

## 6. Freedoms and Rights of Individuals

The Committee remained concerned that limited progress had been made on the issue of self-determination for the people of Western Sahara.

### 6.1 Right to Self-Determination (Art 1)

While noting **Morocco**'s initiative for engaging in negotiations on autonomy for Western Sahara and additional information provided by the State party, the Committee remained concerned that limited progress had been made on the issue of self-determination for the people of Western Sahara and about reports that **Morocco** was not consulting the people of Western Sahara on the issue of development of natural resources in the region. The Committee also noted with concern the presence of the "berm" or sand wall which limited the freedom of movement of people in Western Sahara by limiting the number of crossing points open to civilians. The presence of landmines and other explosive remnants of war along the berm also endangered the life and safety of communities in the vicinity.<sup>688</sup>

The Committee recommended that the State party continue and increase its efforts undertaken within the framework of the negotiations on Western Sahara under the Secretary-General in order to ensure the right of self-determination for the people of Western Sahara and urged **Morocco** to enhance "meaningful consultations" with the people of Western Sahara to ensure their prior, free and informed consent for development projects and resource extraction in the region. Lastly, it recommended that the State Party take steps to ensure freedom of movement along both sides of the berm alongside continued demining operations and efforts to compensate victims.<sup>689</sup>

### 6.2 Right to Privacy (Art 17)

The Committee noted that **New Zealand, Namibia** and **Sweden** undertook "extreme surveillance measures" with no clear mandate on "national security" and "private communications," often with a non-transparent framework with wide access to and interception of communication.<sup>690</sup> Similarly, the Committee noted a lack of clarity regarding the reach of legal interception and lack of judicial independence in **Namibia, Poland** and **Rwanda**. The Committee then asked the States parties to ensure that interception was conducted only when justified by law, with necessary procedural and judicial safeguards and only to achieve specific and legitimate objectives.<sup>691</sup>

The Committee also noted a lack of proper oversight mechanisms<sup>692</sup> to prevent abuse of surveillance powers in **South Africa** and **Sweden** and accordingly recommended that the States parties respectively ensure that an independent oversight body was set up that not only functions promptly and effectively but is also adequately funded and equipped.<sup>693</sup> Further, the Committee recommended that such mechanisms ought to be in conformity with the principles of legality, proportionality and necessity.<sup>694</sup>

The Committee also noted with concern that in **Poland**, foreign nationals were targeted to collect metadata through indiscriminate surveillance without notification, a procedure for complaints or mechanisms for remedy.<sup>695</sup> The Committee recommended that Poland revise the existing legislation in line

with its obligations under the Covenant.<sup>696</sup>

The Committee saw the use of DNA testing, as part of a counter-terrorism processes by **Kuwait** as unnecessary and disproportionate restrictions on the right to privacy.<sup>697</sup> The compulsory nature of the DNA test imposed a penalty of a one year imprisonment with fine if a person refused to provide samples. Further, there was an absence of independent control and judiciary measure. The lack of necessary safeguards to guarantee confidentiality and prevent arbitrary use of the DNA samples collected further concerned the Committee. **Kuwait** was asked to uphold the principles of legality, necessity and proportionality, right to privacy and its obligations under the Covenant, including Article 17 and in this light limit DNA collection to serious crimes and on the basis of judicial decisions. Further, the Committee recommended that **Kuwait** allow individuals access to courts to challenge the collection of DNA samples, erase the samples after a time period and establish an oversight mechanism to monitor the collection and use of DNA samples and prevent abuses.<sup>698</sup>

### 6.3 Freedom of Religious Belief and Conscience (Art 18)

States have been seen to curtail religious beliefs through application of sanctions and restriction to people's religious practices, in turn limiting them in their chosen practice of living. In **Rwanda**, the Committee observed that Jehovah's Witnesses were denied their right to refuse to participate when singing the national anthem, attending religious ceremonies of another faith in schools and to take an oath holding the national flag. This was seen as a restriction of freedom of thought, conscience and religion and the Committee advised the State to maintain its obligation under Article 18 of the Covenant by guaranteeing the same and ensuring that any limitations are in compliance with Article 18(3).<sup>699</sup>

Similarly, the Committee noted that in **Morocco**, provisions of the Criminal Code criminalized the practice of any other religion than the official religion. Further, the Committee was concerned that actions contrary to the Muslim religion were criminalized and new offenses were further added to the draft Criminal Code that intended to extend the limits imposed on freedom of religion and expression.<sup>700</sup> The Committee called for an elimination of this discriminatory practice and recommended that **Morocco** revise the Criminal Code to bring it into compliance with Art 18 of the Covenant.<sup>701</sup>

The Committee has held that the right to conscientious objection is inherent in the right to freedom of thought, conscience and religion. Further, the Committee held that this right entitles any individual to an exemption from compulsory military service if such service cannot be reconciled with that individual's religion or beliefs; moreover, the right must not be impaired by coercion. A State may, if it wishes, compel the objector to undertake a civilian alternative to military service, outside the military sphere and not under military command. The alternative service must not be of a punitive nature. It must be a real service to the community and compatible with respect for human rights.<sup>702</sup>

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The Committee saw the use of DNA testing, as part of a counter-terrorism processes by Kuwait as unnecessary and disproportionate restrictions on the right to privacy.

