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**ADVANCE UNEDITED VERSION**

## **Committee on the Elimination of Discrimination against Women**

### **Concluding observations on the fifth periodic report of Kazakhstan\***

1. The Committee considered the fifth periodic report of Kazakhstan (CEDAW/C/KAZ/5) at its 1724<sup>th</sup> and 1725<sup>th</sup> meetings (see CEDAW/C/SR.1724 and CEDAW/C/SR.1725) held on 24 October 2019. The Committee's list of issues and questions is contained in CEDAW/C/KAZ/Q/5 and the responses of Kazakhstan are contained in CEDAW/C/KAZ/Q/5/Add.1.

#### **A. Introduction**

2. The Committee welcomes the submission by the State party of its fifth periodic report. It also welcomes the State party's follow-up report (CEDAW/C/KAZ/CO/3-4/Add.1) and its written replies to the list of issues and questions raised by the pre-sessional working group, as well as the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party's multi-sectoral delegation which was headed by Ms. Gulshara Abdykhalikova, Chair of the National Commission for Women and Family Demographic Power under the President of the Republic of Kazakhstan. The delegation also included representatives of the Ministries of Internal and Foreign Affairs, National Economy, Labour and Social Protection of Population, Health, Education and Science, Information and Social Development, the Supreme Court, the Presidential Administration, the Prosecutor General's Office, the National Commission for Women and Family and Demographic Policy, the Agency for Civil Service, and the Permanent Mission of Kazakhstan to the United Nations Office and other international organizations in Geneva.

#### **B. Positive Aspects**

4. The Committee welcomes the progress achieved since the consideration in 2014 of the State party's combined third and fourth periodic reports (CEDAW/C/KAZ/3-4) in undertaking legislative reforms, in particular the adoption of:

(a) The Law "On the Victim Compensation Fund" (2018), providing for compensation for victims of crime, including women, who have suffered moral, physical or material harm as a result of a crime;

(b) The Law "On Mandatory Social Health Insurance" (2015), providing for mandatory health insurance, including for women, to be launched as of 2020.

5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against

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\* Adopted by the Committee at its seventy-fourth session (21 October-8 November 2019).

women and promoting gender equality, such as the adoption or establishment of the following:

- (a) The Gender Responsive Budgeting Integration Plan (2020-2025), in 2019;
- (b) The National Plan to Ensure the Rights and Improve Livelihoods of Persons with Disabilities until 2025, in 2019, which includes measures to promote reproductive rights for women with disabilities;
- (c) The progressive equalisation of women's and men's retirement age at 64, by 2028, as from 2018;
- (d) The Action Plan to Prevent and Combat Crimes related to Trafficking in Persons (2018-2020), in 2018;
- (e) The Forum of Rural Women, in 2018, to increase rural women's social activity and promote women entrepreneurship;
- (f) The Standard Procedure for Providing Special Social Services to Victims of Domestic Violence, in 2016;
- (g) The Densaulyk State programme, aiming at protecting maternal and child health;
- (h) The joint programme "Women in Business" with the EBRD focusing on providing concessional credit to women-run businesses;
- (i) The Action Plan for the Implementation of the Committee's Concluding Observations on the Combined Third and Fourth Periodic Reports concerning the Implementation of the Convention, in 2015.

6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified the Convention on the Rights of Persons with Disabilities, in 2015.

## **C. Sustainable Development Goals**

**7. The Committee welcomes the international support for the Sustainable Development Goals and calls for the realization of de jure (legal) and de facto (substantive) gender equality, in accordance with the provisions of the Convention, throughout the process of implementing the 2030 Agenda for Sustainable Development. The Committee recalls the importance of Goal 5 and of the mainstreaming of the principles of equality and non-discrimination throughout all 17 Goals. It urges the State party to recognize women as the driving force of the sustainable development of the State party and to adopt relevant policies and strategies to that effect.**

## **D. Parliament**

**8. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, annex VI to E/CN.6/2010/CRP.2). It invites the Majilis, in line with its mandate, to take necessary steps regarding the implementation of the present concluding observations between now and the submission of the next periodic report under the Convention.**

## **E. Principal areas of concern and recommendations**

### **Applicability of the Convention**

9. The Committee welcomes that the Convention has been increasingly invoked by courts in civil, criminal and administrative proceedings due to strengthened judicial training. However, it notes with concern that:

(a) According to the 2017 amendments to article 4 of the Constitution, international treaties ratified by the State party, while still prevailing over its laws, are no longer directly applicable, the procedure and conditions for their application being determined by law;

(b) The contradiction between the amendments to article 4 of the Constitution and the laws “On international treaties” and “On legal acts”, which seek to determine the applicability of the Convention, insofar as they provide for direct applicability of international treaties except when such treaties themselves require the adoption of implementing legislation;

(c) Provisions of the Convention have not been incorporated into legislation and that there is a lack of clarity as to when the specific implementing legislation will be enacted, which may undermine the principle of legal certainty and adversely affect women’s enjoyment of their rights.

