



# International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General  
5 March 2010

Original: English

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## Committee on the Elimination of Racial Discrimination Seventy-sixth session

### Summary record of the 1991st meeting

Held at the Palais Wilson, Geneva, on Friday, 26 February 2010, at 3 p.m.

*Chairperson:* Mr. Kemal

*later:* Ms. Dah (Vice-Chairperson)

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article 9 of the Convention (*continued*)

*Fourth and fifth periodic reports of Kazakhstan*

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** *(continued)*

*Fourth and fifth periodic reports of Kazakhstan (CERD/C/KAZ/4-5; CERD/C/KAZ/Q/4-5 and Add.1; CERD/C/65/CO/3)*

1. *At the invitation of the Chairperson the members of the delegation of Kazakhstan took places at the Committee table.*
2. **Mr. Telebayev** (Kazakhstan), introducing the combined fourth and fifth periodic reports of Kazakhstan (CERD/C/KAZ/4-5), said that Kazakhstan's policy on inter-ethnic relations was based on five principles: first, that ethnic, religious, cultural and linguistic diversity was invaluable to the well-being of the nation; second, that the State would ensure all necessary conditions for the cultural and linguistic development of the ethnic groups in Kazakhstan; third, that tolerance and responsibility were fundamental values for society; fourth, that the people of Kazakhstan had a role to play as a united society, which was crucial for the country's future; and fifth, that all the citizens of Kazakhstan constituted a united people with a common future.
3. Following the constitutional reform in 2007, the role of civil society organizations had increased considerably and parliamentary representation of the interests of the various ethnic groups had been guaranteed. His Government had endeavoured to implement all of the Committee's previous recommendations (CERD/C/65/CO/3). In May 2009, the President had approved the National Plan of Action for Human Rights for the period 2009–2012. A number of measures had been taken to improve domestic legislation and ensure it was in line with the Convention. In that regard, a legislative amendment had been proposed to distinguish between administrative and criminal responsibility for persons spreading messages of racial or ethnic animosity, and inciting racial discrimination. Consideration was also being given to the possibility of ratifying the International Convention on the Rights of All Migrant Workers and Members of Their Families and the Commonwealth of Independent States Convention concerning the Rights of Persons Belonging to National Minorities.
4. There were currently around 140 different ethnic groups living in Kazakhstan, all of whom enjoyed equal rights as Kazakh citizens. Particular focus was placed on the importance of cooperation between the State and civil society on inter-ethnic issues. The main vehicle for that cooperation was the People's Assembly, which established a balanced partnership between the State and ethnic and cultural organizations. The Assembly had become a constitutional body in 2008, and was headed by the President of the Republic, with two Vice-Presidents, who represented ethnic and cultural organizations. The decisions of the plenary sessions of the Assembly, held annually and chaired by the President, were binding. Intersessional work was conducted by the Council of the Assembly, which comprised 56 members and was chaired by the Minister for Foreign Affairs. The Assembly's secretariat was responsible for coordinating the State authorities' activities relating to ethnic issues. Under the Constitution, the Assembly appointed 9 members to the lower house of parliament and the President appointed 15 members to the Senate. That system ensured direct contact between the highest levels of legislative authority and Kazakhstan's ethnic groups. All ethnic groups had equal civil rights and were entitled to participate in political life and in decision-making processes that affected them.
5. Kazakhstan upheld the principles of the Organization for Security and Cooperation in Europe (OSCE), and in particular supported close cooperation between State bodies and representatives of ethnic groups, ensured that the State remained informed of the issues facing all ethnic groups in Kazakhstan, and allowed all ethnic minorities unhindered access

to the State authorities. Efforts were made to ensure the employment of members of minorities in local authorities in areas with large minority populations. The principle of non-discrimination was applied to the recruitment of law enforcement officials and civil servants, and ethnicity could not be used as a reason for dismissal.

6. Over 40 religions and denominations were practised in Kazakhstan. Under the State taxation policy, religious associations were exempt from tax on donations and church collections. Kazakhstan's experience of inter-confessional dialogue had received the approval of the world's religious leaders.