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Aside from issues pertaining to media and social media, the Committee faced instances of criminalization of speech in several States.

The Committee also noted that **Kazakhstan** did not legally recognize the right to conscientious objection to military service and reminded the State party of its failure to implement the Committee's previous recommendations<sup>703</sup> on the same issue. Accordingly, the Committee recommended that Kazakhstan implement the recommendations made by the Committee in this context.<sup>704</sup>

### 6.4 Freedom of Expression (Art 19)

In its observations on the freedom of expression, the Committee covered issues arising in varied contexts. The Committee observed constraints placed on the media in the form of influence and failure to guarantee independence. Aside from the aforementioned, it noted measures in States Parties that curbed the freedom of journalists. Concerns were also raised that as a result of concentration in media ownership in States parties, the right to freedom of expression was infringed. The Committee noted with concern instances of limitations of social media access in several States.

Aside from issues pertaining to media and social media, the Committee faced instances of criminalization of speech in several States. Vague definitions of crimes and the prosecution of individuals for exercising their freedom of expression led to the Committee making several recommendations in this regard. In this context, the Committee also discussed intimidation, harassment and threats to individuals in the context of their exercise of their freedom of expression. The Committee also noted limits placed on access to information and constraints on academic research and their respective effects on the freedom of expression.

#### 6.4.1 Media, social media, broadcast and journalism

The Committee noted with concern that past and proposed legislation in **Poland** did not offer enough guarantees to ensure the independence of the Polish public television and radio services.<sup>705</sup> It was concerned about the continued concentration of media ownership in **Moldova**<sup>706</sup> and **Argentina**.<sup>707</sup> Additionally, the Committee was also concerned about the influence of political and private interests on the media in **Moldova** which did not reflect public interest.<sup>708</sup> In **Namibia**, the Committee also observed with concern the trend of self-censorship in state-owned media.<sup>709</sup>

The Committee recommended that **Poland**<sup>710</sup>, **Moldova**<sup>711</sup> and **Argentina**<sup>712</sup> ensure that their media and broadcasting services operate independently. The Committee recommended that **Moldova**<sup>713</sup> and **Argentina**<sup>714</sup> observe the General Comment No. 34 to prevent a concentration of media ownership.

In its observations on **Azerbaijan**, the Committee noted reports of arbitrary interference with media freedom including the revocation of broadcast licenses on political grounds (Radio Free Europe, Radio Liberty, ANS television and radio outlets) and allegations of financial pressure on the independent newspaper "Azadliq."<sup>715</sup> The Committee noted with concern that **Kuwait** had adopted legislation which placed restrictions on internet based expressions, had terminated licenses of

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those in the media who were critical of the government, curtailed access to the internet and revoked the licenses of internet service providers without due process.<sup>716</sup> The Committee recommended that **Azerbaijan**<sup>717</sup> and **Kuwait**<sup>718</sup> take steps to end the aforementioned persecution or retaliation against the media and ensure that the media can operate free from the fear of government intervention.

Similarly, the Committee was concerned about interference with journalistic activity and the shutting of independent newspapers, magazines, television channels and news websites for minor irregularity or charges related to extremism in **Kazakhstan**.<sup>719</sup> Additionally, the Committee also noted that **Kazakhstan** blocked social media blogs, news sites and other internet sources based on national security concerns in accordance with its domestic laws. The Committee also observed that the State did not comply with the principles of legal certainty, necessity and proportionality as required by the Covenant with reference to its laws and practices pertaining to freedom of expression.<sup>720</sup> Accordingly, the Committee recommended that **Kazakhstan** should revise its laws that limit freedom of expression to bring them in conformity with the Covenant,<sup>721</sup> while refraining from using criminal provisions and other regulations to stifle the expression of dissenting opinions beyond the limits placed by Article 19(3) of the Covenant.<sup>722</sup>

The Committee also clarified that in determining whether or not a violation of Article 19 has taken place, any domestic legislation must be demonstrated by the State party to be necessary and proportional. Further, in accordance with its General Comment No. 34, it also held that the reasons for restrictions are limited to those under Article 19(3) of the Covenant.<sup>723</sup>

### 6.4.2 Criminalization of speech

The Committee was concerned that **Poland**<sup>724</sup>, **Slovenia**<sup>725</sup>, **Kazakhstan**<sup>726</sup> and **Kuwait**<sup>727</sup> continued to criminalize defamation. The Committee urged the aforementioned States<sup>728</sup> to decriminalize defamation in accordance with its General Comment No. 34.

