Counter-terrorism in Kazakhstan

Why the death penalty is no solution

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Penal Reform International
Head Office
60–62 Commercial Street
London E1 6LT
United Kingdom

Telephone: +44 (0) 20 7247 6515
Email: publications@penalreform.org

Penal Reform International
Central Asia Office
7/1 Kabanbay Batyr Avenue
Entrance 20
Astana 010000
Kazakhstan

Telephone: +995 32 298 35 60
Email: priastana@penalreform.org

www.penalreform.org

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Contents

Introduction and background

Introduction

It is widely accepted that responses to offending should be proportionate, but ideas of acceptable and proportionate responses have changed over time. The right of society and the state to take the life of the convicted as a punishment is increasingly discredited: since 1945 there has been a steady increase in the number of states that have abolished the death penalty, so that in 2013 a clear majority of the world's countries are abolitionist in law or (in Kazakhstan's case) practice. According to the United Nations: 'More than 150 of the 193 Member States of the United Nations have abolished the death penalty or introduced a moratorium, either in law or in practice. 174 of the 193 Member States reportedly were execution-free in 2012.'[1] The death penalty is not considered by the international community to be an appropriate or effective tool to deter individuals or groups from violence; in fact, it is widely seen as unnecessary and ineffective, and is often a serious obstacle in international cooperation against violent crimes. Moreover, there is an emerging understanding that use of the death penalty may be prohibited by international law as torture and inhuman or degrading punishment, as an arbitrary deprivation of life or as a breach of other international obligations.

The Constitution of the Republic of Kazakhstan permits the use of the death penalty for two types of offence: terrorist offences resulting in fatalities, and especially grave crimes committed in wartime.[2] Eighteen specific offences under these categories allow execution as a possible sentence. As of September 2013, Kazakhstan is considering a new Criminal Code for the country and in the draft legislation the death penalty has been retained as an option for all offences that currently carry it.

This paper focuses on the death penalty for terrorism-related offences, an issue that has exercised many countries. It looks at evolving standards and practice internationally and considers how Kazakhstan can meet its human rights obligations while countering terrorism and maintaining the security of its people.

Background: history of the death penalty in Kazakhstan

In the Soviet Union, executions during peacetime were abolished in 1947,[3] but subsequently reintroduced in 1959.[4] The 1959 Criminal Code of the Kazakh Soviet Socialist Republic (in effect until 1998) had 25 crimes punishable by death, including crimes against the State, aggravated premeditated murder and certain other especially grave crimes (mainly military). Article 22 of the Code defined the death penalty as an exceptional punishment (because it did not conform to the rehabilitative aim of criminal punishment) and provided – without specifics – for the future abolition of the death penalty.

Between 1994 and 1997 Kazakhstan reduced by half the number of offences punishable by death.[5] This followed both international trends and the Legal Reform Policy approved by the President in 1994, which further humanised the criminal law and foresaw the gradual abolition of the death penalty. The revised Criminal Code prohibited imposing the death penalty on women, on those who were under the age of 18 at the time of the alleged offence and on persons aged 65 or older at the point of sentencing. Death sentences further required the unanimous consent of all judges involved in the case and a minimum of one year passing before an execution could take place.[6] Alternative sentences for some offences increased (for example, the maximum term for premeditated murder rose from 15 to 20 years' imprisonment).

Despite an online opinion poll in 2002, held in the context of a parliamentary debate regarding abolition and which showed more than 70 per cent of respondents voting in favour of the death penalty,[7] an unlimited moratorium on executions, pending abolition of the death penalty, was introduced by Presidential Decree No.1251 on 17 December 2003. This decision reflects the state's policy to ratify all international human rights treaties, including the Second Optional Protocol to the International Covenant on Civil and Political Rights, which provides for the abolition of the death penalty.

1 United Nations Human Rights Council, 24th Session, *Question of the death penalty: Report of the Secretary-General,* 1 July 2013, A/HRC/24/18, accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/7037287.95051575.html.

2 Constitution of the Republic of Kazakhstan, Article 15, accessed in Russian 18 September 2013 at http://www.constcouncil.kz/rus/norpb/constrk/.

3 Decree of Presidium of Supreme Council of USSR, 26 May 1947 'On Abolition of the Death Penalty'.

4 Criminal Code of the Kazakh Soviet Socialist Republic, 22 July 1959.

5 Offences no longer carrying the death penalty included: misappropriation, counterfeiting, violating the forex rules, brigandage, actions disrupting the functioning of correctional facilities, rape and bribe taking.

6 These requirements are set out in Article 373(2) of the Criminal Procedural Code of Kazakhstan.

7 For other opinion polls see Chart 1. They also indicated majority public support for the death penalty.

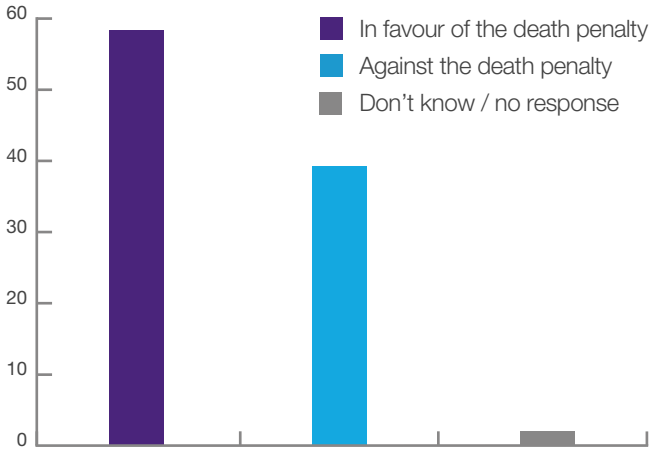
A constitutional amendment in May 2007 reduced the scope of the death penalty, while subsequent laws have both reduced and increased the scope of death penalty-applicable offences.[8]

Decline of the death penalty in Kazakhstan

The last time the death penalty was used in Kazakhstan was on 12 May 2003, when 12 people were executed. The last time a death sentence was passed was in 2006. On 6 December 2007, 31 prisoners sentenced to death had their sentences replaced by life imprisonment by Presidential Decree. There is currently no death row in Kazakhstan.

Life imprisonment was introduced as an alternative to the death penalty on 1 January 2004. Since that time, there has been no rise in violent crimes such as brigandage, rape or murder in Kazakhstan, which suggests that the death penalty does not deter offending more than other sentences.[9]

Chart 1: Results of public opinion poll on attitudes towards the death penalty in Almaty



Results of public opinion poll conducted by COMCON-2 Eurasia in 2009 on attitudes towards the death penalty in Almaty, Kazakhstan[10]

Background: international situation and standards

One of the key international documents related to the death penalty is the International Covenant on Civil and Political Rights (ICCPR), Article 6 of which deals with the death penalty:

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 1 of the Second Optional Protocol to the ICCPR regarding abolition of the death penalty states that:

1. No one within the jurisdiction of a State Party to the present Protocol shall be executed.
2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

8 Law 175-IV in 2009 abolished the death penalty for aggravated premeditated murder, while Law 290-IV in 2009 imposed the death penalty for attempts upon the life of the First President.

9 This analysis is supported by international findings: see section *Terrorism in Kazakhstan: the law*.

10 Image based on data from COMCON-2 website, accessed in Russian 18 September 2013 at http://www.comcon-2.kz/publication/publ_000037.php.

The Republic of Kazakhstan has ratified the ICCPR but not its Second Optional Protocol. Part 1 Article 4 of the Constitution of Kazakhstan states that international commitments are an element of the law in Kazakhstan, meaning that legislators should draft laws in line with their provisions and remove existing discrepancies in the national legislation.

In the 65 states where the death penalty is an applicable sentence for terrorism-related offences,[11] the range of different actions classified as 'terrorism-related' and punishable by death is wide and can include non-violent acts. In Algeria, broadly-framed provisions purporting to criminalise terrorism, some of which are punishable by death, have, according to Amnesty International, 'been interpreted by the authorities or by courts to include the peaceful exercise of civil and political rights'.[12] In Bahrain, Article 6 of the 'Protecting Society from Terrorist Acts Bill' punishes by death acts that 'prevent state authorities or public enterprises from exercising their duties'.[13] In Indonesia, 'the death penalty may be used to punish the act of transporting or hiding a firearm or "other dangerous material," if the material is transported or hidden with the intent of committing a terrorist act. Incitement to terrorism is also punishable by death.'[14] In Laos, 'disrupting industry, trade or agriculture' with the 'intent of undermining the national economy' is punishable by death.[15] In Malaysia, possessing a firearm in a designated security area is punishable by death.[16] In Morocco, a wide range of offences can be labelled as terrorism and will attract the death penalty if they are 'committed with terrorist intent'. This list includes counterfeiting money.[17]

But while the death penalty is available (in law if not in practice) for a wide range of offences in 101 states,[18] a maximum of 19 are believed to have carried out executions for terrorism-related offences in the past five years.[19] These states are a minority – as a whole the international community is turning away from the death penalty.

