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Chairperson: Ms. Majodina

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

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

1. *At the invitation of the Chairperson, the delegation of Kazakhstan took places at the Committee table.*
2. **Mr. Kustavletov** (Kazakhstan) said that 2011 marked the twentieth anniversary of his country's accession to independence, since which time it had acted as a responsible member of the international community. It had shut down the nuclear testing facility at Semipalatinsk and relinquished the nuclear arsenal inherited from the Soviet era. The country had moved from a totalitarian system and planned economy to a liberal political system and market economy, and now had more than 700,000 small and medium enterprises. It had introduced the notion of private property and carried out a land reform. Social guarantees had been strengthened. Over a 10-year period, expenditures on education and health had risen more than eightfold; the literacy rate was now nearly 100 per cent; the maternal and infant mortality rate had been halved and the population had grown from 14.6 million to 16.4 million.
3. The Government was taking important measures to promote industrialization and regional and urban development. The industrialization and innovation plan put in place in 2010 had already generated 24,000 jobs with a further 161,000 expected by the end of 2014. The employment programme, for the period 2011–2020 set in motion in March, had opened up new avenues such as the start-up of individual businesses. The poverty level had fallen and average income was five times higher. Per capita GDP, which had been approximately \$700 in 1994, had risen to more than \$9,000 on 1 January 2011. A regional decentralization and privatization process had been undertaken in recent years.
4. Kazakhstan had realized the lynchpin of modern democracy: the separation of legislative, executive and judicial powers. The 2007 constitutional reform brought a switch from a solely presidential to a presidential-parliamentary system. Over 80 per cent of the recommendations made by the Organization for Economic Cooperation and Development (OECD) had been taken into account in amendments to election laws. The principles on which Parliament was constituted, as well as its functions, had been reviewed; the role of political parties strengthened, and a Public Chamber established within Parliament. The members of the lower house were now elected on the basis of proportional representation, and the role of local representative bodies had been expanded. As a result, free and democratic presidential elections had been held in April 2011 in compliance with the law. The 2012 legislative elections would make possible the formation of a multiparty parliament, as stipulated by law.
5. Kazakhstan's main achievement was the harmony and tolerance prevailing in its multi-ethnic, multi-faith society. The country was host to more than 140 nationalities, 45 religions and 4,362 religious associations all existing side by side. Kazakhstan had established a unique mechanism, the People's Assembly of Kazakhstan, comprising 820 ethnocultural organizations. The State-organized Congress of Leaders of World and Traditional Religions had been acclaimed by the international community. The State party created conditions conducive to the cultural and linguistic growth of all the country's ethnic groups, including the teaching of minority languages in schools and the publication of newspapers, and television broadcasts in the different languages.
6. Civil society had become more active, with over 18,000 registered non-governmental organizations (NGOs); registration had been simplified and could be done on

the Internet. Each year the State allocated over \$13 million to NGOs engaged in social action. Social partnership agreements between the Government, trade unions and employers demonstrated the increased importance of the unions. Freedom of expression was guaranteed and more than 80 per cent of the media were privately owned. Access to public services and online information was rapidly expanding. All the country's educational facilities were equipped with computers. Kazakhstan had ratified most international human rights instruments. The number of capital crimes had significantly decreased and an indefinite moratorium had been imposed on the use of the death penalty. Human rights advocacy groups were very active, while public access to legal information had improved, thanks in part to the installation of free access points to the law database in public areas. The Ministry of Justice website included a free abridged version of that database and there were plans to post the entire corpus of laws online.