**10. The Committee recommends that the State party ensure the applicability of the Convention in the light of the constitutional amendment and that it can be invoked in all types of court proceedings in relation to women’s rights. It recommends that the State party incorporate the Convention into its national legislation, build the capacity of the judiciary and legal professionals, and raise public awareness, particularly among women, on how to apply or invoke the Convention, respectively. It also urges the State party to harmonise its legislation on the applicability of international treaties.**

#### **Legal framework and definition of discrimination**

11. The Committee notes that gender-based discrimination is prohibited by law in the State party, including the Law “On State Guarantees of Equal Rights and Equal Opportunities for Men and Women” (the Law “On gender equality”). It also notes that a new draft law “On family and gender policy” will encompass direct and indirect discrimination. However, the Committee remains concerned that:

(a) The current definition of discrimination does not include intersecting grounds of discrimination;

(b) The legal framework on discrimination is fragmented and does not provide effective protection against discrimination in fields such as employment or in case of gender-based violence;

(c) The law “On gender equality” does not provide for liability in case of violations of its provisions and lacks effective monitoring.

#### **12. The Committee recommends that the State party:**

(a) **Adopt comprehensive anti-discrimination legislation and measures to prohibit direct and indirect, as well as intersecting forms of discrimination, in the public and private spheres, and to include all internationally recognized prohibited grounds of discrimination against women;**

(b) **Expedite the adoption of the draft law “On family and gender policy,” ensure that its provisions comply with the Convention and that it does not restrict women’s rights to the family sphere;**

(c) **Ensure that the law “On gender equality” is effectively implemented, that it provides for sanctions in case of violations, that it is regularly monitored with wide participation of civil society organisations, including those focusing on women’s rights, and that the monitoring results are made public and widely disseminated.**

#### **Access to justice and legal complaints mechanisms**

13. The Committee notes that a major legislation overhaul initiated in 2016 has led to court strengthening, increased transparency in court procedures and the development of e-justice, with around 70 per cent of lawsuits now being submitted electronically, which facilitated access to justice in rural areas. It also welcomes the establishment of a working

group to develop a legal mechanism for implementing treaty bodies' recommendations on individual communications. However, the Committee is concerned that:

(a) Lawsuits initiated by women account for a minority of proceedings and mainly relate to child maintenance recovery, while the percentage of court applications from women in civil cases has declined since 2012 (CEDAW/C/KAZ/5, para. 66);

(b) Women are reluctant to seek justice in cases of gender-based violence and institutionalisation due to stigma, persistent gender stereotypes and the prevalence of substituted decision-making systems;

(c) The remedy foreseen under article 145 of the Criminal Code for violations of the right to equality is ineffective and does not cover intersecting forms of discrimination, such as discrimination based on sexual orientation and gender identity;

(d) The Committee's views on communication No. 45/2012 Anna Belousova v. Kazakhstan (CEDAW/C/61/D/45/2012) have not been implemented.

**14. The Committee recommends that the State party:**

(a) **Identify, analyse and address the factual barriers to women's access to justice, including through judicial training and awareness raising campaigns to eliminate judicial gender bias and persistent gender stereotypes;**

(b) **Ensure that article 145 of the Criminal Code (violation of the right to equality) encompasses intersecting forms of discrimination, such as discrimination based on sexual orientation and gender identity, and ensure that all women, including disadvantaged groups of women (CEDAW/C/KAZ/CO/R.5, para. 48), are aware of this provision and other remedies available in case of violation of their rights and that they have effective access to legal aid and can seek redress and compensation;**

(c) **Ensure that the Committee's views on communication No. 45/2012 are duly implemented.**

**National machinery for the advancement of women**

15. The Committee commends the State party for financing gender equality initiatives and introducing the Gender Responsive Budgeting Integration Plan (2020-2025). The Committee is concerned about:

(a) The substitution of the State party's Gender Equality Strategy (2006-2016) by the Concept of Family and Gender Policy until 2030, which, by combining gender equality and family portfolios, reinforces traditional stereotypes about women's roles and responsibilities in the family, and reportedly encounters strong opposition in society;

(b) Insufficient information about the outcome of the first implementing action plan (2017-2019) of the Concept of Family and Gender Policy.

**16. The Committee recommends that the State party:**

(a) **Ensure that the second implementing action plan (2020-2022) refocuses the State party's conceptual framework on women's advancement and empowerment and pursue a robust gender equality policy;**

(b) **Ensure that the action plan (2020-2022) is equipped with long and short-term indicators and adequate human and financial resources, that its implementation is regularly monitored, with broad civil society participation, and that its results are evaluated and used to inform subsequent policy action;**

(c) **Consider developing and adopting a stand-alone gender equality strategy.**

**Civil society organisations**

17. The Committee welcomes the increase in grants made available to civil society organisations, including those working on gender issues. However, it is concerned about the overall limited cooperation of the State party with civil society and cases of

registration being denied to feminist organisations promoting women's human rights and the rights of lesbian, bisexual, transgender women and intersex persons, for non-compliance with "spiritual and moral values, culture, prestige and role of the family." In this context, it also notes that the Vision for the Development of Civil Society until 2025 is pending approval.