One of the clearest signs of the trend towards abolition is that the Rome Statute of the International Criminal Court (ICC),[20] now ratified by over 120 states worldwide, does not include any provision for imposing the death penalty. The offences under the jurisdiction of the ICC – genocide, war crimes and crimes against humanity[21] – are among the most serious that can be committed. Yet despite the gravity of these crimes, the international community has chosen not to punish them with the death penalty in any circumstances. The absence of the death penalty in Part 7 of the Rome Statute ensures that the death penalty cannot be imposed – it has not been prescribed by law and therefore does not meet the requirements of Article 6(2) of the ICCPR.[22] This absence is not accidental, and the Rome Statute follows a line of jurisprudence in international criminal law that has seen the death penalty increasingly excluded as a punishment. While one of the first international criminal tribunals, at Nuremberg in the 1940s for Nazi party members accused of war crimes, sentenced a number of suspects to death, none of the recent international criminal tribunals, investigating genocide, war crimes and crimes against humanity committed in Rwanda, the former Yugoslavia and Sierra Leone, included the death penalty as a potential punishment.

11 See Death Penalty Worldwide database, accessed in English 4 September 2013 at www.deathpenaltyworldwide.org.

12 Amnesty International, 'Algeria: Briefing to the Committee Against Torture', 17 April 2008, accessed in English 5 September 2013 at http://www.amnesty.org/en/library/info/MDE28/001/2008/en.

13 Death Penalty Worldwide, Bahrain, accessed in English 5 September 2013 at http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Bahrain.

14 Human Rights Watch, *In the Name of Security,* Human Rights Watch, USA, 2012, p93, accessed in English 13 September 2013 at http://www.hrw.org/sites/default/files/reports/global0612ForUpload_1.pdf.

15 Death Penalty Worldwide, Laos, accessed in English 5 September 2013 at http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Laos

16 Death Penalty Worldwide, Malaysia, accessed in English 5 September 2013 at http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Malaysia

17 Death Penalty Worldwide, Morocco, accessed in English 5 September 2013 at http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Morocco

18 Amnesty International, *Death Sentences and Executions 2012*, Amnesty International, UK, 2013, accessed in English 5 September 2013 at http://www.amnesty.org/en/library/asset/ACT50/001/2013/en/bbfea0d6-39b2-4e5f-a1ad-885a8eb5c607/act500012013en.pdf

19 Figure reached by identifying states that retain the death penalty for terrorism-related offences at Death Penalty Worldwide (www.deathpenaltyworldwide.org) and researching reports of executions for such offences using Death Penalty Worldwide, Amnesty International (http://amnesty.org/en/death-penalty) and Hands Off Cain (www.handsoffcain.info) resources, and media reports. For states where there is not sufficient evidence to make a clear conclusion, they have been considered to have potentially carried out executions for terrorism-related offences, in the interests of finding a maximum limit.

20 UN General Assembly, *Rome Statute of the International Criminal Court*, 17 July 1998, accessed in Russian 18 September 2013 at http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=50acc11f2.

21 The offence of aggression is also under ICC jurisdiction, but is excluded here because it does not currently enjoy universal applicability among state parties.

22 UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, accessed in Russian 18 September 2013 at http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4c0f50682.

Furthermore, as the tribunals for the former Yugoslavia and Rwanda have sought to reach 'completion' of their duties and transfer cases to national courts, they have done so on the condition that the national courts do not impose the death penalty. In this way, international criminal law has proven to be influential at a national level in respect of some of the most abhorrent crimes. Indeed, the applicability of such developments has gone beyond only those transferred from the international criminal tribunals to national courts: Rwanda, for example, has now abolished the death penalty altogether.[23]

Over many years, the Human Rights Committee (the international expert group overseeing state compliance with the ICCPR and its Optional Protocols) has developed an understanding that paragraphs 2 and 6 of ICCPR Article 6 impose an obligation on states to progressively take steps towards abolition. The reintroduction of the death penalty once abolished, either in general or for specific offences, is incompatible with a state's Article 6 obligations. The Committee's 1982 General Comment on Article 6 established that this article 'refers generally to abolition in terms which strongly suggest (paras. 2 (2) and (6)) that abolition is desirable' and 'concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life'.[24] This has been reinforced many times by the Committee's Concluding Observations on state party reports and in its consideration of individual communications, as well as by the UN Secretary General. His 2009 report on the death penalty asserted that the requirement that a state 'that has already abolished the death penalty may not contribute in any manner to its imposition, appears to have, as a logical corollary, the prohibition of reinstatement of capital punishment'.[25] In some regional human rights instruments, notably the American Convention on Human Rights, reintroduction of the death penalty following abolition is specifically prohibited.[26]

Growing international consensus against the death penalty means it is possible that the use of the death penalty for any offence, including terrorism-related offences, may breach international law. At the UN General Assembly in 2012, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment concluded that there is an evolving standard whereby states and judiciaries consider the death penalty to be a violation per se of the prohibition on torture or cruel, inhuman or degrading treatment and punishment, and that a customary norm prohibiting the death penalty under all circumstances is in the process of formation.[27]

In December 2012, the UN General Assembly called for a global moratorium on capital punishment.[28] By a vote of 110 for (including Kazakhstan), 39 against and 36 abstaining, the resolution called on all countries to formally suspend executions with a view to abolishing the death penalty completely. The introduction or expansion of the death penalty for any offence, including terrorism-related offences, runs contrary to this global movement.

23 Amnesty International, 'Rwanda abolishes the death penalty', 2 August 2007, accessed in English 18 September 2013 at http://www.amnesty.org/en/news-and-updates/good-news/rwanda-abolishes-death-penalty-20070802.

24 Human Rights Committee, *General Comment No. 6: Article 6 (Right to life)*, 30 April 1982, HRI/GEN/1/Rev.9 (Vol. I), accessed in Russian 18 September 2013 at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=HRI%2fGEN%2f1%2fRev.9%20%28Vol.%20I%29&Lang=en.

25 For a discussion of this, see ECOSOC, *Capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty: Report of the Secretary-General*, 18 December 2009, E/2010/10, para. 54, accessed in English 18 September 2013 at http://www.unodc.org/documents/commissions/CCPCJ_session19/E2010_10eV0989256.pdf.

26 Article 4(2) of the American Convention on Human Rights states that *'The application of such punishment shall not be extended to crimes to which it does not presently apply'*. The Inter-American Court of Human Rights has asserted that this establishes *'a cut off as far as the penalty is concerned and doing so by means of a progressive and irreversible process applicable to states which have not decided to abolish the death penalty altogether as well as to those states which have done so'* (I/A Court H.R., Advisory Opinion OC 3/83 of September 8, 1983, Restrictions to the Death Penalty (Articles 4(2) and 4(4) of the American Convention on Human Rights), (Ser. A) No. 3 (1983), paras. 56, 59).

27 UN General Assembly, *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,* 9 August 2012, A/67/279, accessed in Russian 18 September 2013 at http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=509a69ad2.

28 UN General Assembly, *Moratorium on the use of the death penalty: resolution adopted by the General Assembly*, 20 March 2013, A/RES/67/176, accessed in Russian 18 September 2013 at http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=51e6651e4.

Terrorism in Kazakhstan

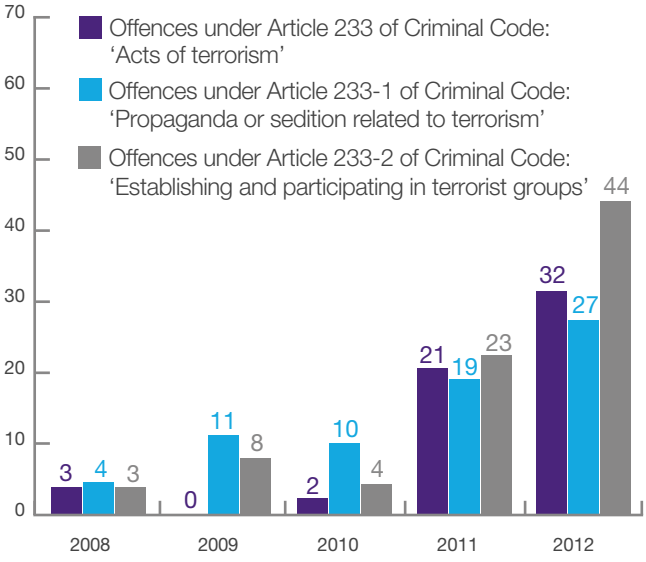
Terrorism in Kazakhstan: the current situation

Official statistics show a rise in terrorism-related offences in 2011 and 2012 compared to previous years.[29] However, until recent years there were very few recorded terrorism-related offences in Kazakhstan, both before and after the introduction of a moratorium on the death penalty. Chart 2 below shows that the number of convictions classified as acts of terrorism grew from three in 2008 to 32 in 2012. Other persons were convicted of terrorism-related offences including propaganda or sedition related to acts of terrorism, participating in terrorist group activities or financing terrorism or extremism.

Acts identified as terrorism in Kazakhstan tend to be directed against law-enforcement agencies rather than the general public or public spaces such as museums, shopping malls or schools.