The Committee also noted that in **Ecuador**, several crimes such as sabotage and terrorism were defined in vague terms.<sup>729</sup> Similarly, in **Rwanda**<sup>730</sup>, the crime of separatism and other crimes were defined in vague terms which made them susceptible to misuse. The Committee also noted with concern prosecutions against journalists, politicians and human rights defenders on the basis of such crimes in **Ecuador**<sup>731</sup> and **Rwanda**<sup>732</sup> respectively. In a similar context, the Committee observed that the Organic Act on Communication in **Ecuador**<sup>733</sup> included ambiguous or disproportionate obligations such as the obligation to “cover and disseminate facts of public interest” or the ban on disseminating “information that is, directly or through third parties, issued by prior arrangement and repeatedly published in one or more medium of communication with a view to discrediting a natural or legal person or undermining his or her public credibility.” Failure to comply with these obligations gave rise to severe penalties.

The Committee also noted that in Ecuador, several crimes such as sabotage and terrorism were defined in vague terms.

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The Committee noted that several States Parties criminalized insults, insults to state symbols, blasphemy, territorial integrity of a state, senior officials and religion.

Accordingly, the Committee recommended that **Rwanda**<sup>734</sup> and **Ecuador**<sup>735</sup> adopt the necessary legislative measures to bring in line with the Covenant its criminal law to the extent that such law infringed the freedom of expression in the State and urged **Rwanda**<sup>736</sup> to refrain from prosecutions of journalists, politicians and human rights defenders.

The Committee noted that several States Parties criminalized insults<sup>737</sup>, insults to state symbols<sup>738</sup>, blasphemy<sup>739</sup>, territorial integrity of a state<sup>740</sup>, senior officials (including monarchs<sup>741</sup>, Presidents<sup>742</sup> and other officials<sup>743</sup>) and religion<sup>744</sup> and was also concerned about politically motivated criminal proceedings against independent media outlets in **Azerbaijan** such as "Meydan TV" and its journalists.<sup>745</sup> In the case of **Morocco**, the Committee noted with concern the prosecution or threat thereof for criminal charges for insulting Islam, the monarchy or the state's territorial integrity.<sup>746</sup> Similarly, in **Kuwait**, there were prosecutions of activists, journalists, bloggers and other individuals for expressing critical views or insulting the "Emir," defaming religion and threatening **Kuwait's** national security or relations with other States.<sup>747</sup> The Committee also noted with concern **Kuwait's** recent amendment of domestic law according to which individuals who had been convicted of the aforementioned offences in **Kuwait** were prevented from standing for election.<sup>748</sup> Accordingly, it recommended that **Morocco**<sup>749</sup> and **Kuwait**<sup>750</sup> bring its domestic legislation restricting the freedom of expression into compliance with Article 19(3) of the Covenant. The Committee also specifically recommended that **Kuwait**<sup>751</sup> and **Kazakhstan**<sup>752</sup> amend their criminal laws and make appropriate changes to its laws to bring them in conformity with the Covenant, clarify key terms and provisions that are vague and ambiguous and ensure that these are not used as tools to curtail the exercise of freedom of expression. It also recommended that **Kuwait** provide effective judicial redress and compensation to individuals imprisoned in contravention to Articles 9 and 19 of the Covenant.<sup>753</sup>

The Committee observed that in **Kuwait**, Law No. 15 (article 13) was being increasingly used arbitrarily against government critics for politically motivated reasons to deprive them of citizenship for "undermining the social or economic system" or "threatening the higher interests of the State or its security."<sup>754</sup> Accordingly, the Committee recommended that appropriate amendments be made to the aforementioned law and the same never be used to deny citizenship and allow for the peaceful exercise of the freedom of expression.<sup>755</sup>

The Committee was also concerned about a draft law in **Poland** that would impose up to three years of imprisonment on anyone who referred to Nazi camps operated in occupied Poland during the Second World War and accordingly recommended that **Poland** review the draft law in order to bring it into compliance with the Covenant.<sup>756</sup>

### Case review: Incitement to religious hatred – a corollary

In an individual communication<sup>757</sup> against the **Netherlands**, the authors submitted a complaint alleging that a Dutch court's acquittal of Mr. Geert Wilders, a Member of Parliament and the founder of the extreme right-wing political Party for



