commission, which will involve meeting international treaty obligations and commitments. Canada fully supports the United Nations Declaration on the Rights of Indigenous Peoples and will develop an action plan to implement it in 2016;

(b) “Aboriginal and treaty rights” are undefined as to their nature, scope and content, so parties rely on judicial guidance as to whether an Aboriginal right exists. As court cases dealing with indigenous issues are lengthy and costly, these issues are best addressed through negotiation, collaboration and dialogue.

There are currently 28 modern treaties and self-government agreements in effect. Modern treaties are the most comprehensive process to address section 35 Aboriginal rights.

Canada is considering ways to speed up the process and renew the comprehensive claims process.

There are two alternative arrangements to modern treaties. A “specific claim” is defined as a claim made by a First Nation against the federal Government regarding land and other First Nations assets, and the fulfilment of treaties. A Specific Claims Tribunal was established in 2008 to make binding decisions on claims and award monetary compensation. A review of the Tribunal’s mandate, structure and effectiveness began in 2014.

Provincial and territorial governments have processes in place to facilitate the negotiation of Aboriginal and treaty rights.

Beginning in 2004 and 2005, the Supreme Court of Canada held that the Crown has a duty to consult when conduct might adversely impact potential or established Aboriginal or treaty rights. Canada takes that duty very seriously.

The Government negotiates consultation protocols with Aboriginal communities. Consultation protocols have been concluded with multiple groups.

Information from non-governmental organizations

Amnesty International

(a) The State party continues to issue permits for resource development projects that are opposed by indigenous peoples and would have a significant negative impact on their ability to exercise their rights.

No measures have been adopted to ensure full implementation of the United Nations Declaration on the Rights of Indigenous Peoples. The permit for the Site C Dam project has not been revoked. A legal analysis of whether the Site C Dam plans are in accordance with the Government’s obligations to uphold constitutionally protected indigenous rights was refused by the federal Government.

Committee’s evaluation

[B] (a): The Committee appreciates the information provided by the State party, but requires further information on: (a) the development of the new Federal Reconciliation Framework in partnership with the First Nations, Métis and Inuit; (b) measures taken to review all laws, policies and operational practices to make sure that consultation and accommodation obligations are being met; and (c) measures taken to implement the “Calls to Action” recommendations of the Truth and Reconciliation Commission, particularly regarding the State party’s consultation obligations. The Committee also requires information regarding the Site C Dam project, its impact on indigenous rights and whether the State party is planning to revoke permits for the Site C Dam project.

[C] (b): The Committee appreciates the information provided by the State party on its mechanisms for resolving land and resource disputes with indigenous peoples, but requires further information on specific measures taken after the adoption of the Committee’s concluding observations. In particular, the Committee requires clarification on: (a) whether the State party is planning to define the nature, scope and content of Aboriginal and treaty rights in legislation; (b) the number of claims settled since the adoption of the Committee’s concluding observations and the number of claims currently being reviewed under the voluntary alternative dispute resolution process, based on the modern treaties and/or other alternative arrangements to modern treaties; and (c) if it is still possible for these cases to be brought before the courts.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party’s next periodic report.

Next periodic report: 24 July 2020.

115th session (19 October–6 November 2015)

Suriname

Concluding observations:	CCPR/C/SUR/CO/3, 3 November 2015
Follow-up paragraphs:	10, 22 and 32
Follow-up reply:	3 November 2016 ¹⁰
Committee's evaluation:	Additional information required on paragraphs 10[B], 22[E][C] and 32[C]

Paragraph 10: National human rights institution

The State party should take measures to ensure the effective functioning of the National Human Rights Institute with a broad human rights mandate, and provide it with adequate financial and human resources, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

Summary of State party's reply

The launch of the National Human Rights Institute was announced for December 2016. Staff have been recruited and various human rights training courses organized. The Institute's compliance with the Paris Principles, including with regard to its independence, will be achieved during a planned transitional period of four years.

Committee's evaluation

[B]: The Committee welcomes the launch of the National Human Rights Institute in 2016, and requires additional information on the planned measures aimed at ensuring its compliance with the Paris Principles, the progress in the implementation of those measures and the anticipated time frame for achieving the Institute's full compliance with the Principles, including with regard to institutional and financial independence and autonomy, and its mandate.