The Deputy Secretary of the Secretariat of the Security Council of the Republic of Kazakhstan has stated that 300 persons are currently serving terms of imprisonment for terrorism-related offences.[30] Ninety-nine per cent of those convicted for terrorism-related offences are ethnic Kazakhs.[31]

Chart 2: Convictions for terrorism-related offences 2008-2012



For more details of the offences covered, please see Annexe 1.

However, this rise takes place against a similar increase in the overall crime rate in the country. Crime in the first nine months of 2012 was 52.5 per cent higher than the year before,[32] almost identical to the rise in 'Acts of terrorism' convictions. Nor is this a single year deviation: crime in January-October 2011 was 41.4 per cent higher than in 2010.[33] Additionally, the number of convictions for terrorism-related offences is a very small percentage of the total: in 2011, there were 26,219 convictions,[34] meaning that the 63 terrorism-related convictions recorded in Chart 2 are just 0.002 per cent of the total, or one in almost 50,000.

International standards: defining terrorism

There is no agreed international definition of 'terrorism', despite a UN General Assembly Committee having worked since 1997 to reach consensus on the definition.[35]

29 Committee on Legal Statistics (under General Prosecutor's Office), accessed in Russian 18 September 2013 at http://pravstat.prokuror.kz/rus.

30 Kozy-Korpesh Dzhanburchin, interview to *Megapolis* newspaper, 8 October 2012.

31 Committee on Legal Statistics (under General Prosecutor's Office), accessed in Russian 18 September 2013 at http://pravstat.prokuror.kz/rus.

32 'Crime rate increases in Kazakhstan', *Trend website*, 8 October 2012, accessed in English 7 October 2013 at http://en.trend.az/regions/casia/kazakhstan/2074382.html.

33 'Crime rate went 40 percent up in Kazakhstan', *Tengri News website*, 15 December 2011, accessed in English 7 October 2013 at http://en.tengrinews.kz/crime/Crime-rate-went-40-percent-up-in-Kazakhstan--6172/.

34 UN Office on Drugs and Crime, 'Total persons convicted', *Statistics on Crime (Data uploaded on 29/07/2013)*, accessed in English 7 October 2013 at http://www.unodc.org/documents/data-and-analysis/statistics/crime/CTS_Persons_convicted.xls.

35 *UN press release: Although comprehensive anti-Terrorism Convention still eludes agreement ad hoc chairman says willingness to work offers hope*, 12 April 2013, General Assembly L/3210, accessed in English 18 September 2013 at http://www.un.org/News/Press/docs/2013/l3210.doc.htm.

The various definitions created by states vary significantly: they can be overly broad and risk creating 'unintended human rights abuses and even the deliberate misuse of the term [terrorism]',[36] by labelling as 'terrorist' groups, beliefs and activities which are not. The UN Special Rapporteur on counter-terrorism has urged that laws prohibiting terrorism-related offences are 'adequately accessible, formulated with precision, applicable to counter-terrorism alone, non-discriminatory and non-retroactive'.[37]

The UN Security Council has considered issues of terrorism, in particular in Resolutions 1373 (2001), 1540 (2004) (focusing on nuclear, chemical and biological weaponry), 1566 (2004) and 1624 (2005). 'Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited' has been found by the International Committee of the Red Cross to be customary international law (and therefore binding on all states) in both international and non-international armed conflicts,[38] while the Special Tribunal for Lebanon issued a ruling in February 2011 in which it found terrorism to constitute a crime under customary international law, at least in times of peace.[39]

International terrorism-related conventions create offences that state parties are required to criminalise in domestic legislation.[40] However, no international counter-terrorism convention requires the imposition of the death penalty. Rather, the UN instruments explicitly reference the obligations and responsibilities of states under international law and require that states respect these rights.[41]

Where the death penalty is available for terrorism-related offences not resulting in death the implementation of the death penalty is likely to breach international law. The mere labelling of an act as 'terrorist' or as related to 'national security' has no bearing on the requirement that a death penalty eligible offence must be a 'most serious crime' (i.e. one involving an intention to kill and resulting in loss of life). The motivations for and context of an offence (e.g. that it is terrorism-related) are distinct from the offence itself and cannot make lesser offences into 'most serious crimes'.

In 2005, the UN Special Rapporteur on counter-terrorism, in the absence of an agreed international definition of 'terrorism', recommended that the definition of terrorism be based on the 2005 Council of Europe Convention on the Prevention of Terrorism,[42] Article 2(1a) of the International Convention for the Suppression of the Financing of Terrorism,[43] UN Security Council resolution 1566[44] and the report of the Secretary-General's High-level Panel on Threats, Challenges and Change.[45] This definition[46] was further refined in his 2010 report, where he recommended that 'terrorist offences' should meet all of the following three conditions:

1. The action:

   (a) Constituted the intentional taking of hostages; or

   (b) Is intended to cause death or serious bodily injury to one or more members of the general population or segments of it; or

   (c) Involved lethal or serious physical violence against one or more members of the general population or segments of it;

2. The action is done or attempted with the intention of:

   (a) Provoking a state of terror in the general public or a segment of it; or

   (b) Compelling a government or international organisation to do or abstain from doing something;

36 UN Economic and Social Council, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism* 28 December 2005, E/CN.4/2006/98, accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/3126388.49020004.html.

37 UN Economic and Social Council, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism* 28 December 2005, E/CN.4/2006/98, para. 72, accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/3126388.49020004.html.

38 Jean-Marle Henckaerts, 'Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law in armed conflict' in ICRC, *International Review of the Red Cross*, ICRC, Switzerland, 2005, pp175-212.

39 'Summary of President Cassese's speech', *Special Tribunal for Lebanon website*, 16 February 2011, accessed in English 17 September 2013 at http://www.stl-tsl.org/en/media/press-releases/summary-of-president-cassese-s-speech.

40 Kazakhstan has ratified 14 out of 18 UN Conventions and Protocols on combatting terrorism and is expected to ratify the remaining four. They are listed in Annexe 3.

41 UN Office on Drugs and Crime, *Legislative Guide to the Universal Legal Regime Against Terrorism*, UNODC, Vienna, 2008, p5, accessed in English 18 September 2013 at http://www.unodc.org/documents/terrorism/LegislativeGuide2008.pdf.

42 Accessed in English 3 September 2013 at http://conventions.coe.int/Treaty/en/Treaties/Html/196.htm.

43 Accessed in Russian 3 September 2013 at http://treaties.un.org/doc/db/Terrorism/russian-18-11.pdf.

44 Accessed in Russian 18 September 2013 at http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1566%282004%29&referer=http://www.un.org/en/sc/documents/resolutions/2004.shtml&Lang=R.

45 Accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/9363386.63101196.html.

46 UN Economic and Social Council, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism* 28 December 2005, E/CN.4/2006/98, accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/3126388.49020004.html.

3. The action corresponds to:

   (a) The definition of a serious offence in national law, enacted for the purpose of complying with international conventions and protocols relating to terrorism or with resolutions of the Security Council relating to terrorism; or

   (b) All elements of a serious crime defined by national law.[47]

He further stated that definitions that go beyond the model definition would be 'problematic from a human rights perspective.'[48]

Terrorism in Kazakhstan: the law

The death penalty is a non-mandatory punishment for some terrorism-related offences in Kazakhstan, under the Constitution and the Criminal Code. Five of the 18 offences that carry a possible death sentence are related to terrorism, for which the death penalty can be imposed in times of both war and peace.

Article 1 of the Kazakh Constitution states: 'The Republic of Kazakhstan proclaims itself a democratic, secular, legal and social state whose highest values are an individual, his life, rights and freedoms' (emphasis added). Article 15 states:

1. Everyone shall have the right to life.

2. No one shall have the right to arbitrarily deprive a person of life. The death penalty shall be established by law as an exceptional punishment for terrorist crimes resulting in fatalities, and also for especially grave crimes committed in wartime, while granting to a sentenced person the right to appeal for pardon.

Section 2 of this article does not require the imposition of the death penalty for the offences listed, but rather allows it as a possible (and exceptional) punishment. Alternative punishments, including life imprisonment, are provided for in the criminal law. This interpretation is reinforced by Decree No.10 of the Constitutional Council of Kazakhstan of 30 January 2003, clause 2 of which states that Article 15(2) 'should be understood as a limitation to establish the death penalty by law, which is foreseen for especially grave crimes only and not for crimes of lesser gravity. Meanwhile, the law may foresee punishments other than the death penalty.' However, despite this decree, there is uncertainty about when an 'exceptional measure of punishment' will be applied and the rule of law requires a clear and precise definition of the term to be established.

The Criminal Code defines terrorism as: the commission of an explosion, arson, or other actions that create a risk of death, cause considerable material damage or otherwise endanger the public, if these actions are committed for the purpose of disrupting public safety, intimidating the population, or influencing decision-making by state bodies of the Republic of Kazakhstan, foreign states or international organisations, as well as the threat of commission of such actions for the same purposes. The 1999 law on counteracting terrorism adds to this list attempted murder committed for the same purposes, and the attempted murder of state officials or public figures[49] with the intention of disrupting their activities or in response to official activities they have carried out.