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Freedom, on charges of incitement of religious hatred was not in conformity with Article 20(2) of the Covenant. The authors alleged that the acquittal did not take into consideration the corpus of Mr. Wilders' statements, accentuated the artificial distinction between criticism of Islam and humiliating Muslims, rejected the counts of incitement on grounds of race because "Moroccans and non-Western migrants" are not races and created a kind of general and absolute exception ("the public debate") to the crime of incitement to discrimination or hatred.<sup>758</sup> Further, the complaint alleged that the Dutch courts had granted too much leeway to freedom of expression over incitement of hatred and that the court failed to take into account the State party's obligations under Article 20 of the Covenant.<sup>759</sup>

The Committee concluded that Article 20(2) of the Covenant was justiciable rejecting the State party's arguments in this regard stating that Article 20 was "designed to give specific recognition to the prohibition of discrimination set forth in article 26 of the Covenant, by identifying a limitation that States parties must impose on other enforceable Covenant rights, including the principle of freedom of expression under article 19."<sup>760</sup> Further, the Committee stated that Article 20 not only required States parties to adopt legislation prohibiting conduct but also imposed on them an obligation to provide for a complaints procedure and appropriate sanctions.<sup>761</sup>

In deciding on the merits, the Committee considered the tension in the application of Articles 19 and 20 of the Covenant as they applied to this case. Relying on its General Comment No. 34, the Committee held that the freedom of expression included expression that may be regarded as deeply offensive and the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives which is essential.<sup>762</sup> Additionally, the Committee considered that any prohibitions under Article 20 must be compatible with Article 19(3) of the Covenant.<sup>763</sup>

Further, the Committee held that the obligation under Article 20(2) did not require States to secure convictions but only to ensure that individuals are prosecuted before an impartial court of law.<sup>764</sup> The Committee noted that the State party had fulfilled its obligations under Article 20 of the Covenant by pursuing a prosecution and it was satisfied with the detailed judgment of the court.<sup>765</sup>

The Committee considered that any prohibitions under Article 20 must be compatible with Article 19(3) of the Covenant.

### 6.4.3 Intimidation, harassment and threats to individuals

The Committee noted several instances of threats, intimidation and attacks against individuals in different capacities with a view to curbing their freedom of expression. For instance, the Committee was concerned that journalists and human rights defenders in **Morocco**<sup>766</sup> were subject to threats and prosecutions and accordingly recommended that **Morocco** ensure that restrictions placed on journalists and human rights defenders do not exceed the limits set by Article 19(3) of the Covenant.<sup>767</sup> Similarly, in **Namibia**, it was concerned about the harassment of journalists by members of the South West Africa People's Organization and the restrictions on political activities

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The Committee was also concerned at the lack of legislation guaranteeing the right to information in Namibia.

on university campuses in the State.<sup>768</sup> Accordingly, the Committee recommended that **Namibia** should accord protection to journalists against harassment and encourage dialogue on political issues in campuses across its territory.<sup>769</sup>

In **Rwanda**, the Committee noted intimidation of politicians, journalists and human rights defenders<sup>770</sup> and urged the State party to provide effective protection to the aforementioned and investigate attacks them.<sup>771</sup> Several journalists and social media users in **Ecuador** had been subjected to harassment and anonymous threats after being named by government officials<sup>772</sup> and accordingly the Committee recommended that **Ecuador** provide individuals with proper protection from such threats including prompt, effective and thorough investigations.<sup>773</sup>

### 6.4.4 Access to information and independence of research

The Committee noted that the Research, Science and Technology Act (Act No. 23 of 2004) in **Namibia** governing research projects defined them very broadly and subjected them to a cumbersome and costly prior authorization procedure.<sup>774</sup> Accordingly, it recommended that **Namibia** amend its impugned legislation to respect, protect and promote academic freedoms including removing the need for prior authorization from the State.<sup>775</sup>

The Committee was also concerned at the lack of legislation guaranteeing the right to information in **Namibia**<sup>776</sup> and accordingly recommended that it develop and adopt legislation guaranteeing the right to information.<sup>777</sup> Similarly, it was concerned about reports suggesting that the Access to Information Act (2004) in **Jamaica** suffered from obstacles in its implementation such as the low level of knowledge of information officers and an inaccessible complaint procedure.<sup>778</sup> It asked **Jamaica** to ensure effective implementation of the aforementioned legislation including providing training to officers, conducting public information campaigns and establishing an accessible complaint mechanism.<sup>779</sup> Lastly, in **Ghana** it noted delayed adoption of its Right to Information Bill<sup>780</sup> and accordingly, recommended an expedited adoption of the bill.<sup>781</sup>

## 6.5 Right to Peaceful Assembly (Art 21)

### 6.5.1 Prior authorization for assembly

The Committee noted that some States parties placed a requirement of prior authorization for peaceful gatherings either in domestic legislation or as a matter of practice. There were instances where such authorizations were denied outside the scope of the Covenant.