Paragraph 22: Impunity for past human rights violations

Recalling its previous recommendation (see CCPR/CO/80/SUR, para. 7), the Committee urges the State party to repeal the Amnesty Act. The State party should also comply forthwith with international human rights law requiring accountability for those responsible for serious human rights violations in respect of which States are required to bring perpetrators to justice, including by completing the pending criminal prosecutions. In this regard, the Committee draws attention to its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, in particular paragraph 18, in which the Committee states that States parties may not relieve perpetrators of acts such as torture, arbitrary or extrajudicial killings or enforced disappearance from their personal responsibility. The State party should also ensure the effective protection of witnesses and diligently enquire into all cases of suspected witness intimidation.

Summary of State party's reply

The State party expresses deep regret for the human rights violations that have been committed; however, in the context of national security, the Amnesty Act will not be repealed.

¹⁰ See http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCO%2fSUR%2f25817&Lang=en.

As to the protection of witnesses, the State was not aware of any cases of threats or harm to witnesses.

Committee's evaluation

[E]: The Committee regrets that the State party does not intend to repeal the Amnesty Act and that no measures have been taken to bring perpetrators of serious human rights violations, including for the Moiwana massacre of 1986, to justice, including by completing the pending criminal prosecutions brought against the President, Desiré Bouterse, and 24 others accused of the extrajudicial executions of 15 political opponents in December 1982. The Committee reiterates its recommendation, and recalls its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, in particular paragraph 18, in which it indicates that States parties may not relieve perpetrators of acts such as torture, arbitrary or extrajudicial killings or enforced disappearance from personal responsibility.

The Committee regrets the State party's assertion that it has no knowledge of cases of threats or harm to witnesses, and requests information on progress made in securing witness testimonies in relation to the Moiwana case and on any witness protection measures and programmes in place to ensure the effective protection of witnesses against any kind of intimidation or threats.

Paragraph 32: Judicial control of detention

The State party should adopt legislation to ensure that anyone arrested or detained on a criminal charge is brought before a judge within 48 hours. The Committee draws the attention of the State party to its general comment No. 35 (2014) on liberty and security of person, in particular paragraph 33, in which it states that 48 hours is ordinarily sufficient to transport the individual and to prepare for the judicial hearing. An especially strict standard of promptness, such as 24 hours, should apply in the case of juveniles. Moreover, a public prosecutor cannot be considered an officer exercising judicial power under article 9 (3) of the Covenant (see para. 32 of the general comment).

Summary of State party's reply

The judicial control of detention remains unchanged. Article 54 (a) (1) of the Code of Criminal Procedure states that the defendant is brought before the magistrate no later than seven days starting on the date of his arrest.

The reduction of custody from 14 to 7 days has put pressure on relevant institutions that seek to find solutions, within existing resources, to ensure that detention takes place legally and lawfully. The State is not yet at the stage at which it is able to fully implement the Committee's recommendation, but it will do everything in its power to ensure its implementation.

Committee's evaluation

[C]: The Committee regrets that the State party has not adopted legislation requiring that anyone arrested or detained on a criminal charge be brought before a judge within 48 hours, invoking resource constraints. It notes the stated intention of the State party to do everything in its power to ensure the implementation of the recommendation. The Committee requires clarification as to whether the judicial control of detention under article 9 (3) of the Covenant is exercised by a public prosecutor or by a judge. The Committee reiterates its recommendation.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report: 6 November 2020.

117th session (20 June–15 July 2016)*Kazakhstan*

Concluding observations:	CCPR/C/KAZ/CO/2, 11 July 2016
Follow-up paragraphs:	18, 24 and 54
Follow-up reply:	CCPR/C/KAZ/CO/2/Add.1, 7 December 2016 CCPR/C/KAZ/CO/2/Add.2, 18 April 2017
Committee's evaluation:	Additional information required for paragraphs 18[C], 24[B][C] and 54[C][C][B]
Non-governmental organizations:	Confederation of Independent Trade Unions of Kazakhstan, 7 June 2017; NGO Coalition of Kazakhstan against Torture, 6 June 2017; Amnesty International, 13 June 2017

Paragraph 18: Accountability for human rights violations in connection with the Zhanaozen events

The State party should carry out an independent, impartial and effective investigation into the individual deaths and injuries in connection with the events in Zhanaozen, as well as into all allegations of torture and ill-treatment, with a view to ensuring proper accountability for perpetrators, restoration of the rights of convicted persons to a fair trial, and effective remedies, including adequate compensation, for all victims of human rights violations or their families.