7. Despite limited resources, particularly owing to the recent global economic crisis, around \$4.3 million had been allocated to the Ministry of Culture and Information in 2009 for activities connected with inter-ethnic relations, including the development of national languages, support for ethnic and cultural organizations, theatres for national minorities, and newspapers, and radio and television programmes in minority languages. The People's Assembly had a multilingual Internet site, which could be accessed in Russian, English and Kazakh.

8. Since the media could be used to disseminate messages of intolerance, publications were monitored to ensure that they complied with national law. Education was a crucial means of increasing tolerance and developing a sense of civic identity. Teaching was provided in Uzbek, Uighur and Tajik in areas with large ethnic populations speaking those languages. There were 81 Sunday schools, where children learned their native languages and studied the culture and traditions of their people.

9. Legislation was in place to prevent discrimination and racially motivated crimes, in accordance with the requirements of international law. In 2008, Kazakhstan had ratified several international instruments relating to trafficking in persons and prostitution, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the International Convention for the Protection of All Persons from Enforced Disappearance. A presidential decree had entered into force on 29 May 2008 recognizing the competence of CERD to consider communications from individuals under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

10. Particular attention was being paid to extending international cooperation to prevent trafficking in persons. Efforts were also being made to address terrorism, and to that end a Counter-terrorism Centre had been established under the aegis of the National Security Committee. The Centre had developed a system for addressing terrorism, extremism and separatism. The Kazakh parliament had concluded over 40 bilateral and multilateral agreements on issues relating to action to combat terrorism. As the current OSCE President, Kazakhstan was leading the organization with the motto "Trust, Tradition, Transparency, Tolerance", and would host a high-level conference on tolerance in June 2010.

11. Since the written replies to the Committee's list of issues (CERD/C/KAZ/Q/4-5/Add.1) were available in Russian only, his delegation would provide oral answers in order to ensure that all members of the Committee had the relevant information at their disposal. Replying to question 4 of the list of issues, he said that State policy on inter-ethnic relations was determined by the Constitution and the national development strategy, which was formulated on the basis of the concepts of national identity, linguistic policy and the Languages Act. In 2006, inter-ethnic and inter-confessional harmony programmes for 2006–2008 and civil society development programmes for 2006–2011 had been established. A new linguistic-plurality programme was currently being developed.

12. **Ms. Jarbussynova** (Kazakhstan), replying to question 1, said that on 10 July 2008 the Supreme Court had issued a decision on the application of international law which

stated that if a ratified international treaty or one of its provisions conflicted with the Constitution, the treaty or provision concerned would not be applicable. The Constitution had legal supremacy in Kazakhstan and was directly applicable, while ratified international treaties prevailed over other domestic legislation. Article 78 of the Constitution stated that courts should not apply any legislation that violated the human rights and fundamental freedoms provided for by the Constitution. If a court found a law to be in violation of those rights and freedoms, it must suspend proceedings and apply to the Constitutional Council with a request to recognize that law as unconstitutional. If the Council found that application admissible, Kazakhstan would denounce the treaty or law concerned. However, that situation had never occurred.

13. **Mr. Tuyakbayev** (Kazakhstan), answering question 2, said that numerous laws provided for the prohibition of all forms of racial discrimination. The Criminal Code contained an article which criminalized incitement to social, national, ethnic, racial or religious hatred and the instigation of conflicts between persons of different nationality, race or ethnicity. Pursuant to the Code of Administrative Offences, persons who had committed administrative offences were equal before the law, irrespective of their race, ethnicity, social or property status, nationality, sex, language, religion or affiliation to any civil society association. The Code also provided for increased criminal responsibility for administrative offences motivated by racial, national or religious hatred. The National Plan of Action for Human Rights for the period 2009–2012 recommended that legislation should be drafted on administrative and criminal responsibility for persons disseminating racist propaganda or inciting racial discrimination. Constitutional Council decision No. 3, dated 23 February 2007, interpreting some of the provisions of the Languages Act, referred to provisions of the Constitution that prohibited any form of discrimination on grounds of language and that guaranteed the right of all persons to use their native language.