A number of these acts are incompatible with the most recently developed definitions of terrorism at the international level (see above). Actions which cause material damage or endanger the public are not considered terrorism, unless there is a threat to life. The motivation of disrupting public safety is not considered terrorism by major international definitions. Murder is not a terrorist offence unless it also constitutes an offence under one of the international terrorism conventions and is committed with the intention of provoking a state of terror in the general public or a segment of it; or compelling a government or international organisation to do or abstain from doing something.[50] Attempted murder intending to disrupt an official's activities or in response to their actions does not meet this threshold.

The list of terrorist offences in Kazakhstan can be extended by parliament at any time. If an expanded list also increased the scope of the death penalty, this would contravene Articles 6(2) and 6(6) of the ICCPR, which are understood to prohibit reintroduction of the death penalty for any offence for which it has been abolished.

47 UN Human Rights Council, 16th Session, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin – Ten areas of best practices in countering terrorism*, 22 December 2010, A/HRC/16/51, para 28, accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/6706798.67267609.html.

48 UN Human Rights Council, 16th Session, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin – Ten areas of best practices in countering terrorism*, 22 December 2010, A/HRC/16/51, para 28, accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/6706798.67267609.html.

49 For example, ambassadors and heads of national or international organisations.

50 UN Economic and Social Council, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism* 28 December 2005, E/CN.4/2006/98, accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/3126388.49020004.html.

Terrorism-related offences in Kazakhstan

Offences in **bold** carry a potential death sentence

1. **Article 162 Employment of mercenaries**
2. Article 163 Attacking persons or organisations under international protection
3. **Article 166-1 Attempts upon the life of the First President of Kazakhstan – National Leader**
4. **Article 167 Attempts upon the life of the President of Kazakhstan**
5. **Article 171 Sabotage**
6. **Article 233 Acts of Terrorism**
7. Article 233-1 Propaganda in support of terrorism or extremism or incitement to commit terrorist acts
8. Article 233-2 Establishment and leading a terrorist group and taking part in its activities
9. Article 233-3 Financing terrorist or extremist activities or other support to terrorism or extremism
10. Article 233-4 Recruitment or training or arming persons for the purpose of organising terrorist or extremist activities
11. Article 234 Hostage taking
12. Article 238 Attacking buildings, structures, transport and means of communication
13. Article 239 Hijacking and seizure of air or water craft or railway rolling stock

The same article of the Criminal Code that authorises criminal punishment also outlines the aims of punishment: to restore social justice, to reform the offender and to prevent new crimes being committed by the offender or others. It is arguable whether the death penalty meets any of the aims of punishment. It clearly does not reform the offender, as it ends the offender's life. It may satisfy people's desire for revenge, but does not meet the core social justice aim of minimising and preventing harm caused by offending – the death penalty can be expected to cause ongoing anguish and suffering among the family of the executed person, and the executed person themselves will have no opportunity to try to repair any damage they have done. Finally, there is no reliable evidence that the death penalty dissuades people from committing crimes more than other sentences – studies suggesting it does are 'fundamentally flawed'.[51]

Persons accused of terrorism-related offences are subject to trial restrictions and sentencing conditions that people accused of other offences are not. Post sentencing, persons convicted of terrorism-related offences do not have the right to be released on parole,[52] while at the trial stage it is ordinarily those accused of 'especially serious crimes' who can be tried by a jury ('serious crimes' are tried by judge only in Kazakhstan). However, persons accused of terrorism-related offences are denied the right to jury trial under Article 543 of the Criminal Procedure Code.[53] The stated justification for the restrictions in terrorism-related cases is that terrorists or defence lawyers could exert pressure on the jury to acquit.[54] However, the prevention of attempts to influence judicial decision-making does not overrule fair trial rights and the rule of law, and should be addressed by protective measures for judges and jury members as required in each case.

51 Dan Vergano, 'NRC: Death penalty effect research "fundamentally flawed"' *USA Today,* 18 April 2012, accessed 18 September 2013 at http://content.usatoday.com/communities/sciencefair/post/2012/04/nrc-death-penalty-effect-research-fundamentally-flawed/1#.UhTRdT-nn2m. See also 'Deterrence: States Without the Death Penalty Have Had Consistently Lower Murder Rates', *Death Penalty Information Centre website*, accessed 18 September 2013 at http://deathpenaltyinfo.org/node/234.

52 Criminal Code Part 8, Article 70.

53 Moreover, those tried for non-terrorism-related offences alongside terrorist suspects will also lose the right to be tried by jury.

54 B. Beknazarov, Justice of the Supreme Court, interview with KTK, 1 April 2013.

International standards: fair trials and the death penalty

International treaties detailing fair trial safeguards include Article 14 of the International Covenant on Civil and Political Rights, the Rome Statute of the International Criminal Court and Article 3(1)(d) of the Geneva Conventions. At the regional level, fair trial safeguards have been guaranteed in Article 6 of the European Convention on Human Rights, Article 8 of the American Convention on Human Rights, Article 7 of the African Charter on Human and Peoples' Rights and Article 13 of the Revised Arab Charter on Human Rights. Certain aspects of the right, such as the right to a fair and public hearing by an independent and impartial tribunal in the determination of criminal charges, hold the status of customary international law, meaning that they apply universally regardless of whether a country has formally signed up to them.

Where, despite the developing international norm prohibiting it, the death penalty continues to be applied, it may only happen where rigorous procedural safeguards have been upheld.[55] This means that trials for terrorism-related offences that carry the death penalty will require an even higher standard of process than those that do not carry the death penalty. Where those standards are not respected, an execution will be rendered arbitrary and a breach of the right to life set out in Article 6(1) of the ICCPR and various regional conventions.

The UN Human Rights Committee has stated that the right to a fair trial underpins other non-derogable rights and thus cannot be diminished where this would circumvent the protection of non-derogable rights. It stated specifically that 'any trial leading to the imposition of the death penalty during a state of emergency must conform to the provisions of the Covenant, including all the requirements of Article 14'.[56]

Fair trial rights in death penalty cases include (but are not restricted to) the following:

- the right to be presumed innocent;[57]
- the right not to be coerced to admit guilt;[58]
- the right to adequate assistance of counsel at every stage of the proceedings, above and beyond the protection afforded in non-capital cases.[59] The Special Rapporteur on extrajudicial, arbitrary and summary executions has commented that counsel should be adequately funded and independent of executive and judicial influence;[60]
- the right for defendants who do not sufficiently understand the language used in court to be fully informed, by way of interpretation or translation, of all the charges against them and the content of the relevant evidence deliberated in court;[61]
- the right to time and facilities for the preparation of a defence;[62]
- the right to receive information on consular assistance within the context of a legal procedure;[63] and
- the right to appeal to a court of higher jurisdiction.[64]

Details of various international standards that can assist states in guaranteeing a fair trial are contained in Annexe 2.

55 UN Human Rights Committee, *Carlton Reid v. Jamaica* (Communication No. 250/1987), 20 July 1990, CCPR/C/39/D/250/1987, accessed in English 18 September 2013 at http://www.ohchr.org/Documents/Publications/SDecisionsVol3en.pdf.

56 UN Human Rights Committee, *General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial,* 23 August 2007, CCPR/C/GC/32, accessed in Russian 18 September 2013 at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f32&Lang=en. See also UN Human Rights Committee, *General Comment No. 29: Article 4: Derogations during a State of Emergency,* 31 August 2001, CCPR/C/21/Rev.1/Add.11, accessed in English 18 September 2013 at http://www.refworld.org/docid/453883fd1f.html.

57 ICCPR, Article 14(2).

58 UN Commission on Human Rights, 62nd Session, *Follow-up to Country Recommendations*, 27 March 2006, E/CN.4/2006/53/Add.2, paras. 120-121, 151, accessed in English 18 September 2013 at http://daccess-ods.un.org/TMP/3155377.805233.html.

59 UN ECOSOC, 15th Plenary Meeting, *Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty,* 1989/64, para. 1(a), accessed in English 18 September 2013 at http://andrewclapham.org/hrdoc/docs/ecosocresolutiondeathpen1989.html.

60 UN Human Rights Council, 17th Session, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston – Addendum – Mission to Ecuador*, 9 May 2011, A/HRC/17/28/Add.2, accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/1926737.12968826.html.

61 UN ECOSOC, 45th Plenary Meeting, *Safeguards guaranteeing protection of the rights of those facing the death penalty*, 23 July 1996, 1996/15, accessed in English 18 September 2013 at http://www.un.org/documents/ecosoc/res/1996/eres1996-15.htm.

62 UN ECOSOC, 15th Plenary Meeting, *Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty,* 1989/64, para. 1(a), accessed in English 18 September 2013 at http://andrewclapham.org/hrdoc/docs/ecosocresolutiondeathpen1989.html.

63 UN Commission on Human Rights, 61st Session, *The question of the death penalty*, 20 April 2005, E/CN.4/RES/2005/59, accessed in English 18 September 2013 at http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-59.doc.