The Committee noted that laws in **Rwanda**<sup>782</sup>, **Morocco**<sup>783</sup>, **Azerbaijan**<sup>784</sup> (in practice) and **Kuwait**<sup>785</sup> subjected assemblies and demonstrations in public places to prior authorization. The Committee also noted that **Rwanda** had refused authorization in several instances based on justifications outside Article 21 of the Covenant<sup>786</sup> and **Kuwait** barred non-citizens from participating in public gatherings.<sup>787</sup> Accordingly, the Committee recommended that the States parties ensure that any restrictions on the right to peaceful assembly are

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permissible under the Covenant.<sup>788</sup> In deciding the limits of permissible restrictions to Article 21, the Committee concluded that the same must be sourced within the second sentence of Article 21 and the burden to justify the same remains on the State party.<sup>789</sup>

### 6.5.2 Excessive regulation and the chilling effect thereof

Excessive regulation, intimidation tactics and use of excessive force at peaceful assemblies led in some States parties to a chilling effect on such gatherings as noted by the Committee.

The Committee observed that assemblies in **Moldova** were excessively regulated, the number of prosecutions produced a chilling effect and law enforcement officials warned individuals against participating in political assemblies.<sup>790</sup> Accordingly, the Committee recommended that the States parties review their legislations to bring them in compliance with Article 22 of the Covenant.<sup>791</sup>

On a similar note, authorities in **Azerbaijan** used a variety of tactics including preventive detention and “prophylactic conversations on police premises aimed at intimidating activists and discouraging them from participating in assemblies”<sup>792</sup> and were asked to end the aforementioned practices that are inconsistent with Articles 19 and 21 of the Covenant.<sup>793</sup>

### 6.5.3 Excessive use of force

The Committee noted that security forces in **Kuwait**<sup>794</sup> had used force excessively and disproportionately to disperse peaceful demonstrations and it recommended that **Kuwait** train all security forces on using force taking “due account of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.”<sup>795</sup>

### 6.5.4 Right to demonstrate – presumption of innocence

The domestic legislation in **Burkina Faso** punished acts of vandalism committed during public demonstrations in a manner which allows for any member of a group to be held criminally responsible regardless of whether the alleged perpetrator has been identified or not.<sup>796</sup> Accordingly, the Committee recommended that **Burkina Faso** respect the presumption of innocence under Article 14 of the Covenant and Article 21 of the Covenant by appropriately amending national legislation.<sup>797</sup>

## 6.6 Freedom of Association (Art 22)

In its observations on the freedom of association, the Committee mainly raised concerns at the onerous procedures for registration present in several States parties and noted this not only in the context of individual legislations but also the implementation of said laws in different States. The Committee also noted several instances where the rules related to funding of NGOs or other associations were used to influence them unduly. The Committee also observed that several States parties criminalized conduct that should otherwise be legitimate.

The Committee observed that assemblies in Moldova were excessively regulated.



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The rules for suspension or dissolution of political parties were considered too broad (and therefore prone to misuse) in the case of Kazakhstan and Ecuador.

### 6.6.1 Registration and functioning of NGOs/other organizations and associations

The Committee noted that several States placed impediments on the registration and operation of NGOs, political parties and other associations or organizations. For instance, **Kazakhstan** imposed undue restrictions via regulations governing registration of political parties and on their exercise of the freedom of assembly and political participation.<sup>798</sup> Similarly, the domestic legislations in **Rwanda**<sup>799</sup>, **Azerbaijan**<sup>800</sup> and **Moldova**<sup>801</sup> placed onerous obligations for the registration of NGOs and other organizations. Accordingly, the Committee recommended that the States Parties clarify the rules governing registration of NGOs and other organizations.<sup>802</sup>

The Committee also noted that civil society organizations in **Kazakhstan** were apprehensive that the establishment of a “central operator” and other provisions regulating allocation of funds to public associations may be used to exert control over them and limit their ability to receive funds from abroad.<sup>803</sup> Accordingly, the Committee recommended that the State ensure that legislations governing allocation of funds to NGOs do not serve as means of undue control and interference.<sup>804</sup> The Committee also noted that in **Rwanda**, NGOs had to provide evidence of funding for the entire duration of their intended period of operation which led NGOs in Rwanda to only apply for short term registrations.<sup>805</sup> The Committee was also concerned at the invasive role played by the **Rwanda** Governance Board in determining the leadership of NGOs<sup>806</sup> and recommended that **Rwanda** refrain from interfering with the internal functioning of NGOs.<sup>807</sup>

Similarly, the rules for suspension or dissolution of political parties were considered too broad (and therefore prone to misuse) in the case of **Kazakhstan**<sup>808</sup> and **Ecuador**<sup>809</sup>. In both instances, the Committee recommended that the States Parties clarify the grounds for suspension or dissolution of political parties.<sup>810</sup>