7. Much had been done in recent years to reinforce the independence of the judiciary. Specialized courts had been established, including administrative, economic and juvenile courts, and mediation had been introduced to limit recourse to legal action, and a jury trial system had been in place since 2007. Only a court could authorize an arrest. Enforcement of legal decisions, formerly the responsibility of the Supreme Court, had been transferred to the Ministry of Justice. The jurisdiction of the courts would be strengthened, while the qualification requirements for the position of judge would be raised, and the selection process made more transparent; judgements would be published on the Supreme Court's public database; and legal oversight of investigations would be expanded. Reforms had been afoot in recent years to humanize criminal law, especially with regard to minors, pregnant women and women with underage dependants, and the elderly. Under a law adopted in early 2011, the sentences of approximately 6,000 convicts would be reduced and approximately 2,000 inmates convicted of more or less petty crimes would be released by the end of 2011. The priority in criminal proceedings was currently accorded to protection against baseless accusations and wrongful convictions, and immediate and total restoration of the rights of the wrongfully accused. Grounds for detention had been circumscribed; decriminalization was under way and the head of State had reaffirmed his commitment to making libel a civil rather than criminal offence.

8. Law enforcement personnel had been cut by 15 per cent, their functions clarified, and public and parliamentary oversight of their activities instituted. Social reintegration of minors had been transferred from the Ministry of Interior Affairs to the Ministry of Education and Science. The Government was taking measures to implement the recommendations of the Committee against Torture and the Special Rapporteur on torture. Cases relating to acts of torture could not be examined by bodies whose agents had committed the acts. The legal definition of torture had been aligned with that of the Convention against Torture, and rules had been established for monitoring complaints of torture and preventing such acts. It was now mandatory for judicial experts to be present at medical check-ups for detecting signs of bodily injury on detainees, and the prison system was progressively being brought into line with international norms. There were plans for a shift to prisons with separate cells, a social monitoring mechanism and improved medical care, especially to prevent deterioration of inmates' health. The Government had a zero tolerance policy on torture and trafficking in persons. The national preventive mechanism and probation service bills were expected to be tabled by the end of 2011.

9. The Government had accepted 121 of the 128 recommendations made to it under the universal periodic review in February 2010 (A/HRC/14/10) and had drawn up an implementation action plan that would enter the statute book and be binding on all parties concerned.

10. Civil society and international experts had been actively involved in the drafting of Kazakhstan's initial report on implementation of the Covenant, a collaboration the

Government intended to repeat in future and for which it expressed its thanks. The building of democracy was a protracted process and remained the priority for the Kazakh authorities. Liberalization of the legislation would proceed in accordance with societal needs, and all suggestions by foreign partners to that end were being considered. Kazakhstan fulfilled all its obligations and intended to protect all the rights of its citizens.

11. **Ms. Azzimova** (Kazakhstan) said that under the Kazakh Constitution all international instruments the State party has ratified took precedence over domestic law, and judges were free to base their rulings on the provisions of international instruments. Any person committing an act of terrorism was liable to 4–10 years' imprisonment. Also, under the 2010 Act amending and supplementing anti-terrorism legislation, the State had the obligation to compensate persons for material loss caused during anti-terrorist operations. The Act also provided for negotiation with terrorists to avoid the use of force. Physical elimination of terrorists was not permitted unless there were no legal means of ending the terrorist act.

12. Article 14 of the Constitution prohibited discrimination on any grounds, including origin, social or professional status, property, gender, race, nationality, language, religion or beliefs. That constitutional provision was also covered in Kazakh legislation, including the Civil Code, the Code of Civil Procedure, the Criminal Code and the Code of Criminal Procedure.

13. On 8 December 2009 Kazakhstan had adopted the Act on State Guarantees of Equal Rights and Opportunities for Men and Women, and the goal of the Gender Equality Strategy for 2006–2016 was 30 per cent female representation in positions of responsibility, and the number of women in senior positions continued to rise. Women's congresses were convened to examine gender equality policies, and State bodies took their deliberations into consideration in their measures to promote women's access to positions of responsibility, promotion of female entrepreneurship, and women's competitiveness in the job market. In the third quarter of 2010, more than 8.1 million people had been in employment, some 4 million of them women. A birth allowance had been instituted in 2003, supplemented in 2006 by a dependent child allowance. A new monthly allowance equivalent to the minimum wage had been in place since January 2011 for persons bringing up a child with a disability. The Ministry of Health was working to put an end to adolescent pregnancies and abortions.