14. Turning to question 14, he said that there was currently no need to adopt a specific law on the rights of minorities. Ethnic groups were not considered to be national minorities, but rather recipients of the full range of rights of the united people of Kazakhstan. National policies were founded on inter-ethnic cooperation, social stability and the supremacy of the law. The Constitution guaranteed equal rights for all citizens of Kazakhstan, irrespective of their ethnic or religious affiliations. The Constitution also provided for the right of all persons to use their native language or the language of their choice. Those constitutional principles had been further developed in the State concepts of national identity and linguistic policy adopted in 1996, the Languages Act, decisions of the People's Assembly, and the model for inter-ethnic and inter-confessional harmony.

15. On question 15, he said that Kazakh legislation did not differentiate between ethnic groups, national groups, ethnic communities and nationalities; the use of those terms did not entail different legal consequences.

16. **Mr. Prokopenko** (Kazakhstan), replying to question 3, said that the Government's investigations into the conflicts had revealed that the root causes had not been related to ethnic, religious or racial issues. The conflicts had been sparked by offences resulting from tensions due to overpopulation in some areas, unfair division of land, high unemployment and a lack of awareness of the law among the rural population. The law enforcement agencies' slow reaction had contributed to an escalation of the conflicts. The People's Assembly had taken measures to prevent further conflicts, to inform the public of the real reasons behind them and to foster understanding. The authorities had taken steps to address the socio-economic situation in rural areas in several of the action plans it had adopted.

17. Turning to question 6, he said that the Government maintained a dialogue with representatives of ethnic groups at several levels, with the People's Assembly playing a leading role in that endeavour. At the regional level, the Assembly was in constant contact with ethnic groups and held at least two meetings a year with them. At the village level,

groups of elders and local leaders of ethnic groups met with *akims* (governors), who represented the Executive. A national programme aimed to increase support for minority languages while fostering the use of the national language as a tool for national unity. It included increasing the availability of multilingual education and developing a network of national language academies. Budgetary resources were allocated annually to developing the cultures, languages and traditions of the ethnic groups, and the Government had provided long-term funding for the teaching of the languages, cultures and traditions of more than 30 ethnic groups in almost 200 centres and schools. Some 35 periodicals were published in ethnic-minority languages, and several radio and television channels broadcast in minority languages.

18. **Ms. Nurgazieva** (Kazakhstan), replying to question 5, drew the Committee's attention to supplementary data her delegation had provided for Committee members on the representation of minority groups in State bodies. As indicated in the report, the President appointed 15 members of the Senate to represent ethnic minorities and 9 members of the *Majilis* were elected by the People's Assembly. They carefully examined all bills to ensure they upheld the rights of all ethnic minorities. The data provided showed that the representation of ethnic minorities had increased over the previous five years, with over 60 ethnic groups currently represented by about 97,000 people working in the Executive. The civil service recruitment law did not allow discrimination on the basis of racial or ethnic origin, and no complaints had been brought against the civil service on those grounds.

19. Turning to question 13, she said that the Ministry of Culture and Information constantly monitored the media to ensure no materials were disseminated that could incite inter-ethnic or inter-religious hatred. The Ministry checked all print and audio-visual media against the relevant provisions of domestic legislation and national policy on inter-ethnic relations. Any suspect materials were handed over to the police. During the reporting period, there had been no cases of incitement of ethnic hatred in the media. In addition, the Government provided some US\$ 1 million a year in support of ethnic-language media.