64 UN ECOSOC, 15th Plenary Meeting, *Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty*, 1989/64, para. 1(a), accessed in English 18 September 2013 at http://andrewclapham.org/hrdoc/docs/ecosocresolutiondeathpen1989.html.

Terrorism in Kazakhstan: current law enforcement practice

Kazakhstan's death penalty moratorium only covers executions and not sentences, yet no death sentences for terrorism-related offences have been imposed in Kazakhstan since its introduction. It is also the case that nobody was sentenced to death for terrorism-related offences in the period between independence in 1991 and the introduction of the moratorium (in cases of suspected terrorism involving fatalities, suspects were killed during counter-terrorist operations or during arrest).[65]

Some convictions relate to membership of a banned organisation. The civil courts can categorise groups as 'terrorist' and outlaw them and a criminal case is then required where someone is suspected of membership of such a group.

Banned terrorist groups in Kazakhstan as of April 2013

No.	Name	Also known as/other information	Date added to terrorism list
1	Al-Qaeda		15 October 2004
2	Islamic Movement of Uzbekistan (IMU)	Islamic movement of liberation of Uzbekistan, Party of Islamic Renaissance	15 October 2004
3	East-Turkestan Islamic Movement (ETIM)	East Turkestan Islamic Party, Allah Party, National Revolutionary Front of East Turkestan	15 October 2004
4	Kurdistan People Congress		15 October 2004
5	Asbat al-Ansar	Not represented officially in Kazakhstan	15 March 2005
6	Muslim Brotherhood	Not represented officially in Kazakhstan	15 March 2005
7	Bokurt	Gray Wolves; Not represented officially in Kazakhstan	15 March 2005
8	Movement of Taliban	Not represented officially in Kazakhstan	15 March 2005
9	Jamaat Mujahedins of Central Asia modjahed		15 March 2005
10	Lashkar-i-Taiba	Not represented officially in Kazakhstan	15 March 2005
11	Social Reforms Society (SRS)		15 March 2005
12	AUM Shinrikyo	Aleph's	17 November 2006
13	East Turkestan Liberation Congress	East Turkestan National Liberation Party, Sharki Azatliqtash-hilaty	17 November 2006
14	Islamic Party of Turkestan	Jamaat of Turkestan	5 March 2008
15	Jund Al-Halifat	Soldiers of Halifat	25 November 2011
16	Hizbut Tahrir al Islami (Extremist organisation)	Liberation Party	28 March 2005

65 A search of the Kazakhstan Supreme Court database found no cases of those convicted of terrorism-related offences being sentenced to death.

Most terrorism-related cases have been tried by closed courts (not accessible to the public), often for reasons of 'state secrecy'. Yet such justification bears a high risk of misuse, to the detriment of fair trial rights. For example, the public was excluded from the trial of Abdulla Nurpolat, Abdulsattar Mukhamedzhan and Aziz Tursuntai, who were found guilty of preparing to commit terrorist acts and of being linked to Al-Qaeda. Their defence lawyer attested that no state secrets were brought up during the trial.[66]

ICCPR Article 14(1) does permit limitations on access to proceedings by the media and the public, 'for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice'.[67] However, given the key role of public hearings in ensuring a fair trial, such limitations are permissible only where strictly necessary and proportionate, and derogations are admissible only at a 'time of public emergency which threatens the life of the nation'.[68]

Openness to public scrutiny has been shown to reduce the risk of fair trial rights being violated, which has been identified as a particular issue in terrorism-related cases.[69] A trial that is or is perceived to be unfair can allow those convicted to claim they are being persecuted, and risks reducing trust in the judiciary among the public or certain groups within the population.

Cases involving a potential death sentence need to have a fair and unbiased judicial process even more so than do other cases. This is because of the extremely grave and irreversible consequences of cases involving the death penalty: the execution of a human being. Procedural rights are heavily emphasised in international standards and safeguards surrounding the death penalty for precisely this reason – so that human error or bias do not cause loss of life. Current practice in Kazakhstan, where a person accused of committing a terrorist offence is not entitled to a jury trial (therefore having a lesser chance of acquittal)[70] and may have a greater likelihood of their trial taking place in closed court, risks not conforming to these international standards.

The importance of reviews

The importance of appeals and reviews results from the fact that every judge, jury or court is fallible. Where the sentence involves the death penalty, an error of judgment is irreversible. In 2001, for example, in the case against Kulyan Abdrakhmanova, Nurbek Abdrakhmanov, Nurzhan Abdrakhmanov and Roman Okshin, two of the accused were sentenced to death for the murder of four people. These convictions were overturned on appeal by the Kazakhstan Supreme Court, and a later ruling sentenced all four accused to terms of imprisonment. Without the possibility of a review, one which suspended implementation of the death penalty while the appeal was pending, two individuals would have been put to death.

International standards: fair trial standards in practice

Trials involving the death penalty in the context of counter-terrorism often fall well below required fair trial standards.[71] Both the Special Rapporteur on counter-terrorism and the Human Rights Committee have emphasised that any authority looking to use the death penalty for terrorism-related offences is obliged to ensure that full fair trial rights under Article 14 of the ICCPR are guaranteed, both during the trial and for all stages preceding and succeeding the trial.[72] It is important that public sentiment, or the state's desire to deal robustly with violent acts, does not shape judicial decision-making.

66 Information supplied by Zhangazy Kunserkin, one of the drafters of this paper and a defence lawyer in the Nurpolat, Mukhamedzhan and Tursuntai case.

67 ICCPR, Article 14(1).

68 ICCPR, Article 4(1).

69 UN General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, 6 August 2008, A/63/223, accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/3668724.89452362.html.

70 Article 543 of the Criminal Procedural Code of Kazakhstan, accessed in Russian 19 September 2013 at http://online.zakon.kz/Document/?doc_id=1008442&sublink=5430000.

71 Human Rights Watch, *In the Name of Security*, Human Rights Watch, USA, 2012, p93, accessed in English 13 September 2013 at http://www.hrw.org/sites/default/files/reports/global0612ForUpload_1.pdf.

72 UN General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, 6 August 2008, A/63/223, accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/3668724.89452362.html. UN Human Rights Committee, *General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial*, 23 August 2007, CCPR/C/GC/32, accessed in Russian 18 September 2013 at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f32&Lang=en

Execution prevents exoneration and restoration following wrongful convictions. Even states with highly developed and complex legal systems, such as the United States of America, have high rates of post-conviction exonerations, often through the efforts of those operating outside the criminal justice system, such as charities or university law clinics. The only reliable way to prevent the injustice of an innocent or unfairly tried defendant being put to death, particularly in the context of counter-terrorism where procedural rights are commonly restricted, is to preclude the death penalty as an option for punishment.

As of September 2013, there is a new regulation in Kazakhstan that the bodies of killed 'terrorists' (who have not been convicted of terrorism-related offences in a court of law) will not be returned to the family for burial, instead being buried by officials in an undisclosed location.[73] Such actions cause distress to the family members, who have not committed any offence, and can prevent them from properly grieving and coming to terms with the loss. Similar actions by Belarus in relation to executed prisoners have been condemned by the UN Human Rights Committee as a violation of the family's rights under Article 7 of the ICCPR[74] and this practice should be discontinued.[75]

Cooperation with other states

Kazakhstan, like other states, has extradition treaties which allow for the transfer of suspects to a country where they have been accused of committing a criminal offence. However, there are sometimes restrictions on when this can happen, a key one being a bar on transfer where the suspect may face the death penalty. For example, the 47 states which have ratified the European Convention on Human Rights (and have therefore accepted the jurisdiction of the European Court of Human Rights) are not permitted to extradite or otherwise transfer individuals to states where they could be at risk of facing the death penalty.[76]

Article 5 of the extradition treaty between Kazakhstan and the United Arab Emirates, for example, allows the extraditing party to refuse to extradite a suspect if they face the death penalty for an offence that does not carry the death penalty in the extraditing state, until the receiving state provides effective guarantees that the death penalty will not be applied.

The existence of a moratorium is not considered an effective guarantee; the authorities must give a reliable specific assurance to the extraditing state that an identified person subject to extradition will not be subjected to the death penalty. However, the independence of the judiciary means that judges cannot be bound by commitments made by government officials, which naturally also applies to Kazakhstan.

As a consequence, persons accused of offences that carry the death penalty in Kazakhstan and who are arrested in countries that refuse extradition without guarantees against the death penalty are not being extradited to Kazakhstan for prosecution. There are two ways of overcoming this issue. One is to insert legally binding non-execution articles into extradition treaties. The other is to abolish the death penalty.

Retention of the death penalty may have further impacts on international cooperation. Abolitionist states which provide funding or practical assistance for projects or operations (such as counter-terrorism or drug prevention[77]) that potentially involve the death penalty could be breaching their international law obligations.[78] States have already acted on this: the Bundesbank (the German Central Bank) refused to cooperate with the Bangladeshi Central Bank on a prospective venture after it emerged that there were plans to reintroduce the death penalty in Bangladesh for counterfeiting currency.[79]

73 'The War Continues with the Bodies', *Exclusive.kz website*, 6 September 2013, accessed in Russian 20 September 2013 at http://exclusive.kz/obshhestvo/2746.