Further, in **Kazakhstan**<sup>811</sup>, the Committee noted that the legal framework regulating strikes and mandatory affiliation of trade unions could adversely affect their freedom of association and accordingly recommended that **Kazakhstan** bring its domestic legislations regulating strikes and the freedom of association of trade unions in line with Articles 19, 22 and 25 of the Covenant.<sup>812</sup>

### 6.6.2 Criminalization of legitimate activities

The Committee noted that in **Kazakhstan**, associations could be held criminally responsible for undertaking legitimate activities including under the offense of incitement to “social, national, clan, class or religious discord.”<sup>813</sup> Accordingly, the Committee recommended that **Kazakhstan** refrain from criminalizing public associations for legitimate activities. The Committee also recommended that criminal provisions should not be defined too broadly and must comply with the principle of legal certainty.<sup>814</sup>

Similarly, human rights defenders in **Morocco** were subjected to disproportionate and unjustified restrictions and had their freedom of movement limited particularly in Western

The Committee asked the State to revise its domestic laws and bring them in compliance with Article 22 of the Covenant.<sup>816</sup> In **Azerbaijan**, the Committee expressed concern regarding measures taken against NGOs such as closure, criminal investigation and the freezing of assets of both the NGO and its members.<sup>817</sup> There were also limitations placed on the freedom of movement of journalists, opposition politicians, human rights defenders and lawyers.<sup>818</sup> To this, the Committee recommended that **Azerbaijan** must ensure that legal provisions govern funding to allow access to foreign funds and to ensure that NGOs can operate freely without fear of retribution for legitimate activities.<sup>819</sup> It also noted that internally displaced persons were subjected to residence registrations and restricted choices of residence upon resettlement.<sup>820</sup> The Committee reiterated its previous recommendation<sup>821</sup> that the State party should bring its residence registration system into full compliance with the Covenant.<sup>822</sup>

### 6.7 Political Participation and Participation in Public Life (Art 25)

The Committee noted that States parties have placed limits public participation by using restrictive criminal law provisions. For instance, the Committee noted that **Azerbaijan** applied severe restrictions during presidential election campaigns, such as only 22 days of campaigning, limited opportunities for assemblies, intimidation, conviction and detention of opposition candidates and violations of the registration process. Accordingly, the Committee, recommended that **Azerbaijan** enact transparent electoral regulation and encourage practices that allow pluralistic political debate and refrain from the use of the criminal law system to exclude opposition candidates.<sup>823</sup>

Another example of the same can be seen in **Burkina Faso** where the State's Electoral Code exempted certain citizens from participating in election or acceding to elected office on the renders ineligible, anyone who "supported an unconstitutional change in violation of the principle of the democratic rotation of power".<sup>824</sup> The Committee was concerned about the ill-defined exclusion of a several candidates on the basis of their political beliefs and deemed it to be a violation of Article 25 of the Covenant. The Committee recommended that **Burkina Faso** guarantee to its citizens the right to vote and run for elections without distinction. The Committee referred to its General Comment No. 25 (1996) and the ruling by the Community Court of Justice of the Economic Community of West African States.<sup>825</sup>

#### Other UN Treaty Bodies

Regarding political participation, the **CRC** noted in the **United Kingdom's** Concluding Observations that children demand increasingly for a right to vote from the age of 16 years. The voting age was lowered in **Scotland**. The Committee encouraged States parties to consult with children on this issue and if implemented, this should be supported by human rights education.<sup>826</sup>

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The Committee noted that States parties have placed limits public participation by using restrictive criminal law provisions.

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The Committee also mentioned political participation of children several times in the General Comment on the Rights of Adolescents. Adolescents engage in many activities and use social networks. They hold potential in terms of political engagement and monitoring accountability of States.<sup>827</sup> The Committee emphasized the importance of participation through which they can advocate for their rights: adolescents need to be supported in forming organizations. If voting age is lowered, States need to make sure that adolescents understand their role as active citizen.<sup>828</sup>

The Committee also stressed the importance of political participation with regard to the freedom of association: association with peers is a major part of one's development.<sup>829</sup> Adolescent's organizations, clubs and associations should be legally recognized.<sup>830</sup> Additionally, the right to information plays a great role, especially in the digital environment since adolescents often communicate through social media and find their information on the Internet. They should be trained on this as part of the basic education curriculum to ensure that this is accessible to everyone without discrimination.<sup>831</sup>

Poverty during adolescence can lead to social and political exclusion<sup>832</sup>, another reason why education plays a key role in ensuring the enjoyment of the rights of adolescents. Investments should be made in strategies to promote positive gender relations to overcome barriers for political participation of girls.<sup>833</sup>