**18. The Committee recommends that the State party take advantage of the adoption of the Vision for the Development of Civil Society until 2025 to:**

(a) **Enhance cooperation with civil society organisations, particularly those working on women's rights, to ensure that they play a strong role in the area of women's advancement and are meaningfully involved in policy and law-making processes;**

(b) **Review the Law "On charities" to remove disproportionate restrictions on the registration of civil society organisations and ensure that such organisations, including feminist organisations promoting women's human rights and the rights of lesbian, bisexual, transgender women and intersex persons, are able to exercise their rights to freedom of expression, assembly and association without undue interference.**

#### **National Human Rights Institutions**

19. The Committee notes that by virtue of the 2017 constitutional amendment, the Commissioner for Human Rights ("Ombudsperson") is elected by the Senate. It welcomes the appointment of an Ombudsperson in September 2019 who is mandated, inter alia, to receive and investigate complaints about violations of women's rights. However, the Committee is concerned that the Ombudsperson's Office is reportedly understaffed and has no provincial offices, which severely limits access to the Office outside the capital.

**20. The Committee recommends that the State party:**

(a) **Ensure that the Ombudsperson acts effectively and independently in compliance with the Principles relating to the Status of National Institutions ("Paris Principles") (adopted by General Assembly resolution 48/134 on "National Institutions for the Promotion and Protection of Human Rights"), including by allocating adequate human, technical and financial resources to the Ombudsperson's Office;**

(b) **Strengthen the presence of the Ombudsperson's Office outside the capital, including in rural areas.**

#### **Temporary special measures**

21. The Committee notes that the new draft law "On family and gender policy" will provide for the definition of "temporary special measures", including "gender quotas", to be included in laws as well as for a mechanism to monitor their implementation. It notes with concern however:

(a) That the goal of 30 per cent representation of women in decision-making by 2016, which was set in the previous gender equality strategy, has not been achieved in all sectors and regions of the State party and its full realisation has been postponed to 2030 in the Concept for Family and Gender Policy for different areas;

(b) The lack of information about concrete temporary special measures that the State party intends to take to achieve 30 and ultimately 50 per cent of representation of women.

**22. The Committee recommends that the State party:**

(a) **Review the draft law "On family and gender policy" to ensure that it defines "temporary special measures" and "gender quotas" in line with the with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special measures;**

(b) **Introduce temporary special measures as a necessary strategy to accelerate the achievement of substantive equality for women in all areas of the Convention where women are underrepresented;**

(c) **Establish a mechanism to monitor the implementation of temporary special measures and assess their impact;**

(d) **Allocate sufficient resources for the implementation, monitoring and impact assessment of such measures.**

#### **Stereotypes and harmful practices**

23. The Committee commends the State party for favouring the involvement of fathers in childcare, including through the promotion of paternity leave. However, it is concerned that:

(a) Reportedly, fathers often prefer boys to girls, which may affect girls' self-esteem and self-confidence and hinders their transition into an active and participatory adult life;

(b) Discriminatory gender stereotypes limit women's roles to domestic work and upbringing of children, undermining women's empowerment in the economic, social and political areas;

(c) Despite being prohibited by law, child and/or forced marriage is prevalent, with a high degree of social tolerance, in the State party.

#### **24. The Committee recommends that the State party:**

(a) **Design, adopt and implement a comprehensive strategy and conduct public awareness raising campaigns to discriminatory stereotypes on the roles and responsibilities of women and men in society and the family and promote positive portrayals of women as active participants in social, economic and political life, with the participation of relevant ministries, civil society, community and religious leaders, academia, the business sector and the media;**

(b) **Ensure that educational policies and practices in all schools as well as teachers training aim at consolidating progress in combatting discriminatory gender stereotypes and child and/or forced marriage, including by promoting equally shared domestic and parental responsibilities and by raising awareness about the negative impact of gender stereotypes and child and/or forced marriage on girls' and women's education, health and enjoyment of other rights;**

(c) **Ensure that cases of child and/or forced marriage are effectively investigated and that perpetrators are prosecuted and adequately punished and that women and girls in forced marriages have access to protection, including shelters, and support services;**

(d) **Take concrete measures to promote equal sharing of domestic and childcare responsibilities as well as responsible fatherhood, including by encouraging fathers to use their paid paternity leave and by monitoring the practice.**

#### **Gender-based violence against women**

25. The Committee notes the 2014 amendments to the 2009 Law on Domestic Violence providing for restraint and protection orders as well as social assistance to victims of domestic violence. It also takes note of the State party's intention to adopt the draft Law On countering domestic violence and to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. However, the Committee notes with concern:

(a) The decriminalisation, in 2017, of "Intentional infliction of minor injury" (Article 108 of the Criminal Code) and "Battery" (Article 109 of the Criminal Code) that were used to prosecute cases of domestic violence and are currently considered mere administrative offences, which contradicts the spirit of the Convention and weakens women's protection from gender-based violence;

(b) The lack of revision of the definition of rape (Article 120 of the Criminal Code) which continues to be based on penetrative vaginal intercourse and requires the element of violence or threat of violence rather than lack of consent (CEDAW/C/KAZ/CO/3-4, para. 19 d);

(c) That domestic violence, which remains severely underreported, is still considered a private matter in the State party;

(d) That eviction orders for perpetrators to leave the family home are only executed if that person has no other residence;

(e) Reports that the police attempts to reconcile victims with perpetrators of domestic violence;

(f) The lack of shelters for women and girls victims of gender-based violence and the denial of access to such shelters to women with HIV/AIDS;

(g) Insufficient training on the prevention and detection of, as well as of a victim-centered response to, all forms of gender-based violence, for the authorities concerned;

(h) The subjection of women with disabilities to forced sterilisation and forced abortion, particularly those living in institutions, police violence against women in prostitution, mandatory gender reassignment surgery for transgender women for the purpose of legal gender recognition, and the limited access to justice for victims of those forms of gender-based violence.

**26. Recalling its general recommendation no. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, the Committee recommends that the State party:**

(a) **Review its current legislation, including the Criminal Code, the Administrative Code and the Domestic Violence Law, to ensure that: (i) domestic violence is specifically criminalized, can be prosecuted *ex officio* and sanctioned with appropriate penalties commensurate with the gravity of the abuse;**

(b) **Revise Article 109 of the Criminal Code to base the definition of rape on absence of consent and align it with the Convention and the Committee's jurisprudence under the Optional Protocol;**

(c) **Review the draft Law "On countering domestic violence" with a view to ensuring its compliance with the Convention, in order to effectively prevent and combat all forms of gender-based violence against women and protect victims;**

(d) **Encourage reporting of all forms of gender-based violence against women and girls, including domestic and sexual violence;**

(e) **Ensure the timely and effective issuance, implementation and monitoring of eviction orders and rehabilitation programmes for perpetrators;**

(f) **Ensure that all cases involving gender-based violence against women are effectively investigated, that perpetrators are prosecuted *ex officio* and punished with appropriate sanctions; give priority to criminal proceedings over reconciliation; ensure that police officers who fail to take action or deter victims from filing complaints are held accountable;**

(g) **Strengthen the availability and accessibility, through funding from the State budget, of short and long-term shelters, medical and psychological care and legal assistance, in urban and rural areas, to all women who are victims of, or at risk at, gender-based violence, regardless of HIV/AIDS status or engagement in prostitution;**

(h) **Provide mandatory training on the prevention and detection of, as well as a gender and victim-centred response to, all forms of gender-based violence, with particular attention to protecting confidentiality; and align the Standard Procedure for Providing Special Social Services to Victims of Domestic Violence with international standards;**

(i) **Ensure that forced sterilisation and abortion are criminalized and perpetrators prosecuted; abolish the mandatory gender reassignment surgery, in law and in practice; identify and eliminate the barriers preventing victims from accessing justice in rural and urban areas and ensure that all victims have access to effective reparation, including compensation;**

(j) **Ensure that all institutions where women with disabilities live are effectively monitored by independent authorities in order to prevent violence and abuse;**

(k) **Accelerate the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.**

#### **Trafficking and exploitation of prostitution**

27. The Committee notes the criminalisation of trafficking in persons, the adoption of the new anti-trafficking action plan (2018-2020), the adoption of the Standard Procedure for Providing Special Social Services to Victims of Trafficking, the establishment of the victims' compensation fund and various initiatives to prevent trafficking. However, it notes with concern:

(a) The lack of measures to identify, refer and protect victims of trafficking at an early stage, especially foreign women;

(b) The low investigation, prosecution and conviction rates in trafficking cases;

(c) Insufficient shelter, medical, social and legal services, rehabilitation and reintegration for trafficking victims, particularly women living with HIV/AIDS, and budgetary allocations to that end;

(d) The lack of measures, in schools and at the community level, to prevent trafficking;

(e) Social stigma, widespread discrimination, including gender-based violence, experienced by women in prostitution, including at the hands of police;

(f) Reported refusals to register complaints by women in prostitution about cases of violence;

(g) The absence of exist programmes for women wishing to leave prostitution.