20. **Ms. Kultumanova** (Kazakhstan), replying to question 7, provided statistics on the use of minority languages in education. There were currently over 1,500 schools providing teaching in Russian, 62 in Uzbek, 14 in Uighur and 2 in Tajik. Over 2,000 other schools provided teaching in a variety of other minority languages. Some 14,000 children from 19 different ethnic groups studied their mother tongue as a separate subject. Several vocational colleges and universities also used minority languages for teaching purposes. The Government provided financial support for the development and production of textbooks and teaching materials in many minority languages, including Uighur, Tajik and Uzbek. Student teachers were trained in a variety of minority languages, and practising teachers were given in-service training to support their teaching in minority languages. Teachers and students were awarded grants to undertake exchange visits in order to improve their skills in Polish, Tajik and several other languages. The Government therefore ensured the right of national minorities to choose their language of education. By law, all persons had the right to use their mother tongue or any other language of their choice in their dealings with the administration.

21. **Mr. Ryskulov** (Kazakhstan), replying to question 8, said that 15 of the 222 cases of offences of incitement to hatred had been ethnically or racially motivated or related to racial, national or ethnic discrimination. Of those 15 cases, 8 had resulted in conviction.

22. **Mr. Abishev** (Kazakhstan), replying to question 9, said that the reference in the question to "ethnocratic regimes" was a mistranslation. Many people had indeed left the country since 1991, but they had left for economic reasons or to rejoin family members. Under domestic legislation, returnees had the right to social benefits. New legislation on refugees had entered into force on 1 January 2010. To date, no Uzbeks or Chechens had applied for refugee status.

23. Turning to question 12, he said that between 70,000 and 80,000 people applied annually for permanent residence in Kazakhstan. The procedures had been simplified under a 2007 amendment to the relevant legislation, allowing those with certain qualifications to acquire the right of residence before completing five years of residence, and to hold dual citizenship. Simplified citizenship procedures had been facilitated in the wake of agreements with several other States. In 2008, a programme had been set up to regulate ethnic repatriation issues, providing housing and employment benefits for former citizens.

24. **Ms. Aukasheva** (Kazakhstan), replying to question 10, said that the majority of the Ombudsman's functions were in conformity with the Paris Principles. He could request information from State bodies and officials, make prison visits and make recommendations to parliament. He could investigate alleged human rights investigations on his own initiative and make official announcements in the media. He could receive complaints from citizens, foreigners and stateless persons regarding violations of their constitutional rights, including violations committed by State bodies. He reported annually to the President, parliament, embassies and international organizations. In 2009, he had received one complaint concerning discrimination on ethnic grounds, but investigations had shown it to be inadmissible. A bill on increasing the Ombudsman's competencies was currently being drafted.

25. **Mr. Diaconu** (Country Rapporteur) briefly reviewed the historical background and demographic composition of Kazakhstan as outlined in the report. He expressed satisfaction with the new projects and proposed legislation described by the delegation.

26. The most difficult problem the country was facing was inter-ethnic tension, which had escalated and resulted in several clashes in recent years. According to NGO reports, the State bodies had failed to conduct a proper investigation into the causes of those incidents. He was pleased to hear the delegation's description of causes such as unemployment and the unfair division of land and its promises to look into the socio-economic situation in various areas. He asked how the Government intended to avert such incidents and ensure inter-ethnic harmony.

27. Another pressing issue was education in mother tongues and the use of languages. NGO reports on minority-language schools had mentioned a reduction in their number, a lack of textbooks and qualified staff, insufficient education even in the Kazakh and Russian languages, and history teaching which ignored certain ethnic groups. He was also concerned about local practices whereby the use of ethnic languages was not allowed in the national testing system for university admission, and signs of Uighur history and culture were removed. He wished to know the results of the State programme for the use and development of languages for the period 2001–2010. He was pleased to hear about the new action plan and encouraged the Government to thoroughly review the situation, consult the communities concerned and find appropriate solutions.

28. He reminded the delegation that it was not enough to have a generous Constitution; its principles must be translated into adequate legislation. Currently, there was no specific overall legislation on racial discrimination in its direct and indirect forms. The Criminal Code only criminalized infringements of human rights and freedoms, but not distinctions as required by the Convention. The law on political parties did not forbid activities of political parties or associations promoting racial discrimination, and the law on the media did not provide for sufficiently severe sanctions for the broadcasting of propaganda for, or incitement to, discrimination. He was encouraged by the news from the delegation on the preparation of legislation to forbid racist propaganda and incitement to racial discrimination, and recommended a full review of all legislation against the background of the Convention.