14. The State of Emergency Act of 8 February 2003 established measures and restrictions that could be adopted in the event of a state of emergency, but no such measures had yet been applied.

15. Kazakhstan was pursuing a policy of phased abolition of capital punishment. The moratorium on use of the death penalty, declared on 19 December 2003, was still in force and there was currently no one on death row. Since 1 January 2004, life imprisonment had replaced capital punishment, and of the 86 persons serving a life sentence, 28 had been pardoned. The recommendation on the abolishment of capital punishment had been included in the National Plan of Action on Human Rights for 2009–2012, and the question of Kazakhstan's ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, had been incorporated into the action plan for implementation of the recommendations formulated during the universal periodic review.

16. Since 1 August 2008 all arrests had to be authorized by a court; without court authorization a person could not be held for more than 72 hours. A record of each such detention had to be kept and was monitored by the Procurator Office. New laws and concrete measures had improved conditions in all detention centres particularly in police lock-ups. It was, however, a work in progress that required significant resources, especially

for rebuilding Soviet-era penitentiaries. The public oversight commissions, which covered detention centres, had unrestricted access to penitentiaries, and the number of their inspections had quadrupled since 2008. The national preventive mechanism was due to be set up during the first quarter of 2012. A working group under the Commissioner for Human Rights, comprising representatives of civil society and State bodies was tasked with examining cases of torture and cruel, inhuman or degrading treatment. The country's 18 juvenile detention centres were intended to provide shelter, temporary care, and rehabilitation of children aged 3 to 18 until they could return to their families or, in their default, sent to a guardianship agency. Such placements were not a form of detention. The first two juvenile courts had been established in 2007 and there were plans to have them in all regions. Under a bill amending and supplementing several laws for humanizing criminal law and bolstering the guarantees of due process in criminal proceedings, minors who had committed minor offences or a moderately serious offence for the first time did not incur a custodial sentence.

17. Regarding the use of National Security Committee detention centres as unofficial prisons, under the Act granting State protection of parties to criminal proceedings, some persons might, for their protection, be temporarily placed in safe houses, which were owned or leased by the authorities and designed to avoid emotional, mental or physical stress. They were given food, hygiene kits and clothing, as well as professional medical and psychological care for the duration of their protective custody.

18. The fight against corruption, particularly among judges and the police, remained a State party policy priority, and trials of police officers had been widely reported in the press. As an anti-graft measure, more than 190 special operations had been conducted across the country in 2010. Since the beginning of that year, 420 cases of corruption involving Ministry of Interior Affairs collaborators had been recorded, down from 455 in 2009. The Code of Judicial Conduct, in line with the Basic Principles on the Independence of the Judiciary and the Bangalore Principles of Judicial Conduct, had been adopted in 2009. Article 116 of the Code of Criminal Procedure stipulated that facts obtained during the investigation or trial phase through torture, violence, threat, deception or other unlawful acts were inadmissible as evidence.

19. Trafficking in persons was prohibited under articles 128 and 133 of the Criminal Code. The unlawful removal of organs for transplant, unlawful imprisonment, falsification of documents or the sale of forged documents were also punishable by law. The Administrative Code had been amended to ensure that victims of human trafficking who violated immigration laws were no longer expelled from the country. The national courts had heard 193 trafficking cases in 2009.

20. The Constitution enshrined the principle of non-discrimination and the right to freedom of assembly and association, which could be curtailed only as provided for under the law; for instance, to safeguard constitutional order, maintain law and order and protect public health or morals. Religious communities and associations of more than 10 members were legally required to register. At 1 July 2011, the number of registered religious associations had stood at 3,900. The law prohibited any infringement of a person's rights on the grounds of their beliefs or membership of an association, and freedom of expression was protected under article 20 of the Constitution. Propaganda and agitation which threatened the integrity of the Republic or the authority of the State were punishable under the law, as were incitement to violence and social, racial or religious hatred.