#### **28. The Committee recommends that the State party:**

(a) **Build the capacity of the judiciary and law-enforcement officers to identify, refer and protect victims of trafficking at an early stage, especially foreign women;**

(b) **Effectively investigate and prosecute trafficking cases, especially in cases of trafficking in women and girls, and convict perpetrators with sentences commensurate with the gravity of the crime;**

(c) **Ensure access to integrated support, rehabilitation and reintegration programmes for women and girls victims of trafficking, regardless of HIV/AIDS status; ensure that such programmes are not conditional on cooperation with the police and prosecution authorities;**

(d) **Intensify awareness raising in schools and at the community level with a view to preventing trafficking;**

(e) **Register, investigate and prosecute cases of gender-based violence and discrimination against women in prostitution and bring perpetrators to justice; and end the practice of forced HIV testing;**

(f) **Conduct awareness-raising campaigns to challenge the stereotypical perceptions of women in prostitution and related stigma;**

(g) **Provide exist programmes and alternative income-generating opportunities for women wishing to leave prostitution.**



## **Participation in political and public life**

29. The Committee welcomes the increased representation of women in the judiciary and at different levels in the executive branch and the increased participation of women in political parties. The Committee is concerned about:

- (a) The postponement of the full realisation of the 30 percent of the State party's goals for representation of women in decision-making posts to 2030, in comparison with its previous gender equality strategy (30 per cent by 2016) and SDGs target 5.5 aiming at achieving parity in decision-making;
- (b) The severe underrepresentation of women at the ministerial level, in the foreign service, in the armed forces and in local administrations;
- (c) The low representation of women in the Senate (10.6 per cent), which is presided by a woman, and at the head of maslikhat (local representation bodies);
- (d) The low representation of women in the governing bodies of political parties;
- (e) The lack of disaggregated data on women's political participation;
- (f) Regional discrepancies in women's political representation;
- (g) Discriminatory gender stereotypes hindering women's participation in political and public life.

**30. The Committee recalls its previous recommendation (CEDAW/C/KAZ/CO/3-4, para. 23) to accelerate women's full and equal participation in elected and appointed bodies in decision-making positions, particularly in ministries, the Senate, the foreign service, the armed forces and in local administrations and maslikhats. It also recommends that the State party:**

- (a) Review the Concept of Family and Gender Policy with a view to setting 50 per cent quotas for women's representation in all areas of life;**
- (b) Introduce incentives for political parties to promote women in senior positions and governing bodies within their party structures and increasing the visibility of women candidates during election campaigns;**
- (c) Provide training to women on political leadership, campaigning and negotiation skills;**
- (d) Ensure the collection of data, disaggregated by age, ethnic group and region, on women's participation in political and public life;**
- (e) Take effective measures to address regional disparities in women's political representation, including by encouraging their active political participation;**
- (f) Raise awareness among political leaders and the general public that the full, equal, free and democratic participation of women on an equal basis with men in political and public life is a requirement for the full implementation of the human rights of women.**

## **Women, peace and security**

31. The Committee notes that the State party has experienced significant economic growth in recent years and that it has taken a leading role in promoting regional stability and cooperation and was the first state in Central Asia to be elected to the UN Security Council. However, the Committee is concerned that the State party has not implemented its commitments to finalising a national action plan for the implementation of Security Council Resolution 1325(2000) on women, peace and security and to earmarking 15 per cent of its official development assistance for gender mainstreaming.

**32. The Committee recommends that the State party:**

- (a) Establish a clear timeframe and allocate the necessary resources to finalize the draft national action plan to implement Security Council Resolution No. 1325 (2000) on women, peace and security, in cooperation with representatives of**

women's organizations, and ensure that it takes into consideration the full spectrum of the Security Council's women, peace and security agenda as reflected in Security Council Resolutions 1820 (2008), 1888 (2009), 1889 (2009) and 2122 (2013);

(b) **Earmark 15 per cent of its official development assistance for gender mainstreaming.**

#### **Nationality**

33. The Committee is concerned that the following legislative gaps create a high risk of statelessness for women and girls in the State party:

- (a) Births may not be registered unless parents provide identity documents;
- (b) Following the loss of nationality through marriage, legislation does not allow the reacquisition of nationality in case of dissolution/non-occurrence of marriage;
- (c) Legislation requires economic self-sufficiency or property ownership to acquire or reacquire Kazakh nationality;
- (d) The 2017 constitutional amendment permits the deprivation of nationality for committing terrorist crimes and causing other grave damage to vital interests of Kazakhstan.