- 688 Morocco, ¶ 9
- 689 Morocco, ¶ 10
- 690 New Zealand, ¶ 9; Namibia, ¶ 37 Sweden, ¶ 36
- 691 Namibia, ¶¶ 37, 38; Rwanda, ¶ 36; Poland, ¶ 39; New Zealand, ¶ 10; Namibia, ¶ 38; Sweden, ¶ 37
- 692 South Africa, ¶ 10; Sweden, ¶ 36
- 693 South Africa, ¶ 11; Sweden, ¶ 37
- 694 South Africa, ¶ 11; Sweden, ¶ 37
- 695 Poland, ¶ 39
- 696 Poland, ¶ 40
- 697 Kuwait, ¶ 20; Law No. 78 (2015), Kuwait
- 698 Kuwait, ¶ 21
- 699 Rwanda, ¶¶ 37-38
- 700 Morocco, ¶ 39
- 701 Morocco, ¶ 40
- 702 *Navruz Tahirovich Nasyrlyayev v. Turkmenistan*, Communication No. 2219/2012, UN Doc. CCPR/C/117/D/2219/2012 (15 July 2016) ¶ 8.7; *Matkarim Aminov v. Turkmenistan*, Communication No. 2220/2012, UN Doc. CCPR/C/117/D/2220/2012 (14 July 2016) ¶ 9.7; *Dovran Bahramovich Matyakubov v. Turkmenistan*, Communication No. 2224/2012, UN Doc. CCPR/C/117/D/2224/2012 (14 July 2016) ¶ 7.7; *Akmurat Nurjanov v. Turkmenistan*, Communication No. 2225/2012, UN Doc. CCPR/C/117/D/2225/2012 (15 July 2016) ¶ 9.3; *Shadurdy Ucheŭtov v. Turkmenistan*, Communication No. 2226/2012, UN Doc. CCPR/C/117/D/2226/2012 (15 July 2016) ¶ 7.6; *Akmurat Halbayewich Yegendurdyyew v. Turkmenistan*, Communication No. 2227/2012, UN Doc. CCPR/C/117/D/2227/2012 (14 July 2016) ¶ 7.6
- 703 Kazakhstan, ¶ 23
- 704 Kazakhstan, ¶¶ 45-46
- 705 Poland, ¶ 37
- 706 Moldova, ¶ 31
- 707 Argentina, ¶ 35
- 708 Moldova, ¶ 31
- 709 Namibia, ¶ 39
- 710 Poland, ¶ 38
- 711 Moldova, ¶ 32
- 712 Argentina, ¶ 36
- 713 Moldova, ¶ 32
- 714 Argentina, ¶ 36
- 715 Azerbaijan, ¶ 36
- 716 Kuwait, ¶ 40
- 717 Azerbaijan, ¶ 37
- 718 Kuwait, ¶ 41
- 719 Kazakhstan, ¶ 49
- 720 Kazakhstan, ¶ 49
- 721 Kazakhstan, ¶ 50
- 722 Kazakhstan, ¶ 50
- 723 *Ramazan Esergepov v. Kazakhstan*, Communication No. 2129/2012 UN Doc. CCPR/C/116/D/2129/2012 (29 March 2016) ¶¶ 11.6-11.8; *Valery Misnikov v. Belarus*, Communication No. 2093/2011, UN Doc. CCPR/C/117/D/2093/2011 (14 July 2016) ¶ 9.3; *Margarita Korol v. Belarus*, Communication No. 2089/2011, UN Doc. CCPR/C/117/D/2089/2011 (14 July 2016) ¶ 7.3; *Anatoly Poplavny and Leonid Sudalenko v. Belarus*, Communication No. 2139/2012, UN Doc. CCPR/C/118/D/2139/2012 (3 November 2016) ¶¶ 8.3-8.4
- 724 Poland, ¶ 37
- 725 Slovenia, ¶ 31
- 726 Kazakhstan, ¶ 49
- 727 Kuwait, ¶ 40
- 728 Poland, ¶ 37; Slovenia, ¶ 32; Kazakhstan, ¶ 50; Kuwait, ¶ 41
- 729 Ecuador, ¶ 27
- 730 Rwanda, ¶ 39
- 731 Ecuador, ¶ 27
- 732 Rwanda, ¶ 39
- 733 Ecuador, ¶ 29
- 734 Rwanda, ¶ 40
- 735 Ecuador, ¶ 28
- 736 Rwanda, ¶ 40
- 737 Rwanda, ¶ 39
- 738 Poland, ¶ 37
- 739 Kuwait, ¶ 40
- 740 Morocco ¶ 43; Kuwait, ¶ 40
- 741 Morocco ¶ 43; Kuwait, ¶ 40
- 742 Kazakhstan, ¶ 49
- 743 Poland, ¶ 37; Kazakhstan ¶ 49
- 744 Poland, ¶ 37; Morocco ¶ 43; Kuwait, ¶ 40
- 745 Azerbaijan, ¶ 36
- 746 Morocco, ¶ 43
- 747 Kuwait, ¶ 40
- 748 Kuwait, ¶ 40
- 749 Morocco, ¶ 44
- 750 Kuwait, ¶ 41
- 751 Kuwait, ¶ 41
- 752 Kazakhstan, ¶ 50
- 753 Kuwait, ¶ 41
- 754 Kuwait, ¶ 48
- 755 Kuwait, ¶ 49