29. He noted the delegation's answer concerning the relationships between the national legislation and the Convention and deemed it satisfactory. Efforts should be continued to ensure the adequate representation of ethnic groups in State bodies. He would welcome data on their representation, particularly in areas where many people from ethnic groups lived. Kazakhstan's next report should include disaggregated data on the socio-economic situation of the various ethnic groups and how they were protected against racial discrimination.

30. Special measures should be taken not only for Oralmans but also for non-Kazakhs and their children who returned to the country. He wondered whether other special measures were envisaged and, if so, what criteria would be used. He also wished to know on the basis of what criteria preferential treatment was given to Oralmans in obtaining Kazakh citizenship.

31. He requested information on the situation and refugee status of the Chechens, Chinese citizens and others coming from neighbouring States. He noted that a Refugee Bill had been adopted and wished to know its contents and whether it resolved all issues concerning the granting of refugee status.

32. According to NGO reports, foreigners crossing the border into Kazakhstan were often humiliated by border guards, and unregistered migrant workers were forced to work in poor conditions and were unable to turn to the authorities for redress. He would welcome a comment from the delegation on those issues and on the recommendation by some organizations that Kazakhstan should ratify the ILO Convention concerning Discrimination in respect of Employment and Occupation (No. 111).

33. He welcomed the new bill to increase the competencies of the Ombudsman, but noted that the general public seemed to lack information about the Convention and to lack confidence that cases of racial discrimination would be dealt with if reported. More efforts should be made to encourage the public to use the remedies provided for in article 6 of the Convention, in internal laws and in the Criminal Code. That could be achieved through training for law enforcement personnel and through both official and media channels.

34. He was glad to hear that the delegation did not share the views of the association called "Kazakhstan: A Healthy Generation" regarding the integration of cultures. International standards promoted the integration of cultures, languages and religions in order to encourage their coexistence and respect for their diversity, and not to promote conflict or loss of national unity.

35. The People's Assembly was a very interesting new institution and he welcomed the delegation's answers on its competencies and activities and its relationship with local communities. He expressed satisfaction with the Assembly's proposal for the study of the State language in Sunday schools run by national/cultural associations, and wondered whether it had also made proposals to improve the study of the mother tongues of ethnic groups. He encouraged the Government to give the Assembly all necessary support and resources to enable it to fulfil its mandate.

36. He wished to know how the State supported the more than 470 national/cultural associations of ethnic groups and whether special measures had been adopted to support smaller or disadvantaged groups.

37. He asked whether ethnic groups were organized, whether they were allowed to create their own associations, and how the Government consulted representatives of those groups when taking measures concerning them. There was no mention in the report of a governmental institution which dealt specifically with minority issues. He wondered how the ministries of education and culture monitored those issues and how they planned their

activities and resources. He wished to know whether the parliament had a procedure for dealing with such issues.

38. He wondered what measures were included in the National Plan of Action for Human Rights Education to educate young people in the spirit of cultural diversity and respect for other cultures and ethnic groups.

39. He expressed satisfaction that Kazakhstan had made the declaration accepting article 14 of the Convention, and encouraged the Government to make that fact known to the general public so that they could make use of the procedure provided for.

40. He congratulated Kazakhstan on being the first non-European State to hold the chairmanship of the Organization for Security and Cooperation in Europe, and reminded the delegation that chairmanship also entailed responsibilities vis-à-vis the world community and the Convention. He encouraged Kazakhstan to continue to improve its legislation and activities in order to ensure the full application of the Convention.

41. **Mr. Avtonomov** noted the importance attached to diversity in Kazakhstan and the positive steps the Government had taken to maintain unity among the many ethnic groups. He understood the difficulties involved in maintaining unity, especially in the light of the global financial crisis.