**34. The Committee recommends that the State party:**

- (a) **Revise the Code on Marriage and Family and relevant regulations to ensure that all children are registered at birth and are provided with birth registration certificates, regardless of their parents' legal status or nationality;**
- (b) **Review the Law on Citizenship and other relevant laws and regulations to (i) allow for the reacquisition of nationality for women in case of dissolution/non-occurrence of marriage and to (ii) lift the requirements of economic self-sufficiency or property ownership to acquire or reacquire Kazakh nationality;**
- (c) **Provide safeguards against arbitrary deprivation of nationality with a view to preventing statelessness, including the right to lodge an appeal with suspensive effect and the availability of effective remedies, which should include the possibility to restore nationality.**

#### **Education**

35. The Committee commends the State party for its efforts to increase women's and girls' access to all levels of education. It notes that the percentage of children not enrolled in secondary education is below one per cent, according to official data, and welcomes the initiation, in 2017, of mandatory school enrolment monitoring. Nevertheless, the Committee is concerned about:

- (a) Reported school dropouts among married adolescent girls, particularly in rural areas;
- (b) The reinforcement of gender stereotyping through school curricular, in the absence of gender equality education and systematic education on sexual and reproductive health and rights;
- (c) The fact that the high level of girls that received education does not lead to corresponding employment for women;
- (d) Underrepresentation of women at the decision-making level in the management of the education system.

**36. Recalling its general recommendation No. 36 (2017) on the right of girls and women to education, the Committee recommends that the State party raise awareness of the importance of girls' education at all levels as a basis for their empowerment, and take advantage of the adoption of new education programme to:**

- (a) **Pursue its efforts to prevent child marriage and overcome school dropout among adolescent girls and ensure that young mothers can return to school after delivery with a view to completing education, obtaining certification and**

accessing to higher education and/or gainful employment in line with their career aspirations;

(b) **Develop and integrate into school curricula: (i) inclusive and accessible content on gender equality, including women's rights, portrayals of outstanding women in public life, gender stereotyping and gender-based discrimination and (ii) age-appropriate education on sexual and reproductive health and rights, including comprehensive sexuality education for adolescent girls and boys, with particular attention to responsible sexual behaviour;**

(c) **Introduce age-appropriate gender-sensitive content into teaching curricula and textbooks and undertake gender training for teaching personnel at all levels of education;**

(d) **Ensure that girls and women benefit from their education to access employment and decision-making, including by matching curricula with current demands, combatting discriminatory stereotypes and strengthening career guidance;**

(e) **Ensure that women are represented in decision-making and management of the education system on an equal basis with men.**

### **Employment**

37. The Committee welcomes the progress made by the State party in promoting women's access to employment. It also notes that discrimination in the workplace is prohibited by article 6(2) of the Labour Code. However, the Committee is concerned that the following factors impede the full achievement of equality at work:

(a) Reports of discrimination in employment and sexual harassment in the workplace, exacerbated by persistent gender stereotypes;

(b) The big gender-pay gap (34 per cent) and horizontal and vertical segregation in the labour market, including the list of 191 prohibited occupations for women, concentration of women in traditional and low-paid sectors of economy and a glass ceiling that precludes most women from senior management positions;

(c) Restricting women's rights to the family sphere, the lack of opportunities for reconciliation of professional and family life and insufficient efforts to promote and ensure equal sharing of domestic and childrearing responsibilities between women and men;

(d) The limited access to employment and social security schemes for disadvantaged groups of women, such as migrant women, women domestic workers, rural women and women with disabilities.

**38. Recalling that progress in employment should go hand in hand with women's empowerment and equality at work, the Committee recommends that the State party refocus its employment policy on gender equality and ensure that it is based on results, measureable indicators, partnerships with the private sector and opportunities for professional training in all areas, including innovative sectors and ICT. It also recommends that the State party:**

(a) **Ensure that the prohibition of discrimination at the workplace under article 6(2) of the Labour Code covers indirect discrimination and can be effectively enforced in the public and private sectors;**

(b) **Urgently prohibit sexual harassment in the workplace and strengthen the role of the Ethics Commissioner in protecting women from discrimination and sexual harassment in the workplace, including through its complaints mechanism, and ensure enforcement of decisions of the Commissioner; raise women's awareness of this mechanism and encourage them to make use thereof;**

(c) **Eliminate occupational segregation, both horizontal and vertical, and close the gender pay gap, including by regularly reviewing wages; conduct a study to measure the impact of the new system for remuneration on women;**

(d) **Repeal the list of prohibited occupations for women and facilitate women's access to such occupations; ensure that any restrictions are applied individually and not applied across the board to all women;**

(e) **Promote a positive image of women in business and professional life to delink women's and family rights;**

(f) **Ensure that flexible working arrangements, such as part-time work and telecommuting, are available for women and men; and promote equal sharing of domestic and childcare responsibilities (CEDAW/C/KAZ/CO/R.5, para. 24(d));**

(g) **Ensure access to maternity protection and facilitate the return to work of young mothers; monitor career and wage progression of young mothers returning to work;**

(h) **Improve access to employment and training opportunities as well as social security schemes for disadvantaged groups of women, such as migrant women, women domestic workers, rural women and women with disabilities.**

## **Health**

39. The Committee commends the State Party for enacting a strong legal framework for health protection and its considerable progress in the reduction of maternal mortality. However, it is concerned about:

(a) The high prevalence of early pregnancies and a high abortion rates among girls and young women aged 15-18, which is considered to be a principal cause of maternal mortality in the State party;

(b) The limited access to affordable contraception, as free contraceptives are provided only to selected high-risk groups;

(c) The age restriction for adolescents to access health services, including abortion and mental healthcare, without parental consent;

(d) The limited accessibility and counselling provided in youth health centers;

(e) The limited access to healthcare, discrimination and violence faced by women with HIV, women with disability and women using drugs, including in prisons.