21. Persons performing religious functions and clerics were exempt from military service under the Military Duty and Military Service Act, but there were no provisions for alternative civilian service. However, the Government had undertaken to examine the experience of countries that had instituted civilian service.

22. *The Chairperson invited Committee members to put additional questions on paragraphs 1–11 of the list of issues.*

23. **Ms. Motoc** asked for clarification of the status of the Covenant in Kazakh domestic law, noting that article 4 of the Constitution formalized the pre-eminence of the international instruments to which Kazakhstan was a party, with the exception of the Constitution, which remained supreme. The October 2000 and May 2006 Constitutional Council decisions appeared to confirm that provisions of international instruments which contradicted the Constitution were inapplicable, which called into question compliance with article 2 of the Covenant. According to the written replies to the list of issues, the Ministry of Foreign Affairs had proposed amending two decisions in order to remove any incompatibility with Kazakhstan's international obligations. Contemplation of such a measure was worrisome and called for clarification by the delegation. According to the Committee's information, the Supreme Court decision of 10 July 2008, instructing the domestic courts to apply provisions of international treaties to which Kazakhstan was party had not really been put into effect. The delegation might say whether any progress had been made on that front and cite examples. The issue of the practical implementation of international human rights treaties also raised concern about the effectiveness of the many seminars and other human rights training activities mentioned in the State party report.

24. By the State party's own admission, the institution of Ombudsman did not comply with the Paris Principles since it had been established by decree, rather than by law, was accountable to Parliament and did not have its own budget. Steps had been taken, in consultation with civil society, to improve its operations and strengthen its independence, but no tangible results had yet been reported. There was mention of changing the status of the Ombudsman, making it the national preventive mechanism provided for under the Optional Protocol to the Convention against Torture. It would be useful to know the status and functioning of the new mechanism and when it was expected to be in place.

25. Despite the implementation of the 2006–2016 Strategy for Gender Equality, the number of women in senior positions and politics remained low. Many women held higher education degrees but few managed to have a career in either the public or private sector. Moreover, as the Committee on the Elimination of Discrimination against Women had noted, sexual stereotypes were purveyed not only by the media but in textbooks as well. It would be interesting to know what measures were being taken to combat stereotyping in educational materials and foster genuine gender equality.

26. Domestic violence remained a serious concern. She would like to know if the relevant legislation was now complete and why so few complaints were filed, despite the availability of reporting facilities. She would also welcome comments on two other significant areas of concern, namely the high adolescent abortion rate and the health and nutrition of women in the countryside.

27. **Mr. Fathalla** noted that the State party had described at length in its written replies the legislative measures to combat terrorism, but had not specified their effect on the enjoyment of Covenant rights. Further details would be useful, particularly given the concerns expressed by the Committee against Torture (CAT/C/KAZ/CO/2), alleging that the National Security Committee had used anti-terrorist operations to target vulnerable groups or groups perceived as a threat to national and regional security, such as asylum-seekers and members of Islamist parties or of banned Islamic groups. Anti-terrorist legislation focused on the role of internal affairs agencies in preventing and sanctioning terrorist crimes. It would be interesting to learn the role of the judicial authorities in that regard, as stipulated in article 9, paragraph 3, of the Covenant, and what was meant by "representatives of society" in the State party's definition of terrorist acts. Regarding the moratorium on capital punishment, he would like clarification of the Government's

intentions regarding the 17 types of acts of terrorism specified by law and which were still punishable by death.

28. According to the State party report, under the Constitution a public emergency could be proclaimed if the country's political stability was seriously threatened. Yet article 4 of the Covenant stated that public emergency applied when there was a threat to the life of the nation. Did the State party believe that political instability constituted a serious and direct threat to the life of the nation?