42. It appeared that non-Kazakh groups were underrepresented in the civil service. The Government should carry out a study to determine why that was. While he was not in favour of quotas for parliament, some kind of incentive might be needed for non-Kazakhs to join the civil service.

43. It would be helpful to have details of the socio-economic situation of the various ethnic groups. In times of economic crisis, it was not unusual for clashes between such groups to occur, and it was advisable to prevent, rather than to be forced to repress, such clashes. He was concerned at reports of a major demonstration in Almaty, where people had been chanting slogans proclaiming that Kazakhstan was for the Kazakhs only. Such slogans were not conducive to inter-ethnic peace. He wished to know why the Kazakh people felt it necessary to demonstrate using such slogans and how the Government planned to address their complaints.

44. Additional measures were undoubtedly necessary in order to strengthen the use of the Kazakh language; however, it should not be forgotten that Russian, while not a State language, did have the status of an official language. Yet, there had been complaints from ethnic Russian Kazakhs in northern Kazakhstan that they had not had access to official forms in Russian. Providing bilingual forms would actually stimulate the use of Kazakh, since it would help Russian-speakers to improve their Kazakh and help Kazakh-speakers improve their Russian, which might be useful if they travelled.

45. *Ms. Dah (Vice-Chairperson) took the Chair.*

46. **Mr. Murillo Martínez** requested details concerning the coverage and implementation of the National Plan of Action for Human Rights Education. In connection with the State party's efforts to ensure that the national media promoted inter-ethnic harmony, he would like to know what steps had been taken to implement the Durban Declaration and Programme of Action and whether those steps had included the establishment of a monitoring mechanism for the Internet and the print media in order to provide statistics on the publication of racist or xenophobic content. He urged the State party to develop a code of ethics for the media.

47. **Mr. de Gouttes** said that he welcomed the efforts made by Kazakhstan to strengthen the rule of law, bring its legislation into conformity with the human rights instruments it had ratified, and establish various institutions dedicated to the protection of human rights.



48. He wished to draw attention to three main features of the State party. First, he noted its multi-ethnic nature — reflected in its 130 ethnic groups — and the need to ensure harmony and prevent potential conflicts between them. Second, he noted the high level of emigration from Kazakhstan to Russia and other countries, and would appreciate an explanation. Third, Kazakhstan was a multiconfessional country, in which more than 40 religions were practised, although there was one dominant religion – Islam (Sunni Wahhabist doctrine).

49. He requested clarification of the reasons for the increase in the role and influence of religion, despite the assertion in the report that the idea of a theocratic State had no support among Kazakhstan's Muslims. One explanation that had been put forward for the increased influence of religion in the countries of the former Soviet Union was the decline in political ideologies, and he would like to hear the views of the delegation on that explanation. The observation in the report that the religious affiliation of believers corresponded to their ethnic origin revealed the existence of a risk of double discrimination on the basis of both religious and ethnic affiliation. He asked whether the State party could provide any examples of such double discrimination.

50. He requested additional information on the content of the Refugees Bill currently being drafted and on the most recent estimates of the number of refugees in Kazakhstan. He also requested details concerning the nature of the 222 offences relating to incitement of social, national, ethnic, racial or religious enmity recorded between 2003 and 2007, to which reference was made in the report, and the nature of any punishment for those offences.

51. **Mr. Saidou** said that he would appreciate additional information on the composition of the Commission on Human Rights and on the procedures for the selection of its members. Although national human rights institutions should work in tandem with the Executive in promoting and protecting human rights and fundamental freedoms, they should, according to the Paris Principles, be independent of it. Given that the Commission on Human Rights was attached to the Office of the Head of State, such did not appear to be the case in Kazakhstan.

52. **Mr. Thornberry** said that he wished to raise some issues concerning the terminology used in the English version of the periodic report, even though they might be matters of translation. Some ambivalence was always implied in the use of the term “race”, as it could be misunderstood as a commitment to the notion of separate human races or even the superiority of one race over another. He would therefore sound a note of caution about the use of that term, even if it had been used in a neutral, descriptive sense.