74 UN Human Rights Committee, *Banderenko v Belarus*, 3 April 2003, CCPR/C/77/D/886/1999.

75 For more on the impact on family members of being unable to receive the body or know the burial location of a dead relative, see Helen F. Kearney, *Children of parents sentenced to death*, QUNO, Geneva, 2012 and Oliver Robertson and Rachel Brett, *Lightening the Load of the Parental Death Penalty on Children*, QUNO, Geneva, 2013.

76 European Court of Human Rights, *Soering v The United Kingdom*, 7 July 1989, 1/1989/161/217, accessed in English 18 September 2013 at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57619.

77 Patrick Gallahue, Roxanne Saucier and Damon Barrett, *Partners in Crime: International Funding for Drug Control and Gross Violation of Human Rights*, Harm Reduction International, London, 2012, accessed in English 18 September 2013 at http://www.ihra.net/files/2012/06/20/Partners_in_Crime_web1.pdf.

78 Bharat Malkani, 'Is Complicity with the death penalty illegal', *UK Human Rights Blog*, 17 July 2013, accessed in English 5 September 2013 at http://ukhumanrightsblog.com/2013/07/17/is-complicity-with-the-death-penalty-illegal-dr-bharat-malkani/.

79 Deutsche Bundesbank, 'Press notice: Statement concerning technical central bank cooperation with Bangladesh', *Deutsche Bundesbank website*, 17 January 2013, accessed in English 18 September 2013 at http://www.bundesbank.de/Redaktion/EN/Pressemitteilungen/BBK/2013/2013_01_17_tcb_bangladesh.html

The United Nations Office on Drugs and Crime (UNODC), which includes a branch responsible for 'terrorism prevention', published a position paper in 2012 in which it explicitly stated that the use of the death penalty for offences which do not meet the 'most serious crimes' requirement makes it difficult for the UNODC to support law enforcement initiatives in some countries and may result in a withdrawal or freezing of support.[80] Such concerns can only be definitively overcome by abolition of the death penalty.

Death penalty and extradition

Authorities in Poland have been denying for a lengthy period of time the extradition of Cisurals Unkas Kamzeyev, who is wanted by Kazakhstan for the machine-gun shooting to death of four persons and injuring three others in May 1995 during a criminal shootout in Uralsk. Polish authorities have refused to extradite Kamzeyev because his alleged offence is punishable by death in Kazakhstan; Poland has abolished the death penalty.[81]

80 UN Office on Drug and Crime, *UNODC and the promotion and protection of human rights: Position Paper*, UNODC, Vienna, 2012, accessed in English 18 September 2013 at http://www.unodc.org/documents/justice-and-prison-reform/UNODC_Human_rights_position_paper_2012.pdf.

81 A N Nurbolatov, 'On the Introduction of the Death Penalty' in Заң және Заман *(Law and Time)*, No. 9, 2006, pp34-35.

Proposed changes to the Criminal Code and terrorism laws

Revisions to the Criminal Code are currently under consideration in Kazakhstan. The proposed changes include retaining the death penalty for all offences that currently include it as a sentence.

The 2010-2020 Legal Policy Concept of Kazakhstan (endorsed by Presidential Decree No. 858 of 24 August 2009) stated that the state should continuously reduce the application of death penalty. In his 'Kazakhstan-2050 strategy' address in December 2012, the President of Kazakhstan prioritised countering all forms and manifestations of radicalism, extremism and terrorism.[82] The draft State Programme to Counteract Religious Extremism and Terrorism in Kazakhstan 2013-2017 does not propose an increase in the severity of punishment for terrorist offences; in particular, no expansion of the death penalty is envisaged.

Nonetheless, in April 2013 the proposed revisions of the Criminal Code suggested an increase in both the number of terrorism-related offences and the available sanctions. The latest version before Parliament (in September 2013) does not expand the use of the death penalty, but neither does it reduce it. While it is positive that the current proposals at least are not regressive in expanding the death penalty, the reform process offers a great opportunity to progress towards the country's stated aim of total abolition. By reducing or completely removing the death penalty as a sentence for terrorism-related offences (and for grave offences committed in wartime), Kazakhstan can move closer towards its policy goals and international norms.

When considering death penalty abolition, Kazakhstan can and should look to the experience of other countries, in particular other post-Soviet countries, because of their shared history and similarly evolved legal systems. Most post-Soviet states, including Russia, Kyrgyzstan, Uzbekistan, Turkmenistan and Azerbaijan, no longer impose the death penalty. For example, Article 24 of the Constitution of Uzbekistan states that the right to life 'is an inalienable right of each individual and an attempt upon the life of an individual is the most serious crime'. Russia, which has experienced multiple major acts of terrorism in recent years, has not reintroduced the death penalty.

Finally, increasing the scope and severity of punishments may be ineffective when dealing with terrorism-related offences. A number of national security experts have argued that executions provide symbols of martyrdom that may strengthen terrorist groups and movements, rather than deterring them – in 2008 the United States Attorney General Michael Mukasey said that he hoped those accused of involvement in the September 11 bombings in New York would not be executed as it would fulfil their desires to become martyrs.[83] Executing those convicted of terrorism-related offences may hinder efforts to tackle domestic and international terrorism by silencing those who could provide valuable information.[84]

Moreover, the impact of counter-terrorism strategies on people's rights and freedoms may in reality be counter-productive for states seeking to ensure domestic peace and stability. In March 2013, one of Saudi Arabia's leading clerics wrote an open letter to the Saudi authorities criticising arrests of protesters and treatment of detainees. In his letter he warned that 'it is dangerous to restrict people to the point that they feel they have nothing more to lose'.[85]

82 Nursultan Nazarbayev, *Address by the President of the Republic of Kazakhstan, 'Strategy Kazakhstan-2050: new political course of the established state',* Section 7(6), 14 December 2012, accessed in Russian 18 September 2013 at http://www.akorda.kz/ru/page/page_poslanie-prezidenta-respubliki-kazakhstan-lidera-natsii-nursultana-nazarbaeva-narodu-kazakhstana-.

83 Terry Frieden, 'Mukasey: Avoid death, martyrdom for 9/11 accused', *CNN website*, 14 March 2008, accessed in English 18 September 2013 at http://edition.cnn.com/2008/POLITICS/03/14/mukasey.911/.

84 Jessica Stern, 'Execute Terrorists at Our Own Risk', *New York Times website*, 28 February 2001, accessed in English 18 September 2013 at http://www.deathpenaltyinfo.org/node/572.

85 Sheikh Salman al Oudah, *Letter to Government of Saudi Arabia*, 15 March 2013, accessed in English 18 September 2013 at http://www.wilsoncenter.org/islamists/article/key-saudi-cleric-warns-king-open-letter.

Conclusion and recommendations

Conclusion

There has been an emerging trend away from the use of the death penalty, both in Kazakhstan and internationally. A moratorium on executions in Kazakhstan since 2004 has been accompanied by a reduction in the number of offences for which a death sentence can be imposed; it has also coincided with a reduction in murders and other violent offences. Internationally, more countries have abolished the death penalty or refrained from using it, so that in 2012 174 of the 193 UN member states were execution-free.

There are now international standards on both the circumstances in which the death penalty can be applied and on what constitutes a terrorist offence. Many offences carrying the death penalty in Kazakhstan do not meet the 'most serious crimes' requirement of intentionally causing death, while the country's current definition of terrorism-related offences falls short of the three-part requirement laid out by the UN Special Rapporteur on Terrorism in 2010.

The reform of the Criminal Code initiated in 2013 offers opportunities for bringing the law of Kazakhstan into alignment with international standards and good practice. Increasing the severity of punishments and the range of offences receiving the death penalty is unlikely to achieve a reduction in offending (as the evidence does not show that the death penalty leads to falls in crime) and may have negative impacts for Kazakhstan in terms of international reputation and cooperation with other states, including in relation to counter-terrorism measures. In contrast, removing the death sentence for any crime will likely increase Kazakhstan's international standing, help avoid the radicalisation that may lead to terrorism, and mean the country continues to follow the President's stated aim of abolishing the death penalty.

Recommendations for Criminal Code revision

The death penalty should be abolished as a possible sentence for all crimes in Kazakhstan.

Only offences involving intentional killing should be considered 'most serious crimes'. Offences that cause property damage, cause fear but not harm among the population, and which do not intend to kill or do not result in death, should not be classified as 'most serious crimes'.

Offences should only be labelled as 'terrorist' or 'terrorism-related' if they meet the most recently developed definitions of terrorism at the international level.

Broad or vague terms, such as 'other actions' or 'socially dangerous consequences' should be replaced with more precise wording in line with the rule of law.