Summary of State party's reply

The criminal investigations into the events in Zhanaozen were open and transparent and a public commission was involved. In December 2011, the Procurator General of Kazakhstan proposed that United Nations experts take part in the investigation, and members of Penal Reform International went to Mangistau to talk with locals and visit detention centres.

The judicial proceedings were conducted in the most open manner possible. The Internal Affairs Department of Mangistau province looked into the allegations of torture brought by defendants and did not institute criminal proceedings; that decision was upheld by the court.

The court found 34 persons guilty of organizing and participating in riots. In May 2012, the court found five police officers guilty of improper exercise of authority, and imposed a punishment of five to seven years on them. In March 2012, all victims and members of their families received 79.4 million tenge.

Information from non-governmental organizations*NGO Coalition of Kazakhstan against Torture*

No independent, impartial and effective investigation has been conducted into the deaths and injuries in Zhanaozen. The investigation referred to by the State party was incomplete and involved torture, threats and intimidation.

The number of people killed in December 2011 has not been established. Witness allegations of the mass use of torture and detainment have not been investigated.

Amnesty International

The investigation carried out by the State party was not complete or adequate. Most of the defendants alleged that they had been tortured or ill-treated in detention in order to extract confessions, but no investigation was carried out. Instead, the allegations were

passed to the Ministry of Internal Affairs, which had officers involved in the torture accusations, and the Ministry dismissed all the allegations as unfounded. At trial, the judge dismissed the complaints.

Committee's evaluation

[C]: The Committee notes the information provided by the State party but regrets the lack of concrete information on measures taken after the adoption of the Committee's concluding observations. The Committee requests that the State party respond to the allegations that the investigation involved torture, threats and intimidation, and that it provide information on the action taken to follow up on those allegations in the Zhanaozen trial. The Committee reiterates its recommendations.

Paragraph 24: Torture and ill-treatment

The State party should take robust measures to eradicate torture and ill-treatment and to effectively investigate, prosecute and punish such acts, inter alia, by:

(a) **Ensuring that standards of proof and credibility for evidence applied when determining whether a criminal investigation into an alleged act of torture or ill-treatment should be pursued are appropriate and reasonable;**

(b) **Ensuring that investigations into allegations of torture and other ill-treatment are carried out by an independent body and are not unduly delayed, and that "special prosecutor units" are themselves responsible for conducting all investigations into torture and ill-treatment and do not delegate investigative work to law enforcement agencies acting under their supervision;**

(c) **Ensuring that sanctions for the crime of torture are commensurate with the nature and gravity of the crime, both in law and practice;**

(d) **Refraining from using the charge of "false reporting of a crime" against alleged victims of torture or ill-treatment;**

(e) **Ensuring that victims of torture and ill-treatment have, both in law and practice, access to full reparation, including rehabilitation, adequate compensation and the possibility of seeking civil remedies independent of criminal proceedings;**

(f) **Ensuring that oversight of the penitentiary system is exercised by an agency independent of the police and internal security forces.**

Summary of State party's reply

(a) Major reforms of criminal law and criminal procedure law have been implemented, based on a principle of zero tolerance for torture. Torture, violence, threats and other unlawful measures and cruel treatment are prohibited during investigations;

(b) Complaints of torture submitted during an investigation are considered within three days, under the new criminal procedure law;

(c) Torture is a serious offence, with a maximum penalty of up to 12 years' deprivation of liberty and the confiscation of property. Those convicted of torture are not exempt from liability after the expiration of the statute of limitations, and amnesties are not permitted;

(e) A project called "A society without torture" has been launched to bring laws and practices regarding torture into line with the State party's international obligations. The project is under discussion, with the planned measures presented at the fourth Prison Forum, held in January 2017. There is a two-year implementation period.

The Government has taken measures to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol in domestic law, such as defining torture as a crime, improving mechanisms for the arrest and transfer of suspects, and introducing simplified pretrial proceedings and plea bargains;

(f) The national preventive mechanism has been established, with unimpeded access to inspect any closed criminal corrections facility. Detention conditions at these facilities have improved, with a steady decrease in the prison population, but each year approximately 700 allegations of unlawful methods of inquiry and violence at correctional facilities are registered in Kazakhstan. Over the past five years, 158 officials have been convicted of torture, and since 2008 the United Nations has found that Kazakhstan has violated the provisions of the Convention against Torture in 10 cases.