53. A similar point could be made about the use of the term “genetic” in a sentence on page 37 of the report that referred to the need to take into account the “genetic characteristics of the children of the various nationalities”. In his view, the term “ethnic” should replace the term “genetic” in that sentence. Another point of terminology had to do with the term “national minority”. He wished to know what was understood by that phrase in the State party and why the State party seemed to avoid using it.

54. Although the State party had indicated the reasons why it did not consider a specific law prohibiting racial discrimination to be necessary, the Committee's view was that such a law brought clarity and stability and served as a deterrent for potential perpetrators of racial discrimination. It was also important that States parties should reproduce the provisions of the Convention in as clear a form as possible. Although the Committee had not prescribed exactly how that should be done, among the models it had recommended as useful to States parties was a clear and separate law that detailed as many aspects of racial discrimination as possible, including penalties and compensation.

55. With regard to the non-exhaustive nature of the prohibited grounds of discrimination listed on page 27 of the periodic report, he asked what other grounds there might be, who would determine them and what would be the basis for those grounds.

56. Referring to comments about the denunciation of a treaty in cases in which its provisions conflicted with the Constitution, he recalled that the denunciation of certain types of international treaties was quite different from the denunciation of a human rights treaty. In the case of other treaties, it might be that relations between two States on a particular issue were suspended, but in the case of denunciations of human rights treaties, citizens would be left without a very important form of protection. In relation to the possibility of conflict between the Constitution and a human rights instrument, he wondered whether there was a certain presumption of compatibility between the two that might be used by judges to narrow the gap.

57. Whereas the Languages Act of 1997 had stipulated the State's duty to make arrangements for the study and development of languages and to ensure respect for all the languages used in Kazakhstan, the Education Act of 2007 provided that arrangements would be made "as far as possible" for national groups to study their native languages. He asked whether, as it appeared, the more recent enactment was less positive. If not, he wished to know the reasons for the change to wording that appeared to be more hesitant and conditional. The Independent Expert on minority issues had pointed to certain tensions in the area of language, partly due to the desire to establish Kazakh as the State language. Great attention should be paid to the consequences of such a decision, particularly in terms of appointments to the civil service and other areas of public life where linguistic knowledge might be a requirement. While it was perfectly legitimate for a State to wish to establish a national language, there was a risk that unintended issues of indirect discrimination could arise in that process, with disproportionate effects on certain elements of the population.

58. He enquired to what extent the history and culture of the various minorities, nationalities and ethnic groups were included in academic curricula since they had all made a contribution to the State.

59. Distinctions in treatment between various persons and between various groups seemed to be downplayed in Kazakhstan, and the focus instead appeared to be on restrictions on the enjoyment of human rights on racial grounds. An analysis of the treatment of comparator groups did, however, add a certain amount of knowledge and provided a different perspective on the treatment in question. The element of distinction could increase understanding of why a human rights restriction was being imposed on a member of one group and not equally applied to members of other groups.

60. **The Chairperson** invited the delegation to respond to the questions put by Committee members.

61. **Mr. Abishev** (Kazakhstan) said that the Commission on Human Rights had been established by presidential decree in 2003 as a consultative body that assisted the President in the performance of his constitutional duties to implement human rights treaties and commitments. The Commission reviewed State policy and legislation in the area of human rights and served as a platform for dialogue between civil society and the State. The Commission was composed of 23 members, all of whom were appointed by presidential decree. The members were representatives of civil society organizations, human rights advocacy groups, religious associations, academic institutions and legal bodies. As Kazakhstan was a unitary, presidential State, the Commission came under the President's authority. The post of Human Rights Ombudsman had also been established by presidential decree. The National Plan of Action for Human Rights had been approved by presidential decree in 2006.

62. **Mr. Telebayev** (Kazakhstan) said that his delegation would prefer to reply to the remaining questions at the following meeting.

*The meeting rose at 5.45 p.m.*