29. **Mr. Thelin** noted that the National Plan of Action on Human Rights for 2009–2012, contained a recommendation to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at abolition of the death penalty and wished to know if a deadline had been set for so doing. The legal provisions under which certain offences were still capital crimes apparently exceeded those of the Constitution, which limited the number and type of offences punishable by death. An explanation of that point would be welcome, as would clarification of the use of life imprisonment to commute death sentences, which was apparently not explicitly recognized in the Criminal Code. Indeed, the situation gave rise to questions about the legal status of prisoners, whose detention conditions were said to be abysmal.

30. **Mr. Salvioli** recalled that the Committee against Torture had said that torture was frequently used by law enforcement personnel in Kazakhstan. Moreover, in 2009 the Special Rapporteur on torture had found that the penalties for acts of torture did not comply with international norms and had called attention to the investigative and prosecutorial authorities' inaction regarding torture. In a 2010 document, Amnesty International had claimed that there were no effective guarantees against torture in Kazakhstan. The State party had described the legislation in force in its report and its written replies but had given very little information on the actual situation. He would like more details on the matter, particularly the number of prosecutions for torture, the reparations awarded, and the number of persons who had received them.

31. **Ms. Keller** said that the 2001 Shanghai Convention on Combating Terrorism, Separatism and Extremism and the 2009 Convention on Counter-Terrorism of the Shanghai Cooperation Organization, to which Kazakhstan was party, contained different definitions of terrorism. She wished to know how those definitions were reflected in the State party's own definition and to what extent they undermined the Covenant guarantees. As a member of the Shanghai Cooperation Organization, Kazakhstan was required to keep a terrorist watch list. Recalling the case of *Sayadi and Vinck v. Belgium* (CCPR/C/94/D/1492/2006), in which the Committee had ruled that Belgium had violated the Covenant because persons wrongfully accused of terrorism had been placed on the United Nations Sanctions Committee list without a hearing of the false accusations against them, she would like to know by what procedure and criteria persons could be listed as potential terrorists and what guarantees they enjoyed.

32. **Mr. Bouzid**, observing that the remit of the institution of Ombudsman was not spelled out in either the report or written replies, requested more detailed information regarding, for instance, whether the Ombudsman was competent to receive and examine complaints from individuals of human rights violations by officials and how far its recommendations were followed up. The delegation might also comment on information supplied by various NGOs to the effect that the Ombudsman had very little staff and no regional offices.

33. **Mr. Amor** asked for additional information on the hierarchy of norms in the State party, specifically the relation between the Constitution and the Covenant, since when they were in conflict, the Constitution apparently prevailed, amounting to a violation of the principle of international law that gave precedence to international instruments.

Furthermore, in the State party's legal system, enforcement of ratified international instruments could be contingent upon prior enabling legislation. It would be interesting to learn whether any provisions of the Covenant were inapplicable owing to the lack of the requisite enabling legislation.

The meeting was suspended at 4.35 p.m. and resumed at 4.50 p.m.

34. **Mr. Malinovsky** (Kazakhstan) said that, as the Committee could tell, Kazakhstan spared no effort in fulfilling its obligations under the international instruments it had ratified. Immediately upon its independence in 1991, it had undertaken to abide by international law, a commitment clearly reaffirmed in article 8 of the 1995 Constitution, which reflected Kazakh national values and internationally recognized values alike. It enshrined the norms and principles of international human rights law, including the International Covenant on Civil and Political Rights. The sources of Kazakh law were the Constitution, the laws and regulations and other legislative texts, the international instruments ratified by Kazakhstan, and the case law of the Constitutional Council. The hierarchy of norms as set out in article 4 of the 1995 Constitution, established the latter as the supreme law of the land. The International instruments ratified by Kazakhstan prevailed over domestic law and were directly applicable, unless an enabling law was required. There were no Covenant provisions that were not directly applicable.