756 Poland, ¶¶ 37-38

757 Mohamed Rabbæ, A.B.S and N.A. v. Netherlands, Communication No. 2124/2011, UN Doc. CCPR/C/117/D/2124/2011 (14 July 2016)

758 Mohamed Rabbæ, A.B.S and N.A. v. Netherlands, Communication No. 2124/2011, UN Doc. CCPR/C/117/D/2124/2011 (14 July 2016)

¶ 3.2

759 Ibid, ¶ 3.3

760 Ibid, ¶ 9.7; Also see the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression, ¶¶ 51-52.

761 Mohamed Rabbæ, A.B.S and N.A. v. Netherlands, Communication No. 2124/2011, UN Doc. CCPR/C/117/D/2124/2011 (14 July 2016)

¶ 9.7; Also see Vassilari et al. v. Greece, Communication No. 1570/2007, UN Doc. CCPR/C/95/D/1570/2007 (9 March 2009) Appendix ¶ 1

762 Mohamed Rabbæ, A.B.S and N.A. v. Netherlands, Communication No. 2124/2011, UN Doc. CCPR/C/117/D/2124/2011 (14 July 2016)

¶ 10.4

763 Ibid

764 Ibid

765 Ibid, ¶ 10.7

766 Morocco ¶ 43

767 Morocco, ¶ 44

768 Namibia, ¶ 39

769 Namibia, ¶ 38

770 Rwanda, ¶ 39

771 Rwanda, ¶ 40

772 Ecuador, ¶ 28

773 Ecuador, ¶ 29

774 Namibia, ¶ 41

775 Namibia, ¶ 42

776 Namibia, ¶ 39

777 Namibia, ¶ 40

778 Jamaica, ¶ 47

779 Jamaica, ¶ 48

780 Ghana, ¶ 39

781 Ghana, ¶ 40

782 Rwanda, ¶ 41

783 Morocco, ¶ 45

784 Azerbaijan, ¶ 38

785 Kuwait, ¶ 42

786 Rwanda, ¶ 41

787 Kuwait, ¶ 42

788 Kuwait, ¶ 43; Rwanda, ¶ 42; Azerbaijan, ¶ 39; Morocco, ¶ 46

789 *Margarita Korol v. Belarus*, Communication No. 2089/2011, UN Doc. CCPR/C/117/D/2089/2011 (14 July 2016) ¶¶ 7.5-7.6

790 Moldova, ¶ 33

791 Moldova, ¶ 34

792 Azerbaijan, ¶ 38

793 Azerbaijan, ¶ 38

794 Kuwait, ¶ 42

795 Kuwait, ¶ 43

796 Burkina Faso, ¶ 37

797 Burkina Faso, ¶ 38

798 Kazakhstan, ¶ 53

799 Rwanda, ¶ 41

800 Azerbaijan, ¶ 40

801 Moldova, ¶ 37

802 Rwanda, ¶ 42; Azerbaijan, ¶ 40; Moldova, ¶ 38

803 Kazakhstan, ¶ 53

804 Kazakhstan, ¶ 54

805 Rwanda, ¶ 41

806 Rwanda, ¶ 41

807 Rwanda, ¶ 42

808 Kazakhstan, ¶ 53

809 Ecuador, ¶ 27

810 Kazakhstan, ¶ 54; Ecuador, ¶ 28

811 Kazakhstan, ¶ 53

812 Kazakhstan, ¶ 54

813 Kazakhstan, ¶ 53

814 Kazakhstan, ¶ 54

815 Morocco, ¶ 41

816 Morocco, ¶ 42

817 Azerbaijan, ¶ 40

818 Azerbaijan, ¶ 40

819 Azerbaijan, ¶ 41

820 Azerbaijan, ¶ 40

821 Azerbaijan, ¶ 18

822 Azerbaijan, ¶ 41

823 Azerbaijan, ¶¶ 42-43

824 Electoral Code of Burkina Faso, Article 135 – “supported an unconstitutional change in violation of the principle of the democratic rotation of power.”

825 Burkina Faso, ¶¶ 39-40



<sup>826</sup> CRC, UK, ¶132-33.

<sup>827</sup> CRC, GC Adolescence, ¶12.

<sup>828</sup> Ibid, ¶24.

<sup>829</sup> Ibid, ¶44.

<sup>830</sup> Ibid, ¶45.

<sup>831</sup> Ibid, ¶47.

<sup>832</sup> Ibid, ¶66.

<sup>833</sup> Ibid, ¶69.