Annexe 1

Comparative table of the current and proposed Criminal Codes: terrorism-related offences carrying a potential death sentence

Current wording	Proposed wording	Analysis/recommendations
N/A	Article 9. Definitions 'Terrorist crime' is an activity stipulated in Articles 170, 171, 172, 176, 177, 183, 254, 255, 256, 257, 258, 259, 267, 268 of the Code.	Definitions are consolidated in one article. The draft does not define the phrase 'terrorist crime', which in the absence of an agreed comprehensive international definition should follow the suggestion of the UN Special Rapporteur on counter-terrorism. This defines an act as terrorist when: 1. The action: (a) Constituted the intentional taking of hostages; or (b) Is intended to cause death or serious bodily injury to one or more members of the general population or segments of it; or (c) Involved lethal or serious physical violence against one or more members of the general population or segments of it; 2. The action is done or attempted with the intention of: (a) Provoking a state of terror in the general public or a segment of it; or (b) Compelling a government or international organisation to do or abstain from doing something; 3. The action corresponds to: (a) The definition of a serious offence in national law, enacted for the purpose of complying with international conventions and protocols relating to terrorism or with resolutions of the Security Council relating to terrorism; or (b) All elements of a serious crime defined by national law.

Current wording	Proposed wording	Analysis/recommendations
Article 49. Capital punishment 1. Capital punishment, that is a sentence to be shot, as an exceptional form of punishment, may be established only for terrorist crimes infringing on a person's life, as well as especially grave crimes committed in wartime; those convicted have the right to request a pardon. 2. Capital punishment shall not be imposed on women, as well as persons under the age of 18 at the time of the offence or men over 65 at point of sentencing. 3. In the event that the President of the Republic of Kazakhstan imposes a moratorium on the execution of the death penalty, the execution of the death sentence shall be suspended for the effective period of the moratorium. 4. A sentence of death shall be carried out not earlier than one year from the moment of its entry into force, and not sooner than one year after the revocation of a moratorium on the execution of the death penalty. 5. In the procedure of a pardon, the death penalty may be replaced by life imprisonment or imprisonment for 25 years in a correctional colony of special regime. In the event of the revocation of a moratorium on the execution of the death penalty, persons sentenced to death have the right to petition for pardon irrespective of any previous petitions filed prior to the moratorium.	Article 48. Capital punishment 1. Capital punishment, that is a sentence to be shot, as an exceptional form of punishment, may be established only for terrorist crimes infringing on a person's life, as well as especially grave crimes committed in wartime; those convicted have the right to request a pardon. 2. Capital punishment shall not be imposed on persons under the age of 18 at the time of the offence, women, and men aged 63 and older. 3. In the event that the President of the Republic of Kazakhstan imposes a moratorium on the execution of the death penalty, the execution of the death sentence shall be suspended for the effective period of the moratorium. 4. A sentence of death shall be carried out not sooner than one year from the moment of its entry into force, and not sooner than one year after the revocation of a moratorium on the execution of the death penalty. 5. In the procedure of a pardon, the death penalty may be replaced by life imprisonment or imprisonment for a certain term in a correctional colony of special regime. In the event of the revocation of a moratorium on the execution of the death penalty, persons sentenced to death have the right to petition for pardon irrespective of any previous petitions filed prior to the moratorium.	The Prosecutor General's Office (PGO) has proposed abolishing fixed term (25 years) imprisonment as an alternative to the death penalty, leaving only life imprisonment. The PGO has not proposed to abolish the death penalty or reduce the offences that attract a death sentence, but stated that restricting the death penalty would have to be done by changing Article 15 of the Constitution. This goes against the 2010-2020 Legal Policy Concept adopted by Presidential Decree, which stated that the state should continuously reduce the application of death penalty. The age threshold was proposed to be reduced from 65 to 63 in the draft new Code. Earlier drafts stated that persons with first and second category disabilities (those with limited mobility or without arms or legs) would be exempt from the death penalty; this has been removed in the current proposal. Individuals classified as 'insane' (i.e. persons with mental illness) are not listed amongst the groups exempt from capital punishment, which contravenes international standards, specifically UN ECOSOC Safeguard 3. The phrase 'a certain term' should be replaced by a specific number of years, to avoid uncertainty when deciding on an alternative sentence following a pardon from the death penalty. Additionally, the proposal has continued to use the phrase 'exceptional nature of punishment' without further defining it.

Current wording	Proposed wording	Analysis/recommendations
Article 162. Employment of mercenaries 1. The recruitment, training, financing or other material support of a mercenary, as well as use of mercenaries in an armed conflict or military activities, shall be punished by imprisonment for 4 to 8 years. 2. The same actions committed involving use of one's official position or involving a minor shall be punished by imprisonment for 7 to 15 years with or without confiscation of property. 3. The participation of a mercenary in an armed conflict or military activities shall be punished by imprisonment for 3 to 7 years. 4. Actions covered in part 3 of this Article that result in deaths or other grave consequences shall be punished by imprisonment for 10 to 20 years with confiscation of property, or life imprisonment or the death penalty, with confiscation of property. Note. A person shall be recognised as a mercenary who acts for the purpose of receiving material remuneration or other personal benefit, who is not a citizen of the state participating in a military conflict, who does not reside permanently on its territory, and who is not sent by another state to carry out official duties.	Article 170. Employment of mercenaries 1. The recruitment, training, financing or other material support of a mercenary, as well as use of mercenaries in an armed conflict, military activities or other violent actions to overthrow or undermine the constitutional order or to breach the territorial integrity of a state, shall be punished by imprisonment for 5 to 10 years with or without confiscation of property. 2. The same actions committed involving use of one's official position or involving a minor shall be punished by imprisonment for 7 to 15 years with or without confiscation of property. 3. The participation of a mercenary in an armed conflict, military activities or other violent actions to overthrow or undermine the constitutional order or to breach the territorial integrity of a state, shall be punished by imprisonment for 7 to 10 years. 4. Actions covered in part 3 of this Article that result in deaths or other grave consequences shall be punished by imprisonment for 15 to 20 years or life imprisonment or the death penalty, with or without confiscation of property.	The death penalty as a possible sentence under paragraph 4 should be removed, in particular as it is a possible sentence in cases that, despite 'other grave consequences' do not result in death. Intention to kill resulting in loss of life is considered by UN experts to be the threshold of 'most serious crimes', one of the requirements for imposing a death sentence. According to the current proposal, the terms of imprisonment would be increased for paragraphs 1, 2, 3 and 4 of the Article.

Current wording	Proposed wording	Analysis/recommendations
Article 166-1. Attempts upon the life of the First President of Kazakhstan – National Leader Attempts upon the life of the First President of Kazakhstan – National Leader, committed to obstruct his lawful activities or out of vengeance for such activities, shall be punished by imprisonment for 15 to 20 years or life imprisonment or the death penalty.	Article 176. Attempt upon life of the First President of Kazakhstan – National Leader Attempts upon the life of the First President of Kazakhstan – National Leader, committed to obstruct his lawful activities or out of vengeance for such activities, shall be punished by imprisonment for 15 to 20 years or life imprisonment or the death penalty.	This Article remains unchanged according to the currently proposed legislation. However, the death penalty as an applicable sentence should be removed. Attempted murder does not comply with the threshold of 'most serious crime' as required by international law. Murder should be dealt with under existing murder laws.
Article 167 Attempts upon the life of the President of Kazakhstan Attempts upon the life of the President of Kazakhstan, committed to disrupt his official activities or out of vengeance for such activities, shall be punished by imprisonment for 15 to 20 years or life imprisonment or the death penalty.	Article 177. Attempts upon the life of the President of Kazakhstan Attempts upon the life of the President of Kazakhstan, committed to disrupt his official activities or out of vengeance for such activities, shall be punished by imprisonment for 15 to 20 years or life imprisonment or the death penalty.	This Article remains unchanged according to the currently proposed legislation. However, the death penalty as an available sentence should be removed. Attempted murder does not constitute a 'most serious crime'. Murder should be dealt with under existing murder laws.
Article 171. Sabotage The commission, for the purposes of disrupting the safety and defence of the Republic of Kazakhstan, of explosions, arson or other actions aimed at mass destruction of people, harm to their health, destruction or damage to enterprises, installations, roads and means of transport, means of communication or utilities, as well as the commission for the same purposes of mass poisoning or the spread of epidemics and epizootics, shall be punished by deprivation of liberty for 10 to 20 years or life imprisonment or the death penalty, with or without confiscation of property.	Article 183. Sabotage The commission, for the purpose of disrupting the safety and defence of the Republic of Kazakhstan, of explosions, arson or other actions aimed at mass destruction of people, harm to their health, destruction or damage to enterprises, installations, roads and means of transport, means of communication or utilities as well as the commission for the same purposes of mass poisoning or the spread of epidemics and epizootics, shall be punished by deprivation of liberty for 15 to 20 years or life imprisonment or the death penalty, with or without confiscation of property.	The proposed legislation would increase the prison terms for sabotage offences. The death penalty as an applicable sentence should be removed.