35. The Constitutional Council was an independent body and its rulings had executory power. Any law it found to be unconstitutional was abrogated. Under article 72 of the Constitution, if the constitutionality of a law or international instrument should be in doubt, Parliament, the President or the Prime Minister took the matter to the Constitutional Council for settlement, prior to promulgation or ratification. Should the text be found to be unconstitutional, it was not adopted. The Constitutional Council had repeatedly interpreted article 4 of the Constitution and in its ruling of 11 October 2000 had reaffirmed the supremacy of ratified international instruments when they conflicted with domestic laws. It was worth noting that a number of laws stipulated that if they conflicted with the international instruments ratified by Kazakhstan, the latter prevailed. That ruling had also clarified the status of treaties concluded prior to the adoption of the 1995 Constitution and for which ratification was not required for their entry into force. In its ruling of 18 May 2006, the Council had specified that non-ratified instruments did not trump domestic legislation and applied only when there was no conflict. In a 2009 ruling, the Council had established that article 4, paragraph 3, of the Constitution also applied to decisions of human rights treaty bodies to which Kazakhstan was a party and that they prevailed over domestic legislation and were therefore directly applicable. However, under article 4, paragraphs 1 and 2, of the Constitution, such decisions could not breach the constitutional order of Kazakhstan.

36. **Mr. Baishev** (Kazakhstan) said that since independence Kazakhstan had made considerable progress on affirming the rule of law and democratic principles, especially the independence of the judiciary. It was now completely separate from the executive branch and operated independently, impartially and objectively, even in disputes between individuals and officials. Regarding the request for concrete examples of the courts' application of the Covenant, insofar as the Constitution and domestic laws complied with the provisions of the Covenant and enshrined the main rights and freedoms they protected, the courts were indirectly applying the Covenant when they applied the Constitution and Kazakh laws. Furthermore, the Supreme Court had issued a ruling on 10 July 2008 obliging courts to take international norms and instruments into account in their decisions. There was no specific data on cases in which the provisions of international instruments had been directly cited by the courts, but there were two cases in which the Supreme Court had invoked the Covenant when overturning decisions of lower courts. The first was that of a female Chinese national who in 2001 had been fined and expelled from the country for

violating the residence provisions of the Migration Act. The Supreme Court had invoked article 13 of the Covenant and argued that inasmuch as the woman's stay did not constitute a threat to national security, there were no grounds for expelling her. The second case concerned an American missionary fined and threatened with expulsion for failing to report to the authorities or requesting the requisite authorization to stay. The decision had been quashed. Those were but two of many examples, but they showed that the Kazakh courts upheld the rights and freedoms of all persons on its territory, including aliens.

37. **Mr. Kaliuzhnyi** (Kazakhstan) said that the institution of Ombudsman fully conformed with several provisions of the Paris Principles. It had been established by presidential decree, with the approval of both houses of Parliament, and specific conditions for relieving it of his duties were established in legislation. The institution was completely independent and its budget was approved annually by Parliament. Among other rights, the Ombudsman was entitled to request from State officials any information relating to human rights and fundamental freedoms and to visit all civil and military detention centres, including closed prisons, to ensure that inmates' fundamental rights were respected. Matters of particular importance could be brought to the attention of the President of the Republic, the Government, or Parliament. The Office of the Ombudsman received and examined complaints transmitted by all entities, territorial or otherwise, and every complaint was answered. It issued recommendations to the authorities in an activity report submitted to the President of the Republic, who then tasked the Government with putting them into effect. It cooperated closely with civil society on various matters, such as preventing torture and improving legislation, and with United Nations bodies and European institutions, for instance the Organization for Economic Cooperation and Development and UNICEF. The Ombudsman was now firmly established in the domestic legal order as a consultative body for issues relating to the protection of human rights, on which many government agencies relied. The population knew of its existence and had access to it. It did not yet have all the necessary financial or human resources, but the authorities should be able to rectify the situation shortly. Moreover, adoption of the bill on a national preventive mechanism would considerably reinforce the institution of Ombudsman.