Information from non-governmental organizations

NGO Coalition of Kazakhstan against Torture

(a) The zero-tolerance policy to torture is the basis for the implementation of institutional reforms. However, the plan is designed to be implemented within two years, while immediate measures should be taken;

(b) According to the “A society without torture” project, investigations into torture should be conducted by an independent body, but this has not yet been implemented;

(c) The definition of torture has not been brought into line with article 1 of the Convention against Torture. The sanctions for torture have not been increased and there is still a possibility for amicable agreement or conditional conviction of the perpetrators;

(d) Those who report crimes continue to be warned about criminal liability for false reporting;

(e) Victims of torture are unable to receive compensation from the State budget, because they can only be compensated by those identified as guilty of torture or their employer;

(f) The criminal executive system continues to be under the jurisdiction of the Ministry of Internal Affairs (the police), instead of a civil agency.

Amnesty International

(b) There is no fully independent body to investigate torture in Kazakhstan. The Prosecutor General has established special prosecutor units that can investigate cases of torture, but they do so at the instruction of the Prosecutor General; they are not directed to do so under the Criminal Procedure Code. Clarification of the mandate of the Units is needed to specify that they should investigate ex officio all cases involving torture and ill-treatment allegations;

(d) Complainants are warned of criminal liability for false reporting;

(f) The national preventive mechanism does not monitor all places of detention; it remains under the supervision of the Ombudsman’s Office, which compromises its independence; and it must receive written permission from the Ombudsman before a visit, restricting its ability to respond quickly to reports of torture or ill-treatment.

Committee’s evaluation

[B] (a) and (b): The Committee welcomes the State party’s reply, but requests further information on measures taken after the adoption of the Committee’s concluding observations to ensure that standards of proof and credibility for evidence applied are appropriate and reasonable for determining whether acts amount to torture or ill-treatment. In particular, the Committee requests information on the dates and content of the reforms of criminal law and criminal procedure referred by the State party.

On the investigations carried out by the State party, the Committee notes the information provided but regrets that the State party has failed to address whether investigations are carried out by an independent body. The Committee requires that the State party clarify the entity responsible for investigating allegations of torture and ill-treatment, and whether or not the investigating entity is fully independent. The Committee also requires further information regarding the special prosecutor units, specifically: (a) clarification of the mandate of the units, including regarding their ability to investigate ex

officio all cases involving torture and ill-treatment allegations; and (b) comments on information received that the units delegate investigative work to law enforcement agencies.

[C] (c) to (f): Regarding the sanctions for the crime of torture, the Committee welcomes the information provided, but notes the lack of information on measures taken after the adoption of the Committee's concluding observations. The Committee requests that information as well as information on: (a) the distinction between torture and other cruel, inhuman and degrading treatment or punishment in the Criminal Code, and if such a distinction exists, an indication of whether there is a difference in penalty; (b) the possibility for amicable agreement or conditional conviction of the perpetrators; and (c) the impact the "A society without torture" project has had on the imposition of sanctions for the crime of torture that are commensurate with the nature and gravity of the crime.

The Committee notes that the State party has not provided information regarding the use of "false reporting of a crime" and reiterates its recommendation.

In relation to reparation for victims, the Committee welcomes the information on the "A society without torture" project, which focus on the rehabilitation of victims, among other issues. However, the Committee regrets the insufficient information provided about this plan and how the State party ensures that victims of torture and ill-treatment have access to full reparation, adequate compensation and the possibility of seeking civil remedies. The Committee requires that the State party address these points and further elaborate on what that project entails, when it will be launched and how it will assist in providing rehabilitation to victims.

Concerning an oversight system, the Committee notes the information provided, but requires further information on the national preventive mechanism and its independence to carry out its functions. In particular, the Committee requests information on: (a) whether the national preventive mechanism covers all places of detention, without restriction, in the State party; and (b) if the national preventive mechanism requires any prior authorization before conducting a visit to a detention facility.

Paragraph 54: Freedom of association and participation in public life

The State party should bring its regulations and practice governing the registration and functioning of political parties and non-governmental organizations, as well as the legal frameworks regulating strikes and trade unions, into full compliance with the provisions of articles 19, 22 and 25 of the Covenant. It should, inter alia:

- (a) Refrain from criminalizing public associations, including political parties, for their legitimate activities under criminal law provisions that are broadly defined and not compliant with the principle of legal certainty;**
- (b) Clarify the broad grounds for the suspension or dissolution of political parties;**
- (c) Ensure that the new legislation on the allocation of funds to public associations will not be used as a means of undue control and interference in the activities of such associations nor for restricting their fundraising options.**

Summary of State party's reply

(a) The right to freedom of association is a constitutional right. The Political Parties Act (amended in 2009), which regulates State registration of political parties, complies with international standards.