40. **The Committee recommends that the State party take advantage of the adoption of the new healthcare development programme until 2025 to:**

(a) **Provide free or subsidized contraceptives to vulnerable groups in urban and rural areas, including sexually-active adolescents, poor women, women with disabilities, and women living with HIV;**

(b) **Raise public awareness about modern forms of contraception and ensure that abortion is not used as a contraception method, including through sexuality education and media campaigns;**

(c) **Reduce the age for accessing health services, including abortion and mental health services, for adolescents without parental consent from 18 to 16 years, including by reviewing and adopting the new draft Health Code;**

(d) **Improve the quality and accessibility of health services provided by youth health centers, including by strengthening the skills of the staff and their capacity to deliver gender-sensitive and youth-friendly services and guarantee confidentiality and privacy; expand the coverage of youth health centers to rural areas and villages and maintain State funding;**

(e) **Eliminate discrimination, violence and stigma against women living with HIV, women with disabilities and women using drugs, including in institutions or prisons, and ensure their access to adequate health services, including sexual and reproductive health services, HIV and drug treatment.**

### **Economic empowerment and social benefits**

41. The Committee welcomes the Strategic Development Plan until 2025. However, it is concerned that the State party's development efforts have not translated into substantive equality for women with increased social and economic benefits. In particular, it notes with concern:

- (a) The lack of access to social security benefits and childcare allowances, for unemployed women and women employed in the informal sector;
- (b) The low social benefits and a lack of quality rented accommodation provided to poor large families;
- (c) The low percentage of female ownership of land, with only one in five peasant and farm households headed by women;
- (d) The lack of temporary special measures to promote women's entrepreneurship and a lack of information on the impact of existing initiatives, such as the Damu Project Fund and the Women in Business programme, on women's purchasing power, social and economic standing and benefits;
- (e) Insufficient efforts to promote and support women's and girls' participation in sports.

#### **42. The Committee recommends that the State party:**

- (a) **Ensure social protections for all women, including unemployed women and those employed in the informal sector of the economy;**
- (b) **Review its social protection and housing scheme with a view to reducing feminized poverty; consider providing a housing or home ownership scheme for poor large families; ensure the availability of pathways for poor women wanting to graduate out of state welfare;**
- (c) **Take targeted and time-bound measures to empower women in agriculture, including by strengthening their participation in management and decision-making with a view to increasing the number of peasant and farm households headed by women;**
- (d) **Drawing on conclusions of the studies conducted in the State party (CEDAW/C/KAZ/5, para. 114), introduce incentives and temporary special measures to promote women's entrepreneurship, expand their economic opportunities and boost their contribution to economic life of the country, including business facilitation grants, incubation schemes, financial inclusion services and other stimulus packages, specifically in the oil and gas and construction sectors;**
- (e) **Promote women's participation in sports and stimulate investment by corporate organizations to better support women and girls in sports.**

### **Rural women**

43. The Committee remains concerned that rural women, who account for 49 per cent of the rural population, lack access to safe drinking water, healthcare, income-generating opportunities and information, including through the Internet, and that their participation in decision-making is limited.

#### **44. The Committee recommends that the State party:**

- (a) **Strengthen access by rural women to safe drinking water, healthcare, formal employment and entrepreneurship; ensure that the specific needs of rural women are met and that they are aware of the opportunities and benefits available to them, including through the Internet;**
- (b) **Ensure the equal participation of rural women in decision-making and involve them in the design, development, implementation, monitoring and evaluation of all relevant policies and strategies, including the green policy.**

## **Marriage and family relations**

45. While noting the importance attached to the family in the State party, the Committee notes with concern:

- (a) That a vast majority of men supports polygamy, which remains widespread despite its prohibition by law, and attempts to legalise polygamy;
- (b) The high prevalence of child marriage, especially unregistered religious marriages;
- (c) The prevalence of bride kidnapping that leads to child and forced marriage and the exemption from criminal liability under article 125 of the Criminal Code (abduction) in cases of voluntary release of the abducted person;
- (d) A lack of data on the prevalence of polygamy, child and/or forced marriage and bride kidnapping.