38. **Mr. Akhmetov** (Kazakhstan) said that the national gender equality policy rested on two laws: the framework Act on Gender equality guarantees and the domestic violence prevention, adopted in 2009, and on the Strategy for Gender Equality 2006–2016, approved by Presidential Decree in 2005. The strategy included 60 indicators that enabled the Government to adopt three-yearly action plans for its implementation. The first action plan had been completed and the second (2009–2011) was in progress. Gender equality measures encompassed the political, social, economic and cultural spheres. It should be stressed that the provisions of all legal texts were systematically examined with a view to ensuring equality.

39. Women occupied positions at the highest levels of government. Three of the 19 Government ministers were women and there were 4 female vice-ministers, 4 vice-secretaries of State and 2 deputy permanent secretaries of ministries cabinets. At the local level, five deputy regional governors and three district governors were women. Women accounted for 14 per cent of all members of Parliament and 18 per cent of members of the lower house. Of the more than 2,100 judges, 45 per cent were women, and there were 10 women justices (27 per cent) on the Supreme Court. There were some 250 NGOs working specifically on women's rights, as well as a network of schools comprising of more than 50 NGOs that prepared women for positions of authority; and a new project launched in 2010 created regional clubs for women in politics. All those measures were meant to promote and strengthen the country's female elite. The first Congress of Kazakh Women had been held in March 2011 and had looked not only at the national policy on gender equality but also more generally at the place of women in Kazakh society and ways of increasing their role in political and social life. The outcome of the Congress was the adoption of a plan of

action setting the female representation rate in decision-making positions at 30 per cent by 2016, compared to a rate of 22–25 per cent in the countries of Europe. The participation of women in economic life was also climbing: women now made up nearly half the active population and worked largely in small businesses often run by women.

40. The authorities also undertook to foster a change in attitudes and therefore placed great importance on raising awareness of gender equality at all education levels, even from early childhood. New materials were being distributed in schools in an effort to abolish stereotypes and promote equality. In addition, two specialized research centres on the topic, one at the State University for Teacher Training and the other at the National University of Almaty, carried out activities promoting gender equality in all areas of society. The National Commission for Women's Affairs and Family and Demographic Policy under the Office of the President coordinated all activities regarding gender equality and had concluded various cooperation agreements, notably with the United States Government, to promote equality. Matters of gender equality were also part of the Dialogue Eurasia to which Kazakhstan contributed, and the State party had made the topic one of the priorities of its presidency of the Organization for Security and Cooperation in Europe in 2010 and of the Organization of Islamic Cooperation (OIC) in 2011–2012. It had in fact hosted the OIC Forum of Muslim Women on 8 June 2011. Kazakhstan had been rewarded for all the efforts expended on ensuring gender equality by its election to the Executive Board of UN-Women.

41. *The Chairperson invited Committee members to ask any additional questions.*

42. **Ms. Motoc** thanked the delegation for its explanations on the applicability of the Covenant in Kazakh domestic law, which showed that there could be no contradiction between the Covenant and the Constitution, given that the human rights enshrined in the latter were defined in similar terms as in the Covenant. The delegation had also confirmed that the Covenant was directly applicable, but it would be useful to know whether it was explicitly cited in, for instance, Constitutional Council human rights decisions. It appeared that other courts did not cite the Covenant directly, but did so indirectly via constitutional provisions identical to those of the Covenant. That situation was not acceptable: it was important for courts to refer explicitly to the provisions of the Covenant and other ratified international instruments. The Committee's interpretation of the Covenant, including in its general comments, were also crucial, especially as they reflected its jurisprudence. She wished to know if judges were aware of the Committee's interpretation of the Covenant.

43. The situation of women in Kazakhstan had clearly improved since the submission of the initial report, however, it would be useful to know what concrete measures the authorities were taking to reach the 30 per cent target for women in decision-making positions by 2016. The delegation had emphasized the will of the authorities' intention to eliminate female stereotypes, but NGOs claimed that many were still purveyed, especially by the media. She would like the delegation to comment on the matter and also to state the content of the aforementioned textbooks on equality.