Current wording	Proposed wording	Analysis/recommendations
Article 233. Acts of terrorism 1. The commission of an explosion, arson or other actions endangering human life, causing considerable material damage or producing other socially dangerous consequences, where committed with the purpose of disrupting public security, intimidating the population, or coercing a state body of Kazakhstan, a foreign state or an international organisation to take a decision, as well as a threat to commit said actions for the same purposes, shall be punished by imprisonment for 4 to 10 years. 2. The same actions committed: a) repeatedly; b) with use of arms or items used as arms, explosives or explosive devices which could endanger the lives and health of citizens; shall be punished by imprisonment for 7 to 12 years. 3. Actions covered by parts 1 and 2 of this Article, should they: a) be accompanied by the use or threat to use weapons of mass destruction or radioactive materials, or the commission of or threat to commission mass poisoning or the spread of epidemics or epizootics, as well as other actions capable of causing mass loss of human life; b) have by negligence caused death or other serious consequences; shall be punished by deprivation of liberty for 10 to 15 years.	Article 254. Acts of terrorism 1. Acts of terrorism, i.e. the commission of an explosion, arson or other actions endangering human life, causing considerable material damage or producing other socially dangerous consequences, where committed with the purpose of disrupting public security, intimidating the population, or coercing a state body of Kazakhstan, a foreign state or an international organisation to take a decision, as well as a threat to commit said actions for the same purposes, shall be punished by imprisonment for 4 to 10 years, with or without confiscation of property. 2. The same actions committed: a) repeatedly; b) with use of arms or items used as arms, explosives or explosive devices which could endanger the lives and health of citizens; shall be punished by imprisonment for 7 to 12 years with or without confiscation of property. 3. Actions covered by parts 1 and 2 of this Article, should they: a) be accompanied by the use or threat to use weapons of mass destruction or radioactive materials, or the commission of or threat to commission mass poisoning or the spread of epidemics or epizootics, as well as other actions capable of causing mass loss of human life; b) have by negligence caused death or other serious consequences; shall be punished by deprivation of liberty for 10 to 15 years with or without confiscation of property.	The definition of an 'act of terrorism' in Article 233 of the current Criminal Code and Article 254 of the proposed Criminal Code is not specific enough. Terms such as 'other actions' and 'other socially dangerous consequences' when describing acts 'committed with the purpose of violating public security' leave too much room for interpretation, in violation of the rule of law. The imprecise wording also means that the scope of the death penalty could be expanded, for example if phrases such as 'intimidating the population' are redefined to cover more activities. Any expansion of the death penalty would contravene international law and wording should be precisely defined to avoid this possibility. In compliance with more recently developed definitions of terrorism at the international level, an act may be defined as terrorist only when: 1. The action: a) Constituted the intentional taking of hostages; or (b) Is intended to cause death or serious bodily injury to one or more members of the general population or segments of it; or (c) Involved lethal or serious physical violence against one or more members of the general population or segments of it; 2. The action is done or attempted with the intention of: (a) Provoking a state of terror in the general public or a segment of it; or (b) Compelling a government or international organisation to do or abstain from doing something;

4. An attempt upon human life committed to violate public security, intimidate the population or coerce decision-making by a state body of Kazakhstan, a foreign state or an international organisation, as well as an attempt upon the life of an official or public activist, committed with the same purposes, as well as to disrupt his/her official or other political activities or out of vengeance for such activities, or an attempt on life linked to an attack on persons or organisations under international protection, on buildings or installations, hostage-taking, seizure of buildings, structures, means of transport and communication, hijacking, or seizure of air- or water-craft, railway rolling stock or other means of public transport, shall be punished by imprisonment for 15 to 20 years or life imprisonment or the death penalty. Notes. 1. Persons taking part in preparing acts of terrorism shall be exempt from criminal liability should such persons, by timely warning of state bodies or by other means, assist the prevention of an act of terrorism, unless his/her actions contain corpus delicti of another crime. 2. Crimes foreseen under Articles 162, 163, 166-1, 167, 171, 233, 233-1, 233-2, 233-3, 233-4, 234, 238, 239 of the Code shall be recognised as terrorist.	4. An attempt upon human life committed to violate public security, intimidate a population or coerce decision-making by a state body of Kazakhstan, a foreign state or an international organisation, as well as an attempt upon the life of an official or public activist, committed with the same purposes, as well as to disrupt his/her official or other political activities or out of vengeance for such activities, or an attempt on life linked to an attack on persons or organisations under international protection, on buildings or installations, hostage taking, seizure of buildings, structures, means of transport and communication, hijacking, or seizure of air- or water-craft, railway rolling stock or other means of public transport, shall be punished by imprisonment for to 20 years or life imprisonment or the death penalty with or without confiscation of property. Note. 1. Persons taking part in preparing acts of terrorism shall be exempt from criminal liability should such persons, by timely warning of state bodies or by other means, assist the prevention of an act of terrorism, unless his/her actions contain corpus delicti of another crime.	3. The action corresponds to: (a) The definition of a serious offence in national law, enacted for the purpose of complying with international conventions and protocols relating to terrorism or with resolutions of the Security Council relating to terrorism; or (b) All elements of a serious crime defined by national law. Many of the actions defined as terrorism in this Article do not meet standards related to the specification of terrorist offences, or do not meet the 'most serious crimes' threshold required in international law for use of the death penalty, or both. The death penalty should therefore be abolished for such offences, which include: Actions that result in property damage, even if considerable or if they produce other 'socially dangerous consequences', do not meet the terrorism definition unless they also intend to cause death or serious bodily injury to one or more members of the general population or segments of it; of themselves, they also do not constitute a most serious crime. Actions which seek to violate public security or intimidate a population do not meet the criteria developed to specify terrorist offences (a stronger requirement of intending to provoke a state of terror in the general public or a segment of it is required). Furthermore, these actions do not meet the 'most serious crimes' requirement to which the death penalty needs to be limited based on international law. Causing death by negligence or other serious consequences does not meet recently defined terrorism definitions and should be removed from this Article. Even if serious consequences or death by negligence were in line with the required elements of terrorism-related offences, they nonetheless do not constitute a 'most serious crime' as defined under international law. Attempts upon the life of an official or public activist do not by that fact alone meet recently defined terrorism definitions (an intention to terrorise the public or force government/international organisation action or abstention from action, and a need to comply with national and international law, are also required). Furthermore, the attempted murder is equally serious regardless of who the victim is. It should not be implied that the death of certain types of person is more serious than that of others.

		Acts aimed at disrupting a person's official or other political activities or out of vengeance for such activities meet neither recently defined terrorism definitions nor the most serious crimes criterion. Additionally, any action which results in death but does not involve an intention to kill does not meet the 'most serious crime' requirement under international law and should therefore not result in the death penalty. Moreover, the inclusion of the death penalty as a possible punishment in such cases goes against the clear international trend towards progressive abolition, and against the declared intention of the President of Kazakhstan. It should therefore be removed.

Annexe 2

International fair trial and death penalty standards

The international community has created various international fair trial standards over the decades. These include:

The International Covenant on Civil and Political Rights (1966)

UN Basic Principles on the Independence of the Judiciary (1985)

UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988)

UN Basic Principles on the Role of Lawyers (1990)

UN Guidelines on the Role of Prosecutors (1990)

Human Rights Committee General Comment 32: Article 14: Right to Equality before Courts and Tribunals and to a Fair Trial (2007)

UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2012)

International death penalty standards include:

The International Covenant on Civil and Political Rights (1966)

Human Rights Committee General Comment 6: Article 6: The right to life (1982)

ECOSOC Resolution 1984/50 on safeguards guaranteeing protection of the rights of those facing the death penalty (1984)

The Second Optional Protocol to the International Covenant on Civil and Political Rights (1989)

UN General Assembly Resolution 67/176 'Moratorium on the use of the death penalty', adopted 20 December 2012

UN Safeguards guaranteeing protection of the rights of those facing the death penalty (adopted by ECOSOC Resolution 1984/50):

1. In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences.
2. Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.
3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.
4. Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.
5. Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.
6. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.
7. Anyone sentenced to death shall have the right to seek pardon, or commutation of sentence; pardon or commutation of sentence may be granted in all cases of capital punishment.
8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.
9. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.[86]

86 ECOSOC, First regular session of 1984, *Safeguards guaranteeing protection of the rights of those facing the death penalty*, 25 May 1984, 1984/50 accessed in Russian 18 September 2013 at http://daccess-ods.un.org/TMP/9951839.44702148.html.

Annexe 3

Ratification of international counter-terrorism conventions and protocols by Kazakhstan

Treaties in **bold** have been ratified by Kazakhstan.

1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft

1970 Convention for the Suppression of Unlawful Seizure of Aircraft

1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation

1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents

1979 International Convention against the Taking of Hostages

1980 Convention on the Physical Protection of Nuclear Material

1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation

1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf

1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection

1997 International Convention for the Suppression of Terrorist Bombings

1999 International Convention for the Suppression of the Financing of Terrorism

2005 International Convention for the Suppression of Acts of Nuclear Terrorism

2005 Amendments to the Convention on the Physical Protection of Nuclear Material

2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf

2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation

2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft

For more information on PRI's work please contact:

Penal Reform International
60–62 Commercial Street
London E1 6LT
United Kingdom

www.penalreform.org

@PenalReformInt

Penal Reform International
Central Asia Office
7/1 Kabanbay Batyr Avenue
Entrance 20
Astana 010000
Kazakhstan

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