The Constitution prohibits the direct funding of trade unions, but trade unions may still hold jointly-funded events with international bodies. Kazakhstan law does not prohibit cooperation between national and foreign trade unions or with international federations;

(c) Legislation adopted in 2015 pertaining to the activity of NGOs introduced new forms of State assistance to NGOs through grants and awards. The grants are issued and monitored by a specialized operating body, separate from the entities that allocate regular funds, and NGO applications are considered by an independent expert commission.

The operating body includes a board of directors composed of civil society representatives, an executive board, and an internal audit service. NGO awards are issued to organizations based on a public proposal and assessment of their activities. The allocation of funds is not used as a means of control over or undue interference in the activity of these associations.

Information from non-governmental organizations

Confederation of Independent Trade Unions of Kazakhstan

(a) The State party has deliberately prevented the registration of trade unions so that they are unable to meet the legal requirements and are thus forced to cease activity. Owing to the forced closure of the Confederation of Independent Trade Unions of Kazakhstan, a hunger strike was held, which the State party deemed illegal. Some 63 protestors had to pay fines, and the chairman of the trade union, Amin Yeleusinov, and the labour inspector, Nurbek Kushakbayev, were detained and arrested on criminal charges. According to Mr. Kushakbayev's lawyers, the prosecutor did not prove Mr. Kushakbayev's guilt, the investigations were biased, and the lawyers did not have an opportunity to fully prepare. Mr. Kushakbayev and Mr. Yeleusinov were sentenced to two and a half years and two years in prison, respectively. The criminal prosecution relating to the Confederation chairman, Larisa Kharkova, was ongoing as at January 2017.

NGO Coalition of Kazakhstan against Torture

(a) A new law, adopted in 2016, requires commercial entities, non-profit organizations and individuals to report on all foreign income received. Since the adoption of that law, three NGOs have faced sanctions. Members of one of them, the International Legal Initiative, believe that it was sanctioned in order to intimidate and harass its members.

Some activists involved in public associations, such as the trade unionist Nurbek Kushakbayev, have been sentenced under article 174 of the Criminal Code, which criminalizes incitement of "social, national, generic, racial, class or religious hatred" or insulting "national honour and dignity of religious feelings of citizens". Mr. Kushakbayev was sentenced because he called for continued participation in a strike deemed illegal by the court. Olesya Khalabuzar, a civic activist, is also facing charges under article 174 because of her participation in a public association.

Amnesty International

(a) The International Legal Initiative and the Liberty Foundation, which were accused of being linked to public protests and influencing political processes, were ordered to pay large fines for allegedly failing to pay taxes. Members of the International Legal Initiative believe that the fines and ensuing legal case was designed to intimidate and harass them. Leading or participating in an unregistered organization remains a criminal and administrative offence, with leaders receiving harsher penalties.

The authorities in Kazakhstan have acted to suppress the independent trade union movement by bringing far-reaching charges of inciting illegal strikes. Nurbek Kushakbayev and Amin Yeleusinov were accused of inciting an illegal strike after they were involved in the oil workers' hunger strike, protesting against the closure of the Confederation of Independent Trade Unions of Kazakhstan.

Committee's evaluation

[C] (a): The Committee acknowledges the information provided by the State party, but regrets that it has not provided information on measures taken after the adoption of the Committee's concluding observations. The Committee reiterates its recommendation and requests that the State party comment on information received that the new trade union laws regarding registration have been used to deliberately prevent trade unions from being able to function. The Committee would appreciate information regarding why and under what process the Confederation was closed down, and asks for the State party's comments on the detention and arrest of Amin Yeleusinov and Nurbek Kushakbayev.

[C] (b): The Committee regrets that the State party has provided no information regarding the grounds for the suspension or dissolution of political parties. The Committee reiterates its recommendation and requests information in this regard.

[B] (c): The Committee notes the information provided by the State party, but requests more information about the efforts made to alleviate undue control and interference in the activities of public associations, specifically regarding: (a) the regulations under which grants are awarded by the State party; (b) how members of the specialized operating body are appointed; (c) how members of the independent expert commission considering applications are appointed and who the commission consists of; and (d) if any other mechanisms are in place to ensure that control over or undue interference in funding is not taking place.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report: 15 July 2020.