44. Regarding the institution of human rights nationwide, she wondered whether the authorities planned to establish a national preventive mechanism, as stipulated in the Optional Protocol to the Convention against Torture, and expand the Ombudsman's mandate and powers.

45. **Mr. Thelin**, pointing out that his questions on implementation of article 6 of the Covenant had not been answered, asked the delegation to do so.

46. **Mr. Fathalla** said that his questions on terrorism and the state of emergency, and supplemented by Ms. Keller, had not been answered either. He hoped the delegation would respond to them orally or in writing within 48 hours of the end of consideration of the report, as it was entitled to do.

47. **Mr. Salvioli** said that his questions on the particularly serious issue of torture had likewise not been answered. The additional information requested would help the Committee form a clear picture of the situation in the country.

48. **Ms. Keller**, stressing the importance of replying to Committee members' questions, recalled her own as to how the authorities reconciled their obligations under the Convention on Counter-Terrorism of the Shanghai Cooperation Organization with the need to protect the human rights enshrined in the Covenant.

49. **Mr. Kustavletov** (Kazakhstan) said that the delegation had done its best to reply to the main questions and that those still pending would be answered at the next meeting.

50. **Mr. Malinovskyi** (Kazakhstan) confirmed that there were no contradictions between the Covenant and the Constitution and stressed that the latter protected all fundamental humanitarian principles and the national values of modern Kazakhstan. In order to dispel any misunderstandings, he assured the Committee that the Constitutional Council enjoyed full independence and that its decisions, which were binding for all State bodies, could in no circumstances be altered by any branch of the executive. Moreover, when the Constitutional Council found that a law or other normative text was prejudicial to human rights or the fundamental freedoms enshrined in the Constitution, the text in question was declared null and void. Indeed, the Constitutional Council had declared 26 laws on subjects such as international NGOs, the media and freedom of religion to be unconstitutional. In each of those cases, it had cited the Covenant and other relevant international instruments, as it did in all its human rights-related decisions.

51. **Mr. Baishev** (Kazakhstan) said that the courts' obligation to apply the Covenant and other relevant international instruments had been enforced in a Supreme Court ruling. In the two cases involving foreign nationals in which the Supreme Court had overturned the rulings, the justices had explicitly invoked the Covenant in their decisions. Another example was a Russian-speaking German national who on receiving a reply from the administration in Kazakh, had brought an action to assert his right to use his mother tongue. The court had agreed that the complainant was not obliged to use Kazakh in his dealings with the authorities and had explicitly based its findings on the Covenant. Those were but a few examples. In fact, the courts routinely cited the Covenant, which explained the lack of statistics.

52. **Mr. Akhmetov** (Kazakhstan) on the topic of gender equality, said that, the proportion of women currently in decision-making positions was 10.3 per cent. The strategy to raise the rate to 30 per cent by 2016 had been adopted in consultation with the political parties and should apply to all levels of government and economic life. Political parties were urged to play their part in promoting the objective during the 2012 legislative election campaign. There was no shortage of progress on the promotion of equality. Kazakh women had attained the right to vote in 1924 while their counterparts in many other European countries had had to wait much longer. In addition, Kazakhstan had become party to the Convention on the Elimination of All Forms of Discrimination against Women in 1979 and ranked tenth in the world for female literacy. The fight against gender stereotyping started in childhood, which explained the authorities' considerable efforts on education, including revision of textbooks. The new textbooks portrayed a positive image of women, who were no longer expected to devote themselves exclusively to their homes and families. However, other factors had a bearing on the fight against stereotyping, not least the fact that 86 per cent of the territory lay in Asia. In any event, the Government was determined to extend its measures to all levels of education, all State bodies and all the media.

53. **Mr. Kaliuzhnyi** (Kazakhstan) said that the Government intended to improve the function of Ombudsman by setting up regional offices and further strengthening its legal framework.

The meeting rose at 6 p.m.