46. **The Committee recommends that the State party intensify its efforts to:**

- (a) **Eliminate polygamy, including by effectively enforcing its prohibition, promoting and encouraging official registration of marriages and raising public awareness of the risks of polygamous and unregistered unions in case of dissolution;**
- (b) **Prevent and eliminate child and/or forced marriage and bride kidnapping through coordinated action by the competent authorities, civil society, schools, religious and community leaders, including by:**
  - i. **Adopting and enforcing a statutory ban on the religious registration of marriages of girls under 18; adequately punishing those who perform such marriages; promoting and legally requiring official registration of marriages;**
  - ii. **Revising article 125 of the Criminal Code (abduction) so that it does not exempt the perpetrator from criminal liability in case of voluntary release of the victim;**
  - iii. **Ensuring investigation, prosecution and conviction with appropriate sanctions in cases of child and/or forced marriage and of bride kidnapping;**
  - iv. **Strengthening awareness-raising campaigns on the negative effects of child and/or forced marriages on the health and well-being of women and girls and their access to education and employment, and on the risks of unregistered unions in case of dissolution;**
  - v. **Establishing mechanisms to detect cases of child and/or forced marriage and bride kidnapping;**
  - vi. **Systematically collecting data on the number of complaints, investigations, prosecutions, convictions and penalties imposed with regard to the prohibition of child and forced marriage and bride kidnapping.**
- (c) **Collect data, disaggregated by age, gender and region, to assess the prevalence, incidence and geographical coverage of child, forced and polygamous marriage and bride kidnapping.**

## **Disadvantaged groups of women**

47. The Committee is concerned about reports that women with disabilities, lesbian, bisexual and transgender women and intersex persons, refugee, asylum seeking, stateless women and women with undetermined citizenship continue to experience multiple and intersecting forms of discrimination.

48. **The Committee recommends that the State party:**

- (a) (i) **Improve access to employment, entrepreneurship and training opportunities for women with disabilities;** (ii) **ensure that women with disabilities have access to special social services they require;** (iii) **effectively address the unmet need for family planning among women with disabilities;** (iv) **ensure that they have the right to keep their pregnancy and that gynaecological consultations, medical**

examinations, family planning and adapted support during pregnancy are available and accessible; (v) raise awareness of HIV and STI in accessible formats; (vi) criminalise forced sterilization and forced abortion; (vii) ensure that women with disabilities have the opportunity to exercise their legal capacity, enjoy access to justice and are guaranteed protection of their right to free and informed consent to any medical intervention; (vii) investigate, prosecute and convict cases of forced abortion and sterilization;

(b) (i) Review the legislation, including Article 257(13) of the Family Code, to remove sex reassignment surgery from the list of requirements for gender recognition; (ii) ensure that its healthcare policies and HIV programme take into account the needs of transgender women; (iii) criminalise offences based on sexual orientation and/or gender identity as a stand-alone crime and consider “sexual orientation and gender identity” as aggravating circumstances if they are used as a motive for committing a crime; (iv) revise Articles 121, 122 and 123 of the Criminal Code to remove the reference to “lesbianism;” (v) investigate reports of threats and blackmailing against lesbian, bisexual and transgender women and intersex persons, prosecute the perpetrators and bring them to justice, as appropriate; (vi) ensure that lesbian, bisexual and transgender women and intersex persons women are not prosecuted merely on the ground of their real or assumed sexual orientation or gender identity;

(c) (i) Provide asylum-seeking, refugee and stateless women and women with undetermined nationality, including those temporarily residing in the State party, with health insurance and basic health services, including prenatal and postnatal care, and ensure their access to employment, education, registration of civil acts; (ii) strengthen its asylum, identification and status determination procedures that should be gender, age and culturally sensitive in order to ensure the systematic and early identification of women and girls, who are victims or at risk of gender-based violence; provide appropriate assistance to such women and girls; (iii) accelerate the regularization of stateless women, women with undetermined nationality and their children; (iv) ensure data collection on stateless persons and persons with undetermined nationality, disaggregated by age and gender; (v) accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

#### **Optional Protocol to the Convention and amendment to article 20 (1) of the Convention**

49. The Committee encourages the State party to accept the amendment to article 20 (1) of the Convention concerning the meeting time of the Committee.

#### **Beijing Declaration and Platform for Action**

50. The Committee calls upon the State party to use the Beijing Declaration and Platform for Action and to further evaluate the implementation of the Convention in the context of the Beijing +25 Review to achieve substantive equality of women and men.

#### **Dissemination**

51. The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official language(s) of the State party, to the relevant State institutions at all levels (national, regional, local), in particular to the Government, Majilis and the judiciary, to enable their full implementation.

#### **Ratification of other treaties**

52. The Committee notes that the adherence of the State party to the nine major international human rights instruments would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the International Convention on the

**Protection of the Rights of All Migrant Workers and Members of Their Families, to which it is not yet a party.**

**Follow-up to concluding observations**

**53. The Committee requests the State party to provide, within [timeframe], written information on the steps taken to implement the recommendations contained in paragraphs 26 (b), (c) and (i) and 38 (d) above.**

**Preparation of the next report**

**54. The Committee requests the State party to submit its sixth periodic report, which is due in November 2023. The report should be submitted on time and cover the entire period up to the time of its submission.**

**55. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see [HRI/GEN/2/Rev.6](#), chap. I).**

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